

BILL ANALYSIS

Senate Research Center

C.S.S.B. 669
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Finance
3/15/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 669 reforms the property appraisal review process to make it more fair to taxpayers and provides taxpayers the ability to participate in appraisal review board (ARB) hearings in a more fair and equitable way, expands taxpayers' rights, and requires more training for appraisal review board members and arbitrators.

During the property tax hearings throughout the interim, taxpayers throughout the state testified that ARBs and hearings were not fair or responsive to their criticisms. S.B. 669 amends the Tax Code to increase education requirements for ARB members and arbitrators and requiring the Texas comptroller of public accounts to establish and supervise a training program for arbitrators. S.B. 669 expands and improves ways for taxpayers to provide feedback of their experience with the ARB and imposes term limits on ARB members in larger counties. S.B. 669 allows ARB members to choose the chairman of the ARB instead of the appraisal district board of directors and requires appraisal districts to provide taxpayers any evidence to be used at a hearing and prohibiting its use if not delivered to the taxpayer. S.B. 669 prohibits ARBs from raising a property's appraised value above the amount in the notification and requiring protest hearing orders be issued within 15 days and allows taxpayers' agents the ability to postpone a hearing if appraisal districts fail to comply with law, requiring related hearings be held consecutively, and requiring ARBs provide its recommended value to taxpayers at the end of a hearing. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 669 amends current law relating to the system for protesting or appealing certain ad valorem tax determinations and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 2 (Section 5.043, Tax Code) and SECTION 3 (Section 5.104, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 5.041(b) and (e-1), Tax Code, as follows:

(b) Requires the training course of an appraisal review board (ARB) member to provide at least eight hours of classroom training and education.

(e-1) Requires the continuing education course for an ARB member to provide at least four hours of classroom training and education.

SECTION 2. Amends Chapter 5, Tax Code, by adding Section 5.043, as follows:

Sec. 5.043. TRAINING OF ARBITRATORS. (a) Provides that this section applies only to persons who have agreed to serve as arbitrators under Chapter 41A (Appeal Through Binding Arbitration).

(b) Requires the Texas comptroller of public accounts (comptroller) to take certain actions related to training and educating arbitrators.

(c) Requires the training program to meet certain requirements.

(d) Authorized the training program to be provided online. Requires the comptroller to, by rule, prescribe the manner by which the comptroller may verify that a person taking the training program online has taken and completed the program.

(e) Authorizes the comptroller to contract with service providers to assist with the duties imposed under Subsection (b), but prohibits the training program from being provided by certain entities or individuals. Authorizes the comptroller to assess a fee to recover a portion of the costs incurred for the training program, but prohibits the fee from exceeding \$50 for each person trained.

(f) 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. 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. Requires the person requesting the revision to pay the costs of mediation if the comptroller determines that mediation is required.

SECTION 3. Amends Chapter 5, Tax Code, by adding Section 5.104, as follows:

Sec. 5.104. APPRAISAL REVIEW BOARD SURVEY; REPORT. (a) Requires the comptroller to prepare certain materials.

(b) Authorizes certain individuals to complete and submit a survey form under this section.

(c) Requires the survey form to allow a person to submit comments and suggestions regarding certain matters.

(d) Requires an appraisal district to provide the survey form and the instructions for completing and submitting the form to each property owner or designated agent of the owner (agent) under certain protocols.

(e) Requires a person who elects to submit the survey form to submit the form to the comptroller as provided by this section. Prohibits an appraisal district from accepting a survey form submitted under this section.

(f) Requires the comptroller to allow a person to submit a survey form to the comptroller in certain manners.

(g) Prohibits an appraisal district from requiring a property owner or the agent to complete a survey form at the appraisal office in order to be permitted to submit the form to the comptroller.

(h) Requires a property owner or the agent who elects to submit a survey form provided to the owner or agent under Subsection (d)(1) or (2) to submit the form not later than the 45th day after the date the form is sent to the owner or agent under Subsection (d)(2).

(i) Requires a designated representative of an appraisal district who elects to submit a survey form following a hearing conducted under Section 25.25 or Chapter 41 (Local Review) to submit the form not later than the 45th day after the date the form is sent to the property owner or agent under Subsection (d)(2) following that hearing.

(j) Requires the comptroller to issue an annual report that summarizes the information included in the survey forms submitted during the preceding year.

Prohibits the report from disclosing the identity of a person who submitted a survey form.

(k) Requires the comptroller to adopt rules necessary to implement this section.

SECTION 4. Amends Sections 6.412(a) and (d), Tax Code, as follows:

(a) Provides that an individual is ineligible to serve on an ARB if the individual is related within the third degree by consanguinity or within the second degree by affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, to a member of the appraisal district's board of directors or the ARB. Makes nonsubstantive changes.

(d) Provides that a person is ineligible to serve on the ARB of an appraisal district established for a county described by Section 6.41(d-1) (relating to appointment of board members in a county with a population of 120,000 or more), rather than for a county having a population of more than 100,000, if the person:

(1) Makes no changes to this subdivision.

(2) to (3) Makes nonsubstantive changes; or

(4) served for all or part of three previous terms as a board member or auxiliary board member on an ARB.

SECTION 5. Amends Section 6.42(a), Tax Code, as follows:

(a) Requires the local administrative district judge under Subchapter D (Administration by County), Chapter 74 (Court Administration Act), Government Code, in the county in which the appraisal district is established, rather than requires the board of directors of the appraisal district by resolution, to select a chairman and a secretary from among the members of the ARB. Provides that the judge, rather than the board of directors of the appraisal district, is encouraged to select as chairman a member of the ARB, if any, who has a background in law and property appraisal. Makes a nonsubstantive change.

SECTION 6. Amends Section 25.25, Tax Code, by adding Subsections (e-1) and (e-2) and amending Subsection (g), as follows:

(e-1) Requires a panel of a certain ARB to determine the issues that are the subject of the hearing for the ARB and make the panel's decision by written order. Requires the panel, not later than the 15th day after the day the hearing is held, to take certain actions.

(e-2) Provides that a reference in this title to an action taken by an ARB under this section involving the appraised value of an owner's property includes an action taken by a penal of the ARB under Subsection (e-1)

(g) Includes a panel of an ARB among the entities to which this subsection applies.

SECTION 7. Amends Section 41.45(d), Tax Code, to create an exception provided by Section 41.47(a-1).

SECTION 8. Amends Section 41.46(a), Tax Code, to require the ARB before which a protest hearing is scheduled to deliver written notice to the property owner initiating a protest of the date, time, place, and subject matter of the hearing, rather than the date, time, and place fixed for the hearing, on the protest and of the property owner's entitlement to a postponement of the hearing as provided by Section 41.45 (Hearing on Protest) unless the property owner waives in writing notice of the hearing.

SECTION 9. Amends Section 41.461(a), Tax Code, as follows:

(a) Requires the chief appraiser, at least 14 days before the first scheduled hearing, rather than at least 14 days before a hearing, on a protest to:

(1) deliver a copy of the pamphlet prepared by the comptroller under Section 5.06 (Explanation of Taxpayer Remedies), rather than 5.06(a), to the property owner initiating the protest if the owner is representing himself, or to an agent representing the owner if requested by the agent;

(2) inform the property owner that the owner or the agent of the owner is entitled on request to a copy of certain information the chief appraiser will introduce at the hearing to establish any matter at issue, rather than inform the property owner that the owner or the agent of the owner may inspect and may obtain a copy of certain information the chief appraiser plans to introduce at the hearing to establish any matter at issue; and

(3) Makes no changes to this subdivision.

SECTION 10. Amends Subchapter C, Chapter 41, Tax Code, by adding Section 41.462, as follows:

Sec. 41.462. AVAILABILITY OF APPRAISAL REVIEW BOARD EVIDENCE. Requires the appraisal district to, if requested by the property owner initiating a protest or an agent representing the property owner, make any evidence to be used in the protest hearing available to the property owner or agent at least 14 days before the hearing. Requires the evidence to be provided at no charge to the requester, regardless of the means of delivery.

SECTION 11. Amends Section 41.47, Tax Code, by adding Subsections (a-1), (c-2), and (f) and amending Subsections (b), (c), (d), and (e), as follows:

(a-1) Requires a certain panel of an ARB to determine the protest for the ARB and make the panel's decision by written order. Provides that a reference in this title to a determination or order of a certain ARB includes a determination or order made by a panel under this subsection.

(b) to (c) Includes a panel of an ARB among the provisions of these subsections.

(c-2) Prohibits the ARB or panel from determining the appraised value of the property that is the subject of a protest to be greater than a certain amount.

(d) Requires the ARB or panel to deliver by hand or certified mail:

(1) a notice of issuance of the order and a copy of the order to the property owner or the designated agent of the owner and the chief appraiser, rather than to the property owner and the chief appraiser; and

(2) a copy of the ARB survey form prepared under Section 5.104 and instructions for completing and submitting the form to the property owner or the agent.

(e) Requires the notice of the issuance of the order to contain a certain statement of the property owner's right to appeal the order of the ARB or panel, rather than appeal the ARB's decision, to district court. Makes nonsubstantive changes.

(f) Requires the ARB or panel to take the actions required by Subsection (a) (relating to the requirement that an ARB hearing a protest determining the protest and making its decision by written order) or (a-1), as applicable, and Subsection (d) not later than a certain day.

SECTION 12. Amends Section 41.66, Tax Code, by amending Subsections (h), (i), and (j) and adding Subsections (j-1) and (p), as follows:

(h) Requires the ARB to postpone a hearing on a protest if the property owner or the designated agent of the owner, rather than the property owner, takes certain actions.

(i) Requires a hearing on a protest filed by a property owner or the designated agent, rather than a property owner who is not represented by an agent designated under Section 1.111 (Representation of Property Owner), to be set for a time and date certain. Requires the ARB to postpone the hearing on the request of the property owner or agent, rather than the property owner.

(j) Requires an ARB, on the request of a property owner or the agent, to schedule hearings on protests concerning up to 20 designated properties to be held consecutively on the same day, rather than requires the ARB, on the request of a property owner or a designated agent, to schedule hearings on protests concerning up to 20 designated properties on the same day. Authorizes, rather than prohibits, a property owner or the agent to file more than one request under this subsection with the ARB in the same year. Makes conforming changes.

(j-1) Authorizes an ARB to schedule the hearings on all protests filed by a property owner or the agents to be held consecutively. Requires the notice of the hearings to state certain information. Prohibits the order of the hearings listed in the notice from being changed without the agreement of certain parties. Prohibits the ARB from rescheduling a hearing for which 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 parties. Requires the ARB, unless agreed to by certain parties, to provide written notice of the date and time of the rescheduled hearing to the property owner or the agent not later than the seventh day before the date of the hearing.

(p) Requires the ARB, at the end of a hearing on a protest, to provide certain documents to the property owner or the agent.

SECTION 13. Amends Section 41.67(d), Tax Code, to prohibit certain information that was not delivered to the protesting party at least 14 days before the first scheduled hearing from being used or offered in any form as evidence in the hearing, including as a document or through argument or testimony, rather than prohibits certain information that was not made available to the protesting party at least 14 days before the scheduled or postponed hearing from being used as evidence in the hearing.

SECTION 14. Amends Section 41A.06(b), Tax Code, as follows:

(b) Includes the completion of the course for training and education of the ARB members established under Section 5.041 (Training of Appraisal Review Board Members) and issuance of a certificate indicating course completion, and completion of the training program on property tax law for the training and education of arbitrators established under Section 5.043 to the list of certain requirements for a person to initially qualify to serve as an arbitrator under this chapter. Makes conforming and nonsubstantive changes.

SECTION 15. Amends Section 41A.061(b), Tax Code, to require a person, to renew the person's agreement to serve as an arbitrator, to continue to meet the requirements provided by Section 41A.06(b)(1) (relating to requirements for a person to initially qualify to serve as an arbitrator) and (4) (relating to arbitrator fees), rather than Section 41A.06(b).

SECTION 16. Amends Section 41A.09(b), Tax Code, to require an award under this section (Award; Payment of Arbitrator's Fee) to specify the arbitrator's fee, which may not exceed the amount provided by Section 41A.06(b)(4), rather than 41A.06(b)(2).

SECTION 17. Repealer: Sections 5.103(e) (relating to contents of a survey form) and (f) (relating to an annual report summarizing the survey forms), Section 6.412(e) (relating to term limits on an ARB), and Section 41A.06(c) (relating to completion of a training program by an arbitrator), Tax Code.

SECTION 18. Makes application of the changes made to Section 5.041, Tax Code, by this Act prospective.

SECTION 19. Requires the comptroller to implement Section 5.043, Tax Code, as added by this Act, and adopt rules required by that section, as soon as practicable after the effective date of this Act.

SECTION 20. Requires the comptroller to adopt rules necessary to implement Section 5.104, Tax Code, as added by this Act, and to prepare and make available the survey form and instructions for completing and submitting the form required by that section as soon as practicable after the effective date for this Act. Provides that an appraisal district is not required to provide the survey form or instructions under a requirement of that section until the form and instructions are prepared and made available by the comptroller.

SECTION 21. Provides that the changes made to Section 6.412, Tax Code, do not affect the eligibility of a person serving on an ARB immediately before the effective date of this Act to continue to serve on the ARB for the term to which the member was appointed.

SECTION 22. Makes application of the changes made to Section 25.25, Tax Code, prospective.

SECTION 23. Makes application of the changes made to Chapter 41, Tax Code, prospective.

SECTION 24. Provides that the changes in law made by this Act do not affect the entitlement of a person serving as an arbitrator immediately before the effective date of this Act 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. Provides that 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 effective date of this Act. Provides that this Act does not prohibit a person who is serving as an arbitrator on the effective date of this Act 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 this Act.

SECTION 25. Effective date: January 1, 2018.