



Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LB 812

Hearing Date: January 20, 2006
Committee On: Revenue

Introducer(s): (Landis)
Title: Change property tax protest and appeal provisions

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

8	Yes	Senators Baker, Connealy, Cornett, Janssen, Landis, Preister, Raikes and Redfield
0	No	
0	Present, not voting	
0	Absent	

Proponents:

Senator David Landis
Bob Wickersham
Larry Ruth
Jerry Slusky

Representing:

Introducer
Tax Equalization and Review Commission
NE Association of Commercial Property Owners
NE Association of Commercial Property Owners

Opponents:

Bill Peters

Representing:

Himself

Neutral:

None

Representing:

Summary of purpose and/or changes:

LB 812 is the annual bill from the Tax Equalization and Review Commission to improve and clarify their duties and responsibilities. This year's bill inserts authority to remand cases back to the county board of equalization (or Property Tax Administrator in cases of centrally assessed value) for a further determination of value. This one idea makes changes in nine sections.

The bill also requires those filing protests to have "standing" to pursue the issue, limits the discretion of the county board in using the undervalued and overvalued statute, and clarifies

which party is responsible for paying the costs of an appeal. There are many other clarifying changes that would be made by the bill.

Section by Section Summary

Sections 1, 2, 3, 5, 7, 8, 9 and 22 would amend sections 60,3,189, (exemptions from motor vehicle tax), 77-202.12 (taxation of publicly-owned land), 77-684 (central assessment of car lines), 77-1345.01 (greenbelt), 77-1504 (protests of value under undervalued or overvalued property), 77-1507 (omitted property), 77-1510 (any action of the county board of equalization), and 79-1016 (school adjusted value) to provide that if the TERC remands the case to the county board or Property Tax Administrator, the procedures in section 10 of the bill are to apply.

Section 4 would amend section 77-1327 (sales file) to change the term “level of assessment” to “level of value” with regard to the ratio studies.

Section 6 would amend section 77-1502, dealing with individual valuation protests, to require protests to be pursued by a person with “standing” a legal term roughly meaning that the person has an interest in the outcome of the case. The section would also be changed to require protests to be signed.

Section 7 would amend section 77-1504 to narrow the jurisdiction of the county board of equalization in dealing with undervalued and overvalued property. Under LB 812, the county board could only consider the report of the county assessor pursuant to section 77-1315.01. If an individual protests a county’s action under this section notice of the county’s decision on the protest must be made within seven days indicating that the county’s report of its action is available and may be used to appeal the decision to TERC.

Section 10 would enact a new section dealing with procedures before the county board of equalization in all cases where the TERC remands the issue to the county board for further action, typically setting a new value. The rehearing shall be within sixty days and written notice of the decision shall be sent within seven days of the decision. An appeal of the county’s decision may be made to TERC within 30 days. If the decision is not appealed, it shall be certified and the tax list adjusted accordingly.

Section 11 would amend section 77-5009, dealing with special masters and referees employed by the TERC, to expand the powers of special masters to include investigations.

Section 12 would amend section 77-5011 to clarify that orders of the TERC are to be enforced by the district court for Lancaster County.

Section 13 would amend section 77-5016, procedures for appeals to the TERC to change how the costs of litigation are to be assessed. Under LB 812, a party requesting a formal hearing shall be assessed only the costs of the court reporter rather than all costs. Generally, costs are to be taxed by the TERC as it sees fit except that (1) the appellant pays all costs incurred after an offer by the county to confess judgment at an amount which ultimately is at least as beneficial to the appellant as the decision of the TERC, and (2) if the county assessor is a party, the costs charged to him or her are to be paid by the county.

This section would also be amended to provide that service of notices, orders, subpoenas, or other processes shall be made by certified mail or personal service by the sheriff or another person authorized by the TERC.

This section would restate the burden of proof language slightly so that it is less confusing. Currently, if the appellant presents no evidence, the Commission is to deny the appeal. If any evidence is presented, the decision of the county board is to be affirmed unless the decision of the county board was arbitrary or unreasonable. Under LB 812, if the appellant presents no evidence, the appeal is to be dismissed. If not dismissed, it is to be affirmed unless it is arbitrary or unreasonable.

Section 14 would amend section 77-5016.09 to provide that a petition shall not be dismissed solely by reason of the death or disability of a party or transfer of the property. Under LB 812, actions may be dismissed due to such occurrences in combination with other factors.

Section 15 would amend section 77-5017, dealing with the power of the Commission in resolving appeals to allow remands as described earlier.

Section 16 would amend section 77-5019, dealing with appeals *from* decisions of the TERC to clarify that the right to appeal includes not only parties to an appeal, but also parties aggrieved by orders of the TERC dealing with assessor certificates and equalization orders. Currently such appeals must be pursued by a petition in error.

Section 17 would amend section 77-5020 to clarify that the Commission may either invalidate or suspend an assessor's certificate. The current statute uses both terms, but in different places. This section would also put in place a statute of limitations of two years for such actions against assessors.

Section 18 would amend section 77-5022 to allow the commission to formally adopt standards or criteria in the statewide equalization process. Such standards or criteria are not rules and regulations subject to the Administrative Procedures Act.

Section 19 would amend section 77-5026 to change the term "level of assessment" to "level of value" with regard to equalization actions. This section would also clarify that the county assessor is a "legal representative" of the county in such actions.

Section 20 would amend section 77-5028 to clarify that equalization adjustments are made to "parcels" in "classes or subclasses" of land.

Section 21 would amend section 77-5029 to provide that county assessors must change value as ordered by the TERC in equalization processes by July 25th of each year.

Section 23 is the repealer, and

Section 24 would declare an emergency.

Explanation of amendments, if any:

The Committee amendments strip LB 812 down to accomplish only three things:

Section 1 of the Committee amendments would amend section 77-1504 to narrow the jurisdiction of the county board of equalization in dealing with undervalued and overvalued property. Under the amendment, the county board could only consider the report of the county assessor pursuant to section 77-1315.01. If an individual protests a county's action under this section, notice of the county's decision on the protest must be made within seven days indicating that the county's report of its action is available and may be used to appeal the decision to TERC. Also, section 4 of the Committee amendments would amend section 77-5029 to provide that county assessors are change value as ordered by the TERC in equalization processes by June 1st of each year.

Section 2 of the Committee amendments would amend section 77-5009, dealing with special masters and referees employed by the TERC, to expand the powers of special masters to include investigations, and redefine the duties and responsibilities of referees to include confidential mediation between the parties.

Section 3 would amend section 77-5019, dealing with appeals *from* decisions of the TERC to clarify that the right to appeal includes not only parties to an appeal, but also parties aggrieved by orders of the TERC dealing with assessor certificates and equalization orders. Currently such appeals must be pursued by a petition in error.

Senator David Landis, Chairperson