

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 9, 2005

TO: Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB182 by Mowery (Relating to the determination through binding arbitration of certain ad valorem tax protests brought by property owners.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would add a new subchapter to Chapter 41 of the Tax Code to create a binding arbitration process for property owners as an alternative to an appraisal review board (ARB) protest hearing. A property owner would have the right to binding arbitration as an alternative to having their protest heard before the ARB if the appraised value of the subject property was \$1 million or less. The bill would require the appraisal district to notify a property owner of the right to binding arbitration and to provide a copy of a request for binding arbitration form. The chief appraiser would be required to prescribe the form of a request for binding arbitration and the Comptroller to prescribe a model binding arbitration request form.

The bill would require a property owner to file a request for binding arbitration with the chief appraiser with a deposit made payable to the Comptroller in an amount equal to the lesser of \$750 or one-fourth of 1 percent of the appraised or market value of the subject property as determined by the appraisal district, rounded up to the next whole dollar amount. Within 10 days of receipt of a request, the chief appraiser would have to endorse the request, submit the request and taxpayer deposit to the Comptroller along with an additional \$250 deposit from the appraisal district, and request the Comptroller to appoint an arbitrator.

The Comptroller would be required to maintain a registry of qualified arbitrators who had agreed to serve. On receipt of a request and deposits, the Comptroller would send an arbitrator list to the owner and the appraisal district. Within 10 days, the parties would notify the Comptroller concerning the selection or their inability to agree on an arbitrator. In the absence of an agreement, the Comptroller would select an arbitrator. Upon acceptance of an appointment, the arbitrator would set the date, time, and place of hearing and give notice to the parties who could represent themselves or be represented by another person at the parties' expense.

Not later than the fifth day after the hearing, the arbitrator would make an award and deliver a copy to the owner, appraisal district, and Comptroller along with the arbitrator's fee, not to exceed \$500. If the arbitrator determined that the appraised or market value of the subject property was less than 95 percent of value determined by the appraisal district (90 percent for property valued at \$200,000 or more), the appraisal district would be ordered to pay the property owner the amount of his or her deposit. The Comptroller would pay the arbitrator's fee out of the owner's and the appraisal district's deposits and pay any remaining balance to the appraisal district.

The bill would grant the Comptroller rulemaking authority to implement and administer the bill and to designate employees to appoint arbitrators. No later than October 1, 2005, appraisal districts would have to prescribe the form for an arbitration request, and the Comptroller would have to prescribe a model arbitration request form and establish a registry of qualified arbitrators.

The bill would take effect September 1, 2005.

The Comptroller indicates that implementation of the bill would require six full-time-equivalent

positions at an annual cost of \$267,543 and a \$3,762 technology cost for computer programming to maintain a registry and to process the fees. It is assumed that these costs could be absorbed within existing resources.

Because the state is constitutionally prohibited from imposing a state property tax, there would be no direct fiscal impact on the state; however, Section 403.302 of the Government Code requires the Comptroller to conduct a property value study to determine the total taxable value for each school district. Total taxable value is an element in the state's school funding formula. Passage of this bill could cause a change in school district taxable values reported to the Commissioner of Education by the Comptroller.

The Comptroller also makes note that the bill does not specify what fund the deposits would be made to; therefore, it is unclear how the funds would be handled. If the funds were deposited to General Revenue, an appropriation would be necessary to distribute funds from this source.

Local Government Impact

Based on reported information from appraisal districts to the Comptroller, there were 184,840 ARB hearings held in Texas in calendar year 2003. Assuming a constant level of hearings, if 10 percent of the property owners in a given tax year were to choose the binding arbitration alternative to the current ARB appeal, this would result in 18,484 binding arbitration requests statewide.

There would be undetermined costs to taxing units that fund appraisal district budgets because the bill provides for a "loser pays" construction relative to the payment of arbitration fees not to exceed \$500. Additionally, if the property owner prevails, the appraisal district must reimburse the property owner the amount of the deposit the owner submitted to the Comptroller. Assuming the property owner would prevail in between 25 percent to 50 percent of the 18,484 cases, the appraisal districts statewide could experience a loss of between \$2 million and \$4 million annually.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, WP, DLBa