
Finance Committee

HB 2635

Brief Description: Modifying the tax appeal process.

Sponsors: Representatives Tharinger and Freeman.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Modifies the tax appeal process.

Hearing Date: 2/4/14

Staff: Jeffrey Mitchell (786-7139).

Background:

Board of Tax Appeals.

The Washington State Board of Tax Appeals (Board) was established in 1967 as an independent agency to hear tax appeals. In addition to sales, use and other excise tax cases appealed from Department of Revenue (Department) decisions, the Board hears property tax appeals of decisions reached by the various county boards of equalization, as well as certain other types of cases generally related to property taxation. There is no filing fee for a taxpayer appealing a decision to the Board. Board proceedings may be conducted by one or more of the members, by administrative law judges, or by other hearing officers appointed by the Board. Cases filed with the Board are heard “de novo,” meaning that the taxpayer is not bound to the same arguments, evidence and other parts of the record made before the Department. The Board offers two “quasi-judicial” hearing options, an informal hearing and a formal hearing. Taxpayers often request informal hearings because the informal hearing procedures are designed for persons appearing without counsel.

The Board has three members. Board members are appointed by the Governor, and must have experience and training in the field of state and local taxation. At the time of appointment, no more than two board members may be members of the same political party. If a Board member is absent, there is no provision under current law for the appointment of pro tempore members.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Board members receive a salary determined by the Governor. It is currently \$88,304, not including benefits. By way of comparison, the current salary for a superior court judge is \$171,251, not including benefits.

The principal office of the Board is in Olympia, however, the Board may hold hearings in other locations.

Tax Appeal Process.

Taxpayers seeking to challenge their tax assessment may file an appeal with the proper taxing authority. For excise tax appeals, a taxpayer may file a petition with the Department. If the taxpayer does not agree with the final decision from the Department, they may file an appeal with the Board. A taxpayer must pay all taxes, penalties, and interest in full before any action may be instituted in court to contest the amounts due. For property tax appeals, a taxpayer may file a petition with their county board of equalization challenging their property's valuation. County boards of equalization are independent bodies formed to hear property tax valuation cases. If a taxpayer does not agree with a decision from a county board of equalization, they may file a petition with the Board.

Generally, all taxes, penalties, and interest must be paid in full before any action may be instituted in any court to contest all, or any part of such taxes, penalties, or interest.

Summary of Bill:

Qualifications for persons appointed to the Board are modified to include requiring substantial experience making the record in a tax case suitable for judicial review.

The Governor is granted authority to appoint pro tempore members to the Board when members are absent, disqualified, or for any other reason unable to perform their duties.

Salaries for Board members may be no less than the salaries provided for superior court judges.

The Board must operate on a full-time basis and must maintain hearing offices in King and Spokane counties, in addition to its principal office in Olympia, Washington.

A taxpayer appealing a decision to the Board must submit a filing fee. A taxpayer requesting a formal hearing must pay to the Board a \$250 fee. Informal hearings require a \$50 fee. The Board may waive the fee in certain cases due to financial hardship.

The Board may stay collection of any assessment of the Department on petition of the taxpayer. The Board is required to establish the rule governing the circumstances and conditions under which the collection will be stayed.

For formal hearings, the Board must award fees and other expenses to the prevailing party. The amount awarded to a prevailing party may not exceed \$50,000.

Final decisions of the Board may be appealed directly to the state Court of Appeals, if the Court accepts a certificate of appealability by the Board. The Board must issue a certificate of

appealability unless the Boards finds that: The proceeding is unlikely to have significant precedential value; or direct review by the Court of Appeals would be detrimental to any party or the public interest.

The Board must establish procedures for conducting mediation conferences between parties. Mediation conferences are not mandatory, and the Board must establish fees for conducting mediations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 14, 2014.