

By: Swinford

H.B. No. 3498

Substitute the following for H.B. No. 3498:

By: Oliveira

C.S.H.B. No. 3498

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an appeal of an order of an appraisal review board to a
3 district court.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 42.21, Tax Code, is amended by amending
6 Subsection (c) and adding Subsection (c-1) to read as follows:

7 (c) If an appeal under this chapter is pending when the
8 appraisal review board issues an order in a subsequent year under a
9 protest by the same property owner and that protest relates to the
10 same property that is involved in the pending appeal, except as
11 provided by Subsection (c-1), the property owner may appeal the
12 subsequent appraisal review board order by amending the original
13 petition for the pending appeal to include the grounds for
14 appealing the subsequent order. The amended petition must be filed
15 with the court in the period provided by Subsection (a) for filing a
16 petition for review of the subsequent order. A property owner may
17 appeal the subsequent appraisal review board order under this
18 subsection or may appeal the order independently of the pending
19 appeal as otherwise provided by this section, but may not do both.
20 A property owner may change the election of remedies provided by
21 this subsection at any time before the end of the period provided by
22 Subsection (a) for filing a petition for review.

23 (c-1) A petition for review filed by a property owner may
24 not be amended to include more than one order issued in a subsequent

1 year by an appraisal review board.

2 SECTION 2. Section 42.23, Tax Code, is amended by adding
3 Subsections (f), (g), (h), and (i) to read as follows:

4 (f) Notwithstanding anything to the contrary in the Texas
5 Rules of Civil Procedure, in an appeal brought under this chapter
6 the discovery deadlines prescribed by Subsections (g)-(i) apply.

7 (g) If a property owner invokes the modified discovery rules
8 described by Subsection (d), each party must designate expert
9 witnesses and furnish written reports not later than 90 days before
10 trial.

11 (h) If a property owner does not invoke the modified
12 discovery rules described by Subsection (d):

13 (1) the party seeking affirmative relief must
14 designate expert witnesses and furnish written reports not later
15 than 90 days before trial; and

16 (2) each other party must designate expert witnesses
17 and furnish written reports not later than 60 days before trial.

18 (i) The discovery deadlines prescribed by this section may
19 be waived by agreement of the parties to the appeal. The parties
20 may agree to alternative discovery deadlines.

21 SECTION 3. Subchapter B, Chapter 42, Tax Code, is amended by
22 adding Section 42.235 to read as follows:

23 Sec. 42.235. TRIAL DEADLINE; DEFAULT FOR FAILURE TO MEET
24 DEADLINE; DISMISSAL FOR WANT OF PROSECUTION. (a) In an appeal
25 brought under this chapter, all parties must be ready for trial and
26 submit an agreed order setting a trial date on or before the second
27 anniversary of the date the petition for review was filed with the

1 district court.

2 (b) If a party has not announced ready for trial on or before
3 the second anniversary of the date the petition for review was
4 filed, or if a party does not agree to an order setting a trial date
5 on or before the second anniversary of the date the petition for
6 review was filed, the district court, after that second
7 anniversary, may:

8 (1) strike the pleadings of that party; and

9 (2) on a motion of a party that has announced ready for
10 trial, enter a default judgment against the party that has not
11 announced ready for trial or agreed to an order setting a trial
12 date.

13 (c) If a petition for review is amended under Section 42.21
14 to add an appeal of an order of the appraisal review board issued in
15 a subsequent year, the deadlines imposed by Subsection (a) are
16 extended until the second anniversary of the date the amended
17 petition for review was filed with the district court.

18 (d) An appeal brought under this chapter may not be
19 dismissed for want of prosecution before the applicable deadline
20 prescribed by this section. If none of the parties to the appeal
21 has announced ready for trial on or before the applicable deadline
22 prescribed by this section, after giving notice to the parties of
23 the court's intention to dismiss the appeal in the manner required
24 by Rule 165a, Texas Rules of Civil Procedure, the district court may
25 dismiss the appeal for want of prosecution.

26 (e) The district court shall grant a continuance or an
27 extension of the deadlines prescribed by this section:

- 1 (1) on a showing of good cause by a party to the
- 2 appeal; or
- 3 (2) on the court's own motion if the court finds a
- 4 substantial and unavoidable reason for a delay.

5 SECTION 4. Section 23.101(a), Government Code, is amended
6 to read as follows:

7 (a) The trial courts of this state shall regularly and
8 frequently set hearings and trials of pending matters, giving
9 preference to hearings and trials of the following:

- 10 (1) temporary injunctions;
- 11 (2) criminal actions, with the following actions given
- 12 preference over other criminal actions:

13 (A) criminal actions against defendants who are
14 detained in jail pending trial;

15 (B) criminal actions involving a charge that a
16 person committed an act of family violence, as defined by Section
17 71.004, Family Code;

- 18 (C) an offense under:
 - 19 (i) Section 21.02 or 21.11, Penal Code;
 - 20 (ii) Chapter 22, Penal Code, if the victim
 - 21 of the alleged offense is younger than 17 years of age;
 - 22 (iii) Section 25.02, Penal Code, if the
 - 23 victim of the alleged offense is younger than 17 years of age;
 - 24 (iv) Section 25.06, Penal Code; or
 - 25 (v) Section 43.25, Penal Code; and

26 (D) an offense described by Article 62.001(6)(C)
27 or (D), Code of Criminal Procedure;

1 (3) election contests and suits under the Election
2 Code;

3 (4) orders for the protection of the family under
4 Subtitle B, Title 4, Family Code;

5 (5) appeals of final rulings and decisions of the
6 division of workers' compensation of the Texas Department of
7 Insurance regarding workers' compensation claims and claims under
8 the Federal Employers' Liability Act and the Jones Act;

9 (6) appeals of final orders of the commissioner of the
10 General Land Office under Section 51.3021, Natural Resources Code;

11 (7) actions in which the claimant has been diagnosed
12 with malignant mesothelioma, other malignant asbestos-related
13 cancer, malignant silica-related cancer, or acute silicosis; and

14 (8) appeals brought under Section 42.01 or 42.015, Tax
15 Code, of orders of appraisal review boards of appraisal districts
16 [~~established for counties with a population of less than 175,000~~].

17 SECTION 5. The change in the law made by this Act applies
18 only to an appeal under Chapter 42, Tax Code, for which a petition
19 for review is filed on or after the effective date of this Act. An
20 appeal under Chapter 42, Tax Code, for which a petition for review
21 was filed before the effective date of this Act is governed by the
22 law in effect on the date the petition for review was filed, and the
23 former law is continued in effect for that purpose.

24 SECTION 6. This Act takes effect September 1, 2009.