

## **BILL ANALYSIS**

Senate Research Center  
86R6363 JES-D

S.B. 1986  
By: Creighton  
Property Tax  
4/15/2019  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Tax Code establishes the right of property owners to protest before an appraisal review board the appraised value of their property. The Texas Legislature has prescribed specific requirements of 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 and providing evidence in advance in a overall effort to create a fair and transparent review process. Even with these protections, taxpayers do not have the opportunity to participate in the board selection process.

S.B. 1986 amends the Tax Code to require the three members of an ARB to be elected to two-year terms by the voters of the county in which the district is established. To be eligible to serve, the individual must be a resident of the county in which the ARB is established and have lived in the county for two years prior.

As proposed, S.B. 1986 amends current law relating to the selection and administration of an appraisal review board and authorizes a fee.

### **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 Section 5.103(b), Tax Code, to delete existing text requiring the model hearing procedures to address the process for the administration of applications for membership on an appraisal review board and to make nonsubstantive changes.

SECTION 2. Amends Sections 6.41(a), (b), (c), (d), (f), (j), and (k), Tax Code, as follows:

(a) Makes a nonsubstantive change to this subsection.

(b) Provides that the appraisal review board (board) consists of three members elected by the voters of the county in which the district is established at the general election for state and county officers. Provides that the members serve two-year terms beginning on January 1 of odd-numbered years. Deletes existing text relating to authorizing the district board of directors by resolution of a majority of its members to increase the size of the appraisal review board to the number of members the board of directors considers appropriate.

(c) Requires an individual, to be eligible to serve on the board, to be a resident of the county in which the appraisal district is established and to have resided in the county, rather than district, for at least two years before the date of the individual's election or appointment.

(d) Deletes existing text relating to a provision that except as provided by Subsection (d-1), members of the board are appointed by resolution of a majority of the appraisal district board of directors. Provides that a vacancy on the board is filled by appointment

by a resolution of a majority of the appraisal district board of directors for the unexpired portion of the term, rather than in the same manner for the unexpired portion of the term.

(f) Provides that for purposes of Chapter 87 (Removal of County Officers From Office; Filling of Vacancies), Local Government Code, grounds for removal of a member of an appraisal review board include certain criteria, including failure to complete a course required by Section 5.041 (Training of Appraisal Review Board Members). Deletes existing text relating to authorizing a member of the board to be removed from the board by a majority vote of the appraisal district board of directors, or by the local administrative district judge or the judge's designee, as applicable, that appointed the member.

(j) Provides that a chief appraiser or another employee or agent of an appraisal district commits an offense if the person communicates with a member of the appraisal review board for the appraisal district or a member of the board of directors of the appraisal district regarding a ranking, scoring, or reporting of the percentage by which the appraisal review board or a panel of the board reduces the appraised value of property, rather than providing that a chief appraiser or another employee or agent of an appraisal district commits an offense if the person communicates with a member of the appraisal review board for the appraisal district, a member of the board of directors of the appraisal district, or, if the appraisal district is an appraisal district described by Subsection (d-1) (relating to a provision that in a county with a population of 120,000 or more the members of the board are appointed by the local administrative district judge), the local administrative district judge regarding a ranking, scoring, or reporting of the percentage by which the appraisal review board or a panel of the board reduces the appraised value of property.

(k) Provides that an offense under Subsection (j), rather than under Subsection (i) or (j), is a Class A misdemeanor, rather than providing that an offense under Subsection (i) (relating to the offense of improper communication regarding the appointment of board members for certain counties) or (j) is a Class A misdemeanor.

SECTION 3. Amends Subchapter C, Chapter 6, Tax Code, by adding Section 6.4101, as follows:

Sec. 6.4101. **BALLOT PROCEDURES FOR APPRAISAL REVIEW BOARD MEMBER; FILING FEE.** (a) Provides that except as provided by this section, Chapter 144 (Candidate For Office of Political Subdivision Other Than County or City), Election Code, applies to a candidate for the office of member of the appraisal review board of an appraisal district.

(b) Requires that an application for a place on the ballot be filed with the county judge of the county in which the appraisal district is established and be accompanied by a filing fee of \$250.

(c) Authorizes a candidate's name to appear on the ballot only as an independent candidate.

(d) Requires a filing fee received under this section to be deposited in the county treasury to the credit of the county general fund.

SECTION 4. Amends Section 6.411(c-1), Tax Code, as follows:

(c-1) Provides that this section does not apply to communications with a member of an appraisal review board by the chief appraiser or another employee or a member of the board of directors of an appraisal district or a property tax consultant or attorney representing a party to a proceeding before the appraisal review board:

(1)–(3) makes no changes to these subdivisions; or

(4) that are necessary and appropriate to enable the appraisal review board to determine whether to appoint, reappoint, or remove a person as the chairman or secretary of the appraisal review board, rather than that are necessary and appropriate to enable the board of directors of the appraisal district to determine whether to appoint, reappoint, or remove a person as a member or the chairman or secretary of the appraisal review board.

SECTION 5. Amends Section 6.413(a), Tax Code, that provide that an individual is ineligible to be elected or appointed to or to serve on the appraisal review board established for an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with the appraisal district or with a taxing unit that participates in the appraisal district.

SECTION 6. Amends Sections 6.414(a) and (b), Tax Code, as follows:

(a) Authorizes an appraisal review board, rather than the board of directors of an appraisal district, by resolution of a majority of the members to provide for a number of auxiliary appraisal review board members that the board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the board in performing its duties. Requires the appraisal review board to prepare a list of names of potential auxiliary board members who meet the qualifications for appointment as an auxiliary board member and submit the list to the commissioners court of the county in which the appraisal district is established.

(b) Provides that an auxiliary board member is appointed by the commissioners court of the county in which the appraisal district is established from the list of potential members provided by the appraisal review board under Subsection (a), rather than in the same manner for the same term as an appraisal review board member under Section 6.41 (Appraisal Review Board) and is subject to the same eligibility requirements and restrictions as a board member under Sections 6.41, 6.411 (Ex Parte Communications; Penalty), 6.412 (Restrictions on Eligibility of Board Members), and 6.413 (Interest in Certain Contracts Prohibited). Provides that an auxiliary board member is appointed for a two-year term. Provides that a vacancy among the auxiliary board members is filled in the same manner as the original appointment to the appraisal review board.

SECTION 7. Amends Section 6.42(a), Tax Code, to require the board by resolution to select a chairman and a secretary from among the board's members, rather than to require the board of directors of the appraisal district by resolution to select a chairman and a secretary from among the members of the appraisal review board. Makes conforming changes.

SECTION 8. Amends Section 41.66(g), Tax Code, to require the appraisal review board, rather than the board of directors of the appraisal district, to adopt and implement a policy concerning the temporary replacement of an appraisal review board member who has communicated with another person in violation of Subsection (f) (relating to prohibiting a board member from communicating certain information regarding a protest hearing).

SECTION 9. Repealer: Section 6.052(f) (relating to a provision that the taxpayer liaison officer for a certain appraisal district is responsible for providing clerical assistance to the local administrative district judge in the selection of appraisal review board members), Tax Code.

Repealer: Section 6.41(d-1) (relating to a provision that in a county with a population of 120,000 or more the members of the board are appointed by the local administrative district judge), Tax Code.

Repealer: Section 6.41(d-2) (relating to authorizing a local administrative district judge making certain appointments to appoint certain persons to perform the duties of appraisal review board commissioner), Tax Code.

Repealer: Section 6.41(d-3) (relating to a requiring a local administrative judge making certain appointments to cause the proper officer to notify such appointees of such appointment, and when and where they are to appear), Tax Code.

Repealer: Section 6.41(d-4) (relating to requiring certain appraisal review board commissioners to meet as directed by the local administrative district judge in order to complete their duties), Tax Code.

Repealer: Section 6.41(d-5) (relating to requiring the appraisal district of the county to provide to appropriate parties the number of appraisal review board positions that require appointment), Tax Code.

Repealer: Section 6.41(d-6) (relating to a provision that an appraisal review board commissioner is not disqualified from serving as a member of the appraisal review board), Tax Code.

Repealer: Section 6.41(d-7) (relating to relating to requiring commissioners to return a list of certain proposed appraisal review board members to the local administrative district judge), Tax Code.

Repealer: Section 6.41(d-8) (relating to requiring any appraisal review board commissioners appointed pursuant to this section shall hold office for a term of one year beginning January 1), Tax Code.

Repealer: Section 6.41(d-9) (relating to requiring the local administrative district judge to enter an appropriate order designating selected members and setting each member's respective term of office), Tax Code.

Repealer: Section 6.41(e) (relating to a provision that members of the board hold office for suggested terms of two years beginning January 1), Tax Code.

Repealer: Section 6.41(i) (relating to the offense of improper communication regarding the appointment of board members for certain counties), Tax Code.

Repealer: Section 6.412(e) (relating to a provision that a board member who has served three consecutive terms is ineligible to serve on the appraisal review board during a term that begins on the next January 1 following the third of those consecutive terms), Tax Code.

SECTION 10. (a) Requires appraisal review board members to be elected under Section 6.41, Tax Code, as amended by this Act, beginning with the general election conducted in 2020. Provides that members then elected take office January 1, 2021.

(b) Provides that the change in the manner of selection of appraisal review board members made by Section 6.41, Tax Code, as amended by this Act, does not affect the selection of members who serve on the board before January 1, 2021.

(c) Provides that the term of an appraisal review board member serving on December 31, 2020, expires on January 1, 2021.

(d) Authorizes auxiliary members to be appointed under Section 6.414 (Auxiliary Appraisal Review Board Members), Tax Code, as amended by this Act, by a commissioners court on or after January 1, 2021.

(e) Provides that the change in the manner of selection of auxiliary members made by Section 6.414, Tax Code, as amended by this Act, does not affect the selection of auxiliary members who serve before January 1, 2021.

(f) Provides that the term of an auxiliary member serving on December 31, 2020, expires on January 1, 2021.

SECTION 11. Makes application of the repeal by this Act of Section 6.41(i), Tax Code, and the change in law made by this Act to Section 6.41(j), Tax Code, prospective to January 1, 2021. Provides that for purposes of this section, an offense was committed before January 1, 2021, if any element of the offense occurred before that date.

SECTION 12. (a) Effective date, except as otherwise provided by this section: January 1, 2021.

(b) Effective date, this section and Sections 3 and 10: January 1, 2020.