

HOUSE BILL 130

By Johnson C

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3 and Title 67, Chapter 5, relative to appeals before the state board of equalization.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-3-5105(11)(A)(i), is amended by deleting the language "or the assessment appeals commission".

SECTION 2. Tennessee Code Annotated, Section 67-5-1502, is amended by deleting the section.

SECTION 3. Tennessee Code Annotated, Section 67-5-1504, is amended by deleting the section and substituting instead the following:

In the event the complaints filed with the state board of equalization from a county are sufficiently numerous to justify such action, it is the duty of the state board to reconvene the county board of equalization and remand the complaints to the county board, with directions that the county board reconvene on a certain date and hear and act upon the complaints and certify its action in each case to the state board of equalization.

SECTION 4. Tennessee Code Annotated, Section 67-5-1505, is amended by deleting the section and substituting instead the following:

(a) As used in this part, "hearing examiner" includes an administrative judge serving by appointment of the state board of equalization or an administrative judge serving on behalf of the board under appointment by the secretary of state.

(b) The state board of equalization may appoint members of the staff of the division of property assessments or such other persons as it may employ, to serve in the

capacity of hearing examiners to conduct preliminary hearings and to make investigations for the board regarding complaints and appeals from assessments and classifications, or regarding any other matter for which the board has responsibility by law.

(c) The hearing examiners shall prepare proposed findings of fact and conclusions and recommend the same to the board.

(d) Upon the evidence presented before the hearing examiner in a preliminary hearing or upon facts gained in the hearing examiner's investigation of any matter, the hearing examiner shall prepare proposed findings of fact and conclusions for the state board and shall notify each property owner who may be affected by the hearing examiner's recommendation.

(e) Notwithstanding a contrary provision of law, and unless a party to the appeal objects in writing, the administrative judge or hearing examiner may render a proposed decision that is limited to words or figures, or both, reflecting conclusions as to the proper classification or valuation of the subject property.

(f) The hearing examiner shall receive and consider all admissible evidence, as defined in § 4-5-313, presented in a hearing and shall conduct the hearing in an informal manner. All hearings conducted on behalf of, or before the state board of equalization, must be conducted in a manner that gives deference to the position of neither the taxpayer nor the assessor, but treats both parties in an objective manner. This subsection (f) does not affect the burden of proof in property tax appeals or other contested cases as otherwise provided by law.

SECTION 5. Tennessee Code Annotated, Section 67-5-1506, is amended by deleting the section and substituting instead the following:

(a) In the absence of an exception to the recommendation of the hearing examiner by either the property owner or the property owner's agent, or the county assessor of property or the taxing jurisdiction, the state board of equalization may adopt the recommendation of its hearing examiner as its final decision without the necessity of a hearing before the board.

(b) If an exception to the recommendation of the hearing examiner is taken by either the property owner or the property owner's agent, or the county assessor of property or the taxing jurisdiction, or if the state board of equalization does not adopt the recommendation of the hearing examiner, the state board of equalization may determine to review all issues, to review some but not all issues, or not to exercise any review. If the state board of equalization does not exercise its discretion to review a matter, then the board shall issue a notice pursuant to § 67-5-1512(a)(3). The date of the notice or certificate commences the period for seeking judicial review pursuant to § 67-5-1511.

(c) If the state board of equalization determines to exercise review, then a hearing may be scheduled before final action is taken. The review is confined to the record except that additional proof may be taken in cases involving alleged irregularities in procedure that are not shown in the record.

(d) The state board of equalization may affirm the decision of the hearing examiner or remand the case for further proceedings. The state board of equalization may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) Made upon unlawful procedure;
- (3) Arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(4) Unsupported by evidence that is both substantial and material in light of the entire record.

(e) In determining the substantiality of evidence, the state board of equalization shall take into account whatever in the record fairly detracts from its weight, but shall not substitute its judgment for that of the hearing examiner as to the weight of evidence on questions of fact.

SECTION 6. Tennessee Code Annotated, Section 67-5-1507, is amended by deleting the section and substituting instead the following:

The board may, at any time, send its members or such other person as it may designate to any portion of the state to obtain information and evidence deemed material to the duties of equalization, and to hear questions, and report to the board.

SECTION 7. Tennessee Code Annotated, Section 67-5-1508, is amended by deleting the section and substituting instead the following:

The board may require the director of property assessments and any member of the director's staff to submit such facts and reports as may be deemed necessary to enable the board to equalize assessments of property of the various classes and in the different localities of the state, and otherwise prescribe their duties and powers.

SECTION 8. Tennessee Code Annotated, Section 67-5-1509, is amended by deleting the section and substituting instead the following:

(a) Upon its consideration of reports made to it, together with the evidence submitted with a report or other information available, the state board shall take whatever steps it deems are necessary to effect the assessment of property in accordance with the constitution and the laws of this state. The board shall by order or rule direct that commercial and industrial tangible personal property assessments be equalized using the appraisal ratios adopted by the board in each jurisdiction; provided,

that an equalization factor for purposes of this section does not exceed a factor of one (1.000). The equalization described is available only to taxpayers who have timely filed the reporting schedule required by law.

(b) Equalization may be made by the board by reducing or increasing the appraised values of properties within a taxing jurisdiction, or any part of the jurisdiction, in such manner as is determined by the state board of equalization will enable the board to justly and equitably equalize assessments in accordance with law.

(c) If the state board of equalization deems it necessary to increase or decrease appraised values of properties of a taxing jurisdiction, or any part of the jurisdiction, in a manner that affects properties in general rather than individual properties, it is not necessary that the state board notify each individual property owner as provided in § 67-5-1510; provided, that the board shall cause to be published at least once, in a newspaper of general circulation within the taxing jurisdiction affected by the action of the board, a notice of the action of the state board.

SECTION 9. Tennessee Code Annotated, Section 67-5-1510, is amended by deleting the section and substituting instead the following:

(a) Whenever the state board, after a county or local board has acted, has reason to believe that an individual assessment of real property or personal property is inadequate, or the classification of such property is erroneous, it may cause ten (10) days' written notice to be served on the person to whom the property is assessed, commanding the person to appear before the board to show cause why the assessment should not be increased or the classification should not be changed.

(b) The taxpayer may be heard either personally or by counsel and may introduce any competent evidence touching the question of adequacy of the assessment or change of the classification.

(c) The board shall:

(1)

(A) Determine the amount, if any, the assessment must be increased; or

(B) Determine the proper classification of the property; and

(2) Reduce its judgment to writing and certify its findings to the proper county officials.

(d) Actions pursuant to this section are commenced by issuance of the required notice on or before September 1 of the year following the year to which the notice relates.

SECTION 10. Tennessee Code Annotated, Section 67-5-1511(b), is amended by deleting the language "judicial review provided in subsection (a) shall consist of a new hearing in the chancery court based upon the administrative record and any additional or supplemental evidence which either party wishes to adduce relevant to any issue" and substituting instead the language "judicial review provided in subsection (a) is a de novo appeal and must consist of a new hearing in the chancery court based upon the administrative record and any additional or supplemental evidence that either party wishes to adduce relevant to any issues".

SECTION 11. Tennessee Code Annotated, Section 67-5-1512(a)(1), is amended by deleting the subdivision and substituting instead the following:

(1) Upon the hearing of an appeal and complaint, the state board of equalization having made its determination of the assessment of the property subject to the appeal and complaint, the board shall issue, upon request, an official certificate relative to the action of the state board.

SECTION 12. Tennessee Code Annotated, Section 67-5-1512(a)(2), is amended by deleting the subdivision and substituting instead the following:

(2) The official certificate must show the description of the property and the assessment as determined by the state board of equalization.

SECTION 13. Tennessee Code Annotated, Section 67-5-1513, is amended by deleting the section and substituting instead the following:

(a) Records of all actions of the state board of equalization must be prepared and maintained in the office of the executive secretary of the board. Records may be maintained in the form of scanned images, digital recordings, or other data in electronic form.

(b) The records are open to public inspection during regular business hours and must be preserved for at least ten (10) years.

(c) A state citizen may request copies of public records or documents in the possession of the state board of equalization, and such records or documents must be sent without unreasonable delay by first class mail or, at the request of the citizen, by facsimile transmission to the citizen making such request, and such citizen shall pay to the board the reasonable costs of reproducing and transmitting such copies.

SECTION 14. Tennessee Code Annotated, Section 67-5-1809, is amended by deleting the section and substituting instead the following:

When a county has been ordered to make a refund of property taxes pursuant to final action of a court or the state board of equalization, a specific appropriation is not required to authorize the county trustee to make the refund. The trustee may make the ordered refund and any interest owing the taxpayer as otherwise provided from any taxes collected for the year or years to which the refund relates prior to the allocation to the various county funds. If the trustee does not have funds collected from the year to which the refund relates, the trustee may make the refund and pay any interest owing the taxpayer from current collections prior to the allocation of revenue to the various

county funds. Where a refund plus accrued interest exceeds one percent (1%) of all property taxes levied for the year in which the refund is due, the trustee may defer the refund for a period of up to three (3) years in equal annual installments, and the deferred amounts must accrue interest in the manner otherwise provided by law.

SECTION 15. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 16. This act takes effect July 1, 2023, the public welfare requiring it, and does not apply to appeals pending before and filed with the assessment appeals commission before July 1, 2023.