

## **BILL ANALYSIS**

H.B. 32  
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Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the way in which property taxes are levied and administered across Texas. H.B. 32 seeks to address these concerns by enacting the Property Tax Payer Empowerment Act of 2017.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTIONS 5, 9, and 19 of this bill.

### **ANALYSIS**

H.B. 32 amends the Tax Code to rename the effective tax rate with regard to property taxation as the no-new-revenue tax rate and the effective maintenance and operations rate as the no-new-revenue maintenance and operations rate.

H.B. 32 requires the comptroller of public accounts to prescribe tax rate calculation forms to be used by the designated officer or employee of each taxing unit other than a public school district to calculate and submit the no-new-revenue tax rate and the rollback tax rate for the unit as required by applicable law and by the designated officer or employee of each school district to calculate and submit the no-new-revenue tax rate, the rollback tax rate, and the rate to maintain the same amount of state and local revenue per weighted student that the district received in the school year beginning in the preceding tax year as required by applicable law. The bill requires the forms to be in an electronic format and have blanks that can be filled in electronically; be capable of being certified by the designated officer or employee after completion as accurately calculating the applicable tax rates and using values that are the same as the values shown in the taxing unit's certified appraisal roll; and be capable of being submitted electronically to the chief appraiser of each appraisal district in which the taxing unit is located.

H.B. 32 requires the comptroller to use the forms published on the comptroller's website as of August 1, 2017, modified as necessary to comply with the bill's requirements regarding the tax rate calculation forms and authorizes the forms to be updated, at the discretion of the comptroller acting through the director of the property tax assistance division, to reflect statutory changes that do not substantially change the tax rate calculations provided for by the form or for the purpose of making formatting or other nonsubstantive changes. The bill authorizes the director to determine, in the director's discretion, whether a proposed change substantially changes the tax rate calculations provided for by the forms and therefore must be made in the manner provided by the bill for such changes. The bill authorizes the comptroller to revise the forms to reflect

statutory changes that substantially change the tax rate calculations provided for by the forms or on receipt of a request in writing but requires such a revision to be approved by the agreement of a majority of the members of a committee selected by the comptroller who are present at a committee meeting at which a quorum is present. The members of the committee must represent, equally, taxpayers and either taxing units or persons designated by taxing units. The bill requires the person requesting a revision, in the case of a revision for which the comptroller receives a request in writing, to pay the costs of mediation if the comptroller determines that mediation is required.

H.B. 32 changes the statewide list of tax rates prepared annually by the comptroller from a list that includes the total tax rate imposed by each taxing unit in the state, other than a school district, if the tax rate is reported to the comptroller, for the year preceding the year in which the list is prepared to a list that includes the total tax rate imposed by each taxing unit in the state, as reported to the comptroller by each appraisal district, for the year in which the list is prepared. The bill requires the comptroller to prescribe the manner in which and deadline by which appraisal districts are required to submit the tax rates to the comptroller and changes the manner in which the tax rates are to be listed from descending order to alphabetically according to the county or counties in which each taxing unit is located and the name of each taxing unit. The bill changes the deadline by which the comptroller is required to publish the list on the comptroller's website from December 31 of each year to January 1 of the following year. The bill requires the comptroller to comply with provisions relating to the statewide list of tax rates, as amended by the bill, not later than January 1, 2021.

H.B. 32, effective September 1, 2018, requires an appraisal district board of directors for a district established in a county with a population of one million or more by resolution of a majority of the board's members to increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate to manage the duties of the appraisal review board, including the duties of each special appraisal review board panel established by the bill and applicable only to the appraisal review board for such a district. The bill, effective September 1, 2018, and applicable only to the appointment of appraisal review board members to terms beginning on or after January 1, 2019, requires the local administrative district judge, in selecting individuals who are to serve as members of the appraisal review board, to select an adequate number of qualified individuals to permit the chairman of the appraisal review board to fill the positions on each such special panel. The bill, effective September 1, 2018, prohibits an auxiliary appraisal review board member from hearing taxpayer protests before such a special panel unless the member is eligible to be appointed to the special panel and includes one or more auxiliary board members sitting on such a panel to conduct a protest hearing as a condition triggering a reduction in the number of regular board members required to constitute the panel by the number of auxiliary board members sitting.

H.B. 32, effective September 1, 2018, requires the appraisal review board for an appraisal district established in a county with a population of one million or more to establish special panels, with each panel consisting of three members of the appraisal review board appointed by the chairman of the appraisal review board, to conduct protest hearings relating to property that has an appraised value of \$50 million or more as determined by the appraisal district and that is included in one of the following classifications: commercial real and personal property; real and personal property of utilities; industrial and manufacturing real and personal property; and multifamily residential real property. The bill provides for the conditions of eligibility for a member of the appraisal review board to be appointed to such a panel, sets out conditions under which the chairman may appoint to the panel a member who does not meet such conditions of eligibility, and authorizes a panel, in addition to conducting protest hearings relating to property described by the bill, to conduct protest hearings relating to other property as assigned by the chairman.

H.B. 32, effective January 1, 2019, requires the chief appraiser for an appraisal district established in a county with a population of one million or more to state in a notice of appraised

value of applicable property, as described by the bill, that the property owner has the right to have a protest relating to the property heard by a special panel of the appraisal review board. The bill adds a temporary provision, set to expire January 1, 2020, making the inclusion in the chief appraiser's notice of appraised value of real and personal property of the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year, if the appraised value is greater than it was in the preceding year, applicable only to a notice of appraised value required to be delivered by the chief appraiser of an appraisal district established in a county with a population of less than 120,000. Effective January 1, 2020, the bill removes that information regarding the amount of tax that would be imposed from the chief appraiser's notice of appraised value.

H.B. 32 specifies that an officer or employee designated by the governing body of a taxing unit to calculate the no-new-revenue tax rate and the rollback tax rate is required to do so only after the assessor for the unit submits the appraisal roll for the unit to the unit's governing body.

H.B. 32, effective January 1, 2019, requires the designated officer or employee to use the tax rate calculation forms prescribed by the comptroller as required by the bill in calculating the no-new-revenue tax rate and the rollback tax rate. The bill prohibits the designated officer or employee from submitting the tax rates to the taxing unit's governing body and prohibits the unit from adopting a tax rate until the designated officer or employee certifies on the tax rate calculation forms that the designated officer or employee has accurately calculated the tax rates and has used values that are the same as the values shown in the unit's certified appraisal roll in performing the calculations and exempts a public school district from this certification provision.

H.B. 32 changes the nature of the collection rate for the current year a taxing unit's collector is required to certify to the unit's governing body from an estimate of that collection rate to the anticipated collection rate, as defined by the applicable statutory provision. The bill authorizes the taxing unit's designated officer or employee to post prominently on the home page of the unit's website in the form prescribed by the comptroller the same information relating to the tax rates and the taxing unit that must be mailed to each property owner or published in a newspaper.

H.B. 32, effective January 1, 2019, requires the chief appraiser of each appraisal district by August 7 or as soon after that date as practicable to deliver by regular mail or email to each owner of property located in the appraisal district a notice that the estimated amount of taxes to be imposed on the owner's property by each taxing unit in which the property is located may be found in the database of property-tax-related information, as established by the bill, maintained by the appraisal district. The bill sets out the required components of the notice and certain format requirements and authorizes the comptroller to adopt rules regarding the format and delivery of the notice. The bill requires an appraisal district established in a county with a population of 120,000 or more and each taxing unit located wholly or partly in such an appraisal district to comply with these provisions beginning with the 2019 tax year and requires an appraisal district established in a county with a population of less than 120,000 and each taxing unit located wholly or partly in such an appraisal district to comply beginning with the 2020 tax year.

H.B. 32, effective January 1, 2019, revises the conditions triggering the entitlement of an owner of taxable property to an injunction prohibiting the taxing unit in which the property is taxable from adopting a tax rate by including as such conditions the failure of the chief appraiser of the applicable taxing unit or the taxing unit, as applicable, to comply with the computation, publication, or posting requirements of provisions relating to the submission of the appraisal roll to the governing body of a taxing unit and the calculation of the no-new-revenue and rollback tax rates and the failure of those entities and the assessor or designated officer or employee of the unit, as applicable, to comply with the posting requirements of those provisions and the computation, publication, or posting requirements of the bill's provisions relating to the database of property-tax-related information and relating to the posting of tax rate and budget information by a taxing unit on a website. The bill also removes as such a triggering condition the failure to

comply not being in good faith.

H.B. 32, effective January 1, 2019, prohibits the governing body of a taxing unit from holding a public hearing on a proposed tax rate or a public meeting to adopt a tax rate until the 14th day after the date the officer or employee designated by the governing body of the unit to calculate the no-new-revenue tax rate and the rollback tax rate for the unit complies with the bill's provisions relating to the database of property-tax-related information. The bill prohibits the governing body of a taxing unit other than a school district from adopting a tax rate until the following conditions are met:

- the chief appraiser of each appraisal district in which the taxing unit participates has delivered the notice concerning the database of property-tax-related information as required by the bill and has incorporated the tax rate calculation forms submitted to the appraisal district as required by the bill under its provisions regarding that database by the designated officer or employee of the taxing unit into the property tax database maintained by the chief appraiser and made them available to the public;
- the designated officer or employee of the taxing unit has entered in the property tax database maintained by the chief appraiser the information described by the bill's provisions regarding the database of property-tax-related information for the current tax year; and
- the taxing unit has posted the tax rate and budget information described by the applicable bill provisions on the website used by the taxing unit for that purpose.

The bill requires an appraisal district established in a county with a population of 120,000 or more and each taxing unit located wholly or partly in such an appraisal district to comply with these provisions beginning with the 2019 tax year and requires an appraisal district established in a county with a population of less than 120,000 and each taxing unit located wholly or partly in such an appraisal district to comply beginning with the 2020 tax year.

H.B. 32, effective January 1, 2019, revises the conditions triggering the entitlement of the owner of taxable property to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable by including as such a condition the failure of the taxing unit to comply with the requirements of provisions relating to the submission of the appraisal roll to the governing body of a taxing unit and the calculation of the no-new-revenue and rollback tax rates and by removing as a triggering condition the failure to comply, as applicable, not being in good faith. The bill changes the time at which an action to enjoin the collection of taxes must be filed from before the date a taxing unit delivers substantially all of its tax bills to not later than the 15th day after the date the taxing unit adopts a tax rate. The bill establishes that a property owner is not required to pay the taxes imposed by a taxing unit on the owner's property while an action filed by the property owner to enjoin the collection of taxes imposed by the taxing unit on the owner's property is pending. The bill entitles the property owner, if the property owner pays the taxes and subsequently prevails in the action, to a refund of the taxes paid, together with reasonable attorney's fees and court costs. The property owner is not required to apply to the collector for the taxing unit to receive the refund.

H.B. 32 authorizes a taxing unit with a low tax levy to which provisions regarding a simplified tax rate notice apply that elects to provide public notice of its proposed tax rate by mail or by publication in a newspaper to also provide public notice of its proposed tax rate by posting notice of that rate, including the statutorily prescribed information, prominently on the home page of the taxing unit's website.

H.B. 32 revises the form of the general notice of a public hearing on a tax increase, specifies that the notice posted on the website operated by the taxing unit be posted prominently on the home page of that website, and specifies that the supplemental notice of a hearing on a tax rate increase posted on a taxing unit's website must be prominently posted on the home page of that website.

H.B. 32 adds a temporary provision set to expire January 1, 2024, establishing that, for purposes of the posting of tax rates for a specified period on a county's website, a reference to the no-new-revenue tax rate or the no-new-revenue maintenance and operations rate includes the equivalent effective tax rate or effective maintenance and operations rate for a preceding year.

H.B. 32 requires the chief appraiser of each appraisal district to create and maintain a property tax database that is identified by the name of the county in which the appraisal district is established instead of the name of the appraisal district; that contains information that is provided by designated officers or employees of the taxing units that are located in the appraisal district in the manner required by rules adopted by the comptroller; that is continuously updated as preliminary and revised data become available to and are provided by the designated officers or employees of taxing units; that is accessible to the public; and that is searchable by property address and owner. The bill sets out information the database must include with respect to each property listed on the appraisal roll for the appraisal district and sets out other requirements related to the database. The bill requires each taxing unit to maintain a website or have access to a generally accessible website that may be used for the purposes of posting certain tax rate and budget information and to post or cause to be posted on the website that information, as set out in the bill, in a format prescribed by the comptroller. The bill requires an appraisal district established in a county with a population of 120,000 or more and each taxing unit located wholly or partly in such an appraisal district to comply with these provisions beginning with the 2019 tax year. The bill requires an appraisal district established in a county with a population of less than 120,000 and each taxing unit located wholly in such an appraisal district to comply beginning with the 2020 tax year. The bill revises the applicability of certain statutory requirements regarding the online posting of tax-related information by a taxing unit and establishes that a taxing unit that does not own, operate, or control a website is not required to comply with certain of those requirements until the first tax year in which the unit is required by law to maintain or have access to a website.

H.B. 32 removes a provision entitling a taxing unit to challenge before the appraisal review board the level of appraisals of any category of property in the district or in any territory in the district but not the appraised value of a single taxpayer's property.

H.B. 32, effective September 1, 2018, requires the notice of protest form prescribed by the comptroller to permit a property owner to request that the protest be heard by a special panel established by the bill if the protest will be determined by an appraisal review board to which provisions relating to such special panels apply and the property is described by the applicable provisions.

H.B. 32, effective September 1, 2018, and applicable to a protest filed on or after January 1, 2019, exempts a special appraisal review board panel established in certain appraisal districts by the bill from the applicability of statutory provisions relating to an appraisal review board sitting in panels of not fewer than three members to conduct protest hearings and from the applicability of provisions generally applicable to the procedures for the random assignment of protests to an appraisal review board that sits in panels to conduct protest hearings. The bill sets out provisions governing the assignment and reassignment of protests to such a special panel.

H.B. 32 amends the Local Government Code to specify that, with regard to the posting of a required proposed property tax notice by a county or municipality on the website of the county or municipality, the notice must be posted prominently on the home page of that website.

H.B. 32 amends the Water Code to revise the contents of the notice of a public hearing on a tax rate required to be given by the governing body of a water district.

H.B. 32 repeals Government Code provisions creating the Comptroller's Property Value Study Advisory Committee and amends the Tax Code to require the comptroller to instead appoint the property tax administration advisory board to advise the comptroller with respect to the division

or divisions within the office of the comptroller with primary responsibility for state administration of property taxation and state oversight of appraisal districts and local tax offices. The bill provides for the composition of the board and authorizes the board to make recommendations to the comptroller regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures. The bill requires the comptroller to post the advisory board's recommendations on the comptroller's website. The bill requires any advice to the comptroller relating to an applicable matter that is provided by a board member to be provided at a meeting called by the comptroller and exempts the board from Government Code provisions relating to state agency advisory committees.

H.B. 32 amends the Tax Code to require the training and education course for a member of an appraisal review board to provide at least eight hours of classroom training and education and authorizes the comptroller to assess a fee capped at \$50 per person trained for training provided to an individual other than a board member. The bill requires the continuing education course for a board member to provide at least four hours of classroom training and education and authorizes the comptroller to assess a fee capped at \$50 per person trained for continuing education training provided to an individual other than a board member.

H.B. 32 repeals the provision requiring an arbitrator to complete a training program on property tax law before conducting a hearing on an arbitration relating to the appeal of an appraisal review board order determining a taxpayer protest. The bill instead requires the comptroller to approve curricula and provide an arbitration manual and other materials for use in training and educating persons who have agreed to serve as arbitrators for purposes of such an appeal, to make all materials for use in training and educating such arbitrators freely available online, and to establish and supervise a training program on property tax law for the training and education of such arbitrators. The bill requires the training program to emphasize the requirements regarding the equal and uniform appraisal of property and to be at least four hours in length. The bill authorizes the training program to be provided online and authorizes the comptroller by rule to prescribe the manner by which the comptroller may verify that a person taking the training program online has taken and completed the program. The bill authorizes the comptroller to contract with service providers to assist with the comptroller's duties regarding the training but prohibits the training program from being provided by an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. The bill authorizes the comptroller to assess a fee capped at \$50 for each person trained to recover a portion of the costs incurred for the training program. The bill requires the comptroller to prepare an arbitration manual for use in the training program, requires the manual to be updated regularly, and authorizes the manual to be revised on request, in writing, to the comptroller. The bill requires the revised language to be approved by the unanimous agreement of a committee selected by the comptroller and representing, equally, taxpayers and chief appraisers. The bill requires the person requesting the revision to pay the costs of mediation if the comptroller determines that mediation is required.

H.B. 32 repeals provisions relating to a survey form whose contents are prescribed by the comptroller for the public to offer comments and suggestions concerning the appraisal review board established for an appraisal district and relating to an annual report summarizing the forms. The bill instead requires the comptroller to prepare an appraisal review board survey form that allows individuals, as specified by the bill, to submit comments and suggestions to the comptroller regarding an appraisal review board and to prepare instructions for completing and submitting the form. The bill specifies that the matters regarding which the survey form must allow an individual to submit comments and suggestions are the matters required to be addressed by the model hearing procedures prepared by the comptroller and any other matter related to the fairness and efficiency of the appraisal review board and sets out the times at which an appraisal

district must provide the form and the applicable instructions to each property owner or designated agent. The bill sets out the manner in which the form must be submitted to the comptroller, including the deadline for such submission; prohibits an appraisal district from accepting such a form and from requiring a property owner or designated agent from completing a form at the appraisal office in order to be permitted to submit the form to the comptroller; and provides that an individual may submit only one survey form for each motion or protest. The bill requires the comptroller to issue an annual report that summarizes the information included in the forms submitted during the preceding year and prohibits the report from disclosing the identity of an individual who submitted a form. The bill authorizes the comptroller to adopt rules necessary to implement the bill's survey form provisions. The bill expressly does not require an appraisal district to provide the survey form or instructions until the form and instructions are prepared and made available by the comptroller.

H.B. 32 includes an individual related within the third degree by consanguinity or within the second degree by affinity to a member of an appraisal review board among the individuals who are ineligible to serve on the appraisal review board. The bill raises from more than 100,000 to 120,000 or more the population of a county in which certain additional individuals are ineligible to serve on the appraisal review board and includes among those ineligible individuals an individual who has served for all or part of three previous terms as a board member or auxiliary board member on the appraisal review board. These provisions expressly do not affect the eligibility of a person serving on an appraisal review board immediately before January 1, 2018, to continue to serve on the board for the term to which the member was appointed.

H.B. 32 transfers the duty to select a chairman and a secretary of an appraisal review board from the board of directors of the appraisal district to the local administrative district judge in the county in which the appraisal district is established and removes the specification that the selection is made by resolution. The bill establishes that the concurrence of a majority of the members of the appraisal review board or a panel of the board present at a meeting of the board or panel is sufficient for a recommendation, determination, decision, or other action by the board or panel and prohibits the concurrence of more than a majority of the members of the board or panel from being required.

H.B. 32 includes the subject matter of a taxpayer protest hearing among the required contents of the notice delivered by an appraisal review board to the property owner initiating the protest. The bill, for purposes of the required notice of certain matters before a protest hearing, clarifies the information a chief appraiser is required to provide to a property owner; sets out provisions regarding the means of providing access to applicable information; and revises provisions regarding charges for copies of applicable information to prohibit the chief appraiser from charging for the provided copies, regardless of the manner in which the copies are prepared or delivered. The bill includes certain of that applicable information among that which may be delivered in an electronic format if the chief appraiser and the property owner or person designated by the owner agree under applicable law.

H.B. 32 prohibits an appraisal review board from determining the appraised value of the property that is the subject of a protest to be an amount greater than the appraised value of the property as shown in the appraisal records submitted to the board by the chief appraiser for review and determination of protests or as supplemental appraisal records. The bill requires the board to make the required determination of a protest and deliver the required information regarding that determination not later than the 20th business day after the date the hearing on the protest is concluded.

H.B. 32 includes the request of the designated agent of a property owner for additional time to

prepare for the hearing and the agent's establishment that the chief appraiser failed to comply with certain notice requirements as a trigger for an appraisal review board's duty to postpone a hearing on a taxpayer protest and requires a hearing on a protest filed by the owner's designated agent to be set for a time and date certain. The bill requires the appraisal review board, for purposes of the hearings requested by a property owner or the owner's designated agent on protests concerning up to 20 designated properties that are scheduled on the same day, to schedule such hearings to be held consecutively on that same day. The bill removes the prohibition against a property owner or the owner's designated agent filing more than one such request with the appraisal review board in the same tax year and instead authorizes the filing of more than one such request in the same tax year.

H.B. 32 authorizes an appraisal review board to schedule the hearings on all protests filed by a property owner or the owner's designated agent to be held consecutively and requires the notice of the hearings to state the date and time that the first hearing will begin, state the date the last hearing will end, and list the order in which the hearings will be held. The bill prohibits the order of the hearings listed in the notice from being changed without the agreement of the property owner or the owner's designated agent, the chief appraiser, and the appraisal review board. The bill prohibits the appraisal review board from rescheduling a hearing for which such notice is given to a date earlier than the seventh day after the date the last hearing was scheduled to end unless agreed to by the property owner or the owner's designated agent, the chief appraiser, and the board. The bill requires the appraisal review board to provide written notice of the date and time of the rescheduled hearing to the property owner or the owner's designated agent not later than the seventh day before the date of the hearing, unless agreed to by the parties. The bill requires the appraisal review board to provide to the property owner or the owner's designated agent, at the end of a hearing on a protest, one or more documents indicating that the members of the board hearing the protest signed the required affidavit stating that the board member has not communicated with another person in violation of the statutory provision prohibiting communication with another person concerning matters related to the protest or a property that is the subject of the protest.

H.B. 32 replaces the prohibition against using as evidence in a hearing information that was requested by the protesting party before the hearing and that was not made available to the protesting party at least 14 days before the scheduled or postponed hearing with a prohibition against using or offering in any form as evidence in a hearing, including as a document or through argument or testimony, information that was so requested at least five days before the date of the hearing to which the protesting party was not provided access before the hearing. The bill replaces the requirement that an appraisal review board provide for hearings on protests in the evening with a requirement that such hearings be after 5 p.m. on a weekday and prohibits an appraisal review board from scheduling a hearing on a protest on a Sunday or scheduling the first hearing on a protest held on a weekday evening to begin after 7 p.m.

H.B. 32 includes among the initial qualification for service as an arbitrator in a binding arbitration of an appeal of an appraisal review board order completion of the course for training and education of appraisal review board members and being issued a certificate indicating such completion and completion of the training program on property tax law for the training and education of arbitrators as established by the bill. The bill establishes that the bill's changes to the qualifications of persons serving as arbitrators in binding arbitrations of appeals of appraisal review board orders do not affect the entitlement of a person serving as an arbitrator immediately before January 1, 2018, to continue to serve as an arbitrator and to conduct hearings on arbitrations until the person is required to renew the person's agreement with the comptroller to serve as an arbitrator. Those changes apply only to a person who initially qualifies to serve as an arbitrator or who renews the person's agreement with the comptroller to serve as an arbitrator on or after January 1, 2018, and the bill expressly does not prohibit a person who is serving as an



arbitrator on that date from renewing the person's agreement with the comptroller to serve as an arbitrator if the person has the qualifications required for an arbitrator under the Tax Code as amended by the bill.

H.B. 32 amends the Education Code and Special District Local Laws Code to make conforming changes.

H.B. 32 repeals the following provisions:

- Sections 403.302(m-1) and (n), Government Code
- Sections 5.103(e) and (f), Tax Code
- Section 6.412(e), Tax Code
- Section 41A.06(c), Tax Code
- Section 49.236, Water Code, as added by Chapter 248 (H.B. 1541), Acts of the 78th Legislature, Regular Session, 2003
- Section 49.2361, Water Code

**EFFECTIVE DATE**

Except as otherwise provided, January 1, 2018.