

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 16, 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 appeal of certain ad valorem tax determinations through binding arbitration.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add Chapter 41A to the Tax Code to create a binding arbitration process for property owners as an alternative to filing an appeal with an appraisal review board (ARB) regarding the appraised of market value determination of the owner's real property. 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 is \$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 Comptroller would be required to prescribe the model form of a request for binding arbitration.

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 \$500. Within 10 days of receipt of a request, the chief appraiser would have to certify the request, submit the request and taxpayer deposit to the Comptroller, and request the Comptroller to appoint an arbitrator. The Comptroller would be authorized to retain 10 percent of the deposit to cover administrative costs.

The Comptroller would be required to maintain a registry of qualified arbitrators who had agreed to serve. On receipt of a request and deposit, the Comptroller must send an arbitrator list to the owner and the appraisal district. Within 20 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 20th 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 90 percent of the \$500 deposit. If the arbitrator determines that the appraised or market value of the subject property is nearer the owner's opinion of the estimate than the appraisal, the Comptroller must refund the property owner's deposit, less the 10 percent that the Comptroller is authorized to retain. The appraisal district would be required to pay the arbitrator's fee. If the arbitrator finds the value is not nearer to the owner's opinion of the estimate, the Comptroller shall pay the arbitrator's fee using the owner's deposit. If the amount of the fee, combined with the Comptroller's 10 percent, is less than the \$500 deposit, the Comptroller would return the remaining amount of the deposit to the property owner. The chief appraiser would be required to adjust the appraisal to reflect the arbitrator's decision.

The bill would grant the Comptroller rulemaking authority to implement and administer the provisions of the bill. No later than January 1, 2006, 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 \$450 (90 percent of the \$500 deposit). 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