

SUBJECT: Abolishing the Board of Tax Professional Examiners

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Kuempel, Thompson, Geren, Gutierrez, Hamilton, Jones, Menendez, Quintanilla

0 nays

1 absent — Chisum

WITNESSES: For — (*Registered, but did not testify:* Daniel Gonzalez, Texas Association of Realtors; Michele Gregg, Texas Apartment Association)

Against — None

On — (*Registered, but did not testify:* William Kuntz, Texas Department of Licensing & Regulation; Karen Latta, Sunset Advisory Commission)

BACKGROUND: The Board of Tax Professional Examiners (BTPE) regulates those who appraise real property and assess and collect real property taxes by monitoring compliance with the Property Taxation Professional Certification Act, Occupations Code, ch. 1151, and other rules. The Legislature created BTPE in 1991 to take over the professional certification program of the abolished State Property Tax Board. The BTPE registers tax appraisers, assessor-collectors, and collectors and monitors their certification; oversees the educational system for certification; administers certification exams; and monitors compliance with statutes and rules, including disciplinary action.

BTPE is governed by a five-member board of four tax professionals and one public member, appointed by the governor to serve six-year terms. The BTPE has an annual budget of \$380,000 for fiscal 2008-2009 with a staff of 3.7 FTEs. BTPE regulated 3,728 property tax professionals at the end of fiscal 2008.

The BTPE underwent Sunset review in 2003 and was continued by the 78th Legislature. If not continued by the 81st Legislature, the BTPE will be abolished September 1, 2009.

DIGEST:

CSHB 2447 would abolish the Board of Tax Professional Examiners as a separate agency and fold its responsibilities into the Texas Department of Licensing and Regulation.

CSHB 2447 would create the Tax Professional Advisory Committee to assist TDLR. The committee would:

- recommend to TDLR rules and standards regarding technical issues relating to tax professionals;
- provide advice to the commission regarding continuing education courses and curricula for registrants;
- provide advice to the commission regarding the contents of any examination required by the commission; and
- educate, and respond to questions from, the TDLR regarding issues affecting property tax professionals.

The committee would consist of two certified professional appraisers, two certified collectors or assessors, and three public members who would be appointed by the presiding officer of the Commission of Licensing and Regulation, with the approval of the commission.

CSHB 2447 would require the comptroller to enter into a memorandum of understanding with TDLR, under which the comptroller would provide:

- information on educational needs of and opportunities for tax professionals;
- review and approval of all required educational courses, examinations, and continuing education programs for registrants;
- a copy of any report issued by the comptroller pertaining to reviews of appraisal standards;
- information and assistance regarding administrative proceedings conducted under the commission's rules or statute and assistance in prosecuting violations of the commission's rules or statute; and
- review and an approval process of all continuing education programs for property tax professionals.

CSHB 2460 would allow TDLR and the comptroller to contract for the development and delivery of training materials and courses. CSHB 2460 also would allow TDLR and the comptroller to charge a reasonable fee to cover these costs.

CSHB 2460 would add standard Sunset provisions to strike mandatory fee levels set by statute and allow TDLR to set them by rule, and would have licenses expire annually as opposed to the end of the calendar year. TDLR would establish an expiration schedule by rule.

The bill would make numerous conforming changes to remove references to BTPE and replace them with TDLR.

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, 2009.

**SUPPORTERS
SAY:**

BTPE should be abolished because its resources are insufficient to discharge effectively its regulatory and enforcement duties. CSHB 2460 would transfer these responsibilities to TDLR. The state should continue to register and certify tax professionals, and consolidation offers the best opportunity for increased administrative effectiveness and efficiency.

BTPE cannot fulfill its regulatory function because it is understaffed. BTPE focuses its efforts on registration and certification, which has meant other regulatory functions have suffered. BTPE does not regularly review or approve courses or exams necessary for certification, nor has it updated its rules in many years, despite laws requiring it to do so. BTPE does not pursue adequately its enforcement responsibilities. BTPE has no investigative staff and dismisses most complaints against tax professionals. Further, BTPE has no rules to guide the complaint process and as a result, tax professionals and the public do not know how to use or navigate the complaint process.

Transferring BTPE's duties to TDLR would result in appropriate and efficient regulation of property tax professionals. Certification of tax professionals ensures uniform education and training. As taxpayer frustration with the property tax grows, the state's interest in ensuring competent and professional property tax professionals becomes even more important.

TDLR has become the state's model occupational licensing agency. It makes excellent use of advisory committees and has a proven ability to effectively regulate a variety of occupations. It also has the framework to adopt the regulation of property tax professionals as it has the staff to run registration, educational oversight, certification, and investigative functions. CSHB 2460 would create the Tax Professional Advisory Committee to give technical and rulemaking advice to TDLR and would ensure that registrants and the public continue to have a voice, while improving the effectiveness, efficiency, and responsiveness of current regulations. CSHB 2460 also would also forge closer links between the comptroller and TDLR to share education and training information and other data on the Texas property tax system.

OPPONENTS
SAY:

BTPE should not be abolished because it does an appropriate job regulating property tax professionals at little cost to the state. BTPE's staffing level is adequate to ensure that property tax professionals are registered and certified. BTPE relies on the advice of the Professional Standards Committee and the new Instructor Advisory Committee for guidance on educational content and testing. While these groups are made up of property tax professionals, no other group knows better the training and education necessary to serve both the taxing entities and the public. BTPE should not be faulted for the relatively few enforcement actions it has taken because most complaints either lack sufficient evidence or the BTPE has no jurisdiction over them.

BTPE should not be abolished because it has an excellent working relationship with property tax professionals and their professional organizations. If the state wanted to shore up BTPE's efforts, the state should increase its FTEs and grant it greater authority to investigate and resolve complaints.

NOTES:

The committee substitute specified changes that would be made to the renewal dates and fees for property tax professional certification. It would formalize the relationship between TDLR and the comptroller beyond information sharing to require the two agencies to complete a memorandum of understanding that would require the comptroller to review and approve education courses, exams, and continuing education and to provide TDLR with reports it generates through its reviews of appraisal standards. The substitute also increased the number of public members on the Tax Professional Advisory Committee from one to three and increased the advisory board from five members to seven.

The companion bill, SB 1008 by Estes, was left pending in the Senate Government Organization Committee on March 23.