

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 6, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3168 by Geren (relating to ad valorem taxation.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3168, Committee Report 1st House, Substituted: a negative impact of (\$28,000) through the biennium ending August 31, 2019.

The cost would increase to (\$7,037,000) beginning in fiscal year 2020.

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	\$0
2019	(\$28,000)
2020	(\$7,037,000)
2021	(\$7,416,000)
2022	(\$7,818,000)

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	\$0	\$0	\$0	\$0
2019	(\$28,000)	(\$8,472,000)	(\$2,494,000)	(\$2,551,000)
2020	(\$7,037,000)	(\$1,998,000)	(\$2,639,000)	(\$2,671,000)
2021	(\$7,416,000)	(\$2,187,000)	(\$2,792,000)	(\$2,797,000)
2022	(\$7,818,000)	(\$2,390,000)	(\$2,955,000)	(\$2,929,000)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Other Special Districts</i>
2018	\$0
2019	(\$1,882,000)
2020	(\$1,989,000)
2021	(\$2,101,000)
2022	(\$2,220,000)

Fiscal Analysis

The bill would amend Chapter 5 of the Tax Code, regarding state administration of property tax, to require an appraisal review board to comply with all procedural requirements included in the Appraisal Review Board Manual prepared and issued by the Comptroller.

The bill would amend Chapter 6 of the Tax Code, relating to local property tax administration, to provide that an appraisal review board chair and secretary are appointed by the local administrative district judge from the members of the appraisal review board. This applies to the appointment of appraisal review board members to terms beginning on or after January 1, 2019. The concurrence of a majority of the appraisal review board members or panel present would be sufficient for a recommendation, determination, decision, or other action. The concurrence of more than a majority may not be required. The bill would repeal Section 6.414 of the Tax Code relating to auxiliary appraisal review board members.

The bill would add new Subchapter D to allow an affected property owner to file a petition directly with the district court to compel an appraisal district, chief appraiser, or appraisal review board to comply with a procedural requirement that is imposed under the Property Tax Code, a Comptroller rule, or an appraisal review board rule of procedure that the property owner alleges has not been complied with. A property owner would not be permitted to file the petition before the 10th day after the date the property owner provides a written notice of the owner's intent to file the petition. The bill would specify requirements related to the recipients and content of the notice. The suit would be for the limited purpose of determining whether the defendant failed to comply with the procedural requirement that is the subject of the suit. The suit would not be permitted to address the merits of an error correction motion or a protest to the appraisal review board and no discovery would be permitted by any party. The bill would provide for other matters related to the suit and would require the court, if it determines that the defendant failed to comply with a relevant procedural requirement to order the defendant to comply with the procedural requirement, enter any necessary order as specified, and award court costs and reasonable attorney's fees to the property owner. The order would be final and no appeal would be permitted.

The bill would amend Chapter 21 of the Tax Code, regarding taxable situs, to provide that if a late application for interstate allocation is approved, the property owner would be liable to each taxing unit for a penalty in an amount equal to 10 percent of the amount of tax imposed by the taxing unit on the property with the allocation (rather than 10 percent of the difference between the amount of tax imposed by the taxing unit on the property without the allocation and the amount of tax imposed on the property with the allocation). A property owner would not be liable for the penalty if the chief appraiser determines that the owner exercised reasonable diligence or substantially complied with the application requirements.

The bill amends various Tax Code sections to adjust deadlines for the notice of appraised value and property owner protests. The bill amends Tax Code Section 25.25(d) to allow a property owner to file a motion to correct the appraisal roll for an error regarding the unequal appraisal or

excessive market value of property if the error resulted in an appraised value of more than one-third of the correct appraised value.

The bill amends Chapter 41 of the Tax Code, regarding local property tax review, to strike language entitling a taxing unit to challenge before the appraisal review board the level of appraisals of any category of property in the district or in any territory in the district, but not the appraised value of a single taxpayer's property. This applies to a petition filed on or after January 1, 2018. For protests scheduled on or after January 1, 2018, the bill prohibits appraisal review board hearings on Sunday and weekday hearings after 7 p.m. The bill would repeal Section 41.44(b-1) of the Tax Code relating to notice of protest.

The bill amends Chapter 41A of the Tax Code, relating to binding arbitration, to allow an appraisal review board correction determination under Tax Code Section 25.25(d) to be appealed to binding arbitration. Currently, one arbitration deposit is allowed for contiguous tracts of land. The bill specifies that a tract of land is considered contiguous with another tract of land if the tract is divided by only a road, railroad track, river, or stream. The bill also modifies the deadline to appeal to binding arbitration from 45 days after notice of the appraisal review board determination to 60 days after that notice. This would apply to a request for binding arbitration filed on or after January 1, 2018.

The bill would take effect January 1, 2018, with various exceptions.

Methodology

Certain provisions of this bill would create a cost to local taxing units and the state through the school finance formula by providing a greater opportunity for property owners to obtain appraised value reductions. These value reduction opportunities would result from the bill's proposals that:

1. effectively extend the binding arbitration filing deadline (45 days after the property owner receives the appraisal review board order) to before the delinquency date (generally February 1 of the following year) for properties that a property owner alleges in an error correction motion are appraised at more than one-third of their proper value; and
2. expand the grounds permitted in an error correction motion by residence homestead owners and certain other property owners to include unequal appraisal.

The bill's provision that reduces the penalty for an approved late interstate allocation application would create an additional cost.

The taxable value loss estimate was based on information from appraisal districts. 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