

BILL ANALYSIS

Senate Research Center
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S.B. 67
By: Nelson
Property Tax
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties report that property taxpayers throughout Texas feel that the property appraisal review process is unfair to taxpayers and is not responsive to taxpayer criticisms.

S.B. 67 strengthens the rights of taxpayers and makes the appraisal process fair, accountable, and more transparent. Specifically, it seeks to restore confidence in our appraisal review boards by establishing term limits for appraisal review board members in larger counties, adjusts how the board chairman and secretary are selected, and increases education requirements for appraisal review board members and arbitrators.

S.B. 67 is taxpayer friendly by prohibiting board members from raising a property value above what is in the notification due to a protest. S.B. 67 strengthens requirements that taxpayers receive evidence that will be presented by the appraisal district prior to the hearing and prohibits its use if not delivered to taxpayers.

As proposed, S.B. 67 amends current law relating to the administration of the ad valorem tax system and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas (comptroller) in SECTION 4 (Section 5.043, Tax Code) and SECTION 6 (Section 5.104, Tax Code) of this bill.

Rulemaking authority previously granted to the comptroller is modified in SECTION 5 (Section 5.102, Tax Code) and SECTION 18 (Section 403.302, Government Code) of this bill.

Rulemaking authority previously granted to an appraisal review board is modified in SECTION 14 (Section 41.71, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.085(a), Tax Code, as follows:

(a) Authorizes any notice, rendition, application form, or completed application, or information requested under Section 41.461(a)(2) (relating to requiring the chief appraiser to inform the property owner that the owner is authorized to inspect and obtain a copy of certain data), that is required or permitted by this title to be delivered between a chief appraiser, an appraisal district, an appraisal review board, or any combination of those persons and a property owner or a person designated by a property owner under Section 1.111(f) (relating to authorizing a property owner to direct the appraisal district, review board, and each taxing unit to deliver certain information), notwithstanding any other provision in this title and except as provided by this section, to be delivered in an electronic format if the chief appraiser and the property owner or person designated by the owner agree under this section. Makes a nonsubstantive change.

SECTION 2. Amends Chapter 5, Tax Code, by adding Section 5.01, as follows:

Sec. 5.01. PROPERTY TAX ADMINISTRATION ADVISORY BOARD. (a) Requires the comptroller of public accounts of the State of Texas (comptroller) to appoint the property tax administration advisory board to advise the comptroller with respect to the division or divisions within the office of the comptroller with primary responsibility for state administration of property taxation and state oversight of appraisal districts and local tax offices. Authorizes the advisory board to make recommendations to the comptroller regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures.

(b) Provides that the advisory board is composed of at least six members appointed by the comptroller. Sets forth the guidelines regarding persons who should be included as members of the board.

(c) Provides that the members of the advisory board serve at the pleasure of the comptroller.

(d) Requires any advice to the comptroller relating to a matter described by Subsection (a) that is provided by a member of the advisory board to be provided at a meeting called by the comptroller.

(e) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the advisory board.

SECTION 3. Amends Sections 5.041(b), (c), (e-1), and (e-3), Tax Code, as follows:

(b) Requires the course established under Subsection (a) to provide at least eight hours of classroom training and education to a member of the appraisal review board established for an appraisal district.

(c) Authorizes the comptroller, if the training is provided to an individual other than a member of an appraisal review board, to assess a fee not to exceed \$50 for each person trained to recover a portion of the costs incurred for the training course. Makes a nonsubstantive change.

(e-1) Requires the continuing education course for members of an appraisal review board to provide at least four hours of classroom training and education.

(e-3) Authorizes the comptroller, if the training is provided to an individual other than a member of an appraisal review board, to assess a fee not to exceed \$50 for each person trained to recover a portion of the costs incurred for the continuing education course.

SECTION 4. Amends Chapter 5, Tax Code, by adding Section 5.043, as follows:

Sec. 5.043. TRAINING OF ARBITRATORS. (a) Provides that this section applies only to persons who have agreed to serve as arbitrators under Chapter 41A (Appeal Through Binding Arbitration).

(b) Requires the comptroller to approve curricula and provide an arbitration manual and other materials for use in training and educating arbitrators, to make all materials for use in training and educating arbitrators freely available online, and to establish and supervise a training program on property tax law for the training and education of arbitrators.

(c) Requires the training program to emphasize the requirements regarding the equal and uniform appraisal of property and be at least four hours in length.

(d) Authorizes the training program to be provided online. Authorizes the comptroller by rule to prescribe the manner by which the comptroller may verify that a person taking the training program online has taken and completed the program.

(e) Authorizes the comptroller to contract with service providers to assist with the duties imposed under Subsection (b), but prohibits the training program from being provided by an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. Authorizes the comptroller to assess a fee to recover a portion of the costs incurred for the training program, but prohibits the fee from exceeding \$50 for each person trained. Authorizes the comptroller, if the training is provided to an individual other than a person who has agreed to serve as an arbitrator under Chapter 41A, to assess a fee not to exceed \$50 for each person trained.

(f) Requires the comptroller to prepare an arbitration manual for use in the training program. Requires the manual to be updated regularly and provides that it may be revised on request, in writing, to the comptroller. Requires the revised language to be approved by the unanimous agreement of a committee selected by the comptroller and representing, equally, taxpayers and chief appraisers. Requires the person requesting the revision to pay the costs of mediation if the comptroller determines that mediation is required.

SECTION 5. Amends Section 5.102(a), Tax Code, to authorize the comptroller by rule, after consultation with the property tax administration advisory board, rather than with the advisory committee created under Section 403.302 (Determination of School District Property Values), Government Code, to establish procedures and standards for conducting and scoring the review.

SECTION 6. Amends Chapter 5, Tax Code, by adding Section 5.104, as follows:

Sec. 5.104. APPRAISAL REVIEW BOARD SURVEY; REPORT. (a) Requires the comptroller to prepare an appraisal review board survey form that allows an individual described by Subsection (b) to submit comments and suggestions to the comptroller regarding an appraisal review board, to prepare instructions for completing and submitting the form, and to establish and maintain a web page on the comptroller's Internet website that allows an individual described by Subsection (b) to electronically complete and submit the form.

(b) Authorizes certain individuals who attend a hearing in person or by telephone conference call on a motion filed under Section 25.25 (Correction of Appraisal Roll) to correct the appraisal roll or a protest under Chapter 41 (Local Review) to complete and submit a survey form under this section.

(c) Requires the survey form to allow an individual to submit comments and suggestions regarding the matters listed in Section 5.103(b) (relating to matters that must be addressed by the model hearing procedures) and any other matter related to the fairness and efficiency of the appraisal review board.

(d) Requires an appraisal district to provide to each property owner or designated agent of the owner who is authorized to submit a survey form under this section a document that states that the owner or agent is entitled to complete and submit the survey and may submit the form to the comptroller through certain means.

(e) Requires the document described by Subsection (d) to include the uniform resource locator (URL) address of the web page required to be established by the comptroller under Subsection (a)(3).

(f) Requires an appraisal district to provide the document described by Subsection (d) to a property owner or the designated agent of the owner at or before the first hearing on the motion or protest described by Subsection (b) for which the owner or agent is authorized to complete and submit the survey form.

(g) Requires an individual who elects to submit the survey form to submit the form to the comptroller as provided by this section. Authorizes an individual to submit only one survey form for each motion or protest.

(h) Requires the comptroller to allow an individual to submit a survey form to the comptroller in a certain manner.

(i) Prohibits an appraisal district from requiring a property owner or the designated agent of the owner to complete a survey form at the appraisal office in order to be permitted to submit the form to the comptroller.

(j) Requires the comptroller to issue an annual report that summarizes the information included in the survey forms submitted during the preceding tax year. Prohibits the report from disclosing the identity of an individual who submitted a survey form.

(k) Authorizes the comptroller to adopt rules necessary to implement this section.

SECTION 7. Amends Sections 6.412(a) and (d), Tax Code, as follows:

(a) Creates Paragraph (3)(A) from existing text. Provides that an individual is ineligible to serve on an appraisal review board if the individual is related within the third degree by consanguinity or within the second degree by affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, to a member of the appraisal review board. Makes a nonsubstantive change.

(d) Provides that a person is ineligible to serve on the appraisal review board of an appraisal district established for a county described by Section 6.41(d-1) (relating to appointing members of the board in a county with a population of 120,000 or more), rather than a county having a population of more than 100,000, if the person served for all or part of three previous terms as a board member or auxiliary board member on the appraisal review board or meets other criteria.

SECTION 8. Amends Section 6.42, Tax Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the local administrative district judge under Subchapter D (Administration by County), Chapter 74 (Court Administration Act), Government Code, in the county in which the appraisal district is established to select a chairman and a secretary from among the members of the appraisal review board, rather than requiring the board of directors of the appraisal district by resolution to select those officers. Provides that the judge, rather than the board of directors of the appraisal district, is encouraged to select as chairman a member of the appraisal review board, if any, who has a background in law and property appraisal.

(d) Provides that the concurrence of a majority of the members of the appraisal review board present at a meeting of the board is sufficient for a recommendation, determination, decision, or other action by the board. Provides that the concurrence of a majority of the members of a panel of the board present at a meeting of the panel is sufficient for a recommendation or other action by the panel. Prohibits the concurrence of more than a majority of the members of the board or panel from being required.

SECTION 9. Amends Section 41.46, Tax Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the appraisal review board before which a protest hearing is scheduled to deliver written notice to the property owner initiating a protest of the date, time, place, and subject matter of, rather than of the date, time, and place fixed for, the hearing on the protest and of the property owner's entitlement to a postponement of the hearing as

provided by Section 41.45 (Hearing on Protest) unless the property owner waives in writing notice of the hearing. Makes a nonsubstantive change.

(d) Requires the appraisal review board to deliver to the property owner initiating the protest notice of a protest hearing under this section by certified mail if the owner requests delivery by that method in the owner's notice of protest under Section 41.44 (Notice of Protest). Authorizes the board to require the owner to pay the cost to deliver the notice by certified mail.

SECTION 10. Amends Section 41.461, Tax Code, as follows:

Sec. 41.461. New heading: NOTICE OF CERTAIN MATTERS BEFORE HEARING; DELIVERY OF REQUESTED INFORMATION. (a) Requires the chief appraiser, at least 14 days before the first scheduled hearing on a protest, to:

(1) deliver a copy of the pamphlet prepared by the comptroller under Section 5.06 (Explanation of Taxpayer Remedies), rather than under Section 5.06(a) (relating to requiring the comptroller to prepare and publish a pamphlet explaining remedies available to dissatisfied taxpayers), to the property owner initiating the protest if the owner is representing himself, or to an agent representing the owner if requested by the agent;

(2) inform the property owner that the owner or the agent of the owner is entitled on request to, rather than may inspect and may obtain, a copy of the data, schedules, formulas, and all other information the chief appraiser will, rather than plans to, introduce at the hearing to establish any matter at issue; and

(3) deliver a copy of the hearing procedures established by the appraisal review board under Section 41.66 (Hearing Procedures) to the property owner.

(b) Prohibits the chief appraiser from charging a property owner or the designated agent of the owner for copies provided to the owner or designated agent under this section, regardless of the manner in which the copies are prepared or delivered. Deletes existing text prohibiting the charge for copies provided to an owner or agent under this section from exceeding the charge for copies of public information as provided under Subchapter F (Charges for Providing Copies of Public Information), Chapter 552, Government Code, except the total charge for copies provided in connection with a protest of the appraisal of residential property may not exceed \$15 for each residence and the total charge for copies provided in connection with a protest of the appraisal of a single unit of property subject to appraisal, other than residential property, may not exceed \$25.

(c) Requires a chief appraiser to deliver information requested by a property owner or the designated agent of the owner under Subsection (a)(2) by regular first-class mail, in an electronic format as provided by an agreement under Section 1.085 (Communication in Electronic Format) or subject to Subsection (d), by referring the owner or agent to the uniform resource locator (URL) address on an Internet website maintained by the appraisal district on which the requested information is identifiable and readily available.

(d) Requires the referral, if a chief appraiser delivers information requested by a property owner or the designated agent of the owner under Subsection (a)(2) by referring the owner or agent to a uniform resource locator (URL) address on an Internet website as authorized by Subsection (c)(3), to contain a statement in a conspicuous font that clearly indicates that the owner or agent may on request receive the information by regular first-class mail. Requires the chief appraiser, on request by a property owner or the designated agent of the owner, to provide the information by regular first-class mail.

SECTION 11. Amends Section 41.47, Tax Code, by adding Subsections (a-1) and (f) and amending Subsection (e), as follows:

(a-1) Prohibits the board from determining the appraised value of the property that is the subject of a protest to be an amount greater than the appraised value of the property as shown in the appraisal records submitted to the board by the chief appraiser under Section 25.22 (Submission for Review and Protest) or 25.23 (Supplemental Appraisal Records).

(e) Requires the notice of issuance of the order to contain a prominently printed statement in upper-case bold lettering informing the property owner in clear and concise language of the property owner's right to appeal the order of the appraisal review board, rather than the board's decision, to district court. Makes nonsubstantive changes.

(f) Requires the appraisal review board to take the actions required by Subsections (a) and (d) not later than the 15th day after the date the hearing on the protest is concluded.

SECTION 12. Amends Section 41.66, Tax Code, by amending Subsections (h), (i), and (j) and adding Subsections (j-1) and (p), as follows:

(h) Requires the appraisal review board to postpone a hearing on a protest if the property owner or the designated agent of the owner requests additional time to prepare for the hearing and establishes to the board that the chief appraiser failed to comply with Section 41.461 (Notice of Certain Matters Before Hearing).

(i) Requires a hearing on a protest filed by a property owner or the designated agent of the owner, rather than a hearing on a protest filed by a property owner who is not represented by an agent designated under Section 1.111 (Representation of Property Owner), to be set for a time and date certain. Requires the appraisal review board, if the hearing is not commenced within two hours of the time set for the hearing, to postpone the hearing on the request of the property owner or the designated agent of the owner.

(j) Makes conforming changes.

(j-1) Authorizes an appraisal review board to schedule the hearings on all protests filed by a property owner or the designated agent of the owner to be held consecutively. Requires the notice of the hearings to state the date and time that the first hearing will begin, state the date the last hearing will end, and list the order in which the hearings will be held. Prohibits the order of the hearings listed in the notice from being changed without the agreement of the property owner or the designated agent of the owner, the chief appraiser, and the appraisal review board. Prohibits the board from rescheduling a hearing for which notice is given under this subsection to a date earlier than the seventh day after the date the last hearing was scheduled to end unless agreed to by the property owner or the designated agent of the owner, the chief appraiser, and the appraisal review board. Requires the board, unless agreed to by the parties, to provide written notice of the date and time of the rescheduled hearing to the property owner or the designated agent of the owner not later than the seventh day before the date of the hearing.

(p) Requires the appraisal review board, at the end of a hearing on a protest, to provide the property owner or the designated agent of the owner one or more documents indicating that the members of the board hearing the protest signed the affidavit required by Subsection (g).

SECTION 13. Amends Section 41.67(d), Tax Code, as follows:

(d) Prohibits information that was previously requested under Section 41.461 by the protesting party that was not delivered, rather than not made available, to the protesting party at least 14 days before the first scheduled hearing, rather than before the scheduled or postponed hearing, from being used or offered in any form as evidence in the hearing, including as a document or through argument or testimony.

SECTION 14. Amends Section 41.71, Tax Code, as follows:

Sec. 41.71. EVENING AND WEEKEND HEARINGS. (a) Creates this subsection from existing text. Requires an appraisal review board by rule to provide for hearings on protests on a Saturday or after 5 p.m. on a weekday, rather than in the evening or on a Saturday or Sunday.

(b) Prohibits the board from scheduling the first hearing on a protest held on a weekday evening to begin after 7 p.m. or scheduling a hearing on a protest on a Sunday.

SECTION 15. Amends Section 41A.06(b), Tax Code, as follows:

(b) Requires a person, to initially qualify to serve as an arbitrator under this chapter, to complete the courses for training and education of appraisal review board members established under Sections 5.041(a) (relating to requiring the comptroller to take certain actions relating to training of appraisal board review members) and (e-1) and be issued a certificate for each course indicating course completion, to complete the training program on property tax law for the training and education of arbitrators established under Section 5.043, and to meet other criteria. Creates Subdivision (4) from existing text.

SECTION 16. Amends Sections 41A.061(b) and (c), Tax Code, as follows:

(b) Requires a person, to renew the person's agreement to serve as an arbitrator, to continue to meet the requirements as provided by Sections 41A.06(b)(1) and (4), rather than by Section 41A.06(b), and other requirements.

(c) Requires the comptroller to remove a person from the registry for certain reasons, including if the person fails to complete a revised training program on property tax law for the training and education of arbitrators established under Section 5.043 not later than the 120th day after the date the program is available to be taken if the comptroller revises the program after the person is included in the registry and certifies that the program is substantially revised.

SECTION 17. Amends Section 41A.09(b), Tax Code, to provide that an award under this section is required to specify the arbitrator's fee, which is prohibited from exceeding the amount provided by Section 41A.06(b)(4), rather than by Section 41A.06(b)(2).

SECTION 18. Amends Section 403.302(o), Government Code, to require the comptroller to adopt rules governing the conduct of the study after consultation with the comptroller's property tax administration advisory board, rather than the Comptroller's Property Value Study Advisory Committee.

SECTION 19. Repealers: Sections 403.302(m-1) (relating to creating the Comptroller's Property Value Study Advisory Committee) and (n) (relating to a certain chapter not applying to the size, composition, or duration of the Comptroller's Property Value Study Advisory Committee), Government Code.

Repealers: Sections 5.103(e) (relating to requiring the comptroller to prescribe the contents of a survey form for the purpose of providing the public an opportunity for comment) and (f) (relating to requiring the comptroller to issue an annual report summarizing the survey forms submitted by property owners), Tax Code.

Repealer: Section 6.412(e) (relating to the ineligibility of person who has served a certain term as a board member on an appraisal review board from serving another term), Tax Code.

Repealer: Section 41A.06(c) (relating to requiring an arbitrator to complete a training program on property tax law), Tax Code.

SECTION 20. Makes application of Section 5.041, Tax Code, as amended by this Act, prospective.

SECTION 21. Requires the comptroller to implement Section 5.043, Tax Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 22. Requires the comptroller to establish the web page and prepare and make available the survey form and instructions for completing and submitting the form required by Section 5.104, Tax Code, as added by this Act, as soon as practicable after the effective date of this Act. Provides that an appraisal district is not required to provide the document described by Subsection (d) of that section to a property owner or the designated agent of the owner and is not required to provide the survey form or instructions under a requirement of that section until the web page is established and the form and instructions are prepared and made available by the comptroller.

SECTION 23. Provides that Section 6.412, Tax Code, as amended by this Act, does not affect the eligibility of a person serving on an appraisal review board immediately before the effective date of this Act to continue to serve on the board for the term to which the member was appointed.

SECTION 24. Makes application of Section 6.42(d), Tax Code, as added by this Act, prospective.

SECTION 25. Makes application of this Act, with respect to Chapter 41, Tax Code, prospective.

SECTION 26. Provides that the changes in law made by this Act in the qualifications of persons serving as arbitrators in binding arbitrations of appeals of appraisal review board orders do not affect the entitlement of a person serving as an arbitrator immediately before the effective date of this Act to continue to serve as an arbitrator and to conduct hearings on arbitrations until the person is required to renew the person's agreement with the comptroller to serve as an arbitrator. Provides that the changes in law apply only to a person who initially qualifies to serve as an arbitrator or who renews the person's agreement with the comptroller to serve as an arbitrator on or after the effective date of this Act. Provides that this Act does not prohibit a person who is serving as an arbitrator on the effective date of this Act from renewing the person's agreement with the comptroller to serve as an arbitrator if the person has the qualifications required for an arbitrator under the Tax Code as amended by this Act.

SECTION 27. Effective date: January 1, 2020.