

- SUBJECT:** Entitling property taxpayers to appeal certain matters to district court
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 9 ayes — D. Bonnen, Y. Davis, Darby, Murphy, Murr, Raymond, Shine, Springer, Stephenson
- 0 nays
- 2 absent — Bohac, E. Johnson
- WITNESSES:** For — (*Registered, but did not testify:* Betsy Price, City of Fort Worth; David Mintz, Texas Apartment Association; James LeBas, TXOGA, Texas Association of Manufacturers, Texas Chemical Council)
- Against — Kirk Swinney; (*Registered, but did not testify:* Adam Cahn, Cahnman's Musings; Jason McElvaney, Harris County Appraisal District; Brent South, Texas Association of Appraisal Districts; Dana Blanton)
- BACKGROUND:** Tax Code, sec. 42.01 entitles a property owner to appeal certain appraisal review board (ARB) decisions to a district court, including those decisions relating to the appraised value of a property.
- DIGEST:** HB 165 would allow property owners to appeal to a district court a determination that an appraisal review board lacked jurisdiction to make a final decision on a property owner's protest or on a motion to correct an appraisal roll because the owner failed to comply with a requirement in the statutes. If a property owner established in court that the ARB had jurisdiction, the property owner would be entitled to a final determination by the court. In the case of a protest, a final determination could be made on any ground of protest, regardless of whether it was included in the initial notice of protest.
- If an appeal dealt with the failure of a property owner to exhaust administrative remedies, courts could send the action back to the ARB with instructions to allow the owner to exhaust the administrative

remedies. If a matter were sent back to the ARB, it would be considered a timely protest, and the ARB would be required to schedule a hearing and issue a written decision on the matter. That decision could be appealed to the court that remanded the matter to the ARB. Both parties could, with the court's approval, agree to waive the remand of the action and allow the court to determine the appeal.

The bill would take effect January 1, 2018, and would apply only to appeals filed on or after that date.

**SUPPORTERS
SAY:**

HB 165 would help level the playing field for property owners appealing appraisal review board (ARB) decisions by ensuring that they have recourse in all disputes. Currently, taxpayers can appeal an ARB decision only to be told that the board lacks jurisdiction because the taxpayer did not exhaust all the available administrative remedies, in some cases because the taxpayer missed a deadline. Under current law, the taxpayer cannot appeal this decision and is left with no way to resolve the original issue being protested.

HB 165 would address this problem by allowing a taxpayer to appeal to a court when an ARB claimed that the taxpayer had not exhausted administrative remedies. The court could send the matter back to the board, and the property owner could cure the failure to exhaust administrative remedies. The ARB could then hold a hearing and deal with the substantive issue being raised. By allowing appeals to a court, HB 165 would treat such cases the same way appeals of other orders are handled and would give courts final jurisdiction on all matters related to taxing a property owner.

Taxpayers, large and small, want issues with ARBs resolved in a timely manner before they pay taxes, so they would have no incentive to delay filing an appeal authorized by the bill.

OPPONENTS
SAY:

HB 165 would open the door too wide in allowing property owners to appeal to courts after an ARB determination that administrative remedies had not been followed without imposing appropriate deadlines. Currently, appeals by property owners must be pursued through administrative remedies according to certain deadlines. This ensures that taxing entities know what is being disputed as they create their budgets. HB 165 would expand the types of appeal that property owners could make without imposing a specific deadline, which could introduce uncertainty in a taxing entity's budget process, especially if a protesting taxpayer had a large tax obligation.

Current law works well to give property owners options to appeal decisions of ARBs, including through the courts after they have exhausted their administrative remedies and, in some cases, to compel a hearing.

NOTES:

According to the Legislative Budget Board's fiscal note, HB 165 could impose increased costs to the Foundation School Fund to the extent that taxable property values were reduced as a result of the revised appeals process in the bill.