

BILL ANALYSIS

Senate Research Center

S.B. 1647
By: Cain
State Affairs
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As Filed

DIGEST

Currently, an appraisal district determines the value of property for tax purposes. In May 1996, the governor appointed a task force to investigate the state's property tax system. This bill addresses the taxpayer concerns expressed to the task force by providing new regulations regarding the administrative and judicial review of property tax determinations.

PURPOSE

As proposed, S.B. 1647 provides new regulations regarding the administrative and judicial review of property tax determinations.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the State Office of Administrative Hearing in SECTION 6 (Section 41.92, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 6.41(b)-(f), Tax Code, to authorize a majority of the district judges having jurisdiction in the county for which an appraisal district is established, rather than a board of directors of an appraisal district (board) by resolution of a majority of its members, to increase the size of the appraisal review board to a certain size. Provides that a current or former officer or employee of a taxing unit is ineligible to serve on the board. Makes conforming changes.

SECTION 2. Amends Section 6.411, Tax Code, to authorize a majority of the district judges having jurisdiction, rather than the board of directors, in the county for which an appraisal district is established to appoint auxiliary members to hear taxpayer protests before the appraisal review board and to assist the board in performing its other duties. Makes conforming changes.

SECTION 3. Amends the heading to Chapter 41, Tax Code, as follows:

CHAPTER 41. ADMINISTRATIVE REVIEW

SECTION 4. Amends Section 41.43, Tax Code, as follows:

Sec. 41.43. New heading: **PROTEST OF DETERMINATION OF VALUE OR INEQUALITY OF APPRAISAL**. Provides that, in a protest authorized by Section 41.41(1) or (2), the appraisal district has the burden of establishing the value of the property. Requires a protest on the ground of unequal appraisal of property to be determined in favor of the protesting party unless the appraisal district establishes certain facts.

SECTION 5. Amends Chapter 41D, Tax Code, by adding Section 41.71, as follows:

Sec. 41.71. **LOCATION AND TIME OF HEARINGS**. Prohibits an appraisal review board from conducting a hearing under Subchapter A or C in a building in which an office of the appraisal district is located. Requires an appraisal review board to regularly schedule hearings in the evening.

SECTION 6. Amends Chapter 41, Tax Code, by adding Subchapter E, as follows:

SUBCHAPTER E. DETERMINATION OF PROTEST BY STATE OFFICE OF
ADMINISTRATIVE HEARINGS

Sec. 41.91. DEFINITION. Defines "office."

Sec. 41.92. RULES. Requires the State Office of Administrative Hearings (office) to adopt rules of practice and procedure for protest proceedings under this subchapter.

Sec. 41.93. ELECTION OF REMEDIES. Provides that a property owner is entitled to have the office conduct a hearing and determine a protest if the property owner meets certain criteria. Provides that a property owner who submits a request under this section waives the right to a hearing and determination of the protest by the appraisal review board.

Sec. 41.94. FORWARDING OF NOTICE OF PROTEST AND FILING FEE TO OFFICE. Requires the appraisal review board, on receipt of a notice under Section 41.93 and the required filing fee, to forward the notice and the filing fee to the office.

Sec. 41.95. CONTESTED CASE. Provides that except as otherwise provided by this subchapter, the provisions of Chapter 2001, Government Code, applicable to a contested case apply to the determination of a protest under this subchapter.

Sec. 41.96. BURDEN OF PROOF. Provides that Section 41.43 applies to the determination of a protest under this subchapter.

Sec. 41.97. HEARING ON AND DETERMINATION OF PROTEST. Requires the administrative law judge to whom the protest is assigned to conduct a hearing on the protest and issue a proposal for decision determining the protest. Provides that the proposal is binding on the parties and the appraisal review board.

Sec. 41.98. NOTIFICATION OF DETERMINATION; CORRECTION OF APPRAISAL RECORDS. Requires the office to notify certain persons of the proposal for decision. Requires the appraisal review board by written order to determine the protest in accordance with the proposal for decision and to correct the appraisal records as necessary to conform to the order.

Sec. 41.99. ATTORNEY'S FEES AND COSTS. Sets forth procedures regarding the awarding of attorney's fees and costs.

Sec. 41.100. SANCTIONS. Authorizes the administrative law judge to impose sanctions against a party or its representative as provided by Sections 2003.047(i) and (j), Government Code.

Sec. 41.101. APPEAL. Provides that an order of the appraisal review board determining a protest under this subchapter is considered to have been issued under Subchapter C for purposes of appeal under Chapter 42, except that judicial review of the protest is under the substantial evidence rule.

SECTION 7. Amends Section 42.23, Tax Code, by adding Subsection (d), to provide that the burden of proof is on the appraisal district in an appeal under Section 42.01(1) or 42.02.

SECTION 8. (a) Makes application of SECTIONS 4-6 of this Act prospective.

(b) Makes application of SECTION 7 of this Act prospective.

SECTION 9. (a) Effective date: January 1, 1998.

(b) Sets forth regulations regarding the appointment of the appraisal review board by certain

district judges.

(c) Provides that the term of an appraisal review board member serving on December 31, 1997, expires on January 1, 1998.

(d) Authorizes auxiliary members to be appointed under Section 6.411, Tax Code, as amended by this Act, by the district judges having jurisdiction in the county for which an appraisal district is established on or after January 1, 1998.

(e) Provides that the term of an auxiliary member serving on December 31, 1997, expires on January 1, 1998.

SECTION 10. Emergency clause.