

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

February 25, 2019

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Property Tax

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: SB67 by Nelson (Relating to the administration of the ad valorem tax system; authorizing a fee.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 5 of the Tax Code regarding state administration to require the Comptroller to appoint a property tax administration advisory board to advise the Comptroller with respect to the Comptroller's responsibility for state administration of property taxation and oversight of appraisal districts and local tax offices. The advisory board would be permitted to make recommendations to the Comptroller regarding certain improvements of the property tax system. The members of the advisory board would be required to make any recommendations regarding improvements to the property tax system at a meeting called by the Comptroller. The bill would repeal Sections 403.302(m-1) and (n) of the Government Code regarding the Comptroller's property value study advisory committee and would strike references to the property value study advisory committee.

The required course for members of an appraisal review board would be required to provide at least eight hours of classroom training and education. The required continuing education course for members of an appraisal review board would be required to provide at least four hours of classroom training and education. The Comptroller would be permitted to assess the maximum \$50 fee to persons that take either course and are not members of an appraisal review board.

The Comptroller would be required to:

- approve curricula and provide an arbitration manual and other materials for use in training and educating arbitrators;
- make all materials for use in training and educating arbitrators freely available online, and
- establish and supervise a training program on property tax law for the training and education of arbitrators.

The bill repeals Section 6.412(e) of the Tax Code requiring four hours of certain arbitrator training and instead would require that the Comptroller training program be at least four hours in length and would make other provisions for the training program including permitting the Comptroller to assess a \$50 per person fee. The Comptroller would be required to prepare an arbitration manual for use in the training program.

The bill would require the Comptroller to prepare an appraisal review board survey form that allows a property owner attending a hearing whose property is the subject of an error correction

motion or an appraisal review board protest, that property owner's representative, and the relevant appraisal district representative to submit comments and suggestions to the Comptroller regarding an appraisal review board. The Comptroller would prepare the form's instructions and establish and maintain a web page for electronic completion and submission of the form. The bill would specify an appraisal district's duties regarding providing the form to the relevant property owners. The form would be submitted to the Comptroller by mail, in person, by electronic mail, or through the webpage. The Comptroller would be required to issue an annual report that summarizes the information included in the survey forms submitted during the preceding tax year. The Comptroller would be permitted to adopt rules necessary to implement the appraisal review board survey form process.

The bill would amend Section 6.412 of the Tax Code regarding restrictions on eligibility of appraisal review board members to make an individual ineligible to serve on an appraisal review board if the individual is related within the third degree by consanguinity or within the second degree by affinity to a member of the appraisal review board. The bill would repeal Section 6.412(e) of the Tax Code regarding the ineligibility of appraisal review board members to serve more than three years. A person would be ineligible to serve in a county having a population of more than 120,000, rather than 100,000, if the person met certain conditions including 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.

The bill would amend Section 6.42 of the Tax Code regarding organization, meetings, and compensation to provide that the local administrative district judge in the county in which the appraisal district is established (rather than the appraisal district board of directors) shall 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 would be sufficient for a recommendation, determination, decision, or other action by the board or panel.

Chapter 41 of the Tax Code regarding local review would be amended to adjust the written notice to the property owner initiating a protest to include the subject matter of the hearing. The appraisal review board would be required to deliver to the protesting property owner notice of a protest hearing by certified mail if the owner requests such delivery. The bill would prohibit the use of information that was previously requested by the protesting party but not delivered at least 14 days before the first scheduled hearing from being used or offered in any form as evidence in the hearing including as a document or through argument or testimony. The bill would amend other provisions related to the delivery of a notice of certain matters before the hearing, and related to the delivery of requested information.

An appraisal review board would not be permitted to determine the appraised value of the property that is the subject of a protest 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 required to determine the protest by written order and deliver the order to the property owner and chief appraiser not later than the 15th day after the hearing on the protest is concluded. The bill would permit an appraisal review board to schedule consecutive hearings for all protests filed by a property owner or the owner's designated agent and would provide requirements for relevant notices and scheduling. At the end of a protest hearing an appraisal review board would be required to provide the property owner or the owner's agent one or more documents indicating that the members of the board hearing the protest signed the required affidavit regarding prohibited communications. The bill would make other provisions regarding the scheduling and conduct of appraisal review board hearings.

Chapter 41A of the Tax Code regarding appeal through binding arbitration would be amended to require that, to initially qualify as an arbitrator, a person must complete the required courses for training and education of appraisal review board members, be issued a certificate for each course indicating course completion, and complete the required arbitration training program on property tax law. The bill would add to the reasons that require the Comptroller to remove a person from the arbitrator registry a person's failure to complete a revised training program on property tax law not later than the 120th day after the date the program is available. The new reason for removal would apply only if the Comptroller revises the program after the person is included in the registry and has certified that the program is substantially revised.

The bill would make other conforming and clarifying changes.

The bill would take effect on January 1, 2020, except that:

- Section 5.041 of the Tax Code, as amended, regarding appraisal review board training would apply only to an appraisal review board member appointed to serve a term of office that begins on or after the effective date;
- the Comptroller would be required to implement new Section 5.043 of the Tax Code regarding training of arbitrators as soon as practicable after the effective date;
- the Comptroller would be required to establish the web page and prepare and make available the survey form with the instructions required by new Section 5.104 of the Tax Code as soon as practicable after the effective date;
- Section 6.412 of the Tax Code regarding restrictions on eligibility of board members as amended would not affect the eligibility of a person serving on an appraisal review board immediately before the effective date to continue to serve on the board for the term to which the member was appointed;
- new Section 6.42(d) of the Tax Code regarding concurrence of a majority of the members of the appraisal review board would apply only to a recommendation, determination, decision, or other action on or after the effective date;
- the bill's changes to Chapter 41 of the Tax Code apply only to a protest for which the notice of protest was filed by a property owner or the owner's designated agent on or after the effective date; and
- the bill's changes in the qualifications of persons serving as arbitrators would not affect the entitlement of a person serving as an arbitrator immediately before the effective date 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 bill would not prohibit a person 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 as amended by the bill.

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. Instances in which an appraisal review board increases the value of a protested property are expected to be rare. Because no information is available on properties for which the value is increased by an appraisal review board, however, the cost cannot be estimated but would not be expected to be significant.

The Comptroller's office reports that administrative costs to implement provisions of the bill would total \$150,000 per year starting in fiscal year 2020.

The administrative cost estimate reflects the funds that would be necessary to hire two program

specialists IIIs to support the appraisal review board survey provisions.

The bill requires the Comptroller to allow property owners, agents, or appraisal district employees who attend appraisal review board hearings to submit a survey by hardcopy or email. Currently, the Comptroller's office only accepts surveys that are electronically submitted in such a way that the data may be automatically compiled. In 2018, 13,466 individuals who attended appraisal review board hearings submitted surveys electronically. While not every survey will be submitted by hardcopy under this bill, the number of handwritten surveys will significantly increase. Hand entry and processing of surveys will require two FTEs.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: WP, KK, SD, SJS, LCO, AF