
SUBSTITUTE SENATE BILL 5578

State of Washington

68th Legislature

2023 Regular Session

By Senate Law & Justice (originally sponsored by Senators Padden and McCune)

READ FIRST TIME 02/10/23.

1 AN ACT Relating to the board of tax appeals; and amending RCW
2 34.05.542, 82.03.020, 82.03.070, 82.03.090, 82.03.150, 82.03.160,
3 82.03.170, and 82.03.050.

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

5 **Sec. 1.** RCW 34.05.542 and 1998 c 186 s 1 are each amended to
6 read as follows:

7 Subject to other requirements of this chapter or of another
8 statute:

9 (1) A petition for judicial review of a rule may be filed at any
10 time, except as limited by RCW 34.05.375.

11 (2) A petition for judicial review of an order shall be filed
12 with the court and served on the agency, the office of the attorney
13 general, and all parties of record within thirty days after service
14 of the final order.

15 In the case of appeals from the board of tax appeals, service of
16 the petition for judicial review on the board shall not be
17 jurisdictional and failure to timely serve a petition on the board of
18 tax appeals is not grounds for dismissal. The party appealing the
19 board's decision may perfect the service at any time after filing the
20 petition for judicial review in the proper court. The board of tax
21 appeals shall have the time period allowed under RCW 34.05.566 to

1 submit the record from the date the party has served the petition for
2 judicial review on the board.

3 (3) A petition for judicial review of agency action other than
4 the adoption of a rule or the entry of an order is not timely unless
5 filed with the court and served on the agency, the office of the
6 attorney general, and all other parties of record within thirty days
7 after the agency action, but the time is extended during any period
8 that the petitioner did not know and was under no duty to discover or
9 could not reasonably have discovered that the agency had taken the
10 action or that the agency action had a sufficient effect to confer
11 standing upon the petitioner to obtain judicial review under this
12 chapter.

13 (4) Service of the petition on the agency shall be by delivery of
14 a copy of the petition to the office of the director, or other chief
15 administrative officer or chairperson of the agency, at the principal
16 office of the agency. Service of a copy by mail upon the other
17 parties of record and the office of the attorney general shall be
18 deemed complete upon deposit in the United States mail, as evidenced
19 by the postmark.

20 (5) Failure to timely serve a petition on the office of the
21 attorney general is not grounds for dismissal of the petition.

22 (6) For purposes of this section, service upon the attorney of
23 record of any agency or party of record constitutes service upon the
24 agency or party of record.

25 **Sec. 2.** RCW 82.03.020 and 2018 c 174 s 1 are each amended to
26 read as follows:

27 (1) The board of tax appeals, hereinafter referred to as the
28 board, must consist of three members qualified by experience and
29 training in the field of state and local taxation, appointed by the
30 governor with the advice and consent of the senate, and no more than
31 two of whom at the time of appointment or during their terms may be
32 members of the same political party.

33 (2) Beginning with appointments made after June 7, 2018, at least
34 two members of the board must be attorneys licensed to practice law
35 in the state of Washington with substantial knowledge of Washington
36 tax law. At least one attorney member must have substantial
37 experience in making a record suitable for judicial review. Any
38 nonattorney member must have substantial experience in the fields of

1 residential and commercial property appraisal or valuation experience
2 as an appraiser accredited by the department.

3 (3) Each member of the board must attend at least ~~((twenty))~~ 20
4 hours of judicial training deemed by the board to be appropriate for
5 instructing members in Washington law, evidentiary procedures, and
6 judicial practice and ethics.

7 **Sec. 3.** RCW 82.03.070 and 1988 c 222 s 2 are each amended to
8 read as follows:

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

14 **Sec. 4.** RCW 82.03.090 and 1967 ex.s. c 26 s 38 are each amended
15 to read as follows:

16 The principal office of the board shall be at the state capital,
17 but it may sit or hold hearings at any other place in the state. A
18 majority of the board shall constitute a quorum for making orders or
19 decisions, promulgating rules and regulations necessary for the
20 conduct of its powers and duties, or transacting other official
21 business, and may act though one position on the board be vacant. The
22 chair, or the vice chair in the chair's absence, may select one of
23 the board's tax appeals officers to serve pro tem when a position on
24 the board is vacant, or a member of the board is recused, is
25 disqualified, or otherwise cannot hear and consider a particular case
26 set for full board review. One or more members may hold hearings and
27 take testimony to be reported for action by the board when authorized
28 by rule or order of the board. The board shall perform all the powers
29 and duties specified in this chapter or as otherwise provided by law.

30 **Sec. 5.** RCW 82.03.150 and 2018 c 174 s 14 are each amended to
31 read as follows:

32 In all appeals involving an informal hearing before the board or
33 any of its members or tax ~~((referees))~~ appeals officers, the board,
34 any member of the board, and the board's tax ~~((referees))~~ appeals
35 officers have all powers relating to administration of oaths,
36 issuance of subpoenas, and taking of depositions as are granted to
37 agencies by chapter 34.05 RCW. The board, any member of the board,

1 and the board's tax ((referees)) appeals officers also have all
2 powers granted the department of revenue pursuant to RCW 82.32.110.
3 In the case of appeals within the scope of RCW 82.03.130(1)(b) the
4 board or any member thereof may obtain such assistance, including the
5 making of field investigations, from the staff of the director of
6 revenue as the board or any member thereof may deem necessary or
7 appropriate.

8 **Sec. 6.** RCW 82.03.160 and 2018 c 174 s 15 are each amended to
9 read as follows:

10 In all appeals involving a formal hearing before the board or any
11 of its members or tax ((referees)) appeals officers, the board, any
12 member of the board, and the board's tax ((referees)) appeals
13 officers have all powers relating to administration of oaths,
14 issuance of subpoenas, and taking of depositions as are granted to
15 agencies in chapter 34.05 RCW; and the board, and each member
16 thereof, or its tax ((referees)) appeals officers, are subject to all
17 duties imposed upon, and have all powers granted to, an agency by
18 those provisions of chapter 34.05 RCW relating to adjudicative
19 proceedings. The board, any member of the board, and the board's tax
20 ((referees)) appeals officers also have all powers granted the
21 department of revenue pursuant to RCW 82.32.110. In the case of
22 appeals within the scope of RCW 82.03.130(1)(b), the board, or any
23 member thereof, may obtain such assistance, including the making of
24 field investigations, from the staff of the director of revenue as
25 the board, or any member thereof, may deem necessary or appropriate:
26 PROVIDED, HOWEVER, That any communication, oral or written, from the
27 staff of the director to the board or its tax ((referees)) appeals
28 officers may be presented only in open hearing.

29 **Sec. 7.** RCW 82.03.170 and 2018 c 174 s 16 are each amended to
30 read as follows:

31 All proceedings, including both formal and informal hearings,
32 before the board or any of its members or tax ((referees)) appeals
33 officers must be conducted in accordance with such rules of practice
34 and procedure as the board may prescribe. The board must publish such
35 rules and arrange for public access to the rules, including through a
36 publicly available website.

1 **Sec. 8.** RCW 82.03.050 and 2018 c 174 s 4 are each amended to
2 read as follows:

3 (1) The board must operate on a full-time basis. Each member of
4 the board must devote his or her full time and efforts to the
5 efficient discharge of the duties of the board.

6 (2) Board members must receive an annual salary (~~(in the same~~
7 ~~range as that established for equivalent members of class four boards~~
8 ~~under RCW 43.03.250)~~ as fixed by the governor pursuant to RCW
9 43.03.040.

10 (3) Each board member must receive reimbursement for travel
11 expenses incurred in the discharge of his or her duties in accordance
12 with RCW 43.03.050 and 43.03.060 as now existing or hereafter
13 amended.

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