

BILL ANALYSIS

Senate Research Center
86R23239 TJB-F

C.S.S.B. 1428
By: Hancock
Property Tax
5/3/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislature has prescribed specific requirements of appraisal districts and appraisal review boards (ARBs) in the Tax Code in order to ensure that taxpayers are provided with fair, unbiased hearings. These protections include rescheduling hearings at the taxpayer's request, providing evidence in advance, and randomly assigning protest hearings to ARB panels. Unfortunately, there are not specific enforcement mechanisms in place to force the appraisal district and ARBs' compliance with these requirements. Some taxpayers are subsequently forced to navigate an already arduous appraisal system, without the protections that the legislature intended them to have.

S.B. 1428 would add Sections 41.81–41.83 to Chapter 41 of the Tax Code. Section 41.81 would allow a property owner or their designated agent to sue their appraisal district, chief appraiser, or ARB in district court to compel them to comply with the aforementioned protections or any rule established by the board. The suit would be limited to determining whether the requirements or rules had been complied with, not the merits of the motion. Section 41.82 would prohibit discovery in order to remedy non-compliance quickly, similar to small claims court. Section 41.83 would require the district court to hear the case at the earliest possible date and determine the merits of the suit. If the court finds that the appraisal district, chief appraiser, or ARB did not comply, court costs and attorney's fees will be awarded to the property owner. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1428 amends current law relating to the authority of a property owner to bring suit to compel an appraisal district, chief appraiser, or appraisal review board to comply with a procedural requirement applicable to an ad valorem tax protest.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 41, Tax Code, by adding Subchapter E, as follows:

SUBCHAPTER E. LIMITED SUIT TO COMPEL COMPLIANCE WITH PROCEDURAL REQUIREMENT

Sec. 41.81. LIMITED SUIT. (a) Authorizes a property owner who has filed a notice of protest under this chapter (Local Review) to bring suit against an appraisal district, chief appraiser, or appraisal review board to compel the district, chief appraiser, or board to comply with a procedural requirement imposed under this chapter or under a rule established by the board under this chapter that is applicable to the protest.

(b) Authorizes a property owner to bring suit under this section by filing a petition or application in district court.

(c) Prohibits a property owner from bringing suit under this section unless the property owner has delivered written notice of the procedural requirement the

property owner alleges the appraisal district, chief appraiser, or appraisal review board failed to comply with and the appraisal district, chief appraiser, or appraisal review board, as applicable, refuses to comply with the requirement, or does not comply with or agree to comply with the requirement, on or before the 10th day after the date the notice is delivered. Requires the notice to be delivered by certified mail, return receipt requested, to the chief appraiser if the property owner alleges that the appraisal district or chief appraiser failed to comply with the procedural requirement, or to the chairman of the appraisal review board if the property owner alleges that the appraisal review board failed to comply with the requirement. Prohibits the property owner from filing a petition under this section:

(1) earlier than the earlier of the date the appraisal district, chief appraiser, or appraisal review board, as applicable, refuses to comply with the procedural requirement, if applicable, or the 11th day after the date the notice is delivered; or

(2) later than the 30th day after the first date the property owner is authorized to file the petition under Subdivision (1).

(d) Provides that a suit brought under this section is for the limited purpose of determining whether the defendant failed to comply with the procedural requirement that is the subject of the suit.

(e) Prohibits a suit brought under this section from addressing the merits of a motion filed under Section 25.25 (Correction of Appraisal Roll) or a protest filed under this chapter.

Sec. 41.82. NO DISCOVERY. Prohibits either party from conducting discovery in a suit brought under this subchapter.

Sec. 41.83. HEARING. (a) Requires the court in which a suit under this subchapter is filed to set down the matter described in the petition or application for hearing at the earliest possible date.

(b) Requires the court, at the end of the hearing, to determine the merits of the suit.

(c) Requires the court, if the court determines that the defendant failed to comply with a procedural requirement imposed on the defendant under this chapter or under a rule established by the board under this chapter, to order the defendant to comply with the procedural requirement, to enter any order necessary to preserve rights protected by, and impose duties required by, the law, and to award court costs and reasonable attorney's fees to the property owner.

(d) Provides that an order entered under this section is final and is prohibited from being appealed.

SECTION 2. Makes application of Subchapter E, Chapter 41, Tax Code, as added by this Act, prospective.

SECTION 3. Effective date: January 1, 2020.