

BILL ANALYSIS

Senate Research Center
82R6400 ALL-F

S.B. 1441
By: Ellis
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since its inception, the Tax Code has required taxpayers to exhaust all possible claims before an appraisal review board before seeking judicial review. Claims that could have been presented legally, but were not presented to an appraisal review board, are prohibited from being raised in any suits before a district court or as a defense to delinquent property tax collection actions.

In 1986, the Supreme Court of Texas concluded in *Robstown Independent School District v. Anderson* that all taxpayers who did not own property on which they were being sued in a delinquent tax collection suit could not raise their lack of ownership of the property as a defense to the suit and required a person who did not own property to pay the taxes on that property. In response to this decision, in 1987 the legislature amended the Tax Code to allow taxpayers to defend themselves against delinquent tax lawsuits on the grounds that they did not own property on which they were being sued. As a result, taxpayers who discover that they are being taxed on property they do not own must wait until they are sued by a taxing unit, hire lawyers and obtain relief from a district court absolving them from any responsibility for the tax. When this occurs, the property escapes taxation entirely.

The Tax Code contains limited, late remedies in Section 25.25(c) allowing for the correction of problems that taxpayers failed to address during the normal appeals period, such as overvaluations caused by clerical errors, properties being taxed more than once, and properties that are not in the form or location shown on the appraisal roll. The period of correction for these issues is five years. Similarly, appraisal districts are allowed to add real property that escaped appraisal retroactively for five years to the appraisal roll.

Appraisal review boards have no authority under current law to retroactively correct an erroneous taxation of property to a person who is not its owner. S.B. 1441 grants appraisal review boards the power to completely remove a property from the name of a person who is not its owner and to give appraisal districts an opportunity to correct the error and appraise the property in the name of the correct owner prior to limitations expiring. This ensures that the property at issue will not escape taxation through a ruling of non-ownership by the district court. This comports with the basic premise underlying the Tax Code of having all taxpayer disputes resolved at the least costly level possible.

As proposed, S.B. 1441 amends current law relating to the correction of an ad valorem tax appraisal roll.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 25.25(c), Tax Code, to authorize the appraisal review board, on motion of the chief appraiser or of a property owner, to direct by written order changes in the appraisal roll for any of the five preceding years to correct certain errors, including an error in which property is shown as owned by a person who did not own the property on January 1 of that tax year.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.