

HOUSE BILL No. 2540

By Representative Beggs

1-21

AN ACT concerning property taxation; relating to appeals of orders of the board of tax appeals; attorney fees and costs; amending K.S.A. 74-2426 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-2426 is hereby amended to read as follows: 74-2426. (a) Orders of the board of tax appeals on any appeal, in any proceeding under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding before the board shall be rendered and served in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the provisions of subsection (g) of K.S.A. 77-526 and amendments thereto, a final order of the board shall be rendered in writing and served within 120 days after the matter was fully submitted to the board unless this period is waived or extended with the written consent of all parties or for good cause shown.

(b) No final order of the board shall be subject to review pursuant to subsection (c) unless the aggrieved party first files a petition for reconsideration of that order with the board in accordance with the provisions of K.S.A. 77-529 and amendments thereto.

(c) Any action of the board pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions, except that:

(1) The parties to the action for judicial review shall be the same parties as appeared before the board in the administrative proceedings before the board. The board shall not be a party to any action for judicial review of an action of the board.

(2) There is no right to review of any order issued by the board in a no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 *et seq.*, 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and statutes of a similar character.

(3) The court of appeals has jurisdiction of any action for review pertaining to property appraised and assessed by the director of property valuation, excise, income or inheritance taxes assessed by the director of taxation and the exemption of any property from property taxation. The district court of the proper county has jurisdiction in all other cases.

1 (4) Review of orders issued by the board of tax appeals relating to
2 the valuation or assessment of property for ad valorem tax purposes or
3 relating to the tax protest shall be conducted by the district court of the
4 county in which the property is located or, if located in more than one
5 county, the district court of any county in which any portion of the prop-
6 erty is located. *If the review of an order as provided in this subsection is*
7 *sought by a county and the taxpayer prevails on such appeal, the court*
8 *shall award to the taxpayer reasonable attorney fees and costs incurred*
9 *by the taxpayer on such appeal.*

10 (5) In addition to the cost of the preparation of the transcript, the
11 appellant shall pay to the board the other costs of certifying the record
12 to the reviewing court. Such payment shall be made prior to the trans-
13 mission of the agency record to the reviewing court.

14 (d) If review of an order of the board relating to excise, income or
15 inheritance taxes, is sought by a person other than the director of taxation,
16 such person shall give bond for costs at the time the petition is filed. The
17 bond shall be in the amount of 125% of the amount of taxes assessed or
18 a lesser amount approved by the court of appeals and shall be conditioned
19 on the petitioner's prosecution of the review without delay and payment
20 of all costs assessed against the petitioner.

21 (e) If review of an order is sought by a party other than the director
22 of property valuation or a taxing subdivision and the order determines,
23 approves, modifies or equalizes the amount of valuation which is assess-
24 able and for which the tax has not been paid, a bond shall be given in the
25 amount of 125% of the amount of the taxes assessed or a lesser amount
26 approved by the reviewing court. The bond shall be conditioned on the
27 petitioner's prosecution of the review without delay and payment of all
28 costs assessed against the petitioner.

29 Sec. 2. K.S.A. 74-2426 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the statute book.

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