

SENATE AMENDMENTS

2nd Printing

By: Callegari

H.B. No. 1030

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the scheduling of hearings before appraisal review
3 boards on property tax protests.

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

5 SECTION 1. Section 41.45(e), Tax Code, is amended to read as
6 follows:

7 (e) On request made to the appraisal review board before the
8 date of the hearing, a property owner who has not designated an
9 agent under Section 1.111 to represent the owner at the hearing is
10 entitled to one postponement of the hearing to a later date without
11 showing cause. In addition and without limitation as to the number
12 of postponements, the board shall postpone the hearing to a later
13 date if the property owner or the owner's agent at any time shows
14 reasonable cause for the postponement or if the chief appraiser
15 consents to the postponement. The hearing may not be postponed to a
16 date less than five or more than 30 days after the date scheduled
17 for the hearing when the postponement is sought unless the date and
18 time of the hearing as postponed are agreed to by the chairman of
19 the appraisal review board, the property owner, and the chief
20 appraiser. A request by a property owner for a postponement under
21 this subsection may be made in writing, including by facsimile
22 transmission or electronic mail, by telephone, or in person to the
23 appraisal review board, a panel of the board, or the chairman of the
24 board. The chairman or the chairman's representative may take

1 action on [~~grant, but may not deny,~~] a postponement under this
2 subsection without the necessity of action by the full board if the
3 hearing for which the postponement is requested is scheduled to
4 occur before the next regular meeting of the board. The granting by
5 the appraisal review board, the chairman, or the chairman's
6 representative of a postponement under this subsection does not
7 require the delivery of additional written notice to the property
8 owner. Action on a request for postponement is final and may not be
9 the subject of a protest under this chapter.

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

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2009.

ADOPTED

MAY 25 2009

Atty Gen
Secretary of the Senate

By: *Robert Ellis*

H.B. No. 1030

Substitute the following for H.B. No. 1030:

By: *Roger W. N.*

C.S. H.B. No. 1030

A BILL TO BE ENTITLED

AN ACT

relating to the scheduling of hearings before appraisal review boards on property tax protests.

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

SECTION 1. 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 2. 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 immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. 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.

ADOPTED

MAY 25 2009

Antony Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Rodney Ellis*

1 Amend C.S.H.B. No. 1030 (Senate Committee Report) as follows:

2 (1) Add the following appropriately numbered SECTIONS to
3 the bill and renumber subsequent SECTIONS accordingly:

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

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

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

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

20 (1) \$15,000; or

21 (2) 20 percent of the total amount by which the
22 property owner's tax liability is reduced as a result of the appeal.

23 SECTION _____. The change in law made by this Act to Section
24 42.29, Tax Code, applies only to an appeal under Chapter 42, Tax
25 Code, of a determination of an appraisal review board that is filed
26 on or after the effective date of this Act. An appeal under Chapter
27 42, Tax Code, of a determination of an appraisal review board that
28 was filed before the effective date of this Act is governed by the
29 law in effect on the date the appeal was filed, and the former law is

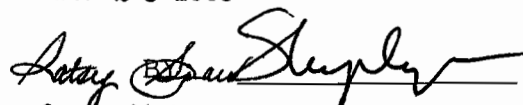
1 continued in effect for that purpose.

2 (2) In SECTION 2 of the bill, between "this Act" and
3 "applies" (page 1, line 56), insert "to Section 41.45, Tax Code,".

ADOPTED

MAY 25 2009

FLOOR AMENDMENT NO. 2


Secretary of the Senate

1 Amend H.B. No. 1030 (Senate committee printing) as follows:

2 (1) Add the following SECTION to the bill, appropriately
3 numbered, and renumber subsequent SECTIONS accordingly:

4 SECTION _____. (a) Subchapter C, Chapter 41, Tax Code, is
5 amended by adding Section 41.415 to read as follows:

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

9 (b) The appraisal district shall implement a system that
10 allows the owner of a property that for the current tax year has
11 been granted a residence homestead exemption under Section
12 11.13, in connection with the property, to electronically:

13 (1) file a notice of protest under Section
14 41.41(a)(1) or (2) with the appraisal review board;

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

18 (3) receive, as applicable:

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

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

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

27 (c) With each notice sent under Section 25.19 to an
28 eligible property owner, the chief appraiser shall include
29 information about the system required by this section, including

1 instructions for accessing and using the system.

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

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

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

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

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

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

19 (g) An appraisal district is not required to make the
20 system required by this section available to an owner of a
21 residence homestead located in an area in which the chief
22 appraiser determines that the factors affecting the market value
23 of real property are unusually complex.

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

27 (b) Section 41.415, Tax Code, as added by this section,
28 applies only to a tax year that begins on or after the effective
29 date of this Act.

30 (2) In SECTION 2 of the bill (page 1, line 56), between
31 "in law" and "made by", insert "to Section 41.45, Tax Code,".

1 (3) Strike SECTION 3 of the bill (page 1, line 62, through
2 page 2, line 3) and substitute the following:

3 SECTION 3. (a) Except as provided by Subsection (b) of
4 this section:

5 (1) this Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house,
7 as provided by Section 39, Article III, Texas Constitution; and

8 (2) if this Act does not receive the vote necessary
9 for immediate effect, this Act takes effect September 1, 2009.

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

ADOPTED

MAY 25 2009

FLOOR AMENDMENT NO. 3

BY Jan Hoffman
Secretary of the Senate

1 Amend C.S.H.B. No. 1030 (senate committee report) by adding
2 the following SECTION to the bill, appropriately numbered, and
3 renumbering the subsequent SECTIONS of the bill accordingly:

4 SECTION __. (a) Sections 6.41(d), (e), and (f), Tax Code,
5 are amended to read as follows:

6 (d) Members of the board are appointed by resolution of a
7 majority of the appraisal district board of directors, except
8 that the members of the board of an appraisal district
9 established in a county with a population of 3.3 million or more
10 or a county with a population of 350,000 or more that is
11 adjacent to a county with a population of 3.3 million or more
12 are appointed by the county commissioners court in the county in
13 which the appraisal district is established. A vacancy on the
14 board is filled in the same manner for the unexpired portion of
15 the term.

16 (e) Members of the board hold office for terms of two
17 years beginning January 1. The appraisal district board of
18 directors by resolution shall provide for staggered terms, so
19 that the terms of as close to one-half of the members as
20 possible expire each year. In making the initial or subsequent
21 appointments, the board of directors or the county commissioners
22 court, shall designate those members who serve terms of one year
23 as needed to comply with this subsection.

24 (f) A member of the board may be removed from the board by
25 a majority vote of the appraisal district board of directors
26 that, or by the county commissioners court who, appointed the
27 member. Grounds for removal are:

28 (1) a violation of Section 6.412, 6.413, 41.66(f), or
29 41.69; or

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

5 (b) As soon as practicable on or after January 1, 2010, the
6 local county commissioners court in each county with a
7 population of 3.3 million or more and in each county with a
8 population of 350,000 or more that is adjacent to a county with
9 a population of 3.3 million or more, in the manner provided by
10 Section 6.41, Tax Code, as amended by this Act, shall appoint
11 the members of the appraisal review board for the appraisal
12 district established in the county. In making the initial
13 appointments, the county commissioners court shall designate
14 those members who serve terms of one year as necessary to comply
15 with Section 6.41(e), Tax Code, as amended by this Act.

16 (c) The term of a member of an appraisal review board
17 established in a county with a population of 3.3 million or more
18 and in each county with a population of 350,000 or more that is
19 adjacent to a county with a population of 3.3 million or more
20 serving on December 31, 2009, expires January 1, 2010.

21 (d) Notwithstanding the other provisions of this Act, this
22 section takes effect January 1, 2010.

23

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: 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 the scheduling of hearings before appraisal review boards on property tax protests.), **As Passed 2nd House**

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 Chapter 41 of the 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 Chapter 42 of the 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 bill would 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 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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

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

IN RE: HB1030 by Callegari (Relating to the scheduling of hearings before appraisal review boards on property tax protests.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the 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 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

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 13, 2009

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

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

IN RE: HB1030 by Callegari (Relating to the scheduling of hearings before appraisal review boards on property tax protests.), As Engrossed

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, MN, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 21, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB1030 by Callegari (Relating to the scheduling of hearings before appraisal review boards on property tax protests.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, MN, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 22, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB1030 by Callegari (Relating to the scheduling of hearings before appraisal review boards on property tax protests.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, MN