

POPP | HUTCHESON^{PLLC}

The Property Tax Firm

MAY 2013

LEGISLATIVE UPDATE



83rd Texas Legislature Wrap-Up

SUCCESSFUL LEGISLATIVE SESSION FOR TEXAS TAXPAYERS

by Jim Popp

Popp Hutcheson is pleased to report a very successful legislative session for Texas property taxpayers. Property owners in the state should expect to see many improvements in the efficiency and fairness of the property tax system.

The most significant pro-taxpayer bill was HB 585. Our team drafted many key provisions of this bill and worked throughout the session on behalf of its passage. The PH legislative team was comprised of PH principals Jim Popp and Missy Ramirez as well as lobbyists Vilma Luna and Clint Smith of Hilco Partners.

We would like to extend our sincere gratitude to Representative Mike Villarreal and his staff, Peter Clark and Amanda Gonzalez, and also to Senator Kevin Eltife and his staff, Cheryl Vanek and Margo Caldwell, for their hard work in securing the passage of this bill. I encourage you to contact them with your appreciation.

The Texas Legislature adjourned on May 27 after its biennial 140 day session. In all, the Legislature considered 278 property tax related bills. The following 42 bills passed and await the Governor's signature:

The most beneficial and comprehensive property tax bill this session was HB 585 by Villarreal/Eltife. The highlights are as follows:

HB 585 improves the accountability of the Appraisal Review Board by:

- Increasing the continuing education requirements for the ARB;
- Providing for the appointment of ARBs by the local administrative district judge in counties over 120,000 similar to the process currently used in Harris County;
- Creating ARB oversight through the development of model hearing procedures by the Comptroller and the creation of a taxpayer complaint system;
- Increasing the duties of the taxpayer liaison officer to include accepting taxpayer complaints and providing clerical support in the ARB selection process;
- Limiting ex parte communications; and
- Allowing the removal of an ARB member for bias or misconduct.

HB 585 improves the efficiency and effectiveness of the Administrative Process by:

- Requiring clear and convincing evidence in order to increase a value over an agreed value from the prior year;
- Allowing for postponement of an ARB hearing if a taxpayer is kept waiting more than two hours;
- Making the scheduling of ARB hearings more taxpayer friendly;
- Requiring that taxpayers be randomly assigned to ARB panels;
- Allowing chief appraisers, in addition to the ARB, to agree to postponements; and
- Increasing the education requirements of chief appraisers.

HB 585 improves the efficiency and effectiveness of the lawsuit appeal process by:

- Authorizing a taxpayer to file a lawsuit to obtain a refund that is due;
- Allowing a taxpayer in litigation to pay taxes based on the amount paid in the prior year and allowing use of the split payment option;
- Clarifying the contents of a petition improving the logistics and expenses for taxpayers in the litigation process;
- Providing that the court have jurisdiction over a lawsuit if the property was the subject of an ARB hearing and the lawsuit was timely filed, preventing dismissal on a technicality; and
- Allowing attorney fee awards in certain exemption cases.

HB 585 provides additional property tax relief for citizens of places like West, Texas, by:

- allowing taxing units to request reappraisals in disaster situations and by allowing appraisal cap adjustment for certain residence homesteads affected by hurricanes and similar events.

Other Bills of Interest

ADMINISTRATION

HB 241 by Otto: Electronic Format of Forms

Clarifies that a Chief Appraiser is required to give notice of the availability of communication in electronic format only if that district is required to do so or does offer such format.

HB 242 by Otto: Delivery of Notice

Requires a certified mail notice for an ag rollback, a request by the Chief Appraiser of a new open space application, the imposition of a late open space application penalty, an open space rollback and a timber space rollback.

HB 2267 by Larson: Confidential Information

Adds the Medical Examiner to the list of persons whose appraisal records are confidential.

HB 2500 by Bohac: Appraisal of Solar Energy

Provides that solar energy properties shall be appraised using the cost approach.

HB 2676 by Davis: Confidential Information

Adds to the list of confidential appraisal records information related to a member of the armed forces who served in a combat area.

HB 3439 by Otto: Agent Authorization

Allows that an agent may revoke a Designation of Agent.

SB 464 by Duell: Licensing of Tax Professionals

Provides that a complaint to TDLR against an appraisal district employee shall be dismissed if it involves a matter resolved in the taxpayer's favor on the merits of the matter subject of the complaint.

SB 546 by Williams: County Assessor-Collector Requirements

Requires continuing education for county assessor-collectors and exempts them if they are elected officials from the Property Taxation Professionals Certification Act.

SB 1224 by Taylor: Delivery by Common Carrier

Provides that a notice or payment is timely if deposited with a common carrier prior to the deadline.

SB 1508 by Hegar: Rendition

Provides for rendition by a secured party.

SB 1896 by Garcia: Confidentiality

Provides for the confidentiality of certain judge appraisal information.

APPRAISAL PROCESSES

HB 315 by Otto: Dealer's Motor Vehicle Inventory

Amends the definition of dealer.

HB 561 by Workman: Open Space Rollback

Provides that an open space change of use rollback does not apply to land converted to school use.

HB 826 by Harless: Dealer's Heavy Equipment Inventory

Clarifies that a bank or similar entity is not a heavy equipment dealer.

SB 1256 by Patrick: Requirements of a Comparable Sale

Clarifies that a sale is not considered comparable unless it occurred within the prior 36 months.

PROTEST PROCEDURES

HB 326 by Dutton: ARB Eligibility

Provides that in counties with a population over 100,000, former employees of the appraisal district are not eligible to serve on the ARB. In addition, an ARB member who has served three consecutive terms must sit out a term before being re-appointed.

HB 3438 by Otto: ARB Eligibility

Provides that an individual is not eligible to serve on the ARB if he/she appeared before the Board for compensation within the prior two years.

HB 2792 by Elkins: Closed ARB Hearings

Provides that, upon agreement of the appraisal district and the taxpayer, a hearing may be closed to the public if confidential information will be discussed.

SB 359 by Hinojosa: ARB Membership

Authorizes junior colleges to vote in the elections of Appraisal District Boards of Directors.

APPEAL PROCEDURES

HB 316 by Otto: SOAH Appeal Procedure

Makes the SOAH pilot program permanent and extends it to the entire state. Designates 13 cities for SOAH hearings and states that hearings are to be held in the city closest to the property.

SB 1255 by Patrick: Binding Arbitration

Adds the equal and uniform remedy to the binding arbitration process.

SB 1662 by Eltife: Binding Arbitration

Repeals the \$250 expedited arbitration remedy.

EXEMPTIONS**HB 97/HJR 24 by Perry: Disabled Veteran Exemption**

Provides for the exemption of a homestead donated to a disabled veteran for the disabled veteran or surviving spouse.

HB 294 by Rodriquez: Exemption for Housing for Homeless

Clarifies the requirements of the housing for homeless exemption in Austin.

HB 1287 by Hilderbran: Homestead Exemption Application

Provides that a homestead exemption applicant does not have to provide a driver's license if a resident of a nursing home or a participant in the address confidentiality program of the Attorney General. The Chief Appraiser may waive the driver's license requirement if the taxpayer is on active military duty or is a judge.

HB 1348 by Menendez: Exemption of Certain Aircraft Property

Provides that commercial aircraft and personal property to be attached to the aircraft in a defense base development authority be considered in interstate commerce and not subject to taxation.

HB 1712 by Lozano: Exemption of Offshore Pollution Equipment

Exempts offshore spill response containment systems.

HB 1897 by Eiland: Pollution Exemption Application

Changes the application process for a pollution control exemption.

HB 3121/ HJR133 by Brown: Exemption of Property in Interstate Commerce

Changes the freeport exemption period for airplane parts from 175 days to 730 days upon local option.

SB 163 by Van de Putte; HJR 62 by Turner: Exemption for Surviving Spouse

Authorizes an exemption for the surviving spouse of members of the armed services killed in action.

SB 193 by West: Exemption Low/Moderate Income Housing

Provides that to qualify for a low/moderate income housing exemption, a taxpayer must provide the Chief Appraiser with a copy of the audit performed on the funds of the organization.

DELINQUENT TAXES**HB 699 by J. Davis: Tax Sale Location**

Allows for the tax sale of a property at a location close to the court house rather than solely at the courthouse door.

HB 3613 by Elkins: Tax Liens

Makes changes related to tax liens on manufactured housing.

SB 247 by Corona: Tax Liens

Makes numerous changes to provisions related to the transfer of property tax liens, including solicitation of loans, secondary market of loans, protection of the elderly involving tax liens and the waiver of requirements by a property owner.

SB 382 by Carona: Refunds

Clarifies the provision that counties may not disburse funds if delinquent taxes are owed to mean owed whether or not reduced to judgment.

SB 1606 by Zaffarini: Delinquent Taxes

Clarifies that a tax lien attaches to the personal property of a taxpayer even if the property is located in a different county than the delinquency.

TAX COLLECTIONS**HB 709 by Isaac: Refund & Payment of Taxes**

Clarifies that a tax refund may be applied toward a prior year's delinquent taxes.

HB 1597 by Gonzalez, N.: Installment Payment of Delinquent Tax

Changes the first installment of a payment plan for the residence homestead of the disabled, elderly and disabled veterans from prior to the delinquency date to March 1. Thus, if paid before March 1, there is no penalty and interest.

HB 1913 by Bohac: Waiver of Penalty & Interest

Allows a taxing unit to waive penalty and interest on delinquent taxes if the taxes became delinquent prior to the taxpayer acquiring the property.

HB 2712 by Perez: Exemption of Air Pollution Control System

Provides for the exemption of an energy storage system used for control of air pollution in a non-attainment area.

SB 1510 by Hinojosa: Tax Rate Notice

Provides a new notice for proposed tax rates by counties and cities.

For more information regarding our legislative updates please contact Jim Popp at jim.popp@property-tax.com.