

BILL ANALYSIS

C.S.H.B. 988
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The property tax is a crucial source of revenue for local governments and school districts due to the state's reliance on property tax and sales tax rather than an income tax. As a result of this heavy reliance, it is even more important that taxpayers have a system that is efficient and accountable. One of the most important elements of this system is the appraisal review board (ARB), which hears taxpayers' concerns and complaints about valuations. These hearings are a key component in the perception of fairness in the system.

Although Texas has an esteemed property tax system, there are instances in which the procedures adopted by certain ARBs are contrary to the meaning or intent of the Property Tax Code. Currently, there is no legal mechanism to require an ARB to follow all applicable procedural requirements for hearings, which can harm the perception of fairness and adequacy in the system. C.S.H.B. 988 seeks to ensure that there is oversight of the hearing procedures adopted by ARBs and that taxpayers have the opportunity to pursue action against an ARB or chief appraiser in violation of an applicable procedural requirement to compel compliance.

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. 988 amends the Tax Code to require an appraisal review board (ARB) by rule to adopt procedures for hearings it conducts to review appraisal records or to hear a taxpayer protest. The bill provides the following:

- before adopting the procedures, an ARB must hold a public hearing to consider the hearing procedures proposed for adoption;
- an ARB must do the following not later than May 15 of each year:
 - hold the hearing;
 - make any amendments to the proposed hearing procedures the ARB determines are necessary; and
 - by resolution finally adopt the hearing procedures;
- an ARB must comply with model hearing procedures when adopting the hearing procedures;
- an ARB must incorporate the model hearing procedures prepared by the comptroller of public accounts when adopting its hearing procedures but an ARB may adopt procedures that supplement the model procedures without contradicting or circumventing them; and

- an ARB chairman has exclusive authority over the administration of the adopted hearing procedures.

The comptroller must annually review the hearing procedures adopted by each ARB to determine whether the hearing procedures incorporate the model procedures. The bill provides for the dissemination and public posting of the adopted hearing procedures.

C.S.H.B. 988 revises the requirement that only certain counties appoint a taxpayer liaison officer to extend that requirement to all counties, regardless of population, and to provide that an officer is responsible for receiving and compiling a list containing not only comments and suggestions but also complaints filed concerning a matter related to the fairness and efficiency of the district's ARB. The bill provides the following with respect to an officer:

- an officer must forward the comments, complaints, and suggestions to the comptroller not later than December 31 of each year;
- a person may serve as an officer for more than one appraisal district if each appraisal district for which the person is appointed to serve in that capacity is established for a county with a population of less than 120,000; and
- an officer does not commit an offense regarding the local administration of property taxes on the basis of the officer communicating with applicable persons if the communication is made in the good faith exercise of the officer's statutory duties.

C.S.H.B. 988 authorizes a person who owns property in an appraisal district or the district's chief appraiser to file a complaint with the district's taxpayer liaison officer alleging that the district's ARB has adopted or is implementing hearing procedures that are not in compliance with the model procedures or is not complying with applicable procedural requirements. The bill provides the following:

- the officer must investigate the complaint and report the findings of the investigation to the district's board of directors;
- the chairman of the board of directors must take remedial action if, after reviewing the report, the board determines that the allegations contained in the complaint are true; and
- the board may remove the ARB chairman from that member's position as chairman if the board determines that the chairman has failed to take the actions necessary to bring the ARB into compliance with the applicable requirements.

C.S.H.B. 988 authorizes a property owner who has filed a property tax protest notice to file a request for limited binding arbitration under the bill's provisions to compel the ARB or chief appraiser, as appropriate, to rescind procedural rules adopted by the ARB that are not in compliance with the comptroller's model hearing procedures or to compel compliance with an applicable requirement of the Property Tax Code applicable to such protests if the following conditions are satisfied:

- the owner has delivered written notice of the procedural requirement with which the owner alleges a lack of compliance; and
- the ARB chairman or chief appraiser, as applicable, fails to deliver on or before the 10th day after the date the notice is delivered a written statement confirming that the ARB or chief appraiser, as applicable, will comply with the requirement or cure a failure to comply with the requirement.

The bill sets out requirements for the form, content, and manner of delivery of the request, including a requirement that the request be accompanied by an arbitration deposit payable to the comptroller. The bill clarifies that the failure to comply with an applicable procedural requirement is not a ground for postponement of a protest hearing. An ARB may cure an alleged failure to comply with a procedural requirement that occurred during a hearing by rescinding the order determining the protest for which the hearing was held and scheduling a new hearing on the protest.

C.S.H.B. 988 sets out provisions relating to the conduct of the limited binding arbitration, including with respect to the following:

- the appointment of an eligible arbiter;

- the authorized methods of appearance for parties to the arbitration;
- the property owner's authority to request a single arbitration that covers more than one property, protest hearing, or allegation of noncompliance;
- the methods by which the arbitration award is made and delivered; and
- the actions the comptroller, the ARB, and the chief appraiser, as appropriate, must take after receiving notice of the award.

The bill establishes that an award does not affect the owner's right to appeal the final determination of a protest by the ARB. The provisions of state law governing local review and taxpayer protests apply to a limited binding arbitration, but the bill's provisions providing for such arbitration control in the event of a conflict with that law.

C.S.H.B. 988 requires the annual report issued by the comptroller that summarizes the information included in the ARB surveys submitted during the preceding tax year to include the following information:

- a summary of the comments, complaints, and suggestions forwarded to the comptroller by taxpayer liaison officers;
- the results of the comptroller's review of ARB hearing procedures; and
- the results of requests for limited binding arbitration filed with the comptroller.

The bill prohibits the report from disclosing the identity of an individual who submitted a comment, complaint, suggestion, or request for arbitration.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 988 includes provisions relating to the administration of the system for appraising property for property tax purposes and does not include any provisions from the original, which relates to the authority of a property owner to bring suit to compel an appraisal district, chief appraiser, or appraisal review board to comply with a procedural requirement applicable to a property tax protest.

The substitute changes the bill's effective date from January 1, 2022, to on passage or September 1, 2021, if the bill does not receive the necessary vote for immediate effect.