

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 23, 2017**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: SB669** by Nelson (Relating to the system for protesting or appealing certain ad valorem tax determinations; authorizing a fee.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB669, As Passed 2nd House: a negative impact of (\$1,030,000) through the biennium ending August 31, 2019.

Additionally, passage of the bill would permit certain appraisal roll corrections in the square footage of property which would, in some instances, permit an appraised value reduction for a year or years that would not occur under current law. Passage of the bill would also prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2018	(\$515,000)
2019	(\$515,000)
2020	(\$515,000)
2021	(\$515,000)
2022	(\$515,000)

## All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$515,000)	2.0
2019	(\$515,000)	2.0
2020	(\$515,000)	2.0
2021	(\$515,000)	2.0
2022	(\$515,000)	2.0

## Fiscal Analysis

The bill would amend Chapter 1 of the Tax Code, regarding general property tax provisions, to add certain information that the chief appraiser will introduce at an appraisal review board hearing to the list of items that, if required or permitted to be delivered between a chief appraiser, an appraisal district, an appraisal review board, or any combination of those persons and a property owner or the owner's agent, may be delivered in an electronic format if so agreed by the chief appraiser and the property owner or the owner's agent, with certain exceptions.

The bill would amend Chapter 5 of the Tax Code, regarding state administration of the property tax, to require the Comptroller to appoint a property tax administration advisory board to advise the Comptroller regarding state administration of property tax, and state oversight of appraisal districts and local tax offices. The advisory board would be permitted to make recommendations, which must be provided at a meeting called by the Comptroller and posted on the Comptroller's Internet website, regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures. The bill would specify the make-up of the board, the members of which would serve at the Comptroller's pleasure. The bill would repeal Sections 403.302(m-1) and (n) of the Government Code, related to the Comptroller's Property Value Study Advisory Committee and would make conforming changes related to the advisory board replacing certain duties of the advisory committee.

The bill would require that the mandatory course for members of an appraisal review board provide at least eight hours of classroom education, and that the mandatory appraisal review board continuing education course provide at least four hours of classroom education. The bill would repeal Subsection 41A.06(c) of the Tax Code, regarding arbitrator training, and replace it with more specific provisions requiring the Comptroller to:

1. approve curricula, and provide a free online manual and other materials for training and educating arbitrators;
2. establish and supervise a four hour training program, which may be provided online, on property tax law emphasizing the requirements for equal and uniform property appraisal for the training and education of arbitrators; and
3. prepare an arbitration manual to be approved by unanimous agreement of a committee selected by the Comptroller.

The bill would permit the Comptroller to contract with service providers (other than an appraisal district, a chief appraiser, or an appraisal district employee) for the arbitrator training, would permit the Comptroller to assess a maximum fee of \$50 for each person trained (other than a member of an appraisal review board) and would make other provisions regarding the training of arbitrators. A person requesting a revision to the arbitration manual in writing would be required to pay the cost of mediation if the Comptroller determines that mediation is required. The Comptroller would be required to implement the arbitrator training provisions as soon as practicable after the bill's effective date.

The Comptroller would be required to prescribe tax rate calculation forms to be used by the designated officer or employee of each:

1. taxing unit other than a school district to calculate and submit the no-new-revenue tax rate, and the rollback tax rate for the unit; and
2. school district to calculate and submit the no-new-revenue tax rate, the rollback tax rate, and the rate to maintain the same amount of state and local revenue per weighted student that the district received in the school year beginning in the preceding tax year.

The forms would be required to be in a fillable electronic format and capable of being certified as accurately calculating the applicable tax rates using certified appraisal roll values. The Comptroller would be required to prescribe the forms as soon as practicable after January 1, 2018. The bill would make other specifications regarding the forms. The Comptroller would be required to use the forms published on the Comptroller's Internet website as of January 1, 2017, modified as necessary to comply with the new requirements. The bill would provide for the forms to be updated as necessary to reflect changes in values and to make non-substantive changes at the Comptroller's discretion. The Comptroller would be permitted to revise the forms to reflect certain statutory changes or on receipt of a request in writing if approved by the agreement of a majority of the members of a committee selected by the Comptroller. The bill would specify the makeup of the committee. The bill would provide for mediation regarding a revision if required. The Comptroller would be required to comply with the provisions regarding tax rate calculation forms as soon as practicable after January 1, 2018.

The Comptroller would be required to include school district tax rates in the list of tax rates imposed by each taxing unit in this state as reported by each appraisal district, and to use the tax rates for the year in which the list is prepared (rather than for the preceding year). The Comptroller would be required to prescribe the manner in which appraisal districts submit the list and the deadline for the list, to list the tax rates according to specified criteria, and to publish the list on the Comptroller's Internet website not later than January 1 of the following year. The Comptroller would be required to comply with this provision not later than January 1, 2021.

The bill would repeal Subsections 5.103(e) and (f) of the Tax Code, regarding an appraisal review board survey, and replace them with more specific provisions requiring the Comptroller to prepare a survey form that allows a property owner or the owner's designated agent who files an appraisal roll correction motion or a protest, or a representative of the appraisal district in which the motion or protest is filed, to submit comments and suggestions regarding any matter addressed in the Comptroller's model appraisal review board hearing procedures or any other matter related to the fairness or efficiency of the appraisal review board. An appraisal district would be required to provide the survey to each property owner or designated agent at or before each hearing and with each order determining a motion or protest. Persons choosing to submit the survey form would be required to submit it to the Comptroller. The Comptroller would be required to allow submission of the survey form in person, by mail, by electronic mail, or through a web page on the Comptroller's Internet website. The bill would make other provisions and requirements regarding the completion and deadline for the survey form. The Comptroller would be required to issue an annual report summarizing the survey results, and to make the survey form and instructions available as soon as practicable after the bill's effective date, and would be permitted to adopt rules regarding the appraisal review board surveys.

The bill would amend Chapter 6 of the Tax Code, regarding local administration of the property tax, to include an individual who is related to a member of an appraisal review board within the third degree by consanguinity or within the second degree by affinity in the list of individuals who are ineligible to serve on an appraisal review board. A person would be ineligible to serve on

the appraisal review board of a county having a population of 120,000 or more (rather than more than 100,000) if the person served for all or part of three previous terms as a board member or auxiliary board member on the appraisal review board among other existing reasons for ineligibility. The local administrative district judge (rather than the appraisal district board) would be required to select a chairman and a secretary from among the members of the appraisal review board. The concurrence of a majority of the members of the appraisal review board or a panel of the board present at a meeting of the board or panel would be sufficient for a recommendation, determination, decision, or other action by the board or panel, and a requirement that more than a majority of the members of the board concur would be prohibited.

The bill would establish special appraisal review board panels for properties appraised at \$50 million or more that are in one of the specified property categories in a county with a population of 1 million or more. The bill would prescribe the size, eligibility requirements, and other matters related to the special appraisal review board panels.

The bill would provide that an appraisal district board of directors for an appraisal district established in a county with a population of one million or more by resolution of a majority of the board's members is required to increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate to manage the duties of the appraisal review board, including the established duties of special panels. In selecting individuals who are to serve as members of the appraisal review board, the local administrative district judge would be required to select an adequate number of qualified individuals to permit the chairman of the appraisal review board to fill the positions on each special panel. These provisions would apply to appraisal review board appointments for terms beginning on or after January 1, 2019.

An auxiliary board member would not be permitted to hear taxpayer protests before a special panel unless the member is eligible to be appointed to the special panel.

The bill would amend Chapter 25 of the Tax Code, regarding local property tax appraisal, to provide that, effective January 1, 2019, in an appraisal district with a population of one million or more, in addition to other required information, the chief appraiser shall state in a notice of appraised value that the property owner has the right to a protest to be heard by a special panel of the appraisal review board. Effective January 1, 2020, the bill would strike the requirement that if the appraised value is greater than it was in the preceding year, the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year be included in a notice of appraised value. Until that date this requirement applies only to a notice of appraised value required to be delivered by the chief appraiser of an appraisal district established in a county with a population of less than 120,000.

The bill would add an error in the square footage of a property to the list of errors for which an appraisal review board, on motion of the chief appraiser or of a property owner, may correct the appraisal roll for any of the five preceding years.

The bill would amend Chapter 26 of the Tax Code, regarding property taxation and assessment, to re-name the effective tax rate as the "no-new-revenue tax rate" and the effective maintenance and operations tax rate as the "no-new-revenue maintenance and operations tax rate". The designated officer or employee of a taxing unit other than a school district would be required to use the tax rate calculation forms prescribed by the Comptroller in calculating the no-new-revenue tax rate and the rollback tax rate. The designated officer or employee would not be permitted to submit these rates to the governing body of the taxing unit and the unit would not be permitted to adopt a tax rate until the designated officer or employee certifies on the tax rate calculation forms that the tax rate calculations are accurate and the values are the same as the values shown in the unit's

certified appraisal roll.

Taxpayer notices containing specified tax bill information would be required. The bill would revise requirements for certain public tax rate hearings and for related notices.

A person who owns taxable property would be entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the taxing unit or chief appraiser has not complied with certain computation, publication, posting or other requirements (rather than has not complied and the failure to comply was not in good faith). A property owner's action to enjoin the collection of taxes would be required to be filed not later than the 15th day after the date the taxing unit adopts a tax rate. The bill would specify other matters related to the injunction including that if the property owner pays the taxes and subsequently prevails in the action, the property owner is entitled to a refund of the taxes paid, together with reasonable attorney's fees and court costs.

Each appraisal district would be required to maintain a searchable, continuously updated, and publicly accessible property tax database containing specified information regarding property values, property taxes, various kinds of tax rate, hearing dates, and other related information. A taxing unit would not be permitted to hold a public hearing on a proposed tax rate until the 14th day after the date the officer or employee designated by the taxing unit has entered certain specified information into the database and submitted the specified calculation forms to the appraisal district. A taxing unit other than a school district would not be permitted to adopt a tax rate until:

1. the chief appraiser has delivered a specified notice and incorporated the tax rate calculation forms into the property tax database and made them available to the public;
2. the designated officer or employee of the taxing unit has entered in the property tax database the required information for the current tax year; and
3. the taxing unit has posted the required information on the Internet website used by the taxing unit for that purpose.

Each taxing unit would be required to maintain or have access to a generally accessible Internet website including specified budget, tax rate, tax revenue, and audit information in a format prescribed by the Comptroller.

The bill would amend Chapter 41 of the Tax Code, regarding local review, to strike the provision permitting 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. A notice of protest would be required to permit a property owner to request that the protest be heard by a special panel if the protest will be determined by an appraisal review board that has special panels and the property is in a category for which a special panel is provided. The bill would make other provisions for special panels.

A chief appraiser would be prohibited from charging a property owner or the owner's agent for copies of certain pamphlets, data, and procedures related to an appraisal review board hearing regardless of the manner in which the copies are prepared or delivered. A chief appraiser would be required to deliver certain information that the chief appraiser will introduce at an appraisal review board hearing by regular first class mail, in a certain electronic format, or by reference to a website. The bill would provide that a property owner or owner's agent may choose to receive the information by regular first class mail and that the chief appraiser must comply.

An appraisal review board would be prohibited from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in

the appraisal records submitted to the board by the chief appraiser. An appraisal review board would be permitted to schedule consecutive hearings on all protests filed by a property owner or the owner's agent. The bill would specify the contents of the notice of the consecutive hearings, and require that the order of the hearings listed in the notice not be changed without the agreement of the property owner (or agent), the chief appraiser, and the appraisal review board. The bill would make other provisions regarding the scheduling and notice of consecutive hearings. The bill would clarify certain matters, modify evidence exchange, adjust certain deadlines, and make conforming changes regarding appraisal review board hearings and determinations. The changes in law to Chapter 41 protest procedures would apply only to a protest for which the notice of protest was filed by a property owner or the owner's agent on or after the effective date of this bill.

The bill would amend Chapter 41A of the Tax Code, regarding property tax appeals through binding arbitration, to permit a property owner to appeal an appraisal review board order concerning the appraised or market value of property to binding arbitration if the property is the owner's residence homestead, or the appraised or market value, as applicable, of the property is \$5 million or less (rather than \$3 million or less), A property owner's arbitration deposit would be \$1,250, if the property subject to arbitration does not qualify as the owner's residence homestead and the appraised or market value, as applicable, of the property is more than \$3 million but not more than \$5 million, as determined by the order. To initially qualify to serve as an arbitrator a person would be required, in addition to existing qualification requirements, to complete the appraisal review board and property tax law training provided by the bill, and to agree to conduct an arbitration for a fee that is not more than \$1,200, if the property does not qualify as the owner's residence homestead and the appraised or market value, as applicable, of the property is more than \$3 million but not more than \$5 million, as determined by the order.

The changes in law to Chapter 41 arbitrator qualification requirements would not affect the entitlement of a person serving as an arbitrator immediately before the effective date of the bill to continue to serve as an arbitrator and to conduct hearings on arbitrations until the person is required to renew the person's agreement with the Comptroller to serve as an arbitrator. The changes in law apply only to a person who initially qualifies to serve as an arbitrator or who renews the person's agreement with the Comptroller to serve as an arbitrator on or after the bill's effective date. The bill would not prohibit a person who is serving as an arbitrator on the effective date from renewing the person's agreement with the Comptroller to serve as an arbitrator if the person has the qualifications required for an arbitrator under the Tax Code as amended by the bill.

The bill would prohibit an appraisal review board from beginning the first hearing on a protest on a weekday evening after 7 p.m. or holding a hearing on a Sunday.

The bill would make conforming repeals and conforming changes in various codes.

Except as otherwise provided, this bill would take effect January 1, 2018.

## **Methodology**

The bill's provision that would permit certain appraisal roll corrections in the square footage of property would, in some instances, permit an appraised value reduction for a year or years that would not occur under current law. The number of such instances and the property value reduction is unknown; consequently, the cost of this provision cannot be estimated. The bill's provision that would prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records could create a cost to local taxing units and to the state through the school

funding formulas. Currently, an appraisal review board may increase, decrease or make no change to a property's appraised value. Because information on the number of properties for which the value is increased by an appraisal review board is unknown, the cost cannot be estimated.

The administrative cost for the Comptroller's Office, estimated in the table above, reflects the funds that would be necessary to hire two program specialists IIIs to support the appraisal review board survey provisions and \$362,000 to employ seasonal workers. The bill requires an appraisal district to provide a hardcopy of the survey to every property owner or their agent who files a protest or a motion to correct the appraisal roll. Currently, the Comptroller's Office only accepts electronically submitted surveys. In 2016, 7,785 property owners electronically submitted surveys and additional surveys were submitted by agents and members of the public. While not every survey will be submitted by hardcopy under this bill, the number of hand written surveys will significantly increase. Hand entry of a survey (provided in person, mailed, or accepted by email) takes approximately 25 minutes to process which amounts to 406 days or 2 FTEs.

This analysis anticipates that the Property Tax Assistance Division (PTAD) of the Comptroller's Office would become the resource for individual taxpayers and more than 4,200 taxing authorities when there are questions or issues about the calculation of a tax rate. Each year, from June 15 through September 15, the Comptroller's Office would need to contract with one property tax attorney and three Truth in Taxation subject matter experts to handle the increased number of legal and worksheet related questions during this peak period while tax rates are calculated. The agency would also need to employ seasonal workers to input binding arbitration information during peak periods. PTAD experienced a 400 percent increase in binding arbitration requests from 2015 to 2016, prompting the need for seasonal staff. The Comptroller's Office anticipates requests to continue to grow, in part due to the increased eligibility limit for binding arbitration.

### **Local Government Impact**

Passage of the bill would permit certain appraisal roll corrections in the square footage of property which would, in some instances, permit an appraised value reduction for a year or years that would not occur under current law. Passage of the bill would also prohibit an appraisal review board from determining the appraised value of a protested property to be an amount greater than the appraised value of the property as shown in the appraisal records. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, KK, SD, SJS