

SUBJECT: Requiring payment from certain property owners appealing appraisal value

COMMITTEE: Local Government Ways and Means — committee substitute recommended

VOTE: 5 ayes — Hill, Creighton, Elkins, Puente, Villarreal

0 nays

2 absent — C. Howard, Quintanilla

WITNESSES: For — (*Registered, but did not testify*: Charles Carter, Leigh-Anna Martinets)

Against — None

BACKGROUND: Texas Constitution, Art. 8, sec. 18 requires a single appraisal of the market value of all property in a county subject to ad valorem taxation.

Under Tax Code, ch. 41, property owners may protest appraisal districts' valuation of their property when suspected errors might adversely affect the owner's concern, including:

- market value;
- unequal appraisal;
- inclusion or exclusion of property on the property tax roll;
- qualification for agricultural or timber status;
- appraisal district authority to make value determinations;
- ownership; or
- change of land use.

Tax Code, sec. 41.01 establishes an appraisal review board (ARB) to hear protests by property owners regarding appraised value of their property. When a property owner files a protest with the county appraisal district (CAD), the ARB issues decisions on such disputes. An ARB is required to:

- determine protests initiated by property owners;
- determine challenges initiated by taxing units;

- correct clerical errors in appraisal records and appraisal rolls; and
- determine proper granting of exemptions

Tax Code, ch. 42 allows a property owner to appeal ARB decisions to district court. Sec. 42.08 requires any property owner appealing an ARB decision to pay on the property the lesser of the amount of taxes due on:

- the portion of the taxable value of the property that is not in dispute; or
- the property under the order it is appealing.

Any taxes paid above that value, including those paid prior to filing the appeal, are considered paid under protest and do not affect the appeal.

DIGEST:

CSHB 1680 would amend Tax Code, sec. 42.08 to exempt the properties with the five highest taxable values in any taxing unit from the payment requirements for property owners appealing an ARB decision. For these properties, the owner would be required to pay, before the delinquency date, the amount of taxes levied under the order it was appealing.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007. It would apply only to appeals filed on or after the effective date; those filed prior to the effective date would be governed by current law.

**SUPPORTERS
SAY:**

CSHB 1680 would help taxing entities around Texas who could be placed under significant hardship if expected tax revenue was withheld pending appeal of an ARB decision. By targeting those taxpayers that have the greatest impact on a district's tax rolls, this bill would address those that could cause the greatest disruption to a district budget without placing a burden on those with more limited means to pay an appealed assessment.

Large companies with the ability and motivation to appeal an ARB decision have created financial difficulties for taxing districts around the state. For smaller districts in particular, these companies can represent a large portion of their tax rolls, and the protracted nature of these legal disputes can result in a district being denied much-needed revenue for basic services for several years. In one instance, a company that had been paying its property taxes under protest stopped paying the protested amount after its taxing districts set their budgets, forcing them to make up

the shortfall from their fund balance that year and to increase taxes on other taxpayers in subsequent years. School districts face an additional burden under this scenario because if they do not collect a high enough percentage of their taxes, the comptroller can penalize them for under collecting.

This bill would not deny any person or entity the ability to appeal a decision, nor would it remove the opportunity for those appealing an appraisal to recoup money paid in protest if their property was found to be overvalued by a district court.

**OPPONENTS
SAY:**

This bill would raise serious constitutional questions concerning a taxpayer's due process rights for his appeal to be heard before a court. It would treat one set of taxpayers differently than another, and it would use the very values in question in determining who would be required to pay the full amount of property taxes under appeal.

Under the current system, for a person's appeal to move forward, the person must pay at least the amount paid the previous tax year, which for these taxpayers would still be a significant amount. But this bill would treat certain taxpayers differently and require them to pay an amount they believe is excessive, often for several years while a case moves its way through the legal system. Although the taxing district's need for unrealized revenue is important, so is the need and right of taxpayers to use their own money how they see fit, and this bill would take away that right prior to final resolution of the legal case. Additionally, focusing this provision on the top five properties when the property owner could be appealing a valuation that would actually place the owner in this category would create another complication.

NOTES:

The Legislative Budget Board does not anticipate a significant state impact, but expects the bill would result in a large number of taxpayers paying a greater undetermined amount of taxing units in order to pursue a legal claim.

The original version of the bill would have applied the exemption to any property whose value, under the order it was appealing, was at least 20 percent of the total taxable value in the taxing district.