

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 28, 2017

TO: Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1248 by Lucio III (Relating to alternative resolution procedures for ad valorem tax suits brought under Chapter 42 of the Texas Property Tax Code for purposes of enhancing the public policy of this state of reducing the delay and the costs of litigation.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1248, As Introduced: a negative impact of (\$712,000) through the biennium ending August 31, 2019.

Additionally, the bill would result in a negative impact of (\$84,716,000) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$87,000)
2019	(\$625,000)
2020	(\$41,338,000)
2021	(\$43,378,000)
2022	(\$45,535,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Foundation School Fund 193</i>	Probable Revenue Gain/(Loss) from <i>School Districts</i>	Probable Revenue Gain/(Loss) from <i>Counties</i>	Probable Revenue Gain/(Loss) from <i>Cities</i>
2018	(\$87,000)	(\$15,638,000)	(\$4,634,000)	(\$4,790,000)
2019	(\$625,000)	(\$49,304,000)	(\$14,649,000)	(\$14,984,000)
2020	(\$41,338,000)	(\$11,507,000)	(\$15,435,000)	(\$15,623,000)
2021	(\$43,378,000)	(\$12,555,000)	(\$16,263,000)	(\$16,290,000)
2022	(\$45,535,000)	(\$13,667,000)	(\$17,136,000)	(\$16,985,000)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Other Special Districts</i>
2018	(\$3,503,000)
2019	(\$11,055,000)
2020	(\$11,631,000)
2021	(\$12,237,000)
2022	(\$12,875,000)

Fiscal Analysis

The bill would amend Chapter 42 of the Tax Code, regarding judicial review (property tax), to permit a party to a property tax lawsuit to use alternative dispute resolution procedures for the purpose of expediting the resolution of the lawsuit. The alternative dispute resolution procedures would be implemented by the request of a plaintiff or a defendant and would replace the procedures contained in the Texas Rules of Civil Procedure to the extent they conflict. The bill would specify:

1. limitations on discovery;
2. requirements and limitations on the production of documents, including a limitation of comparable properties to 10 in cases involving equality and uniformity and several requirements for an appraisal district to produce appraisal records, appraisal reports and other documents regarding the comparable properties;
3. limitations on oral depositions;
4. that requests for disclosure are permitted and disclosure of expert witnesses is required;
5. that the parties are required to attempt in good faith to resolve disputes concerning pre-trial matters;
6. that the parties cooperate in good faith to set hearings at a time convenient for the court, witnesses, and attorneys;
7. that the procedures and limitations set forth in the bill may be modified by agreement of the parties, or by court order for good cause;
8. that a party seeking additional discovery may file such a motion with the court, and would specify certain matters related to the motion; and
9. that if a party files a motion with the court and does not prevail in the motion, the court shall award reasonable attorney fees related to the motion.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2017.

Methodology

The bill's limitations and requirements regarding discovery, document production, depositions, and disclosure in alternative dispute resolution would create a cost to local taxing units and the state through the school finance formulas. On the request of a party to a lawsuit, the comprehensive Texas Rules of Civil Procedure, enacted to ensure a fair process in litigation, would be bypassed. The bill's limitation of 10 comparable properties in equality and uniformity cases would normally result in a conclusion that is too imprecise on which to make a valid determination. The bill's requirement for an appraisal district to produce appraisal records, appraisal reports and other documents regarding the comparable properties with no corresponding evidentiary requirements for the property owner would create a situation in which an appraisal district is at a legal disadvantage in an unequal appraisal lawsuit.

The taxable value losses were based on information from appraisal districts regarding unequal appraisal lawsuit value losses. Based on the effective date of the bill, losses were estimated for only one third of fiscal 2018. Projected tax rates were applied to the taxable value losses through the five-year projection period to estimate tax revenue losses to school districts, special districts, cities and counties. Under provisions of the Education Code, the school district tax revenue loss is partially transferred to the state. Projected school funding rates were applied to estimate the state loss and the net school district loss.

In the first year of a taxable value loss, state recapture is reduced (a state loss). Because of the use of lagged year property values, in the second and successive years of a taxable value loss, state recapture is further reduced and the previous year's school district loss related to the Tier 1 rate is generally transferred to the state through the Tier 1 funding formulas (a state loss).

In the school district enrichment formula (Tier 2), property values do not reflect the first-year value loss because of the one-year value lag. Because the formula does reflect a tax collections decline in that year, school districts lose Tier 2 funding creating a state gain. In the second and successive years a large portion of the previous year's enrichment loss is transferred to the state (a state loss).

The school district debt (facilities) funding formula does not reflect the first-year taxable value loss because of lagged property values. In the second and successive years a small portion of the previous year's school district facilities loss is transferred to the state (a state loss).

Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, KK, SD, SJS