

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 23, 2011

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

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

IN RE: HB1887 by Villarreal (Relating to tax administration of and procedures for property tax protests and appeals; changing the elements of an offense.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend various chapters of the Tax Code, with regard to property taxation, to make a wide variety of procedural changes related to appraisal review boards, taxpayer protests to appraisal review boards, and district court appeals of appraisal review board decisions

The bill would require appraisal review boards to send notices regarding a protested property to a person who is exempt from registration as a property tax consultant and is filing a protest on behalf of a property owner if that exempt person is not supervised, directed, or compensated by a person required to register as a property tax consultant. The exempt individual would be required to file a statement with the protest including identifying information, the basis for their exemption, and a statement that they are acting on behalf of the property owner.

The bill would prohibit a chief appraiser, an appraisal district employee, a member of an appraisal district board of directors, or a member of an appraisal review board from providing initial or continuing appraisal review board training required by law. Current law prohibits an appraisal district or a taxing unit from providing the training.

Chief appraisers, appraisal district employees, a member of the appraisal district board of directors, a taxing unit officer, a taxing unit employee, or an attorney who represents (or whose law firm represents) the appraisal district or a taxing unit that participates in the appraisal district for which the appraisal review board is established, would not be permitted to communicate with a member of an appraisal review board about an appraisal review board training course or any matter presented or discussed during the appraisal district training course. A chief appraiser, an employee of the appraisal district, a member of the appraisal district board of directors, or a property tax consultant or attorney representing a party to a proceeding before the appraisal review board would be prohibited from communicating with a member of the appraisal review board with the intent to influence an appraisal review board decision. A chief appraiser, appraisal district employee, or a member of the board of directors would be permitted to communicate with a member of the appraisal review board during a hearing on a protest or other proceeding before the appraisal review board, in social conversations, or about necessary administrative and procedural matters related to the operation of the appraisal review board.

An appraisal review board would be permitted to retain a certified appraiser for instruction on valuation methods if the appraisal district budgets for the instruction.

Relationship within the third degree by consanguinity or within the second degree by affinity to a member of the appraisal district's board of directors would be added to the list of reasons that an individual would be ineligible to serve on an appraisal review board.

Attorneys would be prohibited from serving as legal counsel for an appraisal review board if, within the prior year, they or any member of their law firm represented the appraisal district, a property

owner in the appraisal district, or a taxing unit in the appraisal district in certain matters. The county attorney would be permitted to provide legal services to the appraisal review board even if that attorney or assistant attorney represents or has represented the appraisal district or a taxing unit in any matter. The bill would establish other procedures regarding the use of attorneys by appraisal review boards.

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 would be included in the list of items that appraisal review boards may order corrected for any of the five preceding years on a motion from the property owner or chief appraiser.

A property owner who files a motion under Section 25.25 or files a protest under Section 41.411 would be required to pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion or protest and that is not in dispute unless excused from this requirement by the appraisal review board based on an oath of inability to pay. The appraisal review board may dismiss motions or protests based on unexcused non-payment of the proper tax amounts.

Within 60, rather than 45, days after receiving notice of a determination of the appraisal review board that the property owner has forfeited the right to a final determination of a motion for failing to comply with the prepayment requirements of Section 25.26, a property owner or chief appraiser would be permitted to file suit to compel the appraisal review board to order a change in the appraisal roll. A property owner would be entitled to appeal in district court a determination of an appraisal review board that the property owner has forfeited the right to a final determination of a motion filed under Section 25.25 or of a protest under Section 41.411 for failing to comply with the prepayment requirements. A property owner who establishes they did not forfeit the right to a final determination of a motion or of a protest would be entitled to a final determination of the court.

Delinquency dates for property taxes would be unaffected by pending motions or protests filed under Section 25.25 or Section 41.411, respectively. The delinquency date would apply, however, only to the amount of taxes that are not in dispute.

A notice of protest would not be untimely or insufficient based on a finding of incorrect ownership if the notice identifies as the property owner a person (or a misnomer of that person) who is, for that tax year, an owner of the property at any time during the tax year, the person shown on the appraisal records as the owner of the property (if that person filed the protest), a lessee authorized to file a protest, or an affiliate of or entity related to a person described above.

In an order determining appraised value an appraisal review board would be required to state the appraised value of the property as shown in the appraisal records and as finally determined by the board.

A person would be entitled to intervene in a property tax district court appeal, would have standing, and the court would have jurisdiction if the property at issue was the subject of a protest hearing and the person owned the property at any time during the tax year at issue, leased the property during the tax year at issue and filed the protest that resulted in the case. A person would also be entitled to intervene in a property tax district court appeal, would have standing, and the court would have jurisdiction if the property at issue was the subject of a protest hearing and the person is shown on the appraisal roll as the owner of the property or as a lessee authorized to file a protest and the person filed the protest that resulted in the issuance of the order under appeal.

A petition for review in district court brought against the appraisal review board would not be permitted, and the appraisal district would be permitted to hire an attorney to obtain a dismissal of such a petition.

The bill would provide for mediation of district court appeals, provide that for the sole purpose of admitting expert testimony on chemical processing or on utility property in a district court appeal the property would be considered personal property, require notices regarding third party engagements, and require separate forms for each district court appeal to which a property owner is a party.

The bill would make a wide variety of procedural changes related to appraisal review boards, taxpayer

protests to appraisal review boards, and district court appeals of appraisal review board decisions, but would not change taxable values, tax rates, exemptions or any other variable affecting property tax revenues. Consequently, there would be no fiscal impact on units of local government or the state.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2011.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KK, SD, SJS