

By: Swinford

H.B. No. 3498

A BILL TO BE ENTITLED

AN ACT

relating to the appeal of an appraisal review board order to district court.

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

SECTION 1. Section 42.21(c), Tax Code, is amended to read as follows:

(c) If an appeal under this chapter is pending when the appraisal review board issues an order in a subsequent year under a protest by the same property owner and that protest relates to the same property that is involved in the pending appeal, the property owner may appeal the subsequent appraisal review board order by amending the original petition for the pending appeal to include the grounds for appealing the subsequent order if the original petition for the pending appeal has not previously been amended to add a subsequent appraisal review board order. The amended petition must be filed with the court in the period provided by Subsection (a) for filing a petition for review of the subsequent order. A property owner may appeal the subsequent appraisal review board order under this subsection or may appeal the order independently of the pending appeal as otherwise provided by this section, but may not do both. A property owner may change the election of remedies provided by this subsection at any time before the end of the period provided by Subsection (a) for filing a petition for review. Only one subsequent appraisal review board

1 order may be added to an existing appeal by amending the original  
2 petition. After a petition has been amended to include a subsequent  
3 appraisal review board order, no additional subsequent appraisal  
4 review board orders may be added to that appeal.

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

7 (f) Notwithstanding anything to the contrary in the Texas  
8 Rules of Civil Procedure, in an appeal under this chapter the  
9 following deadlines shall apply:

10 (1) if a property owner invokes the modified discovery  
11 rules described in Subsection (d), each party must designate expert  
12 witnesses and furnish written reports no later than 90 days prior to  
13 trial; or

14 (2) if a property owner does not invoke the modified  
15 discovery rules described in Subsection (d), the party seeking  
16 affirmative relief must designate expert witnesses and furnish  
17 written reports no later than 90 days prior to trial, and all other  
18 parties must designate expert witnesses and furnish written reports  
19 no later than 60 days prior to trial.

20 (g) The discovery deadlines prescribed by this section may  
21 be amended by agreement of the parties.

22 SECTION 3. Chapter 42, Tax Code, is amended by adding  
23 Section 42.265 to read as follows:

24 Sec. 42.265. TRIAL DEADLINE; DEFAULT FOR FAILURE TO MEET  
25 DEADLINE; DISMISSAL FOR WANT OF PROSECUTION. (a) In an appeal  
26 under this chapter, all parties must be ready for trial and submit  
27 an agreed order setting a trial date no later than the second

1 anniversary of the date the petition for review was filed with the  
2 district clerk.

3 (b) If a party is not ready for trial by the second  
4 anniversary of the date the petition for review was filed, or if a  
5 party will not agree to an order setting a trial date by the second  
6 anniversary of the date the petition for review was filed, the  
7 trial court may strike the pleadings of that party and, upon motion  
8 of the party that is ready for trial, enter a default judgment  
9 against the party that is not ready.

10 (c) If a petition for review is amended pursuant to Section  
11 42.21 to add a claim for a subsequent year, the deadline contained  
12 in Subsection (a) is extended to the second anniversary of the date  
13 the amended petition for review was filed with the district clerk.

14 (d) An appeal under this chapter may not be dismissed for  
15 want of prosecution prior to the trial deadlines prescribed by this  
16 section. If neither party has announced ready for trial pursuant to  
17 the trial deadlines prescribed by this section, the trial court may  
18 dismiss the appeal for want of prosecution after notice to the  
19 parties of its intent to do so pursuant to Rule 165a, Texas Rules of  
20 Civil Procedure.

21 (e) The trial court shall grant a continuance or an  
22 extension of the deadlines prescribed by this section upon a  
23 showing of good cause by a party or on its own motion if the court  
24 finds substantial and unavoidable reasons for a delay.

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

27 Sec. 23.101. (a) The trial courts of this state shall

1 regularly and frequently set hearings and trials of pending  
2 matters, giving preference to hearings and trials of the following:

3 (1) temporary injunctions;

4 (2) criminal actions, with the following actions given  
5 preference over other criminal actions:

6 (A) criminal actions against defendants who are  
7 detained in jail pending trial;

8 (B) criminal actions involving a charge that a  
9 person committed an act of family violence, as defined by Section  
10 71.004, Family Code;

11 (C) an offense under:

12 (i) Section 21.02 or 21.11, Penal Code;

13 (ii) Chapter 22, Penal Code, if the victim  
14 of the alleged offense is younger than 17 years of age;

15 (iii) Section 25.02 Penal Code, if the  
16 victim of the alleged offense is younger than 17 years of age;

17 (iv) Section 25.06, Penal Code; or

18 (v) Section 43.25, Penal Code; and

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

21 (3) election contests and suits under the Election  
22 Code;

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

25 (5) appeals of final rulings and decisions of the  
26 division of workers' compensation of the Texas Department of  
27 Insurance regarding workers' compensation claims and claims under

1 the Federal Employers' Liability Act and the Jones Act;

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

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

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

10 SECTION 5. The change in the law made by this Act applies  
11 only to an appeal under Chapter 42, Tax Code, for which a petition  
12 for review is filed on or after the effective date of this Act. An  
13 appeal under Chapter 42, Tax Code, for which a petition for review  
14 was filed before the effective date of this Act is governed by the  
15 law in effect on the date the petition for review was filed, and the  
16 former law is continued in effect for that purpose.

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