

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017

July 24, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3 by Bonnen, Dennis (Relating to ad valorem taxation; authorizing fees.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, As Introduced: a negative impact of (\$2,029,000) through the biennium ending August 31, 2019.

Additionally, there would be a negative impact of (\$655,436,000) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$515,000)
2019	(\$1,514,000)
2020	(\$252,858,000)
2021	(\$402,578,000)
2022	(\$569,147,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Savings/(Cost) from Foundation School Fund 193	Probable Revenue Gain/(Loss) from School Districts	Probable Revenue Gain/(Loss) from Counties
2018	(\$515,000)	\$0	\$0	\$0
2019	(\$515,000)	(\$999,000)	(\$303,593,000)	(\$89,364,000)
2020	(\$515,000)	(\$252,343,000)	(\$237,771,000)	(\$143,152,000)
2021	(\$515,000)	(\$402,063,000)	(\$297,307,000)	(\$203,355,000)
2022	(\$515,000)	(\$568,632,000)	(\$365,678,000)	(\$270,441,000)

Fiscal Year	Probable Revenue Gain/(Loss) from Cities	Probable Revenue Gain/(Loss) from Other Special Districts	Change in Number of State Employees from FY 2017
2018	\$0	\$0	2.0
2019	(\$91,408,000)	(\$67,441,000)	2.0
2020	(\$144,898,000)	(\$107,873,000)	2.0
2021	(\$203,687,000)	(\$153,009,000)	2.0
2022	(\$268,055,000)	(\$203,183,000)	2.0

Fiscal Analysis

Article 1. Short Title

This article provides that the bill may be cited as the Property Tax Payer Empowerment Act of 2017.

Article 2. Administration of Ad Valorem Tax System

This article would amend Chapter 1 of the Tax Code, regarding general property tax provisions, to add certain information that the chief appraiser will introduce at an appraisal review board hearing to the list of items that, if required or permitted to be delivered between a chief appraiser, an appraisal district, an appraisal review board, or any combination of those persons and a property owner or the owner's agent, may be delivered in an electronic format if so agreed by the chief appraiser and the property owner or the owner's agent, with certain exceptions.

The article would amend Chapter 5 of the Tax Code, regarding state administration of the property tax, to require the Comptroller to appoint a property tax administration advisory board to advise the Comptroller regarding state administration of property tax, and state oversight of appraisal districts and local tax offices. The advisory board would be permitted to make recommendations, which must be provided at a meeting called by the Comptroller and posted on the Comptroller's Internet website, regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures. The article would specify the make-up of the board, the members of which would serve at the Comptroller's pleasure. The article would repeal Sections 403.302(m-1) and (n) of the Government Code, related to the Comptroller's Property Value Study Advisory Committee, and would make conforming changes related to the advisory board replacing certain duties of the advisory committee.

The article would require that the mandatory course for members of an appraisal review board provide at least eight hours of classroom education, and that the mandatory appraisal review board continuing education course provide at least four hours of classroom education. The new education requirements would apply only to an appraisal review board member appointed to serve a term of office that begins on or after the effective date.

The article would repeal Subsection 41A.06(c) of the Tax Code, regarding arbitrator training, and replace it with more specific provisions requiring the Comptroller to:

- approve curricula, and provide a free online manual and other materials for training and educating arbitrators;
- establish and supervise a four hour training program, which may be provided online, on property tax law emphasizing the requirements for equal and uniform property appraisal for the training and education of arbitrators; and
- prepare an arbitration manual to be approved by unanimous agreement of a committee selected by the Comptroller.

The article would permit the Comptroller to contract with service providers (other than 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) for the arbitrator training, would permit the Comptroller to assess a maximum fee of \$50 for each person trained and would make other provisions regarding the training of arbitrators. A person requesting a revision to the arbitration manual in writing would be required to pay the cost of mediation if the Comptroller determines that mediation is required. The Comptroller would be required to implement the arbitrator training provisions as soon as practicable after the article's effective date.

The Comptroller would be required to prescribe tax rate calculation forms to be used by the designated officer or employee of each:

- taxing unit other than a school district to calculate and submit the no-new-revenue tax rate, and the rollback tax rate for the unit; and
- 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.

The forms would be required to be in a fillable electronic format and capable of being certified as accurately calculating the applicable tax rates using certified appraisal roll values. The Comptroller would be required to prescribe the forms as soon as practicable after January 1, 2018. The article would make other specifications regarding the forms. The Comptroller would be required to use the forms published on the Comptroller's Internet website as of January 1, 2017, modified as necessary to comply with the new requirements. The article would provide for the forms to be updated as necessary to reflect changes in values and to make non-substantive changes at the Comptroller's discretion. The Comptroller would be permitted to revise the forms to reflect certain statutory changes, non-substantive changes, or on receipt of a request in writing if approved by the agreement of a majority of the members of a committee selected by the Comptroller. The article would specify the makeup of the committee. The article would provide for mediation regarding a revision if required.

The Comptroller would be required to include school district tax rates in the list of tax rates imposed by each taxing unit in this state as reported by each appraisal year in which the list is prepared (rather than for the preceding year). The Comptroller would be required to prescribe the manner in which appraisal districts submit the list and the deadline for the list, to list the tax rates according to specified criteria, and to publish the list on the Comptroller's Internet website not later than January 1 of the following year. The Comptroller would be required to comply with this provision not later than January 1, 2021.

The article would repeal Subsections 5.103(e) and (f) of the Tax Code, regarding an appraisal review board survey, and replace them with more specific provisions requiring the Comptroller to prepare a survey form that allows a property owner or the owner's designated agent who files an appraisal roll correction motion or a protest, or a representative of the appraisal district in which the motion or protest is filed, to submit comments and suggestions regarding any matter addressed in the Comptroller's model appraisal review board hearing procedures or any other matter related to the fairness or efficiency of the appraisal review board. An appraisal district would be required to provide the survey to each property owner or designated agent at or before each hearing and with each one determining a motion or protest. Persons choosing to submit the survey form would be required to submit it to the Comptroller. The Comptroller would be required to allow submission of the survey form in person, by mail, by electronic mail, or through a web page on the Comptroller's Internet website. The article would make other provisions and requirements regarding the completion and deadline for the survey form. The Comptroller would be required to issue an annual report summarizing the survey results, and to make the survey form and

instructions available as soon as practicable after the article's effective date, and would be permitted to adopt rules regarding the appraisal review board surveys.

The article would provide that an appraisal district board of directors for an appraisal district established in a county with a population of one million or more by resolution of a majority of the board's members is required 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 established duties of special panels. In selecting individuals who are to serve as members of the appraisal review board, the local administrative district judge would be required to select an adequate number of qualified individuals to permit the chairman of the appraisal review board to fill the positions on each special panel. These provisions would apply to appraisal review board appointments for terms beginning on or after January 1, 2019.

The article would amend Chapter 6 of the Tax Code, regarding local administration of the property tax, to include an individual who is related to a member of an appraisal review board within the third degree by consanguinity or within the second degree by affinity in the list of individuals who are ineligible to serve on an appraisal review board. The local administrative district judge (rather than the appraisal district board) would be required to select a chairman and a secretary from among the members of the appraisal review board. 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 would be sufficient for a recommendation, determination, decision, or other action by the board or panel, and a requirement that more than a majority of the members of the board concur would be prohibited.

The article would establish special three-member appraisal review board panels for properties appraised at \$50 million or more that are in one of the specified property categories in a county with a population of one million or more. The article would prescribe the eligibility requirements, and other matters related to the special appraisal review board panels. An auxiliary board member would not be permitted to hear taxpayer protests before a special panel unless the member is eligible to be appointed to the special panel.

The amendments to Chapter 6 of the Tax Code would take effect September 1, 2018.

The article would amend Chapter 25 of the Tax Code, regarding local property tax appraisal, to provide that, effective January 1, 2019, in an appraisal district with a population of one million or more, in addition to other required information, the chief appraiser shall state in a notice of appraised value that an owner of certain specified property has the right to a protest to be heard by a special panel of the appraisal review board. If Article 3 of the bill does not take effect: effective January 1, 2020, the article would strike the requirement that if the appraised value is greater than it was in the preceding year, the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year be included in a notice of appraised value. Until that date this requirement applies 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.

The article would add an error in the square footage of a property and the corresponding error in appraised value to the list of errors for which an appraisal review board, on motion of the chief appraiser or of a property owner, may correct the appraisal roll for any of the five preceding years.

The article would amend Chapter 26 of the Tax Code, regarding property tax assessment, to change the term "effective maintenance and operations rate" to "no-new-revenue maintenance and operations rate", and "effective tax rate" would be changed to "no-new-revenue tax rate".

The designated officer or employee of a taxing unit other than a school district would be required to use the tax rate calculation forms prescribed by the Comptroller in calculating the no-new-revenue tax rate and the rollback tax rate. The designated officer or employee would not be permitted to submit these rates to the governing body of the taxing unit and the unit would not be permitted to adopt a tax rate until the designated officer or employee certifies on the tax rate calculation forms that the tax rate calculations are accurate and the values are the same as the values shown in the unit's certified appraisal roll.

A taxpayer notice containing specified tax article information would be required. The article would revise requirements for certain public tax rate hearings and for related notices. The Comptroller would be permitted to adopt rules regarding the format and delivery of the required tax article information notice.

A person who owns taxable property would be entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the chief appraiser of the applicable appraisal district, or the taxing unit, as applicable, has not complied with certain computation, publication, posting or the failure to comply was not in good faith). The article would specify a deadline and other matters related to the injunction.

Each appraisal district would be required to maintain a searchable, continuously updated, and publicly accessible property tax database containing specified information provided by taxing units. The information would include property values, property taxes, various kinds of tax rates, hearing dates, and other related information. The article would specify the contents of the notice including various tax rates and property values for each taxing unit. A taxing unit would not be permitted to hold a public hearing on a proposed tax rate until the 14th day after the date the officer or employee designated by the taxing unit has entered certain specified information into the database and submitted the specified calculation forms to the appraisal district. A taxing unit other than a school district would not be permitted to adopt a tax rate until: <>- the chief appraiser of each appraisal district in which the taxing unit participates has delivered a specified notice regarding estimated taxes and incorporated the completed tax rate calculation forms into the property tax database;

- the designated officer or employee of the taxing unit has entered in the property tax database the required information for the current tax year; and
- the taxing unit has posted the required information on the Internet website used by the taxing unit for that purpose.

Each taxing unit would be required to maintain or have access to a generally accessible Internet website including specified taxing unit, contact, budget, tax rate, tax revenue, and audit information in a format prescribed by the Comptroller.

The article would amend Chapter 41 of the Tax Code, regarding local review, to strike the provision permitting 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. A notice of protest would be required to permit a property owner to request that the protest be heard by a special panel if the protest will be determined by an appraisal review board that has special panels and the property is in a category for which a special panel is provided. The article would make other provisions for special panels. The article would require the written notice of an appraisal review board hearing to include the subject matter of the hearing.

The article would prohibit a chief appraiser from charging a property owner or the owner's agent for copies of certain pamphlets, data, and procedures related to an appraisal review board hearing regardless of the manner in which the copies are prepared or delivered. A chief appraiser would be

required to deliver certain information that the chief appraiser will introduce at an appraisal review board hearing by regular format, or by reference to a website. The article would provide that a property owner or owner's agent may choose to receive the information by regular first class mail and that the chief appraiser must comply.

An appraisal review board would be prohibited from determining the appraised value of a protested property 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. An appraisal review board would be permitted to schedule consecutive hearings on all protests filed by a property owner or the owner's agent. The article would specify the contents of the notice of the consecutive hearings, and require that the order of the hearings listed in the notice not be changed without the agreement of the property owner (or agent), the chief appraiser, and the appraisal review board. The article would make other provisions regarding the procedures, scheduling and notice of consecutive hearings and special panels. The article would clarify certain matters, modify evidence exchange, adjust certain deadlines, and make conforming changes regarding appraisal review board hearings and determinations. The first hearing on a weekday would not be permitted to begin after 7:00 p.m. and a Sunday hearing would be prohibited. The changes in law to Chapter 41 protest procedures would apply only to a protest for which the notice of protest was filed by a property owner or the owner's agent on or after the effective date of this article.

The article would amend Chapter 41A of the Tax Code, regarding property tax appeals through binding arbitration, to specify that to initially qualify to serve as an arbitrator a person would be required, in addition to existing qualification requirements, to complete the appraisal review board and property tax law training provided by the article.

The changes in law to Chapter 41 arbitrator qualification requirements would not affect the entitlement of a person serving as an arbitrator immediately before the effective date of the article 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. The changes in law 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 the article's effective date. The article would not prohibit a person who is serving as an arbitrator on the effective 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 article.

Except as otherwise provided, Article 2 takes effect January 1, 2018.

Article 3. Limitation on Increases in Appraised Value of Commercial or Industrial Real Property

This article would amend Chapter 23 of the Tax Code, regarding appraisal methods and procedures, to limit the increase in the appraised value of commercial or industrial real property to 20 percent above the appraised value of the property for the preceding tax year plus the value of new improvements to the property or the market value of the property, whichever is less. This limitation would not apply to residential property, a mineral interest, or a property subject to special appraisal. Equivalent structures erected to replace property damaged by casualty, including wind and water damage or to saer recovery program would not be treated as new improvements. The article would define "new improvement", make other provisions for the limitation, and make conforming changes to the Tax Code and Government Code.

Article 3 of the bill is effective January 1, 2018 contingent on voter approval of a constitutional amendment (HJR 35).

Article 4. Effective Date

The bill is effective January 1, 2018, except as otherwise provided.

Methodology

Contingent on the passage of a constitutional amendment, Article 3 of the bill would require appraisal districts to limit the growth in the appraised value of commercial or industrial real property to 20 percent per year creating a fiscal impact on the state and units of local government. The analysis was based on appraisal roll information reported electronically by appraisal districts. The year-to-year percent change in value for a large random sample of commercial and industrial real properties listed on the appraisal roll in each of the two most recent years was calculated and the results were sorted by percent change. The value loss resulting from the proposed limitation was calculated for commercial or industrial real properties that increased in value more than 20 percent. The results were extrapolated to all commercial and industrial real property.

Value losses would occur in proportion to future real property growth rates. Mathematical modeling supported by historical data from the existing 10 percent homestead cap shows that, when property value growth rates are relatively stable, value losses increase substantially in the second year after the imposition of a value growth cap and then increase at a decreasing rate. The value loss was adjusted in the second and succeeding years of the analysis to reflect this growth pattern.

Projected tax rates were applied to the taxable value losses through the five-year projection period to estimate tax revenue losses to school districts, special districts, cities and counties. Under provisions of the Education Code, the school district tax revenue loss is partially transferred to the state. Projected school funding rates were applied to estimate the state loss and the net school district loss.

In the first year of a taxable value loss, state recapture is reduced (a state loss). Because of the use of lagged year property values, in the second and successive years of a taxable value loss, state recapture is further reduced and the previous year's school district loss related to the Tier 1 rate is generally transferred to the state through the Tier 1 funding formulas (a state loss).

In the school district enrichment formula (Tier 2), property values do not reflect the first-year value loss because of the one-year value lag. Because the formula does reflect a tax collections decline in that year, school districts lose Tier 2 funding creating a state gain. In the second and successive years a large portion of the previous year's enrichment loss is transferred to the state (a state loss).

The school district debt (facilities) funding formula does not reflect the first-year taxable value loss because of lagged property values. In the second and successive years a small portion of the previous year's school district facilities loss is transferred to the state (a state loss).

The Comptroller estimates that administrative costs would total \$515,000 per year. The administrative cost estimate reflects the funds that would be necessary to hire two program specialists IIIs to support the appraisal review board survey provisions and \$362,000 to employ seasonal workers. The bill requires an appraisal district to provide a hardcopy of the survey to every property owner or their agent who files a protest or a motion to correct the appraisal roll. Currently, the Comptroller's Office only accepts electronically submitted surveys. In 2016, 7,785 property owners electronically submitted surveys and additional surveys were submitted by agents and members of the public. While not every survey will be submitted by hardcopy under

this bill, the number of hand written surveys will significantly increase. Hand entry of a survey (provided in person, mailed, or accepted by email) takes approximately 25 minutes to process which amounts to 406 days or 2 FTEs.

The Comptroller's office anticipates that the Property Tax Assistance Division (PTAD) would become the resource for individual taxpayers and more than 4,200 taxing authorities when there are questions or issues about the calculation of a tax rate. Each year, from June 15 through September 15, the Comptroller's Office would need to contract with one property tax attorney and three Truth in Taxation subject matter experts to handle the increased number of legal and worksheet related questions during this peak period while tax rates are calculated. The agency would also need to employ seasonal workers to input binding arbitration information during peak periods. PTAD experienced a 400 percent increase in binding arbitration requests from 2015 to 2016, prompting the need for seasonal staff. Anticipated requests are expected to continue to grow, in part due to the increased eligibility limit for binding arbitration.

Local Government Impact

The estimated fiscal implication to units of local government, related to Article 3, is reflected in the table above and is contingent upon passage of a constitutional amendment authorizing the exemption.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SJS