

By: Eltife

S.B. No. 1826

A BILL TO BE ENTITLED

AN ACT

relating to procedural and administrative requirements for appraisal review boards; providing a penalty.

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

SECTION 1. Section 5.041, Tax Code, is amended by amending Subsections (b), (e-2), and (f) and adding Subsection (b-1) to read as follows:

(b) A member of the appraisal review board established for an appraisal district must complete the courses [~~course~~] established under Subsections [~~Subsection~~] (a) and (e-1). A member of the appraisal review board may not participate in a hearing conducted by the board unless the person has completed the courses [~~course~~] established under Subsections [~~Subsection~~] (a) and (e-1) and has received a certificate of course completion.

(b-1) At the conclusion of a course established under Subsection (a) or (e-1), each member of the appraisal review board in attendance shall complete a statement, on a form prescribed by the comptroller, indicating that the member will abide by the requirements of this title in conducting hearings.

(e-2) During [~~As soon as practicable after the beginning of~~] the second year and each succeeding year of an appraisal review board member's term of office, the member must successfully complete the course established under Subsection (e-1). A person who fails to timely complete the course established under

1 Subsection (e-1) may not participate in a hearing conducted by the  
2 appraisal review board and may not vote on any determination of  
3 protest. Furthermore, a person who fails to complete the courses  
4 established under Subsections (a) and (e-1) may not be reappointed  
5 to an additional term on the appraisal review board. Appraisal  
6 review board members [~~If the person is reappointed to an additional~~  
7 ~~term on the appraisal review board, the person~~] must successfully  
8 complete the course established under Subsection (e-1) in each year  
9 the member continues to serve after the first year of service.

10 (f) The comptroller may not advise a property owner, a  
11 property owner's agent, the chief appraiser, or an employee of an  
12 appraisal district [~~, or an appraisal review board~~] on a matter that  
13 the comptroller knows is the subject of a protest to the appraisal  
14 review board. The comptroller may provide advice to the appraisal  
15 review board as authorized by Subsection (a)(4) of this section and  
16 Section 5.103 and may communicate with the chairpersons of  
17 appraisal review boards and taxpayer liaison officers concerning  
18 complaints described under Section 6.052.

19 SECTION 2. Chapter 5, Tax Code, is amended by adding Section  
20 5.103 to read as follows:

21 Sec. 5.103. APPRAISAL REVIEW BOARD OVERSIGHT. (a) The  
22 comptroller shall prepare model hearing procedures for appraisal  
23 review boards.

24 (b) The model hearing procedures shall address:

- 25 (1) the statutory duties of an appraisal review board;  
26 (2) the process for conducting a hearing;  
27 (3) the scheduling of hearings;

- 1           (4) the postponement of hearings;  
2           (5) the notices required under this code;  
3           (6) the determination of good cause under Section  
4 41.44(b);  
5           (7) the determination of good cause under Sections  
6 41.45(e) and (g);  
7           (8) a party's right to offer evidence and argument;  
8           (9) a party's right to examine or cross-examine  
9 witnesses or other parties;  
10          (10) a party's right to appear by agent;  
11          (11) the prohibition against consideration by an  
12 appraisal review board of information not provided at the hearing;  
13          (12) ex parte communication;  
14          (13) exclusion of evidence under Section 41.461;  
15          (14) postponement for failure to comply with Section  
16 41.461;  
17          (15) conflict of interest;  
18          (16) the process for the administration of  
19 applications for membership on an appraisal review board; and  
20          (17) other matters related to fair and efficient  
21 appraisal review board hearings and processes.  
22          (c) In the development of model hearing procedures, the  
23 comptroller may develop different procedures for different  
24 districts based on such factors as the size of the district, the  
25 number of protests filed in the district, and other similar  
26 characteristics.  
27          (d) An appraisal review board shall follow the model hearing

1 procedures prepared by the comptroller when establishing its  
2 procedures as required by Section 41.66(a).

3 (e) The comptroller shall develop and implement procedures  
4 that provide the public with a reasonable opportunity to register  
5 complaints or suggestions with the comptroller for improvement  
6 concerning an appraisal review board.

7 (f) The comptroller shall, before February 1 of each year,  
8 issue a report summarizing the complaints and suggestions  
9 concerning each appraisal review board received during the previous  
10 calendar year under Subsection (e). The report shall not identify  
11 the person making the complaint.

12 (g) The chairperson of an appraisal review board in a county  
13 with a population of more than 120,000 shall, before May 1 of the  
14 year in which the comptroller's report under Subsection (f) is  
15 received, make a written response to the issues raised in the  
16 report. The comptroller shall prescribe the requirements of this  
17 response.

18 SECTION 3. Section 6.052, Tax Code, is amended by amending  
19 Subsections (a), (b), (c), and (e) and adding Subsections (f) and  
20 (g) to read as follows:

21 (a) The board of directors for an appraisal district created  
22 for a county with a population of more than 120,000 [~~125,000~~] shall  
23 appoint a taxpayer liaison officer who shall serve at the pleasure  
24 of the board. The taxpayer liaison officer shall administer the  
25 public access functions required by Sections 6.04(d), (e), and (f),  
26 and is responsible for resolving disputes not involving matters  
27 that may be protested under Section 41.41. The taxpayer liaison

1 officer is also responsible for receiving and compiling a list of  
2 complaints filed by the chief appraiser, a property owner, or a  
3 property owner's agent concerning the matters set forth in Section  
4 5.103(b) or any other matters related to the fairness and  
5 efficiency of the appraisal review board.

6 (b) The taxpayer liaison officer shall [~~may~~] provide to the  
7 public information and materials designed to assist property owners  
8 in understanding the appraisal process, protest procedures, how to  
9 file complaints under Subsection (a) of this section and Section  
10 6.04(g), and other related matters. Information concerning the  
11 process for registering complaints and comments with the  
12 comptroller shall be provided at each protest hearing.

13 (c) The taxpayer liaison officer shall report to the board  
14 at each meeting on the status of all complaints filed with the board  
15 under Section 6.04(g) and with the officer under Subsection (a).

16 (e) The chief appraiser or any other person who performs  
17 appraisal or legal services for the appraisal district for  
18 compensation is not eligible to be the taxpayer liaison officer  
19 [~~for the appraisal district~~].

20 (f) The taxpayer liaison officer shall forward to the  
21 comptroller complaints filed under Subsection (a) in the form and  
22 manner prescribed by the comptroller.

23 (g) In counties with a population of more than 120,000, the  
24 taxpayer liaison officer shall be responsible for providing  
25 clerical assistance to the local administrative judge in the  
26 selection of appraisal review board members. The officer shall be  
27 the intake point for applications and shall forward the

1 applications to the local administrative judge and perform other  
2 duties as requested. The officer is prohibited from influencing  
3 the selection process in any way. The comptroller shall prescribe  
4 model procedures for this process.

5 SECTION 4. Section 6.41, Tax Code, is amended by amending  
6 Subsections (d-1) and (e) and adding Subsections (d-10), (d-11),  
7 (d-12), (d-13), (d-14), (d-15), and (i) to read as follows:

8 (d-1) In a county with a population of 120,000 [~~3.3 million~~  
9 ~~or more or a county with a population of 550,000 or more that is~~  
10 ~~adjacent to a county with a population of 3.3 million]~~ or more the  
11 members of the board are appointed by the local administrative  
12 district judge in the county in which the appraisal district is  
13 established. All applications submitted to the appraisal district  
14 or to the appraisal review board seeking appointment as a member of  
15 the board shall be delivered to the local administrative district  
16 judge. The comptroller shall provide information and assistance to  
17 the local administrative judge to aid in the selection of appraisal  
18 review board members.

19 (d-10) In a county with a population of more than 120,000,  
20 an appraisal review board member may be removed for good cause. The  
21 board of directors of the appraisal district, the chairperson of  
22 the appraisal review board, or a property owner in the district may  
23 file a motion with the local administrative district judge for the  
24 purpose of removing a member of the appraisal review board for good  
25 cause. The motion shall contain detailed information with regard  
26 to the basis for a request for removal. Good cause for removal  
27 shall be found only on a repeated pattern of behavior constituting

1 good cause for removal.

2 (d-11) Good cause under Subsection (d-10) includes:

3 (1) failure to follow the provisions of this code;

4 (2) failure to follow rules adopted by the  
5 comptroller;

6 (3) a demonstration of bias or prejudice;

7 (4) participation in ex parte communication  
8 prohibited by this code;

9 (5) making decisions or recommendations with regard to  
10 membership on a panel or chairpersonship of a panel based on a  
11 member's voting record in previous cases;

12 (6) failure to regularly attend meetings;

13 (7) failure to provide a response under Section  
14 5.103(g);

15 (8) inattention to hearings or the hearing process;  
16 and

17 (9) failure to implement or follow the model hearing  
18 procedures developed by the comptroller under Section 5.103.

19 (d-12) The district judge has complete discretion in the  
20 selection of the appropriate procedure for the implementation of a  
21 removal process under Subsection (d-10). The district judge may or  
22 may not hold a hearing. The decision of the district judge is final  
23 and may not be appealed and may not be the subject of mandamus or  
24 other similar proceeding.

25 (d-13) If the district judge determines that an  
26 investigation of a motion filed under Subsection (d-10) is  
27 warranted, the district judge shall allow the member an opportunity

1 to respond to the motion. If good cause for removal is found, the  
2 member shall be removed from the appraisal review board  
3 immediately. The removal shall have no effect on prior decisions in  
4 which the member participated.

5 (d-14) The district judge may appoint a special master to  
6 determine the motion for removal of a member of an appraisal review  
7 board under Subsection (d-10). The special master shall be  
8 compensated by the appraisal district at the same rate as an  
9 appraisal review board member.

10 (d-15) The local administrative district judge shall  
11 appoint the replacement if a member of an appraisal review board is  
12 removed.

13 (e) Members of the board hold office for terms of four [~~two~~]  
14 years beginning January 1. The appraisal district board of  
15 directors by resolution shall provide for staggered terms, so that  
16 the terms of as close to one-half of the members as possible expire  
17 each year. In making the initial or subsequent appointments, the  
18 board of directors or the local administrative district judge or  
19 the judge's designee shall designate those members who serve terms  
20 of one year as needed to comply with this subsection.

21 (i) Service on a board does not constitute employment for  
22 the purposes of Chapter 201, Labor Code, and does not authorize a  
23 person to receive unemployment benefits by virtue of such service.

24 SECTION 5. Section 6.411, Tax Code, is amended by amending  
25 Subsection (c-1) and adding Subsections (c-2) and (c-3) to read as  
26 follows:

27 (c-1) This section does not apply to communications with a



1 member of an appraisal review board by a [~~involving the~~] chief  
2 appraiser, ~~[or]~~ another employee or a member of the board of  
3 directors of an appraisal district, or a property tax consultant or  
4 attorney representing a party to a proceeding before [~~and a member~~  
5 ~~of~~] the appraisal review board:

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

8 (2) that constitute social conversation;

9 (3) that are specifically limited to and involve  
10 administrative, clerical, or logistical matters related to the  
11 scheduling and operation of hearings, the processing of documents,  
12 the issuance of orders, notices, and subpoenas, and the operation,  
13 appointment, composition, or attendance at training of the  
14 appraisal review board; or

15 (4) that are necessary and appropriate to enable the  
16 board of directors of the appraisal district to determine whether  
17 to appoint, reappoint, or remove a person as a member or the  
18 chairman or secretary of the appraisal review board.

19 (c-2) Any communication from the chief appraiser, employees  
20 or agents of the appraisal district, members of the appraisal  
21 review board, or board of directors of the appraisal district with  
22 the local administrative judge regarding the appointment of  
23 appraisal review board members constitutes an offense. This  
24 prohibition does not apply to communications between current  
25 appraisal review board members and the local administrative judge  
26 regarding their own reappointment to the board. This provision  
27 does not apply to the taxpayer liaison officer with regard to the

1 provision of clerical services; however, the taxpayer liaison  
2 officer may not offer an opinion or comment regarding the  
3 appointment of appraisal review board members.

4 (c-3) Any communication consisting of a ranking, scoring,  
5 or reporting of the percentage of value reductions determined by an  
6 appraisal review board or panel of the appraisal review board to  
7 members of the appraisal review board, appraisal district board of  
8 directors, or local administrative district judge constitutes an  
9 offense.

10 SECTION 6. Chapter 21, Tax Code, is amended by adding  
11 Section 21.09 to read as follows:

12 Sec. 21.09. ALLOCATION APPLICATION. (a) To receive an  
13 allocation authorized by Section 21.021, 21.03, 21.031, 21.05, or  
14 21.055, a person claiming the allocation must apply for the  
15 allocation. To apply for an allocation, a person must file an  
16 allocation application form with the chief appraiser in the  
17 appraisal district in which the property subject to the claimed  
18 allocation has situs.

19 (b) A person claiming an allocation must apply for the  
20 allocation each year the person claims an allocation. A person  
21 claiming an allocation must file a completed allocation application  
22 form before May 1 and must furnish the information required by the  
23 form. For good cause shown, the chief appraiser shall extend the  
24 deadline for filing an allocation application by written order for  
25 a period not to exceed 60 days.

26 (c) The comptroller shall prescribe the contents of the  
27 allocation application form and shall ensure that the form requires

1 an applicant to furnish the information necessary to determine the  
2 validity of the allocation application.

3 (d) If the chief appraiser learns of any reason indicating  
4 that an allocation previously allowed should be canceled, the chief  
5 appraiser shall investigate. If the chief appraiser determines  
6 that the property is not entitled to an allocation, the chief  
7 appraiser shall cancel the allocation and deliver written notice of  
8 the cancelation not later than the fifth day after the date the  
9 chief appraiser cancels the allocation. A person may protest the  
10 cancelation of an allocation.

11 (e) The filing of a rendition under Chapter 22 is not a  
12 condition of qualification for an allocation.

13 (f) If the property was not on the appraisal roll in the  
14 preceding year, the deadline for filing an application for an  
15 allocation is extended to 45 days after receipt of the notice of  
16 appraised value required by Section 25.19(a)(1).

17 SECTION 7. Chapter 21, Tax Code, is amended by adding  
18 Section 21.10 to read as follows:

19 Sec. 21.10. LATE APPLICATION FOR ALLOCATION. (a) The  
20 chief appraiser shall accept and approve or deny an application for  
21 allocation under Section 21.09 after the deadline for filing the  
22 application has passed if the application is filed before the date  
23 the appraisal review board approves the appraisal records.

24 (b) If an application described by Subsection (a) is  
25 approved, the property owner is liable to each taxing unit for a  
26 penalty in an amount equal to 10 percent of the difference between  
27 the amount of tax imposed by the taxing unit on the property without

1 the allocation and the amount of tax imposed on the property with  
2 the allocation.

3 (c) The chief appraiser shall make an entry on the appraisal  
4 records for the property indicating the property owner's liability  
5 for the penalty and shall deliver a written notice of imposition of  
6 the penalty, which must include an explanation of the reason for the  
7 penalty, to the property owner.

8 (d) The tax assessor for a taxing unit that taxes the  
9 property shall add the amount of the penalty to the property owner's  
10 tax bill, and the tax collector for the unit shall collect the  
11 penalty at the time and in the manner the collector collects the  
12 tax. The amount of the penalty constitutes a lien on the property  
13 against which the penalty is imposed as if the lien were a tax and  
14 accrues penalty and interest in the same manner as a delinquent tax.

15 SECTION 8. Section 31.11, Tax Code, is amended by adding  
16 Subsection (j) to read as follows:

17 (j) At any time after a taxing unit denies an application  
18 for a refund, a taxpayer may file suit in district court to compel  
19 the payment of the refund. If a taxpayer prevails in the suit, the  
20 taxpayer may be awarded the costs of court and reasonable  
21 attorney's fees. If a taxing unit does not respond to an  
22 application for a refund within 90 days after the date the  
23 application is filed, the application is presumed to have been  
24 denied.

25 SECTION 9. Section 41.45, Tax Code, is amended by adding  
26 Subsection (n) to read as follows:

27 (n) A property owner does not waive the right to appear in

1 person by filing an affidavit. An affidavit shall be used by the  
2 appraisal review board only in the event the property owner does not  
3 appear in person. For the purposes of scheduling a hearing, a  
4 property owner shall designate on the affidavit that the property  
5 owner either does not intend to appear at the hearing or does intend  
6 to appear at the hearing and that the affidavit shall be used only  
7 in the event that the property owner does not appear at the hearing.  
8 If the affidavit does not designate an intention either to appear or  
9 not appear, the appraisal review board shall consider the absence  
10 of a designation as an intention not to appear. If the affidavit  
11 states that the property owner does not intend to appear at the  
12 hearing, the appraisal review board is not required to consider the  
13 affidavit at the scheduled hearing and may consider the affidavit  
14 at a hearing designated for the specific purpose of processing  
15 affidavits.

16 SECTION 10. Section 41.66, Tax Code, is amended by adding  
17 Subsections (i), (j), (k), (l), (m), (n), and (o) to read as  
18 follows:

19 (i) A protest hearing for a property owner not represented  
20 by an agent designated under Section 1.111 shall be set for a time  
21 and date certain. If the protest hearing for a property owner not  
22 represented by an agent designated under Section 1.111 is not  
23 commenced within two hours of the time certain, the hearing on  
24 request shall be postponed.

25 (j) On request of a property owner or a designated agent, an  
26 appraisal review board shall schedule a maximum of 20 designated  
27 properties for hearing on the same day. The request shall be

1 contained on a separate protest for only the designated properties  
2 and must contain in bold "request for same-day protest hearings." A  
3 property owner or designated agent may make only one request for  
4 same-day protest hearings per county. The appraisal review board  
5 may follow customary scheduling practices in the scheduling of the  
6 same-day hearings.

7 (k) Property owners or their designated agents shall be  
8 randomly assigned to panels. However, the assignment may consider  
9 the property type subject to protest or the grounds raised for the  
10 utilization of panel expertise for a particular property type or  
11 particular grounds raised. If a property owner or designated agent  
12 is assigned to a panel for a day, the property owner or designated  
13 agent may not be reassigned to another panel without the property  
14 owner's or designated agent's consent. If the appraisal review  
15 board has cause for reassignment, a property owner or designated  
16 agent may agree to reassignment or may request and be granted a  
17 postponement of the hearing. A change of members of a panel due to  
18 conflict of interest, illness, or inability to continue for the day  
19 does not constitute reassignment.

20 (l) Evidence and argument provided by a property owner,  
21 attorney or agent in support of a protest brought under Section  
22 41.41(a)(1) or (2) is not subject to Chapter 1103, Occupations  
23 Code, unless the person offering such evidence or argument states  
24 that the person is offering evidence or argument as a person holding  
25 a license or certification under Chapter 1103, Occupations Code.

26 (m) Appraisal districts and appraisal review boards may not  
27 make decisions with regard to membership on a panel or

1 chairpersonship of a panel based on a member's voting record in  
2 previous cases.

3 (n) An appraisal review board shall respond in writing or by  
4 e-mail to a request for postponement, which request must contain  
5 the mail and e-mail address of the person requesting the hearing not  
6 later than the seventh day after the date the request is received.

7 (o) The chairperson of an appraisal review board or member  
8 designated by the chairperson may make decisions with regard to the  
9 scheduling or postponement of a hearing. The chief appraiser or  
10 person designated by the chief appraiser may agree to a  
11 postponement of an appraisal review board hearing.

12 SECTION 11. Subsection (a), Section 41A.03, Tax Code, is  
13 amended to read as follows:

14 (a) To appeal an appraisal review board order under this  
15 chapter, a property owner must file with the appraisal district not  
16 later than the 45th day after the date the property owner receives  
17 notice of the order:

18 (1) a completed request for binding arbitration under  
19 this chapter in the form prescribed by Section 41A.04; and

20 (2) an arbitration deposit made payable to the  
21 comptroller in the amount of [+

22 [~~(A)~~] \$500 [~~, or~~

23 [~~(B)~~] \$250, if the property owner requests  
24 ~~expedited arbitration under Section 41A.031].~~

25 SECTION 12. Subsections (b), (b-1), and (c), Section 42.08,  
26 Tax Code, are amended to read as follows:

27 (b) Except as provided in Subsection (d), a property owner

1 who appeals as provided by this chapter must pay taxes on the  
2 property subject to the appeal in the amount required by this  
3 subsection before the delinquency date or the property owner  
4 forfeits the right to proceed to a final determination of the  
5 appeal. The amount of taxes the property owner must pay on the  
6 property before the delinquency date to comply with this subsection  
7 is [~~the lesser of~~]:

8 (1) the amount of taxes due on the portion of the  
9 taxable value of the property that is not in dispute; [~~or~~]

10 (2) the amount of taxes due on the property under the  
11 order from which the appeal is taken; or

12 (3) the amount of taxes paid on the property in the  
13 prior year.

14 (b-1) This subsection applies only to an appeal in which the  
15 property owner elects to pay the amount of taxes described by  
16 Subsection (b)(1). The appeal filed by the property owner must be  
17 accompanied by a statement in writing of the amount of taxes the  
18 property owner proposes to pay. The statement required under this  
19 subsection is not jurisdictional.

20 (c) A property owner that pays an amount of taxes greater  
21 than that required by Subsection (b) does not forfeit the property  
22 owner's right to a final determination of the appeal by making the  
23 payment. The property owner may elect to pay additional taxes at  
24 any time. If the property owner files a timely appeal under this  
25 chapter, taxes paid on the property are considered paid under  
26 protest, even if paid before the appeal is filed. A property owner  
27 may use Section 31.03 to comply with this section for a taxing unit



1 that has adopted split payment of taxes by paying one-half of the  
2 amount owed under Subsection (b) before December 1 and the  
3 remaining one-half before to July 1 of the following year.

4 SECTION 13. Section 42.21, Tax Code, is amended by adding  
5 Subsections (f), (g), and (h) to read as follows:

6 (f) A petition may include multiple properties of a similar  
7 type owned or leased by the same plaintiff or that are part of the  
8 same economic unit.

9 (g) A petition may be amended within the period provided  
10 under Subsection (a) for the same year to include additional  
11 properties owned by the same owner that are of a similar type or  
12 part of the same economic unit and are the subject of an appraisal  
13 review board order for that tax year.

14 (h) The court has jurisdiction over an appeal under this  
15 chapter, and an exhaustion of administrative remedies has occurred,  
16 regardless of the plaintiff identified in the petition, if the  
17 property was the subject of an appraisal review board hearing for  
18 the current tax year and the petition was filed within the period  
19 provided under Subsection (a). A petition must provide sufficient  
20 information to identify the property that is the subject of the  
21 petition. An issue of a proper party or the clarification of the  
22 identity of a property shall be the subject of a special exception  
23 and correction through amendment and not subject to a plea to the  
24 jurisdiction or failure to exhaust administrative remedies.

25 SECTION 14. Section 42.23, Tax Code, is amended by adding  
26 Subsection (h) to read as follows:

27 (h) Evidence, argument, and other testimony offered at an

1 appraisal review board hearing by a property owner or agent are not  
2 admissible under this chapter except to establish the court's  
3 jurisdiction for purposes of evidence in a no-evidence motion for  
4 summary judgment or unless the property owner or agent is  
5 designated as a witness for purposes of trial.

6 SECTION 15. Section 41A.031, Tax Code, is repealed.

7 SECTION 16. The changes in law made by this Act are  
8 procedural and are applicable to any proceedings pending or not  
9 finalized as of the effective date of the sections of this Act that  
10 are applicable to the proceedings.

11 SECTION 17. (a) Sections 1, 2, 3, 9, and 10 of this Act  
12 take effect January 1, 2014.

13 (b) Except as provided by Subsection (c) of this section,  
14 Section 4 of this Act takes effect January 1, 2014.

15 (c) Subsection (i), Section 6.41, Tax Code, as added by  
16 Section 4 of this Act, takes effect September 1, 2013, and applies  
17 to any claim pending on that date.

18 SECTION 18. Except as provided by Section 17 of this Act,  
19 this Act takes effect immediately if it receives a vote of  
20 two-thirds of all the members elected to each house, as provided by  
21 Section 39, Article III, Texas Constitution. If this Act does not  
22 receive the vote necessary for immediate effect, this Act takes  
23 effect September 1, 2013.