

SENATE AMENDMENTS

2nd Printing

By: Otto, Oliveira, Villarreal, Gattis,
Truitt, et al.

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 30th 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;
18 (4) a registered property tax consultant; or
19 (5) any other person who is not otherwise prohibited
20 from appearing in a hearing held by the office.

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

23 Sec. 2003.911. DETERMINATION OF ADMINISTRATIVE LAW JUDGE.

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

1 (b) The determination:

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

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

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

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

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

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

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

27 (3) the chief appraiser shall correct the appraised or

1 market value, as applicable, of the property as shown in the
2 appraisal roll to reflect the administrative law judge's
3 determination.

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

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

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

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

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

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

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

27 (3) the administrative law judge is authorized to take

1 into account those written objections before issuing a final
2 determination.

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

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

22 Sec. 2003.913. JUDICIAL APPEAL. (a) A final order of an
23 administrative law judge determining an appeal brought under this
24 subchapter may be appealed to a district court in the manner
25 provided by Chapter 42, Tax Code.

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) To the extent that they can be made applicable, the
3 provisions of Chapter 42, Tax Code, also apply to an appeal of a
4 final order of an administrative law judge determining an appeal
5 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.

ADOPTED

MAY 25 2009

Atty. Gen.
Secretary of the Senate

By: Williams

H.B. No. 3612

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

By: [Signature]

C.S. H.B. No. 3612

A BILL TO BE ENTITLED

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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.

(c) So as to expeditiously determine the appeals filed with the office using resources available to the office, the office is not required to determine more than 3,000 appeals filed under this

1 subchapter. The office may develop a formula to establish the
2 number of appeals that may be filed in each county included in the
3 pilot program based on the total number of lawsuits filed in a
4 county to which this subchapter applies as a percentage of the total
5 number of lawsuits filed in all of those counties.

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

10 Sec. 2003.903. RULES. (a) The office has rulemaking
11 authority to implement this subchapter.

12 (b) The office has specific rulemaking authority to
13 implement those rules necessary to expeditiously determine appeals
14 to the office, based on the number of appeals filed and the
15 resources available to the office.

16 (c) The office may adopt rules that include the procedural
17 provisions of Chapter 41, Tax Code, applicable to a hearing before
18 an appraisal review board.

19 Sec. 2003.904. APPLICABILITY TO REAL AND PERSONAL PROPERTY.
20 The pilot program must be applicable to a determination of the
21 appraised or market value made by an appraisal review board in
22 connection with real or personal property, other than industrial
23 property or minerals.

24 Sec. 2003.905. EDUCATION AND TRAINING OF ADMINISTRATIVE LAW
25 JUDGES. (a) An administrative law judge assigned to hear an appeal
26 brought under this subchapter must have knowledge of:

27 (1) each of the appraisal methods a chief appraiser

1 may use to determine the appraised value or the market value of
2 property under Chapter 23, Tax Code; and

3 (2) the proper method for determining an appeal of a
4 protest, including a protest brought on the ground of unequal
5 appraisal.

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

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

15 (1) a completed notice of appeal to the office in the
16 form prescribed by Section 2003.907; and

17 (2) a filing fee in the amount of \$300, made payable to
18 the office.

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

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

23 (2) submit the notice of appeal and filing fee to the
24 office; and

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

27 Sec. 2003.907. CONTENTS OF NOTICE OF APPEAL. The chief

1 administrative law judge by rule shall prescribe the form of a
2 notice of appeal under this subchapter. The form must require the
3 property owner to provide:

4 (1) a copy of the order of the appraisal review board;
5 (2) a brief statement that explains the basis for the
6 property owner's appeal of the order; and

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

10 Sec. 2003.908. NOTICE TO PROPERTY OWNERS. An appraisal
11 review board of an appraisal district established in a county
12 listed in Section 2003.902 of this code that delivers notice of
13 issuance of an order described by Section 2003.901 of this code
14 pertaining to property described by Section 2003.904 of this code
15 and a copy of the order to a property owner as required by Section
16 41.47, Tax Code, shall include with the notice and copy:

17 (1) a notice of the property owner's rights under this
18 subchapter; and

19 (2) a copy of the notice of appeal prescribed by
20 Section 2003.907.

21 Sec. 2003.909. DESIGNATION OF ADMINISTRATIVE LAW JUDGE.

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

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

1 (c) The hearing must be held in a building or facility that
2 is owned or partly or entirely leased by the office and located in
3 the county in which the applicable appraisal district is
4 established, except that if the office does not own or lease a
5 building or facility in the county, the hearing may be held in any
6 public or privately owned building or facility in that county,
7 preferably a building or facility in which the office regularly
8 conducts business. The hearing may not be held in a building or
9 facility that is owned, leased, or under the control of the
10 appraisal district.

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

15 (b) Chapter 2001 and the Texas Rules of Evidence do not
16 apply to a hearing under this subchapter. Prehearing discovery is
17 limited to the exchange of documents the parties will rely on during
18 the hearing. Any expert witness testimony must be reduced to
19 writing and included in the exchange of documents.

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

25 (d) An administrative law judge may consider factors such as
26 the hearsay nature of testimony, the qualifications of witnesses,
27 and other restrictions on the admissibility of evidence under the

1 Texas Rules of Evidence in assessing the weight to be given to the
2 evidence admitted.

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

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

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

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

16 Sec. 2003.912. DETERMINATION OF ADMINISTRATIVE LAW JUDGE.

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

21 (b) The determination:

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

25 (2) must contain a brief analysis of the
26 administrative law judge's rationale for and set out the key
27 findings in support of the determination but is not required to

1 contain a detailed discussion of the evidence admitted or the
2 contentions of the parties;

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

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

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

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

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

20 (3) 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.

24 (d) 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 not nearer to the property owner's
27 opinion of the appraised or market value, as applicable, of the

1 property as stated in the property owner's request for a hearing
2 than the value determined by the appraisal review board:

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

5 (2) the chief appraiser shall correct the appraised or
6 market value, as applicable, of the property as shown in the
7 appraisal roll to reflect the administrative law judge's
8 determination if the value as determined by the administrative law
9 judge is less than the value as determined by the appraisal review
10 board; and

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

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

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

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

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

23 Sec. 2003.913. PAYMENT OF TAXES PENDING APPEAL. (a) The
24 pendency of an appeal to the office does not affect the delinquency
25 date for the taxes on the property subject to the appeal. A
26 property owner who appeals an appraisal review board order to the
27 office shall pay taxes on the property subject to the appeal in an

1 amount equal to the amount of taxes due on the portion of the
2 taxable value of the property that is not in dispute. If the final
3 determination of the appeal decreases the property owner's tax
4 liability to an amount less than the amount of taxes paid, each
5 taxing unit shall refund to the property owner the difference
6 between the amount of taxes paid and the amount of taxes for which
7 the property owner is liable.

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

15 Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An
16 appeal to the office under this subchapter is an election of
17 remedies and an alternative to bringing an appeal under Section
18 42.01, Tax Code.

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

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

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

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

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

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

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

10 Sec. 2003.916. EXPIRATION. This subchapter expires January
11 1, 2013.

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

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

ADOPTED

MAY 25 2009

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Carmon*

- 1 Amend H.B. No. 3612 (Senate committee printing) in SECTION 1 of the
- 2 bill, in added Section 2003.912 (b) (3), Government Code, after "Tax Code," and
- 3 before "in" insert the following:
- 4 "except for the award of attorney's fees under Sec. 42.29, Tax
- 5 Code,"

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB3612 by Otto (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.), **As Passed 2nd House**

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values statewide than under current law, there could be an indeterminate fiscal impact to the state.

The bill would add new Subchapter Z to Chapter 2003 of the Government Code, regarding the State Office of Administrative Hearings (SOAH).

The new subchapter would establish a pilot program allowing property owners to appeal appraisal review board (ARB) determinations for certain real or personal properties to SOAH.

The pilot program would be implemented in Bexar, Dallas, El Paso, Harris, Tarrant, and Travis counties for a three-year period beginning January 1, 2010, and would be limited to 3,000 appeals. Owners of real or personal properties appraised at more than \$1 million could protest to SOAH determinations of ARBs resulting from protests of appraised and market value or unequal appraisal. Mineral and industrial property would be excluded. A SOAH determination would preclude a district court appeal. SOAH would have rulemaking authority to implement the pilot program.

The bill would require relevant education and training for SOAH administrative law judges and would set out notice and procedural requirements. SOAH and chief appraisers for counties included in the pilot program would submit a report at the end of the pilot program to the Legislature including recommendations for future action.

Currently, the only recourse for owners of property appraised at more than \$1 million who are dissatisfied with ARB determinations is to file suit in district court. The pilot program would allow these property owners, with the exception of industrial or minerals property owners, to protest ARB determinations to SOAH. According to the Comptroller of Public Accounts, the fiscal impact of this bill to the state and units of local government resulting from the pilot program cannot be determined because the success rate of property owners appealing to SOAH cannot be predicted.

SOAH estimates, based on the projected need to hire five additional experienced Administrative Law Judges and three additional support staff, the cost of the additional work would be \$884,742 for the first year and \$836,761 per year thereafter. These costs would be reimbursable to SOAH through retention of the filing fee when the appellant loses and by billing and collecting its costs from the losing party. Accordingly, the cost to SOAH for performing the work would not have a net fiscal impact on general revenue.

The bill would take effect January 1, 2010.

Local Government Impact

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values than under current law, there could be an indeterminate fiscal impact to units of local government.

Source Agencies: 360 State Office of Administrative Hearings, 304 Comptroller of Public Accounts

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

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

IN RE: HB3612 by Otto (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.), **Committee Report 2nd House, Substituted**

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values statewide than under current law, there could be an indeterminate fiscal impact to the state.

The bill would add new Subchapter Z to Chapter 2003 of the Government Code, regarding the State Office of Administrative Hearings (SOAH).

The new subchapter would establish a pilot program allowing property owners to appeal appraisal review board (ARB) determinations for certain real or personal properties to SOAH.

The pilot program would be implemented in Bexar, Dallas, El Paso, Harris, Tarrant, and Travis counties for a three-year period beginning January 1, 2010, and would be limited to 3,000 appeals. Owners of real or personal properties appraised at more than \$1 million could protest to SOAH determinations of ARBs resulting from protests of appraised and market value or unequal appraisal. Mineral and industrial property would be excluded. A SOAH determination would preclude a district court appeal. SOAH would have rulemaking authority to implement the pilot program.

The bill would require relevant education and training for SOAH administrative law judges and would set out notice and procedural requirements. SOAH and chief appraisers for counties included in the pilot program would submit a report at the end of the pilot program to the Legislature including recommendations for future action.

Currently, the only recourse for owners of property appraised at more than \$1 million who are dissatisfied with ARB determinations is to file suit in district court. The pilot program would allow these property owners, with the exception of industrial or minerals property owners, to protest ARB determinations to SOAH. According to the Comptroller of Public Accounts, the fiscal impact of this bill to the state and units of local government resulting from the pilot program cannot be determined because the success rate of property owners appealing to SOAH cannot be predicted.

SOAH estimates, based on the projected need to hire five additional experienced Administrative Law Judges and three additional support staff, the cost of the additional work would be \$884,742 for the first year and \$836,761 per year thereafter. These costs would be reimbursable to SOAH through retention of the filing fee when the appellant loses and by billing and collecting its costs from the losing party. Accordingly, the cost to SOAH for performing the work would not have a net fiscal impact on general revenue.

The bill would take effect January 1, 2010.

Local Government Impact

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values than under current law, there could be an indeterminate fiscal impact to units of local government.

Source Agencies: 360 State Office of Administrative Hearings, 304 Comptroller of Public Accounts
LBB Staff: JOB, DB, SD, SJS, MN

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

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

IN RE: HB3612 by Otto (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.), **As Engrossed**

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values statewide than under current law, there could be an indeterminate fiscal impact to the state.

The bill would add new Subchapter Z to Chapter 2003 of the Government Code, regarding the State Office of Administrative Hearings (SOAH). The new subchapter would establish a pilot program allowing property owners to appeal appraisal review board (ARB) determinations for certain properties to SOAH. Funding for the program would come from a \$300 filing fee (which must be returned if the appellant wins) and SOAH's right to collect its costs from the losing party.

The pilot program would be implemented in Bexar, Dallas, El Paso, Harris, Tarrant, Cameron, and Travis Counties for a three-year period beginning January 1, 2010. Owners of properties appraised at more than \$1 million could protest ARB determinations to SOAH, resulting from protests of appraised and market value or unequal appraisal. SOAH and chief appraisers for counties included in the pilot program would submit a report at the end of the pilot program to the Legislature including recommendations for future action.

Currently, the only recourse for owners of property appraised at more than \$1 million dissatisfied with ARB determinations is to file suit in district court. The pilot program would allow these property owners, with the exception of industrial property or minerals, to protest ARB determinations to SOAH. The property owner or chief appraiser with approval of the appraisal district's board of directors could still file suit in district court after conclusion of the SOAH hearing.

SOAH estimates, based on the projected need to hire five additional experienced Administrative Law Judges and three additional support staff, the cost of the additional work would be \$884,742 for the first year and \$836,761 per year thereafter. These costs would be reimbursable to SOAH through retention of the filing fee when the appellant loses and by billing and collecting its costs from the losing party. Accordingly, the cost to SOAH for performing the work would not have a net fiscal impact on general revenue. According to the Comptroller of Public Accounts, the fiscal impact of this bill resulting from the pilot program can not be determined.

Local Government Impact

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values than under current law, there could be an indeterminate fiscal impact to units of local government.

Source Agencies: 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB3612 by Otto (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.), **Committee Report 1st House, Substituted**

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values statewide than under current law, there could be an indeterminate fiscal impact to the state.

The bill would add new Subchapter Z to Chapter 2003 of the Government Code, regarding the State Office of Administrative Hearings (SOAH). The new subchapter would establish a pilot program allowing property owners to appeal appraisal review board (ARB) determinations for certain properties to SOAH. Funding for the program would come from a \$300 filing fee (which must be returned if the appellant wins) and SOAH's right to collect its costs from the losing party.

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Local Government Impact

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Source Agencies: 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings

LBB Staff: JOB, MN, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 1, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB3612 by Otto (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.), **As Introduced**

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values statewide than under current law, there could be an indeterminate fiscal impact to the state.

The bill would add new Subchapter Z to Chapter 2003 of the Government Code, regarding the State Office of Administrative Hearings (SOAH). The new subchapter would establish a pilot program allowing property owners to appeal appraisal review board (ARB) determinations for certain properties to SOAH. Funding for the program would come from a \$300 filing fee (which must be returned if the appellant wins) and SOAH's right to collect its costs from the losing party.

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Local Government Impact

Because it is unknown whether the results of the pilot program would result in higher or lower appraised values than under current law, there could be an indeterminate fiscal impact to units of local government.

Source Agencies: 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings

LBB Staff: JOB, MN, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB3612 by Otto (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.), **Committee Report 1st House, Substituted**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, MN

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 1, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB3612 by Otto (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.), **As Introduced**

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Source Agencies:

LBB Staff: JOB, MN

