

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1351
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Finance
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Many real property owners in Texas are not entirely satisfied with the current appraisal review process. Currently, property owners who dispute a property appraisal value can contest the value with a local appraisal review board (ARB). Members of the local ARBs are appointed by the central appraisal district (CAD).

Many property owners believe they are not given a fair hearing during an ARB hearing. If a property owner is not satisfied with the findings of the ARB, the owner has the right to file a lawsuit; however, that requires more financial resources than the typical homeowner is able to use for a property tax protest.

C.S.S.B. 1351 creates a new property appraisal process after an ARB hearing. This process will offer homeowners an additional avenue to contest property appraisals without having to file costly lawsuits. Homeowners would have the option to elect to contest their property appraisals through a binding arbitration hearing or to file a lawsuit against the CAD. A property owner who elects to proceed with binding arbitration would pay a \$500 filing fee which would cover the cost of the arbitration. A "loser pays" provision would mean that a property owner who won an arbitration would get the filing fee back but would forfeit the filing fee if the appraisal district won.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Sections 41A.04, 41A.09, and 41A.13, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 1, Tax Code, by adding Chapter 41A, as follows:

CHAPTER 41A. APPEAL THROUGH BINDING ARBITRATION

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. Entitles a property owner, as an alternative to filing an appeal under Section 42.01, to appeal through binding arbitration under this chapter an appraisal review board order determining a protest concerning the appraised or market value of certain real property, if certain conditions are met.

Sec. 41A.02. NOTICE OF RIGHT TO ARBITRATION. Requires an appraisal review board that delivers notice of issuance of an order and a copy of the order to property owner to include with the notice and copy a notice of the property owner's rights under this chapter, and a copy of the request form.

Sec. 41A.03. REQUEST FOR ARBITRATION. (a) Requires a property owner appealing an appraisal review board order under this chapter to file certain documentation with the appraisal district in a specific time frame and a \$500 arbitration deposit, made payable to the comptroller of public accounts (comptroller).

(b) Provides that a property owner who fails to strictly comply with this section waives the right to request arbitration under this chapter. Provides that a property owner who appeals an appraisal review board order determining a protest

concerning the appraised or market value, as applicable, of the owner's property under Chapter 42, waives the right to request binding arbitration under this chapter regarding the value of that property. Requires an arbitrator to dismiss any pending arbitration proceeding if the property owner's rights are waived under this subsection.

Sec. 41A.04. CONTENTS OF REQUEST FORM. Requires the comptroller, by rule, to prescribe the form of a request for binding arbitration under this chapter. Specifies the requirements for the form.

Sec. 41A.05. PROCESSING OF REGISTRATION REQUEST. Requires the appraisal district, by a certain date, to take certain actions to process the registration request. Authorizes the comptroller to retain ten percent of the deposit to cover the comptroller's administrative costs.

Sec. 41A.06. REGISTRY AND QUALIFICATIONS OF ARBITRATORS. Requires the comptroller to maintain a registry of qualified arbitrators. Sets forth the requirements to qualify to serve as an arbitrator under this chapter.

Sec. 41A.07. APPOINTMENT OF ARBITRATOR. (a) Requires the comptroller, on receipt of the request form and deposit, to send the property owner and the appraisal district a copy of the registry of qualified arbitrators and request the parties to select an arbitrator. Authorizes the comptroller to send to the parties a copy of the registry by regular mail in paper form or written notice of the Internet address of a website at which the registry is maintained and may be accessed. Requires the parties to attempt to select an arbitrator from the registry.

(b) Requires the appraisal district, by a certain date, to notify the comptroller that the parties have either selected an arbitrator and request that the comptroller appointed the selected arbitrator; or to notify that comptroller that the parties were unable to select an arbitrator and request the comptroller to appoint an arbitrator.

(c) Requires the comptroller to appoint the arbitrator selected by the parties; or, if an arbitrator was not selected, to appoint any arbitrator included in the comptroller's registry.

(d) Requires the appointed arbitrator to promptly notify the comptroller that the arbitrator does not accept the appointment and to state the reason, if unable or unwilling to conduct the arbitration for any reason.

Sec. 41A.08. NOTICE AND HEARING; REPRESENTATION OF PARTIES. (a) Requires the arbitrator, on acceptance of an appointment, to set the date, time, and place of a hearing on the arbitration. Requires the arbitrator to give notice of and conduct the hearing in a certain manner. Requires the arbitrator to continue a hearing if both parties agree to the continuance; authorizes the arbitrator to continue a hearing for reasonable cause.

(b) Entitles the parties to an arbitration under this chapter to be represented by certain persons. Authorizes an employee of the appraisal district to represent the appraisal district in the arbitration proceeding. Prohibits a person from serving as a party representative, presenting evidence, or making arguments in an arbitration proceeding under this chapter unless the person meets certain criteria.

Sec. 41A.09. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Requires the arbitrator, by a certain date, to make an arbitration award and deliver a copy of the award to the property owner, the appraisal district, and comptroller.

(b) Sets forth the characteristics of an award under this section.

(c) Requires the comptroller, on receipt of a copy of the award, to refund the property owner's arbitration deposit, less the amount retained by the comptroller;

requires the appraisal district, on receipt of a copy of the award, to pay the arbitrator's fee; and requires the chief appraiser to correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination, if the arbitrator makes a certain determination in favor of the property owner.

(d) Requires the comptroller, on receipt of a copy of the award, to pay the arbitrator's fee out of the property owner's arbitration deposit; refund to the property owner the arbitration deposit, less the arbitrator's fee and the amount retained by the comptroller; and requires the chief appraiser to correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination, if the arbitrator makes a certain determination in favor of the appraisal district.

(e) Authorizes the comptroller, by rule, to prescribe a standard form for an award and to require arbitrators to use the award form when making awards under this chapter.

Sec. 41A.10. PAYMENT OF TAXES PENDING APPEAL. (a) Provides that the pendency of appeal under this chapter does not affect the delinquency date for the taxes on the property subject to appeal. Requires a property owner appealing an appraisal review board order under this chapter to pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. Requires the taxing unit, if the final determination of an appeal under this chapter decreases the property owner's tax liability to less than the amount of taxes paid, to refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) Prohibits a property owner from filing an appeal under this chapter if taxes on the property subject to appeal are delinquent. Requires an arbitrator who determines that the taxes on the property subject to an appeal are delinquent to dismiss the pending appeal with prejudice. Requires the comptroller, if an appeal is dismissed under this subsection, to refund the property owner's arbitration deposit, less the amount retained by the comptroller under Section 41A.05(b).

Sec. 41A.11. POSTAPPEAL ADMINISTRATIVE PROCEDURES. Provides that an arbitration award under this chapter is considered to be a final determination of an appeal for purposes of Subchapter C, Chapter 42.

Sec. 41A.12. USE OF PROPERTIES AS SAMPLES. Provides that an arbitrator's determination of market value under this chapter is the market value of the property subject to appeal for the purposes of the annual study conducted under Section 403.302 (Determination of School District Property Taxes), Government Code.

Sec. 41A.13. RULES. Authorizes the comptroller to adopt rules necessary to implement and administer this chapter.

SECTION 2. Requires the comptroller to prescribe the model form for an arbitration request and to establish a registry of qualified arbitrators, as provided by this Act, as soon as practicable after the effective date of this Act, but not later than January 1, 2006.

SECTION 3. Effective date: September 1, 2005