

- SUBJECT:** Standards for protesting unequal property appraisal by an appraisal district
- COMMITTEE:** Local Government Ways and Means — favorable, without amendment
- VOTE:** 5 ayes — Hill, Hegar, Laubenberg, Puente, Quintanilla
0 nays
2 absent — McReynolds, Mowery
- WITNESSES:** For — Breck Bostwick and Mark Hutcheson, Texas Association of Property Tax Professionals
Against — Dan Hart, Taxpayers for Equal Appraisal
- BACKGROUND:** Tax Code, ch. 41 governs protests of appraised property values to an appraisal review board (ARB). Ch. 42 sets forth the remedies, rights, and procedure for a property owner to appeal certain orders made by the ARB by petitioning the district court for a review.

Tax Code, ch. 23 governs the appraisal of taxable property. Sec. 23.23 limits increases in the appraised value of residence homesteads. The appraised value of a residence homestead for a tax year generally may not exceed the previous appraised value by more than 10 percent per year plus the market value of any improvements to the property.

In 1997, the 75th Legislature amended Tax Code, ch. 42 to allow a taxpayer to appeal a property valuation order in district court on the basis of inequality of appraisal, which is prohibited by the Texas Constitution.
- DIGEST:** HB 1082 would shift the burden of proof in an ARB hearing of a protest on the ground of unequal appraisal from the appraisal district to the property owner. It would stipulate that a protest on the ground of unequal appraisal of property must be determined in favor of the appraisal district, unless the protesting party establishes that:

- the property's appraisal ratio is greater than the median level of appraisal of a reasonable and representative sample of other properties in the appraisal district or of a sample of properties similar to the property in question; or
- the property's appraised value is greater than the median appraised value of a reasonable number of comparable properties.

The value of the property subject to the protest and the value of comparable property or sample property used for comparison would have to be the market value determined by the appraisal district, if the property was appraised as a residence homestead subject to the limitation on appraised value imposed by Tax Code, sec. 23.23.

A district court would have to grant relief (reduce the appraised value) on the ground of unequal appraisal if the property's appraisal ratio exceeded by at least 10 percent the median level of appraisal of a sample of properties in the appraisal district, or if the property's appraised value exceeded the median appraised value of a reasonable number of comparable properties, appropriately adjusted.

If a court found that a property owner was entitled to relief because the property's appraised value was greater than the median appraised value of comparable properties, the court would have to order the appraised value to be changed to the median level of appraisal. If the property owner was entitled to relief under more than one provision, the value would have to be changed to the lowest appraisal. The value of the property subject to the suit and the value of a comparable or sample property used for comparison would have to be the market value determined by the appraisal district if the property was a residence homestead subject to Tax Code, sec. 23.23.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 1082 would expand the rights of taxpayers by providing a new basis for property owners to obtain relief (reduced property value) in an ARB appeal and before district court. Currently, property owners do not have a workable remedy for an unequal appraisal of their property at the administrative level. The bill would allow taxpayers to offer evidence of unequal appraisal based on comparable appraised value, including property in their neighborhoods,

before the ARB. It also would clarify how a district court was to implement a finding of unequal appraisal, ensuring more equitable judgments of actual property value.

Texas Constitution, Art. 8, sec. 1 requires that taxation be equal and uniform, and the Tax Code provides remedies for a taxpayer who claims unequal appraisal. In weighing such a claim, it is very important who selects the comparable property. At the ARB level, the property owner can claim that an unequal appraisal was made, and the appraisal district must prove that the property is *not* unequally appraised. The appraisal district selects comparable property in the appraisal district, determines the median level of appraisal, and determines whether the protested property was not unequally appraised. The appraisal district may select the comparable property without regard for wide disparities in property values within the district.

If the property owner appeals the ARB's determination and files a lawsuit in district court, the owner may show unequal appraisal by presenting evidence that the property's appraisal ratio exceeds the median ratio for a sample of other properties, but the owner has the burden of proof. HB 1082 would provide the same remedy at the administrative level that is available through filing a lawsuit and seeking review at the district court level. Under this bill, the property owner could select the comparable property and could present that evidence to the ARB, thus avoiding having to go to court.

Currently, a district court may grant relief only if the appraisal ratio is found to exceed 10 percent of the median level of a sample of comparable properties within the appraisal district. HB 1082 would allow a comparison of similar properties in the neighborhood of the protested property.

**OPPONENTS
SAY:**

The median-appraisal-value standard of proof proposed by HB 1082 is a relatively new, ambiguous standard that is being litigated in court. The appraisal-ratio standard, the method of proof now used, is based on court decisions going back to the 1880s and is a well-established, nationally recognized way to decide an unequal appraisal. If the burden of proof were shifted to the property owner and the median-appraisal-value standard were used, a district might not know if the determination was reliable, because it would be based on a more subjective standard than the appraisal-ratio standard. The property owner might not end up with an accurate, fair property

value. Value losses at the ARB level due to this bill could lower taxing entities' overall taxable property values.

**OTHER
OPPONENTS
SAY:**

The term "appropriately adjusted," applied to comparable property values, is too vague. The bill should define this term more clearly.

NOTES:

The companion bill, SB 1638 by Staples, has been referred to the Senate Finance Committee.