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Appraisal District Director's Manual

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Tax Code Section 5.05(a) authorizes the Comptroller's office to prepare and issue publications relating to the appraisal of property and the administration of taxes as a public service. By publishing this manual, the Comptroller's office is making available an information resource of a general nature regarding the appraisal of property and the administration of taxes. This publication does not address and is not intended to address all aspects of property appraisal, tax administration or property tax law. The information contained in this publication neither constitutes nor serves as a substitute for legal advice. Pursuant to Tax Code Section 5.041(f), the Comptroller's office may not advise a property owner, a property owner's agent or the appraisal district on a protest matter. Questions regarding property appraisal, tax administration, the meaning or interpretation of statutes, legal requirements and other similar matters should, as appropriate or necessary, be directed to an attorney or other appropriate counsel.

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Introduction

Appraisal districts are responsible for appraising property in the district for ad valorem tax purposes for each taxing unit that imposes ad valorem taxes on property in the district.[1] An appraisal district is established in each county and has the same boundaries as the county's boundaries.[2] An appraisal district is a political subdivision of the state that is governed by a board of directors.[3]

Common abbreviations and terms used in this manual are:

ARB – appraisal review board

CAD – county appraisal district

TAC – tax assessor-collector

TDLR – Texas Department of Licensing and Regulation

Voting taxing units – taxing units that are entitled to vote on the appointment of members to the board of directors.

[1] Tex. Tax Code §6.01(b)

[2] Tex. Tax Code §§6.01(a) and 6.02(a)

[3] Tex. Tax Code §§6.01(c) and 6.03(a)

Governance

Composition of Board of Directors

The board of directors is composed of five members.[4] The number of directors can be increased up to 13 by action of the board of directors.[5] However, in most cases, the board of directors may not make this change if a voting taxing unit adopts a resolution opposing the change.[6]

Taxing units participating in the CAD may increase the number of directors up to 13 members if three-fourths of voting taxing units adopt resolutions.[7] A change is not valid if it reduces the voting entitlement of one or more taxing units (unless the taxing unit adopts one of two specified resolutions) or if it expands the types of taxing units that are entitled to vote on the appointment of directors.[8]

The county TAC is a nonvoting director, if not appointed as a voting director.[9] If a commissioner's court of the county enters into a contract for assessment and collections under Tax Code Section 6.24(b) or if the CAD board of directors enters into a contract for appraisal under Tax Code Section 6.05(b), then the county TAC is ineligible to serve on the board of directors.[10]

Appointment, Eligibility and Terms

Appointment: Taxing units—counties, cities/towns, school districts, junior colleges and certain conservation and reclamation districts—select directors in the fall of odd-numbered years.[11] Conservation and reclamation districts may participate in this process if at least one conservation and reclamation district in

the CAD delivers to the chief appraiser a written request to nominate and vote on the board of directors by June 1 of each odd-numbered year.[12] On request, the chief appraiser must certify all eligible conservation and reclamation districts that are imposing taxes and that participate in the CAD by June 15.[13]

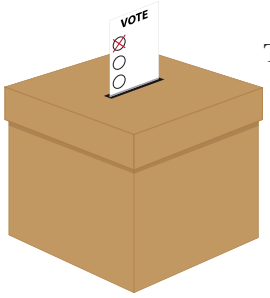
The board of directors is selected by appointment; it is not an election governed by the Texas Election Code.[14] The method or procedure for appointing members can be changed by the board of directors or by three-fourths of the voting taxing units acting through resolutions.[15]

The voting entitlement of a taxing unit is determined by a calculation that takes into account a taxing unit's share of the total dollar amount of property taxes imposed in the CAD.[16] The chief appraiser makes this calculation for each taxing unit (other than conservation and reclamation districts) and delivers written notice before Oct. 1 of each odd-numbered year of the number of votes to which each taxing unit is entitled.[17] Each taxing unit (other than a conservation and reclamation district) that is entitled to vote may submit to the chief appraiser one nominee for each position to be filled before Oct. 15.[18]

The chief appraiser also must calculate the number of votes that an eligible conservation and reclamation district is entitled to and must deliver before July 1 of each odd-numbered year, a written notice to the district of its voting entitlement

4 Tex. Tax Code §6.03(a)
5 Tex. Tax Code §6.031(a)
6 Tex. Tax Code §6.031(a)
7 Tex. Tax Code §6.031(b)
8 Tex. Tax Code §6.031(b)
9 Tex. Tax Code §6.03(a)
10 Tex. Tax Code §6.03(a)
11 Tex. Tax Code §6.03
12 Tex. Tax Code §6.03(c)
13 Tex. Tax Code §6.03(c)
14 Tex. Att'y Gen. Op. JM-166 (1984)
15 Tex. Tax Code §6.031(a) and (b)
16 Tex. Tax Code §6.03(d)
17 Tex. Tax Code §6.03(e)
18 Tex. Tax Code §6.03(g)

and right to nominate one candidate for director.[19] All eligible conservation and reclamation districts must submit the name of the district's nominee to the chief appraiser before July 15 of each odd-numbered year.[20] Before Aug. 1, the chief appraiser must prepare a nominating ballot listing all the nominees of conservation and reclamation districts and deliver a ballot to the presiding officer of the board of directors of each district.[21] The board of directors of each district must submit its vote for the nominee of conservation and reclamation districts before Aug. 15.[22] The winning nominee of the conservation and reclamation districts in the CAD becomes a nominee for CAD director.[23]



The chief appraiser must prepare a ballot before Oct. 30 with candidates whose names were timely submitted, including the nominee of conservation and reclamation districts if applicable.[24] Each taxing unit entitled to vote must determine its vote by resolution and submit it to the chief appraiser before Dec. 15.[25] The five candidates who receive the largest cumulative vote totals become the board of directors.[26] The chief appraiser announces the new directors before Dec. 31.[27] Ties must be resolved by the chief appraiser by any method of chance.[28]

Both the board of directors and taxing units may propose to change the method or procedure for appointing directors.[29] If the board of directors makes the proposal, then a voting taxing unit may veto the proposal by filing a resolution before Sept. 1.[30] If a participating taxing unit proposes a change, the change is adopted if three-fourths of the voting taxing units adopt resolutions providing for the change.[31] A resolution to change the method or procedure for appointing directors must be filed with the chief appraiser after June 30 and before Oct. 1 of a year in which members are appointed, or the resolution is ineffective.[32]

Throughout the selection process, the Tax Code specifies dates for action by the chief appraiser and the taxing units. The dates provided in Tax Code Section 6.03(f) and (g) are directory and not mandatory.[33] However, the advice of legal counsel should be obtained in such situations.

Eligibility: To be eligible to serve on a board of directors, an individual must be a resident of the CAD and must have resided in the CAD for at least two years immediately preceding the date of taking office.[34] This residency requirement does not apply to a county TAC serving as a nonvoting director.[35]

An employee of a taxing unit that participates in the CAD is not eligible to serve on the board of directors, unless that individual also is a member of the governing body of the taxing unit or an elected official of a taxing unit.[36] Membership on the governing body of a taxing unit does not make an otherwise eligible individual ineligible to serve on the board of directors.[37]

Owing delinquent property taxes disqualifies a person from serving on the CAD board of directors.[38] The person is ineligible if he or she owns property on which delinquent property taxes have been owed for more than 60 days after the date the person knew or should have known of the delinquency.[39] This disqualification does not apply if the person is paying the delinquent taxes and any penalties and interest under an installment payment agreement or has deferred or abated a suit to collect the delinquent taxes.[40]

A person who has appraised property for compensation for use in proceedings or represented property owners for compensation in proceedings in the CAD at any time within the preceding five years is ineligible to serve on the board of directors.[41]

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[19] Tex. Tax Code §6.03(f) and (h)
[20] Tex. Tax Code §6.03(h)
[21] Tex. Tax Code §6.03(h)
[22] Tex. Tax Code §6.03(h)
[23] Tex. Tax Code §6.03(h)
[24] Tex. Tax Code §6.03(j)
[25] Tex. Tax Code §6.03(k)
[26] Tex. Tax Code §6.03(k)
[27] Tex. Tax Code §6.03(k)
[28] Tex. Tax Code §6.03(k)
[29] Tex. Tax Code §6.031(a) and (b)
[30] Tex. Tax Code §6.031(a)
[31] Tex. Tax Code §6.031(b)
[32] Tex. Tax Code §6.031(c)
[33] Tex. Att'y Gen. Op. JM-166 (1984)
[34] Tex. Tax Code §6.03(a)
[35] Tex. Tax Code §6.03(a)
[36] Tex. Tax Code §6.03(a)
[37] Tex. Tax Code §6.03(a)
[38] Tex. Tax Code §6.035(a)(2)
[39] Tex. Tax Code §6.035(a)(2)
[40] Tex. Tax Code §6.035(a)(2)
[41] Tex. Tax Code §6.035(a-1)

Degrees of Consanguinity and Affinity

1st DEGREE	2nd DEGREE	3rd DEGREE
By Consanguinity • Parents • Children **By Affinity** • Spouses of relatives listed under first degree consanguinity • Spouse • Spouse's parents • Spouse's children • Stepparents • Stepchildren	**By Consanguinity** • Grandparents • Grandchildren • Brothers & sisters **By Affinity** • Spouses of relatives listed by second degree consanguinity • Spouse's grandparents • Spouse's grandchildren • Spouse's brothers & sisters	**By Consanguinity** • Great grandparents • Great grandchildren • Nieces & nephews • Aunts & uncles **By Affinity** • No prohibitions

A person is ineligible to serve on the board of directors if the individual is related within the second degree of consanguinity (blood) or affinity (marriage) to the following:

- an appraiser who appraises property for use in a proceeding under the Tax Code; or
- a person who represents property owners for compensation in proceedings under the Tax Code in the CAD.[42]

A director who continues to hold office knowing he or she is related in this manner to the above named persons commits a Class B misdemeanor offense.[43]

An individual is not eligible to be appointed to or to serve on the board of directors if an individual has a substantial interest in a business entity that is party to a contract or the individual is a party to a contract with the CAD.[44] This prohibition also applies to contracts with a taxing unit that participates in the CAD if the contract relates to the performance of an activity governed by the Tax Code.[45] A CAD may not enter into a contract with a board member or with a business entity in which a board member has a substantial interest.[46] A taxing unit may not enter into a contract relating to the performance of an activity governed by the Tax Code with a board member in which the taxing unit participates or with a business entity in which a board member has a substantial interest.[47]

An individual has substantial interest in a business entity if:

- the combined ownership of the director and the director's spouse is at least 10 percent of the voting stock or shares of the business entity; or
- the director or director's spouse is a partner, limited partner or officer of the business entity.[48]

Term of Office and Vacancy: CAD directors serve two-year terms.[49] Each term begins on Jan. 1 of an even-numbered year.[50] The two-year term of office does not apply to the county TAC who serves as a nonvoting director.[51]

Voting taxing units may adopt staggered one and two-year terms.[52] To adopt staggered terms, taxing units must take two actions.[53] First, at least three-fourths of the voting taxing units

[42] Tex. Tax Code §6.035(a)(1)
[43] Tex. Tax Code §6.035(b)
[44] Tex. Tax Code §6.036(a)
[45] Tex. Tax Code §6.036(a)
[46] Tex. Tax Code §6.036(b)
[47] Tex. Tax Code §6.036(c)
[48] Tex. Tax Code §6.036(d)
[49] Tex. Tax Code §6.03(b)
[50] Tex. Tax Code §6.03(b)
[51] Tex. Tax Code §6.03(b)
[52] Tex. Tax Code §6.034(a)
[53] Tex. Tax Code §6.034(a)

are required to adopt resolutions for staggered terms.[54] Second, the voting taxing units must have changed the method for appointing members to end cumulative voting (casting all or part of the votes to which the taxing unit is entitled). These two actions may be proposed concurrently.[55]

A resolution proposing staggered terms must be filed with the chief appraiser after June 30 and before Oct. 1.[56] If the chief appraiser determines that enough taxing units filed valid resolutions, he or she must notify all taxing units of the change before Oct. 10.[57] Staggered terms take effect on Jan. 1 of the next even-numbered year.[58] To start staggering terms, all members are appointed for that year without regard to staggered terms.[59] At the earliest practical date after Jan. 1, the board determines by lot which of its members will serve one- and two-year terms.[60]

Boards with an even number of members divide the one- and two-year terms in half. Boards with an odd number of members must have one more member with a two-year term than members with one-year terms.[61] For example, a six-member board would choose three members to serve one-year terms. A five-member board would choose two.

For each director's term that expires on Jan. 1, the CAD must annually appoint directors for a term that begins on that Jan. 1.[62]

Staggered terms may be rescinded by resolution of a majority of voting taxing units.[63] The resolution must be adopted and filed with the chief appraiser after June 30 and before Oct. 1 of odd-numbered years.[64] After a valid rescission, the terms of all current members expire on the next Jan. 1, even if a member will have only served one year of a two-year term.[65] The entire board will be appointed for two-year terms on that date.[66] Staggered terms are automatically rescinded if the CAD makes a change in the method of appointing board members that results in a method of using cumulative voting.[67]

Board members may not receive compensation for service on the board but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.[68] This reimbursement is as provided by the budget adopted the board of directors.[69]

If a vacancy occurs on the board, each voting taxing unit nominates by resolution a candidate to fill the vacancy.[70] Within 45 days after receiving notice from the board of directors that a vacancy exists, a taxing unit must submit the nomination to the chief appraiser.[71] The chief appraiser delivers a list of the nominees to the directors within the next five days.[72] Directors select by majority vote one of the nominees to fill the vacancy.[73] If a vacancy occurs for a board with staggered terms, the vacancy is filled by appointment of the voting taxing unit that nominated the person whose departure caused the vacancy.[74]

Conflicts of Interest

Board members are subject to conflict of interest provisions in law, including Tax Code Section 6.036 which excludes certain individuals from serving on the board of directors. Local Government Code Chapter 171 applies to all local officials, including boards of directors of CADs. Local Government Code Chapter 176 applies to officers of political subdivisions of the state.[75]

For more information, see the Texas Ethics Commission's conflict of interest forms at www.ethics.state.tx.us/filinginfo/conflict_forms.htm.

[54] Tex. Tax Code §6.034(a)
[55] Tex. Tax Code §6.034(a)
[56] Tex. Tax Code §6.034(b)
[57] Tex. Tax Code §6.034(c)
[58] Tex. Tax Code §6.034(d)
[59] Tex. Tax Code §6.034(d)
[60] Tex. Tax Code §6.034(d)
[61] Tex. Tax Code §6.034(d)
[62] Tex. Tax Code §6.034(e)
[63] Tex. Tax Code §6.034(g)
[64] Tex. Tax Code §6.034(g)
[65] Tex. Tax Code §6.034(g)
[66] Tex. Tax Code §6.034(g)
[67] Tex. Tax Code §6.034(h)
[68] Tex. Tax Code §6.04(c)
[69] Tex. Tax Code §6.04(c)
[70] Tex. Tax Code §6.03(l)
[71] Tex. Tax Code §6.03(l)
[72] Tex. Tax Code §6.03(l)
[73] Tex. Tax Code §6.03(l)
[74] Tex. Tax Code §6.034(i)
[75] Tex. Local Government Code §171.001(1) and §176.001(3) and (4)

Ex Parte Communications

A board member commits a Class C misdemeanor offense if the member directly or indirectly communicates with the chief appraiser on any matter relating to the appraisal of property by the CAD.[76] However, this type of communication is allowed in:

- an open meeting of the CAD board of directors or another public forum; or
- a closed meeting of the board of directors held to consult with its attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and its attorney.[77]

These ex parte communication provisions do not apply to a routine communication between the chief appraiser and the county TAC relating to the administration of an appraisal roll, including a communication made in connection with the certification, correction or collection of an account.[78] This exception applies regardless of whether the county TAC was appointed to the board of directors or serves as a nonvoting director.[79]

Oath of Office

The Texas Constitution requires all elected and appointed officers to sign an anti-bribery statement and take an oath of office before beginning the duties of the office.[80]

The constitutionally prescribed anti-bribery statement is located on the Secretary of State's website as Form 2201 at www.sos.state.tx.us/statdoc/forms/2201.pdf. A director signs this statement before the oath of office is administered.[81] Directors should retain the statement in the official records of the appraisal district.[82]

The official oath of office is found on the Secretary of State's website as Form 2204 at www.sos.state.tx.us/statdoc/forms/2204.pdf.

[76] Tex. Tax Code §6.15(a) and (d)
[77] Tex. Tax Code §6.15(a)
[78] Tex. Tax Code §6.15(c)
[79] Tex. Tax Code §6.15(c)
[80] Tex. Const. XVI, §1(a) and (b)
[81] Tex. Const. XVI, §1
[82] Tex. Const. XVI, §1(c)

Recalling a Director

A taxing unit may ask for the recall of any director the taxing unit voted for in the appointment process.[83] A recall starts when a taxing unit files a resolution with the chief appraiser stating that the taxing unit is calling for the recall of a named member.[84] Within 10 days after a taxing unit files a recall resolution, the chief appraiser must give written notice of the filing of the resolution to the presiding officer of each voting taxing unit.[85]

Only the taxing units that voted for the member may vote.[86] A recall-voting taxing unit has the same number of votes in the recall that it cast in appointing the board member.[87] A taxing unit votes by submitting a resolution to the chief appraiser on or before the 30th day after the recall resolution is filed.[88]

Not later than the 10th day after the last day for voting in favor of the recall, the chief appraiser must count the casted votes.[89] A director is recalled if the number of votes cast in favor of recall equals or exceeds a majority of the votes cast appointing the board member.[90] The chief appraiser must immediately notify in writing the presiding officer of the board of directors and the governing body of each recall-voting taxing unit of the results.[91] If the chair is the subject of the recall, the board secretary shall also be notified.[92]

After a recall, the director's vacancy is filled by the recall-voting taxing units appointing a new board member.[93] Each recall-voting taxing unit may nominate by resolution one candidate and is entitled to the same number of votes it originally cast to appoint the recalled member.[94]

On or before the 15th day after the last day nominations must be submitted, the chief appraiser must prepare a ballot and deliver a copy of the ballot to the presiding officer of the governing body of each taxing unit that is entitled to vote to fill

[83] Tex. Tax Code §6.033(a)
[84] Tex. Tax Code §6.033(a)
[85] Tex. Tax Code §6.033(a)
[86] Tex. Tax Code §6.033(b)
[87] Tex. Tax Code §6.033(b)
[88] Tex. Tax Code §6.033(b)
[89] Tex. Tax Code §6.033(c)
[90] Tex. Tax Code §6.033(c)
[91] Tex. Tax Code §6.033(c)
[92] Tex. Tax Code §6.033(c)
[93] Tex. Tax Code §6.033(d)
[94] Tex. Tax Code §6.033(d)

the vacancy.[95] A taxing unit determines its vote by resolution and submits it to the chief appraiser.[96] The chief appraiser counts the votes on or before the 15th day after the last day on which a taxing unit may vote, declares the winner who received the largest vote total and notifies the chair of the board of directors, each taxing unit and the candidates.[97] The chief appraiser must resolve a tie vote by any method of chance.[98]

If the board of directors is appointed by another method or procedure adopted under Tax Code Section 6.031, the taxing units that voted for or participated in the appointment of the director may recall him or her and appoint a new director by any method adopted by resolution of a majority of recall-voting taxing units.[99] If the appointment was by election, the method of recall and appointing a new director to the vacancy is not valid unless it provides that each taxing unit is entitled to the same number of votes it cast for the member being recalled.[100]

[95] Tex. Tax Code §6.033(d)
[96] Tex. Tax Code §6.033(d)
[97] Tex. Tax Code §6.033(d)
[98] Tex. Tax Code §6.033(d)
[99] Tex. Tax Code §6.033(e)
[100] Tex. Tax Code §6.033(e)

Board Duties, Authority and Policies

A board of directors has required duties and authority under the Tax Code. Other additional duties and authority are provided for in other law. Consult an attorney regarding all legal duties and authority.

Primary Duties

The following is a nonexclusive list of the primary responsibilities of the board of directors under the Tax Code:

Establish the appraisal district office;[101]

Hire a chief appraiser;[102]

Adopt the CAD's annual operating budget before Sept. 15 after fulfilling notice requirements and holding a public hearing;[103]

Adopt a new budget within 30 days after a budget is disapproved by voting taxing units;[104]

Appoint appraisal review board (ARB) members in counties with a population of less than 120,000;[105]

Select a chairman and a secretary from among ARB members;[106]

Notify taxing units of any vacancy on the board and elect by majority vote of members one of the submitted nominees;[107]

Elect from members a chair and secretary at the first meeting of the calendar year;[108]

Have board meetings at least once each calendar quarter;[109]

Develop and implement policies regarding reasonable access to the board;[110]

Prepare information describing the board's functions and complaint procedures; the information must be made available to the public and the appropriate taxing units;[111]

Notify parties to a complaint filed with the board of the status of the complaint unless otherwise provided;[112]

Appoint a taxpayer liaison officer (in counties having a population of over 120,000);[113]

Biennially develop a written plan for the periodic reappraisal of all property in the CAD's boundaries, hold a public hearing with the required notice, approve a plan by Sept. 15 of each even-numbered year and distribute copies to participating taxing units and to the Comptroller's office as required;[114]

Make an agreement with newly formed taxing unit's governing body on an estimated budget allocation for the new taxing unit;[115]

Have prepared an annual financial audit conducted by an independent certified public accountant and deliver a copy of the audit to each voting taxing unit and make available for inspection at the CAD office;[116]

Designate the CAD depository at least once every two years;[117]

Receive taxing units' resolutions disapproving board actions;[118]

Adhere to requirements regarding purchasing and contracting under Local Government Code Chapter 252;[119]

Provide advice and consent to the chief appraiser concerning the appointment of an agricultural appraisal advisory board and determine the number of members on that advisory board;[120]

Adhere to laws concerning the preservation, microfilming, destruction or other disposition of records; and[121]

Adopt and implement a policy for the temporary replacement of an ARB member who violates ex-parte communication requirements.[122]

[101] Tex. Tax Code §6.05(a)
[102] Tex. Tax Code §6.05(c)
[103] Tex. Tax Code §6.06(b)
[104] Tex. Tax Code §6.06(b)
[105] Tex. Tax Code §§6.41(d) and (d-1) and 6.42(a)
[106] Tex. Tax Code §6.42(a)
[107] Tex. Tax Code §6.03(l)
[108] Tex. Tax Code §6.04(a)
[109] Tex. Tax Code §6.04(b)
[110] Tex. Tax Code §6.04(d) and (e)
[111] Tex. Tax Code §6.04(f)
[112] Tex. Tax Code §6.04(g)
[113] Tex. Tax Code §6.052(a)
[114] Tex. Tax Code §6.05(i)
[115] Tex. Tax Code §6.06(h)
[116] Tex. Tax Code §6.063(a) and (b)
[117] Tex. Tax Code §6.09
[118] Tex. Tax Code §6.10
[119] Tex. Tax Code §6.11
[120] Tex. Tax Code §6.12(a)
[121] Tex. Tax Code §6.13
[122] Tex. Tax Code §41.66(g)

Statutory Authority

Tax Code Chapter 6 contains much of the statutory authority for boards of directors. The following is a non-exclusive list of boards' authority:

Provide for the operation of a consolidated CAD by interlocal contract between two or more adjoining CADs;[123]

Change the number of directors or method of selecting directors, or both, unless any of the voting taxing units oppose the change;[124]

Have board meetings at any time at the call of the chair or as provided by board rule;[125]

Contract with another CAD or with a taxing unit in the CAD to perform the duties of the appraisal district office;[126]

Prescribe, by resolution, specified actions of the chief appraiser relating to CAD finances or administration that are subject to board approval;[127]

Employ a general counsel to the CAD to serve at the will of the board;[128]

Purchase or lease real property and construct improvements necessary to establish and operate an appraisal district office or branch office;[129]

Convey real property owned by the CAD;[130]

Amend the approved operating budget after giving notice to participating taxing units not later than the 30th day before the date the board acts on the proposed amendment;[131]

Authorize the chief appraiser to disburse CAD funds;[132]

Change the CAD's method of financing unless any participating taxing unit opposes the change;[133]

Contract with the governing body of a taxing unit or county to assess and collect taxes through the Interlocal Cooperation Act;[134]

Change the number of ARB members; and[135]

Appoint auxiliary ARB members and select the number of auxiliary members by resolution, except in certain counties.[136]

[123] Tex. Tax Code §6.02
[124] Tex. Tax Code §6.031(a)
[125] Tex. Tax Code §6.04(b)
[126] Tex. Tax Code §6.05(b)
[127] Tex. Tax Code §6.05(h)
[128] Tex. Tax Code §6.05(j)
[129] Tex. Tax Code §6.051(a)
[130] Tex. Tax Code §6.051(c)
[131] Tex. Tax Code §6.06(c)
[132] Tex. Tax Code §6.06(f)
[133] Tex. Tax Code §6.061(a)
[134] Tex. Tax Code §6.24(a) and (b)
[135] Tex. Tax Code §6.41(b)
[136] Tex. Tax Code §6.414

The Tax Code also provides certain statutory authority to the board of directors outside of Chapter 6, including authorizing a board of directors to approve the chief appraiser to contract with private appraisal firms to perform appraisal services under Tax Code Section 25.01(b). On written approval of the board of directors, a chief appraiser is entitled to appeal certain ARB orders to district court as provided by Tax Code Section 42.02.

Limited Appraisal Authority

The board's appraisal authority is limited. The board does not appraise property or review values on individual properties. The law assigns these tasks to the chief appraiser and the ARB, respectively. The board of directors does have the authority to give written approval for a chief appraiser to appeal certain ARB orders in court.[137]

The board has authority over appraisal policy through the following duties and authority:

- duty to develop biennially a written plan for periodic reappraisal;[138]
- duty to adopt an operating budget to reflect the board's decisions on handling appraisals;[139]
- authority to contract with another CAD or with a taxing unit in the CAD to perform the duties of the appraisal district's office; and[140]
- authority to approve the chief appraiser to contract with private appraisal firms to perform appraisal services.[141]

Meetings

At the board of directors' first meeting each calendar year, the board must elect from its members a chairman and a secretary.[142] A nonvoting TAC may serve as chairman or secretary.[143] A majority of the CAD board of directors constitutes a quorum.[144] A TAC who is

[137] Tex. Tax Code §42.02(a) and (c)
[138] Tex. Tax Code §6.05(i)
[139] Tex. Tax Code §6.06(b)
[140] Tex. Tax Code §6.05(b)
[141] Tex. Tax Code §25.01(b)
[142] Tex. Tax Code §6.04(a)
[143] Tex. Att'y Gen. Op. JC-0580 (2002)
[144] Tex. Tax Code §6.04

a nonvoting member is counted in determining the presence of a quorum.[145]

The board may meet at any time at the call of the chairman or as provided by board rule.[146] However, the board must meet at least once each calendar quarter.[147]

The board must provide reasonable time at meetings for public comment on CAD and ARB policies and procedures and allow a reasonable amount of time for a taxpayer liaison officer's report if applicable.[148]

Disapproval of Board Actions

At times, the board of directors may take an action with which the majority of voting taxing units may disagree. Under Tax Code Section 6.10, a majority of voting taxing units may veto any action by the board of directors.[149] This disapproval power under Tax Code Section 6.10 does not apply to the adoption of the budget by the board.[150]

To veto a board action other than the budget, the governing bodies of a majority of voting taxing units must adopt resolutions disapproving the action.[151] The voting taxing units must file the resolutions with the board's secretary within 15 days after the action is taken.[152] The board action is revoked effective the day after the day on which the required number of resolutions is filed.[153]

For voting taxing units to disapprove the CAD budget, a majority of the taxing units must file a resolution with the board's secretary within 30 days after the budget is adopted.[154]

Written Policies

Through its policies, the board determines the CAD's goals and operates as the decision-making body of the CAD. While the Tax Code requires boards of directors to develop written policies on certain issues, a written policy covering all operational aspects of CAD operations should be considered.

Written procedures and policies are good management tools. A policy manual allows the board to make important decisions carefully and in advance, rather than in response to crisis situations. They permit the CAD's operations to continue uninterrupted if key employees leave. A policy manual also helps educate the public and others about CAD operations.

Examples of policies of boards of directors can be found at comptroller.texas.gov/taxinfo/proptax/bodpolicies/.

Required Policies

State law requires the board to have written policies on specific issues. The board must:

- develop and implement policies that provide the public with reasonable opportunity to appear before the board to speak on any issue under the board's jurisdiction;[155]
- prepare and maintain a written plan that describes how a non-English speaking person or a person who has a physical, mental or developmental disability may be provided reasonable access to the board; and[156]
- prepare information of public interest describing the board's functions and procedures to file complaints and how complaints are resolved by the board.[157]

The board must biennially develop a written reappraisal plan for the periodic reappraisal of all property in the CAD's boundaries by Sept. 15 of each even-numbered year.[158] The plan is required to comply with Tax Code Section 25.18.[159] Certain activities are required to be conducted in the reappraisal of all real and personal property located in the CAD at least once every three years.[160] In summary, those activities are the following:

- identifying properties by physical inspection or other reliable means of identification (such as deeds or other legal

[145] Tex. Att'y Gen. Op. JC-0580 (2002)
[146] Tex. Tax Code §6.04(b)
[147] Tex. Tax Code §6.04(b)
[148] Tex. Tax Code §6.04(d)
[149] Tex. Tax Code §6.10
[150] Tex. Tax Code §6.10
[151] Tex. Tax Code §6.10
[152] Tex. Tax Code §6.10
[153] Tex. Tax Code §6.10
[154] Tex. Tax Code §6.06(b)
[155] Tex. Tax Code §6.04(d)
[156] Tex. Tax Code §6.04(e)
[157] Tex. Tax Code §6.04(f)
[158] Tex. Tax Code §6.05(i)
[159] Tex. Tax Code §6.05(i)
[160] Tex. Tax Code §25.18(b)

documentation, aerial or land-based photographs, surveys, maps and sketches);
- identifying and updating property characteristics;
- defining market areas;
- identifying property characteristics affecting value in market areas (such as location and market area of property, physical attributes of property, legal and economic attributes and legal restrictions);
- developing an appraisal model that reflects the relationship among property characteristics affecting value in each market area and determines the contribution of individual property characteristics;
- applying the conclusions from the model to the characteristics of individual properties; and
- reviewing the appraisal results to determine value.[161]

Tax Code Section 23.01(b) provides that if a CAD determines the appraised value of a property using mass appraisal standards, those standards must comply with the Uniform Standards of Professional Appraisal Practice.

The board of directors must hold a public hearing to consider the proposed plan and provide written notice to each participating taxing unit of the hearing not later than the 10th day before the hearing.[162] After holding the public hearing and approving a plan by Sept. 15 of each even-numbered year, the board of directors must distribute copies of the plan to the participating taxing units and to the Comptroller's office within 60 days of the approval date.[163]

The board of directors may include language in the reappraisal plan to give the chief appraiser discretion to make limited changes, especially as they relate to the work plan or schedule of appraisal activities, without the need for additional board approval or plan amendment. This limited authority would allow the chief appraiser to make timeline adjustments to meet staffing needs or to address other management issues.

In order to ensure timely compliance with the reappraisal plan, the board of directors should consider conducting an annual review of plan implementation. Attention to completion of tasks according to the appraisal work plan or schedule should be given, along with completion of reappraisal activities for all identified market areas.

If the plan requires revision because of staff reductions, changes in market areas, unexpected circumstances, or any other reason deemed appropriate by the board of directors, it may be amended by official action, without the board of directors conducting another public hearing. Copies of the amended reappraisal plan should be distributed to the participating taxing units and the Comptroller's office.

A CAD board of directors also must adopt and implement a policy for the temporary replacement of an ARB member who has communicated with another person in violation of ex parte communication provisions.[164] An ARB member may not communicate with another person concerning the evidence, argument, facts, merits or any other matters related to an owner's protest, except during the hearing on the protest.[165] An ARB member also may not communicate with another person concerning a property that is the subject of the protest, except during a hearing on another protest or other proceeding before the board at which the property is compared to other property or used in a sample of properties.[166]

[161] Tex. Tax Code §25.18(b)
[162] Tex. Tax Code §6.05(i)
[163] Tex. Tax Code §6.05(i)
[164] Tex. Tax Code §41.66(g)
[165] Tex. Tax Code §41.66(f)
[166] Tex. Tax Code §41.66(f)

Appointing the Chief Appraiser

The chief appraiser is the chief administrator of the CAD.[167] The chief appraiser is generally appointed by and serves at the pleasure of the CAD board of directors;[168] however, the Comptroller's office may appoint a chief appraiser in certain circumstances. If a taxing unit performs the duties of the CAD pursuant to a contract, the assessor for the taxing unit is the chief appraiser.[169]

Qualifications

To be eligible to serve as a chief appraiser, a person must hold one of the following professional designations:

- Registered Professional Appraiser (RPA) from TDLR;
- MAI from the Appraisal Institute;
- Assessment Administration Specialist from the International Association of Assessing Officers (IAAO);
- Certified Assessment Evaluator from IAAO; or
- Residential Evaluation Specialist from IAAO.[170]

A chief appraiser with a professional designation other than an RPA, must become certified with TDLR as an RPA within five years of appointment as chief appraiser.[171]

A person may not serve as a chief appraiser unless the person has completed the chief appraiser training program prescribed by Occupations Code Section 1151.164.[172] This does not apply to a county TAC who serves as a chief appraiser.[173] It applies only to a chief appraiser appointed on or after July 1, 2006.[174] A person may serve in a temporary, provisional or interim capacity as chief appraiser for up to one year without completing this training.[175]

Owing delinquent property taxes disqualifies a person from serving as chief appraiser.[176] A person is ineligible for employment as a chief appraiser if he or she owns property on which delinquent property taxes have been owed for more than 60 days after the date the person knew or should have known of the delinquency.[177] This disqualification does not apply if the person is paying the delinquent taxes and any penalties and interest under an installment payment agreement or has deferred or abated a suit to collect the delinquent taxes.[178]

A person is also disqualified from employment as the chief appraiser if the person is related within the second degree by consanguinity or affinity to a person who appraises property for compensation for use in proceedings under the Tax Code or to a person who represents property owners for compensation in such proceedings in the CAD.[179] A chief appraiser who remains employed knowing he or she is related to an appraiser or tax representative as prohibited commits a Class B misdemeanor offense.[180]

A chief appraiser who is not eligible to serve cannot perform any action required by law for chief appraisers, including the preparation, certification or submission of any part of the appraisal roll.[181] A chief appraiser must give written notice of eligibility to serve as chief appraiser to the Comptroller's office no later than Jan. 1 each year.[182] The Comptroller's office will appoint

[167] Tex. Tax Code §6.05(c)
[168] Tex. Tax Code §6.05(c)
[169] Tex. Tax Code §6.05(c)
[170] Tex. Tax Code §6.05(c)
[171] Tex. Tax Code §6.05(c)
[172] Tex. Tax Code §5.042(a)
[173] Tex. Tax Code §5.042(c)
[174] Texas H.B. 2382, 79th Leg., Reg. Sess. (2005)
[175] Tex. Tax Code §5.042(b)
[176] Tex. Tax Code §6.035(a)
[177] Tex. Tax Code §6.035(a)
[178] Tex. Tax Code §6.035(a)
[179] Tex. Tax Code §6.035(a)
[180] Tex. Tax Code §6.035(a)
[181] Tex. Tax Code §6.05(c)
[182] Tex. Tax Code §6.05(c)

an eligible person to perform the duties of chief appraiser for a CAD whose chief appraiser is ineligible to serve.[183]

Duties and Authority

The CAD board of directors by resolution may prescribe that specified actions of the chief appraiser relating to the finances or administration of the CAD are subject to board approval.[184] The chief appraiser may employ and compensate professional, clerical and other personnel as provided by the CAD budget, with the exception of a general counsel to the CAD.[185] The chief appraiser may delegate authority to his or her employees.[186] The chief appraiser's primary duty is to discover, list, review and appraise all taxable property in the CAD using generally accepted appraisal techniques.

Compensation

The chief appraiser is entitled to compensation as provided by the budget adopted by the board of directors.[187] The chief appraiser's compensation may not be directly or indirectly linked to an increase in the total market, appraised or taxable value of property in the CAD.[188]

Conflicts of Interest

The chief appraiser is an officer of the CAD for purposes of the nepotism law in Government Code Chapter 573.[189] A CAD may not employ or contract with an individual or the spouse of an individual who is related to the chief appraiser within the first degree by consanguinity or affinity, as determined under Government Code Chapter 573.[190]

An appraisal performed by a chief appraiser in a private capacity or by an individual related within the second degree by consanguinity or affinity (as determined under Government Code Chapter 573) to the chief appraiser may not be used as evidence in a protest or challenge under Tax Code Chapter 41 or an appeal under Tax Code Chapter 42 concerning property that is taxable in the CAD in which the chief appraiser is employed.[191]

A chief appraiser commits a Class B misdemeanor offense if the chief appraiser refers a person, whether gratuitously or for compensation, to another person for the purpose of obtaining a property appraisal, whether or not the appraisal is for ad valorem tax purposes.[192]

Ex Parte Communications

A chief appraiser commits a Class C misdemeanor offense if the chief appraiser directly or indirectly communicates with a member of the board of directors on any matter relating to the appraisal of property by the CAD.[193] This type of communication is allowed in:

- an open meeting of the board of directors or another public forum; or
- a closed meeting of the board of directors held to consult with the board's attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and the board's attorney.

These ex parte communication provisions do not include a routine communication between the chief appraiser and the county TAC relating to the administration of an appraisal roll.[194] This applies regardless of whether the county TAC is a nonvoting member of board of directors or was appointed.[195]

Agricultural Appraisal Advisory Board

With the advice and consent of the board of directors, the chief appraiser appoints an agricultural advisory board composed of three or more members as determined by the board.[196] Members must have been CAD residents for at least five years and be landowners of the CAD whose land qualifies for special appraisal of agricultural use, open space agricultural or timber land.[197]

[183] Tex. Tax Code §6.0501(a)
[184] Tex. Tax Code §6.05(h)
[185] Tex. Tax Code §6.05(d)
[186] Tex. Tax Code §6.05(e)
[187] Tex. Tax Code §6.05(d)
[188] Tex. Tax Code §6.05(d)
[189] Tex. Tax Code §6.05(g)
[190] Tex. Tax Code §6.05(g)
[191] Tex. Tax Code §6.035(d)
[192] Tex. Tax Code §6.035(c)
[193] Tex. Tax Code §6.15(b) and (d)
[194] Tex. Tax Code §6.15(c)
[195] Tex. Tax Code §6.15(c)
[196] Tex. Tax Code §6.12(a)
[197] Tex. Tax Code §6.12(b)

The chief appraiser has authority and duties including, but not limited to, the following:

Appraisal	Appraise all taxable property at market value, except as otherwise provided by law	Chapter 23
	Determine eligibility for special appraisal and establish both a market and special value on qualified property	Chapter 23
	Determine whether property qualified for agricultural or timber appraisal has undergone a change of use and send a notice of change of use to the owner	Chapter 23
	Determine exemption eligibility	Section 11.45
	Create procedures for equitable and uniform taxation of inventory	Section 23.12(b)
	Administration of rendition laws	Chapter 22
	Create appraisal records	Section 25.01(a) and Comptroller Rule 9.3004
	Contract, with the approval of the board of directors, with private appraisal firms, if appropriate	Section 25.01(b)
	Certify appraisal roll and other listings to each taxing unit participating in the appraisal district	Section 26.01
	Send notices of appraised value	Section 25.19
	Discover omitted property and adjust the appraisal roll	Section 25.21
ARB	Submit complete appraisal records of all property to the ARB	Section 25.22
	Present supplemental records and other items for ARB consideration	Section 25.23
	Correct records and make reappraisals as ordered by the ARB	Section 41.08
Administration	Prepare the appraisal district budget	Section 6.06(a)
	Give notice of public hearing on the appraisal district budget	Section 6.062
	Appoint agricultural advisory board, with the advice and consent of the board of directors	Section 6.12(a)
	Certify a list by June 15 of all eligible conservation and reclamation districts that are imposing taxes and that participate in the appraisal district on the chief appraiser's receipt of a request by a district to nominate and vote on the board of directors	Section 6.03(c)
	Calculate the number of votes each taxing unit has in appointing the board of directors and provide notice as required	Section 6.03(e) and (f)
	Create the ballot with the candidates for the board of directors, counting the votes, declaring the winners and resolving any ties	Section 6.03(h), (i), (j), (k) and (l)
	Act as the appraisal district's public information officer	Gov't Code Section 552.201
	Issue permits for going out of business sales and send notices of such sales to other entities	Business & Commerce Code Sections 17.835 and 17.84
	Serve as the chief administrator of the appraisal district with responsibility to employ and compensate professional, clerical and other personnel as provided by the budget except for a general counsel to the appraisal district	Section 6.05(c) and (d)
	Notify voting taxing units of any proposed property transactions	Section 6.051(b)
	Proportionally credit excess amounts to the following fiscal year if payments by taxing units to the appraisal district budget exceed the amount actually spent or obligated to be spent during the fiscal year. If a taxing unit has paid it allocated amount but is not allocated part of the appraisal district budget for the following fiscal year, the chief appraiser must refund the proportionate share of the excess funds not later than the 150th day after the end of the fiscal year that payments were made.	Section 6.06(j)
	Determine whether a sufficient number of eligible taxing units have valid resolutions when a change in the appraisal district financing method has been proposed and notify each taxing unit of each change that is adopted	Section 6.061(d)
	Publicize certain Tax Code provisions to residents, including, but not limited to, the availability of agreement forms for electronic communication; the availability of exemption applications; rendering requirements; special appraisal of agricultural land, open space, timber land and restricted-use timberland; the deferred collection of taxes on residence homestead of elderly or disabled person; deferred collection of taxes on appreciating residence homestead; and the right to protest	Sections 1.085, 11.44, 22.21, 23.43, 23.54, 23.75, 23.9804, 33.06, 33.065 and 41.41
	Produce requested materials in the form and manner prescribed by the Comptroller's office	Section 5.16(b)
Other Duties	Duties required by contract	
	Legal responsibilities or duties assigned by the board of directors	

**Tax Code citations, unless otherwise noted.*

Appointing the Appraisal Review Board (ARB)

The ARB is a board of citizens that hears taxpayer protests and taxing unit challenges, corrects clerical errors in the appraisal records and appraisal rolls, acts on motions to correct the appraisal roll, determines whether exemptions and special valuations were improperly granted and takes any other action or makes any other determination as authorized or required under the Tax Code.[198]

There is an ARB for each CAD although the board of directors may provide for the operation of a consolidated ARB by interlocal contract.[199] An action of the board of directors, including ARB appointments, may be vetoed by a majority of the voting taxing units.[200] A majority of the voting taxing units must file veto resolutions with the board secretary of the CAD within 15 days after the action is taken.[201]

The board of directors appoints the ARB members in counties with a population of less than 120,000. In counties with a population of 120,000 or more, the local administrative district judge appoints the ARB members.[202] Although an appraisal district provides staff to the ARB for clerical assistance, the ARB maintains an independence from the board of directors and appraisal district staff, including the chief appraiser.[203]

CADs are allowed to obtain criminal history records of applicant ARB members from the Texas Department of Public Safety and if so appointed, provide that information to the local administrative district judge or ARB commissioners appointed by that judge.[204] While specific expertise is not required, it may be helpful to appoint ARB members with experience in certain fields, including appraisal, real estate, accounting, business, agribusiness, law, engineering or construction.

Eligibility

To be eligible to serve on the ARB, an individual must be a CAD resident and must have resided in the CAD for at least two years.[205] In counties with a population of more than 100,000, a person is ineligible to serve on the ARB if the person has done the following:

- Served formerly as an appraisal district board member, officer or employee;
- Served as a member of a governing body or an officer of a taxing unit until the fourth anniversary of the date the person ceases to be a member or officer; or
- Appeared before the ARB for compensation during the two-year period preceding the date of appointment.[206]

A person who has served for all or part of three consecutive terms is ineligible to serve on the ARB during a term that begins on the next Jan. 1 following the third of those consecutive terms.[207]

A person may not serve on an ARB if he or she owns property on which delinquent property taxes have been owed for more than 60 days after the date the person knew or should have known of the delinquency.[208] This restriction does not apply if the person is paying the delinquent taxes and any penalty and interest under an installment payment agreement or has deferred or abated a suit to collect delinquent taxes.[209]

[198] Tex. Tax Code §41.01(a)
[199] Tex. Tax Code §6.41(a), (g) and (h)
[200] Tex. Tax Code §6.10
[201] Tex. Tax Code §6.10
[202] Tex. Tax Code §6.41(d) and (d-1)
[203] Tex. Tax Code §§5.041(e-1)(5), 6.41 and 6.43
[204] Tex. Gov't Code §411.1296
[205] Tex. Tax Code §6.41(c)
[206] Tex. Tax Code §6.412(d)
[207] Tex. Tax Code §6.412(e)
[208] Tex. Tax Code §6.412(a)(2)
[209] Tex. Tax Code §6.412(a)(2)

Conflict of Interest

An individual is not eligible to serve on an ARB if the individual is related within the second degree by consanguinity or affinity to an individual who is engaged in the business of appraising property for compensation for use in proceedings under the Tax Code or to an individual who represents property owners for compensation in proceedings under the Tax Code in the CAD for which the ARB is established.[210] An ARB member commits a Class B misdemeanor offense if the ARB member continues to hold office knowing of a violation.[211]

A person is ineligible to serve on an ARB if the individual is related within the third degree of consanguinity or within the second degree of affinity to a member of the CAD board of directors.[212] A person is also ineligible to serve on the ARB if the person is a CAD director, a CAD officer or employee, a Comptroller employee or a member of the governing body, officer or employee of a taxing unit.[213]

Additional information regarding conflicts of interest for ARB members, including Tax Code Section 41.69, may be found in the *Appraisal Review Board Manual* published by the Comptroller's office.

A person is not eligible to be appointed or to serve on an ARB if the individual contracts with the CAD or a taxing unit that participates in the CAD.[214] A person who has a substantial interest in a business that has either type of contract is also barred.[215] Substantial interest is defined as either of the following: combined ownership of the individual and the individual's spouse is at least 10 percent of the voting stock or shares of the business, or the individual or the individual's spouse is a partner, limited partner or officer in the business entity.[216]

A CAD and a taxing unit participating in that CAD may not enter into a contract with a current member of the ARB established for that CAD or with a business entity in which an ARB member has a substantial interest.[217]

[210] Tex. Tax Code §6.412(a)(1)
[211] Tex. Tax Code §6.412(b)
[212] Tex. Tax Code §6.412(a)(3)
[213] Tex. Tax Code §6.412(c)
[214] Tex. Tax Code §6.413(a)
[215] Tex. Tax Code §6.413(a)
[216] Tex. Tax Code §6.413(d)
[217] Tex. Tax Code §6.413(b) and (c)

Number and Term of Office

The ARB consists of three members, but the board of directors by resolution may increase the size of the ARB to a number the board considers appropriate.[218] Directors who appoint ARB members do so by resolution passed by a majority of the CAD board of directors.[219] A vacancy on the ARB is filled in the same manner for the unexpired portion of the term.[220]

ARB members serve two-year terms beginning Jan. 1.[221] The board of directors by resolution must provide for staggered terms so that the terms of approximately half the ARB members expire each year.[222] In making the initial appointments, the board of directors or local administrative district judge must designate those members who serve terms of one year.[223]

Auxiliary and Temporary ARB Members

The board of directors by resolution of a majority of the members may appoint auxiliary ARB members to hear taxpayer protests before the ARB and to assist the ARB in its duties.[224] The board of directors or local administrative district judge may appoint the number of auxiliary members it considers appropriate.[225] An auxiliary member is appointed in the same manner and for the same term as an ARB member under Tax Code Section 6.41 and is subject to the same eligibility requirements and restrictions under Tax Code Sections 6.41, 6.411, 6.412 and 6.413.[226]

An auxiliary member may attend ARB meetings but may not vote in an ARB determination or serve as ARB chairman or secretary.[227] An auxiliary member is not included in determining what constitutes a quorum of the board or whether

[218] Tex. Tax Code §6.41(b)
[219] Tex. Tax Code §6.41(d)
[220] Tex. Tax Code §6.41(d)
[221] Tex. Tax Code §6.41(e)
[222] Tex. Tax Code §6.41(e)
[223] Tex. Tax Code §6.41(e)
[224] Tex. Tax Code §6.414(a)
[225] Tex. Tax Code §§6.41(d-1), 6.414(a) and (b)
[226] Tex. Tax Code §6.414(b)
[227] Tex. Tax Code §6.414(c)

a quorum is present at any ARB meeting.[228] An auxiliary member may hear taxpayer protests before the ARB.[229] If an auxiliary member sits on a panel established under Tax Code Section 41.45 to conduct a protest hearing, the number of non-auxiliary ARB members required to constitute the panel is reduced by the number of auxiliary board members.[230] An auxiliary member sitting on a panel is considered a regular board member for all purposes related to the conduct of the hearing.[231] An auxiliary member is entitled to make a recommendation to the ARB regarding a protest heard by the member but is not entitled to vote on the determination.[232]

An auxiliary member is entitled to compensation as provided by the CAD budget, but is not entitled to a per diem or reimbursement of expenses.[233]

The CAD board of directors must adopt and implement a policy for the temporary replacement of an ARB member.[234] A temporary ARB member replaces an ARB member who may not participate in a protest hearing because that ARB member communicated with another person(s) about a protest outside an ARB hearing in violation of Tax Code Section 41.66(f).[235]

Training

The Comptroller's office must approve curricula, provide materials and supervise the training of ARB members.[236] ARB members are not allowed to participate in hearings until they complete the Comptroller's training course and a statement agreeing to comply with Tax Code requirements during hearings.[237] A new ARB member appointed after a course offering may continue to serve until the completion of a subsequent course offering.[238]

During the second year of an ARB member's term, the ARB member must complete the Comptroller's continuing education training course and complete a statement agreeing to comply with Tax Code requirements during hearings.[239] An ARB member who fails to timely complete the course is not eligible to participate in hearings, vote on a determinations of protest or be reappointed to an additional term.[240]

ARB members must complete the Comptroller's continuing education training course and complete a statement agreeing to comply with Tax Code requirements in each year they serve.[241] The CAD board should provide for budgeting ARB training as part of the CAD's annual budget.[242]

The Comptroller's office may assess a fee, not to exceed $50 per ARB member, to recover a portion of the costs incurred for the training course.[243]

Except during a hearing or other ARB proceeding, a member of the CAD board of directors for which the ARB is established, along with other specified individuals, may not communicate with an ARB member about these training courses or any matter presented or discussed during the courses.[244]

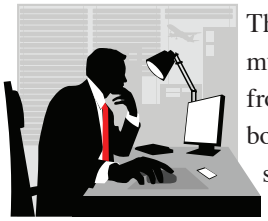
The Comptroller's office may not advise a chief appraiser, CAD employee, property owner or his or her agent on a matter known to be the subject of a protest to the ARB. The Comptroller's office may communicate with ARB members regarding:

- technical questions relating to ARB duties and appraisal issues;
- the model ARB procedures; and
- the ARB survey provided to taxpayers.

The Comptroller's office may also communicate with the ARB chairman concerning complaints filed against the ARB.[245] The toll free number maintained by Comptroller's office for ARB members is 1-800-252-7551.[246]

[228] Tex. Tax Code §6.414(c)
[229] Tex. Tax Code §6.414(d)
[230] Tex. Tax Code §6.414(d)
[231] Tex. Tax Code §6.414(d)
[232] Tex. Tax Code §6.414(e)
[233] Tex. Tax Code §6.414(f)
[234] Tex. Tax Code §41.66(g)
[235] Tex. Tax Code §41.66(g)
[236] Tex. Tax Code §5.041
[237] Tex. Tax Code §5.041(b) and (b-1)
[238] Tex. Tax Code §5.041(e)
[239] Tex. Tax Code §5.041(e-2)
[240] Tex. Tax Code §5.041(e-2)
[241] Tex. Tax Code §5.041(e-2)
[242] Tex. Tax Code §§5.041(e-3) and 6.42(c)
[243] Tex. Tax Code §5.041(c) and (e-3)
[244] Tex. Tax Code §5.041(g)
[245] Tex. Tax Code §5.041(a) and (f)
[246] Tex. Tax Code §5.041(a)(4)

Organization



The board of directors by resolution must select a chairman and secretary from among the ARB members.[247] The board of directors is encouraged to select an ARB chairman who has a background in law and property appraisal.[248] The ARB meets at any time at the call of the chair or as provided for by ARB rule.[249] The ARB must meet to examine the appraisal records within 10 days after the date the chief appraiser submits the records.[250]

The ARB must establish its procedures for hearings.[251] The Comptroller's office has developed model hearing procedures that the ARB is required to follow when developing its hearing procedures.[252]

ARB members are entitled to a per diem for each day the board meets as provided in the CAD budget.[253] ARB members are also entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties as provided in the CAD budget.[254] Auxiliary ARB members are entitled to compensation as provided by the CAD budget, but not per diem or reimbursement of expenses.[255]

Personnel

A CAD may provide clerical assistance to the ARB, including assisting the ARB with the scheduling and arranging of hearings.[256]

The ARB may employ legal counsel as provided by the CAD budget or use the services of the county attorney.[257] An attorney may not serve as ARB legal counsel if within the last year the attorney or a member of the attorney's law firm represented an owner of property in the CAD, a participating taxing unit, or the CAD in certain matters.[258] The prohibition on representing a participating taxing unit or CAD does not apply to a county attorney or an assistant to the county attorney.[259] A CAD may specify in its budget whether the ARB may employ legal counsel or must use the services of the county attorney.[260] A CAD may not require the ARB to employ a specific attorney.[261] If the budget authorizes an ARB attorney, the budget must provide for reasonable compensation.[262] ARB attorneys may not act as advocates in a hearing or proceeding conducted by the ARB; may provide advice to the ARB or ARB panel during a hearing or proceeding; and are required to make certain disclosures regarding relevant legal authority in the controlling jurisdiction known to the attorney and not disclosed by the parties and regarding a material fact that may assist the ARB or panel in making an informed decision regardless of whether the fact is adverse to the position of a party.[263]

An ARB may retain an appraiser certified by the Texas Appraiser Licensing and Certification Board to instruct ARB members on valuation methodology if the CAD provides for the instruction in the CAD budget.[264]

Ex Parte Communications with an ARB Member

An ARB member commits a Class A misdemeanor offense if the member communicates with the chief appraiser, CAD employee or a member of the CAD board of directors for which the ARB is established in violation of Tax Code Section 41.66(f).[265]

A chief appraiser or another CAD employee, a member of a board of directors, a property tax consultant or attorney representing a party to an ARB proceeding commits a Class A misdemeanor offense if the person communicates with a ARB member established for the CAD with the intent to influence a decision by an ARB member in the member's capacity as an ARB member.[266]

[247] Tex. Tax Code §6.42(a)
[248] Tex. Tax Code §6.42(a)
[249] Tex. Tax Code §6.42(b)
[250] Tex. Tax Code §6.42(b)
[251] Tex. Tax Code §5.103(a)
[252] Tex. Tax Code §5.103(d)
[253] Tex. Tax Code §6.42(c)
[254] Tex. Tax Code §6.42(c)
[255] Tex. Tax Code §6.414(f)
[256] Tex. Tax Code §6.43(f)
[257] Tex. Tax Code §6.43(a)
[258] Tex. Tax Code §6.43(b)
[259] Tex. Tax Code §6.43(c)
[260] Tex. Tax Code §6.43(e)
[261] Tex. Tax Code §6.43(e)
[262] Tex. Tax Code §6.43(e)
[263] Tex. Tax Code §6.43(d)
[264] Tex. Tax Code §5.041(h)
[265] Tex. Tax Code §6.411(a) and (d)
[266] Tex. Tax Code §6.411(b)

These ex parte communication provisions do not apply to communications between an ARB and its legal counsel.[267] The provisions also do not apply to communications between an ARB member and the chief appraiser, a CAD employee, a member of the board of directors, a property tax consultant or an attorney representing a party to a proceeding before the ARB:

1. during a protest hearing or other ARB proceeding;
2. that constitute social conversation;
3. that are specifically limited to and involve administrative, clerical or logistical matters related to the scheduling and operation of hearings, the processing of documents, the issuance of orders, notices and subpoenas and the operation, appointment, composition or attendance at training of the ARB; or
4. that are necessary and appropriate to enable the CAD board of directors to determine whether to appoint, reappoint or remove a person as an ARB member, chairman or secretary.[268]

In counties with a population of 120,000 or more, a chief appraiser, a CAD employee, a member of the board of directors, a property tax consultant or an agent of a property owner commits a Class A misdemeanor offense if the person communicates with the local administrative district judge regarding the appointment of ARB members.

This provision does not apply to communications with the local administrative district judge by:

- an ARB member regarding the member's reappointment to the ARB;
- a taxpayer liaison officer in the course of performing the officer's clerical duties;
- a chief appraiser, CAD employee, ARB member or member of the board of directors regarding applications and appointment information, including criminal histories, and removal of an ARB member; or
- a taxpayer liaison officer regarding communications with a consultant, property owner or agent regarding removal of an ARB member.[269]

ARB Member Removal

A member may be removed from the ARB by a majority vote of the board of directors or by the local administrative district court judge or the judge's designee.[270] Grounds for removal include a violation of:

- Tax Code Section 6.412 (restrictions on eligibility of ARB member);
- Tax Code Section 6.413 (interest in certain contracts prohibited);
- Tax Code Section 41.66(f) (communication outside a hearing or proceeding); or
- Tax Code Section 41.69 (conflict of interest in taxpayer protest).[271]

An ARB member may also be removed for good cause relating to failure to attend ARB meetings or for clear and convincing evidence of repeated bias or misconduct.[272]

[267] Tex. Tax Code §6.411(c)
[268] Tex. Tax Code §6.411(c-1)
[269] Tex. Tax Code §6.41(i)
[270] Tex. Tax Code §6.41(f)
[271] Tex. Tax Code §6.41(f)
[272] Tex. Tax Code §6.41(f)

CAD Financial Affairs

Participating taxing units pay for CAD operations.[273] The board of directors' financial responsibilities include adopting an annual operating budget; selecting a district depository; purchasing and contracting; transferring, constructing and renovating real property; and providing for an independent audit.

CAD Budget

The board of directors is responsible for adopting the budget for the CAD.[274]

Before June 15 each year, the chief appraiser must prepare a proposed budget for CAD operations for the following tax year and submit it to each participating taxing unit and to the board of directors.[275] The budget must list:

- each proposed position, including each position's:
  (a) proposed salary;
  (b) all proposed benefits;
- each proposed capital expenditure; and
- an estimate of the amount of the budget that will be allocated to each taxing unit.[276]

Other items commonly included in the budget are:

- contract payments for services;
- reimbursement for reasonable and necessary CAD board expenses;
- per diem and actual expense reimbursement for ARB members;
- compensation for general counsel to the board of directors or ARB legal counsel, or both;
- reimbursement of CAD office staff for reasonable and necessary expenses;
- payment of tuition and fees incurred for courses or educational programs;
- funds for ARB proceedings and operations; and
- other items necessary for CAD operations.

A CAD is required to reimburse a CAD employee for all actual and necessary expenses, tuition and other fees and costs of materials incurred in attending, with approval of the chief appraiser, a course or training program sponsored or approved by TDLR.[277]

If a CAD performs collection or assessment services, the Interlocal Cooperation Act requires an interlocal payment be in an amount that fairly compensates the performing party for the services or functions performed under the contract.[278] A 2003 Attorney General's opinion concludes that a CAD budget may only allocate the costs of operating the CAD for its appraisal purposes and the costs of tax assessment or collection are not allocated to all taxing units regardless of whether a taxing unit has contracted with a CAD for assessment or collection services.[279]

Public Notice of Budget Hearing

The board of directors must hold a public hearing to consider the budget.[280] Not later than the 10th day before the hearing, the board of director's secretary must deliver a written notice of the date, time and place of the hearing to each participating taxing unit in the CAD.[281]

Within the same timeframe, the chief appraiser is required to publish a notice of the public hearing in a newspaper having

[273] Tex. Tax Code §6.062(c)
[274] Tex. Tax Code §6.06(b)
[275] Tex. Tax Code §6.06(a)
[276] Tex. Tax Code §6.06(a)
[277] Tex. Tax Code §5.04(b)
[278] Tex. Gov't Code §791.011(e)
[279] Tex. Att'y Gen. Op. GA-0030 (2003)
[280] Tex. Tax Code §6.06(b)
[281] Tex. Tax Code §6.06(b)

general circulation in the county.[282] The newspaper notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper and may not be published in the part of the paper in which legal notices and classified advertisements appear.[283] This notice must have the time, date, and place of the public hearing; specified summary of the proposed budget; notice that the CAD is supported solely from local taxing units; and a prescribed notice that the budget will automatically take effect unless disapproved by certain taxing units and a copy of the budget is available for public inspection at these taxing units.[284] In addition to the statutorily required items in the notice, Comptroller Rule 9.3048 requires the notice to provide the number of employees compensated in the budget in terms of full-time equivalent employees and that the notice contains the name, address and telephone number of the CAD.

Budget Adoption

The board of directors must approve a budget before Sept. 15.[285]

If a majority of the voting taxing units adopt and file resolutions disapproving a budget within 30 days after its adoption, the budget does not take effect.[286] The board must adopt a new budget within 30 days of disapproval.[287]

The board may amend the approved budget at any time.[288] The secretary of the board must deliver a written copy of a proposed amendment to the each participating taxing unit not later than the 30th day before the date the board acts on it.[289]

Allocating Costs of CAD Operations

Each participating taxing unit pays a share of the CAD budget.[290] The share is based on the proportion of property taxes imposed by the taxing unit to the sum of property taxes imposed by each participating taxing unit in the CAD.[291] The resulting fraction is multiplied by the total dollar amount of the budget.

$$\frac{\text{Taxing Unit's Tax Levy}}{\text{Total Tax Levy of All Taxing Units}} = \text{Taxing Unit's Fractional Share}$$

If a taxing unit participates in two or more CADs, only the taxes imposed in a CAD are used to calculate the taxing unit's cost allocations in that CAD.[292] Tax Code Section 6.06(d) limits the share of the cost of the budget for a taxing unit that has a large tax levy but a smaller number of parcels. This limit applies to a taxing unit that has less than 5 percent of the total number of real property parcels in the CAD while imposing over 25 percent of the total amount of the property taxes in the CAD for the year. In this case, a taxing unit's allocation may not exceed three times the taxing unit's percentage of the total number of parcels appraised by the CAD.[293] For example, a taxing unit has 4 percent of the CAD's parcels but imposes 30 percent of the taxes. The budget share may not exceed 3 times 4 percent, or 12 percent. If there was no limitation, the budget share would be 30 percent.

For a newly formed taxing unit or a taxing unit that did not impose taxes in the preceding year, the taxing unit is allocated a portion of the budget and the amount of taxes the taxing unit imposes in the current year is used to calculate its allocation.[294] The board of directors and the taxing unit may agree to an estimate of the amount of taxes that will be imposed for the current year.[295] After the amount of taxes to be imposed is known, payments are adjusted to reflect the imposed amount.[296]

Each taxing unit must pay its allocation in four equal payments at the end of each calendar quarter unless a taxing unit's governing body and the chief appraiser agree on a different method of payment.[297] The first payment must be made before Jan. 1 of the year in which the budget takes effect.[298] If a payment is not paid on the due date, it incurs a 5 percent penalty and an annual interest rate of 10 percent.[299] For good cause shown, the board of directors may waive the penalty and interest on a delinquent payment.[300]

[282] Tex. Tax Code §6.062(a)
[283] Tex. Tax Code §6.062(a)
[284] Tex. Tax Code §6.062(b) and (c)
[285] Tex. Tax Code §6.06(b)
[286] Tex. Tax Code §6.06(b)
[287] Tex. Tax Code §6.06(b)
[288] Tex. Tax Code §6.06(c)
[289] Tex. Tax Code §6.06(c)
[290] Tex. Tax Code §6.06(d)
[291] Tex. Tax Code §6.06(d)
[292] Tex. Tax Code §6.06(d)
[293] Tex. Tax Code §6.06(d)
[294] Tex. Tax Code §6.06(h)
[295] Tex. Tax Code §6.06(h)
[296] Tex. Tax Code §6.06(h)
[297] Tex. Tax Code §6.06(e)
[298] Tex. Tax Code §6.06(e)
[299] Tex. Tax Code §6.06(e)
[300] Tex. Tax Code §6.06(k)

Different Fiscal Year and Method of Financing

A CAD's fiscal year is the calendar year.[301] A different fiscal year may be designated by three-fourths of voting taxing adopting resolutions.[302] If the fiscal year is changed, the deadlines for the chief appraiser proposing and the board of directors adopting the budget and the deadline for the first allocation payment are specified deadlines before the first day of the changed fiscal year.[303] The allocation of the budget is based on the amount of property taxes imposed by each participating taxing unit in the most recent tax year preceding the changed fiscal year.[304]

The board of directors or the taxing units participating in the CAD may prescribe a different method of allocating the costs of operating the CAD.[305]

To change the method of financing, the board of directors must adopt a resolution and deliver it to each taxing unit participating in the CAD after June 15 and before Aug. 15.[306] The financing does not change if the governing body of any participating taxing unit adopts a resolution opposing the different method, and files it with the board of directors before Sept. 1.[307] If a board proposal is rejected, the board must provide written notification to each participating taxing unit before Sept. 15.[308]

The participating taxing units in a CAD may adopt a different allocation method if three-fourths of the voting taxing units adopt resolutions providing for the other method.[309] This adoption is not valid if it requires any taxing unit to pay a greater proportion of the CAD's costs than the taxing unit would pay otherwise without the consent of that taxing unit.[310]

A resolution changing the allocation method is ineffective if an official copy is not filed with the chief appraiser after April 30 and before May 15.[311] A change in allocation remains in effect until changed or rescinded by resolution of a majority of the governing bodies of voting taxing units.[312]

Designation of District Depository

The board of directors must designate a depository for payments to be deposited.[313] A CAD depository must be a banking corporation incorporated under Texas law or the United States or a Texas savings and loan association whose deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC).[314] To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation or the FSLIC, the funds must be secured in the manner provided by law for the security of funds of counties.[315]

The board of directors must designate as the district depository the financial institution or institutions that offer the most favorable terms and conditions for the handling of the CAD's funds.[316] The board must solicit bids to be designated as depository for the CAD.[317] After a depository is designated, the depository must serve for a term of two years and until its successor is designated and has qualified.[318] The board and the depository may agree to extend a depository contract for one additional two-year period.[319]

Consult legal counsel regarding the applicability of Local Government Code Chapter 116 concerning county depositories.

District's funds may be disbursed only by a written check, draft or order signed by the chairman and secretary of the board.[320] The board by resolution may authorize the chief appraiser to disburse funds.[321]

Purchasing and Contracting

A CAD is subject to the same requirements and has the same purchasing and contracting authority as a municipality under Local Government Code Chapter 252.[322] Local Government

[301] Tex. Tax Code §6.06(i)
[302] Tex. Tax Code §6.06(i)
[303] Tex. Tax Code §6.06(i)
[304] Tex. Tax Code §6.06(i)
[305] Tex. Tax Code §6.061(a) and (b)
[306] Tex. Tax Code §6.061(a)
[307] Tex. Tax Code §6.061(a)
[308] Tex. Tax Code §6.061(a)
[309] Tex. Tax Code §6.061(b)
[310] Tex. Tax Code §6.061(b)
[311] Tex. Tax Code §6.061(c)
[312] Tex. Tax Code §6.061(e)
[313] Tex. Tax Code §6.06(f)
[314] Tex. Tax Code §6.09(a)
[315] Tex. Tax Code §6.09(d)
[316] Tex. Tax Code §6.09(b)
[317] Tex. Tax Code §6.09(c)
[318] Tex. Tax Code §6.09(c)
[319] Tex. Tax Code §6.09(c)
[320] Tex. Tax Code §6.06(f)
[321] Tex. Tax Code §6.06(f)
[322] Tex. Tax Code §6.11(a)

Code Section 252.061 provides for an injunction if a contract is made without complying with Local Government Code Chapter 252 and any resident of the CAD may seek an injunction under that section.[323]

Local Government Code Sections 252.062 and 252.063 provide for criminal penalties for municipal officers and employees violating competitive bidding requirements and the removal of those individuals. These provisions apply to a CAD officer or employee in the same manner those sections apply to a municipal officer or employee.[324]

The Public Property Finance Act (Local Government Code Chapter 271) and the Interlocal Cooperation Act (Government Code Chapter 791) should also be reviewed. Consult with an attorney about bidding procedures, purchasing and contracts.

Financial Audit

At least once each year, the board of directors must have an audit prepared by an independent certified public accountant or a firm of independent certified public accountants.[325] A copy of the report must be delivered to each voting taxing unit.[326] A reasonable number of copies of the report must be available for inspection at the CAD office and the report is a public record.[327]

Other Financial Affairs

The board of directors and the chief appraiser also handle other financial details. Issues you may want to discuss with your attorney include the application of the Public Funds Investment Act in Government Code Chapter 2256 to local governments, including political subdivisions; the application of Government Code Chapter 2253 to governmental entities in regards to public work contracts; sales tax; reporting to the Internal Revenue Service; purchase of insurance; retirement program participation, etc.

[323] Tex. Tax Code §6.11(b)

[324] Tex. Tax Code §6.11(b)

[325] Tex. Tax Code §6.063(a)

[326] Tex. Tax Code §6.063(b)

[327] Tex. Tax Code §6.063(b)

Taxpayer Assistance

The International Association of Assessing Officer's (IAAO) publication *Standard on Public Relations* provides that "public relations program should be an integral part of every assessment office's work. A public relations program describes what the office does as well as how, why and for whom its services are provided. An effective public relations program results in more accurate and thorough coverage from the media and a better-informed constituency."[328] Some of the topics in these standards include developing a written public relations program (including having a public relations officer) and a procedural manual, public records, printed information and correspondence, value notices, special-purpose messages, forms and questionnaires, annual reports, media contacts, speaking engagements, contact with other public officials, appeals process, public education and the Internet.[329]

Reasonable Access

One of the board's required taxpayer assistance duties is to develop and implement policies that provide the public with reasonable opportunity to appear before the board to speak on any issue under the board's jurisdiction.[330] Reasonable time must be provided at each board of directors meeting for public comment on CAD and ARB policies and procedures and a report from the taxpayer liaison officer if required.[331]

The board must prepare and maintain a written plan that describes how a non-English speaker or an individual with a physical, mental or developmental disability may be provided reasonable access to the board.[332]

[328] IAAO, *Standard on Public Relations*, (July 2011), p. 5. http://docs.iaao.org/media/standards/Standard_on_Public_Relations.pdf (Last visited Dec. 29, 2015)

[329] This is only a selection of some of the topics covered in the standards. For the full text of the standards please see the IAAO's *Standard on Public Relations* at http://docs.iaao.org/media/standards/Standard_on_Public_Relations.pdf

[330] Tex. Tax Code §6.04(d)

[331] Tex. Tax Code §6.04(d)

[332] Tex. Tax Code §6.04(e)

Other General Access Issues

Issues the board should or may address, depending on factors such as whether legal requirements exist, include:

- Evaluation of buildings for accessibility to those who individuals who are physically impaired as required by state or federal law;
- Parking accommodations for persons with disabilities;
- Allowance for attendant animals in offices;
- Providing information in different types of media;
- Providing a sign-language interpreter;
- Providing translator services; and
- Providing information in different languages. Certain Spanish resources can be found on the Comptroller's website at comptroller.texas.gov/taxinfo/proptax.

Complaint Process

The board of directors must prepare a description of the board's functions and the board's procedures for filing and resolving complaints.[333] The board must make this information available to the public and the appropriate taxing jurisdictions.[334] If a written complaint is filed with the board and the board has authority to resolve it, the board must provide notice of the complaint status to the parties to the complaint unless this notice would jeopardize an undercover investigation.[335] The notice must be provided at least quarterly and until final disposition of the complaint.[336] In certain counties, the taxpayer liaison officer must report at each board of directors meeting on the status of all comments and suggestions received and all complaints filed with the board of directors.[337]

[333] Tex. Tax Code §6.04(f)

[334] Tex. Tax Code §6.04(f)

[335] Tex. Tax Code §6.04(g)

[336] Tex. Tax Code §6.04(g)

[337] Tex. Tax Code §6.052(c)

Taxpayer Liaison Officer

In counties with a population of 120,000 or more, the board of directors must appoint a taxpayer liaison officer.[338] The taxpayer liaison officer administers public access functions; provides information and materials to the public; resolves disputes that do not involve matters that may be protested under Tax Code Section 41.41; receives, compiles and forwards complaints, comments and suggestions concerning ARB matters to the Comptroller's office; and delivers ARB applications received and provides clerical assistance to the local administrative district judge as part of the ARB selection process.[339] The taxpayer liaison officer serves at the pleasure of the board of directors.[340]

The chief appraiser or any other person who performs legal or appraisal services for the CAD for compensation is not eligible to be the taxpayer liaison officer.[341] The taxpayer liaison officer is entitled to compensation as provided by the budget adopted by the board of directors.[342]

The taxpayer liaison officer must administer the public access functions required by Tax Code Sections 6.04(d), (e) and (f) which include allowing the public to speak before the board of directors; preparing and maintaining a written plan on reasonable access to the board for those who do not speak English or who have physical, mental or developmental disabilities; and preparing information describing the functions of the board and the complaint process.[343]

The taxpayer liaison officer provides information and materials designed to assist property owners in understanding the appraisal process, protest procedures, procedures for filing comments, suggestions or complaints and related matters.[344] The taxpayer liaison officer is required to provide comments and suggestions to the Comptroller's office concerning ARBs.[345]

[338] Tex. Tax Code §6.052(a)

[339] Tex. Tax Code §6.052(a)

[340] Tex. Tax Code §6.052(a)

[341] Tex. Tax Code §6.052(e)

[342] Tex. Tax Code §6.052(d)

[343] Tex. Tax Code §6.04(d), (e) and (f) and 6.052(a)

[344] Tex. Tax Code §6.052(b)

[345] Tex. Tax Code §6.052(b)

Public Information Act

Public information is information that is written, produced, collected, assembled or maintained by or for a governmental entity in connection with the transaction of official business, including electronic communications related to official business, that are created, transmitted, received or maintained on any device.[346] Public information is available to the public at a minimum during the normal business hours of the governmental body.[347] Certain information is excepted from public information requirements including information considered to be confidential by law, either constitutional or statutory, or by judicial decision.[348]

One example of confidential information specifically related to CADs is information relating to real property sales prices, descriptions, characteristics and other related information received from a private entity by the Comptroller's office or the chief appraiser of a CAD under Tax Code Chapter 6.[349] This information is confidential, may only be requested by certain people in specified circumstances, remains confidential by persons who obtain it and may not be disclosed except as provided.[350] This information is confidential if the information, item of information or comparable sales data relates to real property that is located in a county having a population of more than 50,000.[351]

After receiving a request for public information, the public information officer must promptly produce public information for inspection, duplication, or both.[352] The public information officer must provide the public information for inspection or duplication in the offices of the governmental body or send copies if the person requesting the information requests copies and pays the postage and any other applicable charges.[353] If the information is unavailable because it is in active use or storage, the officer for public information must certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.[354]

The charge for providing a copy of public information must be an amount that reasonably includes all related costs to reproducing the information.[355] If a request is for 50 pages or less, the charge may not include materials, labor or overhead costs.[356] Charges for these requests must be limited to a charge for each page unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or located in a remote storage facility.[357]

The Office of the Attorney General must adopt rules that determine what governmental bodies charge for providing copies of public information.[358] Each governmental body must use these rules to determine charges for providing copies of public information and to determine the charge, deposit or bond required for making public information that exists in a paper record available for inspection, except to the extent as provided otherwise by law.[359] Attorney General rules regarding charges for public information and other related information can be found at www.texasattorneygeneral.gov/open/charges.shtml.

If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the request, the officer must certify that fact in

[346] Tex. Gov't Code §552.002
[347] Tex. Gov't Code §552.021
[348] Tex. Gov't Code §552.101
[349] Tex. Gov't Code §552.149(a)
[350] Tex. Gov't Code §552.149
[351] Tex. Gov't Code §552.149(e)
[352] Tex. Gov't Code §552.221(a)
[353] Tex. Gov't Code §552.221(b)
[354] Tex. Gov't Code §552.221(c)
[355] Tex. Gov't Code §552.261(a)
[356] Tex. Gov't Code §552.261(a)
[357] Tex. Gov't Code §552.261(a)
[358] Tex. Gov't Code §552.262(a)
[359] Tex. Gov't Code §552.262(a)

writing to the requestor and set a date and hour within a reasonable time when the information will be available.[360]

If a governmental body wishes to withhold information from public disclosure, it must ask for an Attorney General's decision within 10 business days after the day of receiving the open records request.[361] A decision is not required if there has been a previous determination that addresses the exact information.[362] Within a reasonable time but not later than the 10th business day after the date of receiving the written request, a governmental body that asks for a decision must provide the requestor with a written statement that the governmental body wishes to withhold the requested information and has asked for an Attorney General's decision and a copy of the governmental body's written communication to the Attorney General as required.[363]

An officer for public information must prominently display an Attorney General prescribed sign that contains basic information about the rights of a requestor, the responsibilities of a governmental body and the procedures for inspecting or obtaining a copy of public information.[364] The sign must be displayed at one or more places in the governmental body's administrative offices where it is plainly visible to members of the public and employees of the governmental body whose duties include receiving or responding to requests.[365]

Public officials must complete a one- to two-hour training course on the responsibilities of the governmental body with which the official serves and its officers and employees under the Public Information Act.[366] The training must be completed not later than the 90th day after the date the public official takes the oath of office or otherwise assumes the duties as a public official.[367] A public official may designate a public information coordinator to satisfy the training requirements for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under the Public Information Act.[368]

A requestor or the Attorney General's office may file suit to compel a governmental body to make information available for public inspection.[369] A person who claims to be a victim of a violation the Public Information Act can file a complaint with the district or county attorney of the county in which the governmental body is located.[370] Before the 31st day after the date a complaint is filed, the district or county attorney must determine whether the violation alleged in the complaint was committed, whether to bring an action against the governmental body and notify the complainant of those determinations.[371] An official may only file an action if the governmental body does not cure the violation after three days of an official providing written notification to the governmental body that the alleged violation of the Act was committed.[372]

The Public Information Act has three types of violations of the Act that carry criminal penalties. The failure to give access to public information is a misdemeanor with a fine of up to $1,000, six months in jail or both; this is also considered official misconduct and a public official can be removed from office.[373] These same penalties apply to the distribution of information that is confidential under the Act.[374] The third violation is if a person willfully destroys, mutilates, removes without permission or alters public information.[375] This misdemeanor offense is punishable by a fine of not less than $25 or more than $4,000, county jail time from three days to not more than three months or both.[376]

Questions regarding the applicability or interpretation of the Public Information Act should be directed to legal counsel.

For more information on the Public Information Act, call the Office of the Attorney General's Open Government Hotline toll-free at 1-877-673-6839 or see the Office of the Attorney General's *Public Information Handbook* at www.texasattorneygeneral.gov/ag_publications/pdfs/publicinfo_hb.pdf.

[360] Tex. Gov't Code §552.221(d)
[361] Tex. Gov't Code §552.301(a) and (b)
[362] Tex. Gov't Code §552.301(a)
[363] Tex. Gov't Code §552.301(d)
[364] Tex. Gov't Code §552.205(a)
[365] Tex. Gov't Code §552.205(a)
[366] Tex. Gov't Code §552.012(b)
[367] Tex. Gov't Code §552.012(b)
[368] Tex. Gov't Code §552.012(c)
[369] Tex. Gov't Code §552.321
[370] Tex. Gov't Code §552.3215(e)
[371] Tex. Gov't Code §552.3215(g)
[372] Tex. Gov't Code §552.3215(j)
[373] Tex. Gov't Code §552.353
[374] Tex. Gov't Code §552.352
[375] Tex. Gov't Code §552.351
[376] Tex. Gov't Code §552.351

Open Meetings Act

The Open Meetings Act requires every regular, special or called meeting of a governmental body to be open to the public, except as provided.[377] The Open Meetings Act applies any time a quorum of a governmental body meets as provided under Government Code Section 551.001(4).[378] Members may attend social occasions, workshops, ceremonial events and press conferences without violating the law, provided formal action is not taken and any discussion of public business is incidental.[379]

If a governmental body takes an action in violation of the Open Meetings Act, then that action is voidable.[380] Violation of the Open Meetings Act is a misdemeanor offense.[381] A member or group of members commits a misdemeanor offense if the member or group of members knowingly conspires to circumvent the Open Meetings Act by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of the Open Meetings Act.[382]

A governmental body must give written notice of the date, hour, place and subject of each meeting.[383] The Open Meetings Act requires the posting of notices within certain time periods.[384] It provides for posting meeting notices or adding agenda items for an already posted meeting when there is an emergency or when there is an urgent public necessity.[385] The Open Meetings Act should be consulted regarding the place, content and the deadlines of postings.

For each meeting, a governmental body must prepare and keep minutes or make a recording.[386] The minutes must state the subject of each deliberation and indicate each vote, order, decision or other action taken.[387] These minutes and recordings of an open meeting are public records and must be available for public inspection and copying on request.[388]

In an open meeting, a person in attendance may make an audio or visual recording of all or any part of the governmental body meeting.[389] A governmental body may adopt reasonable rules to maintain order at a meeting, but the rules may not prevent or unreasonably impair a person from exercising the right to record the meeting.[390] These rules may relate to the location of recording equipment and the manner in which the recording is conducted.[391]

The Open Meetings Act provides exceptions to the requirement that meetings of a governmental body be open to the public and sets forth procedures relating to closed meetings.[392] If there is a closed meeting, a governmental body must first convene in an open meeting with a quorum and follow certain procedures.[393] A governmental body may not vote, make a decision or take a final action in a closed meeting.[394] For each closed meeting, a governmental body must keep either a certified agenda or make a recording of the meeting, except for private consultations with the governmental body's attorney.[395] The certified agenda or recording of a closed meeting must be preserved for at least two years after the date of the

[377] Tex. Gov't Code §551.002
[378] Tex. Gov't Code §551.001(4)
[379] Tex. Gov't Code §551.001(4)
[380] Tex. Gov't Code §551.141
[381] Tex. Gov't Code Chapter 551
[382] Tex. Gov't Code §551.143(a)
[383] Tex. Gov't Code §551.041
[384] Tex. Gov't Code Chapter 551, Subchapter C
[385] Tex. Gov't Code §551.045
[386] Tex. Gov't Code §551.021(a)
[387] Tex. Gov't Code §551.021(b)
[388] Tex. Gov't Code §551.022
[389] Tex. Gov't Code §551.023
[390] Tex. Gov't Code §551.023
[391] Tex. Gov't Code §551.023
[392] Tex. Gov't Code Chapter 551, Subchapters D and E
[393] Tex. Gov't Code §551.101
[394] Tex. Gov't Code §551.102
[395] Tex. Gov't Code §551.103

meeting or during any period in which litigation is pending regarding that meeting.[396] A district court may order that a certified agenda or recording of a closed meeting be available for public inspection.[397]

In part, some of the exceptions in the Open Meetings Act include certain meetings with the governmental body's attorney and meetings regarding personnel matters or real property deliberations. A governmental body may hold a closed meeting to seek the advice of its attorney about pending or contemplated litigation, a settlement offer or on a matter which requires the attorney to meet in a closed session to comply with the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.[398] Otherwise, a governmental body may not conduct a private consultation with its attorney.[399] A closed meeting may be held to deliberate the purchase, exchange, lease or value of real property if an open meeting deliberation would have a detrimental effect on negotiations for the governmental body.[400] The Open Meetings Act does not require an open meeting to deliberate on certain personnel matters of a public officer or employee, including the deliberation of the appointment, employment, evaluation, reassignment, duties, discipline or dismissal; or to hear a complaint or charge against an officer or employee.[401]

Each elected or appointed public official of a governmental body subject to the Open Meetings Act must complete a training course.[402] The official is required to complete a training course not later than the 90th day after taking the oath of office or otherwise assumes the duties as a public official.[403] The Office of the Attorney General must ensure that the training is available.[404] For more information regarding training by the Office of the Attorney General please see www.texasattorneygeneral.gov/open/og_training.shtml.

A governmental body must maintain and make available for public inspection the record of its members' completion of the training.[405] The failure of one or more members of a governmental body to complete the required training does not affect the validity of an action taken by the governmental body.[406]

Boards of directors should seek legal advice regarding the applicability of the Open Meetings Act to board meetings. For more information on the Open Meetings Act, call the Office of the Attorney General's Open Government Hotline toll-free at 1-877-673-6839 or see the Office of the Attorney General's *Open Meetings Handbook* at www.texasattorneygeneral.gov/ag_publications/pdfs/openmeeting_hb.pdf.

[396] Tex. Gov't Code §551.104(a)
[397] Tex. Gov't Code §551.104(b) and (c)
[398] Tex. Gov't Code §551.071
[399] Tex. Gov't Code §551.071
[400] Tex. Gov't Code §551.072
[401] Tex. Gov't Code §551.074(a)

[402] Tex. Gov't Code §551.005(a)
[403] Tex. Gov't Code §551.005(a)
[404] Tex. Gov't Code §551.005(b)
[405] Tex. Gov't Code §551.005(c)
[406] Tex. Gov't Code §551.005(f)

CAD Operations

Each CAD *must* establish an office located in the county for which the appraisal district is established and a CAD may establish branch offices outside the county.[407] A board of directors may contract with another CAD or with a taxing unit in the district to perform the duties of the appraisal district office for the CAD.[408]

Ownership or Lease of Real Property

The board of directors may purchase or lease real property and may construct improvements as necessary to establish and operate the CAD office or a branch office.[409]

For a CAD to acquire or convey real property or construct or renovate a building or other improvement, three-fourths of the voting taxing units must approve.[410] The board of directors by resolution may propose a property transaction or other action that requires approval of the taxing units.[411] The chief appraiser must notify each taxing unit entitled to vote on the proposal by delivering a copy of the board's resolution, together with information showing the costs of other available alternatives to the proposal.[412] On or before the 30th day after the date a taxing unit receives notice of a proposal, the governing body of the taxing unit by resolution may approve or disapprove the proposal.[413] If a governing body fails to act by that time or fails to file its resolution with the chief appraiser on or before the 10th day after that 30th day, the proposal is treated as if it were disapproved.[414]

[407] Tex. Tax Code §6.05(a)
[408] Tex. Tax Code §6.05(b)
[409] Tex. Tax Code §6.051(a)
[410] Tex. Tax Code §6.051(b)
[411] Tex. Tax Code §6.051(b)
[412] Tex. Tax Code §6.051(b)
[413] Tex. Tax Code §6.051(b)
[414] Tex. Tax Code §6.051(b)

If a conveyance of real property owned by the CAD is approved, the board of directors may convey the real property and the proceeds are credited to each participating taxing unit in proportion to the taxing unit's allocation of the budget in the year in which the transaction occurs.[415]

Technological Capabilities

The Tax Code requires CADs to electronically furnish certain material or communicate electronically in specific circumstances; CADs need to have the technological capabilities to fulfill these requirements.

When a property owner is required by the Tax Code to use a form, the office or agency with which the form is filed must make printed and electronic versions of the forms readily and timely available and must furnish a property owner a form without charge.[416]

A chief appraiser may enter into agreements with any property owner or a person designated by the property owner for the electronic delivery of any notice, rendition, application form or completed application.[417]

Property owners whose property is included in 25 or more accounts in a CAD with a population of more than 200,000 can request to enter into an agreement to receive notices of appraised value in electronic format.[418] The chief appraiser is required to enter into an agreement for that purpose if requested by this type of property owner and must deliver the notice in accordance with the electronic medium, format, content, and method prescribed by the Comptroller's office.[419] Comptroller Rule 9.4037 provides for the format for these electronic notices.

[415] Tex. Tax Code §6.051(c)
[416] Tex. Tax Code §1.09
[417] Tex. Tax Code §1.085(a) and (b)
[418] Tex. Tax Code §1.085(g)
[419] Tex. Tax Code §1.085(g)

In counties with more than 200,000 population and in counties that have implemented systems that allow electronic communications, the chief appraiser is required to notify property owners of the availability of electronic communications along with the necessary agreement forms.[420]

CADs that are in a county with a population of 500,000 or more must implement a system that allows the designation of a property tax agent to be signed and filed electronically.[421]

CADs must implement a system that allows a residence homestead owner to electronically:

1. file a notice of protest with the ARB regarding the determination of appraised value or unequal appraisal;
2. receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the board;
3. receive, as applicable, a notice from the CAD that a settlement offer will not be made or receive a settlement offer from the CAD to correct the appraisal records by changing the market value and, if applicable, the appraised value of the property to the value as redetermined by the CAD; or
4. accept or reject a CAD settlement offer.[422]

This requirement applies to counties that maintain Internet websites (mandatory for counties with populations of 500,000 or more).[423]

CADs should work with the Comptroller's office to ensure Internet compatibility.

Records System

Tax Code Section 5.07 and Comptroller Rule 9.3003 require offices appraising property to develop and maintain tax records system. Any of the required information may be maintained electronically rather than in physical documents. Such a system must include the following:

- appraisal cards;
- maps;
- rendition forms;
- report of decreased value forms;
- appraisal records of all property;
- tax roll of any taxing unit for whom the appraisal district assesses or collects;
- delinquent tax roll of any taxing unit for whom the office collects;
- alphabetical index;
- partial exemption lists;
- absolute exemption lists; and
- lists of properties receiving appraisal as open-space land; agricultural use; timber use; recreational, park and scenic land; and public access airports.

Appraisal Records of All Property

Provisions in Tax Code Chapter 25 and Comptroller Rule 9.3004 requires all CAD offices to develop and maintain appraisal records of all property. These records must be two lists: one for real property and one list for personal property and must contain specified information as applicable. Any required information may be maintained electronically rather in physical documents.

Appraisal Cards

Comptroller Rule 9.3001 requires that all CAD offices that appraise property must develop and maintain a system of appraisal cards for all parcels of real estate which each office is required to appraise. A separate appraisal card must be developed and maintained for each parcel of residential or commercial real estate with specified items of information related to the land and to the improvements on the parcel. Many of these items of information, plus additional specified information, must be on the appraisal card for each parcel of rural or acreage real estate. The appraisal cards may be maintained electronically rather than in physical documents.

Maps

In meeting the chief appraiser's principal responsibility to locate, record and appraise all property in the CAD, a complete set of maps is indispensable. Maps enable appraisers to locate each real property parcel, identify its size and shape and determine its relationship to factors that affect its value. Maps also serve to display market and statistical data, appraisal comparisons and land appraisals.

Comptroller Rule 9.3002 requires all appraisal districts and tax offices appraising property to establish and maintain a system of tax maps covering the entire area of the taxing units

[420] Tex. Tax Code §1.085(h)
[421] Tex. Tax Code §1.111(b)
[422] Tex. Tax Code §41.415(b)
[423] Tex. Tax Code §41.415(a)

for whom each office appraises property. The tax map system must be annually updated to incorporate any new subdivisions or property transfers as indicated by the filing of subdivision plats or deeds with the county clerk's office of the county or counties in which the taxing units for whom each office appraises property are located. Any of the information may be maintained electronically rather than physical documents.

Local Government Records Management

CADs are subject to the preservation, microfilming, destruction and other records disposition provisions of Local Government Code Chapter 203.[424] For additional information about records management and retention, see the Texas State Library and Archives Commission at www.tsl.texas.gov.

[424] Tex. Tax Code §6.13

CAD Personnel

The CAD board of directors may employ a general counsel for the CAD to serve at the will of the board.[425] The general counsel must provide counsel directly to the board and perform other duties and responsibilities as determined by the board.[426] The general counsel is entitled to compensation as provided by the budget adopted by the board.[427]

Through adopting the budget, the board of directors may direct the size and qualifications of staff, as well as set the goals and objectives of the CAD through its personnel. The chief appraiser may employ and compensate professional, clerical and other personnel as provided by the budget, with the exception of a general counsel to the CAD.[428]

A chief appraiser may not employ persons who are related to directors within the second degree by affinity or within the third degree by consanguinity as determined under Government Code Chapter 573.[429] A person commits an offense if the person intentionally or knowingly violates this prohibition; the offense is a misdemeanor punishable by a fine of at least $100 and up to $1,000.[430]

Personnel Policy

IAAO's *Property Appraisal and Assessment Administration* provides general guidance on personnel management, including selection of employees, employee development, compensation, internal communication, motivation and leadership and system issues in management.[431]

Personnel manuals can inform employees about the CAD's goals and objectives, policies, procedures and guidelines to follow in the course of their duties. Manuals should be reviewed and updated on a regular basis. Examples of CAD personnel manuals are at comptroller.texas.gov/taxinfo/proptax/personnel_policies/.

Consult legal counsel for advice in preparing personnel policy manuals or handbooks.

Professional Development

According to IAAO's *Standard on Professional Development*, "in-service training and continuing education of assessment personnel are essential parts of an effective program . . . ."[432]

Certain CAD employees register with and attain certification from TDLR. Registrants must pass one or more examinations to be certified and must participate to the extent required by TDLR in continuing education programs to maintain registration.[433] An individual may not serve as a chief appraiser unless the individual has completed chief appraiser training pursuant to Occupations Code Section 1151.164 and Tax Code Section 5.042.[434] This prohibition does not apply to a county TAC who serves as chief appraiser under Tax Code Section 6.05(c).[435] It applies only to a chief appraiser appointed on or after July 1, 2006.[436] Also, a person may serve in a temporary, provisional or interim capacity as chief appraiser for up to one year without completing the required training.[437]

[425] Tex. Tax Code §6.05(j)
[426] Tex. Tax Code §6.05(j)
[427] Tex. Tax Code §6.05(j)
[428] Tex. Tax Code §6.05(d)
[429] Tex. Tax Code §6.05(f)
[430] Tex. Tax Code §6.05(f)
[431] IAAO, *Property Appraisal and Assessment Administration*, (1990), pp. 429 to 439
[432] IAAO, *Standard on Professional Development*, (January 2013), p. 5. http://docs.iaao.org/media/standards/Professional_dev_2013.pdf (Last visited Dec. 29, 2015)
[433] Tex. Occupations Code §§1151.161 and 1151.1581
[434] Tex. Tax Code §5.042(a)
[435] Tex. Tax Code §5.042(c)
[436] Texas H.B. 2382, 79th Leg., Reg. Sess. (2005)
[437] Tex. Tax Code §5.042(b)

Chief appraisers are required to complete at least half of their required continuing education hours in programs devoted to one or more of the topics listed in Occupations Code Section 1151.164(b) and at least two of the hours in ethics specific to maintaining the independence of an appraisal office from political pressure.[438]

A CAD should budget funds to cover necessary training and education expenses. A CAD is required to reimburse a CAD employee for all actual and necessary expenses, tuition and other fees and costs of materials incurred in attending, with approval of the chief appraiser, a course or training program sponsored or approved by TDLR.[439]

[438] Tex. Occupations Code §1151.1581

[439] Tex. Tax Code §5.04(b)

Assessment and Collection Functions

A taxing unit and a commissioner's court may contract their assessment and collection functions.[440] The Tax Code provides procedures for taxing units to follow to consolidate assessment, collection or assessment and collection functions with a CAD.[441] The CAD may be responsible for these functions for one or more of the CAD's taxing units.

If a CAD does assess, collect or assess and collect, please see Tax Code Subtitle E regarding collections and delinquency.

Interlocal Contracts

The board of directors may enter a contract with a taxing unit or a commissioner's court to collect and assess taxes for that taxing unit or county (with county TAC approval).[442] These contracts are subject to the Interlocal Cooperation Act.[443] The contract may provide for the collecting entity to contract with an attorney to collect delinquent taxes.[444]

If a county contracts to have its taxes assessed and collected by another entity, the contract must require the assessment and collection of all the taxes the county is required to assess and collect except for special inventory taxes assessed and collected under specified provisions.[445] The Attorney General has held that Tax Code Section 6.24 is construed as authorizing a contract to obtain assistance for the county TAC, as opposed to supplanting the TAC.[446]

[440] Tex. Tax Code §6.24(a) and (b)
[441] Tex. Tax Code §6.26
[442] Tex. Tax Code §6.24(a) and (b)
[443] Tex. Tax Code §6.24(a) and (b)
[444] Tex. Tax Code §6.24(d)
[445] Tex. Tax Code §6.24(b) and (c)
[446] Tex. Att'y Gen. Op. JM-833 (1987)

Consolidation Election

Pursuant to Tax Code Section 6.26, qualified voters may petition to consolidate the assessment and collection of property taxes. The Attorney General has held that Tax Code Section 6.26 is unconstitutional insofar as it contravenes the Texas Constitution, VIII, Section 14 and that the Legislature may not authorize the electorate to divest the county TAC of the assessment and collection duties, other than appraisal functions.[447]

Qualified voters residing in a CAD may petition to require an election to determine whether to require the CAD, county TAC or a specified taxing unit within the CAD to assess, collect or assess and collect property taxes on property appraised by the CAD for all taxing units.[448]

If a taxing unit assesses, collects or assesses and collects its own property taxes, the qualified voters of that taxing unit may submit a petition to the governing body of the taxing unit to require an election to determine whether to require the CAD, the county TAC or another taxing unit to assess, collect or assess and collect the taxing unit's property taxes.[449]

For a petition to be valid, it must make certain statements and be signed by a specified amount or percentage of certain qualified voters.[450]

The petition may require the CAD, the county TAC or a specified taxing unit within the CAD to perform the consolidated functions.[451] Neither a CAD nor a taxing unit may be required by an election to assess, collect or assess and collect taxes on property outside the CAD's boundaries.[452]

[447] Tex. Att'y Gen. Op. JM-833 (1987)
[448] Tex. Tax Code §6.26(a)
[449] Tex. Tax Code §6.26(b)
[450] Tex. Tax Code §6.26(c)
[451] Tex. Tax Code §6.26(a)
[452] Tex. Tax Code §6.26(j)

If the commissioner's court or the taxing unit's governing body finds that a petition is valid, it must order an election in the CAD or taxing unit on the next uniform election date prescribed by the Election Code that is more than 60 days after the last day on which it could have acted on the petition.[453]

If a majority of the qualified voters who voted in the election favor the proposition, the CAD, county TAC or specified taxing unit named on the ballot must perform the functions specified by the ballot beginning with the next time property taxes are assessed or collected, as applicable, that is more than 90 days after the date of the election. When the performance of a function begins before that time period, a function may be consolidated if the governing bodies agree, including the CAD board of directors if the CAD is involved.[454]

A consolidation may not be terminated within two years after the consolidation date.[455]

A taxing unit must pay the actual cost of the consolidated functions to the office or entity that performs the functions pursuant to an election.[456] Actual costs have been defined by the Attorney General as those costs that the collecting taxing unit or CAD incurs over and above those it would incur if it were not collecting for another taxing unit.[457]

A taxing unit may require a bond when a CAD collects for the taxing unit.[458] The taxing unit must pay the premium for the bond from its general fund or as provided by intergovernmental contract.[459]

Annual Collection Budget

If a CAD is assessing and collecting, the district should outline the costs in a separate budget.[460] If the CAD performs assessment and collection functions under contract, the budget should be based on the contract. If the CAD collects under an election, the budget should be based on actual costs among the taxing units served.[461] The CAD must allocate costs only to those taxing units for which it performs assessment and collection functions.[462]

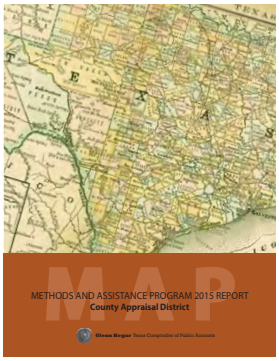
Special items in the annual collection budget could include required bonds, services of a delinquent tax attorney and court fees (if the CAD is handling delinquent collections).

[453] Tex. Tax Code §6.26(e)
[454] Tex. Tax Code §6.26(f)
[455] Tex. Tax Code §6.26(i)
[456] Tex. Tax Code §6.26(g)
[457] Tex. Att'y Gen. Op. JM-996 (1988)
[458] Tex. Tax Code §6.29(b)
[459] Tex. Tax Code §6.29(c)
[460] Tex. Att'y Gen. Op. GA-0030 (2003)
[461] Tex. Att'y Gen. Op. JM-996 (1988)
[462] Tex. Att'y Gen. Op. GA-0030 (2003)

Comptroller Review of CADs

The Comptroller's office advises local governments and taxpayers on property tax issues, but it cannot intervene in local tax matters. The Comptroller's office is required to adopt rules establishing minimum standards for CAD administration and operations and is also required to conduct reviews of CAD operations.[463]

Methods and Assistance Program (MAP)



Starting in January 2010, the Comptroller's Property Tax Assistance Division (PTAD) began performing MAP reviews. At least once every two years, PTAD must review the governance of each CAD, taxpayer assistance provided and the operating and appraisal standards, procedures and methodology used by each CAD, to determine compliance with generally accepted standards, procedures and methodology.[464] After consultation with the Property Value Study (PVS) Advisory Committee, the Comptroller's office by rule may establish procedures and standards for conducting and scoring the review.[465] Comptroller Rule 9.301 provides procedures and standards for the reviews and additional MAP information is available at comptroller.texas.gov/taxinfo/proptax/map/index.html.

In conducting the review, the Comptroller's office is entitled to access to all CAD records and reports, to copy or print these materials and to the assistance of the CAD's officers and employees.[466]

At the conclusion of the review, the Comptroller's office must, in writing, notify the CAD of its performance in the review.[467] If there is a finding of non-compliance with generally accepted standards, procedures and methodology, the Comptroller's office must deliver a report that details the findings and recommendations for improvement to the following:

1. the CAD's chief appraiser and board of directors; and
2. the superintendent and board of trustees of each school district participating in the CAD.[468]

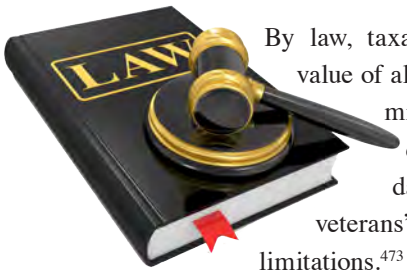
If a CAD fails to comply with the report's recommendations and the Comptroller's office finds that the CAD board of directors failed to take remedial action reasonably designed to ensure substantial compliance with each report recommendation before the first anniversary of the date the report was issued, the Comptroller's office must notify TDLR. TDLR must take action necessary to ensure that the recommendations in the report are implemented as soon as practicable.[469] If TDLR takes action, then before Feb. 1 of the year following the year in which action is taken, TDLR must, with the assistance of the Comptroller's office, determine whether the recommendations in the most recent report have been substantially implemented.[470] TDLR must notify the CAD's chief appraiser and the board of directors in writing of the determination.[471]

Property Value Study (PVS)

Government Code Section 403.302 requires the Comptroller's office to conduct a study to determine the total taxable value of all property in each school district at least once every two years. This study is referred to as the Property Value Study (PVS).

[463] Tex. Tax Code §§5.03, 5.10, 5.102, 5.12 and Tex. Gov't Code §403.302
[464] Tex. Tax Code §5.102(a)
[465] Tex. Tax Code §5.102(a)
[466] Tex. Tax Code §5.102(b)
[467] Tex. Tax Code §5.102(c)
[468] Tex. Tax Code §5.102(c)
[469] Tex. Tax Code §5.102(d)
[470] Tex. Tax Code §5.102(e)
[471] Tex. Tax Code §5.102(e)

The primary purpose of the PVS is to help ensure equitable distribution of state funding for public education. Texas funds public education through state and local funds. Local funding comes from property taxes.[472] The chief appraiser of each CAD determines local property values and school districts set tax rates that determine the amount of local tax revenue. Texas bases state funding on the total taxable property value within each school district, as determined by the PVS.



By law, taxable value equals the market value of all taxable property in a district, minus certain exemptions and deductions such as state-mandated homestead and disabled veterans' exemptions as well as value limitations.[473] Deductions are made for reinvestment zones, freeport exemptions, productivity appraisal of qualified agricultural lands, the school tax ceiling for homeowners age 65 and older or disabled and other state-mandated exemptions.[474]

To estimate a school district's taxable value, the Government Code requires the Comptroller's office to do the following:

- use generally accepted sampling, standard valuation, statistical compilation and analysis techniques;
- ensure that different levels of appraisal on sold and unsold property do not adversely affect the accuracy of the study and that different levels of appraisal resulting from protests to the ARB on the grounds of market or appraised value or unequal appraisal (Tax Code Sections 41.41(a)(1) or (2)) are appropriately adjusted in the study; and
- test the validity of taxable values and presume that appraisal roll values represent taxable value when local value is determined to be valid.[475]

The Comptroller's office tests the taxable values the CAD assigns to each property category by constructing a statistical margin of error around the estimate of value for selected property categories in each school district.[476] The Comptroller's office considers values valid, or acceptable, when they are within the margin of error.[477] The Comptroller's office considers values outside this margin of error invalid.[478]

If the locally appraised value in a school district (local value) is valid, the Comptroller's office certifies the local value to the Commissioner of Education.[479] If the local value is invalid, the Comptroller's office certifies the state value, unless the school district's value is higher than the acceptable range or the school district is eligible for a grace period (a period during which state law allows local value to be used even though the school district's property values are not at market value).[480]

The Education Code provides how the Commissioner of Education uses the findings of the PVS to determine state aid in school funding.

The secondary purpose of the PVS is to collect data to provide taxpayers, school districts, CADs and the Legislature with measures of CAD performance. Tax Code Section 5.10 requires the Comptroller's office to measure CAD performance at least once every two years and to publish the results. The Comptroller's office measures the level and uniformity of property tax appraisals using data collected in the PVS. The level of appraisal shows whether the CAD has appraised properties at 100 percent of the legally required level—normally the market value. The uniformity of appraisal indicates how much the percentage of market value varies from property to property.

Additional information regarding the PVS is available at: comptroller.texas.gov/taxinfo/proptax/pvs.html.

Performance Audits

The Comptroller's office must perform performance audits of CADs that fail to meet specified standards for two consecutive studies conducted by the Comptroller's office under Tax Code Section 5.10.[481] Existence of any one of the following conditions for two consecutive years triggers an audit:

1. the overall median level of appraisal for all properties in the CAD is less than 0.75 as determined in the Comptroller's study;

[472] Tex. Gov't Code §403.301
[473] Tex. Gov't Code §403.302(d)
[474] Tex. Gov't Code §403.302(d)
[475] Tex. Gov't Code §403.302(b) and (c)
[476] Tex. Gov't Code §403.302(c)
[477] Tex. Gov't Code §403.302(c)
[478] Tex. Gov't Code §403.302(c)
[479] Tex. Gov't Code §403.302(c)
[480] Tex. Gov't Code §§403.302(c) and 403.3011(2)
[481] Tex. Tax Code §5.12(a)

2. the coefficient of dispersion around the median of the overall property sample is greater than 0.30; or
3. the difference between median levels of appraisal for any two property classes is greater than 0.45.[482]

Under certain circumstances, the Comptroller's office must also complete an audit if a majority of participating taxing units or a majority of voting taxing units submit a written request to the Comptroller's office for a performance audit or an audit of only one or more particular matters.[483]

Additionally, owners of at least 10 percent of accounts or parcels of property in a single class can petition for a performance audit (but only if the class makes up at least 5 percent of the total property value in the district).[484] Further, on written request, property owners may request an audit if the owners represent not less than 10 percent of the appraised value of all the property in the CAD belonging to a single class of property if that property class makes up at least 5 percent of the CAD's total property value.[485]

Taxing units and property owners may not request an audit if, for the last two PVS under Tax Code Section 5.10:

1. the overall median of appraisal for all of the CAD's property is more than 0.90 and less than 1.10;
2. the coefficient of dispersion for the overall property sample in the study is less than 0.15; and
3. the difference between the highest and lowest median appraisal levels for the various property classes is less than 0.20.[486]

A request for a CAD performance audit may not be made:

1. during the two years immediately following the publication of the second of two consecutive studies according to which the Comptroller's office is required to conduct an audit of the CAD;
2. during the year immediately following the date the results of an audit of the CAD conducted by the Comptroller's office are reported to the chief appraiser of the CAD; or
3. during a year in which the Comptroller's office is conducting a MAP review of the CAD under Tax Code Section 5.102.[487]

CADs must bear the cost of audits triggered by study results or triggered by a taxing unit request for an audit.[488] The cost of a taxpayer-requested audit is borne by the requesting taxpayers.[489] However, the CAD must reimburse the cost of a taxpayer-requested audit if the audit's results show that the median level of appraisal for a class of property exceeds 1.10 or the median level of appraisal for one class of property varies by at least 10 percent from the overall median level of property in the CAD.[490]

The Comptroller's office must report the results of the audit in writing to the governing body of each participating taxing unit, the chief appraiser and to the presiding officer of the CAD board of directors.[491] If it is a taxpayer-requested audit, the Comptroller's office must also provide a report to a representative of the property owners who requested the audit.[492]

[482] Tex. Tax Code §5.12(a)
[483] Tex. Tax Code §5.12(b)
[484] Tex. Tax Code §5.12(c)
[485] Tex. Tax Code §5.12(c)
[486] Tex. Tax Code §5.12(d)
[487] Tex. Tax Code §5.12(e)
[488] Tex. Tax Code §5.13(g)
[489] Tex. Tax Code §5.13(g)
[490] Tex. Tax Code §5.13(g)
[491] Tex. Tax Code §5.13(f)
[492] Tex. Tax Code §5.13(f)

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