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HOUSE BILL 1830

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State of Washington

66th Legislature

2019 Regular Session

By Representatives Stokesbary, Jenkins, and Frame

Read first time 01/31/19. Referred to Committee on Finance.

1 AN ACT Relating to improving and updating administrative  
2 provisions related to the board of tax appeals; amending RCW  
3 82.03.070, 82.03.090, and 82.03.110; and adding new sections to  
4 chapter 82.03 RCW.

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

6 **Sec. 1.** RCW 82.03.070 and 1988 c 222 s 2 are each amended to  
7 read as follows:

8 (1) The board (~~may~~) must appoint, discharge and fix the  
9 compensation of an executive director, tax referees, and a clerk(~~7~~  
10 and)). The board may appoint such other clerical, professional and  
11 technical assistants as may be necessary. Tax referees (~~shall~~) are  
12 not (~~be~~) subject to chapter 41.06 RCW.

13 (2) The board must maintain at least five tax referees, of which  
14 two must be active or judicial members of the Washington state bar  
15 association and three must be state-certified general real estate  
16 appraisers, as defined in RCW 18.140.010(22).

17 **Sec. 2.** RCW 82.03.090 and 1967 ex.s. c 26 s 38 are each amended  
18 to read as follows:

19 (1) The principal office of the board (~~shall~~) must be at the  
20 state capital, but it may sit or hold hearings at any other place in

1 the state. (~~A majority of the board shall constitute a quorum for~~  
2 ~~making orders or decisions, promulgating rules and regulations~~  
3 ~~necessary for the conduct of its powers and duties, or transacting~~  
4 ~~other official business, and may act though one position on the board~~  
5 ~~be vacant.~~) The board must provide for regular hearings in the most  
6 populous county west of the crest of the Cascade mountains and east  
7 of the crest of the Cascade mountains for the conduct of informal  
8 proceedings.

9 (2) One or more members may hold hearings and take testimony to  
10 be reported for action by the board when authorized by rule or order  
11 of the board. (~~The board shall perform all the powers and duties~~  
12 ~~specified in this chapter or as otherwise provided by law.~~)

13 **Sec. 3.** RCW 82.03.110 and 1967 ex.s. c 26 s 40 are each amended  
14 to read as follows:

15 The board (~~shall either publish at its expense or make~~  
16 ~~arrangements with a publishing firm for the publication of those of~~  
17 ~~its findings and decisions which are of general public interest~~)  
18 must publish those of its orders and decisions issued after the  
19 effective date of this section which are of precedential value, in  
20 such form as to assure ((reasonable distribution thereof)) such  
21 decisions are available for online research, including through a  
22 publicly available web site. The board may, in addition, identify,  
23 publish, and make available online orders and decisions issued prior  
24 to the effective date of this section that are of precedential value.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.03  
26 RCW to read as follows:

27 (1) The board may require parties to attend a mandatory  
28 settlement conference at any time before or after the appeal has been  
29 heard.

30 (2)(a) The board must provide an informal voluntary and  
31 confidential mediation process. The purpose of the mediation is to  
32 help the parties reach an agreement that settles the dispute. The  
33 board must adopt rules for the conduct of mediation, including  
34 appropriate fees, consistent with the purpose of the mediation.

35 (b) Any person appointed as a neutral mediator must have  
36 substantial experience in Washington tax law or in residential and  
37 commercial property appraisals. The mediator's role is to assist the  
38 parties to work together to reach a mutually agreeable dispute

1 resolution. The mediator will not issue a decision in the matter. An  
2 agreement reached by the parties during the mediation must be  
3 memorialized in writing and signed by the parties before the board  
4 may enter an order closing the appeal.

5 (c) All mediation discussions, statements of parties, and  
6 materials provided as part of the mediation are confidential, must be  
7 destroyed or returned to the parties after mediation is complete, and  
8 may not be used for any other purpose or in any other proceeding.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.03  
10 RCW to read as follows:

11 (1)(a) Except as otherwise specifically provided by statute, the  
12 board:

13 (i) Must award a qualified party that prevails in a formal  
14 hearing from a department of revenue action fees and other expenses,  
15 including reasonable attorneys' fees, unless the board finds that the  
16 department of revenue's action was substantially justified or that  
17 circumstances make an award unjust;

18 (ii) May award a qualified party that prevails in a formal  
19 hearing from a board of equalization action fees and other expenses,  
20 including reasonable attorneys' fees, unless the board finds that the  
21 board of equalization's action was substantially justified or that  
22 circumstances make an award unjust.

23 (b) A qualified party shall be considered to have prevailed if  
24 the qualified party obtained relief on a significant issue that  
25 achieves some benefit that the qualified party sought.

26 (2) The amount awarded a qualified party under subsection (1) of  
27 this section shall not exceed twenty-five thousand dollars. The  
28 board, in its discretion, may reduce the amount to be awarded  
29 pursuant to subsection (1) of this section, or deny any award, to the  
30 extent that a qualified party during the course of the proceedings  
31 engaged in conduct that unduly or unreasonably protracted the final  
32 resolution of the matter in controversy.

33 (3) Fees and other expenses awarded under this section must be  
34 paid by the board over which the party prevails from operating funds  
35 appropriated to the agency within sixty days. The board shall report  
36 all payments to the office of financial management within five days  
37 of paying the fees and other expenses. Fees and other expenses  
38 awarded by the board shall be subject to the provisions of chapter

1 39.76 RCW and shall be deemed payable on the date the board announces  
2 the award.

3 (4) The following definitions apply to this section unless the  
4 context clearly indicates otherwise.

5 (a) "Fees and other expenses" includes the reasonable expenses of  
6 expert witnesses, the reasonable cost of a study, analysis,  
7 engineering report, test, or project that is found by the court to be  
8 necessary for the preparation of the party's case, and reasonable  
9 attorneys' fees. Reasonable attorneys' fees shall be based on the  
10 prevailing market rates for the kind and quality of services  
11 furnished, except that (i) no expert witness shall be compensated at  
12 a rate in excess of the highest rates of compensation for expert  
13 witnesses paid by the state of Washington, and (ii) attorneys' fees  
14 shall not be awarded in excess of one hundred fifty dollars per hour  
15 unless the court determines that an increase in the cost of living or  
16 a special factor, such as the limited availability of qualified  
17 attorneys for the proceedings involved, justifies a higher fee.

18 (b) "Qualified party" means (i) an individual whose net worth did  
19 not exceed one million dollars at the time the initial appeal  
20 petition was filed or (ii) a sole owner of an unincorporated  
21 business, or a partnership, corporation, association, or organization  
22 whose net worth did not exceed five million dollars at the time the  
23 initial appeal petition was filed, except that an organization  
24 described in section 501(c)(3) of the federal internal revenue code  
25 of 1954 as exempt from taxation under section 501(a) of the code and  
26 a cooperative association as defined in section 15(a) of the  
27 agricultural marketing act (12 U.S.C. 1141J(a)), may be a party  
28 regardless of the net worth of such organization or cooperative  
29 association.

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