

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

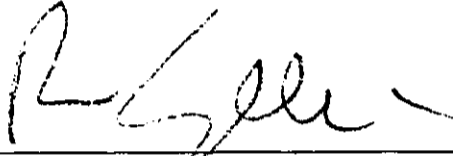
May 20, 2007
Date

Honorable David Dewhurst
President of the Senate

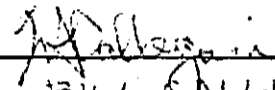
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

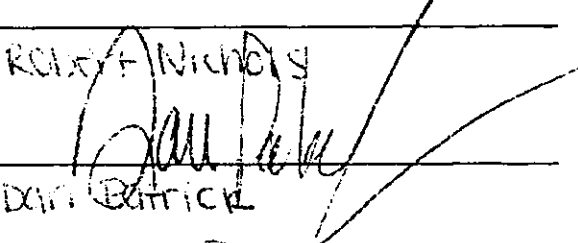
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1030 ^{H 1130} have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



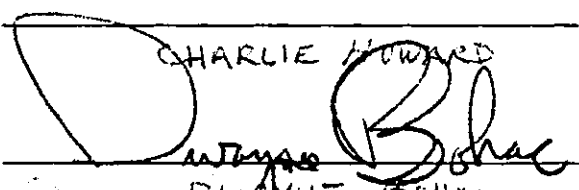
Rodney Ellis



BILL CALLEGARI



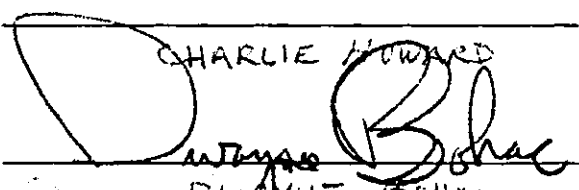
ROBERT NICHOLS



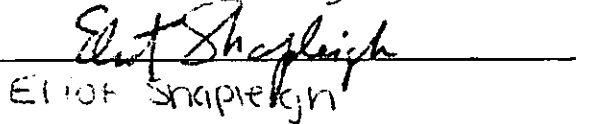
CHARLIE HOWARD



DON PITTIK



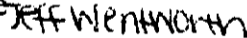
DWAYNE SCHAC




ELIOT SHAPLEIGH



SYLVESTER TURNER

On the part of the Senate 

On the part of the House 

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 1030

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem taxation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.111, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) An individual exempt from registration as a property tax consultant under Section 1152.002, Occupations Code, who files a protest with the appraisal review board on behalf of the property owner is entitled to receive all notices from the appraisal district regarding the property subject to the protest until the authority is revoked by the property owner as provided by this section.

SECTION 2. Sections 6.41(d), (e), and (f), Tax Code, are amended, and Sections (d-1), (d-2), (d-3), (d-4), (d-5), (d-6), (d-7), (d-8), and (d-9), Tax Code, are added to read as follows:

(d) Except as provided by (d-1), members [~~Members~~] of the board are appointed by resolution of a majority of the appraisal district board of directors. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(d-1) In a county with a population of 3.3 million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more the members

of the board are appointed by the local administrative district judge in the county in which the appraisal district is established.

(d-2) A local administrative district judge making appointments under (d-1) may make such appointments directly or may, by written order, appoint from three to five persons to perform the duties of appraisal review board commissioner. If the local administrative district judge chooses to appoint appraisal review board commissioners, each commissioner shall possess the same qualifications as those required of an appraisal review board member.

(d-3) The local administrative judge making appointments under (d-1) shall cause the proper officer to notify such appointees of such appointment, and when and where they are to appear.

(d-4) If appraisal review board commissioners are appointed under (d-2), they shall meet as directed by the local administrative district judge in order to complete their duties.

(d-5) The appraisal district of the county shall provide to the local administrative district judge, or to the appraisal review board commissioners, as the case may be, the number of appraisal review board positions that require appointment and shall provide whatever reasonable assistance is requested by the local administrative district judge, or the commissioners.

(d-6) An appraisal review board commissioner is not disqualified from serving as a member of the appraisal review board.

(d-7) If appraisal review board commissioners are appointed under this Section, the commissioners shall return a list of proposed appraisal review board members to the local administrative district judge at a time directed by such local administrative judge, but in no event later than January 1 of each year. Such list shall be composed of no less than five (5) names in excess of the number of appraisal review board positions to be filled by the local administrative district judge. The local administrative judge may accept the proposed names, or reject the proposed list and return the proposed list to the commissioners upon which the commissioners shall propose a revised list until the local administrative judge accepts the list.

(d-8) Any appraisal review board commissioners appointed pursuant to this Section shall hold office for a term of one year beginning January 1. A commissioner may be appointed to successive terms at the discretion of the local administrative district judge.

(d-9) Upon selection of the individuals who are to serve as members of the appraisal review board, the local administrative district judge shall enter an appropriate order designating such

members and setting each members respective term of office, as provided elsewhere in this Section.

(e) Members of the board hold office for terms of two years beginning January 1. The appraisal district board of directors by resolution shall provide for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. In making the initial or subsequent appointments, the board of directors or the local administrative district judge or the judge's designee shall designate those members who serve terms of one year as needed to comply with this subsection.

(f) A member of the board may 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. Grounds for removal are:

(1) a violation of Section 6.412, 6.413, 41.66(f), or 41.69; or

(2) good cause relating to the attendance of members at called meetings of the board as established by written policy adopted by a majority of the appraisal district board of directors.

SECTION 3. Subchapter C, Chapter 41, Tax Code, is amended by adding Section 41.415 to read as follows:

Sec. 41.415. ELECTRONIC FILING OF NOTICE OF PROTEST. (a) This section applies only to an appraisal district established for a county having a population of 500,000 or more.

(b) The appraisal district shall implement a system that

allows the owner of a property that for the current tax year has been granted a residence homestead exemption under Section 11.13, in connection with the property, to electronically:

(1) file a notice of protest under Section 41.41(a)(1) or (2) with the appraisal review board;

(2) receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the board;

(3) receive, as applicable:

(A) a settlement offer from the district to correct the appraisal records by changing the market value and, if applicable, the appraised value of the property to the value as redetermined by the district; or

(B) a notice from the district that a settlement offer will not be made; and

(4) accept or reject a settlement offer received from the appraisal district under Subdivision (3)(A).

(c) With each notice sent under Section 25.19 to an eligible property owner, the chief appraiser shall include information about the system required by this section, including instructions for accessing and using the system.

(d) A notice of protest filed electronically under this section must include, at a minimum:

(1) a statement as to whether the protest is brought under Section 41.41(a)(1) or under Section 41.41(a)(2);

(2) a statement of the property owner's good faith estimate of the value of the property; and

(3) an electronic mail address that the district may use to communicate electronically with the property owner in connection with the protest.

(e) If the property owner accepts a settlement offer made by the appraisal district, the chief appraiser shall enter the settlement in the appraisal records as an agreement made under Section 1.111(e).

(f) If the property owner rejects a settlement offer, the appraisal review board shall hear and determine the property owner's protest in the manner otherwise provided by this subchapter and Subchapter D.

(g) An appraisal district is not required to make the system required by this section available to an owner of a residence homestead located in an area in which the chief appraiser determines that the factors affecting the market value of real property are unusually complex or to an owner who has designated an agent to represent the owner in a protest as provided by Section 1.111.

(h) An electronic mail address provided by a property owner to an appraisal district under Subsection (d)(3) is confidential and may not be disclosed by the district.

SECTION 4. Section 41.45, Tax Code, is amended by amending Subsection (e) and adding Subsections (e-1) and (e-2) to read as

follows:

(e) On request made to the appraisal review board before the date of the hearing, a property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing is entitled to one postponement of the hearing to a later date without showing cause. In addition and without limitation as to the number of postponements, the board shall postpone the hearing to a later date if the property owner or the owner's agent at any time shows good [~~reasonable~~] cause for the postponement or if the chief appraiser consents to the postponement. The hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought unless the date and time of the hearing as postponed are agreed to by the chairman of the appraisal review board or the chairman's representative, the property owner, and the chief appraiser. A request by a property owner for a postponement under this subsection may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the appraisal review board, a panel of the board, or the chairman of the board. The chairman or the chairman's representative may take action on [~~grant, but may not deny,~~] a postponement under this subsection without the necessity of action by the full board if the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the board. The granting by the appraisal review board, the chairman, or the chairman's

representative of a postponement under this subsection does not require the delivery of additional written notice to the property owner.

(e-1) A property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing and who fails to appear at the hearing is entitled to a new hearing if the property owner files, not later than the fourth day after the date the hearing occurred, a written statement with the appraisal review board showing good cause for the failure to appear and requesting a new hearing.

(e-2) For purposes of Subsections (e) and (e-1), "good cause" means a reason that includes an error or mistake that:

(1) was not intentional or the result of conscious indifference; and

(2) will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling.

SECTION 5. Section 42.29(a), Tax Code, is amended to read as follows:

(a) A property owner who prevails in an appeal to the court under Section 42.25 or 42.26 or in an appeal to the court of a determination of an appraisal review board on a motion filed under Section 25.25 may be awarded reasonable attorney's fees. The amount of the award may not exceed the greater of:

(1) \$15,000; or

(2) 20 percent of the total amount by which the property

owner's tax liability is reduced as a result of the appeal.

SECTION 6. (a) As soon as practicable on or after January 1, 2010, the local administrative district judge or the judge's designee in each county with a population of 3.3 million or more and in each county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more, in the manner provided by Section 6.41, Tax Code, as amended by this Act, shall appoint the members of the appraisal review board for the appraisal district established in the county. In making the initial appointments, the judge or judge's designee shall designate those members who serve terms of one year as necessary to comply with Section 6.41(e), Tax Code, as amended by this Act.

(b) The changes made to Section 6.41, Tax Code, as amended by this Act, apply only to the appointment of appraisal review board members in a county with a population of 3.3 million or more and in a county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more to terms beginning on or after January 1, 2010. This Act does not affect the term of an appraisal review board member serving in such a county on December 31, 2009, if the member was appointed before the effective date of this Act to a term that began prior to December 31, 2009, and expires December 31, 2010.

SECTION 7. Section 41.415, Tax Code, as added by this Act, applies only to a tax year that begins on or after the effective date of this Act.

SECTION 8. Section 41.45, Tax Code, as amended by this Act, applies only to a postponement of a hearing that is requested on or after the effective date of this Act. A postponement of a hearing that is requested before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 9. The change in law made by this Act to Section 42.29, Tax Code, applies only to an appeal under Chapter 42, Tax Code, of a determination of an appraisal review board that is filed on or after the effective date of this Act. An appeal under Chapter 42, Tax Code, of a determination of an appraisal review board that was filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and the former law is continued in effect for that purpose.

SECTION 10. (a) Except as provided by Subsections (b) and (c), this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(b) Section 6.41, Tax Code, as amended by this Act takes effect January 1, 2010.

(c) Section 41.415, Tax Code, as added by this Act takes effect January 1, 2010.

House Bill 1030
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

SECTION __. Amends Section 1.111, Tax Code, by adding Subsection (j) to require that an individual exempt from registration as a property tax consultant who files a protest to receive all appraisal district notices regarding the property until the authority is revoked by the property owner

Same as Senate version.

No equivalent provision.

SECTION __. Amends Sections 6.41(d), (e) and (f) to require members of the appraisal district board of directors in a county with a population of 3.3 million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more be appointed by the county commissioners court

Similar to Senate version. Authorizes local administrative district judges or their designee, rather than county commissioners court, to make appointments. Allows local administrative district judge to appoint a 3 to 5 appraisal review board commissioners, who may serve as a board member at the same time, and have 1 year terms, without term limits. Requires the appraisal district of the county to identify the number of board positions requiring appointment. Requires commissioners to propose potential board members as directed by the judge, which he may accept or reject.

No equivalent provision.

SECTION __. Amends Subchapter C, Chapter 41, Tax Code, by adding Section 41.415 to require an appraisal district established for a county having a population of 500,000 or more to implement a system that allows property owners that for the current tax year have been granted a residence homestead exemption to electronically:
(1) file a protest notice, (2) receive comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing, (3) receive a settlement offer or notice that a settlement offer will not be made and (4) accept or reject a settlement offer; requires minimum content in an electronic notice; requires the chief appraiser to enter the settlement in the appraisal records; requires the appraisal review board to hear and determine a property owner's protest; allows an appraisal district to not to make the system available to a residence owner in an area in which the chief appraiser determines that the factors affecting real property market value are too complex; and requires electronic mail addresses provided by a property owner to an appraisal district to remain confidential.

Similar to Senate version. Clarifies that an appraisal district may not make the system available to a owner who has designated an agent to represent the owner in a protest.

No equivalent provision.

SECTION __. Amends 41.45(a), Tax Code, to allow a property owner who prevails in an appeal to the court of an appraisal review board order on a motion filed under Section 25.25, Tax Code to be awarded reasonable attorney's fees.

Same as Senate version.

SECTION 1. Amends Section 41.45(e), Tax Code, authorizes the chairman of an appraisal review board or the chairman's representative to take action on a postponement request of a protest hearing.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision

SECTION 2. Provides that the change in law made by this Act applies only to a postponement of a hearing that is requested on or after the effective date of this Act. A postponement of a hearing that is requested before the effective date of this Act is governed by the law as it existed before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 1. Same as House version amends Section 42.29 (a), Tax Code, but adds Subsection (e-1) to allow a property owner who has not designated an agent and who fails to appear at the hearing to be entitled to a new hearing if the property owner files a written request showing good cause is made within four days of the hearing, and Subsection (e-2) to define "good cause"

SECTION __. Provides in Subsection (a) that as soon as practicable on or after January 1, 2010, the local county commissioners court in each county with a population of 3.3 million or more and in each county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more, in the manner provided by Section 6.41, Tax Code, as amended by this Act shall appoint members of the appraisal review board for the appraisal district established in the county. In making the initial appointments, the county commissioners court shall designate those members who serve terms of one year as necessary to comply with Section 6.41(e), Tax Code, as amended by this Act, in Subsection (b) The term of each member of an appraisal review board in each county with a population of 3.3 million or more and in each county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more serving on December 31, 2009, expires January 1, 2010, and in Subsection (c) notwithstanding the other provisions of this Act, this section takes effect January 1, 2010.

No equivalent provision.

No equivalent provision.

SECTION __. Directs that changes made in this Act to Section 42.29, Tax Code, applies only to appeals under Chapter 42 filed on or after the effective date of this Act and that an appeal filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed.

Same as House version

Same as Senate version.

Same Subsection (a) as Senate version but changes Subsection (b) to provide that the changes made to Section 6.41, Tax Code, as amended, apply only to the appointment of appraisal review board members in a county with a population of 3.3 million or more and in each county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more to terms beginning on or after January 1, 2010. This Act does not affect the term of an appraisal review board serving in such county on December 31, 2009 and, if the member was appointed before the effective date of this Act to a term that began prior to December 31, 2009, and expires December 31, 2010 and changes Subsection (c) to provide that, notwithstanding the other provisions of this Act, the changes in law made by this Act to Section 6.41, Tax Code, take effect January 1, 2010.

Provides in Subsection (a) that Section 41.415, Tax Code, as added by this Act, applies only to a tax year that begins on or after the effective date of this Act and in Subsection (b) that Subsection 41.415, Tax Code, as added by this Act, takes effect January 1, 2010.

Provides that the change in law made by this Act to Section 41.45, Tax Code, applies only to a postponement of a hearing that is requested on or after the effective date of this Act. A postponement of a hearing that is requested before the effective date of this Act is governed by the law as it existed before the effective date of this Act, and that law is continued in effect for that purpose.

Same as Senate version.

No equivalent provision.

SECTION 3. Immediate effect if Act receives a two-thirds vote in both houses and a September 1, 2009 effective date if it does not

Same as House version

Same as House version

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

**TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives**

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1030 by Callegari (Relating to ad valorem taxation.), Conference Committee Report

No fiscal implication to the State is anticipated.

The bill would amend Section 1.111 of the Tax Code to permit an individual that is exempt from registration as a property tax consultant or a senior property tax consultant under Section 1152.002 of the Occupations Code, that files a protest on behalf of a property owner to be entitled to all notices from the appraisal district regarding the property or properties subject to that protest until revoked by the individual or the property owner.

The bill would amend Section 41.415, Tax Code, to require an appraisal district established for a county with a population of 500,000 or more to implement a system that allows a property owner to electronically file a notice of protest with the appraisal review board and to receive communications from the district, including evidence that the chief appraiser intends to use at the protest hearing. To be eligible, the property owner must have been granted a residential homestead exemption during the current tax year. The changes to this section would apply only to a tax year that begins on or after the effective date of the bill and would take effect January 1, 2010.

The bill would amend Section 41.45, Tax Code, to require an appraisal review board to reschedule an appraisal appeals hearing when a property owner who has not designated an agent fails to appear at the hearing, if the property owner meets certain criteria. The proposed change in law would apply only to a postponement of a hearing that is requested on or after the effective date of the bill.

The bill would amend Section 42.29, Tax Code, regarding judicial review of property appraisals. The bill would allow the recovery of attorney's fees to a property owner who prevails in matters appealed to a district court concerning issues brought before the appraisal review board as described in Section 25.25 of the Tax Code. Such issues include the correction of clerical errors, multiple appraisals in a tax year, the inclusion of property that does not exist, and an error that resulted in an appraised value that exceeds by more than one-third the correct appraised value. The change to this section would apply only to an appeal under Chapter 42, Tax Code, of a determination of an appraisal review board that is filed on or after the effective date of the bill.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

Local Government Impact

The majority of the provisions of the bill would have no fiscal impact or no significant fiscal impact to units of local government. The proposed changes to Chapter 42, Tax Code, would not affect appraised values or tax rates, but could result in additional administrative costs to the appraisal districts. The increase in administrative costs cannot be estimated because the awards of attorney's fees would be up to the discretion of the district courts.

Source Agencies:

LBB Staff: JOB, DB