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SENATE BILL 13-146

BY SENATOR(S) Tochtrop, Renfroe;
also REPRESENTATIVE(S) DelGrosso and Ryden, Gerou, Pettersen.

CONCERNING PROCEDURES GOVERNING THE BOARD OF ASSESSMENT
APPEALS IN THE DEPARTMENT OF LOCAL AFFAIRS, AND, IN
CONNECTION THEREWITH, MAKING AND REDUCING AN
APPROPRIATION.

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

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

39-2-123. Board of assessment appeals created - members - compensation. (2) Effective July 1, 1991, the existing board of assessment appeals is abolished, and the terms of members of the board then serving are terminated. Effective July 1, 1991, ~~except as otherwise provided in section 39-2-125 (1) (c) (F)~~, the new board shall be comprised of three members, who shall be appointed by the governor with the consent of the senate. APPOINTMENTS TO THE BOARD SHALL BE AS FOLLOWS: ONE MEMBER SHALL BE APPOINTED FOR A TERM OF TWO YEARS, AND TWO MEMBERS SHALL BE APPOINTED FOR TERMS OF FOUR YEARS. THEREAFTER, APPOINTMENTS TO THE BOARD SHALL BE FOR TERMS OF FOUR YEARS EACH. IN ORDER TO ALLOW

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

FOR APPEALS TO BE HEARD TIMELY, UP TO SIX 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. Members of the board shall be experienced in property valuation and taxation and shall be public employees, as defined in section 24-10-103 (4) (a), C.R.S., who are not subject to the state personnel system laws. One of such members shall be or shall have been, within the five years immediately preceding the date of initial appointment, actively engaged in agriculture. On and after June 1, 1993, members shall be registered, licensed, or certificated pursuant to the provisions of part 7 of article 61 of title 12, C.R.S. and, ~~if any member fails to become so registered, licensed, or certificated by said date, the office of such member shall be deemed to be vacated and shall be filled in the same manner as other vacancies. Initial appointments to the board shall be as follows: One member shall be appointed for a term of two years, and two members shall be appointed for terms of four years. Thereafter, appointments to the board shall be for terms of four years each.~~ Service on the board shall be at the pleasure of the governor, who may appoint a replacement to serve for the unexpired term of any member. Such replacement shall be appointed with the consent of the senate. Any other vacancies on the board shall be filled by appointment by the governor with the consent of the senate for the unexpired term.

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

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

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

~~(f) The appointment of up to six additional members to the board in the same manner as specified in section 39-2-123 (2). Such members shall~~

~~satisfy such qualifications and shall be entitled to such compensation as are specified in section 39-2-123. Such additional members shall be appointed for terms of one state fiscal year each.~~

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

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

(h) Collect any filing fee that shall accompany a taxpayer's request for a hearing before the board pursuant to this section. All fees collected by the board shall be transmitted to the state treasurer, who shall credit the same to the ~~general fund~~ BOARD OF ASSESSMENT APPEALS CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY AND REFERRED TO IN THIS PARAGRAPH (h) AS THE "CASH FUND". ALL MONEYS CREDITED TO THE CASH FUND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION AND SHALL NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OF THIS STATE OR ANY OTHER FUND. THE MONEYS CREDITED TO THE CASH FUND SHALL BE AVAILABLE FOR APPROPRIATION BY THE GENERAL ASSEMBLY TO THE BOARD OF ASSESSMENT APPEALS IN THE ANNUAL GENERAL APPROPRIATION ACT. IN MAKING THE ANNUAL APPROPRIATION TO THE BOARD OF ASSESSMENT APPEALS UNDER THE ANNUAL GENERAL APPROPRIATION ACT, THE GENERAL ASSEMBLY SHALL CONSIDER AVAILABLE REVENUES AND RESERVE BALANCES IN THE CASH FUND. ANY INTEREST EARNED ON AMOUNTS IN THE CASH FUND SHALL BE CREDITED TO THE CASH FUND. Any request for a hearing before the board pursuant to sections 39-2-117 (5) (b), 39-4-108 (8), 39-8-108 (1), and 39-10-114.5 (1) shall be accompanied by a nonrefundable filing fee as follows:

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

39-2-127. Board of assessment appeals meetings - proceedings - representation before board. (6) THE BOARD OF ASSESSMENT APPEALS SHALL ISSUE A WRITTEN DECISION FOR EACH APPEAL IT HEARS. EACH SUCH WRITTEN DECISION MUST EITHER BE A SUMMARY DECISION OR A FULL DECISION; HOWEVER, A SUMMARY DECISION MAY ONLY BE ISSUED UPON

REQUEST FOR A SUMMARY DECISION MADE BY BOTH PARTIES BEFORE THE BOARD. 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, A PARTY DISSATISFIED WITH THE SUMMARY DECISION MAY FILE A WRITTEN REQUEST WITH THE BOARD FOR A FULL DECISION. THE WRITTEN REQUEST MUST BE RECEIVED BY THE BOARD WITHIN TEN WORKING DAYS AFTER THE DATE ON WHICH THE SUMMARY DECISION WAS MAILED. 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 SHALL ISSUE A FULL DECISION AND ENTER IT AS THE FINAL DECISION IN THE APPEAL SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS AS PROVIDED IN SECTION 39-8-108 (2) OR 39-10-114.5 (2).

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

39-2-128. Board of assessment appeals may issue orders. The board of assessment appeals may issue such orders as it deems necessary to ascertain facts and to carry out its decisions, and any such order directed to a county assessor or a county board of equalization shall be enforceable in the district court of the county. ~~upon application of the property tax administrator.~~

SECTION 5. Appropriation - adjustments to 2013 long bill.

(1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of local affairs for the fiscal year beginning July 1, 2013, are adjusted as follows:

(a) The general fund appropriation for the property taxation division, board of assessment appeals, is decreased by \$150,000.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the board of assessment appeals cash fund created in section 39-2-125 (1) (h), Colorado Revised Statutes, not otherwise appropriated, to the department of local affairs, for the fiscal year beginning July 1, 2013, the sum of \$150,000, or so much thereof as may be necessary, to be allocated to the property taxation division for the board of assessment appeals related to the implementation of this act.

SECTION 6. Effective date. This act takes effect July 1, 2013.

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

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO