

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2488
By: Geren et al. (Alvarado)
Local Government
5/20/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

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.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 2488 amends current law relating to the burden of proof in certain ad valorem tax appeals.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 42.23, Tax Code, by adding Subsection (i), as follows:

(i) Provides that this subsection applies only to an appeal under Chapter 42 (Right of Appeal by Property Owner) of an order of an appraisal review board determining a protest under Subchapter C (Taxpayer Protest), Chapter 41, or a motion under Section 25.25 (Correction of Appraisal Roll), involving an increase in the appraised value of property under the circumstances described by Section 23.01(e) (relating to providing that the appraised value of the property as finally determined, if the appraised value of the property in a tax year is lowered, is considered to be the appraised value of the property for that tax year) or 41.43(a-3) (relating to providing that an appraisal district, in a protest authorized by certain statutes, has the burden of establishing the value of the property by clear and convincing evidence presented at the hearing if certain criteria are met). Provides that the appraisal district has the burden of establishing the appraised value of the property subject to the appeal by clear and convincing evidence if the appraised value of the property for the preceding tax year was determined under this chapter at a trial held on the merits.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.