

SENATE AMENDMENTS

2nd Printing

By: Villarreal

H.B. No. 1887

A BILL TO BE ENTITLED

AN ACT

relating to the procedures for property tax protests and appeals.

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

SECTION 1. Section 41.44, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other provision of this section, a notice of protest may not be found to be untimely or insufficient based on the fact that the notice is filed by or identifies as the property owner a person who is not the property owner if:

(1) the person is shown on the appraisal records as the property owner;

(2) the person is an affiliate of the property owner;

or

(3) the identification of the property owner is not materially misleading.

SECTION 2. Section 41.47, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) If the protest is of the determination of the appraised value of the owner's property, the appraisal review board must state in the order the appraised value of the property:

(1) as shown in the appraisal records submitted to the board by the chief appraiser under Section 25.22 or 25.23; and

(2) as finally determined by the board.

SECTION 3. Subchapter A, Chapter 42, Tax Code, is amended by

1 adding Section 42.016 to read as follows:

2 Sec. 42.016. INTERVENTION IN APPEAL BY PROPERTY OWNER. Not
3 later than the 30th day after the date a party files a motion or plea
4 to the jurisdiction asserting that a person filing an appeal under
5 Section 42.01 lacks standing or the entitlement to appeal an order
6 of an appraisal review board determining a protest because the
7 person is not the property owner, the property owner is entitled to
8 intervene in the appeal if the notice of protest is described by
9 Section 41.44(e)(1) or (2).

10 SECTION 4. Subchapter B, Chapter 42, Tax Code, is amended by
11 adding Section 42.226 to read as follows:

12 Sec. 42.226. MEDIATION. On motion by a party to an appeal
13 under this chapter, the court shall enter an order requiring the
14 parties to attend mediation. The court may enter an order requiring
15 the parties to attend mediation on its own motion.

16 SECTION 5. Section 42.23, Tax Code, is amended by adding
17 Subsection (f) to read as follows:

18 (f) For purposes of a no-evidence motion for summary
19 judgment filed by a party to an appeal under this chapter, the offer
20 of evidence, including an affidavit or testimony, by any person,
21 including the appraisal district, the property owner, or the
22 owner's agent, that was presented at the hearing on the protest
23 before the appraisal review board constitutes sufficient evidence
24 to deny the motion.

25 SECTION 6. Subchapter B, Chapter 42, Tax Code, is amended by
26 adding Section 42.30 to read as follows:

27 Sec. 42.30. ATTORNEY NOTICE OF CERTAIN ENGAGEMENTS. (a) An

attorney who accepts an engagement or compensation from a third party to represent a person in an appeal under this chapter shall provide notice to the person represented:

(1) informing the person that the attorney has been retained by a third party to represent the person;

(2) explaining the attorney's ethical obligations to the person in relation to the third party, including the obligation to ensure that the third party does not interfere with the attorney's independent judgment or the attorney-client relationship;

(3) describing the specific activities the third party may perform in the appeal;

(4) explaining the terms of the compensation to be received by the attorney from the third party; and

(5) informing the person that the person's consent is required before the attorney may accept compensation from the third party.

(b) The attorney shall mail the notice by certified mail to the person represented by the attorney not later than the 30th day after the date the attorney accepts the engagement from the third party.

(c) A person may void an engagement that does not comply with this section. An attorney who does not comply with this section violates Rule 1.08, Texas Disciplinary Rules of Professional Conduct.

SECTION 7. Section 42.43(h), Tax Code, is amended to read as follows:

1 (h) A separate form must be filed with a taxing unit under
2 Subsection (g) for each appeal to which the property owner is a
3 party. A form may be ~~[remains in effect for all subsequent refunds~~
4 ~~required by this section until]~~ revoked in a written revocation
5 filed with the taxing unit by the property owner.

6 SECTION 8. (a) Sections 41.44 and 41.47, Tax Code, as
7 amended by this Act, apply only to a protest that is pending on the
8 effective date of this Act or is filed on or after the effective
9 date of this Act.

10 (b) Sections 42.016, 42.226, and 42.23, Tax Code, as added
11 or amended by this Act, apply only to an appeal that is pending on
12 the effective date of this Act or is filed on or after the effective
13 date of this Act.

14 (c) Section 42.30, Tax Code, as added by this Act, applies
15 only to a violation committed on or after the effective date of this
16 Act. A violation committed before the effective date of this Act is
17 governed by the law in effect when the violation was committed, and
18 the former law is continued in effect for that purpose.

19 SECTION 9. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2011.

ADOPTED

MAY 20 2011

Atty. Gen.
Secretary of the Senate

By: J. J. King H.B. No. 1887
Substitute the following for H.B. No. 1887:
By: J. J. King C.S. H.B. No. 1887

A BILL TO BE ENTITLED

AN ACT

relating to tax administration of and procedures for property tax protests and appeals; changing the elements of an offense.

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

SECTION 1. Section 1.111(j), Tax Code, is amended to read as follows:

(j) An individual exempt from registration as a property tax consultant under Section 1152.002, Occupations Code, who is not supervised, directed, or compensated by a person required to register as a property tax consultant under that chapter and who files a protest with the appraisal review board on behalf of the property owner is entitled to receive all notices from the appraisal district and appraisal review board regarding the property subject to the protest until the authority is revoked by the property owner as provided by this section. An individual to which this subsection applies who is not designated by the property owner to receive notices, tax bills, orders, and other communications as provided by Subsection (f) or Section 1.11 shall file a statement with the protest that includes:

- (1) the individual's name and address;
- (2) a statement that the individual is acting on behalf of the property owner; and
- (3) a statement of the basis for the individual's exemption from registration under Section 1152.002, Occupations

1 Code.

2 SECTION 2. Section 5.041, Tax Code, is amended by amending
3 Subsections (c), (e-1), and (e-3) and adding Subsections (g) and
4 (h) to read as follows:

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

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

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

20 (2) the appraisal of business personal property;

21 (3) the determination of capitalization rates for
22 property appraisal purposes;

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

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

27 (6) the prohibitions against ex parte communications

1 applicable to appraisal review board members;

2 (7) the Uniform Standards of Professional Appraisal
3 Practice;

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

6 (9) the requirements regarding the equal and uniform
7 appraisal of property;

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

10 (11) a detailed explanation of each of the actions
11 described by Sections 25.25, 41.41(a), 41.411, 41.412, 41.413,
12 41.42, and 41.43 so that members are fully aware of each of the
13 grounds on which a property appraisal can be appealed.

14 (e-3) The comptroller may contract with service providers
15 to assist with the duties imposed under Subsection (e-1), but the
16 course required by that subsection may not be provided by an
17 appraisal district, the chief appraiser or another employee of an
18 appraisal district, a member of the board of directors of an
19 appraisal district, a member of an appraisal review board, or a
20 taxing unit. The comptroller may assess a fee to recover a portion
21 of the costs incurred for the continuing education course, but the
22 fee may not exceed \$50 for each person trained.

23 (g) Except during a hearing or other appraisal review board
24 proceeding and as provided by Subsection (h) and Section
25 6.411(c-1), the following persons may not communicate with a member
26 of an appraisal review board about a course provided under this
27 section or any matter presented or discussed during the course:

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

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

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

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

10 (5) an attorney who represents or whose law firm
11 represents the appraisal district or a taxing unit that
12 participates in the appraisal district for which the appraisal
13 review board is established.

14 (h) An appraisal review board may retain an appraiser
15 certified by the Texas Appraiser Licensing and Certification Board
16 to instruct the members of the appraisal review board on valuation
17 methodology if the appraisal district provides for the instruction
18 in the district's budget.

19 SECTION 3. Sections 6.411(a), (b), and (c-1), Tax Code, are
20 amended to read as follows:

21 (a) A member of an appraisal review board commits an offense
22 if the member communicates with the chief appraiser or another
23 employee or a member of the board of directors of the [an] appraisal
24 district for which the appraisal review board is established in
25 violation of Section 41.66(f).

26 (b) A chief appraiser or another employee of an appraisal
27 district, a member of a board of directors of an appraisal district,

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

10 (c-1) This section does not apply to communications
11 involving the chief appraiser or another employee or a member of the
12 board of directors of an appraisal district and a member of the
13 appraisal review board;

14 (1) during a hearing on a protest or other proceeding
15 before the appraisal review board;

16 (2) that constitute social conversation;

17 (3) that are specifically limited to and involve
18 administrative, clerical, or logistical matters related to the
19 scheduling and operation of hearings, the processing of documents,
20 the issuance of orders, notices, and subpoenas, and the operation,
21 appointment, composition, or attendance at training of the
22 appraisal review board; or

23 (4) that are necessary and appropriate to enable the
24 board of directors of the appraisal district to determine whether
25 to appoint, reappoint, or remove a person as a member or the
26 chairman or secretary of the appraisal review board.

27 SECTION 4. Section 6.412(a), Tax Code, is amended to read as

1 follows:

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

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

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

14 (A) the delinquent taxes and any penalties and
15 interest are being paid under an installment payment agreement
16 under Section 33.02; or

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

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

23 SECTION 5. Section 6.43, Tax Code, is amended to read as
24 follows:

25 Sec. 6.43. PERSONNEL. (a) The appraisal review board may
26 employ legal counsel as provided by the district budget or use the
27 services of the county attorney ~~[and may use the staff of the~~

1 ~~appraisal office for clerical assistance].~~

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

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

17 **(d) An attorney who serves as legal counsel for an appraisal**
18 **review board may not act as an advocate in a hearing or proceeding**
19 **conducted by the board. The attorney may provide advice to the board**
20 **or a panel of the board during a hearing or proceeding and shall**
21 **disclose to the board all legal authority in the controlling**
22 **jurisdiction known to the attorney to be relevant to the matter and**
23 **not disclosed by the parties. The attorney shall disclose to the**
24 **board a material fact that may assist the board or panel in making**
25 **an informed decision regardless of whether the fact is adverse to**
26 **the position of a party.**

27 **(e) An appraisal district may specify in its budget whether**

1 the appraisal review board may employ legal counsel or must use the
2 services of the county attorney. If the budget authorizes the board
3 to employ legal counsel, the budget must provide for reasonable
4 compensation to be paid to the attorney serving as legal counsel. An
5 appraisal district may not require the board to employ a specific
6 attorney as legal counsel.

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

10 SECTION 6. Sections 25.25(c), (e), and (g), Tax Code, are
11 amended to read as follows:

12 (c) The appraisal review board, on motion of the chief
13 appraiser or of a property owner, may direct by written order
14 changes in the appraisal roll for any of the five preceding years to
15 correct:

16 (1) clerical errors that affect a property owner's
17 liability for a tax imposed in that tax year;

18 (2) multiple appraisals of a property in that tax
19 year; ~~or~~

20 (3) the inclusion of property that does not exist in
21 the form or at the location described in the appraisal roll; or

22 (4) an error in which property is shown as owned by a
23 person who did not own the property on January 1 of that tax year.

24 (e) If the chief appraiser and the property owner do not
25 agree to the correction before the 15th day after the date the
26 motion is filed, a party bringing a motion under Subsection (c) or
27 (d) is entitled on request to a hearing on and a determination of

1 the motion by the appraisal review board. A party bringing a motion
2 under this section must describe the error or errors that the motion
3 is seeking to correct. Not later than 15 days before the date of the
4 hearing, the board shall deliver written notice of the date, time,
5 and place of the hearing to the chief appraiser, the property owner,
6 and the presiding officer of the governing body of each taxing unit
7 in which the property is located. The chief appraiser, the property
8 owner, and each taxing unit are entitled to present evidence and
9 argument at the hearing and to receive written notice of the board's
10 determination of the motion. A property owner who files the motion
11 must comply with the payment requirements of Section 25.26 [~~42.08~~]
12 or forfeit the right to a final determination of the motion.

13 (g) Within 60 [~~45~~] days after receiving notice of the
14 appraisal review board's determination of a motion under this
15 section or of a determination of the appraisal review board that the
16 property owner has forfeited the right to a final determination of a
17 motion under this section for failing to comply with the prepayment
18 requirements of Section 25.26, the property owner or the chief
19 appraiser may file suit to compel the board to order a change in the
20 appraisal roll as required by this section.

21 SECTION 7. Chapter 25, Tax Code, is amended by adding
22 Section 25.26 to read as follows:

23 Sec. 25.26. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.
24 (a) The pendency of a motion filed under Section 25.25 does not
25 affect the delinquency date for the taxes on the property that is
26 the subject of the motion. However, that delinquency date applies
27 only to the amount of taxes required to be paid under Subsection

1 (b). If the property owner complies with Subsection (b), the
2 delinquency date for any additional amount of taxes due on the
3 property is determined in the manner provided by Section 42.42(c)
4 for the determination of the delinquency date for additional taxes
5 finally determined to be due in an appeal under Chapter 42, and that
6 additional amount is not delinquent before that date.

7 (b) Except as provided by Subsection (d), a property owner
8 who files a motion under Section 25.25 must pay the amount of taxes
9 due on the portion of the taxable value of the property that is the
10 subject of the motion that is not in dispute before the delinquency
11 date or the property owner forfeits the right to proceed to a final
12 determination of the motion.

13 (c) A property owner who pays an amount of taxes greater
14 than that required by Subsection (b) does not forfeit the property
15 owner's right to a final determination of the motion by making the
16 payment. If the property owner files a timely motion under Section
17 25.25, taxes paid on the property are considered paid under
18 protest, even if paid before the motion is filed.

19 (d) After filing an oath of inability to pay the taxes at
20 issue, a property owner may be excused from the requirement of
21 prepayment of tax as a prerequisite to the determination of a motion
22 if the appraisal review board, after notice and hearing, finds that
23 such prepayment would constitute an unreasonable restraint on the
24 property owner's right of access to the board. On the motion of a
25 party, the board shall determine compliance with this section in
26 the same manner and by the same procedure as provided by Section
27 41.4115(d) and may set such terms and conditions on any grant of

1 relief as may be reasonably required by the circumstances.

2 SECTION 8. Section 41.411(c), Tax Code, is amended to read
3 as follows:

4 (c) A property owner who protests as provided by this
5 section must comply with the payment requirements of Section
6 41.4115 ~~[42.08]~~ or the property owner forfeits the property owner's
7 right to a final determination of the protest. ~~[The delinquency~~
8 ~~date for purposes of Section 42.08(b) for the taxes on the property~~
9 ~~subject to a protest under this section is postponed to the 125th~~
10 ~~day after the date that one or more taxing units first delivered~~
11 ~~written notice of the taxes due on the property, as determined by~~
12 ~~the appraisal review board at a hearing under Section 41.44(c-3).]~~

13 SECTION 9. Subchapter C, Chapter 41, Tax Code, is amended by
14 adding Section 41.4115 to read as follows:

15 Sec. 41.4115. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

16 (a) The pendency of a protest under Section 41.411 does not affect
17 the delinquency date for the taxes on the property subject to the
18 protest. However, that delinquency date applies only to the amount
19 of taxes required to be paid under Subsection (b) and, for purposes
20 of Subsection (b), that delinquency date is postponed to the 125th
21 day after the date one or more taxing units first delivered written
22 notice of the taxes due on the property, as determined by the
23 appraisal review board at a hearing under Section 41.44(c-3). If
24 the property owner complies with Subsection (b), the delinquency
25 date for any additional amount of taxes due on the property is
26 determined in the manner provided by Section 42.42(c) for the
27 determination of the delinquency date for additional taxes finally

1 determined to be due in an appeal under Chapter 42, and that
2 additional amount is not delinquent before that date.

3 (b) Except as provided in Subsection (d), a property owner
4 who files a protest under Section 41.411 must pay the amount of
5 taxes due on the portion of the taxable value of the property
6 subject to the protest that is not in dispute before the delinquency
7 date or the property owner forfeits the right to proceed to a final
8 determination of the protest.

9 (c) A property owner who pays an amount of taxes greater
10 than that required by Subsection (b) does not forfeit the property
11 owner's right to a final determination of the protest by making the
12 payment. If the property owner files a timely protest under Section
13 41.411, taxes paid on the property are considered paid under
14 protest, even if paid before the protest is filed.

15 (d) After filing an oath of inability to pay the taxes at
16 issue, a property owner may be excused from the requirement of
17 prepayment of tax as a prerequisite to the determination of a
18 protest if the appraisal review board, after notice and hearing,
19 finds that such prepayment would constitute an unreasonable
20 restraint on the property owner's right of access to the board. On
21 the motion of a party, the board shall hold a hearing to review and
22 determine compliance with this section, and the reviewing board may
23 set such terms and conditions on any grant of relief as may be
24 reasonably required by the circumstances. If the board determines
25 that the property owner has not substantially complied with this
26 section, the board shall dismiss the pending protest. If the board
27 determines that the property owner has substantially but not fully

1 complied with this section, the board shall dismiss the pending
2 protest unless the property owner fully complies with the board's
3 determination within 30 days of the determination.

4 SECTION 10. Section 41.44, Tax Code, is amended by adding
5 Subsection (e) to read as follows:

6 (e) Notwithstanding any other provision of this section, a
7 notice of protest may not be found to be untimely or insufficient
8 based on a finding of incorrect ownership if the notice:

9 (1) identifies as the property owner a person who is,
10 for the tax year at issue:

11 (A) an owner of the property at any time during
12 the tax year;

13 (B) the person shown on the appraisal records as
14 the owner of the property, if that person filed the protest;

15 (C) a lessee authorized to file a protest; or

16 (D) an affiliate of or entity related to a person
17 described by this subdivision; or

18 (2) uses a misnomer of a person described by
19 Subdivision (1).

20 SECTION 11. Section 41.47, Tax Code, is amended by adding
21 Subsection (c) to read as follows:

22 (c) If the protest is of the determination of the appraised
23 value of the owner's property, the appraisal review board must
24 state in the order the appraised value of the property:

25 (1) as shown in the appraisal records submitted to the
26 board by the chief appraiser under Section 25.22 or 25.23; and

27 (2) as finally determined by the board.

1 SECTION 12. Section 42.01, Tax Code, is amended to read as
2 follows:

3 Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. (a) A
4 property owner is entitled to appeal:

5 (1) an order of the appraisal review board
6 determining:

7 (A) a protest by the property owner as provided
8 by Subchapter C of Chapter 41; ~~[or]~~

9 (B) a determination of an appraisal review board
10 on a motion filed under Section 25.25; or

11 (C) a determination of an appraisal review board
12 that the property owner has forfeited the right to a final
13 determination of a motion filed under Section 25.25 or of a protest
14 under Section 41.411 for failing to comply with the prepayment
15 requirements of Section 25.26 or 41.4115, as applicable; or

16 (2) an order of the comptroller issued as provided by
17 Subchapter B, Chapter 24, apportioning among the counties the
18 appraised value of railroad rolling stock owned by the property
19 owner.

20 (b) A property owner who establishes that the owner did not
21 forfeit the right to a final determination of a motion or of a
22 protest in an appeal under Subsection (a)(1)(C) is entitled to a
23 final determination of the court, as applicable:

24 (1) of the motion filed under Section 25.25; or

25 (2) of the protest under Section 41.411 of the failure
26 of the chief appraiser or appraisal review board to provide or
27 deliver a notice to which the property owner is entitled, and, if

1 failure to provide or deliver the notice is established, of a
2 protest made by the property owner on any other grounds of protest
3 authorized by this title relating to the property to which the
4 notice applies.

5 SECTION 13. Subchapter A, Chapter 42, Tax Code, is amended
6 by adding Section 42.016 to read as follows:

7 Sec. 42.016. INTERVENTION IN APPEAL BY CERTAIN PERSONS. A
8 person is entitled to intervene in an appeal brought under this
9 chapter and the person has standing and the court has jurisdiction
10 in the appeal if the property that is the subject of the appeal was
11 also the subject of a protest hearing and the person:

12 (1) owned the property at any time during the tax year
13 at issue;

14 (2) leased the property at any time during the tax year
15 at issue and the person filed the protest that resulted in the
16 issuance of the order under appeal; or

17 (3) is shown on the appraisal roll as the owner of the
18 property or as a lessee authorized to file a protest and the person
19 filed the protest that resulted in the issuance of the order under
20 appeal.

21 SECTION 14. Section 42.21(b), Tax Code, is amended to read
22 as follows:

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

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

12 SECTION 15. Subchapter B, Chapter 42, Tax Code, is amended
13 by adding Section 42.226 to read as follows:

14 Sec. 42.226. MEDIATION. On motion by a party to an appeal
15 under this chapter, the court shall enter an order requiring the
16 parties to attend mediation. The court may enter an order requiring
17 the parties to attend mediation on its own motion.

18 SECTION 16. Section 42.23, Tax Code, is amended by adding
19 Subsections (f) and (g) to read as follows:

20 (f) For purposes of a no-evidence motion for summary
21 judgment filed by a party to an appeal under this chapter, the offer
22 of evidence, including an affidavit or testimony, by any person,
23 including the appraisal district, the property owner, or the
24 owner's agent, that was presented at the hearing on the protest
25 before the appraisal review board constitutes sufficient evidence
26 to deny the motion.

27 (g) For the sole purpose of admitting expert testimony to

1 determine the value of chemical processing property or utility
2 property in an appeal brought under this chapter and for no other
3 purpose under this title, including the rendition of property under
4 Chapter 22, the property is considered to be personal property.

5 SECTION 17. Subchapter B, Chapter 42, Tax Code, is amended
6 by adding Section 42.30 to read as follows:

7 Sec. 42.30. ATTORNEY NOTICE OF CERTAIN ENGAGEMENTS. (a) An
8 attorney who accepts an engagement or compensation from a third
9 party to represent a person in an appeal under this chapter shall
10 provide notice to the person represented:

11 (1) informing the person that the attorney has been
12 retained by a third party to represent the person;

13 (2) explaining the attorney's ethical obligations to
14 the person in relation to the third party, including the obligation
15 to ensure that the third party does not interfere with the
16 attorney's independent judgment or the attorney-client
17 relationship;

18 (3) describing the general activities the third party
19 may perform in the appeal;

20 (4) explaining that compensation will be received by
21 the attorney from the third party; and

22 (5) informing the person that the person's consent is
23 required before the attorney may accept compensation from the third
24 party.

25 (b) The attorney shall mail the notice by certified mail to
26 the person represented by the attorney not later than the 30th day
27 after the date the attorney accepts the engagement from the third

1 party.

2 (c) Notwithstanding the other provisions of this section,
3 an engagement complies with this section if each party related to
4 the engagement, including the person represented in the appeal, the
5 third party, and the attorney, enters into an agreement not later
6 than the 30th day after the date of the filing of the appeal by the
7 attorney that contains the information required by Subsection (a).

8 (d) A person may void an engagement that does not comply
9 with this section. An attorney who does not comply with this
10 section is presumed to have violated Rules 1.08 and 8.04(a)(9),
11 Texas Disciplinary Rules of Professional Conduct.

12 SECTION 18. Section 42.43(h), Tax Code, is amended to read
13 as follows:

14 (h) A separate form must be filed with a taxing unit under
15 Subsection (g) for each appeal to which the property owner is a
16 party. A form may be ~~[remains in effect for all subsequent refunds~~
17 ~~required by this section until]~~ revoked in a written revocation
18 filed with the taxing unit by the property owner.

19 SECTION 19. (a) Section 6.411, Tax Code, as amended by
20 this Act, applies only to an offense committed on or after the
21 effective date of this Act. An offense committed before the
22 effective date of this Act is governed by the law in effect on the
23 date the offense was committed, and the former law is continued in
24 effect for that purpose. For purposes of this section, an offense
25 was committed before the effective date of this Act if any element
26 of the offense occurred before that date.

27 (b) Sections 25.25(c), (e), and (g), 25.26, 41.411(c),

1 41.4115, and 42.01, Tax Code, as added or amended by this Act, apply
2 only to a motion to correct an appraisal roll or a protest filed on
3 or after the effective date of this Act. A motion to correct an
4 appraisal roll or a protest filed before the effective date of this
5 Act is governed by the law in effect on the date the motion or
6 protest was filed, and the former law is continued in effect for
7 that purpose.

8 (c) Sections 41.44 and 41.47, Tax Code, as amended by this
9 Act, apply only to a protest that is pending on the effective date
10 of this Act or is filed on or after the effective date of this Act.

11 (d) Sections 42.016, 42.226, and 42.23, Tax Code, as added
12 or amended by this Act, apply only to an appeal that is pending on
13 the effective date of this Act or is filed on or after the effective
14 date of this Act.

15 (e) Section 42.30, Tax Code, as added by this Act, applies
16 only to a violation committed on or after the effective date of this
17 Act. A violation committed before the effective date of this Act is
18 governed by the law in effect when the violation was committed, and
19 the former law is continued in effect for that purpose.

20 SECTION 20. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2011.

ADOPTED

MAY 20 2011

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

J. J. Aring

1 Amend C.S.H.B. No. 1887 (Senate committee printing) in
2 SECTION 17 of the bill, by striking added Section 42.30(d), Tax Code
3 (page 7, lines 64-67), and substituting the following:

4 (d) A person may void an engagement that does not comply
5 with this section. An attorney who does not comply with this
6 section may be reported to the Office of Chief Disciplinary Counsel
7 for the State Bar of Texas.

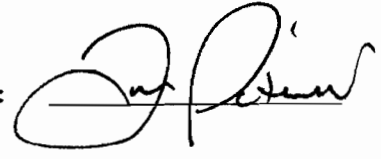
3rd Reading

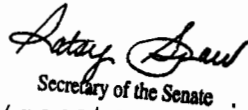
ADOPTED

FLOOR AMENDMENT NO. 1

MAY 20 2011

BY:




Secretary of the Senate

Amend C.S.H.B. 1887 (senate committee printing) as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber the subsequent SECTIONS of the bill accordingly:

SECTION ____ Subsection (e-1), Section 41.45, Tax Code, is amended to read as follows:

(e-1) A property owner or a person [~~who has not~~] designated by the property owner as the owner's [~~an~~] agent under Section 1.111 to represent the owner at the hearing [~~and~~] who fails to appear at the hearing is entitled to a new hearing if the property owner or the owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement with the appraisal review board showing good cause for the failure to appear and requesting a new hearing.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 17, 2011

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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 elements of an offense.), **Committee Report 2nd House, Substituted**

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 4, 2011

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: HB1887 by Villarreal (Relating to the procedures for property tax protests and appeals.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 41 and Chapter 42 of the Tax Code, regarding property taxation, to prohibit a protest notice to be found untimely or insufficient based on the fact that the notice is filed by or identifies the property owner as a person who is not the property owner. This prohibition would only apply if the filer or identified person is shown on the appraisal records as the owner, the person is an affiliate of the owner, or the identification of the property owner is not materially misleading. If a property owner in a protest notice is shown on the appraisal records as the owner or the identification of that owner is not materially misleading, then the bill would provide that property owner is entitled to intervene in the appeal not later than the 30th day after the day a party files a motion or plea that the person filing an appeal lacks standing or the entitlement to appeal an appraisal review board (ARB) order because the person is not the property owner.

The bill would provide that an ARB must state in a determination order for protest relating to appraised value determination the appraised value of the property as shown in the appraisal records submitted to the ARB by the chief appraiser and the appraised value as determined by the ARB.

The bill would make several changes related to property tax appeals to district court including requiring mediation on a motion by a party to an appeal and authorizing the court to require mediation on its own motion; providing that an offer of evidence by any person present at an ARB hearing constitutes sufficient evidence to deny a no-evidence motion for summary judgment; and providing that separate forms must be filed with each taxing unit for each appeal to which the owner is party.

The bill would require an attorney who accepts an engagement or compensation from a third party to represent a person in an appeal to provide specified notices by certified mail to the represented person. These notices would include that the attorney has retained a third party to represent the person; explanation of the attorney's ethical obligations to the person in relation to the third party; description of the activities the third party would perform; explanation of the third party's compensation, and the notification that the person's consent is required before the attorney may compensate the third party. The bill would authorize a person to void an engagement that does not comply with these proposed requirements and would provide that an attorney that does not comply would violate Rule 1.08, Texas Disciplinary Rules of Professional Conduct.

The bill would make changes affecting the handling of property tax appeals to district court but would not change taxable values, tax rates, exemption amounts, or any other variable affecting property tax revenues. Consequently, these provisions have no fiscal impact on the state or units of local government.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

IN RE: HB1887 by Villarreal (relating to the procedures for property tax protests and appeals.),
Committee Report 1st House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend Chapter 41 and Chapter 42 of the Tax Code, regarding property taxation, to prohibit a protest notice to be found untimely or insufficient based on the fact that the notice is filed by or identifies the property owner as a person who is not the property owner. This prohibition would only apply if the filer or identified person is shown on the appraisal records as the owner, the person is an affiliate of the owner, or the identification of the property owner is not materially misleading. If a property owner in a protest notice is shown on the appraisal records as the owner or the identification of that owner is not materially misleading, then the bill would provide that property owner is entitled to intervene in the appeal not later than the 30th day after the day a party files a motion or plea that the person filing an appeal lacks standing or the entitlement to appeal an appraisal review board (ARB) order because the person is not the property owner.

The bill would provide that an ARB must state in a determination order for protest relating to appraised value determination the appraised value of the property as shown in the appraisal records submitted to the ARB by the chief appraiser and the appraised value as determined by the ARB.

The bill would make several changes related to property tax appeals to district court including requiring mediation on a motion by a party to an appeal and authorizing the court to require mediation on its own motion; providing that an offer of evidence by any person present at an ARB hearing constitutes sufficient evidence to deny a no-evidence motion for summary judgement; and providing that separate forms must be filed with each taxing unit for each appeal to which the owner is party.

The bill would require an attorney who accepts an engagement or compensation from a third party to represent a person in an appeal to provide specified notices by certified mail to the represented person. These notices would include that the attorney has retained a third party to represent the person; explanation of the attorney's ethical obligations to the person in relation to the third party; description of the activities the third party would perform; explanation of the third party's compensation, and the notification that the person's consent is required before the attorney may compensate the third party. The bill would authorize a person to void an engagement that does not comply with these proposed requirements and would provide that an attorney that does not comply would violate Rule 1.08, Texas Disciplinary Rules of Professional Conduct.

The bill would make changes affecting the handling of property tax appeals to district court but would not change taxable values, tax rates, exemption amounts, or any other variable affecting property tax revenues. Consequently, these provisions have no fiscal impact on the state or units of local government.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 1, 2011

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

IN RE: HB1887 by Villarreal (Relating to procedural changes to property tax protests and appeals.),
As Introduced

No fiscal implication to the State is anticipated.

The bill would amend Chapter 42 of the Tax Code, regarding property taxation, to make several changes related to property tax appeals to district court including specifying circumstances in which the court has jurisdiction over an appeal; allowing property owners or their agents to offer evidence of market value or equal and uniform value in a no evidence motion; requiring alternate dispute resolution; allowing the court to impose sanctions for failure to participate in alternative dispute resolution; removing certain restrictions on attorney's fees if an appraisal district refuses to hold an informal hearing or enter into alternative dispute resolution with the property owner within 240 days of the lawsuit filing date; allowing individuals who are not licensed real estate appraisers to offer expert testimony; requiring that the property values of the subject and comparable properties must be the values determined by the appraisal review board; and prohibiting a taxing unit from agreeing as part of a settlement to waive interest. The bill also would replace the 8 percent interest on certain property tax refunds with the interest rate based on three-month U.S. treasury bills but capped at 10 percent which currently only applies to refunds for certain denied exemptions that were successfully appealed to a district court.

The bill would make changes affecting the handling of property tax appeals to district court but would not change taxable values, tax rates, exemption amounts, or any other variable affecting property tax revenues. Consequently, these provisions have no fiscal impact on the state or units of local government. The bill would also decrease the rate of interest paid on certain refunds paid by taxing units to taxpayers who have made successful district court appeals. This would create a gain to units of local government. The number of future successful district court appeals and amount of associated interest payments is unknown, so the gain cannot be estimated. Interest payments are not included in the school funding formula so there would be no fiscal gain to 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

The bill would decrease the rate of interest paid on certain refunds paid by taxing units to taxpayers who have made successful district court appeals resulting in a gain to units of local government.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, KK, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

IN RE: HB1887 by Villarreal (relating to the procedures for property tax protests and appeals.),
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, KK

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

82ND LEGISLATIVE REGULAR SESSION

April 1, 2011

TO: Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means

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

IN RE: HB1887 by Villarreal (Relating to procedural changes to property tax protests and appeals.),
As Introduced

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, KK