

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

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

**May 18, 2017**

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

**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.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB669, Committee Report 2nd House, Substituted: a negative impact of (\$406,000) through the biennium ending August 31, 2019.

Additionally, passage of the bill 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. 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 to the extent that appraisal review boards would otherwise increase a property's appraised value.

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	(\$203,000)
2019	(\$203,000)
2020	(\$203,000)
2021	(\$203,000)
2022	(\$203,000)

## 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	(\$203,000)	2.0
2019	(\$203,000)	2.0
2020	(\$203,000)	2.0
2021	(\$203,000)	2.0
2022	(\$203,000)	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 owners'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, 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 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, 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 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, to adopt rules regarding the appraisal review board surveys, and to make the survey form and instructions available as soon as practicable after the bill's effective date.

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 amend Chapter 41 of the Tax Code, regarding local review, to prohibit a chief appraiser 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.

The bill 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 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.

This bill would take effect on January 1, 2018.

## **Methodology**

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 estimate for the Comptroller's Office reflects the funds that would be necessary to hire two program specialists IIIs to support the appraisal review board survey provisions.

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 two FTEs.

The administrative cost estimate also includes \$50,000 to employ seasonal workers to input binding arbitration information during peak periods. The Property Tax Assistance Division experienced a 400 percent increase in binding arbitration requests from 2015 to 2016, prompting

the need for seasonal staff. We anticipate requests to continue to grow, in part due to the increased eligibility limit for binding arbitration.

### **Local Government Impact**

Passage of the bill 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. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced to the extent that appraisal review boards would otherwise increase a property's appraised value.

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

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