

BILL ANALYSIS

Senate Research Center
85R6718 SMT-F

S.B. 1848
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Finance
4/18/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current formula for determining the amount of attorney's fees that a property owner who prevails in litigation may be awarded by a court was created in the 1990s. The statute allowing an award of attorney's fees ensures that taxing authorities have some downside risk to litigation, as property owners do, so that taxing authorities do not have an unfair advantage in settlement negotiations or the process of litigation itself. However, the effectiveness of the current statute has been eroded by inflation. While the dollar values set in statute in 1991 and 1997 may have been appropriate at that time, they are now too low to be an effective tool for leveling the playing field between taxing authorities and taxpayers.

As proposed, S.B. 1848 amends current law relating to the award of attorney's fees in a judicial appeal of certain ad valorem tax determinations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 2 (Section 42.291, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 42.29, Tax Code, as follows:

Sec. 42.29. ATTORNEY'S FEES. Deletes designations of Subsections (a) and (b). Authorizes a property owner who prevails in an appeal to the court under Section 42.25 (Remedy for Excessive Appraisal) or 42.26 (Remedy for Unequal Appraisal), in an appeal to the court of a determination of an appraisal review board on a motion filed under Section 25.25 (Correction of Appraisal Roll), or in an appeal to the court of a determination of an appraisal review board of a protest of the denial in whole or in part of an exemption under Section 11.17 (Cemeteries), 11.22 (Disabled Veterans), 11.23 (Miscellaneous Exemptions), 11.231 (Nonprofit Community Business Organization Providing Economic Development Services to Local Community), or 11.24 (Historic Sites) to be awarded reasonable attorney's fees. Prohibits the amount of the award from exceeding the greater of:

(1) \$27,000 or, if applicable, the adjusted amount determined under Section 42.291, rather than \$15,000; or

(2) an amount equal to 20 percent of the total amount by which the property owner's tax liability is reduced as a result of the appeal, but not to exceed \$153,000 or, if applicable, the adjusted amount determined under Section 42.291. Deletes existing text prohibiting the amount of an award of attorney's fees, notwithstanding Subsection (a), from exceeding the lesser of \$100,000, or the total amount by which the property owner's tax liability is reduced as a result of the appeal. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter B, Chapter 42, Tax Code, by adding Section 42.291, as follows:

Sec. 42.291. COST OF LIVING ADJUSTMENT OF ATTORNEY'S FEES LIMITS. (a)
Defines "consumer price index."

(b) Provides that on January 1 of each odd-numbered year the dollar amounts specified by Sections 42.29(1) and (2) are increased or decreased by an amount equal to the amount specified by those sections multiplied by the percentage increase or decrease in the consumer price index for the period beginning September 1, 2017, and ending on the September 1 preceding the date of the determination, rounded to the nearest \$1,000.

(c) Provides that the amounts determined under Subsection (b) apply to an award of attorney's fees in an appeal under this chapter (Judicial Review) that is filed on or after the date the determination is made until the next January 1 on which a determination is made under Subsection (b).

(d) Requires the Texas comptroller of public accounts (comptroller), to make the determination required by this section and publish the amounts determined in the Texas Register. Authorizes the comptroller to adopt rules related to making that determination.

(e) Provides that a determination by the comptroller under this section is final and may not be appealed.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.