

## **BILL ANALYSIS**

C.S.H.B. 2723  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Recent legislation attempted to establish the standard of proof by which an appraisal district must establish the value of a property in an appraisal protest hearing. Interested parties contend that the standard of proof is too low and that the practical application of this standard has not achieved the desired goal of the legislation. C.S.H.B. 2723 seeks to change the standard of proof that an appraisal district must meet to establish the value of a property at a protest hearing.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2723 amends the Tax Code to place on an appraisal district the burden of establishing by clear and convincing evidence presented at a protest hearing before an appraisal review board the value of a property that is the subject of a protest regarding the determination of the appraised value of an owner's property or, if applicable, of a property's appraised or market value or regarding an unequal appraisal of the property under the following conditions:

- the appraised value of the property was lowered in the preceding tax year as the result of a proceeding contesting the property's appraisal;
- the appraised value of the property in the preceding tax year was not established as a result of a written agreement between the property owner or the owner's agent and the appraisal district; and
- not later than the 14th day before the date of the first day of the hearing, the property owner files with the appraisal review board and delivers to the chief appraiser information, such as income and expense statements or information regarding comparable sales, that is sufficient to allow for a determination of the appraised or market value of the property, as applicable, or of whether the property was appraised unequally.

C.S.H.B. 2723 requires the value of a property to be determined in favor of the property owner if the appraisal district has the burden of meeting the standard of evidence under the bill's provisions and the appraisal district fails to meet that standard. The bill clarifies that its provisions relating to the filing of information with the appraisal board do not impose a duty on a property owner to provide any information in an appraisal protest authorized by the bill's provisions and are merely a condition to the applicability of the standard of evidence provided by the bill's provisions.

### **EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2723 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

SECTION 1. Section 41.43, Tax Code, is amended by amending Subsection (a) and adding subsections (a-3) and (a-4) to read as follows:

(a) Except as provided by Subsections (a-1), (a-3) and (d), in a protest authorized by Section 41.41(a)(1) or (2), the appraisal district has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing. If the appraisal district fails to meet that standard, the protest shall be determined in favor of the property owner.

(a-1) If in the protest relating to a property with a market or appraised value of \$1 million or less as determined by the appraisal district the property owner files with the appraisal review board and, not later than the 14th day before the date of the first day of the hearing, delivers to the chief appraiser a copy of an appraisal of the property performed not later than the 180th day before the date of the first day of the hearing by an appraiser certified under Chapter 1103, Occupations Code, that supports the appraised or market value of the property asserted by the property owner, the appraisal district has the burden of establishing the value of the property by clear and convincing evidence presented at the hearing. If the appraisal district fails to meet that standard, the protest shall be determined in favor of the property owner.

(a-2) To be valid, an appraisal filed under Subsection (a-1) must be attested to before an officer authorized to administer oaths and include:

- (1) the name and business address of the certified appraiser;
- (2) a description of the property that was the subject of the appraisal;
- (3) a statement that the appraised or market value of the property:
  - (A) was, as applicable, the appraised or market value of the property as of January 1

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 41.43, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-3), (a-4), and (a-5) to read as follows:

(a) Substantially the same as introduced version.

No equivalent provision.

No equivalent provision.

of the current tax year; and  
(B) was determined using a method of appraisal authorized or required by Chapter 23; and  
(4) a statement that the appraisal was performed in accordance with the Uniform Standards of Professional Appraisal Practice.

(a-3) Except as provided under Subsection (a-4), in a protest authorized by Section 41.41(a)(1) or (2), the appraisal district has the burden of establishing the value of the property by clear and convincing evidence presented at the hearing. If the appraisal district fails to meet that standard the protest of the property value shall be determined in favor of the property owner provided that:  
(1) the appraised value of the property subject to Section 23.01 was established under this Subtitle, and  
(2) the property owner files with the appraisal review board and delivers to the chief appraiser information sufficient to allow for a determination of the market value of the property such as income and expense statements or comparable sales, not later than the date established by Section 41.47. r.  
(a-4) The burden of proof established in Subsection (a-3) shall not apply in cases where the value of the property was established by mutual agreement of the property owner and chief appraiser prior to the appraisal review board determining the protest and issuing its decision by written order.

(a-3) In a protest authorized by Section 41.41(a)(1) or (2), the appraisal district has the burden of establishing the value of the property by clear and convincing evidence presented at the hearing if:  
(1) the appraised value of the property was lowered under this subtitle in the preceding tax year;  
(2) the appraised value of the property in the preceding tax year was not established as a result of a written agreement between the property owner or the owner's agent and the appraisal district under Section 1.111(e); and  
(3) not later than the 14th day before the date of the first day of the hearing, the property owner files with the appraisal review board and delivers to the chief appraiser:  
(A) information, such as income and expense statements or information regarding comparable sales, that is sufficient to allow for a determination of the appraised or market value of the property if the protest is authorized by Section 41.41(a)(1); or  
(B) information that is sufficient to allow for a determination of whether the property was appraised unequally if the protest is authorized by Section 41.41(a)(2).  
(a-4) If the appraisal district has the burden of establishing the value of property by clear and convincing evidence presented at the hearing on a protest as provided by Subsection (a-3) and the appraisal district fails to meet that standard, the protest shall be determined in favor of the property owner.  
(a-5) Subsection (a-3)(3) does not impose a duty on a property owner to provide any information in a protest authorized by Section 41.41(a)(1) or (2). That subdivision is merely a condition to the applicability of the standard of evidence provided by Subsection (a-3).

SECTION 2. The change in law made this Act applies only to a protest filed with an appraisal review board on or after the effective date of this Act. A protest filed with an appraisal review board before the effective date of this Act is covered by the law in effect at the time the protest was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 2. Substantially the same as introduced version.

SECTION 3. Same as introduced version.