

AMENDMENTS TO LB28

(Amendments to Standing Committee amendments, AM351)

Introduced by Erdman, 47.

1 1. Strike amendment 1 and insert the following new amendment:

2 1. Strike the original sections and insert the following new
3 sections:

4 Section 1. Section 77-5003, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 77-5003 (1) The Tax Equalization and Review Commission is created.
7 The Tax Commissioner has no supervision, authority, or control over the
8 actions or decisions of the commission relating to its duties prescribed
9 by law. Beginning July 1, 2023 ~~Prior to July 1, 2011,~~ the commission
10 shall have four commissioners, one commissioner from each congressional
11 district and one at-large commissioner. ~~On July 1, 2011, the term of each~~
12 ~~commissioner shall expire, and thereafter the commission shall have three~~
13 ~~commissioners, one from each congressional district,~~ with terms as
14 provided in subsection (2) of this section. All commissioners shall be
15 appointed by the Governor with the approval of a majority of the members
16 of the Legislature. ~~The salaries of the commissioners shall be fixed by~~
17 ~~the Governor.~~

18 (2) The term of the commissioner from district 1 expires January 1,
19 2028 ~~2016~~, the term of the commissioner from district 2 expires January
20 1, 2024 ~~2018~~, and the term of the commissioner from district 3 expires
21 January 1, 2026, and the term of the at-large commissioner expires
22 January 1, 2028 ~~2014~~. After the terms of the commissioners are completed
23 as provided in this subsection, each subsequent term shall be for six
24 years beginning and ending on January 1 of the applicable year. Vacancies
25 occurring during a term shall be filled by appointment for the unexpired
26 term. Upon the expiration of his or her term of office, a commissioner

1 shall continue to serve until his or her successor has been appointed.

2 (3) The commission shall designate pursuant to rule and regulation
3 its chairperson and vice-chairperson on a two-year, rotating basis.

4 (4) A commissioner may be removed by the Governor for misfeasance,
5 malfeasance, or willful neglect of duty or other cause after notice and a
6 public hearing unless notice and hearing are expressly waived in writing
7 by the commissioner.

8 Sec. 2. Section 77-5004, Revised Statutes Cumulative Supplement,
9 2022, is amended to read:

10 77-5004 (1) Each commissioner shall be a qualified voter and
11 resident of the state and a domiciliary of the district from which he or
12 she is appointed ~~represents~~.

13 (2) Each commissioner shall devote his or her full time and efforts
14 to the discharge of his or her duties and shall not hold any other office
15 under the laws of this state, any city or county in this state, or the
16 United States Government while serving on the commission. Each
17 commissioner shall possess:

18 (a) Appropriate knowledge of terms commonly used in or related to
19 real property appraisal and of the writing of appraisal reports;

20 (b) Adequate knowledge of depreciation theories, cost estimating,
21 methods of capitalization, and real property appraisal mathematics;

22 (c) An understanding of the principles of land economics, appraisal
23 processes, and problems encountered in the gathering, interpreting, and
24 evaluating of data involved in the valuation of real property, including
25 complex industrial properties and mass appraisal techniques;

26 (d) Knowledge of the law relating to taxation, civil and
27 administrative procedure, due process, and evidence in Nebraska;

28 (e) At least thirty hours of successfully completed class hours in
29 courses of study, approved by the Real Property Appraiser Board, which
30 relate to appraisal and which include the fifteen-hour National Uniform
31 Standards of Professional Appraisal Practice Course. If a commissioner

1 has not received such training prior to his or her appointment, such
2 training shall be completed within one year after appointment; and

3 (f) Such other qualifications and skills as reasonably may be
4 requisite for the effective and reliable performance of the commission's
5 duties.

6 (3) At least one commissioner shall possess the certification or
7 training required to become a licensed residential real property
8 appraiser as set forth in section 76-2230.

9 (4) At least two commissioners ~~one commissioner~~ shall have been
10 engaged in the practice of law in the State of Nebraska for at least five
11 years, which may include prior service as a judge, and shall be currently
12 admitted to practice before the Nebraska Supreme Court. The attorney
13 commissioners shall be presiding hearing officers for commission
14 proceedings involving appeal hearings and other proceedings involving
15 panels of more than one commissioner.

16 (5) No commissioner or employee of the commission shall hold any
17 position of profit or engage in any occupation or business interfering
18 with or inconsistent with his or her duties as a commissioner or
19 employee. A person is not eligible for appointment and may not hold the
20 office of commissioner or be appointed by the commission to or hold any
21 office or position under the commission if he or she holds any official
22 office or position.

23 (6) Each commissioner shall annually attend a seminar or class of at
24 least two days' duration that is:

25 (a) Sponsored by a recognized assessment or appraisal organization,
26 in each of these areas: Utility and railroad appraisal; appraisal of
27 complex industrial properties; appraisal of other hard to assess
28 properties; and mass appraisal, residential or agricultural appraisal, or
29 assessment administration; or

30 (b) Pertaining to management, law, civil or administrative
31 procedure, or other knowledge or skill necessary for performing the

1 duties of the office.

2 (7) Each commissioner shall within two years after his or her
3 appointment attend at least thirty hours of instruction that constitutes
4 training for judges or administrative law judges.

5 (8) The commissioners shall be considered employees of the state for
6 purposes of sections 81-1320 to 81-1328 and 84-1601 to 84-1615.

7 (9) The commissioners shall be reimbursed as prescribed in sections
8 81-1174 to 81-1177 for expenses in the performance of their official
9 duties pursuant to the Tax Equalization and Review Commission Act.

10 (10) Due to the domicile requirements of subsection (1) of this
11 section and subsection (1) of section 77-5003, each commissioner shall be
12 reimbursed for mileage at the rate provided in section 81-1176 for actual
13 round trip travel from the commissioner's residence to the state office
14 building described in section 81-1108.37 or to the location of any
15 hearing or other official business of the commission. Reimbursements
16 under this subsection shall be made from the Tax Equalization and Review
17 Commission Cash Fund.

18 (11) The salary for commissioners serving as a presiding hearing
19 officer for commission hearings and proceedings involving a panel of more
20 than one commissioner shall be in an amount equal to eighty-five percent
21 of the salary set for the Chief Justice and judges of the Supreme Court.
22 The salary for commissioners not serving as a presiding hearing officer
23 for commission hearings or proceedings involving a panel of more than one
24 commissioner shall be in an amount equal to seventy percent of the salary
25 set for the Chief Justice and judges of the Supreme Court.

26 Sec. 3. Section 77-5015.02, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-5015.02 (1) A single commissioner may hear an appeal and cross
29 appeal and appeals and cross appeals consolidated with any such appeal
30 and cross appeal when:

31 (a) The taxable value of each parcel is two ~~one~~ million dollars or

1 less as determined by the county board of equalization; and

2 (b) The appeal and cross appeal has been designated for hearing
3 pursuant to this section by the chairperson of the commission or in such
4 manner as the commission may provide in its rules and regulations.

5 (2) A proceeding held before a single commissioner shall be
6 informal. The usual common-law or statutory rules of evidence, including
7 rules of hearsay, shall not apply, and the commissioner may consider and
8 utilize all matters presented at the proceeding in making his or her
9 determination.

10 (3) Any party to an appeal designated for hearing before a single
11 commissioner pursuant to this section may, prior to a hearing, elect in
12 writing to have the appeal heard by the commission. The commissioner
13 conducting a proceeding pursuant to this section may at any time
14 designate the appeal for hearing by the commission.

15 (4) Documents necessary to establish jurisdiction of the commission
16 shall constitute the record of a proceeding before a single commissioner.
17 No recording shall be made of a proceeding before a single commissioner.

18 (5) A party to a proceeding before a single commissioner may request
19 a rehearing pursuant to section 77-5005.

20 (6) An order entered by a single commissioner pursuant to this
21 section may not be appealed pursuant to section 77-5019 or any other
22 provision of law.

23 (7) Subdivisions (3), (6), (8), (9), (10), (11), and (12) of section
24 77-5016 apply to proceedings before a single commissioner.

25 Sec. 4. This act becomes operative on July 1, 2023.

26 Sec. 5. If any section in this act or any part of any section is
27 declared invalid or unconstitutional, the declaration shall not affect
28 the validity or constitutionality of the remaining portions.

29 Sec. 6. Original sections 77-5003 and 77-5015.02, Reissue Revised
30 Statutes of Nebraska, and section 77-5004, Revised Statutes Cumulative
31 Supplement, 2022, are repealed.

1 Sec. 7. Since an emergency exists, this act takes effect when
2 passed and approved according to law.