

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 26, 2009**

**TO:** Honorable Steve Ogden, Chair, Senate Committee on Finance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3454** by Otto (Relating to the determination of the value of property for ad valorem tax purposes, including appeals of appraisal review board orders determining protests of property value determinations, and the use of certain values by school districts in adopting tax rates.),  
**Committee Report 2nd House, Substituted**

**The bill's provision prohibiting a chief appraiser from separately appraising personal property that is valued as a portion of the income of the real property could create a cost to the state through the operation of the school finance formulas, but only to the extent that chief appraisers are currently double counting the value of personal property by including it in an income appraisal of the real property and also including it by another method.**

**The provisions of the bill related to the temporary cessation of typical agricultural activities during a drought would create a cost to the state through the operation of the school funding formulas.**

The bill would prohibit the representation of the appraisal review board by a person who serves as legal counsel for the appraisal district.

The bill would prohibit an increase in the appraised value of property after the value had been determined by an appeal to the appraisal review board, binding arbitration, or court decision unless the increase is reasonably supported by substantial, reliable evidence after considering all the evidence in the record.

The bill would limit sales that could be used as comparable sales in developing appraisals to sales that occurred within two years of the appraisal date unless insufficient comparable sales occurred within two years of the appraisal date to form a representative sample. The bill would require that a comparable sale price be adjusted for market changes during the period between the date of the sale and the appraisal date. The bill would include additional factors to be considered before using a sale as a comparable.

The bill would also prohibit a chief appraiser from separately appraising personal property that is valued as a portion of the income of the real property when appraising the property based on rental income. The market value of the real property would be required to include the combined value of the real and personal property.

The bill would provide that the eligibility of land qualified for agricultural appraisal does not end in situations in which a drought declared by the Governor causes the temporary cessation of typical agricultural activities if the landowner intends to resume the agricultural use when the drought ceases.

The bill would require that tax assessors for school districts estimate the values for each school district and submit them to the districts. Each school district would be required to calculate the effective and rollback tax rates using the estimate and adopt a tax rate before the later of September 30 or the 60th day after the date the estimate of the taxable value of property in the district is received.

The bill would disallow appraisal review board communications outside the hearing regarding a factual or hypothetical situation that is similar to a situation that is the subject of the protest.

The bill would amend Chapter 41A of the Tax Code, regarding property tax appraisal appeals and binding arbitration. Under current law, an appeal through binding arbitration is restricted to appeals that do not involve any matter in dispute other than the determination of the appraised or market value of the property. This bill would remove that restriction and include appeals based on equity.

The bill would provide for an expedited arbitration with not more than one hour of argument and testimony by each side involved in the protest. The deposit for an expedited arbitration would be \$250, compared to the \$500 deposit for the existing arbitration process.

The bill would add a continuing education requirement for arbitrators and would require them to renew their arbitration service agreement with the Comptroller on or as near as possible to the date on which the person's license or certification issued under Chapters 901, 1101, or 1103 of the Occupations Code, is renewed. The bill would add the requirement that an arbitrator in an appeal regarding property other than real property to be licensed as a certified public accountant. If an arbitrator fails to renew an agreement, the Comptroller would be required to remove the person from the arbitration registry.

The bill's proposed requirement for appraisers to consider proper evidence before increasing the appraised value of properties that were successfully protested in the previous year would not prevent appraisal districts from appraising the properties at market value because property tax appraisers are currently required to follow the Uniform Standards of Professional Appraisal Practice (USPAP) which requires such evidence.

The bill's requirements that appraisers select only the comparable sales that occurred within two years of the appraisal date unless a reasonable number of such sales are unavailable, that appraisers adjust sales for market changes between the sale date and the appraisal date, and that appraisers consider reasonable factors when selecting comparable sales are also in substantial accord with USPAP and International Association of Assessing Officers standards. As a result, these provisions would not create a significant fiscal impact on the state or local taxing units.

The bill's provision prohibiting a chief appraiser from separately appraising personal property that is valued as a portion of the income of the real property could create a cost to the state and to local taxing units, but only to the extent that chief appraisers are currently double counting the value of personal property by including it in an income appraisal of the real property and also including it by another method. Insufficient information is available about the extent of this practice. As a result, the cost cannot be estimated.

The provisions of the bill related to the temporary cessation of typical agricultural activities during a drought would create a cost to taxing units and to the state through the operation of the school funding formulas. Because information regarding the number of acres of land subject to denial of agricultural use appraisal because of drought is unavailable, the cost cannot be estimated.

The bill's provisions regarding school district rate calculation would affect only protest procedures or property tax processes but would not affect appraisal methods, exemptions or tax rates. As a result they would have no significant effect on tax revenues or state funding.

The provisions of the bill related to arbitration would modify a part of the appeal process and expand the kind of issues that are eligible for arbitration. The substantive rights of property owners would not be affected. The actions of arbitrators in deciding future arbitrations cannot be predicted. As a result, the fiscal impact cannot be estimated.

## Local Government Impact

The bill's provision prohibiting a chief appraiser from separately appraising personal property that is valued as a portion of the income of the real property could create a cost to local taxing units, but only to the extent that chief appraisers are currently double counting the value of personal property by including it in an income appraisal of the real property and also including it by another method. Insufficient information is available about the extent of this practice. As a result, the cost cannot be estimated.

The provisions of the bill related to the temporary cessation of typical agricultural activities during a drought would create a cost to taxing units. Because information regarding the number of acres of land subject to denial of agricultural use appraisal because of drought is unavailable, the cost cannot be estimated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD, SJS