

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB771 by Williams (relating to the determination of the value of property for ad valorem tax purposes, including appeals through binding arbitration of appraisal review board orders determining protests of property value determinations.), **As Passed 2nd House**

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.

Other provisions in the bill are not estimated to create a significant fiscal impact on the state.

The bill would amend Chapter 23 of the Tax Code to 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 add Section 23.522 to the Tax Code to 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 amend Chapter 41A of the Tax Code, regarding property tax appraisal appeals. The bill would allow binding arbitration on any homestead and on other real or personal property appraised at \$1 million or less. Under current law, an appeal through binding arbitration is restricted to appeals that involve only the determination of the appraised or market value of real property. This bill would remove those restrictions and include appeals based on equity and would allow personal property appeals.

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 licensed attorneys and licensed certified public accountants to the list of occupations permitted to represent parties to an arbitration proceeding or to act as arbitrators. The bill would add the requirement that applicants other than attorneys seeking initial qualification as an arbitrator under Section 41A would be required to have been licensed or certified for the five preceding years. The bill would require that the parties to an arbitration proceeding pay the cost of any person representing them.

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. If the arbitrator fails to renew the 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 bill would take effect January 1, 2010, and includes certain transition periods relating to the arbitration provisions.

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.

Other provisions in the bill are not estimated to create a significant fiscal impact on local taxing units.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS