

By: Burton

S.B. No. 447

A BILL TO BE ENTITLED

AN ACT

relating to the selection of certain appraisal district officials.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.15, Tax Code, is amended to read as follows:

Sec. 1.15. APPRAISERS FOR TAXING UNITS PROHIBITED. A taxing unit may not employ any person for the purpose of appraising property for taxation purposes [~~except to the extent necessary to perform a contract under Section 6.05(b) of this code~~].

SECTION 2. Sections 5.041(c), (e-1), (e-3), (f), and (g), Tax Code, are amended to read as follows:

(c) The comptroller may contract with service providers to assist with the duties imposed under Subsection (a), but the course required may not be provided by an appraisal district, the chief appraiser of an appraisal district, an [~~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 comptroller may assess a fee to recover a portion of the costs incurred for the training course, but the fee may not exceed \$50 per person trained.

(e-1) In addition to the course established under Subsection (a), the comptroller shall approve curricula and provide materials for use in a continuing education course for members of an appraisal review board. The curricula and materials must include

1 information regarding:

2 (1) the cost, income, and market data comparison
3 methods of appraising property;

4 (2) the appraisal of business personal property;

5 (3) the determination of capitalization rates for
6 property appraisal purposes;

7 (4) the duties of an appraisal review board;

8 (5) the requirements regarding the independence of an
9 appraisal review board from the board of directors, ~~and~~ the chief
10 appraiser, ~~and~~ ~~other~~ employees of the appraisal district;

11 (6) the prohibitions against ex parte communications
12 applicable to appraisal review board members;

13 (7) the Uniform Standards of Professional Appraisal
14 Practice;

15 (8) the duty of the appraisal district to substantiate
16 the district's determination of the value of property;

17 (9) the requirements regarding the equal and uniform
18 appraisal of property;

19 (10) the right of a property owner to protest the
20 appraisal of the property as provided by Chapter 41; and

21 (11) a detailed explanation of each of the actions
22 described by Sections 25.25, 41.41(a), 41.411, 41.412, 41.413,
23 41.42, and 41.43 so that members are fully aware of each of the
24 grounds on which a property appraisal can be appealed.

25 (e-3) The comptroller may contract with service providers
26 to assist with the duties imposed under Subsection (e-1), but the
27 course required by that subsection may not be provided by an

1 appraisal district, the chief appraiser of an appraisal district,
2 an [~~or another~~] employee of an appraisal district, a member of the
3 board of directors of an appraisal district, a member of an
4 appraisal review board, or a taxing unit. The comptroller may
5 assess a fee to recover a portion of the costs incurred for the
6 continuing education course, but the fee may not exceed \$50 for each
7 person trained.

8 (f) The comptroller may not advise a property owner, a
9 property owner's agent, [~~or~~] the chief appraiser of an appraisal
10 district, or an [~~another~~] employee of an appraisal district on a
11 matter that the comptroller knows is the subject of a protest to the
12 appraisal review board. The comptroller may provide advice to an
13 appraisal review board member as authorized by Subsection (a)(4) of
14 this section or Section 5.103 and may communicate with the chairman
15 of an appraisal review board or a taxpayer liaison officer
16 concerning a complaint filed under Section 6.052.

17 (g) Except during a hearing or other appraisal review board
18 proceeding and as provided by Subsection (h) and Section
19 6.411(c-1), the following persons may not communicate with a member
20 of an appraisal review board about a course provided under this
21 section or any matter presented or discussed during the course:

22 (1) the chief appraiser of the appraisal district for
23 which the appraisal review board is established;

24 (2) an [~~another~~] employee of the appraisal district
25 for which the appraisal review board is established;

26 (3) a member of the board of directors of the appraisal
27 district for which the appraisal review board is established;

1 (4) an officer or employee of a taxing unit that
2 participates in the appraisal district for which the appraisal
3 review board is established; and

4 (5) an attorney who represents or whose law firm
5 represents the appraisal district or a taxing unit that
6 participates in the appraisal district for which the appraisal
7 review board is established.

8 SECTION 3. Section 5.042, Tax Code, is amended by adding
9 Subsection (b-1) to read as follows:

10 (b-1) For purposes of removal under Chapter 87, Local
11 Government Code, "incompetency" in the case of a chief appraiser
12 includes the failure of the chief appraiser to complete, within the
13 period provided by Subsection (b) after the date the chief
14 appraiser is first elected or appointed, the course of training
15 required by Subsection (a).

16 SECTION 4. Section 5.103(b), Tax Code, is amended to read as
17 follows:

18 (b) The model hearing procedures shall address:
19 (1) the statutory duties of an appraisal review board;
20 (2) the process for conducting a hearing;
21 (3) the scheduling of hearings;
22 (4) the postponement of hearings;
23 (5) the notices required under this title;
24 (6) the determination of good cause under Section
25 41.44(b);
26 (7) the determination of good cause under Sections
27 41.45(e) and (e-1);

- 1 (8) a party's right to offer evidence and argument;
- 2 (9) a party's right to examine or cross-examine
- 3 witnesses or other parties;
- 4 (10) a party's right to appear by an agent;
- 5 (11) the prohibition of an appraisal review board's
- 6 consideration of information not provided at a hearing;
- 7 (12) ex parte and other prohibited communications;
- 8 (13) the exclusion of evidence at a hearing as
- 9 required by Section 41.67(d);
- 10 (14) the postponement of a hearing as required by
- 11 Section 41.66(h);
- 12 (15) conflicts of interest; and
- 13 (16) ~~[the process for the administration of~~
- 14 ~~applications for membership on an appraisal review board; and~~
- 15 ~~(17)]~~ any other matter related to fair and efficient
- 16 appraisal review board hearings.

17 SECTION 5. Sections 6.035(a), (b), and (d), Tax Code, are
18 amended to read as follows:

19 (a) An individual is ineligible to serve on an appraisal
20 district board of directors or ~~[and is disqualified from~~
21 ~~employment]~~ as chief appraiser if the individual:

- 22 (1) is related within the second degree by
- 23 consanguinity or affinity, as determined under Chapter 573,
- 24 Government Code, to an individual who is engaged in the business of
- 25 appraising property for compensation for use in proceedings under
- 26 this title or of representing property owners for compensation in
- 27 proceedings under this title in the appraisal district; or

1 (2) owns property on which delinquent taxes have been
2 owed to a taxing unit for more than 60 days after the date the
3 individual knew or should have known of the delinquency unless:

4 (A) the delinquent taxes and any penalties and
5 interest are being paid under an installment payment agreement
6 under Section 33.02; or

7 (B) a suit to collect the delinquent taxes is
8 deferred or abated under Section 33.06 or 33.065.

9 (b) A member of an appraisal district board of directors or
10 a chief appraiser commits an offense if the board member or chief
11 appraiser continues to hold office [~~or the chief appraiser remains~~
12 ~~employed~~] knowing that an individual related within the second
13 degree by consanguinity or affinity, as determined under Chapter
14 573, Government Code, to the board member or chief appraiser is
15 engaged in the business of appraising property for compensation for
16 use in proceedings under this title or of representing property
17 owners for compensation in proceedings under this title in the
18 appraisal district in which the member or chief appraiser serves
19 [~~or the chief appraiser is employed~~]. An offense under this
20 subsection is a Class B misdemeanor.

21 (d) An appraisal performed by a chief appraiser in a private
22 capacity or by an individual related within the second degree by
23 consanguinity or affinity, as determined under Chapter 573,
24 Government Code, to the chief appraiser may not be used as evidence
25 in a protest or challenge under Chapter 41 or an appeal under
26 Chapter 42 concerning property that is taxable in the appraisal
27 district in which the chief appraiser serves [~~is employed~~].

1 SECTION 6. The heading to Section 6.05, Tax Code, is amended
2 to read as follows:

3 Sec. 6.05. APPRAISAL OFFICE; CHIEF APPRAISER.

4 SECTION 7. Sections 6.05(b), (c), and (d), Tax Code, are
5 amended to read as follows:

6 (b) The board of directors of an appraisal district may
7 contract with an appraisal office in another district [~~or with a~~
8 ~~taxing unit in the district~~] to perform the duties of the appraisal
9 office for the district.

10 (c) The chief appraiser is the chief administrator of the
11 appraisal office. The [~~Except as provided by Section 6.0501, the~~]
12 chief appraiser is elected at the general election for state and
13 county officers by the voters of the county in which the appraisal
14 district is established. The chief appraiser serves a two-year
15 term beginning January 1 of each odd-numbered year. To be eligible
16 to serve as chief appraiser, an individual must be a resident of the
17 county in which the appraisal district is established and must have
18 resided in the county for at least two years preceding the date the
19 individual takes office [~~appointed by and serves at the pleasure of~~
20 ~~the appraisal district board of directors. If a taxing unit~~
21 ~~performs the duties of the appraisal office pursuant to a contract,~~
22 ~~the assessor for the unit is the chief appraiser. To be eligible to~~
23 ~~be appointed or serve as a chief appraiser, a person must be~~
24 ~~certified as a registered professional appraiser under Section~~
25 ~~1151.160, Occupations Code, possess an MAI professional~~
26 ~~designation from the Appraisal Institute, or possess an Assessment~~
27 ~~Administration Specialist (AAS), Certified Assessment Evaluator~~

1 ~~(CAE), or Residential Evaluation Specialist (RES) professional~~
2 ~~designation from the International Association of Assessing~~
3 ~~Officers. A person who is eligible to be appointed or serve as a~~
4 ~~chief appraiser by having a professional designation described by~~
5 ~~this subsection must become certified as a registered professional~~
6 ~~appraiser under Section 1151.160, Occupations Code, not later than~~
7 ~~the fifth anniversary of the date the person is appointed or begins~~
8 ~~to serve as chief appraiser. A chief appraiser who is not eligible~~
9 ~~to be appointed or serve as chief appraiser may not perform an~~
10 ~~action authorized or required by law to be performed by a chief~~
11 ~~appraiser, including the preparation, certification, or submission~~
12 ~~of any part of the appraisal roll. Not later than January 1 of each~~
13 ~~year, a chief appraiser shall notify the comptroller in writing~~
14 ~~that the chief appraiser is either eligible to be appointed or serve~~
15 ~~as the chief appraiser or not eligible to be appointed or serve as~~
16 ~~the chief appraiser].~~

17 (d) The [~~Except as provided by Section 6.0501, the~~] chief
18 appraiser is entitled to compensation as provided by the budget
19 adopted by the board of directors. The chief appraiser's
20 compensation may not be directly or indirectly linked to an
21 increase in the total market, appraised, or taxable value of
22 property in the appraisal district. The [~~Except as provided by~~
23 ~~Section 6.0501, the~~] chief appraiser may employ and compensate
24 professional, clerical, and other personnel as provided by the
25 budget, with the exception of a general counsel to the appraisal
26 district.

27 SECTION 8. Sections 6.41(a), (c), (d), (e), (f), (j), and

1 (k), Tax Code, are amended to read as follows:

2 (a) An ~~[The]~~ appraisal review board is established for each
3 appraisal district.

4 (c) To be eligible to serve on the board, an individual must
5 be a resident of the county in which the appraisal district is
6 established and must have resided in the county ~~[district]~~ for at
7 least two years.

8 (d) Members ~~[Except as provided by Subsection (d-1),~~
9 ~~members]~~ of the board are appointed by the chief appraiser of the
10 appraisal district ~~[resolution of a majority of the appraisal~~
11 ~~district board of directors]~~. A vacancy on the board is filled in
12 the same manner for the unexpired portion of the term.

13 (e) Members of the board hold office for terms of two years
14 beginning January 1. The appraisal district board of directors by
15 resolution shall provide for staggered terms, so that the terms of
16 as close to one-half of the members as possible expire each
17 year. In making the initial or subsequent appointments, the chief
18 appraiser ~~[board of directors or the local administrative district~~
19 ~~judge or the judge's designee]~~ shall designate those members who
20 serve terms of one year as needed to comply with this subsection.

21 (f) A member of the board may be removed from the board by
22 the chief appraiser ~~[a majority vote of the appraisal district~~
23 ~~board of directors, or by the local administrative district judge~~
24 ~~or the judge's designee, as applicable, that appointed the~~
25 ~~member]~~. Grounds for removal are:

26 (1) a violation of Section [6.412](#), [6.413](#), [41.66\(f\)](#), or
27 [41.69](#);

1 (2) good cause relating to the attendance of members
2 at called meetings of the board as established by written policy
3 adopted by a majority of the appraisal district board of directors;
4 ~~[or]~~

5 (3) clear and convincing evidence of repeated bias or
6 misconduct; or

7 (4) failure to complete a course required by Section
8 5.041.

9 (j) The [A] chief appraiser of an appraisal district or an
10 ~~[another]~~ employee or agent of an appraisal district commits an
11 offense if the person communicates with a member of the appraisal
12 review board for the appraisal district or ~~[r]~~ a member of the board
13 of directors of the appraisal district~~[, or, if the appraisal~~
14 ~~district is an appraisal district described by Subsection (d-1),~~
15 ~~the local administrative district judge]~~ regarding a ranking,
16 scoring, or reporting of the percentage by which the appraisal
17 review board or a panel of the board reduces the appraised value of
18 property.

19 (k) An offense under Subsection ~~[(i) or]~~ (j) is a Class A
20 misdemeanor.

21 SECTION 9. Sections 6.411(a), (b), and (c-1), Tax Code, are
22 amended to read as follows:

23 (a) A member of an appraisal review board commits an offense
24 if the member communicates with the chief appraiser of, an ~~[or~~
25 ~~another]~~ employee of, or a member of the board of directors of the
26 appraisal district for which the appraisal review board is
27 established in violation of Section 41.66(f).

1 (b) The [A] chief appraiser of an appraisal district, an [~~or~~
2 ~~another~~] employee of an appraisal district, a member of a board of
3 directors of an appraisal district, or a property tax consultant or
4 attorney representing a party to a proceeding before the appraisal
5 review board commits an offense if the person communicates with a
6 member of the appraisal review board established for the appraisal
7 district with the intent to influence a decision by the member in
8 the member's capacity as a member of the appraisal review board.

9 (c-1) This section does not apply to communications with a
10 member of an appraisal review board by the chief appraiser of an
11 appraisal district, an [~~or another~~] employee of an appraisal
12 district, [~~or~~] a member of the board of directors of an appraisal
13 district, or a property tax consultant or attorney representing a
14 party to a proceeding before the appraisal review board:

15 (1) during a hearing on a protest or other proceeding
16 before the appraisal review board;

17 (2) that constitute social conversation;

18 (3) that are specifically limited to and involve
19 administrative, clerical, or logistical matters related to the
20 scheduling and operation of hearings, the processing of documents,
21 the issuance of orders, notices, and subpoenas, and the operation,
22 appointment, composition, or attendance at training of the
23 appraisal review board; or

24 (4) that are necessary and appropriate to enable the
25 chief appraiser [~~board of directors~~] of the appraisal district to
26 determine whether to appoint, reappoint, or remove a person as a
27 member or the chairman or secretary of the appraisal review board.

1 SECTION 10. Section 6.412(a), Tax Code, is amended to read
2 as follows:

3 (a) An individual is ineligible to serve on an appraisal
4 review board if the individual:

5 (1) is related within the second degree by
6 consanguinity or affinity, as determined under Chapter 573,
7 Government Code, to an individual who is engaged in the business of
8 appraising property for compensation for use in proceedings under
9 this title or of representing property owners for compensation in
10 proceedings under this title in the appraisal district for which
11 the appraisal review board is established;

12 (2) owns property on which delinquent taxes have been
13 owed to a taxing unit for more than 60 days after the date the
14 individual knew or should have known of the delinquency unless:

15 (A) the delinquent taxes and any penalties and
16 interest are being paid under an installment payment agreement
17 under Section 33.02; or

18 (B) a suit to collect the delinquent taxes is
19 deferred or abated under Section 33.06 or 33.065; or

20 (3) is related within the third degree by
21 consanguinity or within the second degree by affinity, as
22 determined under Chapter 573, Government Code, to a member of the
23 appraisal district's board of directors or to the chief appraiser
24 of the appraisal district.

25 SECTION 11. Section 6.42(a), Tax Code, is amended to read as
26 follows:

27 (a) A majority of the appraisal review board constitutes a

1 quorum. The chief appraiser [~~board of directors~~] of the appraisal
2 district [~~by resolution~~] shall select a chairman and a secretary
3 from among the members of the [~~appraisal review~~] board. The chief
4 appraiser [~~board of directors of the appraisal district~~] is
5 encouraged to select as chairman of the [~~appraisal review~~] board a
6 member of the [~~appraisal review~~] board, if any, who has a background
7 in law and property appraisal.

8 SECTION 12. Section 22.28(d), Tax Code, is amended to read
9 as follows:

10 (d) To help defray the costs of administering this chapter,
11 a collector who collects a penalty imposed under Subsection (a)
12 shall remit to the appraisal district of [~~that employs~~] the chief
13 appraiser who imposed the penalty an amount equal to five percent of
14 the penalty amount collected.

15 SECTION 13. Section 41.66(g), Tax Code, is amended to read
16 as follows:

17 (g) At the beginning of a hearing on a protest, each member
18 of the appraisal review board hearing the protest must sign an
19 affidavit stating that the board member has not communicated with
20 another person in violation of Subsection (f). If a board member has
21 communicated with another person in violation of Subsection (f),
22 the member must be recused from the proceeding and may not hear,
23 deliberate on, or vote on the determination of the protest. The
24 chief appraiser [~~board of directors~~] of the appraisal district
25 shall adopt and implement a policy concerning the temporary
26 replacement of an appraisal review board member who has
27 communicated with another person in violation of Subsection (f).

1 SECTION 14. Section 42.21(d), Tax Code, is amended to read
2 as follows:

3 (d) An appraisal district is served by service on the chief
4 appraiser at any time or by service on any other officer or an
5 employee of the appraisal district present at the appraisal office
6 at a time when the appraisal office is open for business with the
7 public. An appraisal review board is served by service on the
8 chairman of the appraisal review board. Citation of a party is
9 issued and served in the manner provided by law for civil suits
10 generally.

11 SECTION 15. Section 52.092(e), Election Code, is amended to
12 read as follows:

13 (e) County offices shall be listed in the following order:
14 (1) county judge;
15 (2) judge, county court at law;
16 (3) judge, county criminal court;
17 (4) judge, county probate court;
18 (5) county attorney;
19 (6) district clerk;
20 (7) district and county clerk;
21 (8) county clerk;
22 (9) sheriff;
23 (10) sheriff and tax assessor-collector;
24 (11) county tax assessor-collector;
25 (12) county treasurer;
26 (13) county school trustee (county with population of
27 3.3 million or more);

1 (14) county surveyor;

2 (15) chief appraiser.

3 SECTION 16. Section 87.041(a), Local Government Code, is
4 amended to read as follows:

5 (a) The commissioners court of a county may fill a vacancy
6 in the office of:

7 (1) county judge;

8 (2) county clerk;

9 (3) district and county clerk;

10 (4) sheriff;

11 (5) county attorney;

12 (6) county treasurer;

13 (7) county surveyor;

14 (8) county tax assessor-collector;

15 (9) justice of the peace; ~~[or]~~

16 (10) constable; or

17 (11) chief appraiser.

18 SECTION 17. Section 1151.164, Occupations Code, is amended
19 to read as follows:

20 Sec. 1151.164. CHIEF APPRAISER TRAINING PROGRAM. (a) The
21 department shall implement a training program for newly elected or
22 appointed chief appraisers and shall prescribe the curriculum for
23 the training program as provided by this section.

24 (b) The training program must provide the chief appraiser
25 ~~[appointee]~~ with information regarding:

26 (1) this chapter;

27 (2) the programs operated by the department;

1 (3) the role and functions of the department;

2 (4) the rules of the commission, with an emphasis on
3 the rules that relate to ethical behavior;

4 (5) the role and functions of the chief appraiser, the
5 appraisal district board of directors, and the appraisal review
6 board;

7 (6) the importance of maintaining the independence of
8 an appraisal office from political pressure;

9 (7) the importance of prompt and courteous treatment
10 of the public;

11 (8) the finance and budgeting requirements for an
12 appraisal district, including appropriate controls to ensure that
13 expenditures are proper; and

14 (9) the requirements of:

15 (A) the open meetings law, Chapter 551,
16 Government Code;

17 (B) the public information law, Chapter 552,
18 Government Code;

19 (C) the administrative procedure law, Chapter
20 2001, Government Code;

21 (D) other laws relating to public officials,
22 including conflict-of-interest laws; and

23 (E) the standards of ethics imposed by the
24 Uniform Standards of Professional Appraisal Practice.

25 SECTION 18. The following provisions of the Tax Code are
26 repealed:

27 (1) Section 5.042(c);

- 1 (2) Section 6.0501;
- 2 (3) Section 6.052(f); and
- 3 (4) Sections 6.41(d-1), (d-2), (d-3), (d-4), (d-5),
- 4 (d-6), (d-7), (d-8), (d-9), and (i).

5 SECTION 19. The first election required by Section 6.05(c),

6 Tax Code, as amended by this Act, shall be held to fill the term of

7 office of the chief appraiser that begins January 1, 2019. The

8 change in law made by this Act to Section 6.05, Tax Code, does not

9 affect the appointment by an appraisal district board of directors

10 of a person to serve as chief appraiser before the effective date of

11 this Act, and that person continues to serve at the pleasure of the

12 appraisal district board of directors as provided by the former law

13 until removed by the board of directors or until the person elected

14 to that position for the term that begins January 1, 2019, has

15 qualified for office. A vacancy in the office of chief appraiser

16 that occurs on or after the effective date of this Act is filled by

17 appointment by the commissioners court, as provided by Section

18 87.041(a), Local Government Code, as amended by this Act.

19 SECTION 20. Appraisal review board members and auxiliary

20 appraisal review board members shall be appointed as provided by

21 this Act beginning January 1, 2019. The change in the manner of

22 selection of appraisal review board members and auxiliary appraisal

23 review board members made by this Act does not affect the selection

24 of those members serving on the appraisal review board before

25 January 1, 2019. The term of an appraisal review board member or

26 auxiliary appraisal review board member serving on December 31,

27 2018, expires on January 1, 2019.

1 SECTION 21. The repeal by this Act of Section 6.41(i), Tax
2 Code, and the change in law made by this Act to Section 6.41(j), Tax
3 Code, do not apply to an offense committed under either of those
4 subsections before the effective date of this Act. An offense
5 committed before the effective date of this Act is governed by the
6 applicable subsection as it existed on the date the offense was
7 committed, and the former law is continued in effect for that
8 purpose. For purposes of this section, an offense was committed
9 before the effective date of this Act if any element of the offense
10 occurred before that date.

11 SECTION 22. This Act takes effect September 1, 2017.