

BILL ANALYSIS

C.S.H.B. 3297
By: Parker
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that property tax lawsuits are best resolved when the parties to the lawsuit have an opportunity to meet and discuss the valuation issues at hand. The parties assert that this process results in settlements that resolve most lawsuits in an effective and efficient manner, thereby saving money and time. While some parties and appraisal districts meet quickly and resolve cases in a cost-effective and efficient manner, it has been reported that some taxpayers and appraisal districts employ a strategy of resisting settlement meetings in an effort to force the other side to incur unnecessary and unrecoverable pretrial expenses. There are concerns that current procedures for such lawsuits do not provide any specific procedures for the pretrial resolution of property tax appeals. C.S.H.B. 3297 seeks to remedy this situation.

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. 3297 amends the Tax Code to authorize a property owner or appraisal district that is a party to an appeal concerning a property tax appraisal or protest to request that the parties engage in settlement discussions, including through an informal settlement conference or a form of alternative dispute resolution. The bill requires the request to be in writing and delivered to the other party before the date of trial. The bill requires the court, on motion of either party, to enter orders necessary to implement the pretrial settlement discussions, including an order specifying the form that the settlement discussions must take or changing a deadline to designate certain experts.

C.S.H.B. 3297 requires each party or the party's attorney of record, on or before the 120th day after the date the written request for settlement discussions is delivered, to attend the settlement discussions and make a good faith effort to resolve the matter under appeal. The bill establishes that, if the appraisal district is unable for any reason to attend the settlement discussions on or before the 120th day after the date the written request is delivered, the deadline to designate experts for the appeal is 60 days before the date of trial with regard to all experts testifying for a party seeking affirmative relief and 30 days before the date of trial with regard to all other experts. If the property owner is unable for any reason to attend the settlement discussions on or before the 120th day after the date the written request is delivered, the bill exempts the parties to the appeal from the statutory provision under which each party to an appeal is considered as a party seeking affirmative relief for the purpose of discovery regarding expert witnesses, given

certain conditions that must occur before a specified deadline. The bill prohibits an appraisal district from requesting or requiring a property owner to waive a right under the Property Tax Code as a condition of attending a settlement discussion.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3297 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 42, Tax Code, is amended by adding Section 42.227 to read as follows:

Sec. 42.227. PRETRIAL SETTLEMENT DISCUSSIONS. (a) On motion of a property owner that is a party to an appeal under this chapter for which a discovery request to designate one or more expert witnesses is made, the court shall enter an order requiring the parties to engage in settlement discussions before the trial begins. The motion must be made not later than the 210th day before the date the discovery period in the appeal ends.

(b) If a motion is made under this section, the court shall order the settlement discussions to be conducted not later than the 90th day after the date the motion is made. The court may provide in the order that settlement discussions be conducted in a specific manner, including as part of an informal settlement conference or another form of alternative dispute resolution.

(c) Each party ordered to engage in settlement discussions must make a good faith effort to resolve the matter under appeal during the discussions.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 42, Tax Code, is amended by adding Section 42.227 to read as follows:

Sec. 42.227. PRETRIAL SETTLEMENT DISCUSSIONS. (a) A property owner or appraisal district that is a party to an appeal under this chapter may request that the parties engage in settlement discussions, including through an informal settlement conference or a form of alternative dispute resolution. The request must be in writing and delivered to the other party before the date of trial. The court on motion of either party shall enter orders necessary to implement this section, including an order:

(1) specifying the form that the settlement discussions must take; or
(2) changing a deadline to designate experts prescribed by Subsection (c).

(b) On or before the 120th day after the date the written request is delivered under Subsection (a), each party or the party's attorney of record shall attend the settlement discussions and make a good faith effort to resolve the matter under appeal.

(c) If the appraisal district is unable for any reason to attend the settlement discussions on or before the 120th day after the date the written request is delivered under Subsection (a), the deadline to designate experts for the appeal is, notwithstanding a deadline prescribed by the Texas Rules of Civil Procedure:

(1) with regard to all experts testifying for a party seeking affirmative relief, 60 days before the date of trial; and

(2) with regard to all other experts, 30 days before the date of trial.

(d) If a property owner is unable for any reason to attend the settlement discussions on or before the 120th day after the date the written request is delivered under Subsection (a), Section 42.23(d) does not apply to the parties to the appeal.

(e) An appraisal district may not request or require a property owner to waive a right under this title as a condition of attending a settlement discussion.

No equivalent provision.

SECTION 2. The changes in law made by this Act apply only to an appeal filed under Chapter 42, Tax Code, on or after the effective date of this Act. An appeal filed under Chapter 42, Tax Code, before the effective date of this Act is governed by the law applicable to the appeal immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 3. Same as introduced version.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.