By:  Parker S.B. No. 2357

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem taxation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.024, Government Code, is amended by adding Subsection (c) to read as follows:

(c)  If the supreme court adopts the Texas Disciplinary Rules of Professional Conduct under Subsection (b), the rules must provide that it is a violation of the Texas Disciplinary Rules of Professional Conduct for an attorney to make a request described by Section 42.23(i), Tax Code. An attorney who violates that rule is subject to discipline under Subchapter E.

SECTION 2.  Section 1.111, Tax Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d)  Except as provided by Subsection (d-1), a [~~A~~] property owner may not designate more than one agent to represent the property owner in connection with an item of property. The designation of an agent in connection with an item of property revokes any previous designation of an agent in connection with that item of property.

(d-1)  A property owner may designate a different agent to represent the property owner in connection with an item of property in a different tax year without revoking any previous designation of an agent in connection with the same item of property in a previous tax year.

SECTION 3.  Section 5.07, Tax Code, is amended by adding Subsection (k) to read as follows:

(k)  The comptroller shall prescribe the form that an appraisal review board shall use to make a determination required

to be made by written order under this title. The form must require an appraisal review board to include for the property subject to the order the property owner's name, the property's identification number, the property's legal description and physical address, and any other information the comptroller determines necessary. The comptroller shall post the form on the comptroller's Internet website.

SECTION 4.  Section 11.161, Tax Code, is amended by adding Subsection (c) to read as follows:

(c)  For purposes of Subsection (a), farm or ranch products may be produced by hydroponic farming.

SECTION 5.  Section 11.24, Tax Code, is amended by adding Subsection (c) to read as follows:

(c)  For purposes of a structure or archeological site and land subject to an exemption under this section, the property owner

may protest the appraised value of the structure or archeological site and the appraised value of the land separately. A property owner may protest the allocation of appraised value between the structure or archeological site and the land.

SECTION 6.  Section 11.43(i), Tax Code, is amended to read as follows:

(i)  If the chief appraiser discovers that an exemption that is not required to be claimed annually has been erroneously allowed in any one of the three [~~five~~] preceding years for real property, or in either of the two preceding years for personal property, the chief appraiser shall add the property or appraised value that was erroneously exempted for each year to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation. If an exemption that was erroneously allowed did not apply to all taxing units in which the property was located, the chief appraiser shall note on the appraisal records, for each prior year, the taxing units that gave the exemption and are entitled to impose taxes on the property or value that escaped taxation.

SECTION 7.  Subchapter C, Chapter 11, Tax Code, is amended by adding Section 11.4392 to read as follows:

Sec. 11.4392.  LATE APPLICATION FOR PROPERTY EXEMPTED FROM TAXATION BY AGREEMENT. The chief appraiser shall accept and approve or deny an application for an exemption a person is entitled to receive under Section 11.28 or an agreement entered into under Chapter 312 after the deadline for filing it has passed if it is filed on or before June 15.

SECTION 8.  Section 22.28(a), Tax Code, is amended to read as follows:

(a)  Except as otherwise provided by Section 22.30, the chief appraiser shall impose a penalty on a person who fails to timely file a rendition statement or property report required by this chapter in an amount equal to five [~~10~~] percent of the total amount of taxes imposed on the property for that year by taxing units participating in the appraisal district. The chief appraiser shall deliver by first class mail a notice of the imposition of the penalty to the person. The notice may be delivered with a notice of appraised value provided under Section 25.19, if practicable.

SECTION 9.  Section 22.30, Tax Code, is amended by adding Subsection (a-2) to read as follows:

(a-2)  The chief appraiser shall waive the penalty imposed by Section 22.28 if the property owner has not previously filed a delinquent rendition statement or property report for that parcel of property.

SECTION 10.  Section 23.51(2), Tax Code, is amended to read as follows:

(2)  "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres. The term also includes the use of land for hydroponic farming.

SECTION 11.  Section 23.52, Tax Code, is amended by adding Subsection (h) to read as follows:

(h)  The chief appraiser may appraise a portion of a parcel of land according to this chapter if the portion qualifies for appraisal under this subchapter but the remainder of the parcel does not.

SECTION 12.  Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.527 to read as follows:

Sec. 23.527.  ELIGIBILITY OF LAND PREVIOUSLY DEVOTED TO SOLAR OR WIND POWER FACILITY. (a) In this section:

(1)  "Solar power facility" has the meaning assigned by Section 302.0001, Utilities Code.

(2)  "Wind power facility" has the meaning assigned by Section 301.0001, Utilities Code.

(b)  This section applies only to land:

(1)  that was previously appraised as qualified open-space land as provided by this subchapter;

(2)  that became ineligible for appraisal as provided by this subchapter due to a change of use caused by the development of a solar power facility or a wind power facility on the land;

(3)  on which the solar power facility or wind power facility described by Subdivision (2) is no longer in operation; and

(4)  that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area.

(c)  Notwithstanding any other provision of this subchapter, land described by Subsection (b) is qualified open-space land.

SECTION 13.  Section 25.25, Tax Code, is amended by adding Subsection (q) to read as follows:

(q)  An appraisal review board shall issue a written order under this section using the form prescribed by the comptroller under Section 5.07(k).

SECTION 14.  Chapter 25, Tax Code, is amended by adding Section 25.255 to read as follows:

Sec. 25.255.  EXACT CORRECTION OF ROLL. A chief appraiser that corrects the appraisal roll to include the appraised value of property, including as determined by an appraisal review board under Chapter 25.25 or Chapter 41, or a district court under Chapter 42, must correct the roll to show the exact dollar amount of the new appraised value.

SECTION 15.  Section 26.09, Tax Code, is amended by amending Subsection (d) and adding Subsection (d-3) to read as follows:

(d)  If a property is subject to taxation for a prior year in which it escaped taxation, the assessor shall calculate the tax for each year separately. In calculating the tax, the assessor shall use the assessment ratio and tax rate in effect in the taxing unit for the year for which back taxes are being imposed. Except as provided by Subsections [~~Subscction~~] (d-1) and (d-3), the amount of back taxes due incurs interest calculated at the rate provided by Section 33.01(c) from the date the tax would have become delinquent had the tax been imposed in the proper tax year.

(d-3)  Back taxes assessed under Subsection (d) on property a chief appraiser discovers was omitted from an appraisal roll under Section 25.21 do not incur interest as required by Subsection (d).

SECTION 16.  Section 31.01(c), Tax Code, is amended to read as follows:

(c)  The tax bill or a separate statement accompanying the tax bill shall:

(1)  identify the property subject to the tax;

(2)  state the appraised value, assessed value, and taxable value of the property, which must be exact and not rounded numbers;

(3)  if the property is land appraised as provided by Subchapter C, D, E, or H, Chapter 23, state the market value and the taxable value for purposes of deferred or additional taxation as provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;

(4)  state the assessment ratio for the unit;

(5)  state the type and amount of any partial exemption applicable to the property, indicating whether it applies to appraised or assessed value;

(6)  state the total tax rate for the unit;

(7)  state the amount of tax due, the due date, and the delinquency date;

(8)  explain the payment option and discounts provided by Sections 31.03 and 31.05, if available to the unit's taxpayers, and state the date on which each of the discount periods provided by Section 31.05 concludes, if the discounts are available;

(9)  state the rates of penalty and interest imposed for delinquent payment of the tax;

(10)  include the name and telephone number of the assessor for the unit and, if different, of the collector for the unit;

(11)  for real property, state for the current tax year and each of the preceding five tax years:

(A)  the appraised value and taxable value of the property;

(B)  the total tax rate for the unit;

(C)  the amount of taxes imposed on the property by the unit; and

(D)  the difference, expressed as a percent increase or decrease, as applicable, in the amount of taxes imposed on the property by the unit compared to the amount imposed for the preceding tax year; [~~and~~]

(12)  for real property, state the differences, expressed as a percent increase or decrease, as applicable, in the following for the current tax year as compared to the fifth tax year before that tax year:

(A)  the appraised value and taxable value of the property;

(B)  the total tax rate for the unit; and

(C)  the amount of taxes imposed on the property by the unit; and

(13)  include the appraisal district account number for the property.

SECTION 17.  Section 41.07(a), Tax Code, is amended to read as follows:

(a)  The appraisal review board shall determine each challenge and make its decision by written order using the form prescribed by the comptroller under Section 5.07(k).

SECTION 18.  Section 41.45(b), Tax Code, is amended to read as follows:

(b)  A property owner initiating a protest is entitled to appear in-person to offer evidence or argument, and may not be denied a hearing at which the property owner and chief appraiser are both present in-person. A property owner may offer evidence or argument by affidavit without personally appearing and may appear by telephone conference call or videoconference to offer argument. A property owner who appears by telephone conference call or videoconference must offer any evidence by affidavit. A property owner must submit an affidavit described by this subsection to the board hearing the protest before the board begins the hearing on the protest. On receipt of an affidavit, the board shall notify the chief appraiser. The chief appraiser may inspect the affidavit and is entitled to a copy on request.

SECTION 19.  Section 41.47(a), Tax Code, is amended to read as follows:

(a)  The appraisal review board hearing a protest shall determine the protest and make its decision by written order using the form prescribed by the comptroller under Section 5.07(k).

SECTION 21  Section 41.67, Tax Code, is amended by adding Subsection (f) to read as follows:

(f)  A property owner may submit evidence electronically at any point before or during a hearing.

SECTION 21.  Section 41A.09, Tax Code, is amended by adding Subsection (f) to read as follows:

(f)  The arbitrator may not determine the appraised value of the property that is the subject of an arbitration to be an amount greater than the appraised value of the property as shown in the appraisal records submitted to the appraisal review board by the chief appraiser under Section 25.22 or 25.23, except as requested and agreed to by the property owner.

 SECTION 22.  Section 42.01, Tax Code, is amended by adding Subsection (d) to read as follows:

(d)  Notwithstanding Subsection (a), a person who owned property at any time during a tax year but no longer owns the property is entitled to file an appeal under this chapter as if the person were the current owner of the property, regardless of whether the person is the person subject to an order described by that subsection.

SECTION 23.  Section 42.21, Tax Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (a-2) to read as follows:

(a)  A party who appeals as provided by this chapter must file a petition for review with the district court not later than the later of:

(1)  the 60th day [~~within 60 days~~] after the date the party receives [~~rcccivcd~~] notice that a final order has been entered from which the [~~an~~] appeal may be had; or

(2)  September 1 of the year in which the final order is entered [~~at any time after the hearing but before the 60 day deadline~~].

(a-1)  Subject to Subsection (a), a party may file a petition for review under this section at any time after:

(1)  the protest hearing, regardless of whether the party has received notice that a final order has been entered;

(2)  notifying the appraisal review board that the chief appraiser and the party have agreed to a disposition of the protest and requesting the board to issue an agreed order under Section 41.47(g) or (g-1); or

(3)  submitting an affidavit to the board hearing the protest under Section 41.45(b).

(a-2)  Failure to timely file a petition bars any appeal under this chapter.

(b)  [~~A petition for review brought under Section 42.02 must be brought against the owner of the property involved in the appeal.~~] A petition for review brought under Section 42.031 must be brought against the appraisal district and against the owner of the property involved in the appeal. A petition for review brought under Section 42.01(a)(2) or 42.03 must be brought against the comptroller. Any other petition for review under this chapter must be brought against the appraisal district. A petition for review may not be brought against the appraisal review board. An appraisal district may hire an attorney that represents the district to represent the appraisal review board established for the district to file an answer and obtain a dismissal of a suit filed against the appraisal review board in violation of this subsection.

(c)  If an appeal under this chapter is pending when the appraisal review board issues an order in a subsequent year under a protest by the same property owner and that protest relates to the same property that is involved in the pending appeal, the property owner may appeal the subsequent appraisal review board order by amending the original petition for the pending appeal to include

the grounds for appealing the subsequent order. The amended petition must be filed with the court not later than the 90th day after the date the property owner receives notice that a final order has been entered from which an appeal may be had [~~in the period provided by Subsection (a) for filing a petition for review of the subsequent order~~]. A property owner may appeal the subsequent appraisal review board order under this subsection or may appeal the order independently of the pending appeal as otherwise provided by this section, but may not do both. A property owner may change the election of remedies provided by this subsection at any time before the end of the period provided by Subsection (a) for filing a petition for review.

SECTION 24.  Section 42.23, Tax Code, is amended by adding Subsections (a-1), (a-2), (i), (j), (k), (l), and (m) to read as follows:

(a-1)  A chief appraiser, appraisal district, or appraisal review board may not bring a counterclaim in an appeal brought under this chapter.

(a-2)  An appraisal district may not seek affirmative relief in an appeal brought under this chapter.

(i)  An entity is not required to be registered to do business in this state in order to file an appeal under this chapter or to be considered a proper party to bring a petition. A formal or informal request for information regarding an entity's registration status:

(1)  is outside the scope of permissible discovery in an appeal under this chapter;

(2)  may not be made a prerequisite to a settlement discussion related to that appeal; and

(3)  may be grounds for sanctions by the court on the motion of a party.

(j)  A party to an appeal under this chapter may file an objection to third-party discovery. The court shall grant third-party discovery subject to the objection only if the discovery:

(1) is necessary under generally accepted appraisal methods and techniques to determine the value of the property that is the subject of the appeal; and

(2)  would be admissible at trial.

(k)  A party to an appeal under Section 42.26 may file an objection to a discovery request for a closing statement, a rent roll, or an operating statement. The court shall grant the discovery request subject to the objection only if the discovery:

(1)  is necessary under generally accepted appraisal methods and techniques to determine the value of the property that is the subject of the appeal; and

(2)  would be admissible at trial.

(l) The district court may not order discovery unless discovery is requested by a party to the appeal.

(m)  The district court may not:

(1)  impose 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

(2)  otherwise accelerate discovery related to an expert witness, unless agreed to by the parties.

SECTION 25.  Subchapter B, Chapter 42, Tax Code, is amended by adding Sections 42.232 and 42.233 to read as follows:

Sec. 42.232.  TRIAL DATE. (a) A district court may not set a trial date on an appeal that is less than 12 months after the date the appeal is filed, unless the parties agree to an earlier trial date.

(b)  On request of a party to an appeal, the district court shall:

(1)  grant a continuance if the party requesting the continuance has not previously been granted a continuance;

(2)  set a new trial date that is not less than six months after the date for which the original trial was set; and

(3)  extend all litigation deadlines proportionally.

Sec. 42.233.  TRANSFER OF APPEAL TO STATE OFFICE OF ADMINISTRATIVE HEARINGS. On request of a property owner who is a party to an appeal under this chapter and who was eligible to file the appeal under Subchapter Z, Chapter 2003, Government Code, the district court shall transfer the appeal to the State Office of Administrative Hearings to determine the appeal under that subchapter. The property owner must make the request not later than the 30th day before the date on which the trial is originally set to begin.

SECTION 26.  Section 42.26, Tax Code, is amended by adding Subsections (e) and (f) to read as follows:

(e)  A district court may not determine the appraised value of the property that is subject to an appeal under this section 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 under Section 25.22 or 25.23.

(f)  If a claim that a property is appraised unequally is the sole cause of action in an appeal, the appraisal district may not request through discovery financial information related to the property, including a rent roll or appraisal.

SECTION 27.  Section 42.41(b), Tax Code, is amended to read as follows:

(b)  The assessor for each affected taxing unit shall correct the tax roll and other appropriate records for which the assessor is responsible. The assessor must correct the tax roll to indicate the exact dollar amount of the corrected value.

SECTION 28.  Sections 42.43(b-1), (f), and (g), Tax Code, are amended to read as follows:

(b-1)  A taxing unit may not send a refund made under this section before the earlier of:

(1)  the 60th [~~21st~~] day after the final determination of the appeal; or

(2)  the date the property owner files the form prescribed by Subsection (i) with the taxing unit.

(f)  The final judgment in an appeal under this chapter shall [~~may~~] designate to whom and where a refund is to be sent if the property owner or the property owner's agent designated under

Section 1.111 files the form required under Subsection (i).

(g)  If a form prescribed by the comptroller under Subsection (i) is filed with a taxing unit before the 60th [~~21st~~] day after the final determination of an appeal that requires a refund be made, the taxing unit shall send the refund to the person and address designated on the form.

SECTION 29.  Section 42.02, Tax Code, is repealed.

SECTION 30.  As soon as practicable after the effective date of this Act, the Texas Supreme Court shall adopt rules as required by Section 81.024(c), Government Code, as added by this Act.

SECTION 31.  As soon as practicable but not later than the effective date of this Act, the comptroller of public accounts shall prescribe and post on the comptroller's Internet website the form required by Section 5.07(k), Tax Code, as added by this Act.

SECTION 32.  Sections 5.07, 25.25, 41.07, and 41.47, Tax Code, as amended by this Act, apply only to an appraisal review board order issued on or after the effective date of this Act. An appraisal review board order issued before the effective date of this Act is governed by the law in effect on the date the order was issued, and the former law is continued in effect for that purpose.

SECTION 33.  Sections 11.161 and 11.24, Tax Code, as amended by this Act, apply only to ad valorem taxes imposed for an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 34.  Section 11.43(i), Tax Code, as amended by this Act, applies only to an erroneously allowed exemption discovered on or after the effective date of this Act. An erroneously allowed exemption discovered before the effective date of this Act is governed by the law in effect on the date the exemption was discovered, and the former law is continued in effect for that purpose.

SECTION 35.  Section 11.4392, Tax Code, as added by this Act, applies only to an application for an ad valorem tax exemption submitted to a chief appraiser on or after the effective date of this Act.

SECTION 36.  Sections 22.28(a) and 22.30, Tax Code, as amended by this Act, apply only to a rendition statement or property report required to be filed on or after the effective date of this Act. A rendition statement or property report required to be filed before the effective date of this Act is governed by the law in effect on the date the statement or report was required to be filed, and the former law is continued in effect for that purpose.

SECTION 37.  Section 23.52, Tax Code, as amended by this Act and Section 23.527, Tax Code, as added by this Act, apply only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after the effective date of this Act.

SECTION 38.  Section 26.09, Tax Code, as amended by this Act, applies only to taxes assessed on property as provided by Subsection (d) of that section on or after the effective date of this Act. Taxes assessed on property before the effective date of this Act are governed by the law in effect on the date the taxes were assessed, and the former law is continued in effect for that purpose.

SECTION 39.  Section 41A.09(f), Tax Code, as added by this Act, applies only to a determination of appraised value made by an arbitrator under Chapter 41A, Tax Code, on or after the effective date of this Act.

SECTION 40.  Chapter 42, Tax Code, as amended by this Act, applies only to an appeal under that chapter that is filed on or after the effective date of this Act. An appeal filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and the former law is continued in effect for that purpose.

SECTION 41.  This Act takes effect January 1, 2024.