

By: Villarreal

H.B. No. 2078

A BILL TO BE ENTITLED

AN ACT

relating to the independence of appraisal review boards and the enforcement of appraisal review board orders; changing the elements of an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.041, Tax Code, is amended by amending Subsections (c), (e-1), and (e-3) and adding Subsections (g) and (h) to read as follows:

(c) The comptroller may contract with service providers to assist with the duties imposed under Subsection (a), but the course required may not be provided by an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. The comptroller may assess a fee to recover a portion of the costs incurred for the training course, but the fee may not exceed \$50 per person trained.

(e-1) In addition to the course established under Subsection (a), the comptroller shall approve curricula and provide materials for use in a continuing education course for members of an appraisal review board. The curricula and materials must include information regarding:

(1) the cost, income, and market data comparison methods of appraising property;

(2) the appraisal of business personal property;

1 (3) the determination of capitalization rates for
2 property appraisal purposes;

3 (4) the duties of an appraisal review board;

4 (5) the requirements regarding the independence of an
5 appraisal review board from the board of directors and the chief
6 appraiser and other employees of the appraisal district;

7 (6) the prohibitions against ex parte communications
8 applicable to appraisal review board members;

9 (7) the Uniform Standards of Professional Appraisal
10 Practice;

11 (8) the duty of the appraisal district to substantiate
12 the district's determination of the value of property;

13 (9) the requirements regarding the equal and uniform
14 appraisal of property;

15 (10) the right of a property owner to protest the
16 appraisal of the property as provided by Chapter 41; and

17 (11) a detailed explanation of each of the actions
18 described by Sections 25.25, 41.41(a), 41.411, 41.412, 41.413,
19 41.42, and 41.43 so that members are fully aware of each of the
20 grounds on which a property appraisal can be appealed.

21 (e-3) The comptroller may contract with service providers
22 to assist with the duties imposed under Subsection (e-1), but the
23 course required by that subsection may not be provided by an
24 appraisal district, the chief appraiser or another employee of an
25 appraisal district, a member of the board of directors of an
26 appraisal district, a member of an appraisal review board, or a
27 taxing unit. The comptroller may assess a fee to recover a portion

1 of the costs incurred for the continuing education course, but the
2 fee may not exceed \$50 for each person trained.

3 (g) Except as provided by Subsection (h) and Section
4 6.411(c-1), the following persons may not communicate with a member
5 of an appraisal review board about a course provided under this
6 section or any matter presented or discussed during the course:

7 (1) the chief appraiser of the appraisal district for
8 which the appraisal review board is established;

9 (2) another employee of the appraisal district for
10 which the appraisal review board is established;

11 (3) a member of the board of directors of the appraisal
12 district for which the appraisal review board is established;

13 (4) an officer or employee of a taxing unit that
14 participates in the appraisal district for which the appraisal
15 review board is established; and

16 (5) an attorney who represents or whose law firm
17 represents the appraisal district or a taxing unit that
18 participates in the appraisal district for which the appraisal
19 review board is established.

20 (h) An appraisal review board may retain an appraiser
21 certified by the Texas Appraiser Licensing and Certification Board
22 to instruct the members of the appraisal review board on valuation
23 methodology if the appraisal district provides for the instruction
24 in the district's budget.

25 SECTION 2. Sections 6.411(a), (b), and (c-1), Tax Code, are
26 amended to read as follows:

27 (a) A member of an appraisal review board commits an offense

1 if the member communicates with the chief appraiser or another
2 employee or a member of the board of directors of the ~~[an]~~ appraisal
3 district for which the appraisal review board is established in
4 violation of Section 41.66(f).

5 (b) A chief appraiser or another employee of an appraisal
6 district, a member of a board of directors of an appraisal district,
7 or a property tax consultant or attorney representing a party to a
8 proceeding before the appraisal review board commits an offense if
9 the person ~~[chief appraiser or other employee]~~ communicates with a
10 member of the appraisal review board established for the appraisal
11 district with the intent to influence a decision by the member in
12 the member's capacity as a member of the appraisal review board ~~[in~~
13 ~~a circumstance in which the appraisal review board member is~~
14 ~~prohibited by Section 41.66(f) from communicating with the chief~~
15 ~~appraiser or other employee]~~.

16 (c-1) This section does not apply to communications
17 involving the chief appraiser or another employee or a member of the
18 board of directors of an appraisal district and a member of the
19 appraisal review board:

20 (1) that constitute social conversation;

21 (2) that are specifically limited to and involve
22 administrative, clerical, or logistical matters related to the
23 scheduling and operation of hearings, the processing of documents,
24 the issuance of orders, notices, and subpoenas, and the operation,
25 appointment, composition, or attendance at training of the
26 appraisal review board; or

27 (3) that are necessary and appropriate to enable the

1 board of directors of the appraisal district to determine whether
2 to appoint, reappoint, or remove a person as a member or the
3 chairman or secretary of the appraisal review board.

4 SECTION 3. Section 6.412(a), Tax Code, is amended to read as
5 follows:

6 (a) An individual is ineligible to serve on an appraisal
7 review board if the individual:

8 (1) is related within the second degree by
9 consanguinity or affinity, as determined under Chapter 573,
10 Government Code, to an individual who is engaged in the business of
11 appraising property for compensation for use in proceedings under
12 this title or of representing property owners for compensation in
13 proceedings under this title in the appraisal district for which
14 the appraisal review board is established; ~~or~~

15 (2) owns property on which delinquent taxes have been
16 owed to a taxing unit for more than 60 days after the date the
17 individual knew or should have known of the delinquency unless:

18 (A) the delinquent taxes and any penalties and
19 interest are being paid under an installment payment agreement
20 under Section 33.02; or

21 (B) a suit to collect the delinquent taxes is
22 deferred or abated under Section 33.06 or 33.065; or

23 (3) is related within the third degree by
24 consanguinity or within the second degree by affinity, as
25 determined under Chapter 573, Government Code, to a member of the
26 appraisal district's board of directors.

27 SECTION 4. Section 6.43, Tax Code, is amended to read as

1 follows:

2 Sec. 6.43. PERSONNEL. (a) The appraisal review board may
3 employ legal counsel as provided by the district budget or use the
4 services of the county attorney [~~and may use the staff of the~~
5 ~~appraisal office for clerical assistance~~].

6 (b) Except as provided by Subsection (c), an attorney may
7 not serve as legal counsel for the appraisal review board if the
8 attorney or a member of the attorney's law firm has during the year
9 before the date of the appraisal review board's hiring of the
10 attorney represented a property owner who owns property in the
11 appraisal district, a taxing unit that participates in the
12 appraisal district, or the appraisal district in a matter addressed
13 by Section 1.111 or 25.25 of this code, Subtitle E or F of this
14 title, or Subchapter Z, Chapter 2003, Government Code.

15 (c) The county attorney for the county in which the
16 appraisal district is established may provide legal services to the
17 appraisal review board notwithstanding that the county attorney or
18 an assistant to the county attorney represents or has represented
19 the appraisal district or a taxing unit that participates in the
20 appraisal district in any matter.

21 (d) An attorney who serves as legal counsel for an appraisal
22 review board may not act as an advocate in a hearing or proceeding
23 conducted by the board. The attorney may provide advice to the board
24 or a panel of the board during a hearing or proceeding and shall
25 disclose to the board all legal authority in the controlling
26 jurisdiction known to the attorney to be relevant to the matter and
27 not disclosed by the parties. The attorney shall disclose to the

1 board a material fact that may assist the board or panel in making
2 an informed decision regardless of whether the fact is adverse to
3 the position of a party.

4 (e) An appraisal district may specify in its budget whether
5 the appraisal review board may employ legal counsel or must use the
6 services of the county attorney. If the budget authorizes the board
7 to employ legal counsel, the budget must provide for reasonable
8 compensation to be paid to the attorney serving as legal counsel. An
9 appraisal district may not require the board to employ a specific
10 attorney as legal counsel.

11 (f) The appraisal office may provide clerical assistance to
12 the appraisal review board, including assisting the board with the
13 scheduling and arranging of hearings.

14 SECTION 5. Section 41.08, Tax Code, is amended to read as
15 follows:

16 Sec. 41.08. CORRECTION OF RECORDS ON ORDER OF BOARD. The
17 chief appraiser shall make the reappraisals or other corrections of
18 the appraisal records ordered by the appraisal review board as
19 provided by this subchapter. The chief appraiser may not change a
20 reappraisal or other correction ordered by the board. The chief
21 appraiser shall submit a copy of the corrected records to the board
22 for its approval as promptly as practicable.

23 SECTION 6. Section 42.21(b), Tax Code, is amended to read as
24 follows:

25 (b) A petition for review brought under Section 42.02 must
26 be brought against the owner of the property involved in the appeal.
27 A petition for review brought under Section 42.031 must be brought

1 against the appraisal district and against the owner of the
2 property involved in the appeal. A petition for review brought
3 under Subdivision (2) [~~or (3)~~] of Section 42.01 or under Section
4 42.03 must be brought against the comptroller. Any other petition
5 for review under this chapter must be brought against the appraisal
6 district. A petition for review may [~~is~~] not [~~required to~~] be
7 brought against the appraisal review board[~~, but may be brought~~
8 ~~against the appraisal review board in addition to any other~~
9 ~~required party, if appropriate~~]. An appraisal district may hire an
10 attorney that represents the district to represent the appraisal
11 review board established for the district to file an answer and
12 obtain a dismissal of a suit filed against the appraisal review
13 board in violation of this subsection.

14 SECTION 7. The changes in law made by this Act to Section
15 6.411, Tax Code, apply only to an offense committed on or after the
16 effective date of this Act. An offense committed before the
17 effective date of this Act is governed by the law in effect on the
18 date the offense was committed, and the former law is continued in
19 effect for that purpose. For purposes of this section, an offense
20 was committed before the effective date of this Act if any element
21 of the offense occurred before that date.

22 SECTION 8. This Act takes effect September 1, 2011.