

The mission of the Texas Association of Property Tax Professionals is to protect the rights of property taxpayers by advancing the professional practice of property tax consulting through education and high ethical standards.

# The Appeal

State News and Current Events for Property Tax Professionals - Spring 2011

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## 82nd Legislative Session Update

Now that the deadline for filing bills for consideration by the Texas 82nd legislature has passed, the focus moves to amendments and progress. Several new bills were filed on the deadline day, March 11, some of which duplicate and combine issues of other filed bills.

TAPTP Government Relations Committee and lobbyists continue to focus on bills that propose long-term detrimental conditions for Texas taxpayers. Updates since the last report include:

**HB 1079** – Relating to a limitation on increases in the appraised value for ad valorem tax purposes of commercial or industrial real property.

Enabling legislation **HJR 82** – Proposing a constitutional amendment to authorize the legislature to limit the maximum appraised value of commercial or industrial real property for ad valorem tax purposes to 110 percent or more of the appraised value of the property for the preceding tax year.

Referred to House Ways & Means Committee 2/28/2011

**HB 1184** – Relating to a limitation on the maximum appraised value of real property for ad valorem tax purposes of 105 percent of the appraised value of the property for the preceding tax year.

Enabling legislation **HJR 87** – Proposing a constitutional amendment to authorize the legislature to limit the maximum appraised value of real property for ad valorem tax purposes to 105 percent or more of the appraised value of the property for the preceding tax year.

Referred to House Ways & Means Committee on 3/1/2011

**SB 474** – Relating to a limitation on increases in the appraised value for ad valorem tax purposes of commercial or industrial real property.

Enabling legislation **SJR 20** – Proposing a constitutional amendment to authorize the legislature to limit the maximum appraised value of commercial or industrial real property for ad valorem tax purposes to 110 percent or more of the appraised value of the property for the preceding tax year.

Referred to Senate Committee on Finance on 2/14/2011. On motion of Senator Patrick, Senator Carona will be shown as co-author of this bill.

Other bills of interest from the previous legislative update report

**HB 533** relating to the protest of a rendition penalty was left pending in committee as of 3/14/2011.

**SB 299** relating to mandatory sales disclosure was referred to Senate Intergovernmental Relations Committee on 1/31/2011. HB 666 relating to a study regarding sales price disclosure is currently being reviewed by the House Ways & Means Committee.

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**HB 896** – Relating to auxiliary members of an appraisal review board – referred to House Ways & Means Committee on 2/24/11, left pending in committee on 3/14/11.

**HB 1088** – Relating to the appointment of ARB members – referred to House Ways & Means Committee on 2/28/11, left pending in committee on 3/14/11.

**HB 873** – Relating to the deadline for filing a suit to compel an appraisal review board to change an appraisal roll – referred to House Ways & Means Committee on 2/24/11

Bills filed since the last update include:

Filed 3/10/11 - **HB 3201** – Amends Section 1, Chapter 325, Government Code, to allow for a Sunset Advisory Commission to evaluate property tax exemptions. Reports would be made to the legislature during regular session and to the governor on the effects of retaining or repealing the exemption. Referred to House Ways & Means Committee on March 18, 2011.

Filed 3/11/11 - **HB 3540** – Sec. 5.071 – Requires the state comptroller to maintain a registry listing software certified by the comptroller for use in the appraisal, assessment, and collection of property for tax purposes. Each appraisal district, assessor and collector would be required to use appropriate software listed in the registry. Appraisal districts would be governed by seven directors, two elected at the general election and five appointed by the taxing units within the district. The chief appraiser would be elected at the general election, would serve a term of two years, and must be a registered voter of the county. Appraisal review boards would consist of six members selected by the presiding county judge in the same manner that persons are chosen for jury duty. In an appraisal district with a population of 50,000 or more, the ARB may not own, lease, rent, occupy, or otherwise maintain administrative office space in the appraisal district office or branch office. The county judge would appoint a protest hearing officer who would mediate ARB hearings. Referred to House Ways & Means Committee on March 22, 2011.

Filed 3/11/11 - **HB 3615** – Proposes that a value determined by the ARB may not increase in the following three tax years unless the chief appraiser is able to support the increase by clear and convincing evidence. This bill also removes the inequality correction in support of a value increase.

Filed 3/11/11 - **HJR 142** – Proposes a constitutional amendment to abolish property taxes imposed by any political subdivision of this state beginning with the 2012 tax year.

Filed 3/11/11 - **HJR 150** – Allows the legislature to limit the term of a chief appraiser to not more than four years.

Filed 3/11/11 - **HJR 156** – Amends Section 1, Article VIII, Texas Constitution, to read, “(a) Taxation shall be fair and equal” rather than “equal and uniform” and changes “in proportion to its value” to read, “at the property’s full cash value.” Full cash value is defined as the market value as it appears on the 2009, or later, property tax bill, or the appraised value when purchased, newly constructed, or at the time of change in ownership. All references to market value within the Constitution would mean full cash value.

**NOTE: HB 2321** proposes that, if this amendment is enacted, a “Special Tax Code Board” be established with nine members appointed by the governor. This board would make recommendations to the legislature on the consolidation of county tax and appraisal district operations in order to provide the best cost-benefit to local governments. This proposed amendment completely changes the definition of market value.

Filed 3/10/11 - **SB 1441** – Sec. 25.25 (c) – Proposes a motion to correct an error in ownership of the property as of the applicable assessment date. Referred to Intergovernmental Relations Committee on March 22, 2011.

Filed 3/10/11 - **SB 1546** – Sec. 41.45 – Proposes that, upon request, an ARB reschedule a hearing if, through human error, the property owner or agent fail to appear. This bill also charges the comptroller’s office to appoint a peer review committee to review property taxpayers’ complaints against appraisal districts.

Filed 3/11/11 - **SB 1773** – Amends the Government Code to allow a property owner to appeal to the State Office of Administrative Hearings certain appraisal review board determinations. It implements a pilot program that includes the counties of Bexar, Cameron, El Paso, Harris, Tarrant and Travis beginning with tax year 2010 and adds Collin, Dallas, Fort Bend, Montgomery, and Nueces counties beginning with tax year 2012.

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Software certified by state comptroller would be required for use in appraising property for tax purposes....

The chief appraiser would be elected at the general election...

Appraisal review board members would be selected by presiding county judge...

HB 2321 changes the definition of market value...



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Some interesting proposed legislation that could impact the Texas property tax system include:

**HB 354** proposes to impose an income tax to provide property tax relief on income that exceeds \$150,000 per year. This bill was referred to the House Ways & Means Committee on February 15, 2011.

**HB 3367** would repeal the laws authorizing the imposition of a property tax while expanding the applicability of state and local sales and use taxes. Sales and use tax revenue would be distributed to entities formerly imposing an ad valorem tax AND would replace the ad valorem tax revenue for financing public schools. Referred to House Ways & Means Committee on March 18, 2011.

**HB 1887** Relating to procedural changes to property tax protests and appeals. If enacted, this bill would require ARB orders to specify the appraised value determined by the ARB. In contesting a “no evidence motion for summary judgment” in a valuation or equalization law suite, property owners may respond with their own, or their agent’s, testimony. Expert witnesses would not need to be licensed appraisers to testify in court. In a property tax equalization or valuation lawsuit, comparables would be based on the appraised values as determined by the appraisal review board and not on any values that may have been altered by resolution of a lawsuit. The \$100,000 per year cap on recovery of attorney’s fees and the threshold limiting attorney’s fees on tax recoveries under \$15,000 to the actual amount of tax recovered do not apply if an appraisal district refuses to enter into alternate dispute resolution with a taxpayer or hold a settlement conference with a taxpayer within 240 days of filing a lawsuit. The restrictions are also inapplicable if the appraisal district refused to hold an informal hearing with the taxpayer prior to the appraisal review board hearing on the property. Interest on refunds of overpayments of property taxes on properties appealed to district court is limited to the 90 day Treasury Bill rate. The interest may not be waived as a part of a settlement of a lawsuit with an appraisal district. Referred to House Ways & Means Committee on March 7, 2011.

**HB 1799** Relating to the exemption of certain real estate professionals from registration as property tax consultants. If enacted, this bill would exempt those who hold an active real estate broker or salesperson license from TDLR registration for property tax consulting. It would also allow a licensed or certified real estate appraiser to provide property tax consulting services in connection with farms, ranches, single-family residences, and commercial properties without registration as a property tax consultant with TDLR. Referred to House Licensing & Administrative Procedures Committee on March 3, 2011.

*The 82nd Legislature, Regular Session commenced on January 11, 2011 and will adjourn on May 30, 2011.*

Texas legislative sessions are relatively short and the status of bills filed may change at any moment but, keeping apprised of daily changes is simple using the *Resource Links* page on the TAPTP website. Select *Texas Legislature Online* and use the search box for the bill of interest.

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*Keep apprised of changes through Texas Legislature Online located in Resource Links at [www.taptp.org](http://www.taptp.org)*

