

## **PROPERTY TAX BILLS PASSED IN THE 2009 TEXAS LEGISLATURE 81<sup>st</sup> REGULAR SESSION**

The 81<sup>st</sup> regular session of the Texas Legislature is now history. The legislature's major bills related to property taxes are listed and summarized below, organized by subject matter. The Governor's deadline for vetoing bills has passed, and he did not veto any of the bills that we were following. He either signed them or, in a few cases, allowed them to be filed without his signature. You can read the full text of a bill on the legislature's website, [www.capitol.state.tx.us](http://www.capitol.state.tx.us). If you have questions or need advice concerning these new laws, please contact us. We will be happy to help.

### **Exemptions**

#### **H.B. 770**

**Author: Howard**

**Amends/Enacts: §§11.135, 11.231 and 11.42 Tax Code**

**Status: Passed by both houses; filed without signature by Governor**

**Effective: January 1, 2010**

A homeowner will not lose his homestead exemption if his home is rendered uninhabitable or unusable by a casualty or by wind or water damage. He can keep his exemption for up to two years while constructing a replacement structure. The construction (or site preparation) will have to begin within one year after the owner ceases to occupy the old, uninhabitable structure. He cannot receive a homestead exemption on any other property during the reconstruction period, and he has to show that he intends to return to the property and occupy the replacement structure as his principal residence. If a property owner receives an exemption under these circumstances but sells the property before the replacement structure is completed, he (realistically, the buyer) will face a rollback tax equal to his tax savings.

This bill also creates an exemption for property owned by a "nonprofit community business organization providing economic development services to a local community."

An organization must have been in existence for at least five years. It must be organized as a nonprofit corporation and be exempt from federal income taxation. It must have had at least fifty dues-paying members for the last three years. It must be supported primarily by membership dues and income from activities related to its primary functions. Its board of directors must be unpaid and selected by its members. It cannot be a statewide organization. The organization must engage primarily in one or more of the following functions: 1) promoting the common economic interests of commercial enterprises; 2) improving the business conditions of one or more types of businesses; and 3) providing services to aid in economic development. It will have to file an exemption application for the first year in which it seeks the exemption. Exempt property must be used by nonprofit community business organizations to perform their primary functions.

This bill is also discussed under the headings *Appraisals* and *Assessments*.

**H.B. 773**

**Author: Oliveira**

**Amends/Enacts: §312.006 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

Chapter 312 of the Tax Code, which governs tax abatements, was scheduled to expire in September of 2009. This bill extends the life of Chapter 312 until September of 2019.

**H.B. 1257**

**Author: Legler**

**Amends/Enacts: §11.135 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

A homeowner will not lose his homestead exemption if his homestead is rendered uninhabitable or unusable by a casualty or by wind or water damage. This is essentially the same provision included in H.B. 770 discussed above.

This bill is also discussed under the headings *Appraisals, Assessments and Collections*.

**H.B. 2555**

**Author: Hilderbran**

**Amends/Enacts: §§11.181 and 11.184 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (does not apply until 2010)**

All taxing units will have to recognize the exemption for primarily charitable organizations designated by the Comptroller. Taxing units will no longer have any options with respect to those exemptions. The primarily-charitable exemption will be expanded to apply to property that was actually owned by another organization if: 1) the other organization holds title to the property for the benefit of the primarily charitable organization and pays rent that it collects over to the primarily charitable organization; 2) the other organization is exempt from federal income taxation under § 501(c)(2) of the Internal Revenue Code; and 3) the property would qualify for the exemption if it were owned by the primarily charitable organization. Section 501(c) (2) applies to organizations that just hold property and collect income from the property for the benefit of other tax-exempt organizations. Both the primarily charitable organization and the other organization will have to be approved by the Comptroller. The Comptroller's determination is binding on an appraisal district.

A property owned by Habitat for Humanity or a similar organization could receive an exemption for up to five years instead of the three years allowed by current law.

**H.B. 2628**

**Author: Rodriguez**

**Amends/Enacts: §11.18 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

The list of functions that a tax-exempt charitable organization can perform will be expanded to include providing housing to homeless people with disabling conditions. A recipient will have to have been homeless for a year or more or have had at least four episodes of homelessness in a three-year period. An organization performing this function will have to own improvements located on a single campus owned by a city, and that city will have to have between 600,000 and 700,000 people. The organization will have to have been in existence for at least ten years. This bill is targeted primarily at a proposed homeless center to be located near the Austin airport.

**H.B. 2814**

**Author: Oliveira**

**Amends/Enacts: §§11.43, 11.253, 11.254 and 22.01 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

Someone who receives an exemption for a mixed-use vehicle in one year will not have to reapply for the exemption in subsequent years unless the appraisal district specifically requires him to do so.

**H.B. 3206**

**Author: Edwards**

**Amends/Enacts: §11.31 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009 (applies to some applications filed before that date)**

This bill concerns exemptions for pollution-control property. The Texas Commission on Environmental Quality's standards and methods for determining applications will apply uniformly to all applications including applications concerning the types of things on the TCEQ's pre-approved list. The TCEQ will establish a permanent committee to advise the agency about pollution-control exemptions. The committee will consist of representatives of industry, appraisal districts, taxing units and environmental groups as well as other people with technical expertise in pollution control technology and environmental engineering.

**H.B. 3544**

**Author: Lucio**

**Amends/Enacts: §11.31 Tax Code; §552.137 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009 (applies to some applications filed before that date)**

This bill directs the Texas Commission on Environmental Quality to use electronic means for delivering its notices, orders and decisions. The TCEQ may, but will not have to, use electronic means for delivering notices about pollution-control exemptions. The bill also includes the same provisions found in H.B. 3206 concerning the TCEQ's standards and methods and its advisory committee.

The bill also creates an exception to the general rule that e-mail addresses in the possession of a governmental entity are confidential. An e-mail address is not confidential if it is provided to a governmental body for the purpose of receiving orders or decisions from a governmental body. Some e-mail addresses meeting this description may still be confidential under S.B. 873, discussed under the heading *Appraisal Districts and ARBs*.

**H.B. 3613**

**Author: Otto**

**Amends/Enacts: §§11.131, 11.22, 11.43 and 11.431 Tax Code; §403.302**

**Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (applies in 2009)**

Under this bill, a disabled veteran who receives 100% disability compensation due to a service-connected disability and has a 100% disability rating (or a determination of individual unemployability) will be entitled to a total exemption for his residence homestead. Once a veteran applies for and received this exemption, he will not need to reapply in subsequent years unless the appraisal district directs him to do so. This homestead exemption is in addition to the current exemption for disabled veterans.

The bill also adjusts the amounts of disabled veterans' exemptions available for veterans with different degrees of disabilities. This change eliminates a discrepancy between the Tax Code and the Constitution.

This bill is also discussed under the heading *Appraisals*.

**H.B. 3896**

**Author: Oliveira**

**Amends/Enacts: §§312.006, 312.007, and 312.402 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (may apply retroactively to ratify some existing tax-abatement agreements)**

A taxing unit and a property owner entering a tax-abatement agreement can agree to defer the commencement of the abatement period, but the abatement period can still not be longer than ten years. A county can enter an abatement agreement with an owner of tangible personal property to exempt all or part of the value of the personal property, the real property where it was located, or both. A county can enter an abatement agreement with someone who holds a taxable leasehold in tax-exempt real property to exempt all or part of the value of that leasehold interest. A county can enter an abatement agreement with someone who owns taxable personal property or an improvement on tax-exempt land to exempt all or part of the value of the personal property or the improvement. An agreement between the county and a lessee of taxable real property can exempt all or part the value of any improvements, fixtures or other real property owned by the lessee, any personal property belonging to the lessee or both. The tax-abatement laws are scheduled to expire on September 1, 2009, but this bill will extend them through September 1, 2019.

**S.B. 1458**

**Author: Seliger**

**Amends/Enacts: §312.402**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (may apply retroactively to ratify some existing tax-abatement agreements)**

This bill concerning tax abatements is identical to H.B. 3896 discussed above.

**S.B. 2442**

**Author: Uresti**

**Amends/Enacts: §11.18 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

This bill expands the list of functions that a charitable organization can perform. An organization can benefit disabled people by providing them training and employment in the production of commodities or in the provision of certain services. The bill also makes it clear that a charity that provides support to the elderly or the disabled must do so without regard to the beneficiaries' ability to pay.

A charitable organization will also be able to operate a radio station broadcasting classical music and other educational, cultural and public-interest programming (e.g., Austin's KMFA). A station will have to receive grants from the Corporation for Public Broadcasting.

Real property owned by a charity and leased to a public institution of higher education will be exempt if it would be exempt if the institution of higher education owned it.

## **Appraisals**

**H.B. 375**

**Author: Miller**

**Amends/Enacts: §1.003 Agriculture Code**

**Status: Passed by both houses; signed by Governor**

**Effective: May 27, 2009**

Elk and elk hybrids will be considered livestock. This change could help some land qualify for agricultural appraisal.

**H.B. 770**

**Author: Howard**

**Amends/Enacts: §23.23 Tax Code**

**Status: Passed by both houses; filed without signature by Governor**

**Effective: January 1, 2010**

Under current law, a homeowner does not lose the cap on the appraised value of his homestead if his home is rendered uninhabitable or unusable by a casualty or by water damage. His replacement home is generally not considered a new improvement, and

the capped value of the property is based on its appraised value with the original home in the last year before the original home was damaged. Under this bill, the cap applied to the replacement home will be based on the appraised value the original home *would have had* in the preceding year if the casualty or damage had not occurred. The replacement home will not be considered a new improvement requiring an adjustment of the cap unless: 1) it has more square footage than the original home; or 2) it has a higher quality exterior than the original home. This rule will apply to structures damaged by wind but not those damaged by mold.

This bill is also discussed under the headings *Exemptions* and *Assessments*.

**H.B. 1038**

**Author: Paxton**

**Amends/Enacts: §23.01 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

When determining the market value of a residence homestead, an appraisal district may not exclude from consideration the value of other residential property that is in the same neighborhood as the home being appraised and that would otherwise be considered merely because the other property was sold at a foreclosure sale within the three preceding years. This rule applies if the foreclosed property was comparable to other residences in the same neighborhood at the time of the foreclosure sale. Similarly, an appraisal district may not refuse to consider another residence because its value has declined as the result of a declining economy.

**H.B. 1257**

**Author: Legler**

**Amends/Enacts: §23.23 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (but does not apply to 2009)**

This part of bill concerning the cap on the appraised value of a damaged homestead is virtually identical to the provision in H.B. 770 discussed above.

This bill is also discussed under the headings *Exemptions*, *Assessments* and *Collections*.

**H.B. 1309**

**Author: Otto**

**Amends/Enacts: §24.38 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

This bill concerns the Comptroller's apportionment of the value of railroad rolling stock. The Comptroller will have to certify values to county assessors by July 26 instead of August 1.

**H.B. 2071**

**Author: Oliveira**

**Amends/Enacts: §§23.121, 23.122, 23.124, 23.1241, 23.1242, 23.125, 23.127 and 23.128 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

Current law imposes sanctions on an auto dealer who “fails to file” a monthly or yearly report. This bill makes it clear that the sanctions apply to a dealer who files a report late as well as to a dealer who does not file a report at all. If a dealer goes a month without selling a vehicle, he will still have to file his monthly inventory tax statement for that month and include a statement explaining that he had made no sales in that month. The same rules will apply to the other types of dealers who pay taxes based on their sales.

**H.B. 3613**

**Author: Otto**

**Amends/Enacts: §23.01 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010 if H.J.R. 36 is approved by voters**

**H.J.R. 36**

**Author: Otto**

**Amends/Enacts: Art. VIII, §1 Texas Constitution**

**Status: Passed by both houses; election scheduled for November 3, 2009**

**Effective: January 1, 2010 if approved by voters**

A residence homestead will be appraised solely on the basis of its value as a residence homestead, regardless of the property’s actual highest and best use.

H.B. 3613 is also discussed under the heading *Exemptions*. H.J.R. 36 is also discussed under the headings *Appraisal Districts and ARBs* and *Appraisal District Litigation and Arbitration*.

**H.B. 3646**

**Author: Hochberg**

**Amends/Enacts: §26.01 Tax Code**

**Status: Passed by Both houses; signed by Governor**

**Effective: September 1, 2009**

An appraisal district’s deadline for certifying estimated values to taxing units will be moved back from June 7 to April 30. This bill is also discussed under the headings *Assessment, Collection* and *School Finance and Value Studies*.

**H.B. 3676**

**Author: Heflin**

**Amends/Enacts: Chapter 313 Tax Code; §403.302 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

This is bill that makes numerous changes to the laws allowing school districts to grant value limitations for purposes of economic development. A lessee or other person with a possessory interest in real property may apply for the benefit. A qualified investment can include property used in connection with “an advanced clean energy project” or, in some instances, a “computer center.” The qualifying time period for an advanced clean energy project will be the first five tax years that begin on or after the third anniversary of the date the school district approves the application, unless the school board and the applicant agree to a shorter period. For any other qualifying investment, the qualifying time period will begin when the school district approves the application and end on December 31 of the second tax year that begins after that date. By agreement, the school district and the applicant can delay but not expand the qualifying time period. The county average weekly wage for manufacturing jobs (used to determine the pay required for a qualifying job) can be determined for the county itself or for the “region” as defined by a regional planning commission, a council of governments or a similar regional agency. The average wage is to be determined from the most recent four quarters for which data are available when the application is filed and will apparently not be adjusted for inflation during the years that the value limitation is in effect. If an applicant is going to create 1,000 or more jobs, a qualifying job have to pay only 110% of the average wage for *all jobs* in the county, not 110% of the average wage for *manufacturing* jobs. The bill defines terms such as “manufacturing” and “research and development” with reference to the North American Industry Classification System.

A school district must submit a copy of an application and copies of any related documents to the Comptroller within seven days of receiving them. The Comptroller will post applications and related information on her website, and a school district’s website will have to provide a link to that information. The information will continue to be posted throughout the term of a value limitation. The bill also restricts the types of information that can be kept confidential.

If the Comptroller determines that a proposal does not meet the property-use requirements of §313.024, she does not have to do an economic impact evaluation, and the school district cannot grant the value limitation. The applicant can request an administrative hearing if the Comptroller makes such a determination. When the Comptroller does an economic impact evaluation, it will include a great deal of information not required by prior law such as: the general nature of the proposed investment; the number of qualifying jobs to be created; the projected market value of the property before, during and after the limitation period; and the total amount of taxes projected to be lost or gained over the life of the limitation agreement. The Comptroller will have 90 days (instead of 60) to do the evaluation. If a school board wants to approve a limitation against the Comptroller’s recommendation, it must hold a public hearing and its approval will require a two-thirds vote of the trustees. A limitation granted in defiance of the Comptroller’s recommendation will not be recognized in the Comptroller’s value study. A school board will have 150 days (instead of 120) in which to approve or disapprove an application.

An agreement cannot require a party receiving a limitation to make PILTs (payments in lieu of taxes) of more than \$100 per student per year. The agreement may require the property owner to protect the school district in the event that the district incurs extraordinary expenses related to the project that are not directly funded in state aid

formulas. If the recipient of a limitation does not make the agreed investment or does not create the agreed number of qualifying jobs, it will owe a penalty to the State equal to the school district's lost M&O taxes.

Prior law provided that under certain circumstances a school district that had granted limitations could not adopt a tax rate higher than its rollback rate. This bill repeals that provision. It also repeals the deadlines that apply to a property owner applying to a school district for tax credits and the school board's response to such an application.

The Legislative Budget Board will conduct an effectiveness and efficiency review of the value-limitation laws and report the results before the legislature's next regular session.

### **S.B. 771**

**Author: Williams**

**Amends/Enacts: §§23.01, 23.013, 23.014, 23.24 and 23.522 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

When appraising a property, an appraisal district will have to take into account not only the property's individual characteristics but "all available evidence that is specific to the value of the property." A sale generally will not be considered comparable unless it occurred within 24 months of the relevant appraisal date, but if the sales within that period are not sufficient to constitute a representative sample, then sales farther removed in time can be considered. Appropriate time adjustments have to be made. The comparability of a sale is to be determined based on similarities to the subject property "with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy and the existence of easements, deed restrictions, or other legal burdens affecting marketability."

If a property's appraised value for a particular year is lowered as the result of a protest or appeal, the appraisal district cannot raise that value in the next year unless an increase is reasonably supported by substantial evidence when all the reliable and probative evidence in the record is considered as a whole. If the property owner prevails on an unequal-appraisal claim in the first year because other properties are under-appraised, the appraisal district can raise his appraised value in the second year if it has corrected the under-appraisals of the other properties. The appraisal district will have the burden of proof under these circumstances.

The bill also contains a provision that applies to an instance in which an appraisal district uses the income approach to appraise real property and related personal property. Rather than separate the value of the personal property, the appraisal district will include it with the value of the real property. The bill creates an exception to §23.014, which generally prohibits an appraisal district from combining the values of real and personal properties.

A temporary interruption in the agricultural use of open-space agricultural land will not cause the land to lose its agricultural appraisal if a drought declared by the Governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production. The owner must intend to resume the agricultural use of his land when the drought ends.

This bill is also discussed under the headings *Appraisal Districts and ARBs* and *Appraisal District Litigation and Arbitration*.

**S.B. 801**

**Author: Hegar**

**Amends/Enacts: §§23.51, 23.52 and 23.56 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

This bill will allow land appraised as qualified timber land to be converted to wildlife-management uses and to then be appraised as open-space agricultural land. The category to be used in appraising wildlife-management land is the category of the land (whether agricultural land or timberland) before the wildlife-management use began.

## **Appraisal Districts and ARBs**

**H.B. 1030**

**Author: Callegari**

**Amends/Enacts: §§1.111, 6.41, 41.415, 41.45 and 42.29 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (electronic protest system not required until 2010; bill does not apply to postponement requests made before effective date)**

In a county with 500,000 or more people, an appraisal district will have to set up a system to let owners of residence homesteads to file protests electronically. This requirement applies to protests concerning only claims of excessive values or unequal values. The system must also provide for the electronic delivery of pre-hearing information (including comparable sales and other information that the appraisal district intends to use before the ARB) and settlement offers. The appraisal district must inform eligible homeowners about their right to protest electronically in their notices of appraised value. (S.B. 873 applies the same requirement to any appraisal district with a website.)

Under prior law, a decision to deny a request for a postponement of an ARB hearing had to be made by the full ARB. This bill allows the chairman or the chairman's representative to make that decision if no regular meeting of the full ARB is scheduled before the date set for the hearing. This does not affect the right of a property owner who is not represented by an agent to receive one postponement. Any other postponement will require a showing of "good cause" instead of "reasonable cause." Postponing a hearing for less than five days or more than thirty days still requires the ARB's agreement, but the chairman or the chairman's representative can make that agreement on behalf of the ARB. If a property owner who has not designated an agent misses his hearing, he can request a new hearing. He will have to act within four days after the original hearing date and send the ARB a written statement requesting a new hearing and explaining his good cause for missing the original hearing. The bill defines good cause as a reason, including a mistake, that: 1) was not intentional or the result of conscious indifference; and 2) will not cause undue delay or other injury to the ARB.

If a person not required to register with the State as a tax consultant files a protest as an agent for a property owner, that agent is entitled to all notices from the *appraisal district* regarding the property subject to the protest until the agent's authority is revoked by the property owner. (This is apparently true even if the property owner states on the appointment-of-agent form that he wants to receive notices himself. The bill does not discuss the delivery of notices from the *ARB*.)

The ARBs in Harris, Fort Bend and Montgomery Counties will be to be appointed by the local administrative judges in those counties.

This bill is also discussed under the heading *Appraisal District Litigation and Arbitration*.

### **H.B. 1203**

**Author: Elkins**

**Amends/Enacts: §1.111 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: May 26, 2009 (does not apply to agent designations already filed)**

This bill makes it clear that a property owner must use the Comptroller's form in order to appoint an agent. The form may not be signed by the agent being appointed. The bill also makes it clear that the authorization of an agent is not effective until a copy is filed with the appraisal district. If an ARB designates a time and place for appearance before a hearing, an authorization is timely if it is filed at the time and place designated by the ARB.

### **H.B. 2317**

**Author: Villarreal**

**Amends/Enacts: §§5.041 and 6.42 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

In addition to the introductory training that the Comptroller has created for ARB members, she will be responsible for developing a continuing-education course that an ARB member will have to take every year. The bill lists many topics to be included in the course. The Comptroller will also: 1) establish a toll-free telephone number that ARB members can call for answers to technical questions; 2) provide online technological assistance to appraisal districts and ARBs; and 3) make all ARB educational materials available online.

An appraisal district's directors will select the ARB's chairperson and secretary and will be encouraged to select a chairperson with a background in law and property appraisal.

### **H.B. 2941**

**Author: Paxton**

**Amends/Enacts: §22.27 Tax Code and §552.148 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

The list of people who can access confidential information held by an appraisal district is expanded to include: 1) an employee or agent of a taxing unit responsible for auditing,

monitoring or reviewing the operations of the appraisal district; and 2) an employee or agent of a school district preparing to protest the Comptroller's value study.

Very different rules will apply concerning access to information in counties with fewer than 20,000 people. In those counties, sales data and other information received by appraisal districts or by the Comptroller will not automatically be confidential merely because it comes from a private entity like MLS. The information may be confidential if the appraisal district or the Comptroller promised to keep it confidential. A property owner protesting before the ARB will not have a special right to a reasonable number of comparable sales.

This bill is also discussed under the heading *School Finance and Value Studies*.

**H.B. 3611**

**Author: Otto**

**Amends/Enacts: §6.41 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010 if voters approve H.J.R. 36**

**H.J.R. 36**

**Author: Otto**

**Amends/Enacts: Art. VIII, §18 Texas Constitution**

**Status: Passed by both houses; election scheduled for November 3, 2009**

**Effective: January 1, 2010 if approved by voters**

The boards of directors of two or more adjoining appraisal districts can contract to have a consolidated ARB. H.J.R. 36 is also discussed under the headings *Appraisals* and *Appraisal District Litigation and Arbitration*.

**S.B. 654**

**Author: Zaffirini**

**Amends/Enacts: Chapter 175 Local Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (exception made for appraisal district that cannot change its existing health plan)**

An appraisal district in a county with 75,000 or more people will have to allow its retirees to participate in its health-insurance plan.

**S.B. 771**

**Author: Williams**

**Amends/Enacts: §4.411 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

The crime committed when an ARB member communicates improperly with the appraisal district's chief appraiser or staff will be raised to a Class A misdemeanor (punishable by one year in jail and a \$4,000 fine). Current law allows communications that do not involve the specific evidence, arguments, facts, merits or property involved

in a pending protest. This allows ARB members to discuss procedural and administrative matters with the appraisal-district employees that provide clerical assistance to the ARB. The bill repeals that provision, but it adds a similar provision. ARB members and appraisal-district employees can communicate if their communications are “specifically limited to and involve administrative, clerical, or logistical matters related to the scheduling and operation of hearings, the processing of documents, the issuances of orders, notices and subpoenas, and the operation of the appraisal review board.”

This bill is also discussed under the headings *Appraisals*, and *Appraisal District Litigation and Arbitration*.

### **S.B. 873**

**Author: Harris, Hegar and Williams**

**Amends/Enacts: §41.415 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2011 (January 1, 2013 in counties with 250,000 or fewer people)**

Any appraisal district with an Internet website will have to set up a system to let owners of residence homesteads file protests electronically. This requirement applies to protests concerning only claims of excessive values or unequal values. An electronic protest will have to include the property owner’s estimate of his property’s value. The system must also provide for the electronic delivery of pre-hearing information (including comparable sales and other information that the appraisal district intends to use before the ARB) and settlement offers. A settlement reached through electronic communications will be final and binding on the property owner and the appraisal district. The appraisal district will have to inform eligible homeowners about their right to protest electronically in their notices of appraised value. An appraisal district may disallow electronic protests in areas determined by the district to be affected by factors that make appraisals unusually complex.

### **S.B. 1813**

**Author: Duncan**

**Amends/Enacts: §552.148 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

The Public Information Act contains an exception that makes sales data received from private entities confidential in the hands of an appraisal district or the Comptroller. An exception to the exception allows protesting property owners to see certain sales and other information that would otherwise be confidential. Under this bill, however, these rules no longer apply to information about properties in counties with fewer than 20,000 people. The same provision is found in H.B. 2941 discussed above.

### **S.B. 2148**

**Author: Patrick**

**Amends/Enacts: §6.053 Tax Code**

**Status: Passed by both houses; signed by Governor**  
**Effective: June 19, 2009**

An appraisal district can, if requested by the emergency-management authorities of a federal, state or local government agency, provide information and assistance pertinent to disaster mitigation or recovery, including assisting in the estimation of damage from an actual or potential disaster event.

## **Appraisal District Litigation and Arbitration**

### **H.B. 986**

**Author: Villarreal**

**Amends/Enacts: §§42.21 and 42.43 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (applies to appeals already pending)**

This bill extends the time that a party has for filing an appeal of an ARB order. An appeal can be filed anytime after an ARB hearing (even before the ARB issues an order?) and during the 60 days following the date on which the appealing party receives notice of the ARB's order.

If a court's judgment in an appeal will result in a tax refund for the property owner, the judgment can specify where and to whom the refund is to be sent. If the judgment does not contain that information, the property owner will have twenty-one days following the final determination of the appeal in which to tell a taxing unit just who should receive the refund and the address to which the refund should be sent. The property owner will provide this information to a taxing unit using a form prescribed by the Comptroller. If a taxing unit is not instructed by the judgment or by a form filed by the property owner, it will deliver the refund to the property owner. If a taxing unit fails to deliver a refund properly, it can incur additional interest charges.

### **H.B. 1030**

**Author: Callegari**

**Amends/Enacts: §42.29 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (does not apply to appeals already filed)**

A court will be able to award attorneys fees to a "prevailing" property owner in an appeal concerning a property owner's motion to correct an appraisal roll (i.e., a motion under §25.25). This bill is also discussed under the heading *Appraisal Districts and ARBs*.

### **H.B. 3612**

**Author: Otto**

**Amends/Enacts: Chapter 2003, Subchapter Z Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

**H.J.R. 36**

**Author: Otto**

**Amends/Enacts: Art. VIII, §23 Texas Constitution**

**Status: Passed by both houses election scheduled for November 3, 2009**

**Effective: January 1, 2010 if approved by voters**

This bill will establish a pilot program in six counties (Bexar, Cameron, El Paso, Harris, Tarrant and Travis). That program will allow a property owner to appeal an ARB order by taking his claim to the State Office of Administrative Hearings. The property involved can be real or personal, but it will have to be appraised at more than \$1 million. A *de novo* appeal will be heard and determined by an administrative law judge with some knowledge of appraisals. The ALJ's determination cannot be appealed to a court.

H.J.R. 36 would amend the constitutional provision that says "Administrative and judicial enforcement of uniform standards and procedures for appraisal of property . . . shall originate in the county where the tax is imposed . . ." The proposal deletes the reference to the county where the tax is imposed. Instead it says that "Administrative and judicial enforcement of uniform standards and procedures for appraisal of property . . . shall be prescribed by general law." This is apparently intended to clear the way for appeals to the SOAH. H.J.R. 36 is also discussed under the headings *Appraisals* and *Appraisal Districts and ARBs*.

**H.B. 4412**

**Author: Taylor**

**Amends/Enacts: §41A.03 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

If a property owner requests binding arbitration with respect to two contiguous tracts of land, he will have to put up only one deposit to cover the arbitration costs. The bill does not address whether an arbitrator will be able to charge two arbitration fees.

**S.B. 771**

**Author: Williams**

**Amends/Enacts: Chapter 41A Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

A property owner will be able to arbitrate the appraisal real or personal property appraised at \$1 million or less. He can arbitrate the appraisal of his homestead regardless of its appraised value. A property owner can request an "expedited arbitration" with a deposit of only \$250. In an expedited arbitration, each side will get only one hour in which to present evidence and arguments to the arbitrator. A person will have to be licensed or certified as an appraiser, real-estate professional or CPA for at least five years before he can be approved as an arbitrator. A licensed lawyer can be an arbitrator, even if he has not had formal arbitration training. An arbitrator will have to

renew his registration with the Comptroller every two years and receive at least eight hours of continuing education in every two-year period.

A CPA can represent a property owner or an appraisal district in an arbitration. The bill also makes it clear that a property owner who hires someone to represent him in an arbitration does so at his own expense. The same is true for an appraisal district that hires someone to represent it.

This bill is also discussed under the headings *Appraisals*, and *Appraisal Districts and ARBs*.

**S.B. 1359**

**Author: Seliger**

**Amends/Enacts: §42.08 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009 (taxing unit intervention applies to pending appeals; notice requirement applies to only appeals filed after effective date)**

This bill concerns an instance in which a property owner files an appeal against an appraisal district and either the appraisal district or the property owner files a motion asking the court to determine whether the property owner has made the necessary conditional tax payment. At least 45 days before the court's hearing on the adequacy of the property owner's payment, the movant will have to provide written notice by certified mail to the tax assessor-collectors for the taxing units. The taxing units will have the right to intervene and participate in the case for the limited purpose of determining whether the property owner has made an adequate payment. They can call witnesses and present evidence related to that issue.

## **Assessment**

**H.B. 770**

**Author: Howard**

**Amends/Enacts: §§11.26 and 11.261 Tax Code**

**Status: Passed by both houses; filed without signature by Governor**

**Effective: January 1, 2010**

This bill concerns a tax freeze on a homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage and is then replaced with a new structure. The replacement home will not be considered a new improvement requiring an adjustment of the freeze unless: 1) it has more square footage than the original home; or 2) it has a higher quality exterior than the original home. The owner's right to maintain the freeze on his taxes is tied to his right to maintain a homestead exemption on the property. (see description of this bill under *Exemptions*)

This bill is also discussed under the headings *Exemptions* and *Appraisals*.

**H.B. 1257**

**Author: Legler**

**Amends/Enacts: §§11.135 and 11.26 Tax Code**

**Status: Passed by both houses; signed by Governor**  
**Effective: June 19, 2009**

The part of this bill concerning the tax freeze on a damaged homestead is virtually identical to the provision in H.B. 770 discussed above. This bill is also discussed under the headings *Exemptions*, *Appraisals* and *Collections*.

**H.B. 2291**  
**Author: Gattis**  
**Amends/Enacts: §26.05**  
**Status: Passed by both houses; signed by Governor**  
**Effective: June 19, 2009**

This bill concerns a taxing unit adopting a tax rate higher than its effective rate. The member of the governing body making the motion will have to say that he was moving to effectively increase the tax rate by the percentage by which the proposed rate exceeds the effective rate. If the adopted tax rate exceeds the effective M&O rate, the ordinance, resolution or order adopting the rate will have to say that it is effectively raising the tax rate by the percentage by which the adopted tax rate exceeds the effective M&O rate. The home page of the taxing unit's website will have to say the same thing.

**H.B. 3646**  
**Author: Hochberg**  
**Amends/Enacts: §§26.05 and 26.08 Tax Code; §§44.004 and 45.001 Education Code; §4.008 Election Code**  
**Status: Passed by both houses; signed by Governor**  
**Effective: September 1, 2009 (provisions concerning tax rates based on estimated values and timing of elections do not apply until 2010)**

A school district can adopt a tax rate *before* adopting a budget. In that event, the school district will use the estimated values certified by the appraisal district for purposes of calculating its rollback rate and other truth-in-taxation procedures. (The appraisal district's deadline for reporting those estimates is moved up to April 30.) The school board will publish a notice and hold a public meeting in order to adopt a tax rate. Then it will publish another notice and hold another public meeting in order to adopt a budget. When a school board orders an election for the ratification of a tax rate, that election can occur as soon as the 30<sup>th</sup> day following the board's order. (Former law required 62 days between the order and the election.) The school district will have to deliver notice of the election to the county clerk at least 30 days before the date of the election. If a school district adopts an M&O tax rate less than its effective M&O rate in one year, then, in the next year, it will calculate its rollback rate as though it had adopted its effective M&O rate in the first year. Essentially, a school district will not be punished in future years if it adopts an M&O rate lower than its effective rate. The bill also makes it clear that a school district can assess taxes to pay the principal and interest on its bonds as *or before* the principal and interest become due.

This bill is also discussed under the headings *Appraisals*, *Collections* and *School Finance and Value Studies*.

**S.B. 252**

**Author: Estes**

**Amends/Enacts: §11.34 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

A city with fewer than 10,000 people can agree to freeze the taxes on a real property in or adjacent to an area approved for funding under the Downtown Revitalization Program or the Main Street Improvements Program administered by the Department of Agriculture. An agreement can be approved by the city council after obtaining the consent of the city's voters in an election. The agreement must be entered during the same year that the election is held. The freeze lasts for five years or until the ownership of the property changes, whichever comes first.

**S.B. 562**

**Author: Jackson**

**Amends/Enacts: §§1.111 and 31.01 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

Current law requires the exterior of a tax bill to say, "RETURN SERVICE REQUESTED." This bill will give a tax assessor-collector the choice of whether to include that language on tax bills.

**S.B. 2274**

**Author: Seliger**

**Amends/Enacts: §26.08 Tax Code; §45.001 Education Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

If a school district adopts an M&O tax rate less than its effective M&O rate in one year, then, in the next year, it will calculate its rollback rate as though it had adopted its effective M&O rate in the first year. The bill also makes it clear that a school district can assess taxes to pay the principal and interest on its bonds as *or before* the principal and interest become due. These provisions are also found in H.B. 3646 discussed above.

## **Collections**

**H.B. 406**

**Author: Rodriguez**

**Amends/Enacts: §§34.021 and 34.04 Tax Code**

**Status: Passed by both houses; filed without signature by Governor**

**Effective: September 1, 2009 (applies to excess proceeds from earlier sales still held by courts)**

This bill concerns claims for excess proceeds following a tax sale. A sheriff, constable or other person conducting a tax sale for the foreclosure of a transferred tax lien will have to pay the excess proceeds to the court within ten days after the sale. A former owner who loses his interest in a property as a result of the tax sale will be able to claim excess proceeds only if: A) he was a defendant in the court's judgment; B) he was related to a former owner who was a defendant in the judgment; or C) he acquired by will or inheritance the interest of a former owner who was a defendant in the judgment. In any other case, a person who acquired his interest in the property after the judgment was signed in the delinquent-tax suit will have no claim to excess proceeds.

The bill also imposes several restrictions on assignments and transfers of claims for excess proceeds. An assignment or transfer cannot come as the result of an in-person or telephone solicitation. No one can purchase a claim for excess proceeds without paying, on the date of the assignment or transfer, at least 80% of the amount of the claim. The person assigning the claim will have to swear to various facts in an affidavit, including the fact that he has been paid in full at least 80% of the amount of his claim at the time of the assignment. Someone who attempts to obtain a claim for excess proceeds without following these rules will be liable to the assignor or transferor for any attorney's fees and expenses that person incurs in challenging the transaction.

When a court holds a hearing on a claim for excess proceeds, the assignee of the claim will have to produce the original documents verifying his payment to the assignor or produce the assignor to testify. The assignee cannot recover excess proceeds totaling more than 125% of what he paid for the claim.

No person who is not an "attorney"—the bill may mean "lawyer"—can charge a fee for helping someone claim excess proceeds.

#### **H.B. 1205**

**Author: Button**

**Amends/Enacts: §31.11 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

This bill concerns the circumstances under which a tax assessor-collector must have the approval of a governing body before she can refund an erroneous payment or overpayment. If the TAC collects for only one taxing unit and that unit is a county with two million or more people, she can pay a refund of up to \$5,000 without the governing body's approval. Any other TAC who collects for only one taxing unit cannot refund more than \$500 without the governing body's approval. A TAC who collects for multiple taxing units can refund up to \$5,000 from a county with two million or more people without the governing body's approval. She can refund up to \$2,500 from any other taxing unit without the governing body's approval. Any larger refund will require the approval of the governing body of the taxing unit that employs the TAC.

#### **H.B. 1257**

**Author: Legler**

**Amends/Enacts: §31.032 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

Under current law, certain residential properties qualify for installment payments if they are damaged in natural disasters. This bill extends that benefit to real and personal property owned by a business that reported less than \$5 million of gross receipts on its most recent franchise-tax report or federal income-tax return. That \$5 million limit will change from year to year according to the rate of inflation as determined by the Comptroller. The bill does not describe when or how a business should demonstrate to a TAC that it qualifies for this benefit.

This bill is also discussed under the headings *Exemptions, Appraisals and Assessment*.

**H.B. 1407**

**Author: Geren**

**Amends/Enacts: §34.21 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

This bill concerns a situation in which a former owner redeems property lost in a tax sale by paying the county tax assessor-collector. In addition to the current requirements, the redeeming party's affidavit will have to state that the redemption period has not expired. The TAC may rely on the affidavit and will not incur any liability as a result of doing so.

**H.B. 1465**

**Author: Paxton**

**Amends/Enacts: §§32.06 and 33.445 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009 (applies to suits pending on effective date)**

This bill concerns a situation in which a taxing unit files suit to foreclose a tax lien at a time when some private party holds transferred tax liens on the property. The taxing unit will include the private lienholder as a party to the suit. The private lienholder can seek the foreclosure of his liens regardless of when he acquired them and regardless of whether the property owner is delinquent in paying the lienholder. Alternatively, the private lienholder can pay off all the taxing units joined in the suit and acquire the tax liens that they are seeking to foreclose. In that event, the private lienholder could, but would not have to, proceed to foreclose both his newly acquired tax liens and those he already had. The taxing units would file disclaimers in the suit. If a taxing unit joins a private lienholder in a foreclosure suit and the private lienholder does nothing, his liens will be extinguished.

**H.B. 1804**

**Author: Hughes**

**Amends/Enacts: §17.091 Civil Practice and Remedies Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

This bill concerns delinquent-tax suits filed against nonresidents of Texas. The bill makes it clear that the suit papers may be served on the Secretary of State as a nonresident's agent regardless of whether the nonresident ever lived in Texas. The papers must include the address of the nonresident's home or home office. The address may be a post-office box. Two copies will be served on the Secretary of State at least 20 days before the stated return date. The Secretary of State will immediately mail a copy to the nonresident by certified mail, return receipt requested, and certify to the court that she has done so.

**H.B. 2238**

**Author: Hamilton**

**Amends/Enacts: §§1201.009, 1201.206 and 1201.219 Occupations Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

This bill makes some minor changes to laws concerning the filing of tax liens on manufactured homes. Under current law, when someone applies to the TDHCR for a statement of ownership and location for a used manufactured home that is not in a retailer's inventory, *the seller* has to file a statement from the tax assessor-collector concerning taxes on the home. This bill makes it clear that anyone can file the TAC's statement. If feasible, any action concerning manufactured homes and the TDHCA (including filing tax liens) may be accomplished by electronic means. The bill also reorganizes some existing provisions concerning tax liens on manufactured homes without substantively changing those provisions.

**H.B. 2344**

**Author: Gittings**

**Amends/Enacts: Chapter 379C Local Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

This bill concerns urban land bank programs. Those programs are aimed at transferring properties subject to tax-lien foreclosures into the hands of non-profit organizations for development. A property can be sold to a land bank regardless of its zoning. On development, the property can be zoned for multiple uses, but those uses have to include residential housing. A land bank will have four years, instead of three, to sell a property to a developer, and the developer will have three years, instead of two, to apply for a construction permit and close on any construction financing. A developer can convey properties to low-income buyers through lease-purchase transactions. A land bank may allow a developer to do a "lot exchange" and construct affordable housing on other property that the developer owns instead of on the property sold by the land bank. A land bank may sell two adjacent properties to a developer if: 1) at least one of those properties is appropriate for residential development; and 2) the developer agrees to replat them as one property appropriate for residential development. If a land bank holds property that it determines to be inappropriate for residential development, it can offer to sell the property to a resident owner of an adjacent property.

**H.B. 3646**

**Author: Hochberg**

**Amends/Enacts: §31.06 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

Taxing units will have to accept payments made with credit cards and electronic transfers of funds. Acceptance of these payments will no longer be optional. This bill is also discussed under the headings *Appraisals, Assessment, and School Finance and Value Studies*.

**S.B. 798**

**Author: Carona**

**Amends/Enacts: §§31.11 and 11.438 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010**

Before a taxing unit can refund an overpayment or erroneous payment, its tax assessor-collector will have to determine that the payment was excessive or erroneous, and its auditor will have to agree. In a county with two million or more people, a taxpayer will not have to file a refund application in order to receive a refund of up to \$5,000 from the county's TAC. If the amount of an overpayment or erroneous payment does not exceed \$5,000 for any taxing unit, the taxpayer will not be entitled to a notice from the TAC.

If a veteran's organization receives an exemption after paying its taxes, a TAC will refund its taxes automatically without the organization having to file an application for the refund.

**S.B. 1024**

**Author: Ogden**

**Amends/Enacts: §26.08 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

Suppose a school board adopts a tax rate higher than the school district's rollback rate and sends out tax bills based on that adopted rate. Then, the district's voters reject the adopted rate. After the board adopts a lower rate, the school district will automatically have to send corrected bills containing an explanation of the reason for and the effect of the correction. The delinquency date will be extended by the number of days that passed between the mailing on the original bills and the mailing of the corrected bills. If a property owner has paid his taxes based on the rejected rate, the school district will automatically have to refund the amount of the property owner's overpayment if that amount is \$1 or more. If the refund is less than \$1, the property owner will have to request the refund within 90 days after it becomes due or forfeit his right to receive it.

**S.B. 1620**

**Author: Wentworth**

**Amends/Enacts: §32.06 Tax Code; §§351.004, 351.008, 351.009, 351.010 and 351.011 Finance Code**  
**Status: Passed by both houses; signed by Governor**  
**Effective: September 1, 2009**

The Consumer Credit Commissioner will have broad authority to investigate property tax lenders. The Commissioner will have access to the records of those lenders (or anybody else suspected of violating applicable laws) and the authority to examine people under oath. The Commissioner can require a lender to present a CPA's certification that the lender has sufficient assets and that the lender's books are in order. The Commissioner can prohibit a lender from operating his business in the same office as another business if the Commissioner finds that the office-sharing arrangement is concealing an evasion of the law. Most of the Commission's records related to an investigation will be confidential. The Finance Commission will create forms for: 1) the document that a property owner uses to authorize someone to pay his taxes for him; and 2) the certification that a tax office issues when a tax lien is transferred.

## **School Finance and Value Studies**

### **H.B. 8**

**Author: Otto**

**Amends/Enacts: §§5.07, 5.10, 5.102, 5.12, 5.13 and 41A.12 Tax Code; §§403.3011, 403.302 and 403.304 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: January 1, 2010 (applies to value studies for 2009)**

The Comptroller will no longer conduct a value study of every school district every year. If a study in one year determines that a school district's local values are valid, that school district will only be studied once every two years thereafter as long as the studies continue to validate its local values. If a district's values are found to be invalid, that district will be studied each year thereafter until its local values are determined to be valid. If the Comptroller does not study a district in a particular year, the district will automatically receive local values for that year. School districts and appraisal districts will be required to comply promptly with any oral or written request for information from the Comptroller, even requests for confidential information.

The Comptroller will conduct a value study of an appraisal district only once every two years. Once every two years, the Comptroller will also conduct a review of an appraisal district's governance, operations and taxpayer assistance as well as its operating and appraisal standards, procedures and methodologies. If the appraisal district does not meet the Comptroller's standards and does not shape up within one year, the Comptroller will notify the BTPE (now, the TDLR), which can then take the actions necessary to ensure the district's compliance with the Comptroller's recommendations. The bill repeals the rule requiring judges to appoint a board of conservators to supervise an errant appraisal district. An appraisal district cannot be subjected to a performance audit in the same year that it is being reviewed by the Comptroller. A school district cannot be an "eligible" district" (i.e., one assigned local values despite having those values determined to be invalid) unless: 1) it received local values in the preceding two

studies; and 2) its appraisal district passed its most recent review. The Comptroller's determination that a school district is eligible will not automatically trigger a review of its appraisal district.

The Comptroller's Technical Advisory Committee will be replaced by a Property Value Study Advisory Committee that will advise the Comptroller on her value studies of school districts as well as her reviews of appraisal districts. That committee will consist of: a member of the House of Representatives; a member of the Senate; two people from appraisal districts; two people from school districts; and three people who are school taxpayers or who have expertise in school taxation or ratio studies.

**H.B. 2941**

**Author: Paxton**

**Amends/Enacts: §22.27 Tax Code and §552.148 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

A school district preparing a protest of the Comptroller's value study will have the right to obtain from the Comptroller or from the appraisal district any information, including confidential information that relates to the appraisal of property involved in the Comptroller's finding being protested. If a school district receives confidential information, it will be responsible for maintaining the confidentiality of the information. The bill does not change the rights of a protesting appraisal district or property owner to obtain information from the Comptroller.

Very different rules will apply in counties with fewer than 20,000 people. In those counties, sales data and other information received by appraisal districts or by the Comptroller will not automatically be confidential merely because it comes from a private entity like MLS. The information may be confidential if the appraisal district or the Comptroller promised to keep it confidential. A property owner protesting before the ARB will not have a special right to a reasonable number of comparable sales. The rights that school districts, appraisal districts and property owners have to obtain confidential information in the context of value-study protests will no longer apply in smaller counties.

This bill is also discussed under the heading *Appraisal Districts and ARBs*.

**H.B. 3646**

**Author: Hochberg**

**Amends/Enacts: Education Code sections too numerous to list; §311.013 Tax Code; §403.302 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

This 108-page school finance bill is too complicated to summarize effectively in this format. Generally, it makes adjustments to the Robin-Hood system without fundamentally changing that system. The provisions related to property taxes include the following. The wealth limit applicable to a school district's compressed tax rate will no longer be determined by a school district in the 88<sup>th</sup> percentile of property wealth. Instead, it will be the amount that will raise a school district's basic (Tier-1) allotment.

The wealth limit applicable to the next 6¢ of tax effort is still established by the Austin ISD (the 6¢ is still immune from recapture), and the wealth level for tax effort above that is still \$319,500/WADA. The basic allotment for school years 2009-1010 through 2012-2013 will be the greater of \$4,765 or 1.65% of the average statewide property value per weighted student (somewhat less for a school district that had a 2005 M&O rate of less than \$1.50). Every school district will see an increase of at least \$120/WADA in Tier-1 money. The year-to-year increase in a school district's Tier-1 money cannot be more than \$350/WADA. The effective tax rate used to calculate a school district's local share of Tier-1 money will no longer be fixed at 86¢; instead the local-share calculation will be an effective rate equal to the year's compression percentage multiplied by the lesser of \$1.50 or the district's 2005 M&O tax rate. The same adjustment will affect the calculation of a district's maximum enrichment tax rate.

The Tier-2 guaranteed yield for the first 6¢ of enrichment-tax effort will still be based on the yield in the Austin ISD, but it cannot go down from year to year, even if things go badly in Austin. After the first 6¢, the guaranteed yield will still be \$31.95/WADA per cent of tax effort.

The bill may also affect the value studies of some school district's participating in tax-increment financing, specifically districts having to contribute extra amounts into tax-increment funds to compensate for the tax-rate reductions that have occurred since 2005. A district paying this extra amount will no longer receive credit for it in value studies.

If the State has to make good on its guarantee of a school district's bonds, the TEA can order the district to set tax rates at certain levels in order to raise the money to reimburse the State and to pay off the bonds. A select committee will study and report on school-finance weights adjustments and allotments.

This bill is also discussed under the headings *Appraisals*, *Assessment* and *Collections*.

## Miscellaneous

### **H.B. 464**

**Author: Paxton**

**Amends/Enacts: §§314.004 and 314.005 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

The Legislative Budget Board will have to prepare a dynamic fiscal impact statement for any bill in the legislature that would raise or lower the rate or amount of a tax if the Board's fiscal note for the bill indicates a positive or negative impact on revenue of at least \$75 million annually. The study would estimate the effects of a bill over a five-year period. Five years after such a bill is enacted, the Comptroller will evaluate how accurate the Board's fiscal note and dynamic fiscal impact statement for the bill were.

### **H.B. 559**

**Author: Hernandez**

**Amends/Enacts: §25.025 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

The list of people who can have their home addresses kept confidential by appraisal districts and taxing units will be expanded to include justices of the peace.

**H.B. 1770**

**Author: Miklos**

**Amends/Enacts: §§311.003, 311.006, 311.012, 311.013, 311.017 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

A city creating a reinvestment zone for purposes of tax-increment financing can include a noncontiguous geographic area in the city's corporate limits, in its extraterritorial jurisdiction, or in both. A taxing unit participating in tax-increment financing can choose between having its tax increment calculated based on the taxes it assesses or on the taxes it actually collects. The unit, however, will not have to contribute the tax increment attributable to delinquent taxes until those taxes are collected. A city or county with an existing reinvestment zone can adopt an ordinance or order delaying the termination date for that zone. Other taxing units will not have to continue contributing their tax increments after the zone's original termination date unless they agree to do so.

**H.B. 2447**

**Author: Kuempel**

**Amends/Enacts: §5.04 Tax Code; Chapter 1151 Occupations Code; §§411.122 and 2054.353 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009 (BTPE continues in existence until March 1, 2010)**

This bill will do away with the BTPE and transfer its duties to the Texas Department of Licensing and Regulation (the same agency that regulates barbers and tow-truck operators). The TDLR will appoint a Tax Professional Advisory Committee consisting of two appraisers, two assessor-collectors and three members of the public. The Committee will advise the TDLR on a broad range of issues. The Comptroller will also advise the TDLR and will have the authority to review and approve all courses, tests and continuing education programs for tax professionals. Statutes will no longer refer to tax professionals being *licensed*; tax professionals will be registered and certified. The TDLR can deny registration to someone who violates the statutes or the agency's rules. Some fees that are now set by statute will be left to the discretion of the TDLR.

A person can complain to the TDLR about any alleged violation by a tax professional of Chapter 1151 or any TDLR rule adopted under Chapter 1151. If a complaint: 1) deals with an appraised value or something else that can be remedied under the Property Tax Code and does not credibly allege a violation of Chapter 1151 or a rule; and 2) has not been resolved in the complainant's favor by the ARB, the TDLR can dismiss the complaint without a hearing. In addition to the sanctions allowed by current law (suspension or revocation of registration, probation, etc.), a tax professional who violates the law or TDLR rules can be subjected to a penalty of up to \$5,000 per day. Before imposing such a penalty, however, the TDLR will have to consider factors such as: whether the person was making a good-faith effort to execute a law, rule, policy,

order or regulation; whether he was acting on the advice of the Comptroller or a lawyer; and whether the action complained about was within the person's discretion.

**H.B. 2591**

**Author: Thompson**

**Amends/Enacts: §§1152.156, 1152.160, 1152.231, 1152.232, 1152.233 and 1152.234  
Occupations Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

This bill will prohibit many types of inappropriate conduct by tax consultants. A consultant cannot file a protest on behalf of a property owner unless he first obtains the owner's approval. If the property in question is residential, the consultant cannot file an unauthorized motion or protest on behalf of someone he does not represent. Neither the consultant nor his firm can provide the necessary authorization. A consultant cannot hire a lawyer to file an appeal without the property owner's prior consent. He cannot falsify documents. Generally, a senior consultant can supervise no more than ten registered consultants, but he can supervise more if the additional consultants have at least six months of experience. The bill also imposes some restrictions on advertising and solicitation by tax consultants. In order to become a consultant, a person will have to complete 40 hours of classroom education and pass a written test adopted by the Department of Licensing and Regulation.

**H.B. 3097**

**Author: McClendon**

**Amends/Enacts: §§21.02, 22.04, 23.121, 23.123 and 23.124 Tax Code; other  
statutes too numerous to list**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

This bill would create a Texas Department of Motor Vehicles that would assume many functions now performed by the Department of Transportation. References in the Tax Code to the Department of Transportation are changed to refer to the Department of Motor Vehicles.

**H.B. 3851**

**Author: Eiland**

**Amends/Enacts: §418.1075 Government Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

This bill provides for the suspension of a deadline imposed by on a local government in the event of a disaster. A deadline imposed by state law can be suspended or waived by the Governor at the request of a local government. A deadline imposed on a local government by local law can be suspended for up to 30 days by order of the local government's presiding officer or governing body.

**S.B. 281**

**Author: Nelson**

**Amends/Enacts: §25.025 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009**

The list of people who can have their home addresses kept confidential by appraisal districts and taxing units will be expanded to include the spouses of state and federal judges.

**S.B. 390**

**Author: Partick**

**Amends/Enacts: §25.025 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: September 1, 2009 (applies to information requests received after effective date)**

The list of people who can have their home addresses kept confidential by appraisal districts and taxing units will be expanded to include U.S. criminal investigators and the U.S. Federal Protective Service's police officers and inspectors.

**S.B. 576**

**Author: Davis**

**Amends/Enacts: §§ 311.010 and 311.013 Tax Code**

**Status: Passed by both houses; signed by Governor**

**Effective: June 19, 2009**

Under this bill, tax-increment funds can be used for the construction of a road, sidewalk or other public infrastructure inside or outside a reinvestment zone, including the cost of acquiring the real property necessary for the construction of the road, sidewalk or other public infrastructure. Tax-increment funds can no longer be used to pay a neighborhood enterprise association. A city will be able to offer tax abatements in lieu of paying into a tax-increment fund. Any taxing unit proposing to grant a tax abatement in a reinvestment zone created for tax-increment financing will have to have the abatement approved by the zone's board of directors and by the governing bodies of the taxing units that have agreed to pay into the tax-increment fund.