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OPINION COMMITTEE

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The Honorable Greg Abbott
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RQ-0655-GA

Dear General Abbott:

I request your opinion on several questions related to the implementation of HB 1010, effective January 1, 2008. HB 1010 repeals all but subsection (a) of Sec. 6.02, Tax Code, and amends (a) to provide that an appraisal district's boundaries are the same as the county's boundaries. The bill also repeals Sec. 6.025, dealing with joint procedures for overlapping CADs. There are various other conforming amendments related to school finance. Under Sec. 6.02 as it is currently written, appraisal districts may have overlapping boundaries in circumstances where a taxing unit that has territory in more than one county has elected to have a single appraisal district appraise all of its territory.

The questions concern the effect of HB 1010 on matters pending before the respective appraisal review boards at the time HB 1010 takes effect, as well as on the mechanism for supplementing or correcting appraisal roll entries concerning overlapping territory for 2007 and earlier years. The savings and transition section of HB 1010 provides that "[the] changes in law made by this Act relating to the appraisal of property for ad valorem tax purposes apply only to the appraisal of property for a tax year that begins on or after January 1, 2008. The Code Construction Act, Sec. 311.031, provides in general that the amendment or repeal of a statute does not affect the prior operation of the statute, any privilege or liability under the prior statute, or any proceeding or remedy concerning any privilege or liability available under the prior statute. The questions are below. For simplicity, I will refer to appraisal district A and B. All questions relate to property in appraisal district A that will be in appraisal district B once the bill takes effect. The Legislature's adoption of the general savings clause in the Code Construction Act indicates a general legislative policy that the repeal of any statute shall not affect the prior operation of that statute nor extinguish any liability incurred or affect any right accrued or claim arising before the repeal takes effect. *Quick v. City of Austin*, 7 S.W. 3d 109, Tex. 1998.

1) A protest or correction motion relating to 2007 or an earlier year is presently pending before the appraisal review board for appraisal district A. Does the appraisal review board for district A

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retain jurisdiction after January 1 to hear and determine the protest, and order a change to the relevant appraisal roll for the affected jurisdictions? It would seem the answer is yes.

2) Assuming the answer to question 1) is yes, would the chief appraiser of appraisal district A still be required under Sec. 6.025 to notify the chief appraiser of appraisal district B, and would that chief appraiser be required to enter the reduced value on the appraisal roll? Again, it would seem the answer is yes.

3) In the event that the chief appraiser in appraisal district A discovers property that was not taxed in 2007 or in prior years in territory that is transferred to appraisal district B under HB 1010, does the chief appraiser of appraisal district A retain the authority to supplement the property onto the appropriate appraisal rolls under Sec. 25.21, Tax Code? Under the Tax Code, Sec. 32.01, a lien attaches to all property on January 1 to secure the payment of taxes later imposed for the year. It would seem that, as the lien is a liability accrued under the prior statute, The Code Construction Act would govern.

4) Not all of the possible deadlines for filing protests or correction motions related to years prior to 2008 have elapsed. If a property owner files a protest or correction motion related to a year prior to 2008, and the property is located in territory transferred to appraisal district B, which appraisal review board has jurisdiction to hear the protest or correction. Again, it would seem that the appraisal review board for appraisal district A retains the authority.

It is clear that the intent of HB 1010 was to make the change in appraisal district boundaries effective only for 2008 and later years. A potential alternate construction of the law would be that the legal procedures and rights survive the transfer, but that the chief appraisers and appraisal review boards of the receiving districts acquire the responsibility and jurisdiction over these prior year matters. The practical consequence of this construction is that a great deal of time and expense would be incurred in making those transfers. Typically, appraisal districts with shared territory do not have interoperable computer systems, nor is there a mechanism for transferring a case from one appraisal review board to the other. Continuation of the effect of Sec. 6.025, which provides a mechanism for transferring appraisal review board hearing results, would achieve the same aim with much less disruption. Consequently, a construction that retains the structure and mechanisms of the prior statute is much more desirable.

I appreciate your attention to this matter.

Sincerely,



Fred Hill