

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0151.01 Bob Lackner x4350

SENATE BILL 13-146

SENATE SPONSORSHIP

Tochtrop, Renfro

HOUSE SPONSORSHIP

DelGrosso and Ryden,

Senate Committees
Local Government

House Committees

A BILL FOR AN ACT

101 CONCERNING PROCEDURES GOVERNING THE BOARD OF ASSESSMENT
102 APPEALS IN THE DEPARTMENT OF LOCAL AFFAIRS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Legislative Audit Committee. In connection with the board of assessment appeals (board) within the department of local affairs, the bill makes the following modifications:

! **Section 1** of the bill specifies that appointments to the board shall be as follows: one member shall be appointed

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

for a term of 2 years, and 2 members shall be appointed for terms of 4 years. Thereafter, appointments to the board shall be for terms of 4 years each. In order to allow for appeals to be heard timely, up to 6 additional members may be appointed to the board by the governor with the consent of the senate. Such additional members shall be appointed for terms of one state fiscal year each.

! **Section 2** of the bill eliminates existing statutory provisions requiring decisions on appeals from decisions of county boards of equalization to be rendered within 30 days after the earlier of the date of hearing on the appeal or by the last day of the same calendar year. This section of the bill also eliminates existing statutory provisions requiring the general assembly to provide by appropriation for the appointment of additional board members and the hiring of additional personnel to assist the board in meeting its caseload, as well as authorization for the board to schedule hearings for an extended period in the event that, as the result of an extraordinary work load, the board is unable to complete all its hearings before the last day of the same calendar year. Under current law, all fees collected by the board, after being transmitted to the state treasurer, are credited to the general fund. Under this section of the bill, such moneys collected in the future will be transmitted to the board of assessment appeals cash fund (cash fund), which the bill creates in the state treasury. In making the annual appropriation to the board under the annual general appropriation act, the bill requires the general assembly to consider available revenues and reserve balances in the cash fund.

! **Section 3** of the bill requires the board to issue a written decision for each appeal it hears. Each such written decision must either be a summary decision or a full decision. A full decision must contain specific findings of fact and conclusions of law. A summary decision need not contain specific findings of fact and conclusions of law. If the board has issued a summary decision, the bill authorizes a party dissatisfied with the summary decision to file a written request with the board for a full decision. The bill specifies requirements applicable to the submission of the request. Timely filing of the written request with the board is a prerequisite to review of the board's decision by the court of appeals. Upon timely request for a full decision, the board is required to issue a full decision and enter it as the final decision in the appeal subject to judicial review by

the court of appeals.

- ! The board currently possesses the authority to issue such orders as it deems necessary to ascertain facts and to carry out its decisions. **Section 4** of the bill eliminates the existing statutory requirement that any such order directed to a county assessor or a county board of equalization is enforceable upon application of the property tax administrator.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-2-123, **amend** (2)
3 as follows:

4 **39-2-123. Board of assessment appeals created - members -**
5 **compensation.** (2) Effective July 1, 1991, the existing board of
6 assessment appeals is abolished, and the terms of members of the board
7 then serving are terminated. Effective July 1, 1991, ~~except as otherwise~~
8 ~~provided in section 39-2-125 (1) (c) (f);~~ the new board shall be comprised
9 of three members, who shall be appointed by the governor with the
10 consent of the senate. APPOINTMENTS TO THE BOARD SHALL BE AS
11 FOLLOWS: ONE MEMBER SHALL BE APPOINTED FOR A TERM OF TWO YEARS,
12 AND TWO MEMBERS SHALL BE APPOINTED FOR TERMS OF FOUR YEARS.
13 THEREAFTER, APPOINTMENTS TO THE BOARD SHALL BE FOR TERMS OF
14 FOUR YEARS EACH. IN ORDER TO ALLOW FOR APPEALS TO BE HEARD
15 TIMELY, UP TO SIX ADDITIONAL MEMBERS MAY BE APPOINTED TO THE
16 BOARD BY THE GOVERNOR WITH THE CONSENT OF THE SENATE. SUCH
17 ADDITIONAL MEMBERS SHALL BE APPOINTED FOR TERMS OF ONE STATE
18 FISCAL YEAR EACH. Members of the board shall be experienced in
19 property valuation and taxation and shall be public employees, as defined
20 in section 24-10-103 (4) (a), C.R.S., who are not subject to the state
21 personnel system laws. One of such members shall be or shall have been,

1 within the five years immediately preceding the date of initial
2 appointment, actively engaged in agriculture. On and after June 1, 1993,
3 members shall be registered, licensed, or certificated pursuant to the
4 provisions of part 7 of article 61 of title 12, C.R.S. ~~and, if any member~~
5 ~~fails to become so registered, licensed, or certificated by said date, the~~
6 ~~office of such member shall be deemed to be vacated and shall be filled~~
7 ~~in the same manner as other vacancies. Initial appointments to the board~~
8 ~~shall be as follows: One member shall be appointed for a term of two~~
9 ~~years, and two members shall be appointed for terms of four years.~~
10 Thereafter, appointments to the board shall be for terms of four years
11 each. Service on the board shall be at the pleasure of the governor, who
12 may appoint a replacement to serve for the unexpired term of any
13 member. Such replacement shall be appointed with the consent of the
14 senate. Any other vacancies on the board shall be filled by appointment
15 by the governor with the consent of the senate for the unexpired term.

16 **SECTION 2.** In Colorado Revised Statutes, 39-2-125, **amend** (1)
17 (c) and (1) (h) introductory portion as follows:

18 **39-2-125. Duties of the board.** (1) The board of assessment
19 appeals shall perform the following duties, such performance to be in
20 accordance with the applicable provisions of article 4 of title 24, C.R.S.:

21 (c) Hear appeals from decisions of county boards of equalization
22 filed not later than thirty days after the entry of any such decision. ~~Appeal~~
23 ~~decisions shall be rendered within thirty days after the date of hearing or~~
24 ~~by the last day of the same calendar year, whichever is the earlier date.~~
25 ~~However, if, as a result of an extraordinary work load, all hearings cannot~~
26 ~~be completed before the last day of the same calendar year, the general~~
27 ~~assembly may, by appropriation, provide for the following:~~

1 ~~(I) The appointment of up to six additional members to the board~~
2 ~~in the same manner as specified in section 39-2-123 (2). Such members~~
3 ~~shall satisfy such qualifications and shall be entitled to such compensation~~
4 ~~as are specified in section 39-2-123. Such additional members shall be~~
5 ~~appointed for terms of one state fiscal year each.~~

6 ~~(H) The authorization for the board to schedule hearings for a~~
7 ~~period of time not to exceed the time for which such appropriation is~~
8 ~~made; and~~

9 ~~(HH) The hiring of additional personnel on a contract basis for the~~
10 ~~members of the board appointed pursuant to subparagraph (I) of this~~
11 ~~paragraph (c) and to assist in handling such caseload.~~

12 (h) Collect any filing fee that shall accompany a taxpayer's request
13 for a hearing before the board pursuant to this section. All fees collected
14 by the board shall be transmitted to the state treasurer, who shall credit
15 the same to the ~~general fund~~ BOARD OF ASSESSMENT APPEALS CASH FUND,
16 WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY AND REFERRED
17 TO IN THIS PARAGRAPH (h) AS THE "CASH FUND". ALL MONEYS CREDITED
18 TO THE CASH FUND SHALL BE USED IN ACCORDANCE WITH THE
19 REQUIREMENTS OF THIS SECTION AND SHALL NOT BE DEPOSITED IN OR
20 TRANSFERRED TO THE GENERAL FUND OF THIS STATE OR ANY OTHER FUND.
21 THE MONEYS CREDITED TO THE CASH FUND SHALL BE AVAILABLE FOR
22 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE BOARD OF
23 ASSESSMENT APPEALS IN THE ANNUAL GENERAL APPROPRIATION ACT. IN
24 MAKING THE ANNUAL APPROPRIATION TO THE BOARD OF ASSESSMENT
25 APPEALS UNDER THE ANNUAL GENERAL APPROPRIATION ACT, THE
26 GENERAL ASSEMBLY SHALL CONSIDER AVAILABLE REVENUES AND
27 RESERVE BALANCES IN THE CASH FUND. ANY INTEREST EARNED ON

1 AMOUNTS IN THE CASH FUND SHALL BE CREDITED TO THE CASH FUND. Any
2 request for a hearing before the board pursuant to sections 39-2-117 (5)
3 (b), 39-4-108 (8), 39-8-108 (1), and 39-10-114.5 (1) shall be accompanied
4 by a nonrefundable filing fee as follows:

5 **SECTION 3.** In Colorado Revised Statutes, 39-2-127, **add** (6) as
6 follows:

7 **39-2-127. Board of assessment appeals meetings - proceedings**
8 **- representation before board.** (6) THE BOARD OF ASSESSMENT APPEALS
9 SHALL ISSUE A WRITTEN DECISION FOR EACH APPEAL IT HEARS. EACH SUCH
10 WRITTEN DECISION MUST EITHER BE A SUMMARY DECISION OR A FULL
11 DECISION. A FULL DECISION MUST CONTAIN SPECIFIC FINDINGS OF FACT
12 AND CONCLUSIONS OF LAW. A SUMMARY DECISION NEED NOT CONTAIN
13 SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW. IF THE BOARD HAS
14 ISSUED A SUMMARY DECISION, A PARTY DISSATISFIED WITH THE SUMMARY
15 DECISION MAY FILE A WRITTEN REQUEST WITH THE BOARD FOR A FULL
16 DECISION. THE WRITTEN REQUEST MUST BE RECEIVED BY THE BOARD
17 WITHIN TEN WORKING DAYS AFTER THE DATE ON WHICH THE SUMMARY
18 DECISION WAS MAILED. TIMELY FILING OF THE WRITTEN REQUEST WITH
19 THE BOARD IS A PREREQUISITE TO REVIEW OF THE BOARD'S DECISION BY
20 THE COURT OF APPEALS. UPON TIMELY REQUEST FOR A FULL DECISION, THE
21 BOARD SHALL ISSUE A FULL DECISION AND ENTER IT AS THE FINAL
22 DECISION IN THE APPEAL SUBJECT TO JUDICIAL REVIEW BY THE COURT OF
23 APPEALS AS PROVIDED IN SECTION 39-8-108 (2) OR 39-10-114.5 (2).

24 **SECTION 4.** In Colorado Revised Statutes, **amend** 39-2-128 as
25 follows:

26 **39-2-128. Board of assessment appeals may issue orders.** The
27 board of assessment appeals may issue such orders as it deems necessary

1 to ascertain facts and to carry out its decisions, and any such order
2 directed to a county assessor or a county board of equalization shall be
3 enforceable in the district court of the county. ~~upon application of the~~
4 ~~property tax administrator.~~

5 **SECTION 5. Effective date.** This act takes effect July 1, 2013.

6 **SECTION 6. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.