

- SUBJECT:** Extending statewide a program allowing appraised value appeals to SOAH
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 6 ayes — Hilderbran, Otto, Bohac, Button, N. Gonzalez, Ritter
0 nays
3 absent — Eiland, Martinez Fischer, Strama
- WITNESSES:** For — George Allen, Texas Apartment Association; John Kennedy, Texas Taxpayers and Research Association; James Popp, Popp Hutcheson; Jim Robinson, Texas Association of Appraisal Districts Legislative Committee; John Valenta, Texas Oil and Gas Association; (*Registered, but did not testify:* Adrian Acevedo, Anadarko Petroleum Corp.; Rodrigo Carreon; George Christian, Texas Taxpayers and Research Association; Brent Connett, Texas Conservative Coalition; Marya Crigler, Texas Association of Appraisal Districts Legislative Committee, Travis Central Appraisal District; June Deadrick, CenterPoint Energy; Stephanie Gibson, Texas Retailers Association; Daniel Gonzalez, Texas Association of Realtors; James LeBas, TxOGA; Ned Munoz, Texas Association of Builders; Ronnie Volkening, Texas Retailers Association)

Against — None
- BACKGROUND:** In 2009, the 81st Legislature enacted HB 3612, by Otto, which created a pilot program to allow taxpayer appeals of appraisal review board (ARB) decisions involving property values of more than \$1 million in certain counties to be heard by the State Office of Administrative Hearings (SOAH). The pilot program covered Bexar, Cameron, Dallas, El Paso, Harris, Tarrant, and Travis counties. The pilot is set to expire in 2013.

In 2011, the 82nd Legislature enacted HB 2203, by Otto, to extend the pilot program to include Collin, Denton, Fort Bend, Montgomery, and Nueces counties for a one-year period beginning with the ad valorem tax year that began January 1, 2012.
- DIGEST:** CSHB 316 would extend and make permanent the pilot program allowing SOAH to hear appeals of ARB decisions statewide. It would add minerals

to the types of real property ARB decisions that could be appealed to SOAH.

The bill would require SOAH to hear appeals only in the following municipalities: Amarillo, Austin, Beaumont, Corpus Christi, El Paso, Fort Worth, Houston, Lubbock, Lufkin, McAllen, Midland, San Antonio, Tyler, and Wichita Falls. If all or part of the property that was the subject of the appeal was located in one of these cities, then the appeal would be heard in that city. If none of property was in one of these cities, then SOAH would hold the hearing in the city closest to the subject property.

The bill would take effect January 1, 2014, and would apply only to appeals filed on or after that date.

**SUPPORTERS
SAY:**

CSHB 316 would extend across Texas the successful pilot program that allows taxpayers to appeal ARB determinations to SOAH. The appeal to SOAH has proven to be a valuable intermediate option between ARB decisions and an appeal to district court. Too many taxpayers are unhappy with the ARB process but cannot afford to appeal their cases to district court, as the cost of doing so often exceeds the shift in appraised value they hope to obtain. The ability to appeal ARB decisions to SOAH has proven popular within the counties where it has been allowed and its success and benefits should be offered to all Texas property tax payers.

Appeals to SOAH increase the number of settlements between parties. It is fine that few of the appeals to SOAH actually make it all the way to the point of an issued ruling by an administrative law judge because the pilot program encourages taxpayers and appraisers to settle on a value. This results in faster resolution of cases, saving the parties money and giving local tax collecting entities a better sense of their tax base earlier in the property tax cycle.

Appeals to SOAH do not violate the open courts provision of the Texas Constitution. Administrative law judges at SOAH use adequate process and evidentiary protections to ensure the case has been heard and ruled upon by a judicial process that adequately protects the interests and rights of all parties. A hearing before a SOAH judge is not comparable to binding arbitration, which is informal enough that it cannot be considered a judicial process. Further, the program is established and has been around long enough that if it were a violation of the open courts provision, it already would have been challenged in court.

OPPONENTS
SAY:

The pilot program has not proven popular enough to justify expansion. Not many cases actually reach a final result in SOAH hearings, showing it is underutilized and may not be worth SOAH's time.

The program should not be expanded because it is a possible violation of the open courts provision of the Texas Constitution. Under the program, the taxpayer can unilaterally appeal to SOAH and the result would be binding, with no appeal to the district court. Past court decisions have invalidated similar unilateral programs, such as binding arbitration, as a violation of the open courts provision.

NOTES:

The committee substitute differs from the bill as filed in that it would add minerals to the types of real property ARB decisions that could be appealed to SOAH.