

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 20, 2007

TO: Honorable Fred Hill, Chair, House Committee on Local Government Ways & Means

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

IN RE: HB3024 by Frost (Relating to the weight accorded in a taxpayer protest hearing to the determination by a certified appraiser of appraised value of real property.), **As Introduced**

Passage of the bill would place a higher burden of proof on appraisal districts in appraisal review board protests when a property owner provided the appraisal review board an appraisal performed by a state certified appraiser. With a higher burden of proof placed on the appraisal district, property owners in certain appeals could be more likely to prevail than under current law. As a result, taxable property values could be decreased and the related costs to the Foundation School Fund could be increased.

The bill would amend Section 41.43 of the Tax Code, relating to the weight accorded to the determination of a certified appraiser of appraised value in a taxpayer protest hearing.

If, in the protest, the property owner filed with the appraisal review board (ARB), no later than the 14th day before an ARB hearing, and delivered to the chief appraiser a copy of an appraisal performed no later than the 180th day before the ARB hearing that supported the appraised or market value of the subject property, the appraisal district would have the burden of proof of establishing the value of the property by clear and convincing evidence presented at the ARB hearing.

The appraisal would have to be performed by a state certified appraiser. If the district failed to meet the clear and convincing standard, the protest would be determined in favor of the property owner. (Current law requires the appraisal district to establish the value of a property by a preponderance of the evidence presented at an ARB hearing.)

The bill would require an appraisal performed by a licensed appraiser to be sworn to by the appraiser and to include the name and business address of the certified appraiser and a description of the subject property. The bill would amend Chapter 37 of the Penal Code to establish a Class B misdemeanor perjury offense, if the sworn statement by the appraiser proved false or misleading.

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 the bill could cause a change in school district taxable values reported to the Commissioner of Education by the Comptroller.

The bill is estimated to have an impact on the state aid districts receive based on the enrichment tier as tied to the yield of the Austin Independent School District (ISD). To the extent that the bill has the effect of lessening Austin ISD's revenue per weighted student per penny of tax effort, as determined by the Commissioner of Education, the equalized yield on those enrichment pennies would decrease, resulting in a decrease in state aid.

The bill would take effect September 1, 2007.

Local Government Impact

Passage of the bill would place a higher burden of proof on appraisal districts in ARB protests when a property owner provided the ARB an appraisal performed by a state certified appraiser. The clear and convincing burden of proof standard would be higher than the current burden of proof provided in the Tax Code. With a higher burden of proof placed on the appraisal district, property owners in certain appeals could be more likely to prevail than under current law, resulting in lower taxable values and lower tax revenue in some taxing units. The Comptroller's Property Tax Division does not receive or maintain information from appraisal districts that would be helpful in determining the impact of this bill.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, SJS