

HOUSE BILL No. 2099

By Representative Rhiley

1-21

1 AN ACT concerning the state board of tax appeals; hearings, permitting
2 attendance at hearings by the use of audio or video electronic
3 communication; amending K.S.A. 74-2433 and repealing the existing
4 section.
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 74-2433 is hereby amended to read as follows: 74-
8 2433. (a) There is hereby created a state board of tax appeals, referred to in
9 this act as the board. The board shall be composed of three members who
10 shall be appointed by the governor, subject to confirmation by the senate
11 as provided in K.S.A. 75-4315b, and amendments thereto. For members
12 appointed after June 30, 2014, one of such members shall have been
13 regularly admitted to practice law in the state of Kansas and for a period of
14 at least five years, have engaged in the active practice of law as a lawyer,
15 judge of a court of record or any other court in this state; one of such
16 members shall have engaged in active practice as a certified public
17 accountant for a period of at least five years and one such member shall be
18 a licensed certified general real property appraiser. In addition, the
19 governor shall also appoint a chief hearing officer, subject to confirmation
20 by the senate as provided in K.S.A. 75-4315b, and amendments thereto,
21 who, in addition to other duties prescribed by this act, shall serve as a
22 member pro tempore of the board. No successor shall be appointed for any
23 judge of the court of tax appeals appointed before July 1, 2014. Such
24 persons shall continue to serve as members on the board of tax appeals
25 until their terms expire. Except as provided by K.S.A. 46-2601, and
26 amendments thereto, no person appointed to the board, including the chief
27 hearing officer, shall exercise any power, duty or function as a member of
28 the board until confirmed by the senate. Not more than two members of
29 the board shall be of the same political party. Members of the board,
30 including the chief hearing officer, shall be residents of the state. Subject
31 to the provisions of K.S.A. 75-4315c, and amendments thereto, no more
32 than one member shall be appointed from any one of the congressional
33 districts of Kansas unless, after having exercised due diligence, the
34 governor is unable to find a qualified replacement within 90 days after any
35 vacancy on the board occurs. The members of the board, including the
36 chief hearing officer, shall be selected with special reference to training

1 and experience for duties imposed by this act and shall be individuals with
2 legal, tax, accounting or appraisal training and experience. State board of
3 tax appeals members shall be subject to the supreme court rules of judicial
4 conduct applicable to all judges of the district court. The board shall be
5 bound by the doctrine of stare decisis limited to published decisions of an
6 appellate court. Members of the board, including the chief hearing officer,
7 shall hold office for terms of four years. A member may continue to serve
8 for a period of 90 days after the expiration of the member's term, or until a
9 successor has been appointed and confirmed, whichever is shorter. Except
10 as otherwise provided, such terms of office shall expire on January 15 of
11 the last year of such term. If a vacancy occurs on the board, or in the
12 position for chief hearing officer, the governor shall appoint a successor to
13 fill the vacancy for the unexpired term. Nothing in this section shall be
14 construed to prohibit the governor from reappointing any member of the
15 board, including the chief hearing officer, for additional four-year terms.
16 The governor shall select one of its members to serve as chairperson. The
17 votes of two members shall be required for any final order to be issued by
18 the board. Meetings may be called by the chairperson and shall be called
19 on request of a majority of the members of the board and when otherwise
20 prescribed by statute.

21 (b) Any member appointed to the state board of tax appeals and the
22 chief hearing officer may be removed by the governor for cause, after
23 public hearing conducted in accordance with the provisions of the Kansas
24 administrative procedure act.

25 (c) The state board of tax appeals shall appoint, subject to approval
26 by the governor, an executive director of the board, to serve at the pleasure
27 of the board. The executive director shall: (1) Be in the unclassified
28 service under the Kansas civil service act; (2) devote full time to the
29 executive director's assigned duties; (3) receive such compensation as
30 determined by the board, subject to the limitations of appropriations
31 thereof; and (4) have familiarity with the tax appeals process sufficient to
32 fulfill the duties of the office of executive director. The executive director
33 shall perform such other duties as directed by the board.

34 (d) Appeals decided by the state board of tax appeals shall be made
35 available to the public and shall be published by the board on the board's
36 website within 30 days after the decision has been rendered. The board
37 shall also publish a monthly report that includes all appeals decided that
38 month as well as all appeals which have not yet been decided and are
39 beyond the time limitations as set forth in K.S.A. 74-2426, and
40 amendments thereto. Such report shall be made available to the public and
41 transmitted by the board to the members of the Kansas legislature.

42 (e) After appointment, members of the state board of tax appeals that
43 are not otherwise a state certified general real property appraiser shall

1 complete the following course requirements: (1) A tested appraisal course
2 of not less than 30 clock hours of instruction consisting of the
3 fundamentals of real property appraisal with an emphasis on the cost and
4 sales approaches to value; (2) a tested appraisal course of not less than 30
5 clock hours of instruction consisting of the fundamentals of real property
6 appraisal with an emphasis on the income approach to value; (3) a tested
7 appraisal course of not less than 30 clock hours of instruction with an
8 emphasis on mass appraisal; (4) an appraisal course with an emphasis on
9 Kansas property tax laws; (5) an appraisal course on the techniques and
10 procedures for the valuation of state assessed properties with an emphasis
11 on unit valuation; and (6) a tested appraisal course on the techniques and
12 procedures for the valuation of land devoted to agricultural use pursuant to
13 K.S.A. 79-1476, and amendments thereto. Any member appointed to the
14 board who is a certified real property appraiser shall only be required to
15 take such educational courses as are required to maintain the appraisal
16 license. The executive director shall adopt rules and regulations
17 prescribing a timetable for the completion of the course requirements and
18 prescribing continued education requirements for members of the board.

19 (f) The state board of tax appeals shall have no capacity or power to
20 sue or be sued.

21 (g) It is the intent of the legislature that proceedings in front of the
22 board of tax appeals be conducted in a fair and impartial manner and that
23 all taxpayers are entitled to a neutral interpretation of the tax laws of the
24 state of Kansas. *The taxpayer, or any person representing the taxpayer,*
25 *may elect to attend any proceeding in front of the board of tax appeals by*
26 *audio or video electronic communication.* The provisions of the tax laws
27 of this state shall be applied impartially to both taxpayers and taxing
28 districts in cases before the board. Valuation appeals before the board shall
29 be decided upon a determination of the fair market value of the fee simple
30 of the property. Nothing in this section shall prohibit a property owner,
31 during a property valuation appeal before the board, from raising
32 arguments regarding classification. Cases before the board shall not be
33 decided upon arguments concerning the shifting of the tax burden or upon
34 any revenue loss or gain which may be experienced by the taxing district.

35 Sec. 2. K.S.A. 74-2433 is hereby repealed.

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