

- SUBJECT:** Authority of taxpayers to sue appraisal districts and review boards
- COMMITTEE:** Local Government Ways and Means — favorable, without amendment
- VOTE:** 7 ayes — Hill, Hamilton, Elkins, Laubenberg, Puente, Quintanilla, Uresti  
0 nays
- WITNESSES:** For — Betty Lee Hart; Dan Hart, Taxpayers for Equal Appraisal; Bill Parker  
  
Against — Michael Amezcuita, Bexar Appraisal District, Texas Association of Appraisal Districts; Michael Barnett, Smith County Appraisal District; Jim Robinson, Texas Association of Appraisal Districts  
  
On — Gerald “Buddy” Winn, Texas Association of Appraisal Districts
- BACKGROUND:** Under Tax Code, ch. 41 protests of appraised property values are considered by an appraisal review board (ARB). Ch. 42 sets forth the remedies, rights, and procedures involved in an appeal of certain ARB orders by a property owner to district court.  
  
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.  
  
Under Tax Code, ch. 43, only taxing units may sue appraisal districts for noncompliance with established law and comptroller rules.
- DIGEST:** HB 1958 would expand the list of parties eligible to sue not only an appraisal district but also an ARB. In addition to a taxing unit, the list would include:
- a property owner;
  - a lessee of property who contractually was obligated to pay taxes on property;

- an agent of a property owner; and
- any other person authorized to bring action on behalf of the listed parties;

Court costs and attorney fees would be awarded to prevailing plaintiffs.

The bill would take effect September 1, 2005, and would apply to suits filed on or after this date.

**SUPPORTERS  
SAY:**

HB 1958 would expand the rights of taxpayers by providing a new basis for property owners to obtain fair appraisals outside of the present appeal process. Property owners currently do not have a workable remedy for an unequal appraisal of their property at the administrative level. The bill would allow taxpayers to circumvent the ARB process, which is controlled entirely by political subdivisions of the state. While ARBs are meant to function as checks and balances against the decisions of chief appraisers, ARB members are appointed and paid by the appraisal districts. As a result, some taxpayers perceive ARBs as agents of the appraisal districts and find the appraisal review process frustrating, unresponsive, and overly burdensome.

Unequal appraisals continue to plague taxpayers, even as the Texas Constitution requires that taxation be equal and uniform. Under current law, when taxing district boundaries overlap and the taxing district issues different fair-market appraisals on the same property, the overlapping districts must adopt the lowest appraisal. A 2004 attorney general opinion (GA-0283) upholds the validity of current law. Still, certain appraisal districts have maintained that this law is unconstitutional and have refused to adopt lower appraisals.

Another unlawful practice that has been reported among appraisal districts and ARBs includes the refusal to qualify certain exemptions on property. Some appraisers have been accused of failing to appraise their own homes at fair-market value to avoid higher property taxes. HB 1958 would allow taxpayers to bring suit against perpetrators of such actions rather than having to rely on the ARB process.

The bill would have no fiscal impact. It only would require appraisal districts to defend themselves against charges brought by aggrieved parties. When courts did not rule with plaintiffs, appraisal districts could petition the judge to require the plaintiff to pay court costs.

OPPONENTS  
SAY:

HB 1958 would place an excessive burden on the courts, which the current process of administrative review is in place to relieve. Violations can be challenged and satisfied through current remedies. The bill would open the courts to unfounded lawsuits and judicial system abuse.

Appraisal districts would foot excessive court costs and attorney fees. The bill would not secure the return of court costs and attorney fees to appraisal districts when courts ruled against plaintiffs. Such financial burdens could have an impact on appraisal district operations.

While certain equal-appraisal violations have occurred, the proper remedies already exist under current statute. Many past violations have been resolved and appraisal districts are working to implement statutory changes.

NOTES:

A related bill, HB 182 by Mowery, which would allow a property owner to protest appraisal values of residential real property through binding arbitration instead of the ARB process when the value of the property was \$1 million or less, passed the House on April 20.