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H.B. No. 3612

Substitute the following for H.B. No. 3612:

By: Oliveira

C.S.H.B. No. 3612

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a pilot program that allows taxpayer appeals from certain appraisal review board determinations in certain counties to be heard by the State Office of Administrative Hearings.

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

SECTION 1. Chapter 2003, Government Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. PILOT PROGRAM: APPEALS FROM APPRAISAL REVIEW BOARD DETERMINATIONS IN CERTAIN COUNTIES

Sec. 2003.901. PILOT PROGRAM. (a) Not later than January 1, 2010, the office shall develop a pilot program under which, as an alternative to filing an appeal under Section 42.01, Tax Code, a property owner may appeal to the office an appraisal review board order determining a protest concerning the appraised or market value of property brought under Section 41.41(a)(1) or (2), Tax Code, if the appraised or market value, as applicable, of the property that was the subject of the protest, as determined by the board order, is more than \$1 million.

(b) The pilot program shall be developed and implemented in conformance with the provisions of this subchapter.

Sec. 2003.902. COUNTIES INCLUDED. The pilot program shall be implemented in Bexar, Cameron, Dallas, El Paso, Harris, Tarrant, and Travis Counties for a three-year period beginning with the ad

1 valorem tax year that begins January 1, 2010.

2 Sec. 2003.903. APPLICABILITY TO REAL AND PERSONAL PROPERTY.

3 The pilot program must be applicable to a determination of the  
4 appraised or market value made by an appraisal review board in  
5 connection with real or personal property, other than industrial  
6 property or minerals.

7 Sec. 2003.904. EDUCATION AND TRAINING OF ADMINISTRATIVE LAW

8 JUDGES. (a) An administrative law judge assigned to hear an appeal  
9 brought under this subchapter must have knowledge of:

10 (1) each of the appraisal methods a chief appraiser  
11 may use to determine the appraised value or the market value of  
12 property under Chapter 23, Tax Code; and

13 (2) the proper method for determining an appeal of a  
14 protest, including a protest brought on the ground of unequal  
15 appraisal.

16 (b) An administrative law judge is entitled to attend one or  
17 more training and education courses under Sections 5.04 and 5.041,  
18 Tax Code, to receive a copy of the materials used in a course, or  
19 both, without charge.

20 Sec. 2003.905. NOTICE OF APPEAL TO OFFICE. (a) To appeal  
21 an appraisal review board order to the office under this  
22 subchapter, a property owner must file with the chief appraiser of  
23 the appraisal district not later than the 15th day after the date  
24 the property owner receives notice of the order:

25 (1) a completed notice of appeal to the office in the  
26 form prescribed by Section 2003.906; and

27 (2) a filing fee in the amount of \$300, made payable to

1 the office.

2 (b) As soon as practicable after receipt of a notice of  
3 appeal, the chief appraiser for the appraisal district shall:

4 (1) indicate, where appropriate, those entries in the  
5 records that are subject to the appeal;

6 (2) submit the notice of appeal and filing fee to the  
7 office; and

8 (3) request the appointment of a qualified  
9 administrative law judge to hear the appeal.

10 Sec. 2003.906. CONTENTS OF NOTICE OF APPEAL. The chief  
11 administrative law judge by rule shall prescribe the form of a  
12 notice of appeal under this subchapter. The form must require the  
13 property owner to provide:

14 (1) a copy of the order of the appraisal review board;

15 (2) a brief statement that explains the basis for the  
16 property owner's appeal of the order; and

17 (3) a statement of the property owner's opinion of the  
18 appraised or market value, as applicable, of the property that is  
19 the subject of the appeal.

20 Sec. 2003.907. NOTICE TO PROPERTY OWNERS. An appraisal  
21 review board of an appraisal district established in a county  
22 listed in Section 2003.902 that delivers notice of issuance of an  
23 order described by Section 2003.901 of this code pertaining to  
24 property described by Section 2003.903 of this code and a copy of  
25 the order to a property owner as required by Section 41.47, Tax  
26 Code, shall include with the notice and copy:

27 (1) a notice of the property owner's rights under this

1 subchapter; and

2 (2) a copy of the notice of appeal prescribed by  
3 Section 2003.906.

4 Sec. 2003.908. DESIGNATION OF ADMINISTRATIVE LAW JUDGE.

5 (a) As soon as practicable after the office receives a notice of  
6 appeal and the filing fee, the office shall designate an  
7 administrative law judge to hear the appeal.

8 (b) As soon as practicable after the administrative law  
9 judge is designated, the administrative law judge shall set the  
10 date, time, and place of the hearing on the appeal.

11 (c) The hearing must be held in a building or facility that  
12 is owned or partly or entirely leased by the office and located in  
13 the county in which the applicable appraisal district is  
14 established, except that if the office does not own or lease a  
15 building or facility in the county, the hearing may be held in any  
16 public or privately owned building or facility in that county,  
17 preferably a building or facility in which the office regularly  
18 conducts business. The hearing may not be held in a building or  
19 facility that is owned, leased, or under the control of the  
20 appraisal district.

21 Sec. 2003.909. SCOPE OF APPEAL; HEARING. (a) An appeal is  
22 by trial de novo. The administrative law judge may not admit into  
23 evidence the fact of previous action by the appraisal review board,  
24 except as otherwise provided by this subchapter.

25 (b) Chapter 2001 and the Texas Rules of Evidence do not  
26 apply to a hearing under this subchapter. Prehearing discovery is  
27 limited to the exchange of documents the parties will rely on during

1 the hearing. Any expert witness testimony must be reduced to  
2 writing and included in the exchange of documents.

3 (c) Any relevant evidence is admissible, subject to the  
4 imposition of reasonable time limits and the parties' compliance  
5 with reasonable procedural requirements imposed by the  
6 administrative law judge, including a schedule for the prehearing  
7 exchange of documents to be relied on.

8 (d) An administrative law judge may consider factors such as  
9 the hearsay nature of testimony, the qualifications of witnesses,  
10 and other restrictions on the admissibility of evidence under the  
11 Texas Rules of Evidence in assessing the weight to be given to the  
12 evidence admitted.

13 Sec. 2003.910. REPRESENTATION OF PARTIES. (a) A property  
14 owner may be represented at the hearing by:

15 (1) the property owner;  
16 (2) an attorney who is licensed in this state;  
17 (3) a certified public accountant; or  
18 (4) any other person who is not otherwise prohibited  
19 from appearing in a hearing held by the office.

20 (b) The appraisal district may be represented by the chief  
21 appraiser or a person designated by the chief appraiser.

22 Sec. 2003.911. DETERMINATION OF ADMINISTRATIVE LAW JUDGE.

23 (a) As soon as practicable, but not later than the 30th day after  
24 the date the hearing is concluded, the administrative law judge  
25 shall issue a determination and send a copy to the property owner  
26 and the chief appraiser.

27 (b) The determination:

1           (1) must include a determination of the appraised or  
2 market value, as applicable, of the property that is the subject of  
3 the appeal;

4           (2) must contain a brief analysis of the  
5 administrative law judge's rationale for and set out the key  
6 findings in support of the determination but is not required to  
7 contain a detailed discussion of the evidence admitted or the  
8 contentions of the parties;

9           (3) may include any remedy or relief a court may order  
10 under Chapter 42, Tax Code, in an appeal relating to the appraised  
11 or market value of property; and

12           (4) shall specify whether the appraisal district or  
13 the property owner is required to pay the costs of the hearing and  
14 the amount of those costs.

15           (c) If the administrative law judge determines that the  
16 appraised or market value, as applicable, of the property that is  
17 the subject of the appeal is nearer to the property owner's opinion  
18 of the appraised or market value, as applicable, of the property as  
19 stated in the request for the hearing submitted by the property  
20 owner than the value determined by the appraisal review board:

21           (1) the office, on receipt of a copy of the  
22 determination, shall refund the property owner's filing fee;

23           (2) the appraisal district, on receipt of a copy of the  
24 determination, shall pay the costs of the appeal as specified in the  
25 determination; and

26           (3) the chief appraiser shall correct the appraised or  
27 market value, as applicable, of the property as shown in the

1 appraisal roll to reflect the administrative law judge's  
2 determination.

3 (d) If the administrative law judge determines that the  
4 appraised or market value, as applicable, of the property that is  
5 the subject of the appeal is not nearer to the property owner's  
6 opinion of the appraised or market value, as applicable, of the  
7 property as stated in the property owner's request for a hearing  
8 than the value determined by the appraisal review board:

9 (1) the office, on receipt of a copy of the  
10 determination, shall retain the property owner's filing fee;

11 (2) the chief appraiser shall correct the appraised or  
12 market value, as applicable, of the property as shown in the  
13 appraisal roll to reflect the administrative law judge's  
14 determination if the value as determined by the administrative law  
15 judge is less than the value as determined by the appraisal review  
16 board; and

17 (3) the property owner shall pay the difference  
18 between the costs of the appeal as specified in the determination  
19 and the property owner's filing fee.

20 (e) Notwithstanding Subsection (a), the office by rule may  
21 implement a process under which:

22 (1) the administrative law judge issues a proposal for  
23 determination to the parties;

24 (2) the parties are given a reasonable period in which  
25 to make written objections to the proposal; and

26 (3) the administrative law judge is authorized to take  
27 into account those written objections before issuing a final

1 determination.

2       Sec. 2003.912. PAYMENT OF TAXES PENDING APPEAL. (a) The  
3 pendency of an appeal to the office does not affect the delinquency  
4 date for the taxes on the property subject to the appeal. A  
5 property owner who appeals an appraisal review board order to the  
6 office shall pay taxes on the property subject to the appeal in an  
7 amount equal to the amount of taxes due on the portion of the  
8 taxable value of the property that is not in dispute. If the final  
9 determination of the appeal decreases the property owner's tax  
10 liability to an amount less than the amount of taxes paid, each  
11 taxing unit shall refund to the property owner the difference  
12 between the amount of taxes paid and the amount of taxes for which  
13 the property owner is liable.

14       (b) A property owner may not appeal to the office if the  
15 taxes on the property subject to the appeal are delinquent. An  
16 administrative law judge who determines that the taxes on the  
17 property subject to an appeal are delinquent shall dismiss the  
18 pending appeal with prejudice. If an appeal is dismissed under  
19 this subsection, the office shall retain the property owner's  
20 filing fee.

21       Sec. 2003.913. JUDICIAL APPEAL. (a) A final order of an  
22 administrative law judge determining an appeal brought under this  
23 subchapter may be appealed to a district court in the manner  
24 provided by Chapter 42, Tax Code, except that a party is not  
25 entitled to a jury trial.

26       (b) A chief appraiser may not bring an appeal unless the  
27 board of directors of the appraisal district votes to allow the

1 appeal.

2 (c) Except as provided by Subsection (a), to the extent that  
3 they can be made applicable, the provisions of Chapter 42, Tax Code,  
4 also apply to an appeal of a final order of an administrative law  
5 judge determining an appeal brought under this subchapter.

6 Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An  
7 appeal to the office under this subchapter does not prevent the  
8 property owner from seeking judicial review of the order of the  
9 appraisal review board. The period in which a petition for review  
10 must be filed under Section 42.21, Tax Code, is tolled beginning on  
11 the date the notice of appeal under this subchapter is filed and  
12 ending on the date the administrative law judge issues the judge's  
13 determination.

14 Sec. 2003.915. REPORT TO LEGISLATURE. Not later than  
15 January 1, 2013, the office and the chief appraisers of the  
16 appraisal districts established in the counties in which the pilot  
17 program is implemented shall submit a report to the legislature  
18 that includes:

19 (1) the number of appeals for property in each  
20 appraisal district;

21 (2) the number of appeals that were settled before  
22 being heard by an administrative law judge;

23 (3) the number of appeals brought on the ground of  
24 excessive appraisal;

25 (4) the number of appeals brought on the ground of  
26 unequal appraisal;

27 (5) the number of judicial appeals of an

1 administrative law judge's determination for each appraisal  
2 district; and

3 (6) any recommendations for future legislative action  
4 that the office or the chief appraisers consider appropriate.

5 Sec. 2003.916. EXPIRATION. This subchapter expires January  
6 1, 2013.

7 SECTION 2. This Act applies only to an ad valorem tax year  
8 that begins on or after the effective date of this Act.

9 SECTION 3. This Act takes effect January 1, 2010.