

BILL ANALYSIS

S.B. 1655
By: Staples
Local Government Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The current Rules of Civil Procedure enacted in 1999 require a plaintiff to identify and provide to the defendant expert reports 30 days prior to a hearing.

The Property Tax Code was enacted in 1979. From that time until 1999, taxpayers and appraisal districts in property tax lawsuits were generally required to exchange expert reports on the same date. The expert exchange date served as an effective deadline for both parties to attempt to settle the lawsuit before either was forced to spend significant resources obtaining expert appraisal reports.

In 1999, the Texas Supreme Court adopted a new discovery rule for the exchange of expert reports. The rule was designed primarily for product liability and tort cases where the defendant in practical terms could not respond to the plaintiff's allegations until it learned of the plaintiff's theory on what specifically caused the alleged injury. The rules, while appropriate for their intended application, simply are not justified in a property tax case - where both sides know from the onset that the ultimate issue is the market value of the subject property.

The current rules for the exchange of expert reports have been detrimental to the efficient settlement of property tax cases. Appraisal districts now have the option of forcing taxpayers to incur the significant expense of obtaining an expert report before they agree to sit down with the taxpayer and attempt to resolve the lawsuit. Once a taxpayer is forced to incur this expense, however, the taxpayer often becomes more entrenched in their position on value and the lawsuit becomes more difficult to resolve.

S.B. 1655 returns the expert exchange deadline to the prior law and reestablishes the previous incentive for both parties to engage in serious settlement discussions before being forced to incur expert witness expenses.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 42.23, Tax Code, by adding Subsection (d), as follows:

(d) Requires, if, on or before the 120th day after the date an appeal is filed, the plaintiff makes a written offer of settlement, requests alternative dispute resolution, and, in response to an appropriate written discovery request, designates which cause of action under this chapter is required to apply, each party to the appeal to be considered a party seeking affirmative relief for the purpose of discovery regarding expert witnesses under the Texas Rules of Civil Procedure. Authorizes the plaintiff, for the purposes of this subsection, to designate a cause of action under 42.25 (Remedy for Excessive Appraisal) or 42.26 (Remedy for Unequal Appraisal), Tax Code, but prohibits the plaintiff from designating a cause of action under both sections. Requires discovery regarding causes of action not specifically designated by the plaintiff under this subsection to be conducted as generally provided by the Texas Rules of Civil Procedure.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2005.

EFFECTIVE DATE

Upon passage or September 1, 2005.