

- SUBJECT:** Authority of taxpayers to sue appraisal districts or review boards
- COMMITTEE:** Local Government Ways and Means — committee substitute recommended
- VOTE:** 5 ayes — Hill, Hamilton, Elkins, Puente, Quintanilla
0 nays
2 absent — Laubenberg, Uresti
- WITNESSES:** For — Breck Bostwick, Texas Association of Property Tax Professionals; Jim Robinson, Texas Association of Appraisal Districts
Against — None
- 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:** CSHB 2492 would authorize a person to sue an appraisal district or ARB to compel compliance with property tax laws, rules of the comptroller, or other applicable law if failure to comply caused or would cause substantial economic harm or denied a statutory or constitutional right. A person bringing an action would have to pay \$500 into the registry of the court, which the court would distribute to the prevailing party upon final judgment. If the party who brought suit won, the court would enter an order compelling the appraisal district or ARB to comply with the applicable law and allowing the prevailing party to recover costs. The bill

would apply only to a matter that could not be the subject of a motion under sec. 25.25 (c) or (d), related to correction of an appraisal roll, or a protest or challenge under ch. 41.

The bill take effect September 1, 2005.

**SUPPORTERS
SAY:**

CASHB 2492 would enable taxpayers to sue appraisal districts and ARBs for violations of law. A taxpayer would have to pay \$500 into the registry of the court in order to file suit. This provision would seek to filter out frivolous lawsuits. In order to prevail in a case, a taxpayer would have to show that the failure to comply with relevant tax laws caused or would cause substantial economic harm to or denial of a taxpayer's statutory or constitutional right.

The bill would create legal recourse for taxpayers without being unduly burdensome to the court system. By specifying that CASHB 2492 would apply only to a matter that could not be subject to a motion for a correction of an appraisal roll under sec. 25.25 or a protest or challenge under ch. 41, the bill would not circumvent the current administrative process. Without this provision, courts could become a costly substitute for appraisal districts and ARBs. The legislation would contain safeguards, however, from unfounded claims and would redirect statutory or constitutional issues to the judicial system.

Current law in Tax Code, ch. 43, grants only taxing units the authority to sue appraisal districts to comply with the provisions of the property tax laws, rules of the comptroller, or other applicable laws. By extending authority to sue to taxpayers, the bill would give taxpayers more leverage to reach settlements in disputed matters and more procedural assurance on statutory or constitutional issues.

**OPPONENTS
SAY:**

CASHB 2492 would place more burden on the courts, which the administrative review process is intended to relieve. Tax disputes can be challenged and satisfied through current remedies without opening the courts to unfounded lawsuits. Although the bill would require a party that brought an action to pay \$500 into the registry of the court in order to discourage frivolous lawsuits, this amount would be relatively insignificant for a party to front in a large commercial property tax dispute. While equal-appraisal violations have occurred, the proper venue to address them already exists.

NOTES:

The committee substitute differs from the bill as introduced by extending the provisions to an ARB as well as an appraisal district. In addition, the substitute would apply only to a matter that could not be the subject of a motion for a correction of an appraisal roll or a protest with the ARB.

A similar bill, HB 1958 by Haggerty, passed the House on April 22 and has been referred to the Senate Intergovernmental Relations Committee. 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 and has been referred to the Senate Jurisprudence Committee. A related bill, SB 1351 by Williams, which also would establish binding arbitration as means of settling a protest, was scheduled for hearing before the Senate Finance Committee on May 9.