
HOUSE BILL 2486

State of Washington

57th Legislature

2002 Regular Session

By Representatives Jarrett, Simpson, Esser, Carrell, McMorris,
McDermott, Cox, Romero and Lovick

Read first time 01/18/2002. Referred to Committee on Finance.

1 AN ACT Relating to the board of tax appeals; and amending RCW
2 84.08.130 and 34.05.461.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 84.08.130 and 1998 c 54 s 3 are each amended to read
5 as follows:

6 (1) Any taxpayer or taxing unit feeling aggrieved by the action of
7 any county board of equalization may appeal to the board of tax appeals
8 by filing with the board of tax appeals in accordance with RCW 1.12.070
9 a notice of appeal within (~~thirty~~) ninety days after the mailing of
10 the decision of such board of equalization, unless this period is
11 waived or extended for good cause shown, which notice shall specify the
12 actions complained of; and in like manner any county assessor may
13 appeal to the board of tax appeals from any action of any county board
14 of equalization. There shall be no fee charged for the filing of an
15 appeal. The board shall transmit a copy of the notice of appeal to all
16 named parties within thirty days of its receipt by the board. Appeals
17 which are not filed as provided in this section shall be dismissed.
18 The board of tax appeals shall require the board appealed from to file
19 a true and correct copy of its decision in such action and all evidence

1 taken in connection therewith, and may receive further evidence, and
2 shall make such order as in its judgment is just and proper.

3 (2) The board of tax appeals may enter an order, pursuant to
4 subsection (1) of this section, that has effect up to the end of the
5 assessment cycle used by the assessor, if there has been no intervening
6 change in the value during that time.

7 **Sec. 2.** RCW 34.05.461 and 1995 c 347 s 312 are each amended to
8 read as follows:

9 (1) Except as provided in subsection (2) of this section:

10 (a) If the presiding officer is the agency head or one or more
11 members of the agency head, the presiding officer may enter an initial
12 order if further review is available within the agency, or a final
13 order if further review is not available;

14 (b) If the presiding officer is a person designated by the agency
15 to make the final decision and enter the final order, the presiding
16 officer shall enter a final order; and

17 (c) If the presiding officer is one or more administrative law
18 judges, the presiding officer shall enter an initial order.

19 (2) With respect to agencies exempt from chapter 34.12 RCW or an
20 institution of higher education, the presiding officer shall transmit
21 a full and complete record of the proceedings, including such comments
22 upon demeanor of witnesses as the presiding officer deems relevant, to
23 each agency official who is to enter a final or initial order after
24 considering the record and evidence so transmitted.

25 (3) Initial and final orders shall include a statement of findings
26 and conclusions, and the reasons and basis therefor, on all the
27 material issues of fact, law, or discretion presented on the record,
28 including the remedy or sanction and, if applicable, the action taken
29 on a petition for a stay of effectiveness. Any findings based
30 substantially on credibility of evidence or demeanor of witnesses shall
31 be so identified. Findings set forth in language that is essentially
32 a repetition or paraphrase of the relevant provision of law shall be
33 accompanied by a concise and explicit statement of the underlying
34 evidence of record to support the findings. The order shall also
35 include a statement of the available procedures and time limits for
36 seeking reconsideration or other administrative relief. An initial
37 order shall include a statement of any circumstances under which the
38 initial order, without further notice, may become a final order.

1 (4) Findings of fact shall be based exclusively on the evidence of
2 record in the adjudicative proceeding and on matters officially noticed
3 in that proceeding. Findings shall be based on the kind of evidence on
4 which reasonably prudent persons are accustomed to rely in the conduct
5 of their affairs. Findings may be based on such evidence even if it
6 would be inadmissible in a civil trial. However, the presiding officer
7 shall not base a finding exclusively on such inadmissible evidence
8 unless the presiding officer determines that doing so would not unduly
9 abridge the parties' opportunities to confront witnesses and rebut
10 evidence. The basis for this determination shall appear in the order.

11 (5) Where it bears on the issues presented, the agency's
12 experience, technical competency, and specialized knowledge may be used
13 in the evaluation of evidence.

14 (6) If a person serving or designated to serve as presiding officer
15 becomes unavailable for any reason before entry of the order, a
16 substitute presiding officer shall be appointed as provided in RCW
17 34.05.425. The substitute presiding officer shall use any existing
18 record and may conduct any further proceedings appropriate in the
19 interests of justice.

20 (7) The presiding officer may allow the parties a designated time
21 after conclusion of the hearing for the submission of memos, briefs, or
22 proposed findings.

23 (8)(a) Except as otherwise provided in (b) of this subsection,
24 initial or final orders shall be served in writing within ninety days
25 after conclusion of the hearing or after submission of memos, briefs,
26 or proposed findings in accordance with subsection (7) of this section
27 unless this period is waived or extended for good cause shown. Initial
28 or final orders which are not served in writing as provided in this
29 section shall result in judgment for the appellant.

30 (b) This subsection does not apply to the final order of the
31 shorelines hearings board on appeal under RCW 90.58.180(3).

32 (9) The presiding officer shall cause copies of the order to be
33 served on each party and the agency.

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