By: Elkins H.B. No. 2419

A BILL TO BE ENTITLED

AN ACT

Relating to a pilot program authorizing an administrative district judge to appoint special magistrates to assist in hearing ad valorem tax protests.

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

SECTION 1. Subchapter C, Chapter 41, Tax Code, is amended by adding Section 41.463 to read as follows:

41.463. PILOT PROGRAM; APPOINTMENT OF SPECIAL MAGISTRATES TO ASSIST IN CONDUCTING PROTEST HEARINGS IN HARRIS COUNTY. (a) The local administrative district judge of Harris County shall appoint as many special magistrates as the judge, with the advice of the appraisal district board of directors, determines appropriate to conduct hearings on protests and recommend determinations in a timely manner under this title.

(b) A special magistrate may conduct hearings and recommend determinations of any matter that the appraisal review board or a panel of the board may make under this Chapter.

(c) The chairman of the Appraisal Review Board shall assign hearings to special magistrates in a manner that does not consider the magistrate's record of determinations of prior protests. However, cases may be assigned according to the magistrate's particular knowledge or expertise.

(d) Special magistrates may not be elected or appointed officials or employees of a taxing unit, the appraisal district, or the comptroller's office, nor persons licensed as tax consultants by the Department of Licensing and Regulation. The chief appraiser shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates exist. The administrative district judge shall establish a reasonable range of per diem compensation for special magistrates. The appraisal district budget shall provide an appropriate amount for that purpose.

(e) If practicable, the administrative district judge shall appoint special magistrates according to the following qualifications:

(1) a special magistrate appointed to hear issues of exemptions and classifications shall be a member of The Texas Bar with experience in the area of ad valorem taxation;

(2) a special magistrate appointed to hear issues regarding the valuation of real estate shall be a licensed real estate appraiser with not less than 5 years' experience in real property valuation;

(3) a special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a certified public accountant or a designated member of a nationally recognized appraiser's organization with experience in tangible personal property valuation.

(4) Notwithstanding the foregoing, the administrative district judge, with the advice of the chairman of the appraisal review board, may consider the needs of the appraisal review board and the experience of special magistrate candidates in lieu of the

requirements of subsection (e)(1) through (e)(3), in order to make appointments as special magistrates.

(f) A special magistrate need not be a resident of the county in which he or she serves. A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate. Before appointing a special magistrate, The administrative district judge shall verify the special magistrate's qualifications. The judge shall ensure that the selection of special magistrates is based solely upon the experience and qualifications of the special magistrate and is not influenced by the chief appraiser.

(g) Hearings by a special magistrate are scheduled and conducted in the manner provided by this chapter for hearings of the appraisal review board.

(h) A special magistrate shall serve as an independent contractor to the appraisal review board, subject to appropriation. Notwithstanding any agreement between the board of directors of the appraisal district or the appraisal review board and the special magistrate to the contrary, a special magistrate's services to the appraisal review board may be cancelled at any time upon the vote of a majority of four of the serving members of the appraisal review board.

(h-1) A special magistrate may be removed by the local administrative district judge for a violation of Section 6.412, 6.413, 41.66(f), or 41.69, Tax Code.

(i) A special magistrate must complete training as specified by comptroller rule before commencing hearings for a tax year. The comptroller may require that magistrates attend the training provided for members of the appraisal review board.

SECTION 2. Subchapter C, Chapter 41, Tax Code, is amended by adding Section 41.4631 to read as follows:

41.4631. PILOT PROGRAM; APPOINTMENT OF SPECIAL MAGISTRATES EXPIRATION OF CURRENT APPRAISAL REVIEW BOARD TERMS. (a) Special magistrates shall hold office for terms of two years beginning January 1. The appraisal district board of directors by resolution shall provide for staggered terms, so that the terms of as close to one-half of the special magistrates as possible expire each year. In making the initial or subsequent appointments, the local administrative district judge shall designate those special magistrates who serve terms of one year as needed to comply with this subsection.

(a-1) Upon the effective date of the pilot program under section 41.463, Tax Code, the administrative law judge may begin appointing special magistrates for the initial term beginning January 1, 2014.

(b) Upon the effective date of the pilot program under section 41.463, Tax Code, the terms of all then current appraisal review board members shall be set to expire on December 31, 2013.

(c) Appraisal review board members serving as of the effective date of the pilot program under section 41.463, Tax Code, are eligible to serve as appraisal review board members under the pilot program, unless otherwise prohibited by this title.

SECTION 3. Section 6.41, Tax Code, is amended by adding Subsection (b-1) to read as follows:

Sec. 6.41. APPRAISAL REVIEW BOARD. <u>(b-1) Notwithstanding subsection (b), in a county with a population of 3.3 million or more, the board shall consist of five members.</u>

SECTION 4. Section 6.411, Tax Code, is amended to read as follows:

Sec. 6.411. EX PARTE COMMUNICATIONS; PENALTY. (a) A member of an appraisal review board, <u>or a special magistrate appointed under Section 41.463, Tax Code,</u> commits an offense if the member communicates with the chief appraiser or another employee or a member of the board of directors of the appraisal district for which the appraisal review board is established in violation of Section 41.66(f).

(b) A chief appraiser or another employee of an appraisal district, a member of a board of directors of an appraisal district, or a property tax consultant or attorney representing a party to a proceeding before the appraisal review board commits an offense if the person communicates with <u>a special magistrate appointed under Section 41.463, Tax Code, or</u> a member of the appraisal review board established for the appraisal district with the intent to influence a decision by <u>the special magistrate or</u> member in the member's capacity as a member of the appraisal review board.

SECTION 5. Section 41.45, Tax Code, is amended by adding Subsection (d-1) to read as follows:

Sec. 41.45. HEARING ON PROTEST. <u>(d-1) Notwithstanding subsection (d), in a county with a population of 3.3 million or more, a special magistrate appointed under section 41.463 shall conduct protest hearings. However, the determination of a protest</u>

heard by a special magistrate must be made by the board. If the recommendation of a special magistrate is not accepted by the board, the board may refer the matter for rehearing to a separate special magistrate, or the board, by majority vote, may determine the protest. Before determining a protest or conducting a rehearing before a new special magistrate, the board shall deliver notice of the hearing or meeting to determine the protest in accordance with the provisions of this subchapter.

SECTION 6. Subchapter C, Chapter 41, Tax Code, is amended by adding Section 41.4632 to read as follows: (a) The pilot program under section 41.463 shall be implemented in a county with a population of 3.3 million or more.

(b) Unless continued, the pilot program shall expire on December 31, 2017.

SECTION 7. This Act takes effect September 1, 2013.