

LEGISLATIVE BILL 174

Approved by the Governor April 16, 1986

Introduced by DeCamp, 40

AN ACT relating to revenue and taxation; to amend section 77-1510, Reissue Revised Statutes of Nebraska, 1943, and section 77-1502, Revised Statutes Supplement, 1984; to provide for notice of certain final decisions on property assessments; to change provisions relating to appeals from actions of a county board of equalization; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-1502, Revised Statutes Supplement, 1984, be amended to read as follows:

77-1502. The county board of equalization shall hold a session of not less than three and not more than sixty days, for the purpose of reviewing and deciding the protests filed pursuant to sections 77-1502 to 77-1507, commencing on April 1 of each year and ending on May 31. Protests shall be written in triplicate and filed with the board within thirty days of the assessor's filing of the assessment roll with the county clerk in order to receive review. The dates for the filing of protests shall be included by the county clerk in the notice described in section 77-1315.

Attached to each copy of such protest shall be a written statement of the reason or reasons why the requested reduction in assessment should be made or the protest shall be automatically dismissed. If the protest relies in any manner whatsoever on the earning capacity of the property factor as referred to in section 77-112, then there shall be attached to each copy of such protest a written statement independently certified or executed under oath demonstrating in detail that such earning capacity of the property is lower than that determined by the county assessor. If the protest involves a stock of merchandise, an inventory of such stock made by the owner or his or her agent as of the assessment date or the most recent physical inventory plus the amount of purchases less the cost of goods sold from the close of the last fiscal year to January 1 shall be filed with and shall be a part of the protest.

The board may meet at any time upon the call of the chairperson or any three members of the board for the purpose of equalizing assessments of any omitted or undervalued property. The board shall maintain a written record of all proceedings and actions taken and shall show the vote of the members of the board and shall also show the justification and basis for such action which shall be available for inspection in the office of the county assessor.

In equalizing assessments during regular sessions, the board shall prepare a separate report as to each action taken by it with respect to equalization, and such report shall include a description of the property affected by such action, the recommendation of the county assessor with respect to the action proposed or taken, the names of witnesses whose testimony was heard in connection with the action, a summary of their testimony, and a statement by the board of the basis upon which it took such action. Such report shall be signed by the members of the board favoring the action taken and shall contain a certification over their signature that a copy thereof is being mailed to the Tax Commissioner. One copy of the report shall be given to the officer charged with the duty of preparing the tax list, and such officer shall have no authority to make a change in the valuations prepared and submitted by the county assessor until he or she has such report in his or her possession, completed, signed, and certified in the manner herein specified, and if he or she deems it incomplete or if not signed by the requisite number of members of the board or if they have failed to certify that a copy thereof has been mailed to the Tax Commissioner, he or she shall return the same to the board for proper preparation and execution.

Within seven days after a final decision by the county board of equalization on any protest filed with the board for adjustment of property values, the county clerk shall notify the protester of the action taken by the board.

Sec. 2. That section 77-1510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1510. Appeals may be taken from any action of the county board of equalization to the district court within forty-five days after adjournment of the board, in the same manner as appeals are now taken from the action of the county board in the allowance or disallowance of claims against the county in the following manner:

(1) The appeal shall be filed within forty-five days after adjournment of the board which shall be deemed to be May 31 of the year in which the action is taken.

(2) The appeal shall be deemed to be filed for purposes of granting jurisdiction with the filing of the petition in district court; and

(3) A bond of no less than fifty dollars and no more than two hundred dollars, as determined by the district court, shall be filed with the petition in the form of a cash deposit or signature bond, property bond, or other bond approved by the county clerk.

After an appeal has been initiated, the board shall have no power or authority to compromise, settle, or otherwise change the action it has taken with respect to such assessment, and exclusive jurisdiction thereof shall be vested in the district court. No appeal shall in any manner suspend the collection of any tax, or the duties of officers relating thereto, during the pendency of the same, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending. If by final order of a court it is thereafter determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order, the refund to be made from funds in his or her possession or accruing to the various taxing districts to the extent which they profited from the original overpayment.

The county may cross appeal, without giving bond, for the reason that the actual value of the owner's property is too low and should be increased in value as of the assessment date from which the appeal was taken.

Sec. 3. That original section 77-1510, Reissue Revised Statutes of Nebraska, 1943, and section 77-1502, Revised Statutes Supplement, 1984, are repealed.