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Pending Property Tax Legislation for the 87th Legislative Session

By Sands Stiefer

This summary of pending legislation for the 87th legislative session is prepared by Olson & Olson for the benefit of local government officials and staff. It will be updated weekly to reflect new bills filed and changes to bills as they work their way through the session. These are summaries; readers should refer to the text of filed bills for full details. This issue is organized by bill number. This edition reflects actions through March 27, 2021.

House Bills

HB 115 Rodriguez, Eddie Relating to the exemption from ad valorem taxation of certain property owned by a charitable organization and used in providing housing and related services to certain homeless individuals.

Amends Sec. 11.18(p) to require that a qualifying organization have been in existence for 20 years unless it meets specific location, size, and acquisition requirements. Effective 1/1/21

HB 533 Shine, Hugh Relating to ad valorem tax sales of personal property seized under a tax warrant.

Would amend Sec. 33.25, Tax Code, to make the provisions currently applicable to counties of three million or more applicable to all counties for the conduct of sales of property seized under a tax warrant. Effective 9/1/21

HB 988 Shine, Hugh Relating to the authority of a property owner to bring suit to compel an appraisal district, chief appraiser, or appraisal review board to comply with a procedural requirement applicable to an ad valorem tax protest.

Section 1 amends Sec. 5.103 to require the ARB to incorporate the comptroller's model hearing procedures in its hearing procedures. The board may adopt additional procedures that do not contradict or circumbent the model procedures. The comptroller must review each ARB's hearing procedures annually. Immediate effect.

Section 2 requires the comptroller's annual report under Sec. 5.104(1) to include a summary of comments, complaints and suggestions, the results of the comptroller's review of ARB hearing procedures, and the results of requests for binding arbitration related to procedural violations. Immediate effect.

Section 3 requires the governing body of each taxing unit entitled to cast at least five percent of the total votes for directors to determine its vote by resolution adopted at its first or second meeting after delivery of the ballot. The body

has three days after the vote to submit its resolution to the chief appraiser.

Section 4 amends Sec. 6.052 to require the taxpayer liaison officer to include a summary of complaints and information about submission of complaints in various publications and reports. Provides that the taxpayer liaison officer does not commit an offense under Chapter 6 if she communicates with a variety of officers and individuals, including members of the board of directors, in the good faith exercise of her statutory duties. Immediate effect.

Section 5 adds Sec. 6.155, making it a Class A misdemeanor for a member of the governing body, officer, or employee of a taxing unit to communicate directly or indirectly with the chief appraiser or another employee of the CAD for the purpose of influencing the value at which property in the district is appraised unless the person owns or leases the property involved. Immediate effect.

Section 6 amends Sec. 11.252 to allow the lessee of a leased vehicle to certify required facts by written unsworn declaration.

Section 7 amends Sec. 11.253 to allow the governing body of a taxing unit with territory in a disaster area declared on or after January 1, 2020, to extend the maximum holding period for goods-in-transit up to the 270th day after acquisition or importation. Expires December 31, 2025.

Sections 8 and 9 amend Secs. 21.02 and 21.031 to allow the owner of a fleet of watercraft used as instrumentalities of

commerce to have the fleet value allocated in a special manner upon request. The allocable portion of a vessel that is part of the fleet, used as an instrumentality of commerce and is taxable in the state and the taxing unit is determined by multiplying the fair market value of the vessel by a fraction, the numerator of which is miles operated by the owner's vessels that are situated in the appraisal district within Texas and the denominator of which is miles operated by those vessels in total. An owner who elects this method may designate the location of the property owner's principal place of business as the taxable situs of the fleet.

Section 10 amends Sec. 25.02 to require a unique account number for each appraisal record. If the district changes the account number, it must provide written notice to the property owner as soon as practicable after the change and provide notice of the change in the next 25.19 notice. With the exception of residential properties, improvement only properties, or properties on which delinquent tax is due, property owner may have contiguous parcels combined under a single account number or identifiable segments of a parcel or tract of real property separated into individual appraisal records. An owner must request combination or separation before January 1 of the year for which the change is requested. The request must contain a legal description as contained in a deed sufficient to describe the subject property. A chief appraiser's refusal to combine or separate parcels may be the subject of a protest or a Sec. 25.25 motion. Combination or separation of tracts as required by

the section does not affect the application of generally accepted appraisal methods and techniques to the property, including property that is part of the same economic unit as property contained in the same or another appraisal record.

Section 11 amends Sec. 25.19 to require inclusion of an explanation of the availability and purpose of an informal conference in the notice.

Section 12 amends Sec. 25.19 to prohibit delivery of a corrected or amended notice of appraised value after June 1 for property that is rendered as required by law unless the purpose of the notice is to include omitted property or correct a clerical error. The chief appraiser is also required to post appraisal notices on the appraisal district's website as part of the appraisal record pertaining to the property.

Section 13 amends Sec. 31.11(h) to exclude application of the section to an overpayment received after correction of the tax roll as a result of an appeal under Chapter 42.

Section 14 amends Sec. 41.01 to require an appraisal review board to adopt hearing procedures by rule after holding a public hearing on the proposed procedures. The hearing must be held not later than May 15. The ARB chairman is responsible for administration of the procedures. Copies must be distributed to the board of directors and the taxpayer liaison officer and the comptroller within 15 days of adoption. Copies must be posted in a prominent place in each hearing room and on the appraisal district's internet website (if it has one). Immediate effect.

Section 15 amends Sec. 41.44(d) to require the comptroller's protest form to allow the property owner to request hearing by a single member panel.

Section 16 requires the appraisal district to hold an informal conference with each protesting property owner who requests a conference. The conference must be held before the hearing on the protest.

Section 17 amends Sec. 41.45 to delete the ARB's ability to propose that a hearing be held by telephone. In addition, the board is empowered to sit in single member panels to conduct a protest hearing if the property owner so requests in the notice of protest or a separate writing submitted at least 10 days before the hearing. If the ARB does not accept the single member panelist's recommendation, it may refer the matter to another single panel for rehearing.

Section 18 makes conforming amendments to Sec. 41.461. Immediate effect.

Section 19 amends Sec. 41.47 to require separately listed land and improvement values as allocated by the chief appraiser on order determining protest. The section is also amended to require CADs with populations of 120,000 or more to send email copies of the order and notice of issuance of the order if requested to do so by the owner, the owner's attorney, or a designated agent of the owner unless the property is subject to an agreement under Sec. 1.085. The requestor may include more than one property in a single request, including properties owned by multiple

owners, and the requestor may submit more than one request. The requestor must indicate to whom the information is to be delivered in the request. The request must be submitted before the protest hearing, and the chief appraiser must deliver the copies not later than the 21st day after issuance of the order.

Section 20 amends Sec. 41.66 to require the ARB to conduct hearings in accordance with its adopted procedures. A person who owns property in the appraisal district or the chief appraiser may file a complaint with the taxpayer liaison officer regarding noncompliance with Sec. 5.103 or with procedural requirements of Chapter 41. The TLO must investigate and report findings to the board of directors, which must direct the ARB chair to take remedial action if the board determines the allegations are true. The board may remove the chairman if it determines the chair failed to take necessary actions to bring the ARB into compliance.

Section 21 adds Sec. 41A.015, providing for limited binding arbitration of complaints from property owners that the ARB or the chief appraiser, as applicable, has failed to rescind non-compliant rules, schedule a hearing, deliver information required by Sec. 41.461, allow the owner to exercise their rights under Sec. 41.66(b) to offer evidence and arguments, examination, and cross-examination; to set and postpone hearings as required by Sec. 41.66(i), to schedule same day hearings as required by Section 41.66(j), or to refrain from using or offering evidence prohibited by Sec. 41.67(d). The section specifies the procedures for filing

and conducting the arbitration, which must be conducted by an attorney. Fees for the arbitration range from \$450 to \$550. The arbitration award determines whether a failure to comply occurred, and the losing party pays the arbitration fee. The award may direct the ARB or chief appraiser to comply and to provide a new hearing.

Section 22 amends Sec. 41A.10, Tax Code, to allow property owners who have deferred taxes to appeal through binding arbitration.

Section 23 amends Sec. 42.015 (a) to allow an eligible lessee to appeal an ARB order from a protest brought by the owner if the owner does not appeal. Immediate effect; applies to pending appeals.

Section 24 amends Sec. 42.23(e) to provide that a court may not enter a protective order that conflicts with subsection (d). Immediate effect; applies to pending appeals.

General effective date 1/1/22.

HB 1090 Bailes, Ernest Relating to the appraisal for ad valorem tax purposes of property that was erroneously omitted from an appraisal roll in a previous year.

Would amend Sec. 25.21 to provide for a consistent three year back assessment period for both real and personal omitted property. Effective 9/1/21.

HB 1197 Metcalf, Will Relating to the period for which certain land owned by a religious organization for the purpose of expanding a place of religious worship or constructing a new place of religious worship may be exempted from ad valorem taxation.

Would amend Sec. 11.20(j), Tax Code, to extend the period for exemption of contiguous land held for expansion of a worship place to six years. Effective 1/1/22.

HB 1544 Guillen, Ryan Relating to the eligibility of land to continue to be appraised for ad valorem tax purposes as qualified open-space land if the land is temporarily used for sand mining operations.

Would add Sec. 23.527, bracketed for certain properties over the Carrizo aquifer, to allow for continuation of agricultural appraisal during a temporary sand mining operation subject to specific requirements. Would take effect immediately.

HB 1869 Burrows, Dustin. Relating to the definition of debt for the purposes of calculating certain ad valorem tax rates of a taxing unit.

Amends Sec. 26.012, Tax Code, to provide that debt must meet one of several specific criteria; defines designated infrastructure, refunding bonds, and self-supporting debt for the purposes of the criteria. Effective 9/1/21.

HB 2535 Sanford, Scott(R) Relating to the appraisal for ad valorem tax purposes of real property that includes improvements used for the noncommercial production of food for personal consumption.

Would amend Sec. 23.014 to require the chief appraiser to exclude value attributable to chicken coops or rabbit pens used for the noncommercial production of food for personal consumption from the value of real property. Effective 1/1/22.

HB 2723 Meyer, Morgan(R) Relating to public notice of the availability on the Internet of property-tax-related information.

Would require the Sec. 25.19 notice and various truth in taxation notices to contain a statement directing the property owner to a specific URL ([Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes)) for tax rate information. Would require the state Department of Information Resources to create and maintain a website linking to each appraisal district's property tax database for the purpose of redirecting property owners to the Sec. 26.17 database for each county. Effective 9/1/21 and 1/1/22.

HB 2941 Burns, DeWayne(R). Relating to the appointment of appraisal review board members.

Amends various sections of Chapter 6, Tax Code, to provide that the local administrative district judge appoints the appraisal review board in all counties. Immediate effect.

HB 3629 Bonnen, Greg(R) Relating to the date a deferral or abatement of the collection of ad valorem taxes on the residence homestead of an elderly or disabled person or disabled veteran expires.

Would amend various sections of the Tax Code to provide that a deferral or abatement expires on the 181st day following the date the collector for the taxing unit delivers a notice of delinquency following the expiration of the right to deferral. Effective 9/1/21.

HB 3786 Holland, Justin(R) Relating to the authority of the comptroller to send, or to require the submission to the comptroller of, certain ad valorem tax-related items electronically.

Would amend Sec. 5.03 to allow the comptroller to require electronic submission of information notices and reports to and from the comptroller. Effective 9/1/21.

HB 3788 Holland, Justin(R) Relating to the training and education of appraisal review board members.

Would amend Sec. 5.041 to permit distance training of ARB's. Effective 1/1/22.

HB 3833 King, Phil(R) Relating to the appraisal of certain real property for ad valorem tax purposes

Amends Sec. 23.215, Tax Code, to address appraisal of LIHTC rental property during construction and before stabilized occupancy is reached. Deletes current limitation of Sec. 23.215 to properties rented on its original effective date. Provides that in appraising LIHTC property that is under

construction or has not reached stabilized occupancy on January 1, the chief appraiser shall determine value using the property's projected income and expenses for its first full year of operation as established and used in the underwriting report prepared by TDHCA under Subchap DD, Chap. 2306, Gov't Code. The chief appraiser must adjust the value as provided by the subsection to reflect percentage of completion and/or actual occupancy if the occupancy has not stabilized. Rehabilitation or maintenance is not considered construction. The chief appraiser must determine appraised value in years following construction and achievement of stabilized occupancy in the manner provided by Sec. 11.1825(g), Tax Code.

Would amend relevant portions of Secs. 23.55, 23.58, 23.76, 23.86, 23.96, and 23.9807 to eliminate interest on rollback taxes under those sections. to reduce the rollback period for recreational, park, and scenic land and airport property from five years to three years. Would amend Sec. 23.9807 to reduce the rollback period to three years and the interest rate to five percent. Amendment to Sec. 23.215 effective 1/1/22; otherwise immediate effect.

HB 3971 Meyer, Morgan(R) Relating to the appraisal for ad valorem tax purposes of residential real property located in a designated historic district.

Would amend section 23.013 to provide that in determining the market value of residential property located in a

designated historic district the chief appraiser must consider the effect of restrictions on the property owners ability to alter, improve, or repair the property. Designated historic district is defined as an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law. Effective 1/1/22.

House Resolutions

HJR 125 Ellzey, Jake (F)(R) Proposing a constitutional amendment to allow the surviving spouse of a person who is disabled to receive a limitation on the school district ad valorem taxes on the spouse's residence homestead if the spouse is 55 years.

Senate Bills

SB 63 Nelson, Jane Relating to the system for appraising property for ad valorem tax purposes.

Omnibus bill would:

- Require the chief appraiser or ARB to deliver notices by e-mail upon written request of the owner addressed to the chief appraiser. Notices requiring certified mail must still be mailed. The request continues until revoked. The chief appraiser must confirm the request by email.
- Make a person (other than a county assessor-collector) who has served on a CAD board of directors for all or part of three terms ineligible to serve; places three year

limits on ineligibility of appraisers, tax consultants, and CAD employees to serve on a board.

- Prevent a CAD from employing a former ARB member for two years.
- Impose 90 day timetables for
 - Determining whether an ARB member should be removed
 - Taking action on an exemption application
 - Acting on applications for ag-use, open space, and timber appraisal
 - Holding a protest hearing
- Require full explanation of the reasons for denial or modification of an exemption or agricultural or timber appraisal, and prohibit the chief appraiser from offering a reason other than that stated in the explanation to the property owner in a hearing on a protest regarding the matter.
- Require the comptroller's protest form to include a single check box to indicate an appraisal is both excessive and unequal.
- Effective 9/1/21

SB 113 West, Royce Relating to community land trusts.

Would expand the types of organizations eligible to organize a community land trust; amend Sec. 23.21 to require the chief appraiser to appraise land leased by the trust to an eligible family using the income approach, including taking into account the terms of the lease and limitation of the use on the property for the purposes of computing rental

income. The chief appraiser must use the same capitalization rate she uses to appraise other rent restricted properties. If a housing unit is sold to an owner by the trust, and the unit is subject to an eligible use restriction, the chief appraiser may not appraise the unit for an amount that exceeds the price for which the unit may be sold in that year under the eligible land use restriction. Termination of an exemption applicable to land in a tax year will not result in proration. Effective 9/1/21

SB 334 Johnson, Nathan Relating to disclosure under the public information law of certain records of an appraisal district.

Would amend Sec. 552.149, Tax Code, to delete the owner's ability to request copies of items the chief appraiser took into consideration but does not plan to introduce and to allow the owner or agent to obtain comparable sales data relevant to an appeal under Chapter 41A. Repeals Sec. 552.149(e). Immediate effect.

SB 611 Campbell, Donna(R) Relating to an exemption from ad valorem taxation of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed or fatally injured in the line of duty.

Would change the standard for exemption under Sec. 11.133 for the surviving spouse of an armed forces member killed or fatally injured in the line of duty. Would set a uniform

late filing deadline for all residence homestead exemptions other than an exemption provided under Sec. 11.439 at two years after the delinquency date for the year in question. Would amend Sec. 11.439 to provide that the five year late application deadline in that section does not apply to a surviving spouse. Effective 1/1/22; Sec. 11.133 amendment contingent on constitutional amendment.

SB 725 Schwertner, Charles(R) Relating to the qualification of land for appraisal for ad valorem tax purposes as agricultural land and the liability for the additional tax imposed on such land if the use of the land changes as a result of a condemnation.

Would amend Sec. 23.46 to provide that condemnation of a right of way up to 200 feet wide is not a diversion of the land from agricultural use. Additionally provides that change of use taxes imposed are the personal liability of the condemning entity. Effective 9/1/21.

SB 742 Birdwell, Brian(R) Relating to installment payments of ad valorem taxes on property in a disaster area.

Amends Sec. 31.032 to permit installment payment of taxes under that section for qualified property located in an emergency area as well as in a disaster area. Emergency and emergency area have the meaning assigned by Sec. 433.001, Gov't Code. Would add Sec. 33.033 providing that certain

small businesses whose property is located in a disaster or emergency area may pay taxes in installments.

SB 794 Campbell, Donna(R) Relating to eligibility for the exemption from ad valorem taxation of the residence homestead of a totally disabled veteran.

Would amend Sec. 11.131(b) to change “receives from” to “has been awarded by.” Effective 1/1/22.

SB 841 Hughes, Bryan (R) Relating to the availability of personal information of individuals who are honorably retired from certain law enforcement positions.

Provides that Section 25.025 (Confidentiality of Certain Home Address Information) applies only to a current or honorably retired county jailer as defined by Section 1701.001, Occupations Code; and a current or honorably retired police officer or inspector of the United States Federal Protective Service. Defines honorably retired. Immediate effect.

SB 916 Seliger, Kel(R) Relating to information regarding certain noncompliance by an appraisal district in the Texas Department of Licensing and Regulation records of a professional property tax appraiser serving as chief appraiser for the district.

Would amend Chapter 1151, Occupations Code, to require TDLR to link comptroller MAP and PVS reports completed during a chief appraiser’s tenure on that person’s record. Upon request, the department must provide information about any pending compliance efforts to an appraisal district

considering the appointment of the chief appraiser. Effective 9/1/21.

SB 1088 Creighton, Brandon(R) Relating to the duty of the chief appraiser of an appraisal district to provide certain information.

Would add Sec. 11.50 requiring a chief appraiser to provide a list of individuals currently receiving homestead exemptions upon request and as soon as practicable.

Provisions making such information confidential do not apply to disclosure to another chief appraiser.

Would amend Sec. 41.413 to clarify that contracts covered by the section are described in subsection (b). Effective 9/1/21.

SB 1131 Paxton, Angela(R) Relating to the calculation of "last year's levy" for purposes of calculating certain ad valorem tax rates of a taxing unit.

Would amend Sec. 26.012(13) to provide that in calculating last year's tax levy, the assessor multiplies the portion of value under appeal on July 25 by the five-year average percentage reduction for litigated properties.

SB 1245 Perry, Charles(R) Relating to the farm and ranch survey conducted by the comptroller for purposes of estimating the productivity value of qualified open-space land as part of the study of school district taxable values.

Would add Sec. 23.61 providing for the comptroller to conduct farm and ranch surveys. The comptroller would be

required to prepare an information guide for the surveys and conduct in person or online information sessions open to the public. The chief appraiser would be required to publicize the process and provide the guide and access to the information sessions to the agricultural advisory committee and to those who receive the survey instrument. Effective 9/1/21.

SB 1257 Birdwell, Brian(R) Relating to the information required to be provided by the chief appraiser of an appraisal district to the comptroller in connection with the comptroller's central registry of reinvestment zones.

Would amend Sec. 312.005, Tax Code, to require the chief appraiser to include the information required by 312.205(a)(1) in reports to the comptroller. Effective 9/1/21.

SB 1421 Bettencourt, Paul(R) Relating to the correction of an ad valorem tax appraisal roll and related appraisal records.

Would amend Sec. 25.25 to permit correction of an inaccuracy in value resulting from error or omission in a rendition for the current and two preceding tax years. The property owner must have timely filed the rendition and may not have had a protest hearing on the property, a prior correction by agreement, a determination of forfeiture for

failure to pay under protest, or the value was established by written agreement.

Would amend Sec. 41.413, Tax Code, dealing with appraisal notices on leased property, to restrict the provisions to leased real property. Effective 9/1/2021.

SB 1427 Bettencourt, Paul(R) Relating to the applicability of the temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.

Would amend Sec. 11.35 to clarify that damage means physical damage. Immediate effect.

SB 1438 Bettencourt, Paul(R) Relating to the effect of a disaster on the calculation of certain tax rates and the procedure for adoption of a tax rate by a taxing unit.

Would amend Sec. 11.43 (e) to strike references to the 45 day deadline for disaster exemptions adopted by a governing body.

Would add Sec. 26.042, Tax Code, providing that the disaster exception (allowing a taxing unit to use an 8% factor in calculating its rollback tax rate) applies only where the disaster causes physical damage. Would provide exceptions to mandatory elections in specified disaster scenarios.

Would provide that the portion of a tax rate increase for disaster purposes isn't included in calculating the following year's voter approval and no new revenue rates. Makes conforming amendments to the Education and Special District Local Laws Codes. Effective immediately.

SB 1449 Bettencourt, Paul(R) Relating to the exemption from ad valorem taxation of income-producing tangible personal property having a value of less than a certain amount.

Would amend Sec. 11.145, Tax Code, to increase the exemption for income-producing tangible personal property from \$500 to \$2,500. Effective 1/1/22.

SB 1764 Bettencourt, Paul(R) Relating to the payment of delinquent ad valorem taxes on property subject to a tax sale.

Would amend Sec. 31.06 to allow a collector to require payment of delinquent taxes on property previously seized or subject to an order of sale by cashier's check, certified check, currency, or electronic fund transfer. Immediate effect.

SB 1854 Powell, Beverly(D) Relating to an appeal through binding arbitration of an appraisal review board order determining a protest concerning a residence homestead for which the property owner has elected to defer.

Would amend Sec. 41A.10 to allow a person with a tax deferral to appeal through binding arbitration if otherwise eligible. Effective 9/1/21.

SB 1919 Lucio, Eddie(D) Relating to the authority of a property owner to participate by videoconference at a protest hearing by an appraisal review board.

Would amend section 41.45 to allow a property owner to appear at an appraisal review board hearing either by telephone conference call or by video conference. The appraisal review board must conduct the hearing by telephone or video conferences if the property owner elects to do so and notifies the property owner either in the owner's notice of protest or by written notice filed with the board at least 10 days before the date of the hearing. The board may propose that a hearing be conducted by telephone conference call or videoconference and if the property owner agrees may do so. The appraisal review board must provide a call-in number or an Internet location or locator address for the hearing, as applicable. An ARB for a county with a population under 100,000 is not required to hold hearings by videoconference if it lacks the technical capacity to do so. Effective September 1, 2021.

Senate Resolutions

SJR 35 Campbell, Donna(R) Proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead.