

1-1 By: Davis of Dallas (Senate Sponsor - Ellis) H.B. No. 2220  
1-2 (In the Senate - Received from the House May 6, 2011;  
1-3 May 9, 2011, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 19, 2011, reported favorably by  
1-5 the following vote: Yeas 5, Nays 0; May 19, 2011, sent to  
1-6 printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to the requirement to prepay ad valorem taxes as a  
1-10 prerequisite to determining certain motions or protests and the  
1-11 authority of an appraisal review board to determine compliance with  
1-12 the requirement.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Sections 25.25(e) and (g), Tax Code, are amended  
1-15 to read as follows:

1-16 (e) If the chief appraiser and the property owner do not  
1-17 agree to the correction before the 15th day after the date the  
1-18 motion is filed, a party bringing a motion under Subsection (c) or  
1-19 (d) is entitled on request to a hearing on and a determination of  
1-20 the motion by the appraisal review board. A party bringing a motion  
1-21 under this section must describe the error or errors that the motion  
1-22 is seeking to correct. Not later than 15 days before the date of the  
1-23 hearing, the board shall deliver written notice of the date, time,  
1-24 and place of the hearing to the chief appraiser, the property owner,  
1-25 and the presiding officer of the governing body of each taxing unit  
1-26 in which the property is located. The chief appraiser, the property  
1-27 owner, and each taxing unit are entitled to present evidence and  
1-28 argument at the hearing and to receive written notice of the board's  
1-29 determination of the motion. A property owner who files the motion  
1-30 must comply with the payment requirements of Section 25.26 [~~42.08~~]  
1-31 or forfeit the right to a final determination of the motion.

1-32 (g) Within 45 days after receiving notice of the appraisal  
1-33 review board's determination of a motion under this section or of a  
1-34 determination of the appraisal review board that the property owner  
1-35 has forfeited the right to a final determination of a motion under  
1-36 this section for failing to comply with the prepayment requirements  
1-37 of Section 25.26, the property owner or the chief appraiser may file  
1-38 suit to compel the board to order a change in the appraisal roll as  
1-39 required by this section.

1-40 SECTION 2. Chapter 25, Tax Code, is amended by adding  
1-41 Section 25.26 to read as follows:

1-42 Sec. 25.26. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

1-43 (a) The pendency of a motion filed under Section 25.25 does not  
1-44 affect the delinquency date for the taxes on the property that is  
1-45 the subject of the motion. However, that delinquency date applies  
1-46 only to the amount of taxes required to be paid under Subsection  
1-47 (b). If the property owner complies with Subsection (b), the  
1-48 delinquency date for any additional amount of taxes due on the  
1-49 property is determined in the manner provided by Section 42.42(c)  
1-50 for the determination of the delinquency date for additional taxes  
1-51 finally determined to be due in an appeal under Chapter 42, and that  
1-52 additional amount is not delinquent before that date.

1-53 (b) Except as provided by Subsection (d), a property owner  
1-54 who files a motion under Section 25.25 must pay the amount of taxes  
1-55 due on the portion of the taxable value of the property that is the  
1-56 subject of the motion that is not in dispute before the delinquency  
1-57 date or the property owner forfeits the right to proceed to a final  
1-58 determination of the motion.

1-59 (c) A property owner who pays an amount of taxes greater  
1-60 than that required by Subsection (b) does not forfeit the property  
1-61 owner's right to a final determination of the motion by making the  
1-62 payment. If the property owner files a timely motion under Section  
1-63 25.25, taxes paid on the property are considered paid under  
1-64 protest, even if paid before the motion is filed.

2-1           (d) After filing an oath of inability to pay the taxes at  
 2-2 issue, a property owner may be excused from the requirement of  
 2-3 prepayment of tax as a prerequisite to the determination of a motion  
 2-4 if the appraisal review board, after notice and hearing, finds that  
 2-5 such prepayment would constitute an unreasonable restraint on the  
 2-6 property owner's right of access to the board. On the motion of a  
 2-7 party, the board shall determine compliance with this section in  
 2-8 the same manner and by the same procedure as provided by Section  
 2-9 41.4115(d) and may set such terms and conditions on any grant of  
 2-10 relief as may be reasonably required by the circumstances.

2-11           SECTION 3. Section 41.411(c), Tax Code, is amended to read  
 2-12 as follows:

2-13           (c) A property owner who protests as provided by this  
 2-14 section must comply with the payment requirements of Section  
 2-15 41.4115 [42.08] or the property owner forfeits the property owner's  
 2-16 right to a final determination of the protest. [The delinquency  
 2-17 date for purposes of Section 42.08(b) for the taxes on the property  
 2-18 subject to a protest under this section is postponed to the 125th  
 2-19 day after the date that one or more taxing units first delivered  
 2-20 written notice of the taxes due on the property, as determined by  
 2-21 the appraisal review board at a hearing under Section 41.44(c-3).]

2-22           SECTION 4. Subchapter C, Chapter 41, Tax Code, is amended by  
 2-23 adding Section 41.4115 to read as follows:

2-24           Sec. 41.4115. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

2-25           (a) The pendency of a protest under Section 41.411 does not affect  
 2-26 the delinquency date for the taxes on the property subject to the  
 2-27 protest. However, that delinquency date applies only to the amount  
 2-28 of taxes required to be paid under Subsection (b) and, for purposes  
 2-29 of Subsection (b), that delinquency date is postponed to the 125th  
 2-30 day after the date one or more taxing units first delivered written  
 2-31 notice of the taxes due on the property, as determined by the  
 2-32 appraisal review board at a hearing under Section 41.44(c-3). If  
 2-33 the property owner complies with Subsection (b), the delinquency  
 2-34 date for any additional amount of taxes due on the property is  
 2-35 determined in the manner provided by Section 42.42(c) for the  
 2-36 determination of the delinquency date for additional taxes finally  
 2-37 determined to be due in an appeal under Chapter 42, and that  
 2-38 additional amount is not delinquent before that date.

2-39           (b) Except as provided in Subsection (d), a property owner  
 2-40 who files a protest under Section 41.411 must pay the amount of  
 2-41 taxes due on the portion of the taxable value of the property  
 2-42 subject to the protest that is not in dispute before the delinquency  
 2-43 date or the property owner forfeits the right to proceed to a final  
 2-44 determination of the protest.

2-45           (c) A property owner who pays an amount of taxes greater  
 2-46 than that required by Subsection (b) does not forfeit the property  
 2-47 owner's right to a final determination of the protest by making the  
 2-48 payment. If the property owner files a timely protest under Section  
 2-49 41.411, taxes paid on the property are considered paid under  
 2-50 protest, even if paid before the protest is filed.

2-51           (d) After filing an oath of inability to pay the taxes at  
 2-52 issue, a property owner may be excused from the requirement of  
 2-53 prepayment of tax as a prerequisite to the determination of a  
 2-54 protest if the appraisal review board, after notice and hearing,  
 2-55 finds that such prepayment would constitute an unreasonable  
 2-56 restraint on the property owner's right of access to the board. On  
 2-57 the motion of a party, the board shall hold a hearing to review and  
 2-58 determine compliance with this section, and the reviewing board may  
 2-59 set such terms and conditions on any grant of relief as may be  
 2-60 reasonably required by the circumstances. If the board determines  
 2-61 that the property owner has not substantially complied with this  
 2-62 section, the board shall dismiss the pending protest. If the board  
 2-63 determines that the property owner has substantially but not fully  
 2-64 complied with this section, the board shall dismiss the pending  
 2-65 protest unless the property owner fully complies with the board's  
 2-66 determination within 30 days of the determination.

2-67           SECTION 5. Section 42.01, Tax Code, is amended to read as  
 2-68 follows:

2-69           Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. (a) A

3-1 property owner is entitled to appeal:  
3-2 (1) an order of the appraisal review board  
3-3 determining:  
3-4 (A) a protest by the property owner as provided  
3-5 by Subchapter C of Chapter 41; [~~or~~]  
3-6 (B) a determination of an appraisal review board  
3-7 on a motion filed under Section 25.25; or  
3-8 (C) a determination of an appraisal review board  
3-9 that the property owner has forfeited the right to a final  
3-10 determination of a motion filed under Section 25.25 or of a protest  
3-11 under Section 41.411 for failing to comply with the prepayment  
3-12 requirements of Section 25.26 or 41.4115, as applicable; or  
3-13 (2) an order of the comptroller issued as provided by  
3-14 Subchapter B, Chapter 24, apportioning among the counties the  
3-15 appraised value of railroad rolling stock owned by the property  
3-16 owner.  
3-17 (b) A property owner who establishes that the owner did not  
3-18 forfeit the right to a final determination of a motion or of a  
3-19 protest in an appeal under Subsection (a)(1)(C) is entitled to a  
3-20 final determination of the court, as applicable:  
3-21 (1) of the motion filed under Section 25.25; or  
3-22 (2) of the protest under Section 41.411 of the failure  
3-23 of the chief appraiser or appraisal review board to provide or  
3-24 deliver a notice to which the property owner is entitled, and, if  
3-25 failure to provide or deliver the notice is established, of a  
3-26 protest made by the property owner on any other grounds of protest  
3-27 authorized by this title relating to the property to which the  
3-28 notice applies.  
3-29 SECTION 6. The changes in law made by this Act apply only to  
3-30 a motion to correct an appraisal roll or a protest filed on or after  
3-31 the effective date of this Act. A motion to correct an appraisal  
3-32 roll or a protest filed before the effective date of this Act is  
3-33 governed by the law in effect on the date the motion or protest was  
3-34 filed, and the former law is continued in effect for that purpose.  
3-35 SECTION 7. This Act takes effect immediately if it receives  
3-36 a vote of two-thirds of all the members elected to each house, as  
3-37 provided by Section 39, Article III, Texas Constitution. If this  
3-38 Act does not receive the vote necessary for immediate effect, this  
3-39 Act takes effect September 1, 2011.

3-40

\* \* \* \* \*