

TAAD LEGISLATIVE UPDATE 2023

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TOPICS FOR REVIEW

HB 796 - codified in Tex. Tax Code 26.17(c) & 41.13

HB 4101 - codified in Tex. Tax Code 41A.015(a)

SB 2355 - codified in Tex. Tax Code 41A.03 (a),(c),(d) and 41A.04 and 41A.08 and 41A.11

HB 2488 - codified in Tex. Tax Code 42.23(i)

HB 796

Takes effect on January 1, 2024

- ▶ Caption ▶ Relating to the creation and maintenance by an appraisal district of a publicly available Internet database of information regarding protest hearings conducted by the appraisal review board established for the district.
- ▶ Author ▶ Button

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HB 796

- ▶ Text Summary ▶ Under 26.17(c), there must be a link to the database created by the CA under 41.13 (new provision) that contains information regarding ARB hearings.
- ▶ Under 41.13, the CA shall create/maintain a publicly available and searchable internet database with information on protest hearings conducted by the ARB.

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HB 796

- ▶ Text Summary
- ▶ The database must contain: (1) name of each ARB member at hearing, (2) date and time of hearing, (3) account number/category of property in hearing, (4) CAD and Owner values, and (5) ARB determination.
- ▶ Update the database no later than October 1 each year.
- ▶ Beginning January 1, 2025 database will include information for most recent year and then add for next five tax years.
- ▶ On January 1, 2030, database will have five years protest data

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HB 796

- ▶ Text Summary
- ▶ Oops... ? Section 3
Not later than the effective date (January 1, 2024), the CA must create and make available to the public the database

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HB 796

- ▶ TAAD ▶ Originally, HB 796 would have required CADs to make ARB data in the database available following each individual hearing. TAAD informed the author about the degree of resources that would be required during the busiest time of the year for CADs.
- ▶ Author agreed that data base could be updated annually by **October 1**. After this change, TAAD was neutral on the bill.

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HB 796

- ▶ TAAD ▶ The software vendors are now looking at development for this new database and are exploring the option of having this ARB data from a hearing attached directly to the account in existing property search tools on existing websites as opposed to creating an entirely new website which will be a huge cost savings.

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THOUGHTS ON HB 796

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HB 4101 Take effect on January 1, 2024

- ▶ Caption ▶ Relating to the matters that may be the subject of limited binding arbitration to compel compliance with procedural requirements related to protests before appraisal review boards.
- ▶ Author ▶ Shine

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HB 4101

- ▶ Text Summary
- ▶ Adds 41A.015(a)(1) that allows a property owner to request limited binding arbitration (LBA) to compel the ARB to comply with the hearing procedures adopted by the ARB

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HB 4101

- ▶ TAAD
- ▶ Bill came from TAPTP
- ▶ It sought to expand LBA beyond what was agreed to in the 87th session.
- ▶ Originally bill included: 1. Comply with comptrollers model hearing procedures 2. Comply with comptroller's ARB training manual 3. Comply with procedural requirements of chapter 41

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HB 4101

- ▶ TAAD
 - ▶ TAAD opposed this expansion and had it narrowed down to “comply with the hearing procedures adopted by the ARB.”
 - ▶ TAAD no longer opposed the bill and became neutral.

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THOUGHTS ON HB 4101

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SB 2355

Takes effect on January 1, 2024

- ▶ **Caption** ▶ Relating to the appeal of certain ad valorem tax determinations through binding arbitration.
- ▶ **Author** ▶ Bettencourt

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SB 2355

- ▶ **Text Summary**
 - ▶ 41A.03 is amended to have requests for binding arbitration filed with the Comptroller's office.
 - ▶ Subsection (c) and (d) address filing through the electronic system.
 - ▶ 41A.05(a) requires the CAD to provide necessary information to the Comptroller's office to appoint the arbitrator.

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SB 2355

- ▶ Text Summary
 - ▶ 41A.08(c)(d) and (e) are added related to the designation of an agent for binding arbitration.
 - ▶ (c) requires agent to be authorized, in writing, to represent the owner at the binding arbitration but it is not the 1.111 agent authorization form.
 - ▶ (d) identifies that the agent must retain and be able to produce the authorization form required in (c).
 - ▶ (e) allows an owner to assign to the agent the right to receive the refund of the arbitration deposit refund.
 - ▶ 41A.11 adds that a settlement between the parties is a final determination of an appeal.

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SB 2355

- ▶ TAAD
 - ▶ TAAD brought this to Bettencourt and he agreed and filed the bill. It makes the administrative part of binding arbitration much easier for CAD's. TAAD supported the bill from the start.

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THOUGHTS ON SB 2355

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HB 2488

Takes effect on **SEPTEMBER 1, 2023**

- ▶ Caption ▶ Relating to the burden of proof in certain ad valorem tax appeals.
- ▶ Author ▶ Geren

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HB 2488

- ▶ Text Summary
 - ▶ Only applies to an appeal involving an increase in appraised value under circumstances of 23.01(e) or 41.43(a-3).
 - ▶ The CAD has the burden to establish the value by clear and convincing evidence **if the value of the property for the preceding tax year was determined at a trial on the merits.**

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HB 2488

- ▶ Referenced sections
 - ▶ Remember 23.01(e): If the value is lowered under Ch. 41, 41A or 42, then in the next year, the CA may not increase the appraised value unless supported by “clear and convincing evidence.”
 - ▶ If the value was lowered due to an “unequal” protest or lawsuit, the CA can meet the standard by showing the comparables were “corrected.”

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HB 2488

▶ Referenced sections

▶ Also remember 41.43(a-3)- For a 41.41(a)(1) or (2) protest, the CAD has the burden by clear and convincing standard if:

(1) value was lowered in the preceding year;

(2) no 1.111(e) agreement; **AND**

(3) at least 14 days before the hearing, the owner files/delivers (A) income expense statements or comparable sales information that allows for determination of value or (B) sufficient information to determine if it was unequally appraised

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HB 2488

▶ Trial concerns

▶ Normally, the owner has the burden to prove their case by a “preponderance of the evidence” or to prove that their case is more likely true than not (also greater weight).

▶ Legislation now means the CAD has the burden to prove its case by “clear and convincing” standard, meaning the jury must have a firm belief or conviction of the truth of the matter sought to be established.

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HB 2488

▶ TAAD

▶ Opposed

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THOUGHTS ON HB 2488

If we are bound by a prior year's value, is this still constitutional?

Texas Constitution **Art. 8, sec. 1** requires taxation to be equal and uniform and that all real property and tangible personal property in the state, unless exempt as required or permitted by the Constitution, be taxed in proportion to its value.

"Each tax year stands on its own" is no longer accurate.

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THOUGHTS ON HB 2488

The CAD, as Defendant, will have the burden of proof on owner's, Plaintiff's, claims? Do they get to dictate the scope of the claims and thus, the evidence?

What if we non-suit?

Do we have the privilege of presenting our case first?

Where is the value set if we lose... owner's value or certified value?

Can the subject's value be used for E&U claims by other property owners (competitors)?

How do you meet the "clear and convincing" standard on expert OPINION testimony?

What about when there are multiple tax years involved in a lawsuit?

What if value set after trial is established after multiple tax years have passed? Retroactively go back and modify subsequent years? 1.111(e)?

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THANK YOU and GOOD LUCK!

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