

BILL ANALYSIS

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S.B. 700
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Despite spending billions of dollars on property tax relief in 2007, Texans across the state have failed to realize measurable property tax reductions.

Homeowners are liable for previous years' property taxes if they fail to file but are given an exemption unintentionally. Appraisal districts can base the appraisal of property upon the highest and best use of the property, regardless of the property's actual use. The current rollback rate for county and cities is eight percent and residents are required to petition for a hearing to initiate the process. Counties have not widely adopted electronic appraisal protest or settlement systems. Currently, appraisal protests can only be heard in district court.

As proposed, S.B.700 requires the chief appraiser to accept and approve or deny an application for a residence homestead exemption after the deadline for filing the application has passed if the application is filed not later than December 31 of the fifth year after the year in which the taxes for which the exemption is claimed were imposed. The bill also requires each property to be appraised based upon the individual characteristics that affect the property's market value and upon the use for which the property is currently used or designed to be used and not the highest and best potential use of the property. The bill lowers the rollback tax rate to five percent from eight percent and prohibits the governing body of a certain taxing unit from adopting a tax rate that exceeds the rollback tax rate without voter approval. The bill also requires counties with 500,000 or more in population to provide an electronic protest procedure and provides that the small claims court has jurisdiction over appeals if the amount of taxes in the dispute does not exceed \$5,000.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ELIGIBILITY FOR RESIDENCE HOMESTEAD EXEMPTION AND EFFECT ON CALCULATION OF TAXES.

SECTION 1.01. Amends Section 11.42(c), Tax Code, to provide that an exemption authorized by Section 11.13 (Residence Homestead), rather than 11.13(c) (relating to an adult who is disabled or is 65 or older is entitled to an exemption from taxation by a school district of \$10,000 of the appraised value of his residence homestead) or (d) (relating to an individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion of the appraised value of his residence homestead if the exemption is adopted under certain criteria), is effective as of January 1 of the tax year in which the person qualifies for the exemption and applies to the entire tax year.

SECTION 1.02 Amends Section 11.431, Tax Code, as follows:

Sec. 11.431. New heading: LATE APPLICATION FOR HOMESTEAD EXEMPTION.
(a) Requires the chief appraiser to accept and approve or deny an application for a residence homestead exemption after the deadline for filing the application has passed if the application is filed not later than December 31 of the fifth year after the year in which the taxes for which the exemption is claimed were imposed, rather than is filed not later

than one year after the delinquency date for the taxes on the homestead. Makes nonsubstantive changes.

(b) Requires the chief appraiser, if a late application for an exemption for one or more tax years is approved after approval of the appraisal records for the appropriate year or years by the appraisal review board, to correct appraisal records and notify the collector for each unit in which the residence is located. Requires the collector to deduct from the person's tax bill for the appropriate tax year or years the amount of tax imposed on the exempted amount if the tax has not been paid and any unpaid penalties and accrued interest relating to that tax. Provides that, if the tax has been paid, the collector is required to refund the amount of tax imposed on the exempted amount if a late application is approved for one or both of the tax years preceding the year in which the late application is filed, and is prohibited from refunding taxes, penalties, or interest paid on the property for which an exemption is granted under this section for a tax year preceding the tax years described by Subdivision (1).

SECTION 1.03. Amends Section 26.112, Tax Code, as follows:

Sec. 26.112. New heading: CALCULATION OF TAXES ON RESIDENCE HOMESTEAD. (a) Provides that if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.13 with respect to the property, rather than Sections 11.13(c) or (d), except as provided by Section 26.10(b) (regarding tax due against a former residence under certain conditions), the amount of tax due on the property for the tax year is calculated as if the person qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) Makes a conforming change.

SECTION 1.04. Effective date, this article: January 1, 2010.

ARTICLE 2. METHOD OF APPRAISAL

SECTION 2.01. Amends Section 23.01(b), Tax Code, to require that each property be appraised based upon the individual characteristics that affect the property's market value and upon the use for which the property is currently used or designed or suited to be used and not the highest and best potential use of the property.

SECTION 2.02. Makes application of this article prospective.

SECTION 2.03 Effective date, this article: January 1, 2010.

ARTICLE 3. NOTICE OF APPRAISAL

SECTION 3.01. Amends Section 25.19, Tax Code, by adding Subsection (b-3), to require the chief appraiser, for real property, in addition to the information required by Subsection (b) (relating to requiring the chief appraiser to separate real from personal property and include in the notice for each certain items), to state in a notice required to be delivered under Subsection (a) (relating to requiring the chief appraiser, by a certain date to deliver a clear and understandable written notice to a property owner of the appraised value of the property owner's property under certain criteria) the following for the current tax year and each of the preceding five tax years the appraised value of the property, and the difference, expressed as a percent increase or decrease, as applicable, in the appraised value of the property compared to the appraised value of the property for the preceding tax year.

SECTION 3.02. Effective date, this article: January 1, 2010.

ARTICLE 4. ROLLBACK TAX RATE AND REQUIRED ELECTION

SECTION 4.01. Amends Section 26.04(c), Tax Code, to redefine "rollback tax rate."

SECTION 4.02. Amends Sections 26.041(a), (b), and (c), Tax Code, as follows:

- (a) Provides that in the first year in which an additional sales or use tax is required to be collected, the effective tax rate and rollback tax rate for the unit are calculated according to certain formulas. Redefines "sales tax gain rate." Makes a conforming change.
- (b) Provides that except as provided by Subsections (a) and (c), rather than Subsections (a) and (c) of this section, in a year in which a taxing unit imposes an additional sales and use tax the rollback tax rate for the unit is calculated according to certain formula, regardless of whether the unit levied a property tax in the preceding year. Redefines "last year's maintenance and operations expense." Makes conforming changes.
- (c) Provides that in a year in which a taxing unit that has been imposing an additional sales and use tax ceases to impose an additional sales and use tax the effective tax rate and rollback tax rate for the unit are calculated according to certain formulas. Makes conforming changes.

SECTION 4.03. Amends Section 26.07, Tax Code, as follows:

Sec. 26.07. New heading: ELECTION TO RATIFY TAX INCREASE OF TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) Prohibits the governing body of a taxing unit other than a school district from adopting a tax rate that exceeds the rollback tax rate calculated as provided by this chapter without voter approval as provided by this section. Requires the governing body to adopt the rate as a proposed tax rate and call an election to permit the qualified voters of the taxing unit to approve or disapprove the proposed tax rate. Deletes existing text providing that if the governing body of a taxing unit other than a school district adopts a tax rate that exceeds the rollback tax rate calculated as provided by this chapter, the qualified voters of the taxing unit by petition are authorized to require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate calculated as provided by this chapter.

(b) Requires the governing body to order that the election be held in the taxing unit on a date not less than 30 or more than 90 days after the day on which the governing body adopted the proposed tax rate. Provides that Section 41.001 (Uniform Election Dates), Election Code, does not apply to the election unless a date specified by that section falls within the time permitted by this section. Sets forth the required language of the election ballot. Requires that the ballot proposition include the proposed tax rate and the difference between that rate and the rollback tax rate in the appropriate places. Deletes existing text of Subsections (b) and (c). Deletes existing text requiring the governing body, if it finds that the petition is valid (or fails to act within the time allowed), to order that an election be held in the taxing unit on the date or a date not less than 30 or more than 90 days after the last day on which it could have acted to approve or disapprove the petition. Deletes existing text providing that a state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. Deletes existing text requiring certain ballot language. Makes a nonsubstantive change.

(c) Redesignates Subsection (e) as Subsection (c). Provides that if a majority of the votes cast in the election favor the proposition, the proposition is approved and the tax rate for the current year is the proposed tax rate that was adopted by the governing body. Deletes existing text providing that if a majority of the qualified voters voting on the question in the election favor the proposition, the tax rate for the taxing unit for the current year is the rollback tax rate [calculated as provided by this chapter, otherwise, the tax rate for the current year is the one] adopted by the governing body.

(d) Redesignates Subsection (f) as Subsection (d). Prohibits the governing body, if the proposition is not approved as provided by Subsection (c), from adopting a

tax rate for the taxing unit for the current year that exceeds the taxing unit's rollback tax rate. Deletes existing text requiring the assessor for the unit, if the tax rate is reduced by an election called under this section after tax bills for the unit are mailed, to prepare and mail corrected tax bills; requiring that he include with the bill a brief explanation of the reason for and effect of the corrected bill; and providing that the date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent. Deletes text of existing Subsection (g).

SECTION 4.04. Amends Sections 31.12(a) and (b), Tax Code, as follows:

(a) Deletes existing text providing that if a refund of a tax provided by Section 26.07(g) (regarding property tax calculations for refunds to property), is paid on or before the 60th day after the date the liability for the refund arises, no interest is due on the amount refunded.

(b) Deletes existing text providing that for purposes of this section, liability for a refund arises if the refund is required by Section 26.07(g), on the date the results of the election to reduce the tax rate are certified. Makes nonsubstantive changes.

SECTION 4.05. Amends Section 33.08(b), Tax Code, to delete existing text providing that of the governing body of the taxing unit or appraisal district, in the manner required by law for official action, is authorized to provide that taxes that become delinquent on or after June 1 under Section 26.07(f) (relating to requirements of the assessor if the tax rate is reduced by an election called under this section after tax bills for the unit are mailed) incur an additional penalty to defray costs of collection.

SECTION 4.06. Reenacts Section 49.236, Water Code, as added by Chapters 248 (H.B. 1541) and 335 (S.B. 392), Acts of the 78th Legislature, Regular Session, 2003, and amends it as follows:

Sec. 49.236. NOTICE OF TAX HEARING. (a) Requires the notice of each meeting of the board at which adoption of a tax rate will be considered to contain a statement in substantially a certain form.

(b) Makes no changes to this subsection.

(c) Makes no changes to this subsection.

(d) Provides that if the governing body of a district adopts a combined debt service, operation and maintenance and, contract tax rate that would impose more than 1.05, rather than 1.08, times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, an election is required to be held to determine whether to ratify the tax rate adopted for the current year in accordance with the procedures provided by Section 26.07 (Election to Repeal Increase), Tax Code, rather than the qualified voters of the district by petition are authorized to require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate in accordance with procedures provided by Sections 26.07 (b)-(g) (relating to elections to repeal tax rate increases) and 26.081 (Petition Signatures). Makes conforming changes.

SECTION 4.07. (a) Provides that the change in law made by this Article applies to the ad valorem tax rate of a taxing unit beginning of the 2009 tax year, except as provided by Subsection (b) of this section.

(b) Provides that if the governing body of a taxing unit adopted an ad valorem tax rate for the taxing unit for the 2009 tax year before the effective date of this article, the

change in law made by this article applies to the ad valorem tax rate of that taxing unit beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that taxing unit.

SECTION 4.08. Effective date, this article: upon passage or on the 91st day after the last day of the legislative session.

ARTICLE 5. ELECTRONIC PROTEST PROCEDURE

SECTION 5.01. Amends Subchapter C, Chapter 41, Tax Code, by adding Section 41.415, as follows:

Sec. 41.415. ELECTRONIC FILING OF NOTICE OF PROTEST. (a) Provides that this section applies only to an appraisal district established for a county having a population of 500,000 more.

(b) Requires the appraisal district to implement a system that allows the owner of a property that for the current tax year has been granted a residence homestead exemption under Section 11.13, in connection with the property, to electronically file a notice of protest under Section 41.41(a)(1) (regarding a property owners entitlement to protest before the appraisal review board following a determination of the appraised value of the owner's property, or its appraised or market value) or (2) (regarding a property owners entitlement to protest before the appraisal review board following unequal appraisal of the owner's property) with the appraisal review board; receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the board; receive, as applicable, a settlement offer from the district to correct the appraisal records by changing the appraised value of the property to the value as redetermined by the district, or a notice from the district that a settlement offer will not be made; and accept or reject a settlement offer received from the appraisal district under Subdivision (3)(A) (relating to receiving a settlement offer from the district to correct the appraisal records by changing the appraised value of the property to the value as redetermined by the district).

(c) Requires the chief appraiser, with each notice sent under Section 25.19 (Notice of Appraised Value) to an eligible property owner, to include information about the system required by this section, including instructions for accessing and using the system.

(d) Requires that a notice of protest filed electronically under this section include, at a minimum, a statement as to whether the protest is brought under Section 41.41 (a)(1) or under Section 41.41(a)(2), a statement of the property owner's good faith estimate of the value of the property, and an electronic mail address that the district may use to communicate electronically with the property owner in connection with the protest.

(e) Requires the chief appraiser notify, if the property owner accepts a settlement offer made by the appraisal district, to notify the appraisal review board. Requires the appraisal review board to determine the protest accordingly and otherwise comply with Section 41.47 (Determination of Protest).

(f) Requires the appraisal review board, if the property owner rejects a settlement offer, to hear and determine the property owner's protest in the manner otherwise provided by this subchapter and Subchapter D (Administrative Provisions).

(g) Provides that an appraisal district is not required to make the system required by this section available to an owner of a residence homestead location in an area in which the chief appraiser determines that the factors affecting the market value of real property are unusually complex.

(h) Provides that an electronic mail address provided by a property owner to an appraisal district under Subsection (d)(3) (regarding an electronic mail address that the district may use to communicate electronically with the property owner in connection with the protest) is confidential and may not be disclosed by the district.

SECTION 5.02. Makes application of Section 41.415, Tax Code, prospective.

SECTION 5.03. Effective date, this article: January 1, 2010.

ARTICLE 6. APPEAL TO SMALL CLAIMS COURT

SECTION 6.01. Amends Section 41.47(e), Tax Code, to require that the notice of the issuance of the order contain a prominently printed statement in upper-case bold lettering informing the property owner in clear and concise language of the property owner's right to appeal the appraisal review board's decision to district court or to small claims court if the amount of taxes in dispute is within the jurisdiction of a small claims court. Requires that the statement describe the deadline prescribed by Section 42.06(a) (regarding a property owner's right to appeal an order from the appraisal review board or the comptroller), rather than section 42.06(a) of this code, for filing a written notice of appeal, and the deadline prescribed by Section 42.21(a), rather than Section 42.21(a) of this code, for filing the petition for review with the appropriate court, rather than the district court. Makes a nonsubstantive change.

SECTION 6.02. Amends the heading to Subchapter B, Chapter 42, Tax Code to read, as follows:

SUBCHAPTER B. JUDICIAL REVIEW

SECTION 6.03. Amends Section 42.21(a), Tax Code, to make a conforming change.

SECTION 6.04. Amends Subchapter B, Chapter 42, Tax Code, by adding Sections 42.211 and 42.212, as follows:

Sec. 42.211. JURISDICTION. (a) Requires that an appeal under this subchapter, except as provided by this section, be made to a district court.

(b) Authorizes a property owner to appeal an order of an appraisal review board under Section 42.01(1) (regarding a property owner's entitlement to appeal a certain order of the appraisal review board) to a small claims court if the amount of taxes due on the portion of the taxable value of the property that is in dispute calculated using the preceding year's tax rates is an amount that is within the jurisdiction of that small claims court.

(c) Requires the court, if the small claims court determines that the appeal is not within the court's jurisdiction, to dismiss the appeal. Authorizes the property owner, in that event, to appeal the order to the district court by filing a petition for review with the district court not later than the 30th day after the date of the dismissal.

Sec. 42.212. REPRESENTATION IN SMALL CLAIMS COURT. Authorizes, but does not require, an appraisal district to be represented by legal counsel in an appeal brought under Section 42.01(1) to a small claims court

SECTION 6.05. Reenacts Section 42.22, Tax Code, as amended by Chapters 667 (S.B. 548) and 1033 (H.B. 301), Acts of the 73rd Legislature, Regular Session, 1993, and amends it as follows:

Sec. 42.22. Venue. (a) Provides that except as provided by Subsections (b) and (c), and by Section 42.221 (Consolidated Appeals for Multicounty Property), venue in an appeal to district court is in the county in which the appraisal review board that issued the order appealed is located.

(b) Provides that venue of an action brought under Section 42.01(1) in district court is in the county in which the property is located or in the county in which the appraisal review board that issued the order is located.

(c) Makes no changes to this Subsection.

(d) Provides that venue of an action brought under Section 42.01(1) in small claims court is in any justice precinct in the county in which the appraisal review board that issued the order appealed is located.

SECTION 6.06. Amends Section 42.23(a), Tax Code, to require the court, rather than the district court, to try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

SECTION 6.07. Amends Section 42.24, Tax Code, to make conforming and nonsubstantive changes.

SECTION 6.08. Amends Section 42.26(a), Tax Code, to make a conforming change.

SECTION 6.09. Amends Subchapter B, Chapter 42, Tax Code, by adding Section 42.27, as follows:

Sec. 42.27. SMALL CLAIMS COURT JUDGMENT NOT APPEALABLE. Prohibits the final judgment of a small claims court in an appeal to the small claims court brought under Section 42.01(1) from being appealed by any person.

SECTION 6.10. Amends Section 28.003, Government Code, by adding Subsection (a-1), to provide that the small claims court has jurisdiction over appeals brought under Section 42.01(1), Tax Code, if the amount of taxes in dispute does not exceed \$5,000.

SECTION 6.11. Amends Section 28.011, Government Code, as follows:

Sec. 28.011. VENUE. Requires that an action in small claims court be brought in the county and precinct in which the defendant resides, except that an appeal brought under Section 42.01(1), Tax Code, is required to be brought as provided by Section 42.22 (Venue) of that code. Makes nonsubstantive changes.

SECTION 6.12. Provides that the change in law made by this article applies to the appeal of an order of an appraisal review board without regard to whether the order was issued before the effective date of this article.

SECTION 6.13. Effective date, this article: September 1, 2009.