

BILL ANALYSIS

C.S.H.B. 3364
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 3364 seeks to reform the property tax appraisal process to increase fairness to taxpayers and expand taxpayer rights and participation. With additional notification requirements and increased transparency, taxpayers will be better protected and equipped to engage in procedures related to the property tax appraisal process.

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. 3364 amends the Tax Code to set out and revise provisions relating to the system for appraising property for property tax purposes.

Notice of Appraised Value of Property in Supplemental Appraisal Records

C.S.H.B. 3364 requires the notice of appraised value of property in the supplemental appraisal records pertaining to property that was not on the appraisal roll in the preceding year because it was omitted from the roll to be sent by certified mail.

Designated Property Tax Agent

C.S.H.B. 3364 removes the requirement for an agent who electronically submits a designation of agent form to provide the chief appraiser information concerning the Internet Protocol address of the computer the person used to complete the form. This applies only to a written request for information made by a chief appraiser on or after the bill's effective date.

Appraisal Review Board Member Training

C.S.H.B. 3364 requires at least one trainer of the initial and continuing education training programs for members of an appraisal review board (ARB) to be a taxpayer representative who resides in Texas. An individual is eligible to be a trainer who is a taxpayer representative only if the following conditions are satisfied:

- the individual:
 - is licensed to practice law in Texas and has practiced law in Texas for at least five years; and

- has knowledge and experience in property tax law; and
- the individual has not:
 - represented an appraisal district, ARB, or taxing unit in any capacity;
 - served as an officer or employee of an appraisal district; or
 - served as a member of an ARB.

These provisions apply only to a course provided on or after the bill's effective date.

Appraisal Districts

C.S.H.B. 3364 requires an appraisal district established in a county with a population of 120,000 or more to maintain a website. The bill requires the chief appraiser of such an appraisal district to post on the district's website the district's appraisal records, other than records that are confidential under law, and continuously update the posted records to include any change in the appraised value of property.

Taxpayer Protests

C.S.H.B. 3364 reenacts and amends Section 41.45(b-1), Tax Code, as amended by Chapters 965 (S.B. 1919) and 644 (H.B. 988), Acts of the 87th Legislature, Regular Session, 2021, to, as follows:

- conform to changes made by H.B. 988, with respect to the circumstances under which a taxpayer may appear at a protest hearing remotely by retaining only the option for the taxpayer to elect for remote appearance and removing the option for the ARB to propose a remote hearing;
- conform to changes made by S.B. 1919, with respect to the means by which that remote appearance may occur, which are either telephone conference call or videoconference, as specified by the property owner; and
- change the last day for a property owner to file written notice with an ARB of their intention to appear at a protest hearing remotely by either such means that triggers the requirement for the ARB to conduct the hearing by such remote means from the 10th day before the hearing date to the fifth day before that date.

These provisions apply to a protest for which a notice of protest is filed by a property owner on or after the bill's effective date.

C.S.H.B. 3364 requires an ARB that dismisses a protest on jurisdictional grounds to make its decision by written order and state in the order the grounds for its determination. This requirement applies only to a protest for which a notice of protest is filed by a property owner on or after the bill's effective date.

C.S.H.B. 3364 changes the deadline for an ARB to deliver written notice of a good cause hearing on the issuance of a subpoena relating to a protest to the party being subpoenaed and parties to the protest from the 5th day before the hearing date to the 15th day before the hearing date. This changes applies only to a subpoena issued on or after the bill's effective date.

Binding Arbitration

C.S.H.B. 3364 entitles a person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property, as an alternative to an appeal in district court, to appeal through binding arbitration an ARB order determining a protest concerning the appraised or market value of a property if the protest was brought by the person leasing the property before the ARB or if the protest was brought by the property owner if the property owner does not appeal the order. This entitlement applies only if the appraised or market value, as applicable, of the property as determined by the order is \$5 million or less. The bill establishes that the person appealing the order is considered the property owner for purposes of the appeal and requires the comptroller of public accounts to deliver a copy of any notice relating to the appeal to the property owner and to the person bringing the appeal.

C.S.H.B. 3364 expands the scope of the authorization for a property owner who files notice of a property tax protest to request limited binding arbitration in order to compel compliance by a chief appraiser or ARB, as appropriate, to rescind procedural rules adopted by the ARB that are not in compliance with the model hearing procedures prepared by the comptroller so as to authorize the property owner also to compel compliance with hearing procedures adopted by the ARB. The bill expands the matters that may be the subject of an arbitration request to include, for a protest on the ground of unequal appraisal of property, using the appraised values of comparable properties as corrected by an agreement between the property owner or the owner's agent and the chief appraiser or a determination of the ARB.

Discovery During Appeal

C.S.H.B. 3364 prohibits the district court hearing an appeal of an ARB order in a taxpayer protest from ordering discovery unless the discovery is requested by a party to the appeal. The bill further prohibits the court from imposing deadlines for discovery related to an expert witness, including deadlines for designating an expert witness, that fall before the deadlines specified by the Texas Rules of Civil Procedure or otherwise accelerating discovery related to an expert witness, unless agreed to by the parties. These provisions apply 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. 3364 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced required the general notice of appraised value pertaining to property that was not on the appraisal roll in the preceding year because it was omitted from the roll to be sent by certified mail, the substitute requires instead that the notice of appraised value of property in the supplemental appraisal records pertaining to any such property be sent by certified mail.

The substitute does not include the provisions from the introduced revising required hours of specified training in the ARB member training course. The substitute retains the requirement from the introduced for at least one trainer of an ARB training program to be a taxpayer representative but establishes limitations on who may serve in that capacity, whereas the introduced did not include such limitations.

Whereas the introduced decreased the number of terms an applicable individual may serve as a member of an appraisal district's board of directors, the substitute does not.

The substitute includes a provision not in the introduced requiring an ARB that dismisses a protest on jurisdictional grounds to make its decision by written order and to state in the order the grounds for its determination. The substitute does not include the requirement present in the introduced for an ARB that dismisses a protest because the property owner or the owner's designated agent did not appear at the hearing on the protest to deliver written notice of the dismissal to the property owner or the agent who failed to appear.

Whereas the introduced required the chief appraiser to deliver to a leasing person bringing an appeal as provided by the bill a copy of any notice relating to the appeal to the property owner

and the person bringing the appeal, the substitute requires instead that the comptroller deliver any such notice.

Whereas the introduced authorized a property owner to request limited binding arbitration to compel a chief appraiser or ARB to comply with the model hearing procedures prepared by the comptroller, including by rescinding procedural rules adopted by the ARB that are not in compliance with those procedures, the substitute authorizes a property owner instead to request limited binding arbitration to compel a chief appraiser or ARB to comply with the hearing procedures adopted by the ARB, in addition to compelling rescission of such ARB procedural rules. The substitute revises the provision that appeared in the introduced expanding the matters that may be the subject of an arbitration request to include compelling the chief appraiser or ARB, as appropriate, to use correct appraised values for protests on the ground of unequal appraisal of property to specify that the corrected values are of comparable properties as corrected by an agreement between the property owner or the owner's agent and the chief appraiser or a determination of the ARB.

The substitute includes provisions not in the introduced regarding discovery during judicial review of an appeal of an ARB order resulting from a taxpayer protest.