

SUBJECT: Allowing district courts to remand certain property tax matters to an ARB

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Burrows, Guillen, Bohac, Cole, Murphy, Noble, Sanford, Shaheen, Wray

2 nays — Martinez Fischer, E. Rodriguez

WITNESSES: For — Robert Myers; (*Registered, but did not testify*: James Harris, Citizens for Appraisal Reform; David Glenn, Home Builders Association of Greater Austin; Scott Norman, Texas Association of Builders; Ray Head, Texas Association of Property Tax Professionals; Daniel Gonzalez and Julia Parenteau, Texas Realtors; David Kaplan; James Popp)

Against — Brent South, Texas Association of Appraisal Districts; Karen Evertson, Travis Central Appraisal District; (*Registered, but did not testify*: Roland Altinger, Harris County Appraisal District; Marya Crigler, Travis Central Appraisal District)

BACKGROUND: Tax Code sec. 25.25 allows a property owner to file a motion with an appraisal review board to correct certain errors in the appraisal roll. Tax Code sec. 41.41 authorizes a property owner to protest before the review board certain determinations made by an appraisal district, and ch. 42 provides a property owner with an opportunity to appeal certain orders of an appraisal review board.

The procedures for adjudication of the grounds of a protest provided in Tax Code ch. 41, including the procedures for motions or protests before the board, are exclusive.

DIGEST: HB 380 would allow a district court to remand to an appraisal review board an appeal of the board's order under certain circumstances and would expand the appraisal review board orders that a property owner could appeal.

Remand. HB 380 would authorize a court to remand an appeal by a property owner of an appraisal review board's order to the board instead of dismissing it for lack of jurisdiction due to the property owner's failure to exhaust administrative remedies. The review board would be instructed on remand to give the property owner an opportunity to cure the owner's failure to exhaust administrative remedies.

Any action remanded to a review board would be considered to be a timely filed protest or motion, as applicable, and the board would be required to schedule a hearing on and issue a written decision determining the protest or motion.

A review board's determination relating to the remanded action could be appealed to the court that remanded the action. Such an appeal could not be the subject of a plea to the jurisdiction due to the property's owner's failure to exhaust administrative remedies.

Waiver of remand. The bill would allow the parties to the appeal to agree to waive remand of the action to the appraisal review board and request that the court determine the appeal on the merits. Upon waiving remand, each party would be considered to have exhausted the party's administrative remedies.

Appeal. HB 380 would allow a property owner to appeal in district court any appraisal review board order determining that the board lacked jurisdiction to make a final determination of the owner's protest or motion to correct the appraisal roll due to the owner's failure to satisfy the requirements for a protest or motion.

If the property owner established that the board had jurisdiction to issue a final determination of the protest or motion, the owner would be entitled to have the court make a final determination of the protest or motion. The court could make a final determination of a protest on any ground applicable to the property, even if such ground was not included in the owner's notice of protest.

The bill would take effect September 1, 2019, and would apply only to an appeal filed on or after this date.

**SUPPORTERS
SAY:**

HB 380 would promote fairness in the state's property tax system by providing taxpayers with a mechanism for resolving their disputes with an appraisal review board even if the board claimed such resolution was barred due to a taxpayer's failure to exhaust administrative remedies or due to the board's lack of jurisdiction.

Many taxpayers have a difficult time navigating the property tax system without professional guidance. Taxpayers often fail to check the right box or overlook grounds for protest when appearing before an appraisal review board. Review boards typically point to such oversights as a basis for having lawsuits appealing their orders dismissed, arguing that taxpayers had failed to exhaust their administrative remedies. This leaves taxpayers with no recourse to resolve the underlying disputes. HB 380 would authorize courts either to remand an appeal to a review board to allow the taxpayer to exhaust administrative remedies or permit the courts themselves to determine the underlying dispute, giving taxpayers a chance to continue working towards resolving their property tax disputes.

The bill would not change any deadlines or other procedural requirements that taxpayers would have to follow in order to dispute property taxes but simply would improve the fairness of the property tax system. The budgets of taxing units would be impacted only if it became clear that the taxing unit had collected too much tax from taxpayers.

**OPPONENTS
SAY:**

HB 380 could be interpreted as eliminating deadlines and other procedural requirements in the property tax system, allowing taxpayers to file lawsuits years later without having first filed a protest with the appropriate appraisal review board in a timely manner or exhausted their administrative remedies. Not only could this allow for taxpayers to be treated differently based on their level of sophistication and ability to pay legal fees, but it also could cause uncertainty for taxing units when setting their budgets.

The bill also could increase litigation involving appraisal review boards, which ultimately would be funded by taxpayers and could overburden the court system.

NOTES:

According to Legislative Budget Board, passage of the bill would permit appraisal review board or court determinations on certain protests, motions and appeals related to jurisdiction that would not be permitted under current law, which could result in taxable property values being reduced and the related costs to the Foundation School Fund being increased through the operation of the school finance formulas.