

SENATE BILL REPORT

SB 5578

As Reported by Senate Committee On:
Law & Justice, February 9, 2023

Title: An act relating to service requirements for appeals of decisions by the board of tax appeals.

Brief Description: Addressing service requirements for appeals of decisions by the board of tax appeals.

Sponsors: Senators Padden and McCune.

Brief History:

Committee Activity: Law & Justice: 2/07/23, 2/09/23 [DPS].

Brief Summary of First Substitute Bill

- States that service on the Board of Tax Appeals (Board) is not a jurisdictional issue on appeal.
- Failure to timely serve the Board is not grounds for dismissal of the appeal.
- Makes administrative changes to the operations of the Board.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5578 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Tim Ford (786-7423)

Background: Board of Tax Appeals. Washington established its state Board of Tax

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

Appeals (Board) in 1967 as an independent agency to hear non-judicial administrative property and excise tax appeals. The Governor appoints the Board members. Board members qualify for appointment based on their training and experience in state and local tax matters. At the time of appointment, no more than two of the three board members may be members of the same political party. The Board hears appeals from County Boards of Equalization and from the state Department of Revenue (DOR). Specific areas of jurisdiction of the Board include:

- property tax determinations—County Boards of Equalization—the Board hears property tax appeals from all actions and determinations made by each of the 39 county Boards of Equalization;
- excise tax assessments and refund denials—DOR—the Board hears appeals from excise tax determinations by DOR;
- property tax rulings—DOR—the Board hears assessor or landowner appeals from orders issued by DOR;
- public utility property tax determinations—the Board reviews appeals from DOR’s intercounty utility valuation determinations;
- exemption determinations—DOR—the Board hears appeals from tax exemption determinations made by DOR;
- timber stumpage values—DOR—revisions to stumpage value tables, made by DOR, are subject to review by the Board;
- rate of interest determinations—DOR—interest rates determined by DOR for use in valuing farm land under current use assessment are subject to review by the Board;
- county indicated ratios—DOR—the Board hears appeals from the county indicated ratios determined by DOR;
- sale prices established for second-class shorelands—DOR—appeals from sales price determinations of second class shorelands on navigable lakes, made by the state Department of Natural Resources, are heard by the Board;
- public improvement ordinance—county or city—urban redevelopment property tax apportionment district proposals, established by governmental ordinances, are subject to Board review; and
- appraisal of vessels—DOR—DOR appraisals of vessels are subject to review by the Board.

Appeals from Administrative Orders. The appeal from an administrative decision of the Board is governed by the Administrative Procedures Act (APA). For a superior court to have jurisdiction to hear an appeal, the APA requires that a copy of the petition for judicial review is to be served on the agency, the office of the attorney general, and all parties of record. Service on the attorney for a party of record is sufficient to perfect jurisdiction in superior court.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): Service of the petition for judicial review on the Board is not a jurisdictional issue on appeal. Failure to timely serve the Board is not

grounds for dismissal of an appeal from the Board. The party appealing the Board's decision may perfect service of the petition on the Board at any time after filing the petition.

Administrative Changes to the State Board of Tax Appeals. Appointments of non-attorney members to the Board must have valuation experience as an appraiser accredited by DOR. The title of tax referees is changed to tax appeals officers. Tax appeals officers are authorized to serve pro tem on the Board when a position is vacant or a member is unable to hear a particular case set for full Board review. The Board member salary is to be fixed by the Governor, pursuant to law.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Removes language stating that for the Board it shall not be necessary to serve the Board with a petition for review.
- Inserts new language stating that service for the Board is not jurisdictional, and failure to timely serve the Board is not grounds for dismissal.
- The party may perfect service of the petition at any time after filing the petition.
- Does not change the requirement for the Board to provide a copy of the original or certified agency record within 30 days of service for judicial review.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: This is a somewhat technical bill. It streamlines the process and the service requirements. This was to streamline something that was required but should not be necessary for the purpose of the court's jurisdictional requirements. This bill removes an extra step. This helps the board get qualified people to serve on it.

OTHER: The Board of Tax Appeals is required to provide a copy of the agency record to the court within 30 days of service. When they receive notice of appeal, the board sends a copy of the transcript of that hearing to the parties so the appellant can get the transcript done as required by the court. If no one is required to tell the board that the lawsuit has been filed, they do not know how they will tell the parties they need a transcript or how the board will give a copy of the agency record to the court. Not sure how the board would move forward with this bill.

Persons Testifying: PRO: Senator Mike Padden, Prime Sponsor; Bob Battles, Association of Washington Business (AWB).

OTHER: Claire Hesselholt, Board of Tax Appeals.

Persons Signed In To Testify But Not Testifying: No one.