

By: Otto

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, 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. An appeal is by trial de
22 novo. The administrative law judge may not admit into evidence the
23 fact of previous action by the appraisal review board, except as
24 otherwise provided by this subchapter.

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

27 (1) the property owner;

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

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

7 Sec. 2003.911. DETERMINATION OF ADMINISTRATIVE LAW JUDGE.

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

12 (b) The determination:

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

16 (2) must state the administrative law judge's
17 rationale for the determination of value;

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

21 (4) shall specify whether the appraisal district or
22 the property owner is required to pay the costs of the hearing and
23 the amount of those costs.

24 (c) If the administrative law judge determines that the
25 appraised or market value, as applicable, of the property that is
26 the subject of the appeal is nearer to the property owner's opinion
27 of the appraised or market value, as applicable, of the property as

1 stated in the request for the hearing submitted by the property
2 owner than the value determined by the appraisal review board:

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

5 (2) the appraisal district, on receipt of a copy of the
6 determination, shall pay the costs of the appeal as specified in the
7 determination; and

8 (3) the chief appraiser shall correct the appraised or
9 market value, as applicable, of the property as shown in the
10 appraisal roll to reflect the administrative law judge's
11 determination.

12 (d) If the administrative law judge determines that the
13 appraised or market value, as applicable, of the property that is
14 the subject of the appeal is not nearer to the property owner's
15 opinion of the appraised or market value, as applicable, of the
16 property as stated in the property owner's request for a hearing
17 than the value determined by the appraisal review board:

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

20 (2) the chief appraiser shall correct the appraised or
21 market value, as applicable, of the property as shown in the
22 appraisal roll to reflect the administrative law judge's
23 determination if the value as determined by the administrative law
24 judge is less than the value as determined by the appraisal review
25 board; and

26 (3) the property owner shall pay the difference
27 between the costs of the appeal as specified in the determination

1 and the property owner's filing fee.

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

4 (1) the administrative law judge issues a proposal for
5 determination to the parties;

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

8 (3) the administrative law judge is authorized to take
9 into account those written objections before issuing a final
10 determination.

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

23 (b) A property owner may not appeal to the office if the
24 taxes on the property subject to the appeal are delinquent. An
25 administrative law judge who determines that the taxes on the
26 property subject to an appeal are delinquent shall dismiss the
27 pending appeal with prejudice. If an appeal is dismissed under

1 this subsection, the office shall retain the property owner's
2 filing fee.

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

8 (b) A chief appraiser may not bring an appeal unless the
9 board of directors of the appraisal district votes to allow the
10 appeal.

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

15 Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An
16 appeal to the office under this subchapter does not prevent the
17 property owner from seeking judicial review of the order of the
18 appraisal review board. The period in which a petition for review
19 must be filed under Section 42.21, Tax Code, is tolled beginning on
20 the date the notice of appeal under this subchapter is filed and
21 ending on the date the administrative law judge issues the judge's
22 determination.

23 Sec. 2003.915. REPORT TO LEGISLATURE. Not later than
24 January 1, 2013, the office and the chief appraisers of the
25 appraisal districts established in the counties in which the pilot
26 program is implemented shall submit a report to the legislature
27 that includes:

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

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

5 (3) the number of appeals brought on the ground of
6 excessive appraisal;

7 (4) the number of appeals brought on the ground of
8 unequal appraisal;

9 (5) the number of judicial appeals of an
10 administrative law judge's determination for each appraisal
11 district; and

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

14 Sec. 2003.916. EXPIRATION. This subchapter expires January
15 1, 2013.

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

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