

BILL ANALYSIS

C.S.H.B. 2488
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2009, the legislature passed S.B. 771 in response to taxpayer complaints that appraised property values were increased despite being lowered in a protest or appeal in the prior year. As evidenced in the bill analysis for this legislation, it was the clear intent of the bill was to address the burden of proof an appraisal district must carry at the appraisal review board through appeals at the district court. The background and purpose portion of the analysis read in part:

Currently, appraisal districts do not have a standard for setting values on properties following a year in which the property's market value was determined to be lower than the initial value through the protest process. Even though a lower value was achieved through protest, in the subsequent year, a property owner often receives an initial value that is the same or higher than the initial valuation that was the subject of the preceding year's protest, even if there has been little or no change to the property since the previous year's value had been finally established. As a result, property owners are forced to protest the value, often resulting in litigation, and each year having to present the same issues as presented the previous year with substantially the same outcome.

Addressing this issue further, the legislature enacted H.B. 1313 in 2019, which changed the requisite evidentiary standard to support an increase in value from substantial evidence to clear and convincing evidence. This was in response to appraisal districts again raising appraised values without providing sufficient evidence justifying the increase. The legislature intended for an appraisal district to be bound by this standard in an appeal of the appraised value of property before a court. Any other reading would cause an unjust result and render the statute meaningless.

Recent court rulings have called into question whether the "clear and convincing" evidentiary requirement applies to de novo appeals under the Tax Code. One purpose of imposing the clear and convincing standard is to prevent repetitious litigation over the same set of facts and issues year over year.

C.S.H.B. 2488 seeks to again address this issue by clearly establishing that the appraisal district has the burden of proof in certain trial de novo appeals of property values if the value of the property subject to the appeal was lowered in the preceding year.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2488 amends the Tax Code to establish that, in a trial for a de novo appeal in a district court of an order by an appraisal review board determining a taxpayer protest or of a motion correcting the appraisal roll, involving an increase in appraised value where the appraised value of the property was lowered the previous tax year as a result of a qualifying taxpayer protest, the appraisal district has the burden of establishing an increase in a property's appraised value by clear and convincing evidence. This provision applies only to an appeal filed on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2488 may differ from the introduced in minor or nonsubstantive ways, including by conforming to certain bill drafting conventions, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced placed the burden of supporting an increase in a property's appraised value during a trial de novo appeal of an applicable taxpayer protest on both the appraisal district and the district's chief appraiser specifically, the substitute places that burden only on the appraisal district. Moreover, the substitute includes a specification absent from the introduced that the requisite evidentiary standard to satisfy this burden is clear and convincing evidence.

The substitute omits a provision from the introduced that makes applicable to appraisal review boards the statutory provision conditioning the authority of a chief appraiser to increase the appraised value of a property the final value of which was determined for the previous tax year after a taxpayer protest lowered the appraised value on the increase being reasonably supported by clear and convincing evidence when all reliable and probative evidence in the record is considered as a whole.

The introduced provided for the possible immediate effect of the bill's provisions, whereas the substitute establishes the bill's effective date as September 1, 2023, and provides for a transition between the old and new law.