

1-1 By: Otto, et al. (Senate Sponsor - Williams) H.B. No. 3612
1-2 (In the Senate - Received from the House April 29, 2009;
1-3 May 6, 2009, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 23, 2009, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 3,
1-6 Nays 1; May 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3612 By: Nichols

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of a pilot program that allows taxpayer
1-11 appeals from certain appraisal review board determinations in
1-12 certain counties to be heard by the State Office of Administrative
1-13 Hearings.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Chapter 2003, Government Code, is amended by
1-16 adding Subchapter Z to read as follows:

1-17 SUBCHAPTER Z. PILOT PROGRAM: APPEALS FROM APPRAISAL REVIEW BOARD
1-18 DETERMINATIONS IN CERTAIN COUNTIES

1-19 Sec. 2003.901. PILOT PROGRAM. (a) Not later than January
1-20 1, 2010, the office shall develop a pilot program under which, as an
1-21 alternative to filing an appeal under Section 42.01, Tax Code, a
1-22 property owner may appeal to the office an appraisal review board
1-23 order determining a protest concerning the appraised or market
1-24 value of property brought under Section 41.41(a)(1) or (2), Tax
1-25 Code, if the appraised or market value, as applicable, of the
1-26 property that was the subject of the protest, as determined by the
1-27 board order, is more than \$1 million.

1-28 (b) The pilot program shall be developed and implemented in
1-29 conformance with the provisions of this subchapter.

1-30 (c) So as to expeditiously determine the appeals filed with
1-31 the office using resources available to the office, the office is
1-32 not required to determine more than 3,000 appeals filed under this
1-33 subchapter. The office may develop a formula to establish the
1-34 number of appeals that may be filed in each county included in the
1-35 pilot program based on the total number of lawsuits filed in a
1-36 county to which this subchapter applies as a percentage of the total
1-37 number of lawsuits filed in all of those counties.

1-38 Sec. 2003.902. COUNTIES INCLUDED. The pilot program shall
1-39 be implemented in Bexar, Cameron, Dallas, El Paso, Harris, Tarrant,
1-40 and Travis Counties for a three-year period beginning with the ad
1-41 valorem tax year that begins January 1, 2010.

1-42 Sec. 2003.903. RULES. (a) The office has rulemaking
1-43 authority to implement this subchapter.

1-44 (b) The office has specific rulemaking authority to
1-45 implement those rules necessary to expeditiously determine appeals
1-46 to the office, based on the number of appeals filed and the
1-47 resources available to the office.

1-48 (c) The office may adopt rules that include the procedural
1-49 provisions of Chapter 41, Tax Code, applicable to a hearing before
1-50 an appraisal review board.

1-51 Sec. 2003.904. APPLICABILITY TO REAL AND PERSONAL PROPERTY.
1-52 The pilot program must be applicable to a determination of the
1-53 appraised or market value made by an appraisal review board in
1-54 connection with real or personal property, other than industrial
1-55 property or minerals.

1-56 Sec. 2003.905. EDUCATION AND TRAINING OF ADMINISTRATIVE LAW
1-57 JUDGES. (a) An administrative law judge assigned to hear an appeal
1-58 brought under this subchapter must have knowledge of:

1-59 (1) each of the appraisal methods a chief appraiser
1-60 may use to determine the appraised value or the market value of
1-61 property under Chapter 23, Tax Code; and

1-62 (2) the proper method for determining an appeal of a
1-63 protest, including a protest brought on the ground of unequal

2-1 appraisal.

2-2 (b) An administrative law judge is entitled to attend one or
 2-3 more training and education courses under Sections 5.04 and 5.041,
 2-4 Tax Code, to receive a copy of the materials used in a course, or
 2-5 both, without charge.

2-6 Sec. 2003.906. NOTICE OF APPEAL TO OFFICE. (a) To appeal
 2-7 an appraisal review board order to the office under this
 2-8 subchapter, a property owner must file with the chief appraiser of
 2-9 the appraisal district not later than the 30th day after the date
 2-10 the property owner receives notice of the order:

2-11 (1) a completed notice of appeal to the office in the
 2-12 form prescribed by Section 2003.907; and

2-13 (2) a filing fee in the amount of \$300, made payable to
 2-14 the office.

2-15 (b) As soon as practicable after receipt of a notice of
 2-16 appeal, the chief appraiser for the appraisal district shall:

2-17 (1) indicate, where appropriate, those entries in the
 2-18 records that are subject to the appeal;

2-19 (2) submit the notice of appeal and filing fee to the
 2-20 office; and

2-21 (3) request the appointment of a qualified
 2-22 administrative law judge to hear the appeal.

2-23 Sec. 2003.907. CONTENTS OF NOTICE OF APPEAL. The chief
 2-24 administrative law judge by rule shall prescribe the form of a
 2-25 notice of appeal under this subchapter. The form must require the
 2-26 property owner to provide:

2-27 (1) a copy of the order of the appraisal review board;

2-28 (2) a brief statement that explains the basis for the
 2-29 property owner's appeal of the order; and

2-30 (3) a statement of the property owner's opinion of the
 2-31 appraised or market value, as applicable, of the property that is
 2-32 the subject of the appeal.

2-33 Sec. 2003.908. NOTICE TO PROPERTY OWNERS. An appraisal
 2-34 review board of an appraisal district established in a county
 2-35 listed in Section 2003.902 of this code that delivers notice of
 2-36 issuance of an order described by Section 2003.901 of this code
 2-37 pertaining to property described by Section 2003.904 of this code
 2-38 and a copy of the order to a property owner as required by Section
 2-39 41.47, Tax Code, shall include with the notice and copy:

2-40 (1) a notice of the property owner's rights under this
 2-41 subchapter; and

2-42 (2) a copy of the notice of appeal prescribed by
 2-43 Section 2003.907.

2-44 Sec. 2003.909. DESIGNATION OF ADMINISTRATIVE LAW JUDGE.
 2-45 (a) As soon as practicable after the office receives a notice of
 2-46 appeal and the filing fee, the office shall designate an
 2-47 administrative law judge to hear the appeal.

2-48 (b) As soon as practicable after the administrative law
 2-49 judge is designated, the administrative law judge shall set the
 2-50 date, time, and place of the hearing on the appeal.

2-51 (c) The hearing must be held in a building or facility that
 2-52 is owned or partly or entirely leased by the office and located in
 2-53 the county in which the applicable appraisal district is
 2-54 established, except that if the office does not own or lease a
 2-55 building or facility in the county, the hearing may be held in any
 2-56 public or privately owned building or facility in that county,
 2-57 preferably a building or facility in which the office regularly
 2-58 conducts business. The hearing may not be held in a building or
 2-59 facility that is owned, leased, or under the control of the
 2-60 appraisal district.

2-61 Sec. 2003.910. SCOPE OF APPEAL; HEARING. (a) An appeal is
 2-62 by trial de novo. The administrative law judge may not admit into
 2-63 evidence the fact of previous action by the appraisal review board,
 2-64 except as otherwise provided by this subchapter.

2-65 (b) Chapter 2001 and the Texas Rules of Evidence do not
 2-66 apply to a hearing under this subchapter. Prehearing discovery is
 2-67 limited to the exchange of documents the parties will rely on during
 2-68 the hearing. Any expert witness testimony must be reduced to
 2-69 writing and included in the exchange of documents.

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

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

Sec. 2003.911. REPRESENTATION OF PARTIES. (a) A property owner may be represented at the hearing by:

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

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

(c) An authorized representative of a party may appear at the hearing to offer evidence, argument, or both, in the same manner as provided by Section 41.45, Tax Code.

Sec. 2003.912. DETERMINATION OF ADMINISTRATIVE LAW JUDGE. (a) As soon as practicable, but not later than the 30th day after the date the hearing is concluded, the administrative law judge shall issue a determination and send a copy to the property owner and the chief appraiser.

(b) The determination:

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

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

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

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

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

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

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

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

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

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

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's

determination if the value as determined by the administrative law judge is less than the value as determined by the appraisal review board; and

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

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

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

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

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

Sec. 2003.913. PAYMENT OF TAXES PENDING APPEAL. (a) The pendency of an appeal to the office does not affect the delinquency date for the taxes on the property subject to the appeal. A property owner who appeals an appraisal review board order to the office shall pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. If the final determination of the appeal decreases the property owner's tax liability to an amount less than the amount of taxes paid, each taxing unit shall refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

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

Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An appeal to the office under this subchapter is an election of remedies and an alternative to bringing an appeal under Section 42.01, Tax Code.

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

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

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

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

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

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

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

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

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

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

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