

By: Nelson

S.B. No. 669

A BILL TO BE ENTITLED

AN ACT

relating to the system for protesting or appealing certain ad
valorem tax determinations; authorizing a fee.

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

SECTION 1. Sections 5.041(b) and (e-1), Tax Code, are
amended to read as follows:

(b) A member of the appraisal review board established for
an appraisal district must complete the course established under
Subsection (a). The course must provide at least eight hours of
classroom training and education. A member of the appraisal review
board may not participate in a hearing conducted by the board unless
the person has completed the course established under Subsection
(a) and received a certificate of course completion.

(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 course must provide at least four
hours of classroom training and education. The curricula and
materials must include information regarding:

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

(2) the appraisal of business personal property;

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

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

2 (5) the requirements regarding the independence of an
3 appraisal review board from the board of directors and the chief
4 appraiser and other employees of the appraisal district;

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

7 (7) the Uniform Standards of Professional Appraisal
8 Practice;

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

11 (9) the requirements regarding the equal and uniform
12 appraisal of property;

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

15 (11) a detailed explanation of each of the actions
16 described by Sections 25.25, 41.41(a), 41.411, 41.412, 41.413,
17 41.42, and 41.43 so that members are fully aware of each of the
18 grounds on which a property appraisal can be appealed.

19 SECTION 2. Chapter 5, Tax Code, is amended by adding Section
20 5.043 to read as follows:

21 Sec. 5.043. TRAINING OF ARBITRATORS. (a) This section
22 applies only to persons who have agreed to serve as arbitrators
23 under Chapter 41A.

24 (b) The comptroller shall:

25 (1) approve curricula and provide an arbitration
26 manual and other materials for use in training and educating
27 arbitrators;

1 (2) make all materials for use in training and
2 educating arbitrators freely available online; and

3 (3) establish and supervise a training program on
4 property tax law for the training and education of arbitrators.

5 (c) The training program must:

6 (1) emphasize the requirements regarding the equal and
7 uniform appraisal of property; and

8 (2) be at least four hours in length.

9 (d) The comptroller may contract with service providers to
10 assist with the duties imposed under Subsection (b), but the
11 training program may not be provided by an appraisal district, the
12 chief appraiser or another employee of an appraisal district, a
13 member of the board of directors of an appraisal district, a member
14 of an appraisal review board, or a taxing unit. The comptroller may
15 assess a fee to recover a portion of the costs incurred for the
16 training program, but the fee may not exceed \$50 for each person
17 trained.

18 (e) The comptroller shall prepare an arbitration manual for
19 use in the training program. The manual must be approved on the
20 unanimous agreement of a committee selected by the comptroller and
21 representing, equally, taxpayers and chief appraisers. The manual
22 shall be updated regularly and may be revised on request, in
23 writing, to the comptroller. The updated or revised language must
24 be approved in the manner provided for the initial approval of the
25 manual.

26 SECTION 3. Chapter 5, Tax Code, is amended by adding Section
27 5.104 to read as follows:

1 Sec. 5.104. APPRAISAL REVIEW BOARD SURVEY; REPORT. (a) The
2 comptroller shall prepare:

3 (1) a survey form that allows a property owner or the
4 designated agent of the owner who files with an appraisal review
5 board a motion under Section 25.25 to correct the appraisal roll or
6 a protest under Chapter 41 to submit comments and suggestions to the
7 comptroller regarding the board; and

8 (2) instructions for completing and submitting the
9 form.

10 (b) The survey form must allow a property owner or the
11 designated agent of the owner to submit comments and suggestions
12 regarding:

13 (1) the matters listed in Section 5.103(b); and

14 (2) any other matter related to the fairness and
15 efficiency of the appraisal review board.

16 (c) An appraisal district must provide the survey form and
17 the instructions for completing and submitting the form to each
18 property owner or designated agent of the owner:

19 (1) at or before each hearing conducted under Section
20 25.25 or Chapter 41 by the appraisal review board established for
21 the appraisal district; and

22 (2) with each order under Section 25.25 or 41.47
23 determining a motion or protest, as applicable, delivered by the
24 board.

25 (d) A property owner or the designated agent of the owner
26 who elects to submit the survey form must submit the form to the
27 comptroller as provided by this section. An appraisal district may

1 not accept a survey form submitted by a property owner or the
2 designated agent of the owner.

3 (e) The comptroller shall allow a property owner or the
4 designated agent of the owner to submit a survey form to the
5 comptroller in the following manner:

6 (1) in person;

7 (2) by mail;

8 (3) by electronic mail; or

9 (4) through a web page on the comptroller's Internet
10 website that allows the property owner or agent to complete and
11 submit the form.

12 (f) An appraisal district may not require a property owner
13 or the designated agent of the owner to complete a survey form at
14 the appraisal office in order to be permitted to submit the form to
15 the comptroller.

16 (g) A property owner or the designated agent of the owner
17 who elects to submit a survey form provided to the owner or agent
18 under Subsection (c)(1) or (2) must submit the form not later than
19 the 45th day after the date the form is sent to the owner or agent
20 under Subsection (c)(2).

21 (h) The comptroller shall issue an annual report that
22 summarizes the information included in the survey forms submitted
23 during the preceding year. The report may not disclose the identity
24 of a property owner or the designated agent of the owner who
25 submitted a survey form.

26 (i) The comptroller shall adopt rules necessary to
27 implement this section.

1 SECTION 4. Sections 6.412(a) and (d), Tax Code, are amended
2 to read 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:

23 (A) the appraisal district's board of directors;

24 or

25 (B) the appraisal review board.

26 (d) A person is ineligible to serve on the appraisal review
27 board of an appraisal district established for a county described

1 by Section 6.41(d-1) [~~having a population of more than 100,000~~] if
2 the person:

3 (1) is a former member of the board of directors,
4 former officer, or former employee of the appraisal district;

5 (2) served as a member of the governing body or officer
6 of a taxing unit for which the appraisal district appraises
7 property, until the fourth anniversary of the date the person
8 ceased to be a member or officer; [~~or~~]

9 (3) appeared before the appraisal review board for
10 compensation during the two-year period preceding the date the
11 person is appointed; or

12 (4) served for all or part of three previous terms as a
13 board member or auxiliary board member on the appraisal review
14 board.

15 SECTION 5. Section 6.42(a), Tax Code, is amended to read as
16 follows:

17 (a) A majority of the appraisal review board constitutes a
18 quorum. The appraisal review board [~~of directors of the appraisal~~
19 ~~district~~] by resolution shall select a chairman and a secretary
20 from among its [~~the~~] members [~~of the appraisal review board~~]. The
21 appraisal review board [~~of directors of the appraisal district~~] is
22 encouraged to select as chairman [~~of the appraisal review board~~] a
23 member of the appraisal review board, if any, who has a background
24 in law and property appraisal.

25 SECTION 6. Section 25.25, Tax Code, is amended by adding
26 Subsection (e-1) to read as follows:

27 (e-1) At the end of a hearing on a motion under Subsection

1 (c) or (d) conducted by a panel of the appraisal review board
2 regarding the value of property, the panel shall provide the
3 property owner or the designated agent of the owner a document
4 stating the panel's recommendation regarding the value of the
5 property.

6 SECTION 7. Section 41.45(h), Tax Code, is amended to read as
7 follows:

8 (h) Before the hearing on a protest [~~or immediately after~~
9 ~~the hearing begins~~], the chief appraiser and the property owner or
10 the owner's agent shall each provide the other with a copy of any
11 written material or material preserved on any portable device
12 designed to maintain an electronic, magnetic, or digital
13 reproduction of a document or image that the person intends to offer
14 or submit to the appraisal review board at the hearing.

15 SECTION 8. Section 41.46(a), Tax Code, is amended to read as
16 follows:

17 (a) The appraisal review board before which a protest
18 hearing is scheduled shall deliver written notice to the property
19 owner initiating a protest of the date, time, [~~and~~] place, and
20 subject matter of [~~fixed for~~] the hearing on the protest and of the
21 property owner's entitlement to a postponement of the hearing as
22 provided by Section 41.45 unless the property owner waives in
23 writing notice of the hearing. The board shall deliver the notice
24 not later than the 15th day before the date of the hearing.

25 SECTION 9. Section 41.461(a), Tax Code, is amended to read
26 as follows:

27 (a) At least 14 days before the first scheduled [~~a~~] hearing

1 on a protest, the chief appraiser shall:

2 (1) deliver a copy of the pamphlet prepared by the
3 comptroller under Section 5.06 [~~5.06(a)~~] to the property owner
4 initiating the protest if the owner is representing himself, or to
5 an agent representing the owner if requested by the agent;

6 (2) inform the property owner that the owner or the
7 agent of the owner is entitled on request to [~~may inspect and may~~
8 ~~obtain~~] a copy of the data, schedules, formulas, and all other
9 information the chief appraiser will [~~plans to~~] introduce at the
10 hearing to establish any matter at issue; and

11 (3) deliver a copy of the hearing procedures
12 established by the appraisal review board under Section 41.66 to
13 the property owner.

14 SECTION 10. Section 41.47, Tax Code, is amended by adding
15 Subsection (a-1) and amending Subsection (d) to read as follows:

16 (a-1) The board may not determine the appraised value of the
17 property that is the subject of a protest to be an amount greater
18 than the appraised value of the property as shown in the appraisal
19 records submitted to the board by the chief appraiser under Section
20 25.22 or 25.23.

21 (d) Not later than the 15th day after the date the protest is
22 determined, the [~~The~~] board shall deliver by certified mail:

23 (1) a notice of issuance of the order and a copy of the
24 order to the property owner or the designated agent of the owner and
25 the chief appraiser; and

26 (2) a copy of the appraisal review board survey form
27 prepared under Section 5.104 and instructions for completing and

1 submitting the form to the property owner or the designated agent of
2 the owner.

3 SECTION 11. Section 41.66, Tax Code, is amended by amending
4 Subsections (h), (i), and (j) and adding Subsections (j-1) and (p)
5 to read as follows:

6 (h) The appraisal review board shall postpone a hearing on a
7 protest if the property owner or the designated agent of the owner
8 requests additional time to prepare for the hearing and establishes
9 to the board that the chief appraiser failed to comply with Section
10 41.461. The board is not required to postpone a hearing more than
11 one time under this subsection.

12 (i) A hearing on a protest filed by a property owner or the
13 designated agent of the owner [~~who is not represented by an agent~~
14 ~~designated under Section 1.111~~] shall be set for a time and date
15 certain. If the hearing is not commenced within two hours of the
16 time set for the hearing, the appraisal review board shall postpone
17 the hearing on the request of the property owner or the designated
18 agent of the owner.

19 (j) On the request of a property owner or the [~~a~~] designated
20 agent of the owner, an appraisal review board shall schedule
21 hearings on protests concerning up to 20 designated properties to
22 be held consecutively on the same day. The designated properties
23 must be identified in the same notice of protest, and the notice
24 must contain in boldfaced type the statement "request for same-day
25 protest hearings." A property owner or the designated agent of the
26 owner may [~~not~~] file more than one request under this subsection
27 with the appraisal review board in the same tax year. The appraisal

1 review board may schedule hearings on protests concerning more than
2 20 properties filed by the same property owner or the designated
3 agent of the owner and may use different panels to conduct the
4 hearings based on the board's customary scheduling. The appraisal
5 review board may follow the practices customarily used by the board
6 in the scheduling of hearings under this subsection.

7 (j-1) An appraisal review board may schedule the hearings on
8 all protests filed by a property owner or the designated agent of
9 the owner to be held consecutively. The notice of the hearings must
10 state the date and time that the first hearing will begin, state the
11 date the last hearing will end, and list the order in which the
12 hearings will be held. The order of the hearings listed in the
13 notice may not be changed without the agreement of the property
14 owner or the designated agent of the owner, the chief appraiser, and
15 the appraisal review board. The board may not reschedule a hearing
16 for which notice is given under this subsection to a date earlier
17 than the seventh day after the date the last hearing was scheduled
18 to end unless agreed to by the property owner or the designated
19 agent of the owner, the chief appraiser, and the appraisal review
20 board. Unless agreed to by the parties, the board must provide
21 written notice of the date and time of the rescheduled hearing to
22 the property owner or the designated agent of the owner not later
23 than the seventh day before the date of the hearing.

24 (p) At the end of a hearing on a protest, the appraisal
25 review board shall provide the property owner or the designated
26 agent of the owner:

27 (1) one or more documents indicating that the members

1 of the board hearing the protest signed the affidavit required by
2 Subsection (g); and

3 (2) if the hearing is on a protest authorized by
4 Section 41.41(a)(1) or (2) and is conducted by a panel of the board,
5 a document stating the panel's recommendation regarding the value
6 of the property subject to the protest.

7 SECTION 12. Section 41.67(d), Tax Code, is amended to read
8 as follows:

9 (d) Information that was previously requested under Section
10 41.461 by the protesting party that was not delivered [~~made~~
11 ~~available~~] to the protesting party at least 14 days before the first
12 scheduled [~~or postponed~~] hearing may not be used or offered in any
13 form as evidence in the hearing, including as a document or through
14 argument or testimony.

15 SECTION 13. Section 41A.06(b), Tax Code, is amended to read
16 as follows:

17 (b) To initially qualify to serve as an arbitrator under
18 this chapter, a person must:

19 (1) meet the following requirements, as applicable:

20 (A) be licensed as an attorney in this state; or

21 (B) have:

22 (i) completed at least 30 hours of training
23 in arbitration and alternative dispute resolution procedures from a
24 university, college, or legal or real estate trade association; and

25 (ii) been licensed or certified
26 continuously during the five years preceding the date the person
27 agrees to serve as an arbitrator as:

1 (a) a real estate broker or sales
2 agent [~~salesperson~~] under Chapter 1101, Occupations Code;

3 (b) a real estate appraiser under
4 Chapter 1103, Occupations Code; or

5 (c) a certified public accountant
6 under Chapter 901, Occupations Code; [~~and~~]

7 (2) complete the course for training and education of
8 appraisal review board members established under Section 5.041 and
9 be issued a certificate indicating course completion;

10 (3) complete the training program on property tax law
11 for the training and education of arbitrators established under
12 Section 5.043; and

13 (4) agree to conduct an arbitration for a fee that is
14 not more than:

15 (A) \$400, if the property qualifies as the
16 owner's residence homestead under Section 11.13 and the appraised
17 or market value, as applicable, of the property is \$500,000 or less,
18 as determined by the order;

19 (B) \$450, if the property qualifies as the
20 owner's residence homestead under Section 11.13 and the appraised
21 or market value, as applicable, of the property is more than
22 \$500,000, as determined by the order;

23 (C) \$450, if the property does not qualify as the
24 owner's residence homestead under Section 11.13 and the appraised
25 or market value, as applicable, of the property is \$1 million or
26 less, as determined by the order;

27 (D) \$750, if the property does not qualify as the

1 owner's residence homestead under Section 11.13 and the appraised
2 or market value, as applicable, of the property is more than \$1
3 million but not more than \$2 million, as determined by the order; or

4 (E) \$1,000, if the property does not qualify as
5 the owner's residence homestead under Section 11.13 and the
6 appraised or market value, as applicable, of the property is more
7 than \$2 million but not more than \$3 million, as determined by the
8 order.

9 SECTION 14. Section 41A.061(b), Tax Code, is amended to
10 read as follows:

11 (b) To renew the person's agreement to serve as an
12 arbitrator, the person must:

13 (1) file a renewal application with the comptroller at
14 the time and in the manner prescribed by the comptroller;

15 (2) continue to meet the requirements provided by
16 Sections 41A.06(b)(1) and (4) [~~Section 41A.06(b)~~]; and

17 (3) during the preceding two years have completed at
18 least eight hours of continuing education in arbitration and
19 alternative dispute resolution procedures offered by a university,
20 college, real estate trade association, or legal association.

21 SECTION 15. Section 41A.09(b), Tax Code, is amended to read
22 as follows:

23 (b) An award under this section:

24 (1) must include a determination of the appraised or
25 market value, as applicable, of the property that is the subject of
26 the appeal;

27 (2) may include any remedy or relief a court may order

1 under Chapter 42 in an appeal relating to the appraised or market
2 value of property;

3 (3) shall specify the arbitrator's fee, which may not
4 exceed the amount provided by Section 41A.06(b)(4) [~~41A.06(b)(2)~~];

5 (4) is final and may not be appealed except as
6 permitted under Section 171.088, Civil Practice and Remedies Code,
7 for an award subject to that section; and

8 (5) may be enforced in the manner provided by
9 Subchapter D, Chapter 171, Civil Practice and Remedies Code.

10 SECTION 16. Sections 5.103(e) and (f), 6.412(e), and
11 41A.06(c), Tax Code, are repealed.

12 SECTION 17. The changes in law made by this Act to Section
13 5.041, Tax Code, apply only to an appraisal review board member
14 appointed to serve a term of office that begins on or after the
15 effective date of this Act.

16 SECTION 18. The comptroller shall implement Section 5.043,
17 Tax Code, as added by this Act, as soon as practicable after the
18 effective date of this Act.

19 SECTION 19. The comptroller shall adopt rules necessary to
20 implement Section 5.104, Tax Code, as added by this Act, and shall
21 prepare and make available the survey form and instructions for
22 completing and submitting the form required by that section as soon
23 as practicable after the effective date of this Act. An appraisal
24 district is not required to provide the survey form or instructions
25 under a requirement of that section until the form and instructions
26 are prepared and made available by the comptroller.

27 SECTION 20. The changes in law made by this Act to Section

1 6.412, Tax Code, do not affect the eligibility of a person serving
2 on an appraisal review board immediately before the effective date
3 of this Act to continue to serve on the board for the term to which
4 the member was appointed.

5 SECTION 21. The change in law made by this Act to Section
6 25.25, Tax Code, applies only to a motion to correct an appraisal
7 roll filed on or after the effective date of this Act.

8 SECTION 22. The changes in law made by this Act to Sections
9 41.45, 41.46, 41.461, 41.47, 41.66, and 41.67, Tax Code, apply only
10 to a protest for which the notice of protest was filed by a property
11 owner or the designated agent of the owner with the appraisal review
12 board established for an appraisal district on or after the
13 effective date of this Act.

14 SECTION 23. The changes in law made by this Act in the
15 qualifications of persons serving as arbitrators in binding
16 arbitrations of appeals of appraisal review board orders do not
17 affect the entitlement of a person serving as an arbitrator
18 immediately before the effective date of this Act to continue to
19 serve as an arbitrator and to conduct hearings on arbitrations
20 until the person is required to renew the person's agreement with
21 the comptroller to serve as an arbitrator. The changes in law apply
22 only to a person who initially qualifies to serve as an arbitrator
23 or who renews the person's agreement with the comptroller to serve
24 as an arbitrator on or after the effective date of this Act. This
25 Act does not prohibit a person who is serving as an arbitrator on
26 the effective date of this Act from renewing the person's agreement
27 with the comptroller to serve as an arbitrator if the person has the

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1 qualifications required for an arbitrator under the Tax Code as
2 amended by this Act.

3 SECTION 24. This Act takes effect January 1, 2018.