LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 16, 2021

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB988** by Shine (Relating to the system for appraising property for ad valorem tax purposes; creating a criminal offense.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB988, As Engrossed : a negative impact of ($486,000) through the biennium ending August 31, 2023.

In addition to the administrative costs for the Comptroller's office, other costs associated with implementing the provisions of the bill cannot be determined.

Provisions of the bill which authorize a taxing unit in a declared disaster area to extend by official action the number of days from 175 to 270, that certain personal property may remain at a defined location before losing eligibility for a goods in transit exemption could result in taxable values being reduced and the related costs to the Foundation School Fund increased through the operation of the school finance formulas. The frequency and location of future disasters and how many taxing units would choose to extend this exemption is unknown; consequently, the cost of this provision cannot be estimated.

Provisions of the bill which provide that a change in the use of land from qualifying open-space land to a non-qualifying use in which the physical characteristics of the land remain consistent with the physical characteristics of the land during the period for which the land was eligible for special appraisal is not subject to the additional tax penalty and interest as a result of changing the use of the land would be a cost to local taxing units and to the state through the operation of the school funding formula. The number and value of acres that have lost the special appraisal designation or that would lose the designation in the future, but retain certain physical characteristics is unknown. As a result, the cost of this provision cannot be estimated.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	**Probable Net Positive/(Negative) Impact to *General Revenue Related Funds***
2022	($333,000)
2023	($153,000)
2024	($153,000)
2025	($153,000)
2026	($153,000)

All Funds, Five-Year Impact:

Fiscal Year	**Probable Savings/(Cost) from** *General Revenue Fund* **1**	*Change in Number of State Employees from FY 2021*
2022	($333,000)	2.0
2023	($153,000)	2.0
2024	($153,000)	2.0
2025	($153,000)	2.0
2026	($153,000)	2.0

Fiscal Analysis

The bill would amend Chapter 5 of the Tax Code, regarding state administration of property tax to require an appraisal review board (ARB) to incorporate model hearing procedures prepared by the Comptroller when adopting hearing procedures. The bill would allow an ARB to adopt procedures that supplement the model hearing procedures, provided they do not contradict or circumvent the model hearing procedures. The bill would require the Comptroller to review the hearing procedures adopted by each ARB.

The bill would require the ARB Survey report issued by the Comptroller to include a summary of comments, complaints, and suggestions forwarded by taxpayer liaison officers, the results of the Comptroller's review of ARB hearing procedures, and the results of requests for limited binding arbitration.

The bill would require the appointment of a taxpayer liaison office for all counties, regardless of size. The bill provides for counties with a population less than 120,000, a taxpayer liaison officer can serve for more than one appraisal district. The bill would allow a person who owns property in an appraisal district or the chief appraiser to file a complaint with the taxpayer liaison officer alleging ARB adopted or is implementing hearing procedures that are not in compliance with the model hearing procedures prepared by the Comptroller. The bill would require the taxpayer liaison officer to investigate the complaint and report to the board of directors. If the board of directors determines that the allegations are true, the board of directors is required to direct the chairman of the ARB to take remedial action. The board may remove the chairman if the board determines the chairman failed to act.

The bill would amend Chapter 41A of the Tax Code regarding appeals through binding arbitration, to authorize a property owner who has filed a notice of protest to file a request for limited binding arbitration to compel the ARB or chief appraiser take certain action specified in the bill. A property owner would be prohibited from filing a request for binding arbitration unless the property owner delivered written notice to the chairman of the ARB, the chief appraiser, and the taxpayer liaison officer for the applicable appraisal district and the chairman of the ARB or chief appraiser fail to agree to comply with the procedural requirement on or before the 10th day after the date the notice is delivered.

The bill would require a request for limited binding arbitration be in a form prescribed by the Comptroller and be accompanied by an arbitration deposit. The bill would establish arbitration deposit amounts, fees, and payment requirements upon result of the arbitration.

If an arbitrator determines that ARB is not in compliance with procedural requirements, the bill requires the ARB to come into compliance or, if an ARB order was already issued, rescind the order and hold a new hearing.

The bill would add new section to Chapter 41 of the Tax Code, regarding local review, to require an ARB to schedule an informal conference with each property owner who files a notice of protest to be held before the hearing on the protest. The bill would require the informal conference to be more than five days before the protest hearing. The bill would require the informal conference be canceled if the property owner informs the appraisal office, in writing, that the owner elects not to participate in the conference. The bill would stipulate failure to appear at the informal conference does not prevent the ARB from hearing the protest and issuing an order determining the protest.

The bill would create a state jail felony for communicating with a chief appraiser or other appraisal district employee for the purpose of influencing the value at which property in the district is appraised.

The bill would amend Chapter 11 of the Tax Code, regarding taxable property and exemptions, to increase the number of days that a governing body may permit property to remain at a particular location and remain eligible for a goods in transit exemption. The bill would authorize a taxing unit in a declared disaster area to extend by official action the number of days from 175 to 270, that certain personal property may remain at a defined location before losing eligibility for the tax exemption.

The bill would amend Section 23.55 of the Tax Code, regarding additional property taxes and interest imposed on a taxpayer who changes the use of land qualified for special appraisal as open-space agricultural land. The bill would provide that a property owner may request in writing that the chief appraiser determine whether a change of use of the property owner's land has occurred. The bill would require the chief appraiser to provide the property owner with a written determination whether the current use of the land resulted in a change of use of the land within 90 days of receiving the request. The bill would prohibit the chief appraiser from later determining that a change of use of the land has occurred based on the use described in the written determination. The bill would provide that a change in the use of land in which the physical characteristics of the land remain consistent with the physical characteristics of the land during the period for which the land was eligible for special appraisal is not subject to the additional tax penalty and interest.

The bill would amend Chapter 25 of the Tax Code, regarding property taxation and local appraisal, to provide that each appraisal record has a unique account number and an owner must be notified of any changes in the account number in the notice of appraised value. The bill would prohibit a chief appraiser from delivering a corrected or amended notice of appraised value later than June 1 for property for which a person files a rendition statement or property report unless to correct a clerical error or to include omitted property.

The bill would amend Chapter 41 of the Tax Code, regarding local appraisal review, to permit a protest to be heard by a single-member panel on request of the property owner and to provide that if the recommendation of a single-member panel is not accepted by the board, the board may refer the matter for rehearing to a different single-member panel or the board may determine the protest. The bill would require an ARB determination of value to list separately the value of the land and improvements. The bill would provide special provisions for appraisal districts established in counties with a population of 120,000 or more. The bill would prohibit a property owner from appealing separately the portion of an order of an ARB determining the appraised value of land or the portion of the order determining the appraised value of an improvement to the land if the order determined the appraised value of both.

Except as otherwise provided, the bill would take effect January 1, 2022.

Methodology

The bill's proposed grant of authority to taxing units to extend the deadline for goods in transit would create a cost to taxing units and to the state through the operation of the school finance formula to the extent that taxing units that exempt goods in transit property choose to extend the deadline. Many taxing units took action to tax this personal property under previous constitutional authority to do so, and the exemption does not apply in those districts. The frequency and location of future disasters and how many taxing units would choose to extend this exemption is unknown; consequently, the cost of this provision cannot be estimated.

Land qualified for open-space appraisal is appraised according to a special appraisal formula that results in an appraised value significantly less than market value. Tax Code Section 23.55 imposes an additional property tax and interest when a property owner changes the use of land receiving a special reduced appraisal from a use which qualifies for special agricultural productivity or open space appraisal to a non-qualifying use (ag rollback tax). The bill's provision exempting land from this additional tax and interest as long as the physical characteristics of the land remain consistent with the physical characteristics of the land when it qualified for special appraisal would be a cost to local taxing units and to the state through the operation of the school funding formula. The number and value of acres that have lost the special appraisal designation or that would lose the designation in the future, but retain certain physical characteristics is unknown. As a result, the cost of this provision cannot be estimated.

The provisions requiring an appraisal district to split or combine parcels at the request of a property owner could have an indeterminate fiscal impact to units of local government and to the state.

The bill would require the Comptroller's Property Tax Assistance Division (PTAD) to receive and review each ARB's hearing procedures and receive and compile data from every County Appraisal District's taxpayer liaison officer annually. The bill would expand PTAD's reporting to include data and analysis on the ARB hearing procedures review, taxpayer liaison reporting, and limited arbitrations. The Comptroller's office indicates that implementing the provisions of the bill will require require hiring one Program Specialist III to complete these additional data collection, analysis, and reporting duties. The bill would establish a new type of limited arbitration, which the Comptroller's office expects would require hiring one Program Specialist IV to provide support. The Comptroller's office expects annual costs of $333,000 in fiscal year 2022 and $153,000 in each subsequent year. The cost estimate includes a one-time technology cost of $180,000 for updating and enhancing the arbitration system and $153,000 per year for staffing-related costs.

Technology

The Comptroller's office estimates that implementing the provisions of the bill will result in a one-time technology cost of $180,000 in fiscal year 2022. The costs are for an estimated 1,200 programming hours to update and enhance the arbitration system to support the new duties of the Property Tax Assistance Division required by the bill.

Local Government Impact

Provisions of the bill would modify requirements for the operation of Appraisal Review Board hearings, add a new option for binding arbitration, and require all appraisal districts to appoint a taxpayer liaison office, which could increase costs for local taxing units.

Provisions of the bill which authorize a taxing unit in a declared disaster area to extend by official action the number of days from 175 to 270, that certain personal property may remain at a defined location before losing eligibility for a goods in transit exemption could result in taxable values and the related ad valorem tax revenue being reduced. The frequency and location of future disasters and how many taxing units would choose to extend this exemption is unknown; consequently, the cost of this provision cannot be estimated.

Provisions of the bill which provide that a change in the use of land from qualifying open-space land to a non-qualifying use in which the physical characteristics of the land remain consistent with the physical characteristics of the land during the period for which the land was eligible for special appraisal is not subject to the additional tax penalty and interest as a result of changing the use of the land would be a cost to local taxing units. The number and value of acres that have lost the special appraisal designation or that would lose the designation in the future, but retain certain physical characteristics is unknown. As a result, the cost of this provision cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, AF, SD, BRI, KK, MBO