

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 114

Introduced by Janssen, 15;

PURPOSE: This study is to examine the burden of proof and standard of review of valuation cases appealed to the Tax Equalization and Review Commission. As established by case law and codified in the statute, decisions of the county board of equalization are granted great deference. Such decisions are entitled to a presumption of correctness and are not reversed by the commission unless the valuation is "arbitrary or unreasonable". Case law has established that this means without basis.

In recent years, bills have been introduced seeking to soften this standard of review, the thought being that a lower standard of review would allow more plaintiffs to prevail. Another argument in support of this change is that county boards of equalization do not have the expertise or resources to become a first trier of fact. Issues arise however, because more appeals would mean more expense for the commission and less local control through the county board of equalization.

This study should examine the entire process of placing a value on real property from the time the county assessor places a value on a parcel, through the protest process before the county board of equalization, through appeals to the commission, and finally, appeal of the commission's decision to the Court of

Appeals. The study is to answer the following questions:

What should the process before the county board look like?

What should be established to change the recommendation of the county assessor?

Should there be a record maintained for the proceedings before the county board of equalization or should the proceeding before the Tax Equalization and Review Commission be the first formal trial-like proceeding?

If the county board proceeding is to become more formal, what in the way of procedure, training, qualifications, and transcription must be provided to the counties to make this process meaningful?

What would it cost?

If the commission is to be the trial-level proceeding, what additional training, qualifications, and resources must be provided to the commission?

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Revenue Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.