

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 20, 2005

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: SB1655 by Staples (Relating to settlement and discovery in property tax appeals.),
Committee Report 1st House, Substituted

No fiscal implication to the State is anticipated.

The bill would require discovery deadlines in property tax related appeals to state district court to be the same for the plaintiff and the defendant under certain conditions.

Currently, Section 42.23 of the Tax Code provides that appeals of appraisal review board orders are trial de novo, with the district court trying all issues of fact and law raised by the pleadings in a manner applicable to civil suits generally. Therefore, the Texas Rules of Civil Procedure govern discovery in property tax-related appeals to state district court.

Rule 195.2 of the Texas Rules of Civil Procedure requires the plaintiff to designate experts by the latter of 30 days after the service of a request for disclosure or 90 days before the end of the discovery period. The defendant's experts must be designated 60 days before the end of the discovery period. Designation of an expert must be accompanied by: a statement of the subject matter of the expert's testimony; the general substance and basis of the expert's opinions; and all documents and items reviewed by the expert. In most district court cases, the defendant has at least 30 days to designate his or her own expert in response to the plaintiff's expert and evidence.

Passage of the bill would eliminate the 30-day differential between the plaintiff's and defendant's designation of experts. Although the defendant would know the cause of action, the defendant would not always know if the plaintiff will designate an expert and supporting documents. This could result in additional expert costs to appraisal districts in some cases.

Local Government Impact

Passage of the bill would eliminate the 30-day differential between the plaintiff's and defendant's designation of experts. Although the defendant would know the cause of action, the defendant would not always know if the plaintiff will designate an expert and supporting documents. This could result in additional expert costs to appraisal districts in some cases. The Harris County Appraisal District (HCAD) has indicated that for the most recent three years, the number of cases in which the plaintiff did not provide an expert opinion exceeded 100 annually. HCAD further indicated that it will be required to produce expert opinions in most instances. HCAD estimated the cost of expert time and attorney's fees would exceed \$2,000 per case.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, WP, DLBe