

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 13, 2007

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

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

IN RE: HB3194 by Hill (Relating to binding arbitration of certain appraisal review board orders.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 41A of the Tax Code, concerning binding arbitration of appraisal review board (ARB) orders.

The bill would amend Section 41A.01 to expand property owner access to binding arbitration by adding "unequal appraisal" as an eligible grounds for arbitration and by removing the \$1 million value eligibility limitation if a chief appraiser consented. The bill would prohibit a taxpayer appeal through binding arbitration if the property owner was represented before the ARB by a property tax consultant and the owner or consultant did not provide to the chief appraiser, at least 14 days before the ARB hearing, copies of all evidence the owner or consultant used in the ARB hearing.

The bill would require the chief appraiser, no later than 30 days after receiving an arbitration request, to indicate whether the chief appraiser consented to a request involving property for which the ARB determination exceeds \$1 million and the property was not a residence homestead.

The bill would amend Section 41A.06 to require arbitrators to initially be licensed or certified continuously as a real estate professional for five years preceding the date the person agreed to serve as an arbitrator.

The bill would prohibit a property tax consultant from serving as an arbitrator and would require an arbitrator to renew his or her inclusion on the Comptroller's qualified arbitrators' list after two years. The bill would establish continuing education requirements.

The bill would allow parties to an arbitration to represent themselves or at their own cost be represented by:

- (1) an appraisal district employee;
- (2) a Texas license attorney;
- (3) a licensed real estate broker or salesperson;
- (4) a licensed property tax consultant; or
- (5) a licensed certified public accountant.

The bill would require an arbitrator's award to include a determination of the appraised or equalized appraised value of the subject property.

The bill would require a property owner in an arbitration appeal for unequal appraisal to provide evidence based on a reasonable or representative sample of properties in the appraisal district or

similarly situated properties that the property exceeded by 10 percent the median appraised value of a reasonable or representative sample of comparable properties appropriately adjusted. Parties to an arbitration would be allowed to use the Comptroller's appraisal district property value study determination to establish the median level of appraisal.

This bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

Passage of this bill would expand property owner access to binding arbitration. Since the inception of the binding arbitration program in 2005, a substantial number of owners have complained about the lack of an available remedy for unequal appraisal in the binding arbitration program and the \$1 million value limitation, which removes some mid-sized and larger businesses from eligibility for arbitration.

The Comptroller's Appraisal District Operations Survey indicates approximately 1,500 district court lawsuits filed annually in recent years. With the expansion of the arbitration program to include "unequal appraisal," and the removal of the \$1 million value limitation upon consent by the chief appraiser, some number of these heretofore district court cases could be the subject of the proposed legislative changes.

If the binding arbitration workload for the Comptroller grew to reflect some portion of the 1,500 current lawsuits, the expansion attributable to larger value and unequal appraisal cases would merit the services of an attorney and three additional tax professionals. The Comptroller's Office estimates these additional administrative costs to be \$278,948 in fiscal 2008 and \$258,648 each year during fiscal years 2009-2012.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, SD, SJS