

As Amended by Senate Committee

Session of 2020

SENATE BILL No. 262

By Committee on Assessment and Taxation

1-14

1 AN ACT concerning the state board of tax appeals; relating to orders; time
2 to request a full and complete opinion; amending K.S.A. 74-2426 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 74-2426 is hereby amended to read as follows: 74-
7 2426. (a) Orders of the state board of tax appeals on any appeal, in any
8 proceeding under the tax protest, tax grievance or tax exemption statutes
9 or in any other original proceeding before the board shall be rendered and
10 served in accordance with the provisions of the Kansas administrative
11 procedure act. Notwithstanding the provisions of K.S.A. 77-526(g), and
12 amendments thereto, a written summary decision shall be rendered by the
13 board and served within 14 days after the matter was fully submitted to the
14 board unless this period is waived or extended with the written consent of
15 all parties or for good cause shown. Any aggrieved party, within ~~14~~ **21**
16 days *after service of receiving* the board's decision, may request a full and
17 complete opinion be issued by the board in which the board explains its
18 decision. Except as provided in subsection (c)(4), this full opinion shall be
19 served by the board within 90 days of being requested. If the board has not
20 rendered a summary decision or a full and complete opinion within the
21 time periods described in this subsection, and such period has not been
22 waived by the parties nor can the board show good cause for the delay,
23 then the board shall refund any filing fees paid by the taxpayer. ***Service of***
24 ***orders, decisions and opinions shall be made in accordance with K.S.A.***
25 ***77-531, and amendments thereto.***

26 (b) Final orders of the board shall be subject to review pursuant to
27 subsection (c) except that the aggrieved party may first file a petition for
28 reconsideration of a full and complete opinion with the board in
29 accordance with the provisions of K.S.A. 77-529, and amendments
30 thereto.

31 (c) Any action of the board pursuant to this section is subject to
32 review in accordance with the Kansas judicial review act, except that:

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

1 (2) There is no right to review of any order issued by the board in a
2 no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq.,
3 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and
4 statutes of a similar character.

5 (3) In addition to the cost of the preparation of the transcript, the
6 appellant shall pay to the state board of tax appeals the other costs of
7 certifying the record to the reviewing court. Such payment shall be made
8 prior to the transmission of the agency record to the reviewing court.

9 (4) Appeal of an order of the board shall be to the court of appeals as
10 provided in subsection (c)(4)(A), unless a taxpayer who is a party to the
11 order requests review in district court pursuant to subsection (c)(4)(B).

12 (A) Any aggrieved party may file a petition for review of the board's
13 order in the court of appeals. For purposes of such an appeal, the board's
14 order shall become final only after the issuance of a full and complete
15 opinion pursuant to subsection (a).

16 (B) At the election of a taxpayer, any summary decision or full and
17 complete opinion of the board of tax appeals issued after June 30, 2014,
18 may be appealed by filing a petition for review in the district court. Any
19 appeal to the district court shall be a trial de novo. Notwithstanding K.S.A.
20 77-619, and amendments thereto, the trial de novo shall include an
21 evidentiary hearing at which issues of law and fact shall be determined
22 anew. District court review of orders issued by the board relating to the
23 valuation or assessment of property for ad valorem tax purposes or relating
24 to the tax protest shall be conducted by the court of the county in which
25 the property is located, or, if located in more than one county, the court of
26 any county in which any portion of the property is located.

27 (C) If a taxpayer requests review of a summary decision or full and
28 complete opinion in district court pursuant to subsection (c)(4)(B), the
29 taxpayer shall provide notice to the board as well as the parties. Upon
30 receipt of the notice, the board's jurisdiction shall terminate,
31 notwithstanding any prior request for a full and complete opinion under
32 subsection (a), and the board shall not issue such opinion.

33 (d) If review of an order of the state board of tax appeals to the court
34 of appeals relating to excise, income or estate taxes, is sought by a person
35 other than the director of taxation, such person shall give bond for costs at
36 the time the petition is filed. The bond shall be in the amount of 125% of
37 the amount of taxes assessed or a lesser amount approved by the court of
38 appeals and shall be conditioned on the petitioner's prosecution of the
39 review without delay and payment of all costs assessed against the
40 petitioner.

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

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