

## **BILL ANALYSIS**

C.S.H.B. 3498  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Certain provisions of the Tax Code govern the appeal to district court of an appraisal review board's (ARB) order determining the value of property for property tax purposes. Generally, either the appraisal district or the taxpayer may appeal the ARB's determination of value. An appeal is initiated by filing a petition for review with the district in the county in which the ARB is located. A petition for review may be amended to include an appeal relating to the same property in a subsequent year, so in any given property tax case disputed property values for different tax years may be at issue.

Both taxpayers and taxing units have raised concerns that the property tax appeals process can be lengthy and expensive. The 79th Legislature, Regular Session, 2005, enacted legislation to allow smaller taxpayers with property values of \$1 million or less to elect to enter into binding arbitration in an effort to resolve disputes in a timely and cost-efficient manner. The only option available to larger taxpayers, however, is district court, in which proceedings can be protracted, especially if multiple tax years are subject to dispute. Moreover, discovery disputes and other procedural issues can delay the disposition of property tax litigation even further, placing taxpayers and taxing units in indefinite limbo regarding the amount of tax owed and wreaking havoc with budget and planning processes on both sides.

C.S.H.B. 3498 modifies guidelines for accelerating property tax appeals in district court.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3498 amends Tax Code property tax provisions relating to judicial appeal of an appraisal review board order to provide that if in an appeal a property owner invokes modified discovery rules, each party must designate expert witnesses and furnish written reports not later than 90 days before trial. The bill provides that if a property owner does not invoke modified discovery rules, the party seeking affirmative relief must designate expert witnesses and furnish written reports not later than 90 days before trial, and each other party must designate expert witnesses and furnish written reports not later than 60 days before trial. The bill authorizes the prescribed discovery deadlines to be waived by agreement of the parties to the appeal and authorizes the parties to agree to alternative discovery deadlines.

C.S.H.B. 3498 requires all parties to an appeal to be ready for trial and to submit an agreed order setting a trial date on or before the second anniversary of the date the petition for review was filed with the district court. The bill authorizes a district court, if a party has not announced ready for trial on or before that deadline, or if a party does not agree to an order setting a trial date on or before the deadline, to strike the pleadings of that party and, on a motion of the party that has announced ready for trial, to enter a default judgment against the party that has not

announced ready for trial or agreed to an order setting a trial date.

C.S.H.B. 3498 extends the prescribed deadline, if a petition for review is amended to add an appeal of an order of the appraisal review board issued in a subsequent year, until the second anniversary of the date the amended petition for review was filed with the district court. The bill, however, prohibits a petition for review of an appraisal review board order from being amended to include more than one order issued in a subsequent year by an appraisal review board.

C.S.H.B. 3498 prohibits an appeal for judicial review from being dismissed for want of prosecution before the applicable prescribed deadlines. The bill authorizes the district court, if none of the parties to the appeal has announced ready for trial on or before the applicable deadline, to dismiss the appeal for want of prosecution after giving notice to the parties, in the manner required by the Texas Rules of Civil Procedure, of its intent to dismiss the appeal. The bill requires the district court to grant a continuance or an extension of the prescribed deadlines on a showing of good cause by a party to the appeal or on the court's own motion if the court finds substantial and unavoidable reasons for delay.

C.S.H.B. 3498 amends provisions of the Government Code listing the types of matters to which trial courts are required to give preference to require giving preference to appeals of appraisal review board orders regardless of the population of the county for which the appraisal district is established.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3498 differs from the original by prohibiting a petition for review filed by a property owner from being amended to include more than one order issued in a subsequent year by an appraisal review board, whereas the original specifies that only one subsequent appraisal review board order may be added to an existing appeal by amending the original petition and provides that after a petition has been amended to include a subsequent appraisal review board order no additional subsequent appraisal review board orders may be added to that appeal.

C.S.H.B. 3498 differs from the original by authorizing discovery deadlines, in a property tax appeal, to be waived by agreement of the parties to the appeal and authorizes the parties to agree to alternative discovery deadlines, whereas the original authorizes such deadlines to be amended by agreement of the parties.

C.S.H.B. 3498 differs from the original by authorizing a district court to enter a default judgment not only against a party that is not ready for trial, as in the original, but also against a party that has not agreed to an order setting a trial date.

C.S.H.B. 3498 differs from the original in nonsubstantive ways by using language reflective of certain drafting conventions.