

BILL ANALYSIS

C.S.H.B. 455
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that the process for protesting a property appraisal can be difficult and time consuming, with many individuals being unable to either appear in person due to their jobs or adequately explain their situation through a written affidavit. C.S.H.B. 455 seeks to give property owners the flexibility to maintain their work schedules and fully explain their positions to an appraisal review board by allowing a property tax protester to appear at a protest hearing by telephone conference call.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 455 amends the Tax Code to authorize a property owner to appear by telephone conference call to offer argument at a protest hearing before the appraisal review board of an appraisal district and to require a property owner appearing by telephone conference call to offer any evidence by affidavit to the board hearing the protest before the board begins the hearing. The bill removes the condition on the authorization for a property owner to offer evidence or argument by affidavit without personally appearing at a protest hearing that the property owner attest to the affidavit before an officer authorized to administer oaths. The bill requires the board to conduct a hearing on a protest by telephone conference call if the property owner notifies the board that the property owner intends to appear by telephone conference call in the owner's notice of protest or by written notice filed with the board not later than the 10th day before the date of the hearing or if the board proposes that the hearing be conducted by telephone conference call and the property owner agrees to the hearing being conducted in that manner. The bill requires the board, if a property owner elects to have a hearing on a protest conducted by telephone conference call, to provide a telephone number for the property owner to call to participate in the hearing and to hold the hearing in a location equipped with telephone equipment that allows each board member and the other parties to the protest who are present at the hearing to hear the property owner offer argument. The bill makes a property owner responsible for providing access to a hearing on a protest conducted by telephone conference call to another person that the owner invites to participate in the hearing.

C.S.H.B. 455 establishes that a property owner does not waive the right to appear in person at a protest hearing by electing to appear by telephone conference call. The bill adds the condition that a property owner has not elected to appear by telephone conference call to conditions

triggering the requirement that the board consider the submission of the affidavit as an indication that the property owner does not intend to appear at the hearing and adds the same condition to those freeing the board from the requirement to consider the affidavit at the scheduled hearing and authorizing the board to consider the affidavit at a hearing designated for the specific purpose of processing affidavits.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 455 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 41.45, Tax Code, is amended by amending Subsections (b) and (n) and adding Subsection (b-1) to read as follows:

(b) A [The] property owner initiating a [the] protest is entitled to [an opportunity to] appear to offer evidence or argument. A [The] property owner may offer [his] evidence or argument by affidavit without personally appearing and may appear by telephone to offer argument. A property owner who appears by telephone must offer any evidence by affidavit. A property owner must submit an affidavit described by this subsection [if he attests to the affidavit before an officer authorized to administer oaths and submits the affidavit] to the board hearing the protest before the board [it] begins the hearing on the protest. On receipt of an affidavit, the board shall notify the chief appraiser. The chief appraiser may inspect the affidavit and is entitled to a copy on request. To appear at a hearing by telephone, a property owner must notify the board that the property owner intends to appear by telephone in the owner's notice of protest or by written notice filed with the board not later than the 10th day before the date of the hearing.

(b-1) If a property owner provides notice to

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 41.45, Tax Code, is amended by amending Subsections (b) and (n) and adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b) A [The] property owner initiating a [the] protest is entitled to [an opportunity to] appear to offer evidence or argument. A [The] property owner may offer [his] evidence or argument by affidavit without personally appearing and may appear by telephone conference call to offer argument. A property owner who appears by telephone conference call must offer any evidence by affidavit. A property owner must submit an affidavit described by this subsection [if he attests to the affidavit before an officer authorized to administer oaths and submits the affidavit] to the board hearing the protest before the board [it] begins the hearing on the protest. On receipt of an affidavit, the board shall notify the chief appraiser. The chief appraiser may inspect the affidavit and is entitled to a copy on request.

(b-1) An appraisal review board shall conduct a hearing on a protest by telephone conference call if:

(1) the property owner notifies the board that the property owner intends to appear by telephone conference call in the owner's notice of protest or by written notice filed with the board not later than the 10th day before the date of the hearing; or

(2) the board proposes that the hearing be conducted by telephone conference call and the property owner agrees to the hearing being conducted in that manner.

(b-2) If a property owner elects to have a

the board that the property owner intends to appear at a hearing by telephone, the board shall:

(1) provide a telephone number for the property owner to call to participate in the hearing; and

(2) hold the hearing in a location equipped with telephone equipment that allows each board member and the other parties to the protest who are present at the hearing to hear the property owner offer argument.

(n) A property owner does not waive the right to appear in person at a ~~the~~ protest hearing by submitting an affidavit to the appraisal review board or by submitting notice of intent to appear by telephone. The board may consider an ~~the~~ affidavit submitted under this section only if the property owner does not appear in person at the ~~protest~~ hearing ~~in person~~. For purposes of scheduling the hearing, the property owner must ~~shall~~ state in the affidavit that the property owner does not intend to appear at the hearing or that the property owner intends to appear at the hearing in person or by telephone and that the affidavit may be used only if the property owner does not appear at the hearing in person. If the property owner does not state in the affidavit whether the owner intends to appear at the hearing and has not submitted notice of the owner's intent to appear by telephone, the board shall consider the submission of the affidavit as an indication that the property owner does not intend to appear at the hearing. If the property owner states in the affidavit that the owner does not intend to appear at the hearing or does not state in the affidavit whether the owner intends to appear at the hearing and has not submitted notice of the owner's intent to appear by telephone, the ~~appraisal review~~ board is not required to consider the affidavit at the scheduled hearing and may consider the affidavit at a hearing designated for the specific purpose of processing affidavits.

SECTION 2. The changes in law made by this Act apply only to a protest under

hearing on a protest conducted by telephone conference call, the appraisal review board shall:

(1) provide a telephone number for the property owner to call to participate in the hearing; and

(2) hold the hearing in a location equipped with telephone equipment that allows each board member and the other parties to the protest who are present at the hearing to hear the property owner offer argument.

(b-3) A property owner is responsible for providing access to a hearing on a protest conducted by telephone conference call to another person that the owner invites to participate in the hearing.

(n) A property owner does not waive the right to appear in person at a ~~the~~ protest hearing by submitting an affidavit to the appraisal review board or by electing to appear by telephone conference call. The board may consider an ~~the~~ affidavit submitted under this section only if the property owner does not appear in person at the ~~protest~~ hearing ~~in person~~. For purposes of scheduling the hearing, the property owner must ~~shall~~ state in the affidavit that the property owner does not intend to appear at the hearing or that the property owner intends to appear at the hearing in person or by telephone conference call and that the affidavit may be used only if the property owner does not appear at the hearing in person. If the property owner does not state in the affidavit whether the owner intends to appear at the hearing and has not elected to appear by telephone conference call, the board shall consider the submission of the affidavit as an indication that the property owner does not intend to appear at the hearing. If the property owner states in the affidavit that the owner does not intend to appear at the hearing or does not state in the affidavit whether the owner intends to appear at the hearing and has not elected to appear by telephone conference call, the ~~appraisal review~~ board is not required to consider the affidavit at the scheduled hearing and may consider the affidavit at a hearing designated for the specific purpose of processing affidavits.

SECTION 2. Same as introduced version.

Chapter 41, Tax Code, for which a notice of protest is filed on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.