

BILL ANALYSIS

C.S.H.B. 4041
By: Villarreal
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The binding arbitration provision contained in Chapter 41, Tax Code, was added in 2005 to provide taxpayers with property valued at less than \$1 million an alternative to filing a lawsuit. Concerns have been raised that small taxpayers do not have adequate access to property tax remedies, including binding arbitration, and that litigation is not affordable.

Observers have identified three possible reasons why arbitration has been underutilized by homeowners. First, arbitration in Texas may be used only for market value complaints and not for equal and uniform complaints. The reality is that few houses are valued in excess of the market value. Thus, the most common complaint that a homeowner has is based on equal and uniform appraisal. Since an unequal appraisal protest is not able to be remedied through arbitration, arbitration is rarely used. Second, the \$500 deposit required for arbitration may be prohibitively high for many homeowners, particularly in comparison to the potential amount of reduction to their property tax bills as a result of arbitration. Third, arbitration is limited to real property only. Arbitration may not be used for business personal property. A significant amount of the personal property of small businesses is valued at less than \$1 million.

C.S.H.B. 4041 changes the statute to authorize small taxpayers to use arbitration to challenge the equal and uniform appraisal of the taxpayer's property, rather than only allowing them to use arbitration to challenge the market value of the property. The bill allows a taxpayer to use arbitration to contest the value of personal property valued at less than \$1 million. The bill adds a temporary provision creating an expedited arbitration process that costs \$250, rather than \$500.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 4041 amends the Tax Code to specify that a property owner's entitlement to appeal through binding arbitration an appraisal review board determination of a protest concerning the appraised or market value of property applies not only to the appeal of a determination of the appraised or market value of the owner's property, real or otherwise, but also to an appeal of the unequal appraisal of the owner's property, rather than only a determination concerning the appraised or market value of real property. The bill removes the condition that an appeal through binding arbitration not involve any matter in dispute other than the determination of the appraised or market value of the property.

C.S.H.B. 4041 adds a temporary provision, set to expire September 1, 2012, entitling a property owner to an expedited arbitration if the property owner includes a request for expedited arbitration in the request for arbitration and pays the required deposit. The bill requires an expedited arbitration to provide for not more than one hour of argument and testimony on behalf of the property owner and not more than one hour of argument and testimony on behalf of the

appraisal district. The bill requires the comptroller of public accounts to adopt rules and processes to assist in the conduct of an expedited arbitration, including rules relating to the evidence required to be produced by each party. The bill sets the deposit for an expedited arbitration at \$250. The bill adds a provision, effective September 1, 2012, reverting the deposit statute to its previous state without the expedited arbitration deposit provision.

C.S.H.B. 4041 requires a protest, in an arbitration proceeding brought on the ground of unequal appraisal of property, to be determined in accordance with provisions regarding a remedy for an unequal appraisal under judicial review by a district court, with the exception that a party is prohibited from presenting evidence relating to the median level of appraisal or the median appraised value of more than five other properties in the appraisal district.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4041 differs from the original by making provisions relating to an expedited arbitration proceeding temporary provisions set to expire September 1, 2012, and adding a provision, effective September 1, 2012, reverting the statutory provision relating to the deposit accompanying a request for binding arbitration to its previous state without the expedited arbitration deposit provision.

C.S.H.B. 4041 adds a provision not in the original requiring a protest in an arbitration proceeding brought on the ground of unequal appraisal of property to be determined in accordance with provisions for a remedy for an unequal appraisal under judicial review, with the exception that a party is prohibited from presenting evidence relating to the median level of appraisal or median appraised value of more than five other properties in the appraisal district.

C.S.H.B. 4041 differs from the original by adding a savings provision making the change in law applicable to an appeal filed under this law on or after September 1, 2009, and continuing former law in effect for an appeal filed before that date.