

- SUBJECT:** Courses and legal counsel for appraisal review boards
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 9 ayes — Hilderbran, Otto, Gonzalez, Lyne, Martinez Fischer, Murphy, Ritter, Villarreal, Woolley
- 0 nays
- 2 absent — Christian, Elkins
- WITNESSES:** For — John Brusniak, Brusniak/Blackwell PC; Jim Robinson, Texas Association of Appraisal Districts; (*Registered, but did not testify:* George Allen, Texas Apartment Association; Daniel Gonzalez, Texas Association of REALTORS; Chet Morrison, Texas Association of Property Tax Professionals; Melissa Ramirez, Popp Gray & Hutcheson; Brent South, Hunt County Appraisal District)
- Against — None
- BACKGROUND:** Tax Code, sec. 5.041 directs the comptroller to prepare curricula and materials and supervise a course for training appraisal review board members. Members may not participate in a hearing conducted by an appraisal review board until they complete the course. The comptroller is allowed to contract with third parties to assist in program design and delivery. The course may not be provided by an appraisal district or a taxing unit. The comptroller may charge a fee of \$50 for each person trained. Sec. 5.041 also directs the comptroller to prepare curricula and materials for a continuing education course for appraisal review board members.
- DIGEST:** CSHB 2078 would amend several provisions related to appraisal review boards.
- Orientation and continuing education courses.** The bill would amend Tax Code, sec. 5.041 to prohibit the comptroller’s orientation and continuing education courses for appraisal review board members from being provided by the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, or a

member of an appraisal review board. The bill would add a list of persons who could not communicate with a member of an appraisal review board about a course or any matter presented or discussed during the course:

- the chief appraiser of the appraisal district;
- another employee of the appraisal district;
- a member of the board of directors of the appraisal district;
- an officer or employee of a taxing unit that participated in the appraisal district; and
- an attorney who represented or whose law firm represented the appraisal district or a taxing unit that participated in the appraisal district.

An appraisal review board would be able to retain an appraiser certified by the Texas Appraiser Licensing and Certification Board to instruct the members of the appraisal review board on valuation methodology if the appraisal district provided for the instruction in the district's budget.

The bill would require the continuing education course for appraisal review board members to include information regarding correction of the appraisal roll under sec. 25.25.

**Legal counsel for the appraisal review board.** An attorney would be prohibited from serving as legal counsel for the appraisal review board if the attorney or a member of his or her law firm had in the last year represented a property owner in the appraisal district, a taxing unit that participated in the appraisal district, or the appraisal district in certain matters. The county attorney would be able to advise the appraisal review board. An attorney who represented an appraisal review board could not act as an advocate in a hearing or proceeding conducted by the board. An appraisal district could not require the board to employ a specific attorney as legal counsel.

**Appeal of appraisal review board order.** A petition for review no longer could be brought against the appraisal review board. A petition still could be brought against other entities, such as the appraisal district. An appraisal district could hire an attorney that represented the district to represent the board to obtain a dismissal of a suit against the board that was brought in violation of the bill's provisions.

**Ex parte communications.** A chief appraiser or another employee of an appraisal district, a member of a 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 would commit an offense if the person communicated with a member of the appraisal review board with the intent to influence a decision by the member. Prohibitions on ex parte communications would not apply to communications involving the chief appraiser, another employee, or a member of the board of directors of an appraisal district and a member of the appraisal review board:

- during a hearing on a protest or other proceeding before the appraisal review board;
- that constituted social conversation;
- that involved administrative matters; or
- that were 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 as chairman or secretary of the appraisal review board.

**Persons eligible for appraisal review board.** The bill would exclude an individual from being eligible to serve on an appraisal review board if the person was related within the third degree by consanguinity or within the second degree by affinity to a member of the appraisal district's board of directors.

**Effective date.** The bill would take effect on September 1, 2011, and would apply to an offense committed on or after the effective date.

**SUPPORTERS  
SAY:**

CSHB 2078 would ensure that property owners could count on an appraisal review board that was independent from the appraisal district. Chief appraisers use a mass appraisal system and cannot get every property right every time. A strong appraisal review board therefore is necessary to hear appeals. Some appraisal districts have attempted to undermine the comptroller's training by instructing appraisal review board members to ignore the training. The bill would correct this problem and also would prohibit attorneys from representing an appraisal review board if they have a conflict of interest. Attorneys would be prohibited from representing a board only if they represented certain other clients over the last year and would be free to represent a board if they had represented an appraisal district other than the one for which the board was established.

OPPONENTS  
SAY:

Appraisal review boards need guidance beyond what is contained in the comptroller course, which is not taught by attorneys. HB 2078 is overly broad and would prohibit communication with the appraisal review board about a course or a matter discussed in the course. Communication would be prohibited even if the board misunderstood the training. More narrow language prohibiting other parties from giving a full course would be more appropriate.

Small appraisal districts may not be able to afford a lawyer to represent both the appraisal district and the appraisal review board. Additionally, tax law is a small specialty, and the bill would disqualify many lawyers from representing an appraisal review board because they had represented a taxpayer or appraisal district. A board could be forced to hire a lawyer who was not sufficiently knowledgeable in this complex area.

NOTES:

The substitute differs from the original by prohibiting an attorney from representing an appraisal review board if the attorney had represented the appraisal district in certain matters over the last year. The original version would have prohibited attorneys who had represented any appraisal district.