

SUBJECT: Changing deposit amount, property value eligible for binding arbitration

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — D. Bonnen, Y. Davis, Button, Darby, Murphy, Springer, Wray

2 nays — Martinez Fischer, C. Turner

2 absent — Bohac, Parker

SENATE VOTE: On final passage, April 23 — 30-0

WITNESSES: *(On House companion bill, HB 3867)*

For — *(Registered, but did not testify: Deborah Cartwright, Harris County Appraisal District; Cathy Dewitt, Texas Association of Business; James LeBas, Texas Apartment Association; Annie Spilman, National Federation of Independent Business-Texas)*

Against — *(Registered, but did not testify: Mark Mendez, Tarrant County Commissioners Court; Seth Mitchell, Bexar County Commissioners Court)*

BACKGROUND: Tax Code, ch. 41 establishes a property owner's right to protest certain actions before the appraisal review board, including the appraised value of the owner's property. Chapter 42 gives the property owner a right to appeal an order of the appraisal review board determining a protest by the property owner under ch. 41. To appeal, the property owner must file a petition with the appropriate district court to review the determination.

Tax Code, ch. 41A offers an alternative to filing a petition with a district court for certain property owners. Under sec. 41A.01, a property owner is entitled to appeal the determination through binding arbitration if the original protest concerned the appraised value of the property or the unequal appraisal of the property and:

- the property qualifies as the owner's homestead; or

- the value of the property is \$1 million or less.

Tax Code, sec. 41A.03 requires a property owner wishing to appeal through binding arbitration to file a request and pay an arbitration deposit to the comptroller in the amount of \$500. Section 41A.05 allows the comptroller to retain 10 percent of that deposit, and sec. 41A.06 establishes that an arbitrator cannot agree to conduct an arbitration for a fee equal to more than 90 percent of that deposit.

**DIGEST:**

SB 849 would increase the property value that would be eligible for binding arbitration and would change the arbitration deposit amount in those cases.

Property owners with properties valued at \$3 million or less, rather than \$1 million or less as under current law, could appeal through binding arbitration certain determinations made by an appraisal review board.

The bill would specify that the comptroller could retain \$50 of an arbitration deposit, instead of the 10 percent allowed under current law, to cover administrative expenses. The bill would set the amount of an arbitration deposit and the corresponding amount paid to an arbitrator as a fee. The amount of an arbitration deposit would be:

- \$450 for a homestead property valued at \$500,000 or less;
- \$500 for a homestead property valued at more than \$500,000;
- \$500 for a non-homestead property valued at \$1 million or less;
- \$800 for a non-homestead property valued at more than \$1 million but not more than \$2 million; or
- \$1,050 for a non-homestead property valued at more than \$2 million but not more than \$3 million.

The arbitrator's fee in each instance would be the amount of the arbitration deposit minus \$50 retained by the comptroller.

The bill would take effect September 1, 2015, and would apply only to a request for binding arbitration filed on or after that date.

SUPPORTERS  
SAY:

SB 849 would offer a less expensive option for property owners to settle certain disputes and would change arbitration deposits to better reflect the work required in each case. The current property value limit restricts access to binding arbitration for many owners who wish to appeal appraisal review board determinations. Owners of property valued over the limit are forced to file lawsuits, which can be expensive and take a substantial amount of time. The bill would decrease the number of lawsuits filed because it would allow more property owners access to binding arbitration, which is less expensive and faster than a lawsuit.

The bill would scale the amount of an arbitration deposit to match the amount of work that would be required in a certain case. For cases involving more expensive commercial property, the deposit would be greater because the case likely would be more complex and require more work than a lower valued home.

OPPONENTS  
SAY:

SB 849 would increase the number of contested cases involving appraisal districts by allowing more property owners to appeal determinations through binding arbitration. This increase in cases would slow the entire resolution process because each appraisal district would be forced to respond to more appeals. The bill also would force appraisal districts to engage in binding arbitration more often, which generally results in less favorable outcomes for appraisal districts.

NOTES:

The House companion bill, HB 3867 by Elkins, was placed for second-reading consideration on the May 14 General State Calendar but not considered.

The Legislative Budget Board's fiscal note estimates that enactment of SB 849 would increase the value of the properties allowed to go to binding arbitration and would increase the number of binding arbitrations. However, the bill would not affect taxable property values, tax rates, collection rates, or any other variable that might affect the cost to the state through the operation of the school funding formula.