



State of Texas  
House of Representatives

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David Counts  
State Representative

GOVERNMENTAL INQUIRY  
UNIT

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Natural Resources, Chairman  
Insurance Committee  
Redistricting Committee  
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Legislative Oversight Committee  
on Workers' Compensation

FILE # ML-39985-97

I.D. # 39985

December 15, 1997

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The Honorable Dan Morales  
Attorney General of the State of Texas  
P.O. Box 12548  
Austin, Texas 78711

Opinion Committee

Dear General Morales:

On behalf of the House Natural Resources Committee, I request your opinion on the following question:

May a person serve on the appraisal review board for a property tax appraisal district established for a county having a population of 300,000 or less if the person is:

- (1) a former officer or employee of the appraisal district or a taxing unit for which the appraisal district appraises property;
- (2) a former member of the board of directors of the appraisal district; or
- (3) a former member of the governing body of a taxing unit for which the appraisal district appraises property?

Section 6.412(c), Tax Code, as added by section 2, Chapter 691, Acts of the 75th Legislature, Regular Session, 1997 (S.B. No. 1017), provides that the persons listed above are ineligible to serve on an appraisal review board.

Section 6.41(c), Tax Code, as amended by Section 4, Chapter 1039, Acts of the 75th Legislature, Regular Session, 1997 (S.B. No. 841), provides in pertinent part that "[I]n an appraisal district established for a county having a population of more than 300,000, an individual who...is a former member of the governing body or an officer or employee of a taxing unit, or is a former director, officer, or employee of the appraisal district is ineligible to serve on the appraisal review board."



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Although they are worded slightly differently, the restrictions on eligibility to serve on an appraisal review board provided by S.B. 1017 are substantially the same as the restrictions provided by S.B. 841, except that the former restrictions apply to any appraisal review board while the latter restrictions are limited to the appraisal review board for an appraisal district established for a county having a population of more than 300,000. S.B. 1017 and S.B. 841 appear to conflict as to whether the restrictions apply to the appraisal review board for an appraisal district established for a county having a population of 300,000 or less.

I respectfully direct your attention to certain provisions of the Government Code that may have a bearing on the answer to this question. Sections 311.025(a) and 312.014(a), Government Code (the latter provision was added by Section 3, Chapter 220, Acts of the 75th Legislature, Regular Session, 1997), provide that if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in the date of enactment prevails. Sections 311.025(d) and 312.014(d), Government Code, as added by Sections 2 and 3 of 1997 act, provide that the date of enactment is the date on which the last legislative vote is taken on the bill enacting on the statute. The last legislative vote on S.B. 1017 was taken May 19, 1997. The last legislative vote on S.B. 841 was taken June 1, 1997. Therefore, because S.B. 841 was enacted after S.B. 1017, arguably S.B. 841 prevails, and the restrictions on appraisal review board membership are limited to an appraisal district established for a county having a population of more than 300,000.

The legislative history of S.B. 841 also suggests that the legislature intended that version of the restrictions on appraisal review board membership to prevail over S.B. 1017. The restrictions in S.B. 841 as passed by the senate applied to the appraisal review board for an appraisal district established for a county having a population of more than 300,000 and were limited to a former officer or employee of a taxing unit. The restrictions in the bill as passed by the house applied to any appraisal review board and were expanded to include a former member of the governing body, officer, or employee of a taxing unit or former officer, direction, or employee of the appraisal district. When S.B. 841 was passed by the house, the legislature had already enacted S.B. 1017, which was substantially the same as S.B. 841 as passed by the house with regard to restrictions on appraisal review board membership. The senate refused to concur in the house amendments to S.B. 841, and a conference committee was appointed. The conference committee adopted a compromise between the senate and the house versions of the bill. The conference committee report followed the senate version with regard to the appraisal review boards to which the restrictions applied but followed the house version regard to the persons covered by the restrictions. The senate and house, which were presumably aware of the change in the law proposed by S.B. 1017, adopted the conference committee report.

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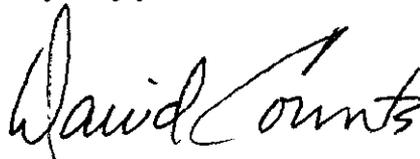
Arguably, the legislature made a determination that the restrictions imposed by S.B. 1017 should be limited to the appraisal review board for an appraisal district established for a county having a population of more than 300,000. This determination may have been made because of the difficulty of finding enough eligible persons who are willing to serve on appraisal review boards in less populous counties.

Furthermore, even if the statutes are not in conflict, S.B. 841 arguably prevails because it has a later effective date, S.B. 1017 took effect September 1, 1997, while S.B. 841 takes effect January 1, 1998. The legislature may have intended that the restrictions apply to each appraisal review board beginning on September 1, 1997, but that they be limited to the appraisal review board for an appraisal district established for a county having a population of more than 300,000 beginning on January 1, 1998.

Regardless of whether the apparent conflict between S.B. 1017 and S.B. 841 is analyzed on the basis of the dates of enactment, legislative history, or effective dates of the bills, it appears that the restrictions on eligibility to serve on an appraisal review board provided by S.B. 841 rather than the restrictions provided by S.B. 1017 should apply when S.B. 841 takes effect on January 1, 1998.

I thank you in advance for your opinion on this issue.

Very truly yours,

A handwritten signature in cursive script that reads "David Counts". The signature is written in black ink and is positioned above the typed name and title.

David Counts, Chair  
House Natural Resources Committee