**Tri-Region Chapter of the**

**Texas Association of Appraisal Districts**

**Spring Meeting—March 4, 2021**

Legislative Update on Issues Important to Appraisal Districts

Presented by Kirk Swinney and Debbie Cartwright

Low Swinney Evans & James, PLLC

1. 87th Regular Session the Texas Legislature (10 minutes—Debbie)
2. Governor Abbott’s State of the State Address

Feb. 1: outlined 5 emergency items and several priority issues

**Emergency**: (1) expanding broadband access—important to CADs, schools, and local governments in rural areas, in addition to individuals; (2) prohibiting cities from de-funding police departments; (3) fixing flawed bail system; (4) promoting election integrity; and (5) creating civil liberty protections related to the corona virus

**Priorities**: civics education; expansion of tele-medicine services; border security; gun rights; pro-life; prohibition against “shutting down” religious activities during the health pandemic; and reduction in government regulations

Feb. 16: added another emergency item due to the ice/snowstorm

Investigation of ERCOT (Electric Reliability Council of Texas) and other agencies that deal with utility companies

1. Presiding Officers of the Texas Senate and Texas House of

Representatives

Lieutenant Dan Patrick (R-Harris)—second term: long agenda of priority items released in the last ten days; committee assignments; meetings started

Speaker of the House Dade Phelan (R-Jefferson)—first term; committee assignments; meetings started

1. Committee Assignments
2. Senate Committee on Local Government

Sen. Paul Bettencourt (R—Harris), chair

Sen. Jose Menendez (D—Bexar), vice chair

Sen. Sarah Eckhardt (D—Travis)

Sen. Roland Gutierrez (D—Bexar)

Sen. Bob Hall (R—Rockwall)

Sen. Robert Nichols (R—Henderson)

Sen. Angela Paxton (R—Dallas)

Sen. Drew Springer (R—Cooke)

Sen. Judith Zaffirini (D—Webb)

Regular meeting schedule has not been determined. The subject matter of this committee will include property tax bills, special districts bills, and any other matter related to local governments.

1. House Committee on Ways & Means

Rep. Morgan Meyer (R—Dallas), chair

Rep. Shawn Thierry (D—Harris), vice chair

Rep. Angie Chen Button (R—Dallas)

Rep. Sheryl Cole (D—Travis)

Rep. Bobby Guerra (D—Hidalgo)

Rep. Trey Fischer Martinez (D—Bexar)

Rep. Jim Murphy (R—Harris)

Rep. Candy Noble (R—Collin)

Rep. Eddie Rodriguez (D—Travis)

Rep. Scott Sanford (R—Collin)

Rep. Hugh Shine (R—Bell)

Regular meetings are scheduled for Mondays at 10 a.m.

**LSEJ currently is tracking about 150 property tax bills, as well as a number of bills related to local governments, open meetings, and open records. The bill filing deadline is March 11 and the session ends at the end of May.**

The key issue of redistricting of House, Senate, and Congressional seats will not be considered this year due to delays in the census data submission to the states. Also, budget shortfalls have improved with sales tax revenues gaining and the economy rebounding.

1. Government and Local Government Code Bills (10 minutes—Debbie)
2. Lobby Restrictions Impacting Local Governments
3. SB 334 (Hall) and HB 749 (Middleton)
4. HB 1702 (Middleton)
5. HB 1704 (Middleton)

SB 334 and HB 749 are companion bills that prohibit political subdivisions (including CADs) from spending public funds to hire registered lobbyists or to pay a nonprofit association/organization if it hires or contracts with a registered lobbyist; permits lawsuits to be filed to stop political subdivisions from doing so and allows awards of attorney fees

HB 1702 prohibits former legislators from lobbying for two sessions after leaving office (excludes former members who are communicating with the Legislature on behalf of nonprofits that deal with low-income and disabled persons and do not receive compensation); makes an offense a Class A misdemeanor

HB 1704 changes deadlines for filing lobby reports and requires the Texas Ethics Commission to post the reports on its website monthly

1. Open Government
2. HB 84 (Hinojosa) dealing with sales prices for housing and residential lots; repeals LGC Section 214.905 that currently prohibits cities from adopting a requirement (by ordinance or building permits) establishing maximum sales price for a privately produced housing unit or residential lot (does not apply to development agreements before Sept. 2005, property in a homestead preservation district, and local initiatives designed to increase the supply of moderate and low-income housing)
3. SB 345 (Paxton) requiring cyber-security training for local government officials; adds Section 772.012 to the Government Code to permits grants for local cybersecurity training; amends Section 2054.5191 of the Government Code to require the training to be taken by locally elected and appointed officials, not just employees, if at least 25% of required duties are conducted on a governmental computer system or database

Several bills dealing with remote public meetings and telephone conferences, including one (SB 639 by Menendez) that requires the location “where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.”

1. Property Tax Code Bills (35 minutes—Kirk and Debbie)
2. Senate bills (Kirk)
3. SB 63 (Nelson, who is chair of the Senate Finance Committee) relating to the system for appraising property for ad valorem tax purposes

Introduced on behalf of a tax agent association called CFAR (Citizens for Appraisal Reform); TAAD working with Sen. Nelson’s staff to amend

Key parts: (1) limits eligibility of CAD directors to three terms and prohibits former employees, persons engaged in representing property owners, and appraisers from serving for three years prior to appointment; (2) prohibits employment by the CAD of a person who was on the ARB in the prior two years; (3) creates a procedure for removing ARB members; (4) requires an exemption and agricultural/open-space/timber/other land use determination within 90 days after the application is filed and a clear statement of reasons for a modification or denial; (5) requires Section 25.25(c) and (d) motions to have hearings set within 90 days and limits the evidence and argument that can be offered in a hearing under subsection (e); (6) changes the notice of protest form to allow a single box for both excessive and unequal value protests; (7) requires ARBs to schedule all protests to be held within 90 days after the day the notice is filed; and (8) restricting the CADs evidence and argument to what is stated in the notices of modification or denial of applications.

1. SB 449 (Hancock) authorizing lawsuits for ARB procedural violations (same as HB 988 by Shine and HB 1120 by Lucio)

These bills are identical and are the product of interests of tax agents (specifically the Texas Association of Property Tax Professionals). They allow taxpayers and agents to file lawsuits to compel compliance with procedural requirements that are alleged to be violated by appraisal review boards. The ARB hearing is postponed when notice is provided. Notice (delivered by certified mail) must be provided to the chief appraiser and the ARB ten days before a lawsuit is filed to provide time to comply. Then a lawsuit can be filed on the 11th day and not later than 30 days after that time. These lawsuits are for the limited purpose of determining whether the ARB or the chief appraiser failed to comply with a procedural requirement in Chapter 41. No discovery is permitted, and the court is required to set a hearing as soon as possible. The court can enter any order it wishes, must determine the merits of the suit, and award attorney fees. The court’s order is not appealable.

1. House bills (Debbie)
2. Comprehensive changes (HB 59 by Murr and HB 1395 by Middleton)

HB 59 repeals school M&O taxes in 2024 and creates a joint interim committee on the elimination of the school maintenance and operations ad valorem tax to make recommendations about alternative funding for public education. The committee is required to submit a written report by November 1, 2022, that provides a plan to use revenue from consumption taxes to fund schools. The current local school enrichment tax rate of 17 cents is retained.

HB 1395 is a 114-page bill that abolishes appraisal districts. Appraisal functions are transferred to county tax offices, and the TAC serves as both the chief appraiser and governing officer. Business personal property is exempt from property taxation, and numerous changes are made in property tax administration (appraisal and collections).

1. Elected CAD and ARB positions (HB 281 and 283 by Stephenson and HB 1166, 1167, and 1168 by Metcalf)

HB 281 provides for 5 elected ARB members in each county (4 by precincts and 1 countywide). In counties with populations of 1 million or more, auxiliary members are authorized.

HB 283 requires that the chief appraiser of each county be elected for two-year terms.

HB 1166 also provides for the election of chief appraisers.

HB 1167 provides for the election of appraisal review board members.

HB 1168 requires that CAD directors be elected (4 by precincts and 1 countywide) for two-year terms.

1. Other changes of interest (HB 96 by Toth, HB 203 by Bernal, and HB 534 and 986 by Shine)

HB 96 limits the value of residence homesteads to the purchase price (with certain exceptions for bankruptcy, family transfers, etc.). An application must be filed, and the sale price must be verified. The information is confidential and may only be disclosed through a subpoena or other limited circumstance.

HB 203 requires the Comptroller to conduct a study of the impact, feasibility, and advisability of adopting a property tax system in which the disclosure of the sales price of real property is required by law.

HB 534 states that the chief appraiser shall reduce the sales price of a comparable property by an amount equal to the amount of the commission that would typically be paid for the sale or purchase of such property.

1. Several bills from Rep. Middleton (HB 1392, 1393, 1567, and 1568)

HB 1392 authorizes a governing body in Chambers and Galveston Counties to completely exempt the value of a residence homestead. A constitutional amendment is associated with this bill.

HB 1393 authorizes a governing body in any county in Texas to completely exempt the value of a residence homestead. A constitutional amendment is associated with this bill.

HB 1567 makes certain changes to how the PVS determinations are reported to the commissioner of education. It also limits the use of sales data to those from the prior two years (with no exceptions that are currently in law). The reappraisal plan requirements are changed to prohibit reappraisal more than every two years, except by written request of the property owner. The prohibition does not apply to the appraisal of a residence homestead in the tax year in which a limitation on appraised value under Section 23.23(a) expires.

HB 1568 changes the margin of error in the PVS to 10% (from 5%) and expands the eligibility of school districts for the grace period.

1. HB 2014 by Lucio relating to ad valorem taxation

* Amends the Labor Code to provide that ARB members are not employees for the purposes of unemployment compensation
* Requires the chief appraiser to make a change of use determination on open-space land not later than the 180th day after the date the owner provides notice of the change to the appraisal office or the date the change is discovered by the chief appraiser
* Requires the change of account number or creation of an account to be part of a Section 25.19 notice; does not apply to an improvement only or a residential property; requires combination of accounts of contiguous properties or the separation of identifiable segments of real property into individual appraisal records at the request of a property owner
* Prohibits chief appraisers from creating corrected notices of appraised value under Section 25.19 for property that is required to be rendered
* Allows single-person ARB panels to determine protests with the agreement of the property owner
* Provides for orders determining protest to list separately the appraised value of land and the improvement
* Prevents the chief appraiser from using evidence at an ARB hearing that was not delivered to the protesting party not later than 14 days before the scheduled or postponed hearing (if requested before the 14th day), or the day before the hearing if the request is made after the 14th day
* Prohibits appeals to district court concerning land or improvement values separately if the order determined the values of each
* Authorizes lessees to file appeals to district court if the lessors do not
* Amends Sections 42.23 and 42.43 dealing with litigation discovery and payment of taxes for property subject to litigation

1. What to Expect After the Bill Filing Deadline (5 minutes—Kirk and Debbie)

Amendments to existing bills if bills are not filed due to delay in drafting by Legislative Council, such as two that are being promoted by LSEJ (limited scope MAP reviews for certain districts and change to PVS appeals process to district court)

Considerable House and Senate debate on election law changes, requirements for public utilities to weatherize equipment and provide back-up systems of energy generation, and social justice issues