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2005 Texas Property Tax LAW CHANGES

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Property Tax Bills: 79th Texas Legislature

This document briefly summarizes changes in property tax laws made in the regular session of the 79th Texas Legislature. It lists changes according to the order in which they appear in the Tax Code. Other property tax related legislation follows.

Unless otherwise indicated, the law changes to the Tax Code and other property tax related laws apply to all appraisal districts and taxing units (cities, counties, school districts and special purpose districts). For example, the description of S.B. 692 under Section 6.27 of the Tax Code clearly states that the bill affects only a county under certain circumstances.

State law allows the Comptroller's office to advise local officials and property owners on property tax issues. It does not permit us to intervene in local matters, interpret the law or issue rulings. Legal interpretation of the law changes must be provided by attorneys representing appraisal districts and taxing units. However, we hope the following information is helpful.

TITLE 1. TAX CODE. PROPERTY TAX

CHAPTER 1. GENERAL PROVISIONS

Section 1.04

H.B. 2438 adds Subsection (3-a) to provide that, notwithstanding anything in law to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property under Section 1201.2055 (Election of Owner), of the Occupations Code and a certified copy of the statement of ownership and location has been filed with county in which the home is located. The law is effective June 18, 2005, and affects finance companies, manufactured homeowners, appraisal districts and all taxing units.

Section 1.07

H.B. 2491 amends Subsection (b) to require a public official or agency to mail a property tax notice, when required, to the property owner's agent at the agent's address. If a property owner files a written request with the appraisal district that notices be sent to a particular address, the official or agency must send the notice to the address stated in the request. The law is effective September 1, 2005, and affects property owners, tax agents, appraisal districts and all taxing units.

Section 1.08

S.B. 1652 amends the Section to allow taxpayer mail transmittals (as evidenced by the post office cancellation mark) of property tax payments, exemption applications and other required submissions to be made on or before the due date as with personal delivery. The law is effective September 1, 2005, and affects property owners, tax agents, appraisal districts and all taxing units.

Section 1.085

S.B. 1652 repeals Subsection (b), (e) and (f) (S.B. 1833, 2003) and reenacts Subsections (b) (S.B. 340, 2003) to clarify duplicative language. The law is effective September 1, 2005, and affects property owners, tax agents, appraisal districts and all taxing units.

Section 1.11

H.B. 2491 amends Subsection (b) to provide that for a request for designation of an agent by a property owner to be effective, the written authorization must be filed with the appraisal district. A request for designation of an agent remains in effect until revoked by a written revocation filed with the appraisal district by the owner. The law is effective September 1, 2005, and affects property owners, tax agents, appraisal districts and all taxing units.

CHAPTER 5. STATE ADMINISTRATION

Section 5.042

H.B. 2382 adds Section 5.042 prohibiting a person appointed on or after July 1, 2006 from serving as a chief appraiser unless he or she has completed the Board Tax Professional Examiners (BTPE) training course prescribed by Section 1151.164 of the Occupations Code. A person may serve in a temporary, provisional or interim capacity as chief appraiser for a period of up to one year without completing the BTPE training course. A county assessor-collector who serves as chief appraiser or a chief appraiser appointed before July 1, 2006 is not required to complete the BTPE course. BTPE must implement the training program by January 1, 2006. The law is effective June 18, 2005, and affects chief appraisers and county assessor-collectors.

Section 5.05

S.B. 1652 amends Subsections (a) and (b) to make the issuance of certain Comptroller manuals and publications discretionary rather than mandatory (except as required by law) and authorizes the use of other publications for local property tax administration. The law is effective September 1, 2005, and affects the Comptroller's Property Tax Division.

CHAPTER 6. LOCAL ADMINISTRATION

Section 6.05

S.B. 1652 adds Subsection (i) to require appraisal districts to develop a biennial written reappraisal plan and hold a public hearing to consider the plan. No later than September 15 of each even-numbered year, the appraisal district board must finally approve the reappraisal plan and distribute copies to the taxing units and the Comptroller within 60 days of board approval. The law is effective September 1, 2005, and affects appraisal districts and the Comptroller's Property Tax Division.

Section 6.27

S.B. 692 amends Subsection (b) and adds a new Subsection (d) relating to the collection fee charged by a county assessor-collector that collects property taxes for certain river authorities. The fee cannot exceed the fee specified in the law that created the river authority. The change applies to a river authority created under Section 59, Article XVI of the Texas Constitution, if the authorizing legislation granted the river authority the

power to impose a property tax, specified a maximum rate and specified a maximum assessment and collection fee. The law is effective May 9, 2005, and affects county assessor-collectors.

CHAPTER 11. TAXABLE PROPERTY AND EXEMPTIONS

Section 11.13

H.B. 3240 amends Subsection (j)(3) to define a "qualifying trust" for purposes of residence homestead exemption qualification, to include a court ordered trust that provides a beneficiary of the trust the right to use and occupy a residence rent-free or until the trust is revoked or terminated by court order. The law is effective January 1, 2006, and affects homeowners and appraisal districts.

Section 11.161

S.B. 1652 amends the Section to allow all machinery and equipment used in the production of farm, ranch or timber products to be exempt from property taxation. Machinery and equipment items, used in the production of farm or ranch products or of timber, regardless of their primary design, are considered to be implements of husbandry and are exempt from property taxation. The law is effective January 1, 2006, and affects farmers, ranchers, timber producers, appraisal districts and all taxing units.

Section 11.43

H.B. 2491 adds Subsections (l) and (m) to require a homestead exemption application form to include a space for the applicant to include his or her date of birth. A person who receives a general homestead exemption is entitled to receive an exemption for persons 65 years of age or older without applying for the exemption, if the person becomes 65 as shown by information in the appraisal district records. The law is effective September 1, 2005, and affects homeowners and appraisal districts.

Section 11.439

S.B. 1652 amends Subsection (a) to require the chief appraiser to accept and approve or deny an application for a disabled veterans' exemption after the filing deadline provided by Section 11.43 if the application is filed no later than one year after the delinquency date for taxes on the property, rather than the first anniversary of the earlier of certain dates. The law is effective September 1, 2005, and affects homeowners and appraisal districts.

CHAPTER 21. APPRAISAL AND ASSESSMENT

Section 21.02

S.B. 1652 adds Subsection (d) to provide that a motor vehicle held by a wholesale motor vehicle auction dealer on January 1 does not have taxable situs as having been located in the taxing unit for more than a temporary period on January 1, if the vehicle has been located at the dealer's place of business for less than 60 days. The law is effective September 1, 2005, and affects wholesale automobile dealers and appraisal districts.

CHAPTER 22. RENDITIONS

Section 22.01

H.B. 809 adds a new Subsection (k) to waive personal property rendition requirements for an individual who owns and is the primary operator of one or more passenger cars or light trucks in the course of the individual's occupation or profession and also operates those vehicles for personal activities that do not involve the production of income. The law is effective January 1, 2006, and affects realtors and small businesses.

Section 22.04

S.B. 1652 adds Subsection (d) to waive rendition requirements by a bailee, lessee, or other possessor of personal property to the chief appraiser for a person holding a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Transportation if, relative to the reporting of motor vehicles, the vehicle: (1) has not acquired taxable situs under Section 21.02; (2) is offered for sale by a licensed dealer whose vehicle inventory is subject to the special appraisal provisions in Chapter 23; or (3) is collateral possessed by a lien holder and offered for sale in foreclosure of a security interest. The law is effective September 1, 2005, and affects business owners and appraisal districts.

Section 22.28

H.B. 2491 amends Subsection (b) and adds Subsection (c) to require the chief appraiser to certify to assessors that the chief appraiser has imposed a rendition related penalty. The assessor must add the penalty to the original amount of tax on the property and include the penalty in the tax bill for that year. The penalty becomes part of the tax on the property and is secured by the tax lien that attaches to the property. A collector who collects

a rendition related penalty must remit to the appraisal district imposing the penalty, 5 percent of the penalty amount collected. The law is effective September 1, 2005, and affects business owners, appraisal districts and all taxing units.

CHAPTER 23. APPRAISAL METHODS AND PROCEDURES

Section 23.135

H.B. 2080 adds Section 23.135 to provide that a license to occupy a dwelling unit in a retirement community that is exempt from taxation under Section 11.18 (d)(19) is not a taxable leasehold or other possessory interest in real property regardless of whether the occupant of the dwelling unit is required to pay a refundable or nonrefundable deposit or a periodic service fee under the contract granting the occupant the license to occupy the dwelling unit. The law is effective June 17, 2005, and affects non-profit organizations and appraisal districts.

Section 23.225

H.B. 2491 adds Section 23.225 to require chief appraisers, when appraising land included in a habitat preserve and subject to a conservation easement created under Chapter 183, Natural Resources Code, or other law that restricts the use of the land to protect an endangered species under a federal permit, to consider the effect of the easement restrictions on the value of the land. The law is effective September 1, 2005, and affects rural landowners and appraisal districts.

Section 23.51

H.B. 2491 and S.B. 760 amend Section 23.51(3) to require chief appraisers to classify agricultural land, for purposes of appraisal, by category as irrigated cropland, dry cropland, improved pasture, native pasture, orchard and waste. In addition, the chief appraiser may establish additional categories. The chief appraiser is further required to divide each category according to soil type, soil capability, irrigation, general topography, geographical factors and other factors that influence the productive capacity of the category. H.B. 2491 is effective September 1, 2005, and S.B. 760 is effective January 1, 2006. Both laws affect farmers, ranchers, appraisal districts and the Comptroller's Property Tax Division.

Section 23.76

H.B. 312 adds Subsections (h)-(k) to Section 23.76 to exempt land used as a residence homestead, land owned

by qualified religious organizations and certain cemetery land from any rollback taxes if there is a change of use of the land from timber use to use as a residence homestead, for qualified religious purposes or by a cemetery organization. Land owned by a cemetery organization must not exceed five acres; be located in an unincorporated area in a county with a population of less than 100,000; be owned by a non-profit cemetery organization; be dedicated solely for a cemetery purpose; not be owned by a cemetery organization which has dedicated five or more acres of land as a cemetery in the preceding five years; and be located adjacent to a cemetery that has existed for more than 100 years. The law is effective September 1, 2005, and affects timber producers, homeowners and appraisal districts.

CHAPTER 25. LOCAL APPRAISAL

Section 25.027

S.B. 541 adds a new Section 25.027 to prohibit the posting of appraisal records on the Internet if the information is a photograph, sketch or floor plan of an improvement to real property that is designed primarily for use as a human residence. The prohibition does not apply to an aerial photograph that depicts five or more separately owned buildings. The law is effective September 1, 2005, and affects homeowners and appraisal districts.

Section 25.18

S.B. 1652 amends Subsection (a) and (b) to require an appraisal district to implement a reappraisal plan approved by the appraisal district board of directors. "Re-appraisal activities" includes identification of properties and other specific matters that are listed in the law. A reappraisal cycle includes real and personal property; and a reappraisal plan must provide that property be physically inspected or identified. The law is effective September 1, 2005, and affects appraisal districts.

Section 25.19

S.B. 1652 repeals Subsection (b)(5) (H.B. 954, January 1, 2000) and reenacts Subsection (b)(5) to remove duplicative language. The law is effective September 1, 2005, and affects property owners and appraisal districts.

S.B. 1652 amends Subsection (c) to require the chief appraiser in a notice of appraised value to a disabled person to indicate that the preceding year's taxes may

not be increased relative to an applicable property tax limitation. The law is effective September 1, 2005, and affects property owners and appraisal districts.

H.B. 1984 adds Subsection (b-1) to require the chief appraiser to include in a notice of appraised value for real property, the difference, expressed as a percent increase or decrease in the appraised value of the property for the current tax year as compared to the fifth tax year before the current tax year. The law is effective January 1, 2006, and affects property owners and appraisal districts.

Section 25.25

H.B. 2491 amends Subsection (d) to provide that payment of the late-correction penalty for ARB appraisal corrections greater than one-third of the correct appraised value is secured by a tax lien and subject to enforced collection. The law is effective September 1, 2005, and affects property owners, appraisal districts and all taxing units.

CHAPTER 26. ASSESSMENT

Section 26.05

S.B. 1652 amends Subsection (a) to add a reference to school tax rate publication requirements contained in Chapter 44 of the Education Code. The law is effective September 1, 2005, and affects school districts.

S.B. 18 amends Subsections (b) and (d) to require taxing units to act by record vote on an ordinance, resolution or order setting a tax rate exceeding the unit's effective tax rate. A motion to adopt a rate exceeding the effective tax rate must be made as follows: "I move that property taxes be increased by the adopting of a tax rate of (specified rate)." If a proposed rate will impose maintenance and operations taxes exceeding maintenance and operation taxes from the preceding year, the taxing unit must include in the adopting ordinance, resolution or order the following: "This tax rate will raise more taxes for maintenance and operations than last year's tax rate." If the proposed rate exceeds the effective maintenance and operations rate, the following statement is required: "The tax rate will raise taxes for maintenance and operations on a \$100,000 home by approximately \$ (insert amount)." The same statements must be included on any Internet Web site operated by the taxing unit. The governing body of the taxing unit other than a school district may not adopt a tax rate that exceeds the lower of the rollback tax rate or effective

tax rate until the governing body holds two public hearings on the proposed rate. The law is effective June 18, 2005, and affects taxing units other than water districts.

Section 26.06

S.B. 18 amends Subsections (a) through (e) to provide that the second of two required hearings on a proposed tax rate may not be held earlier than the third day after the date of the first hearing. The statute mandates the wording of the notice of the public hearing. If the taxing unit operates an Internet Web site, the notice of public hearing must be posted on the Web site. If the governing body does not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate by the 14th day after the second hearing, the governing body must give new notice before it can adopt a rate that exceeds the lower of the rollback tax rate or the effective tax rate. The bill repeals Subsection (f) requiring the Comptroller to prescribe the language and format of the notice of hearing and vote on a proposed tax increase. The law is effective June 18, 2005, and affects taxing units other than school districts, water districts and certain small taxing units.

S.B. 567 amends Subsection (b) to change from 18-point type to 24-point type for required publications on a public hearing for a proposed tax increase and adds the word “tax” before the word year throughout the section to read “preceding tax year” or “current tax year.” The bill requires the notice of a public hearing on a tax increase to include a comparison of last year’s and the current year’s budget information on: (1) maintenance and operations; (2) debt service; and (3) total expenditures. The notice must also include a comparison of last year’s and the current year’s information on: (1) total appraised value; (2) total taxable value; and (3) taxable value of new property (total appraised and total taxable value of new property). The taxing unit also must include information about the unit’s total outstanding and unpaid indebtedness. The law is effective June 17, 2005, beginning with the 2006 tax year, and affects all taxing units other than water districts, and certain small taxing units.

Section 26.065

S.B. 18 amends Subsection (d) to require an Internet notice posting for a public hearing by taxing units other than school districts on a proposed tax rate increase to contain the same language as the newspaper notice posted under Section 26.06. The law is effective June 18, 2005, and affects taxing units other than school districts, water districts and certain small taxing units.

Section 26.07

S.B. 18 amends Subsection (b) to require that a rollback petition for taxing units other than school districts be signed by at least 7 percent of the number of registered voters of the taxing unit if the tax rate for the current year would impose taxes for maintenance and operations in an amount of at least \$5 million or 10 percent of the registered voters of the taxing unit if the tax rate adopted for the current tax year would impose taxes for maintenance and operations in an amount of less than \$5 million. The law is effective June 18, 2005, and affects taxing units other than school districts and water districts.

Section 26.11

H.B. 2491 amends Subsection (c) concerning proration of property taxes when the federal government, the state or a political subdivision of the state acquires taxable property. If the amount of prorated taxes is tendered to the collector, the collector must accept the tender and the payment absolves the taxing unit of liability for a refund in connection with taxes on the property for the year in which the property was transferred. The law is effective September 1, 2005, and affects all taxing units.

CHAPTER 31. COLLECTIONS

Section 31.01

S.B. 898 amends Subsection (a) to require the assessor to mail a copy of a tax bill to the property owner and a property owner’s designated agent. Prior law allowed the assessor the choice to mail to the owner or the agent. The law is effective September 1, 2005, and affects all taxing units and tax agents.

H.B. 1984 and S.B. 18 amends Subsection (c) and adds Subsection (c-1) to require a tax bill to include, for real property, the differences, expressed as a percent increase in the appraised value and the amount of taxes for the current year as compared to each of the preceding five tax years before the current tax year. In addition, the percentage difference between the fifth tax year and the current tax year must be shown. If this information is not available, the tax bill must state that the information is not available for that year. The law is effective June 18, 2005, and affects property owners and all taxing units.

Section 31.031

H.B. 2254 amends Section 31.031(b) to reduce the penalty incurred by a disabled or elderly person who fails to make a timely installment payment of property taxes on his or her residence homestead from 12 percent to 6 percent. The bill further specifies that the penalty provisions of Section 33.01(a) do not apply to installment payment agreements. The law is effective September 1, 2005, and affects elderly and disabled homeowners and all taxing units.

Section 31.05

H.B. 2491 amends Subsection (a) to allow any taxing unit to adopt percentage discounts for early payment of property taxes. A taxing unit that collects for another tax unit that adopts the discounts may prepare and mail separate tax bills on behalf of the adopting taxing unit and may charge the unit an additional fee for separate mailing and collection. If a county assessor-collector collects taxes for a taxing unit under an intergovernmental contract, the assessor-collector may terminate the contract if the county has adopted a discount policy different from the policy adopted by the adopting taxing unit. The law is effective September 1, 2005, and affects all taxing units.

Section 31.072

S.B. 580 adds a new Subsection (h) to require a collector to establish an escrow account for the owner of a residence homestead to deposit money for payment of property taxes for a disabled veteran, as defined by Section 11.22, or a recipient of the Purple Heart, the Congressional Medal of Honor, the Bronze Star, the Silver Star, the Legion of Merit or a service cross awarded by a branch of the United States armed forces. The law is effective June 17, 2005, and affects military personnel and veterans and all taxing units.

Section 31.073

H.B. 2491 amends the section relating to tax payments made under protest. The amendment provides that any restriction or condition that attempts to limit the amount of taxes, penalties or interest to an amount less than stated in the tax bill or shown by the tax collector's records is void. The law is effective September 1, 2005, and affects property owners and all taxing units.

Section 31.075

H.B. 3101 amends Subsection (a) to require the collector for a taxing unit, if the amount of the tax for the current year has not been calculated when a request is made for a tax receipt, to issue to the property owner or agent a

statement indicating that taxes for the current year have not been calculated. The law is effective September 1, 2005 and affects property owners and all taxing units.

Section 31.08

H.B. 2491 amends Subsection (a) relating to tax certificates, to require a collector to disclose known court costs and expenses associated with a suit to collect delinquent taxes on the property, in addition to any taxes, penalties and interest. The law is effective September 1, 2005, and affects property owners and all taxing units.

S.B. 898 amends Subsection (b) to provide that a property tax lien is extinguished and a purchaser of property is absolved of liability if a tax certificate erroneously fails to include taxes for property attributable to the property and omitted from the appraisal roll for any one of the five preceding years for real property and in one of the two preceding years for personal property. The law is effective September 1, 2005, and affects property owners and all taxing units.

**CHAPTER 32.
TAX LIENS AND PERSONAL LIABILITY**

Section 32.014

H.B. 2438 amends Subsections (a) and (b) and deletes Subsection (d) to require the tax lien, if the owner of a manufactured home has elected to treat the home as real property, to be attached to the land on which the manufactured home is located. If the owner of a manufactured home does not elect to treat the home as real property, then the tax lien on the manufactured home does not attach to the land on which the home is located. The bill deletes language relating to the jurisdiction of a taxing unit if a manufactured home is listed together with the land on which it is located. The law is effective June 18, 2005, and affects manufactured homeowners, appraisal districts and all taxing units.

Section 32.015

H.B. 2438 amends Subsection (a) by removing the date restrictions on the filing of tax liens for manufactured homes. The law is effective June 18, 2005, and affects property owners and all taxing units.

Section 32.03

H.B. 2438 amends Subsections (a) and (b) and adds Subsections (a-1) and (a-2) to prohibit a tax lien, except as otherwise provided, from being enforced against personal property transferred to buyer in the ordinary

course of business for value that does not have actual notice of the existence of the lien. The bill deletes language providing an exception if the personal property is a manufactured home. A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs before October 1, 2005, or not later than six months after the end of the tax year for which the tax is owed. A person is prohibited from transferring title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released, excluding a manufactured home held in inventory. A bona fide purchaser for value or a holder of a lien recorded on the manufactured home statement of ownership and location, rather than document of title, is not required to pay any taxes that have not been recorded with the Department of Housing and Community Affairs, other than taxes imposed in a tax year that begins on or before January 1, 2001, or penalties or interest on those taxes. The law is effective June 18, 2005, and affects manufactured homeowners and all taxing units.

Section 32.03

H.B. 2438 repeals Subsections (c)-(j) relating to restrictions on personal property liens superseded by other portions of the bill (see above). The law is effective June 18, 2005, and affects manufactured homeowners, property owners and all taxing units.

Section 32.05

H.B. 2491 amends Subsections (b) and (c) and adds Subsections (b-1), (d), and (e) relating to tax liens, to provide that a tax lien takes priority over any right of remainder or other future interests in the property, in the same manner that a tax lien has priority over junior liens and other encumbrances. The amendments also provide that while restrictive covenants survive a foreclosure of a tax lien on property subject to covenants, the lien of a property owners' association for maintenance fees or assessments under those covenants is inferior to the tax lien. The law is effective September 1, 2005, and affects property owners and all taxing units.

Section 32.06

H.B. 2491 amends existing and adds subsections concerning the sale of tax liens to private investors who then establish a loan arrangement with the owner to repay the debt. "Mortgage servicer" and "transferee" are defined for purposes of Section 32.06, as amended. When a person authorizes another person to pay delinquent taxes on real property, the content of the sworn statement (notarization optional) filed with the collec-

tor by the authorized payor is expanded to include the name and address of the transferee and a description of the property. Taxes due in subsequent tax years may be transferred by a taxing unit before the delinquency date, only if the real property is not subject to a lien other than the tax lien. A collector or a person designated by the collector can certify the sworn statement and its contents, including collection costs. The collector must conspicuously identify in the taxpayer's account the date of the transfer of a tax lien. The transferee of a tax lien and any successor in interest is entitled to foreclose the tax lien under the home equity rules adopted by the Texas Supreme Court and Section 32.065 of the Tax Code, and may charge the owner a reasonable fee for a pay off statement. Any time after a six-month period and before a notice of foreclosure is sent, a transferee or holder of a tax lien may require the property owner to provide written authorization and pay a reasonable fee before providing information regarding the current balance owed by the property owner. An owner or mortgage servicer may redeem foreclosed real property for 125 percent of the purchase price during the first year of redemption, or 150 percent during the second year. The law is effective September 1, 2005, and affects private lenders, property owners and all taxing units.

S.B. 1587 adds Subsection (g) to require certain notices be sent to lien holders by a transferee or successor in interest of a tax lien before a foreclosure sale. The holder of a tax lien by transfer must notify the holders of all recorded liens by certified mail at least 20 days before the foreclosure sale, as required by Section 51.002 of the Property Code. The law is effective September 1, 2005, and affects private lenders, property owners and all taxing units.

Section 32.065

H.B. 2491 amends Subsections (a), (b), (c), (d) and (f) and adds Subsections (b-1) and (g) to require a contract entered into by a transferee and the property owner for transfer of a tax lien to provide for a power of sale and foreclosure under Section 32.06 of the Tax Code, including recordation of contract, sworn documents and affidavits, foreclosure notices, notice requirements and default/notice of acceleration requirements. A party may not add penalties for prepayment of tax lien liability. An affidavit signed by the transferee of a transferred lien recorded in the appropriate real property records that states foreclosure was in compliance with Section 32.06 is prima facie evidence of a valid foreclosure. The law is effective September 1, 2005, and affects private lenders, property owners and all taxing units.

Section 32.07

S.B. 898 amends Subsection (a) to provide that property taxes on omitted property are the personal obligation of the person who owns taxable property on January 1 of the tax year. The law is effective September 1, 2005, and affects property owners and all taxing units.

**CHAPTER 33.
DELINQUENCY**

Section 33.011

H.B. 2491 amends Subsections (a) and (d) concerning the waiver of penalties and interest by taxing units for property owned by religious organizations. The governing body of a taxing unit may waive penalties and interest on a delinquent tax on property owned by a religious organization if the religious organization pays the tax and qualifies the property for exemption before the first anniversary of the date the organization acquired the property. A religious organization must request a waiver of penalties and interest in writing to the taxing unit before the first anniversary of the date the organization acquired the property. The law is effective September 1, 2005, and affects religious organizations and all taxing units.

Section 33.02

H.B. 2491 amends Subsection (a) to allow the collector for a taxing unit that does not collect its own taxes to enter into a written installment agreement with a person delinquent for the payment of the tax, penalties and interest. The law is effective September 1, 2005, and affects delinquent taxpayers and all taxing units.

Section 33.045

H.B. 2491 adds a new Section 33.045 to require a tax bill or written communication to a property owner by a taxing unit or its agent or attorney that specifically threatens a lawsuit to collect delinquent taxes to contain the following statement in capital letters: "IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED AND THE PROPERTY DESCRIBED IN THIS DOCUMENT IS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE PAYMENT OF THESE TAXES." The law is effective September 1, 2005, and affects property tax attorneys, property owners and all taxing units.

Section 33.11

H.B. 2491 adds a new Section 33.11 to allow a taxing unit, following notice to a taxpayer, to impose the additional attorney fee collection penalty against delinquent personal property taxes earlier than the current July 1 date. The additional penalty can be imposed on the later of: (1) the date those taxes become subject to the attorney's contract; or (2) 60 days after the date the taxes become delinquent (60 days will vary). The amount of the penalty may not exceed the amount specified in the contract with the collecting attorney. A taxing unit or appraisal district that collects the early penalty may not recover attorney's fees in a suit to collect delinquent taxes or impose the additional attorney fee collection penalty under Section 33.07. To collect the early penalty for delinquent personal property taxes, a collector or appraisal district must send a notice of the penalty to the property owner. The notice must state the date the penalty is incurred and must be delivered at least 30, and not more than 60, days before that date. For a delinquent personal property account for which taxes, penalties and interest exceeds \$10,000 for all taxing units for which the collector collects, the notice must be delivered by certified mail, return receipt requested. It specifies that the authority to collect the early penalty for delinquent personal property taxes is construed as an alternative to the authority to collect the additional penalty under Section 33.07. The law is effective September 1, 2005, and affects property tax attorneys, property owners and all taxing units.

Section 33.22

H.B. 2491 adds Subsections (d) and (e) relating to the seizure of personal property for the payment of delinquent taxes, penalties and interest. A taxing unit is entitled to recover attorney's fees in a tax warrant proceeding in the amount specified in a contract with a private attorney if: (1) attorney's fees are requested in the tax warrant application; (2) the taxing unit contracts with an attorney under Section 6.30; (3) the contract and amount of attorney's fees are supported by the collector's affidavit; and (4) the tax sought is not subject to the additional penalty under Sections 33.07 and 33.08. If a taxing unit is represented by in-house counsel, the unit is entitled to attorney's fees equal to 15 percent of the amount of delinquent taxes, penalties and interest owed by the property owner. The law is effective September 1, 200, and affects property tax attorneys, property owners and all taxing units.

Section 33.23

H.B. 2491 amends Subsection (a) relating to the seizure of personal property for the payment of delinquent taxes, penalties and interest. A reference to attorney's fees is added to conform the Section to changes to Section 33.22. The law is effective September 1, 2005, and affects property tax attorneys, property owners and all taxing units.

Section 33.25

H.B. 2491 amends Subsections (f) and (h) to include attorney fees in the application for a warrant and adds Subsection (i) concerning the seizure of personal property for the payment of delinquent taxes, penalties and interest to prescribe the order for distributing the proceeds from a sale of personal property. After a tax warrant is issued, a taxing unit, its agent or attorney may cancel a seizure or sale at any time. The law is effective September 1, 2005, and affects property tax attorneys, property owners and all taxing units.

Section 33.48

H.B. 2491 adds Subsection (d) to provide a procedure for a collector who accepts a payment of court costs and other expenses as a result of a delinquent tax suit and when to disburse those amounts. Most cost and expenses are payable to the clerk of the court in which the suit is pending. However, expenses incurred by the taxing unit in determining the name, identity and location of parties to a suit and in procuring legal descriptions of property subject to delinquent taxes are payable to the taxing unit's general fund or to the person or entity who advances the expense. The law is effective September 1, 2005, and affects property tax attorneys, property owners and all taxing units.

Section 33.51

H.B. 2491 adds new Subsections (b)-(i) relating to the right of a tax sale purchaser to obtain a writ of possession from the clerk of the court that ordered the tax foreclosure. The new subsections establish procedures for serving and executing a writ of possession similar to current provisions in Chapter 24 of the Property Code relating to writs executed out of justice of the peace courts in forcible entry and detainer proceedings. The law is effective September 1, 2005, and affects property tax attorneys, property owners and all taxing units.

Section 33.57

H.B. 2491 adds a new Section 33.57 to provide for waiver of a court appointed attorney and an alternative

notice of tax foreclosure for real property subject to delinquent property taxes, penalties, interest and attorney's fees that exceed the appraised value of the property, or if there are 10 or more years for which delinquent taxes are owed. The new provisions dispense with the need for a court appointed attorney for a delinquent taxpayer who cannot be located for personal citation, if there is no equity in the property worth preserving for the absentee owner. The law is effective September 1, 2005, and affects property tax attorneys, property owners and all taxing units.

CHAPTER 34. TAX SALES AND REDEMPTION

Section 34.015

H.B. 2926 adds Subsection (k-1) to allow an appraisal district to list certain property on the appraisal roll following a property tax foreclosure sale. The subsection provides that, if, within six months of a foreclosure sale, the successful bidder has not provided the selling officer with a delinquent property tax statement, the county will record the transaction in its records, and the appraisal district can list the property for taxation in the name of the successful bidder. Prior law requires a successful bidder at a foreclosure sale to provide the selling officer a statement from the county assessor-collector indicating whether there are any delinquent taxes owed by the bidder to the county or other taxing units within the county. The selling officer is prohibited from delivering a deed to the successful bidder until such a statement is provided indicating that the bidder does not owe any delinquent taxes. The law is effective June 17, 2005, and affects property owners and appraisal districts.

S.B. 644 adds a new Subsection (p) to qualify the requirement that a person purchasing property at a tax foreclosure sale show the officer conducting the sale that the person owes no delinquent property taxes to that county, or the school districts or cities in that county. The requirement applies in all counties with a population of 250,000 or more and in a county with a population of less than 250,000, only if the commissioners court has adopted the requirement. The law is effective May 17, 2005, and affects purchasers at foreclosure sales, cities, counties and school districts.

CHAPTER 41. LOCAL REVIEW

Section 41.44

S.B. 828 amends Subsection (a) and adds Subsections (c-1) and (c-2) to allow a property owner working offshore or on full-time active military duty to file a late appraisal review board (ARB) appeal if the property owner was offshore or on active duty on the protest filing deadline. A person working offshore would have to be continuously employed in the Gulf of Mexico for a period of not less than 20 days during which the appeals deadline passed. A person on active military duty is required to provide the ARB with evidence, including a valid military identification card and a deployment order. The law is effective January 1, 2006, and affects offshore workers, military personnel and appraisal review boards.

Section 41A.01-41A.13

H.B. 182 and S.B. 1351 adds Chapter 41A to Title 1 of the Tax Code to create a binding arbitration process for property owners following an appraisal review board (ARB) protest determination. The bill creates a property owner right to binding arbitration as an alternative to district court judicial appeal of an ARB determination, limited to real property appraised at \$1 million or less. The bill requires the Comptroller to prescribe a model binding arbitration request form; and an ARB will notify a property owner of the right to binding arbitration and provide a copy of a request for binding arbitration form.

The property owner must file a request for binding arbitration with the chief appraiser with a \$500 deposit no later than the 45th day following receipt of the ARB order. Within 10 days of receipt of a request, the chief appraiser certifies the request, submits the request and deposits to the Comptroller, and requests the Comptroller to appoint an arbitrator. The Comptroller retains 10 percent (\$50) of the deposit for administrative costs. The Comptroller maintains a registry of qualified arbitrators who agree to serve. Qualifications are : (1) 30 hours arbitration training; (2) being a licensed real estate broker, sales person or appraiser; and (3) agreement to accept a maximum of 90 percent (\$450) of deposit. On receipt of a request and deposit, the Comptroller sends an arbitrator list to the owner and the appraisal district. Within 10 days the parties notify

the Comptroller concerning the selection or their inability to agree on an arbitrator. In the absence of an agreement, the Comptroller selects an arbitrator. Upon acceptance of appointment, the arbitrator sets the date, time and place of hearing and gives notice to the parties who can be represented by attorneys or real estate professionals at the parties' expense. Within 20 days of the hearing the arbitrator makes an award and delivers a copy to the owner, appraisal district and Comptroller along with the arbitrator's fee, not to exceed \$450. An arbitration award is final. The Comptroller refunds the owner's deposit, less the Comptroller's administrative fee; and the appraisal district pays the arbitrator's fee if the arbitrator determines that the appraised value of the property is nearer to the property owner's opinion of the appraised or market value as stated in the request for binding arbitration than the value determined by the ARB. The Comptroller pays the arbitrator's fee out of the owner's deposit if the arbitrator determines that the appraised value of the property is not nearer to the property owner's opinion of the appraised or market value in the request for binding arbitration than the value determined by the appraisal review board. The Comptroller retains the administrative fee, and any balance remaining is returned to the owner. The bill grants the Comptroller rulemaking authority to administer the new Title. The law is effective September 1, 2005 and affects property owners, professional arbitrators, appraisal districts and the Comptroller of Public Accounts. No later than January 1, 2006, the Comptroller must prescribe a model arbitration request form and award form and establish a registry of qualified arbitrators.

CHAPTER 42. JUDICIAL REVIEW

Section 42.23

H.B. 2491 adds Subsections (d) and (e) provide that in some cases each party to an excessive or unequal appraisal lawsuit is considered a party seeking affirmative relief for purposes of discovery, eliminating the distinction between plaintiff and defendant. To eliminate the distinction, a property owner will be required to (1) make a written offer of settlement; (2) request alternative dispute resolution; and (3) designate which cause of action is the basis for appeal. The change eliminates in some cases the 30-day differential between the plaintiff's and defendant's designation of an expert witness

in a district court action. Rule 195.2 of the Texas Rules of Civil Procedure requires the plaintiff to designate experts by the latter of 30 days after the service of a request for disclosure or 90 days before the end of the discovery period. The defendant's experts must be designated 60 days before the end of the discovery period. Designation of an expert must be accompanied by: (1) a statement of the subject matter of the expert's testimony; the general substance and basis of the expert's opinions; and (2) all documents and items reviewed by the expert. The court may enter a protective order to modify the discovery process as a result of this change. The law is effective September 1, 2005, and affects property tax attorneys and appraisal districts.

CHAPTER 111. TAX REFUND FOR ECONOMIC DEVELOPMENT

Section 111.301

S.B. 1652 amends Subsection (a) to provide that tax refunds for economic development under Chapter 111 are not available to taxpayers whose property is subject to appraised value limitations for schools under Chapter 313 of the Tax Code. The change prevents taxpayers from being able to receive the benefit of the value limitation, as well as the refund, in the same manner current law prevents taxpayers from receiving both tax abatements and refunds. The law is effective September 1, 2005, and affects large business owners and the Comptroller's Property Tax Division.

Section 111.304

S.B. 1652 amends Section 111.304 to provide for a biennial economic development report to the Legislature. Prior law required the Comptroller to file an annual report of refunds paid under Chapter 111. The biennial report will be made before December 31 of each even-numbered year. The law is effective September 1, 2005, and affects the Comptroller's Property Tax Division.

CHAPTER 311. TAX INCREMENT FINANCING

Chapter 311 (Multiple Sections)

H.B. 2120 amends multiple sections in Chapter 311 to authorize the governing body of a county to designate a contiguous geographic area in the jurisdiction of the county as a reinvestment zone to promote development or redevelopment in the area. The bill grants to counties

the same powers currently exercised by municipalities relative to the creation, administration, and funding of projects within reinvestment zones. The law is effective September 1, 2005, and affects counties.

Section 311.01005

H.B. 2653 adds Section 311.01005 to allow cities and counties to purchase real property rights on land outside reinvestment zones for certain purposes. The new section relates to a reinvestment zone served by a "bus rapid transit project" or a "rail transportation project." A bus rapid transit project means a system designed to give preferential treatment to buses on a roadway and includes special lanes, bus stations and maintenance facilities. A rail transportation project means a passenger rail facility including tracks, rail lines, depots and maintenance facilities. The bill allows a tax increment financing (TIF) agreement to include provisions for the use of TIF funds to pay the costs of acquiring land, development rights or conservation easements located outside the reinvestment zone if: (1) the zone were or would be served by a rail transportation project or bus rapid transit project; (2) the acquisition was for the purpose of preserving the land in its natural or undeveloped condition; and (3) the land was located in the county where the zone was located. The city that created the reinvestment zone and the county in which the zone is located will be required to pay the same portion of their tax increment into the TIF fund. The law is effective June 18, 2005, and affects property owners and cities and counties.

Section 311.005

S.B. 771 amends Subsection (a) to allow a municipality with a population of 100,000 or more to designate an area as a reinvestment zone if it contains structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years. The law is effective June 18, 2005, and only affects certain cities.

Section 311.008

S.B. 771 adds Subsection (e) to assert that a project plan to alleviate certain criteria necessary to designate a reinvestment zone and to promote development or redevelopment of a reinvestment zone "serves a public purpose." The law is effective June 18, 2005, and affects property owners and all taxing units within certain reinvestment zones.

Section 311.0087

S.B. 771 adds a section applicable to a reinvestment zone: the designation of which was requested in a petition submitted before July 31, 2004, to a governing body of a home-rule municipality that; (1) has a population of more than 1.1 million; (2) is located primarily in a county with a population of 1.5 million or less; and (3) has created at least 20 reinvestment zones; and is the subject of a resolution of intent that was adopted before October 31, 2004, by the governing body. If the described municipality imposes a fee of more than \$25,000 for processing the reinvestment zone petition, the municipality may not require a property owner who submitted the petition, as a condition of designating the zone or approving a development agreement, interlocal agreement or project plan for the proposed reinvestment zone: 1) to waive any rights to the issuance of local permits under Chapter 245, Local Government Code; 2) to dedicate more than 20 percent of the owner's land in the area described in the petition as open-space land; or 3) to use a nonconventional use pattern for a development to be located within the proposed reinvestment zone. The law is effective June 18, 2005, and affects property owners and certain cities.

Section 311.010

S.B. 771 adds Subsections (g), (h) and (i) relating to project and financing plans for reinvestment zones. The bill provides that competitive bidding requirements in Chapter 252 of the Local Government Code, do not apply to the board of directors of a reinvestment zone in preparing its project plan. The bill also provides that, subject to approval by the municipality that created the zone, the board of directors of a reinvestment zone may establish programs for various public purposes, including: (1) developing and diversifying the economy of the zone; (2) eliminating unemployment and underemployment in the zone; and (3) developing or expanding transportation, business and commercial activity in the zone. The board is also given authority to make grants and loans from the tax increment fund for activities that benefit the zone and stimulate business and commercial activity in the zone. The board may contract with the municipality that created the zone and pay from the municipality's portion of the tax increment fund, for costs of providing municipal services incurred as a result of zone related costs. The law is effective June 18, 2005, and affects property owners and certain cities.

Section 311.0123

S.B. 1199 adds a section to allow a municipality to allocate a portion or amount of its municipal sales and use

taxes for deposit into a tax increment financing (TIF) fund. Municipalities may authorize the Comptroller to withhold an amount of sales and use taxes and deposit that amount in the municipality's TIF fund. The law is effective May 20, 2005, and affects certain cities.

Section 311.013

S.B. 771 amends Subsection (b) and adds Subsections (l) and (m) to provide that a municipality that creates a reinvestment zone and a tax increment financing (TIF) fund, but does not formally determine an amount to pay into the fund, must pay into the TIF fund the entire tax increment produced by the municipality. In addition, the bill requires that the portion of the tax increment, produced by the municipality, that the municipality was required to pay into the TIF fund, together with all other revenues required to be paid into the fund, would have to be sufficient to pay the basic obligations of the zone. Municipalities located in a county with a population of more than 1.4 million but less than 2.1 million, or in a county with a population of 3.3 million or more, may reduce the portion of the tax increment the municipality is required to pay into the TIF fund if each county that is party to the TIF agreement is allowed to reduce its TIF contribution by a similar portion. However, a municipality's TIF contribution must be sufficient to pay costs of projects listed in the reinvestment zone financing plan and pay any TIF bonds, notes or other obligations. The law is effective June 18, 2005, and affects property owners and certain cities.

Section 311.015

S.B. 1199 adds Subsection (i-1) to state that a municipality's obligation to deposit sales and use taxes into a TIF fund under Section 311.0123 does not constitute a general obligation of the municipality and does not give rise to a charge against the general credit or taxing powers of the municipality. The law is effective May 20, 2005, and affects property owners and certain cities.

**CHAPTER 312.
TAX ABATEMENTS**

Section 312.204

S.B. 1652 reenacts Subsection (a) from H.B. 1448, June 15, 2001, and deletes Subsections (a) from H.B. 3001 and S.B. 1710, September 1, 2001, and S.B. 985, September 1, 2001, relating to tax abatement agreements. The law is effective September 1, 2005, and affects property owners and appraisal districts.

**CHAPTER 313.
TEXAS ECONOMIC DEVELOPMENT ACT****Section 313.024**

H.B. 2201 amends Subsection (b) to change provisions in the Texas Economic Development Act limiting the granting of value limitations and school tax credits to only property used in connection with manufacturing, research and development; and renewable energy electric production. As a result, property used for a clean coal project or a gasification project for a coal and biomass mixture is eligible for property tax relief under Subchapters B, C and D. The law is effective June 18, 2005, and affects certain business owners and school districts.

**CIVIL PRACTICES AND
REMEDIES CODE****Section 17.091**

H.B. 2491 amends Subsection (a), the long-arm statute applicable to delinquent tax suits, by expanding the scope of those persons subject to constructive service on the Secretary of State. The amendment provides that other lien holders on the delinquent property, in addition to nonresident owners, may be served with process through the Texas Secretary of State. The law is effective September 1, 2005, and affects delinquent taxpayers, property tax attorneys and all taxing units.

Section 152.004

H.B. 282 amends Subsection (a) to authorize the commissioners court to set a court cost to support an alternative dispute resolution system in the amount not to exceed \$15, rather than \$10, to be taxed, collected and paid as other court costs in certain civil cases filed in a county or district court (excluding delinquent tax suits). The law is effective September 1, 2005, and affects counties.

Section 152.005

H.B. 282 amends Subsection (a) to authorize the commissioners court to set a court cost in an amount not to exceed \$5, rather than \$3, for certain civil cases filed in justice court. The law is effective September 1, 2005, and affects counties.

Section 152.006

H.B. 282 adds Section 152.006 to provide that in a county with a population of 250,000 or more but less than 290,000, a private nonprofit corporation, a political subdivision, a public corporation or a combination of these entities that provide alternative dispute resolution services to collect a reasonable fee in an amount set by the commissioners court from a person who receives the services. The law is effective September 1, 2005, and affects counties.

EDUCATION CODE**Section 44.004**

S.B. 567 amends Subsection (c) to require additional information to a school district's Notice to Discuss Budget and Proposed Tax Rate. The notice must include a comparison of last year's budget to this year's proposed budget and show the difference in percentage of increase or decrease. The bill requires the notice to include a comparison of last year's and the current year's budget information on: (1) maintenance and operations; (2) debt service; and (3) total expenditures. The notice must also include a comparison of last year's and the current year's information on: (1) total appraised value; (2) total taxable value; and (3) taxable value of new property (total appraised and total taxable value of new property). The school district also must include information about the district's total outstanding and unpaid indebtedness. The law is effective June 17, 2005, beginning with the 2006 tax year, and affects school districts.

Section 44.031 and 44.033

H.B. 664 adds Subsection (b-1) to Section 44.031 and amends Subsection (c) and adds Subsection (f) to Section 44.033 to allow a school district that has its central administrative office located in a municipality with population of less than 250,000 to consider a bidder's principal place of business when awarding contracts that are open for bid. The exception does not apply to the purchase of telecommunications services or information services. The law is effective September 1, 2005, and affects school districts and local business owners.

ELECTIONS CODE

Section 41.001

H.B. 57 amends Subsection (a) to modify the dates on which a general or special election in this state can be held. Each general or special election must be held on one of the following dates: 1) the second Saturday in May; or 2) the first Tuesday after the first Monday in November. The bill eliminates election dates for the first Saturday in February and the second Saturday in September. The law is effective October 1, 2005, and affects taxing units.

GOVERNMENT CODE

Section 403.303

S.B. 1652 amends Subsection (b) to state that the Comptroller's annual property value study findings will reflect changes created by protests only for the applicable school district. The change limits protest results to the protesting school district. Effective September 1, 2005. (School districts and the Comptroller's Property Tax Division)

Section 551.005

S.B. 286 adds Section 551.005 to require elected and appointed public officials who are members of a governmental body and designated public information officers to complete a course of training on the Open Meetings Act not later than the 90th day after the official takes the oath of office or otherwise assumes responsibilities as a member of a governing body. The attorney general is required to ensure that the training is made available either through the office of the attorney general or by approval of any acceptable course of training. The course must be not less than one and not more than two hours and must include: (1) the general background of the legal requirements for open meetings; (2) the applicability of the Open Meetings Act to government bodies; (3) procedures and requirements regarding quorums, notice, and record keeping; (4) procedures and requirements for holding an open meeting and for holding a closed meeting; and (5) penalties and other consequences for failure to comply with the Open Meetings Act. Each elected or appointed official who is a member of a governing body before January 1, 2006, must complete a course before January 1, 2007. The law is effective January 1, 2006, and affects chief appraisers, boards of directors, appraisal review boards,

agricultural advisory boards, information officers and taxing units.

Section 551.0411

S.B. 690 adds Section 551.0411 to allow a governmental body to continue an open meeting to the following regular business day without further posting if the action is made in good faith and not to circumvent the Open Meetings Act. A governmental body that is prevented by a "catastrophe" from convening an otherwise properly posted open meeting may convene the meeting at a convenient location within 72 hours, if the action is taken in good faith and not to circumvent the Open Meetings Act. A "catastrophe" includes fire, flood, power failure, epidemic, enemy attack, etc. The law is effective June 17, 2005, and affects appraisal districts, boards of directors, appraisal review boards and taxing units.

Section 551.043

H.B. 2381 adds a new Subsection (b) to provide statutory guidelines for governmental bodies that are required or allowed to post notice of a public meeting on the Internet. A governmental body is allowed to post meeting notices on the entity's Internet Web site. Posting the notice on the Web site, when authorized, fulfills requirements under the Open Meetings Act for posting a meeting notice in a place that is readily accessible to the general public, provided a good faith attempt is made to continuously post the notice on the Web site for the prescribed period of time. Governmental bodies must still comply with statutory requirements to physically post an open meetings notice at a particular physical location. The law is effective September 1, 2005, and affects all local governmental bodies.

Section 551.056

S.B. 1133 adds a section to provide additional open meetings posting requirements for municipalities, counties, school districts, junior colleges and development corporations. The new requirements apply only to a governmental body or economic development corporation that maintains an Internet Web site or for which a Web site is maintained, and does not apply to a governmental body that is a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency or political subdivision of a county or municipality. In addition to the other place at which notice is required to be posted, the governmental entity must post notice of a meeting on the governmental body or economic development corporation Web site. The bill specifically requires municipalities,

counties, school districts, junior college districts and economic development corporations in specific population brackets to post meeting agendas on the entity's Internet Web site. The validity of a posted notice of a meeting or an agenda is not affected by a failure to comply with the new requirement, if there has been a good faith effort to comply and the failure is due to a technical problem beyond the control of the governmental entity. The law is effective January 1, 2006, and affects cities, counties, school districts, junior colleges, appraisal districts, board of directors and development corporations.

Section 552.009 and 552.010

S.B. 452 and S.B. 727 transfer the duties of the Texas Building and Procurement Commission (TBPC) under the Open Records Act to the Office of Attorney General. All rules, forms and signs adopted by or prescribed by the TBPC under the Open Records Act are continued in effect until repealed or otherwise changed by the Attorney General. The law is effective September 1, 2005, and affects the Texas Building and Procurement Commission and the Office of the Attorney General.

Section 552.012

S.B. 286 adds Section 552.012 to require elected and appointed public officials who are members of a governmental body and public information officers of governmental body to complete a course of training on the Open Records Act not later than 90 days after the official takes the oath of office or otherwise assumes responsibilities as a member of a governing body. A public official may designate a public information coordinator to satisfy the official's training requirements, if the coordinator is primarily responsible for administering public information responsibilities for the official or governmental body. The attorney general is required to ensure that the training is made available either through the office of the attorney general or by approval of any acceptable course of training. The course must be not less than one and not more than two hours and must include: (1) the general background of the legal requirements for open records and public information; (2) the applicability of the Open Records Act to governmental bodies; (3) procedures and requirements regarding complying with a request for public information; (4) the role of the attorney general under the Open Records Act; and (5) penalties and other consequences for failure to comply with the Open Records Act. Each elected or appointed official who is a member of a governing body before January 1, 2006, must complete a course before January 1, 2007. The law is effective January 1, 2006,

and affects appraisal districts, appraisal review boards, board of directors and taxing units.

Section 552.147

S.B. 1485 adds a section providing that the social security number of a living person is exempt from Open Records Act requirements. The bill also authorizes a governmental body to redact the social security number of a living person from any information the governmental body discloses without the need to request a decision from the attorney general. The law is effective June 17, 2005, and affects all governmental entities.

Section 552.225

S.B. 727 amends Subsection (a) and (b) to require a requestor of public information to complete the examination of the information not later than 10 business days, rather than the 10th day, after the date the custodian of the information makes the information available. If the requestor does not complete the examination of the information within 10 business days after the date the custodian of the information makes the information available and the requestor does not file a request for additional time, the requestor is considered to have withdrawn the request. The law is effective September 1, 2005, and affects all governmental entities.

Section 552.231

S.B. 727 amends Subsections (b) and (d) and adds Subsection (d-1) to specify that a requestor of public information is required to submit in writing requests for information that require programming or manipulation of data within 30 days after the requestor receives an initial response from the governmental body, or the governmental body does not have any further obligation to provide such information. If a requestor does not make a timely written statement under Section 552.231 formally requesting the data, the requestor is considered to have withdrawn the request for information. The law is effective September 1, 2005, and affects all governmental entities.

Section 552.2615

S.B. 727 amends Subsections (a) and (b) to require a governmental body receiving a public information request to inform the requestor of the responsibilities, rather than the duties, imposed on the requestor by Section 552.2615, as well as the rights granted by the Section, and to give the requestor the information needed to respond to the governmental body. The law is effective September 1, 2005, and affects all governmental entities.

Section 552.263

S.B. 623 adds Subsection (f) to provide that a requestor of public information who fails to make a deposit or post a bond for large amounts of copied information (costs exceeding \$50 or \$100, depending on the size of the governmental entity) before the 10th day after the date the deposit or bond is required by the government entity is considered to have withdrawn the request for the copy of the public information. The law is effective September 1, 2005, and affects all governmental entities.

Section 552.301

S.B. 727 adds Subsection (e-1) to require a governmental body that submits written comments to the attorney general concerning a public information request to send a copy of those comments to the person who requested the information. The copy of the governmental body's comments must be redacted if the written comments disclose or contain the substance of the information requested. The law is effective September 1, 2005, and affects all governmental entities.

Section 552.304

S.B. 727 adds Subsection (b) to require a person who submits public comments to the attorney general concerning a public information request to send a copy of those comments to both the person who requested the information from the governmental body and the governmental body. The copy of the comments provided to the person must be a redacted copy if the written comments disclose or contain the substance of the information requested. "Written comments" includes a letter, a memorandum or a brief. The law is effective September 1, 2005, and affects all governmental entities.

HEALTH AND SAFETY CODE

Section 775.018

S.B. 1621 amends Subsection (a) and repeals Subsection (b) to remove the statutory \$0.03 per \$100 valuation tax rate cap on Harris County emergency services districts. The law is effective September 1, 2005, and affects Harris County emergency service districts.

Section 775.024

H.B. 2235 adds Section 775.024 to authorize two or more emergency services districts to merge into a single district. The boards of directors of the districts must agree on a name for the proposed merged district and choose five commissioners from among the

membership of the boards to serve staggered terms on the initial board. The ballot for the election to approve a merger must be printed using specific statutory language to permit voting for or against the proposition. A merged district is created if a majority of the voters in each district favor the merger. The maximum tax rate that may be imposed by the merged district may not exceed the maximum rate authorized for any of the previous districts. The merged district assumes all powers, rights, duties, assets and liabilities of the former districts and the merger does not diminish or impair the rights of the holder of any outstanding and unpaid bonds, warrants or obligations of the district. The law is effective June 18, 2005, and affects emergency service districts.

LOCAL GOVERNMENT CODE

Section 112.035

H.B. 1471 amends Subsections (b), (c) and (d) to transfer to the county tax assessor-collector all duties associated with the collection and maintenance of occupation taxes owed to the county. Under former law, although a county tax assessor-collector was charged with collecting all occupation taxes owed to a county, the county clerk was charged with issuing an occupation tax license, maintaining an occupation tax account and providing two separate reports each month related to occupation tax licenses issued that month. The law is effective September 1, 2005, and affects counties.

Chapter 176

H.B. 914 adds Chapter 176 to provide for public disclosure of business relationships with local government officers. A local government officer must file a conflicts disclosure statement if that government officer has a business partner or family member that has contracted or is being considered for a contract with the local government entity. A disclosure statement is also required by the government officer if that officer or a family member of that officer (within the first degree by consanguinity or affinity) receives one or more gifts in a year's time worth more than an aggregate of \$250 from a person that has contracted or is being considered for a contract with the local government entity. A disclosure statement must be filed not later than 5 p.m. with the local government's records administrator on the seventh day after the date the officer becomes aware of the facts requiring a disclosure filing. Failure to file the required statement is a Class C misdemeanor. The Texas Ethics Commission is required to adopt a conflicts disclosure

statement for use by public officers. A local government entity may extend the requirements for filing a disclosure statement to employees of a local government entity and may reprimand, suspend or terminate an employee who fails to comply with disclosure requirements. An offense by an employee is a Class C misdemeanor. A person or agent of a person seeking a contract with the local government entity must complete a conflict of interest questionnaire, adopted by the Texas Ethics Commission, describing any business relationship that exists with officers of the local government entity that may cause a conflict of interest. The questionnaire must be filled out within seven business days of the beginning of contract negotiations or any documentation related to a request for proposal or bid. The person must file an update to the questionnaire not later than September 1 of each year if a bid or proposal is pending, unless a questionnaire was filed between June 1 and September of that year. The records administrator for a local governmental entity must maintain a list of local government officers and make that list available to the public and any person who may be required to file a questionnaire. All required filings may be made in an electronic form approved by the Texas Ethics Commission and a governmental entity must provide access to the statements and questionnaires filed under Chapter 176 on the entity's Internet Web site. A county with a population of 800,000 or more or a municipality with a population of 500,000 or more must provide on its Internet Web site access to each report of political contributions and expenditures filed under Chapter 254 of the Elections Code by members of the commissioners court of the county or the governing body of the municipality. The requirements of Chapter 176 are in addition to any other disclosure required by law. The law is effective June 18, 2005, and affects local government officials. No filings are required before January 1, 2006.

Section 271.9051

H.B. 664 adds Section 271.9051 to allow a municipality with a population of less than 250,000 to consider a bidder's principal place of business when awarding contracts that are open for bid, if the local bidder's price is within 5 percent of the lowest bid. The governing body must also determine that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities, including the employment of residents and increased tax revenues to the municipality. The exception does not apply to the purchase of telecommunications services or information services. The law is effective September 1, 2005, and affects small cities and local business owners.

Section 334.0241

S.B. 1730 adds Section 334.0241 to allow a municipality or a county imposing a hotel occupancy tax under Subchapter H of the Local Government Code to conduct an election to authorize the use of revenue derived from ad valorem taxes to finance a venue project. The law is effective June 17, 2005, and affects counties and cities.

Section 334.041

S.B. 1730 amends Subsection (f) to a county or municipality to use revenue derived from ad valorem taxes to finance a venue project if it is approved through voter approval. The law is effective June 17, 2005, and affects counties and cities.

Chapter 336

S.B. 1205 adds Chapter 336 authorizing the creation of Multi-Jurisdictional Library Districts by units of local government to establish, equip, support, operate and maintain one or more public libraries for the dissemination of educational programs and general information relating to the arts, sciences, literature and other subject areas of interest to the public. Each library must be accredited by and meet the standards for basic public library services established by the Texas State Library and Archives Commission. The district board is authorized to impose an annual ad valorem tax and sales and use tax. The law is effective June 17, 2005, and affects cities and counties.

Chapter 373

H.B. 525 adds Chapter 373A to allow the creation of Homestead Preservation Districts to promote home ownership, to prevent the involuntary loss of homesteads, and to provide affordable housing in disadvantaged communities. A district will be a creation of the municipality consisting of an area where the median family income is less than 60 percent of the median family income of the entire municipality; and adjacent to a Central Business District. The district will have authority to hold, acquire and transfer residential property to qualified persons and families, and can establish and use tax increment funds to finance the district. Taxing units can choose to pay a portion of their tax increment to fund district activities. The amount of a taxing unit's tax increment for a year will be the amount of property taxes on the appraised value of property in the district above the base appraised value for the year in which the district was created. Real property owned by the district through the creation of a land trust will be exempt from state and local taxation. The law is effective September 1, 2005, and affects all taxing units in certain defined areas.

Chapter 379D

S.B. 356 adds Chapter 379D to create the Urban Land Bank Program Act for a Municipality with a Population of 1.9 million or more. The bill authorizes the establishment by a municipality of a land bank for the purpose of acquiring, holding and transferring real property under the Act. Property ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank for purposes of affordable housing development without first offering the property for sale as required by Section 34.01 of the Tax Code. To qualify for a private sale to a land bank: (1) the market value of the land must be less than the amount of taxes, penalties, interest, court costs and costs of sale; (2) the property does not meet municipal health and safety code standards; (3) taxes must be delinquent on the property for each of the preceding six years; and (4) the municipality must execute agreements with other taxing units to participate in the sale and in an affordable housing program. The law is effective September 1, 2005, and affects large cities.

NATURAL RESOURCES CODE

Chapter 183

S.B. 1273 amends Chapter 183 by adding Subchapter B to create the Texas Farm and Ranch Lands Conservation Program in the General Land Office to enable and facilitate the purchase and donation of agricultural conservation easements. Agricultural conservation easements are designed to: (1) conserve water quality or quantity; (2) conserve native wildlife species through protection of their habitat; (3) conserve rare or sensitive plant species; or (4) conserve large tracts of qualified open-space land that are threatened with fragmentation or development. The bill establishes the Texas Farm and Ranch Lands Conservation Fund for purchase of agricultural conservation easements. An agricultural conservation easement does not affect the eligibility of the property subject to the easement for productivity appraisal under Chapter 23 of the Tax Code. The law is effective September 1, 2005, and affects farmers, ranchers and appraisal districts.

OCCUPATIONS CODE

Section 1151.164

H.B. 2382 adds Section 1151.164 to the Occupations Code to require the Board of Property Tax Professionals (BTPE) to implement a training program for newly appointed chief appraisers and to prescribe the curriculum. The training program must provide the appointee with information regarding: (1) Chapter 1151 of the Occupations Code; (2) BTPE operated programs; (3) BTPE roles and functions; (4) BTPE rules, with emphasis on ethical behavior; (5) the roles and functions of the chief appraiser, the appraisal district board of directors and the appraisal review board; (6) the importance of maintaining the independence of an appraisal office from political pressure; (7) the importance of prompt and courteous treatment of the public; (8) the finance and budgeting requirements for an appraisal district, including appropriate controls to ensure that expenditures are proper; and (9) the requirements of laws concerning open meetings, public information, administrative procedures, conflicts-of-interest and standards of ethics. The training program implemented by BTPE must be provided by BTPE or a BTPE approved provider. BTPE is required to identify at least two providers before finally approving a provider. The law is effective June 18, 2005, and affects appraisal districts.

PROPERTY CODE

Section 12.002

H.B. 2491 amends Subsection (e) to allow an exception to the prohibition from filing a plat or replat record in the county clerk's office, unless the plat or replat of a subdivision of real property has attached to it an original tax certificate from each taxing unit indicating that no delinquent property taxes are owed on the real property. The amendment allows an exception for a taxing unit acquiring real property for public use through eminent domain proceedings or voluntary sale. The law is effective September 1, 2005, and affects all taxing units.

H.B. 3101 amends Subsection (e) to require a plat or replat of a subdivision of real property filed after September 1, to have attached a tax receipt issued by the collector for each taxing unit with jurisdiction of the property indicating that the taxes imposed by the taxing unit for the current year have been paid, or if the taxes for the current year have not been calculated, a statement from the collector indicating that taxes to be imposed by that taxing unit for the current year have not been calculated. If the required attached tax certificate does not cover the preceding year, the person filing the plat or replat must also attach a tax receipt issued by the collector for the taxing unit indicating that taxes imposed by the taxing unit for the preceding year have been paid. The law is effective September 1, 2005, and affects all taxing units.

Section 21.0211

H.B. 2491 adds a new Section 21.0211 relating to eminent domain proceedings, to require the payment of property taxes owed on condemned property before a person may withdraw from the court's registry any reward by the government for the condemned property. The law is effective September 1, 2005, and affects property owners.

UTILITIES CODE

Sections 39.001 and 39.903

S.B. 1652 amends Section 39.903 and repeals Section 39.901 of the Utilities Code to remove unnecessary language requiring the Comptroller to calculate and report to the Texas Education Agency the net loss in electric generating property value caused by electric utility restructuring. The law is effective September 1, 2005, and affects the Comptroller's Property Tax Division.

SESSION LAWS

H.B. 192 requires a rollback election petition to reduce the Montgomery County Hospital District's tax rate to the rollback rate to be submitted to the county elections administrator of Montgomery County instead of the Montgomery County Appraisal District board of directors. The county elections administrator must certify the determination of the petition's validity to the appraisal district board of directors no later than the 20th day after the petition is submitted. If the county elections administrator fails to act within the time allowed, the petition is deemed to be valid. If the petition is valid, the board of directors must order a rollback election. The law is effective June 17, 2005, and affects Montgomery County Hospital District.

Property Tax Information Services
www.window.state.tx.us
Call toll free in Texas 1-800-252-9121
In Austin, call (512) 305-9999

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