

SUBJECT: Modifying statutes in the Tax Code pertaining to property tax appraisals

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 11 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Rodriguez, Sanford, Shine

0 nays

WITNESSES: For — James Popp, Popp Hutcheson; (*Registered, but did not testify:* Stephen Grant, American Campus Communities; Chris Arnell, Brusniak Turner Fine LLP; Galt Graydon, Citizens for Appraisal Reform; Daniel Gonzalez, Popp Hutcheson PLLC; Scott Retzloff, Ryan LLC; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; David Mintz, Texas Apartment Association; Wroe Jackson, Texas Association of Manufacturers; R. Clint Smith, Texas Association of Property Tax Professionals; James LeBas, Texas Chemical Council; Joy Davis, Texas Farm Bureau; John Hawkins, Texas Hospital Association; Justin Bragiel, Texas Hotel and Lodging Association; Julia Parenteau, Texas Realtors; Carl Walker, Texas Taxpayers and Research Association; Susan Spataro)

Against — (*Registered, but did not testify:* Jamaal Smith, City of Houston Office of the Mayor)

On — (*Registered, but did not testify:* Korry Castillo, Comptroller of Public Accounts)

BACKGROUND: Some have suggested that the state’s property tax system faces certain inefficiencies, a lack of accountability, and a lack of access to information and that the Legislature address these issues for the benefit of Texas taxpayers.

DIGEST: CSHB 2014 would modify sections of the Tax Code related to the appraisal of property for tax purposes, including statutes related to the goods-in-transit tax exemption, open-space land appraisals, records, notices of appraised values, overpayment refunds, and taxpayer protests.

Goods-in-transit disaster tax exemption. The governing body of a taxing unit, any part of which was located in an area designated a disaster area by a disaster declaration that had not expired or otherwise been terminated, could extend in the manner provided by law for official action the date by which goods-in-transit would have to be transported to another location in or outside the state to be considered goods-in-transit that were exempt from taxation. The date could be extended up to 270 days after the date the person acquired the property in or imported the property into Texas. An extension adopted by official action would apply only to the exemption from property taxation by the taxing unit adopting the extension and the tax year in which the extension was adopted.

These changes would apply only to a tax year beginning on or after the bill's effective date.

Open-space land appraisals. The bill would specify that, for land appraised as open-space land, a property owner could request in writing that the chief appraiser determine whether a change of use of the property owner's land had occurred. The request would have to state the manner in which the property owner was currently using the land.

By 90 days after the date the chief appraiser received the request, the chief appraiser would have to provide the property owner with a written determination that included a description of the current use of the land and a statement as to whether the current use of the land had resulted in a change. If it was determined that a change in use had not occurred, the chief appraiser could not later determine that a change of use had occurred on the basis of the use described in the written determination.

The bill would specify that tax sanctions would not apply to a change in the use of land if, after the change, the physical characteristics of the land remained consistent with the characteristics of the land during the period for which the land was eligible for appraisal as open-space land.

Appraisal records. Each appraisal record would have to have a unique

account number. If an appraisal district changed the account number of an appraisal record, the district would have to provide written notice of the change to the property owner as soon as practicable after the change and provide notice of the change in the next notice of appraised value of the property included in the record that was delivered to the property owner.

On the written request of a property owner, the chief appraiser would have to combine contiguous parcels or tracts of the owner's real property into a single appraisal record. Also on written request of a property owner, the chief appraiser would have to separate identifiable segments of the owner's parcel or tract of real property into individual appraisals. These provisions would not apply to an appraisal record for a residential property, for an improvement only, or for a property on which a delinquent tax was due.

A written request would have to be made before January 1 of the tax year for which the requested change to the appraisal record was to be made. A request would have to contain a legal description as contained in a deed sufficient to describe the property subject to the request.

If a chief appraiser refused to combine parcels or tracts, or separate a parcel or tract, on request of a property owner under these provisions, the appraisal review board (ARB) could order the requested change on a motion or protest filed by the property owner.

Notice of appraised value. The chief appraiser could not deliver a corrected or amended notice of appraised value later than June 1 for property for which a person filed a rendition statement or property report unless the purpose of the notice was to include omitted property or correct a clerical error. As soon as practicable after delivering a required notice to a property owner, the chief appraiser would have to post the notice on the appraisal district's internet website as part of the appraisal record pertaining to the property.

These provisions would apply only to a notice of appraised value for a tax year beginning on or after the bill's effective date.

Overpayment refunds. The bill would state that state law pertaining to refunds of overpayments or erroneous payments would not apply to an overpayment received after a correction of a tax roll as a result of an appeal by a property owner.

Taxpayer protests. An ARB would have to sit in a single-member panel to conduct a protest hearing if the property owner requested that the hearing be conducted by a single-member panel in the notice of the protest or in writing submitted to the board by the 10th day before the hearing date. The bill would specify that the prescribed form for submission of notice of protest would have to permit a property owner to request that a protest be heard by a single-member panel.

If the recommendation of a single-member panel that conducted such a hearing was not accepted by the ARB, the board could refer the matter for rehearing to a single-member panel composed of a member who did not hear the original protest or the board could determine the protest.

The bill would specify that when hearing a protest on the determination of the appraised value of an owner's property, an ARB would have to state in its order the appraised value of the property, listed separately in the case of real property as the appraised value of the land and the appraised value of any improvement to the land as allocated by the chief appraiser.

For an appraisal district established in a county with a population of 120,000 or more, a chief appraiser on written request would have to deliver by email a copy of the notice of issuance of an order and a copy of the order if the property subject to the order was not the subject of an agreement between the property owner or owner's designee and the chief appraiser. The bill would specify that:

- a request could be submitted only by the property owner whose property was subject to the protest for which the order was issued, an attorney representing the owner, or an individual designated by the owner;

- a person could submit more than one request and include in a single request more than one property owned by the same owner or multiple properties owned by multiple owners;
- a person submitting a request would have to indicate in the request that the chief appraiser would have to make the delivery to the owner, the owner's attorney, or the owner's designee, or a combination of those persons;
- a person would have to submit a request before the protest hearing relating to each property included in the request; and
- the chief appraiser would have to deliver a copy of the notice of issuance of the order and copy of the order by the 21st day after the date the ARB issued the order.

These provisions would apply only to a protest under for which a notice was filed on or after the bill's effective date.

Judicial review of taxpayer protests. A property owner could not appeal separately the portion of an order of an ARB determining the appraised value of land or the portion of the order determining the appraised value of an improvement to the land if the order determined the appraised value of both.

A person leasing property who was contractually obligated to reimburse the property owner for taxes imposed on the property would be entitled to appeal an order of the ARB determining a protest related to the property brought by the owner, if the owner did not appeal the order.

A court could not enter an order, including a protective order under Rule 192.6 of the Texas Rules of Civil Procedure, that conflicted with current law pertaining to parties seeking affirmative relief for the purpose of discovery regarding expert witnesses under the Texas Rules of Civil Procedure.

These provisions would apply only to an appeal that was filed on or after the bill's effective date.

The bill would take effect January 1, 2022.

NOTES:

According to the Legislative Budget Board (LBB), provisions of the bill relating to taxing units in declared disaster areas could result in taxable values being reduced and the related costs to the Foundation School Fund increased through the operation of the school finance formulas. LBB also notes that the provisions of the bill relating to appraisal as open-space land would be a cost to local taxing units and the state through the operation of the school funding formula.