

ENROLLED HOUSE  
BILL NO. 1138

BY: CAMPBELL of the HOUSE

and

SMITH of the SENATE

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING 68 O.S. 1981, SECTION 2469, SECTION 63, CHAPTER 162, O.S.L. 1988, AS AMENDED BY SECTION 13, CHAPTER 321, O.S.L. 1989, AND SECTION 86, CHAPTER 162, O.S.L. 1988 (68 O.S. SUPP. 1990, SECTION 2863 AND 2886), WHICH RELATE TO PAYMENT OF TAXES FOR WHICH ILLEGALITY IS ALLEGED AND COUNTY BOARDS OF EQUALIZATION; PROVIDING FOR INVESTMENT AND MANNER OF PAYMENT OF CERTAIN PROTESTED TAXES; MODIFYING DATES OF SESSIONS OF BOARDS OF EQUALIZATION UNDER CERTAIN CIRCUMSTANCES; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 63, Chapter 162, O.S.L. 1988, as amended by Section 13, Chapter 321, O.S.L. 1989 (68 O.S. Supp. 1990, Section 2863), is amended to read as follows:

Section 2863. A. The county boards of equalization shall hold sessions commencing on April 1, or the first working day thereafter, and ending not later than May 31, for the purpose of correcting and adjusting the assessment rolls in their respective counties to conform to the fair cash value of the property assessed, as defined by law. In counties having an assessed valuation in excess of ~~Five Hundred Million Dollars (\$500,000,000.00)~~ One Billion Dollars (\$1,000,000,000.00), said sessions shall commence on the fourth Monday in January and end not later than May 31. If the number of protests pending of said date would in the estimation of the board make it impracticable for the county board of equalization to complete hearing and adjudication of such protests on or before May 31, a special session may be called, for such time as is necessary to complete consideration of said protests, subject to the approval of the county budget board, between June 1 and no later than July 31. Such approval of the county budget board must be requested no later than May 15. The county board of equalization may meet in special session between March 1 and through March 31 for the purpose of considering protests pending at or before the date of notice of such special session, if the number of protests pending of said date would in the estimation of the board make it impracticable for the county board of equalization to complete hearing and adjudication of such protests on or before May 31. At any such special session called between March 1 and March 31, said board shall conduct no other business than the hearing or adjudication of such protests pending pursuant to the provisions of this Code. Except for ~~such~~ special sessions, the meetings of each board shall be called ~~and set~~ by the chairman or, in the event of the refusal or inability of the chairman, by a majority membership of said board. The secretary of

the board of equalization shall fix the dates of the extended special session hearings provided for in this section.

B. It shall be the duty of said boards and they shall have the authority to:

1. raise or lower appraisals to conform to the fair cash value of said property, as defined by law in response to a protest filed as prescribed by law; and
2. add omitted property; and
3. cancel assessments of property not taxable; and
4. hear all grievances and protests filed with the board secretary as outlined in Section 2877 of this title.

C. It shall be the duty of each county board of equalization to cooperate with and assist the county assessor in performing the duties imposed upon said assessor by the provisions of Section 2840 of this title, to the end that the records required by the provisions of such section shall be fully and accurately prepared and maintained and shall reflect the assessed valuations of the real property of the county. After said records have been prepared and the assessed valuations adjusted in accordance with the provisions of this section, the county board of equalization shall not raise or lower the assessed valuation of any parcel or tract of real estate without hearing competent evidence justifying such change or until at least one member of said board or a person designated by the board has made a personal inspection of such property and submitted a written report to the board. In no event shall any such change be made by the county board of equalization if such change would be inconsistent with the equalized value of other similar property in the county.

D. In counties with a net assessed valuation in excess of Five Hundred Million Dollars (\$500,000,000.00), the county board of equalization may, subject to the approval of the county budget board, appoint sufficient hearing officers to assist in the hearing of protests filed before the county board of equalization. Such hearing officers shall be knowledgeable in the field of mass appraisal, real estate or related experience. Hearing officers shall receive the same compensation as county board of equalization members. The secretary of the county budget board shall appoint such personnel necessary to assist the hearing officers in the performance of their duties.

Such hearing officers shall review protests assigned to them by the board of equalization, hold hearings, receive testimony from the taxpayer and county assessor and submit a written recommendation to the county board of equalization as to the fair market value of the protested property. Upon submission of the hearing officer's written recommendation, the county board of equalization shall take final action on the protest by either adopting, amending or rejecting the final report. The county board of equalization may also re-hear the protest itself, request additional testimony from the taxpayer or county assessor or request additional review by a hearing officer.

All proceedings before any hearing officer shall be subject to the provisions of the Oklahoma Open Records Act and the Oklahoma Open Meetings Act.

E. If the net assessed valuation of a county is established based upon a system in which one hundred percent (100%) of fair cash value, prior to exemption, is taxable, the dollar amount of Five Hundred Million Dollars (\$500,000,000.00) prescribed in this section shall be Five Billion Dollars (\$5,000,000,000.00).

SECTION 2. AMENDATORY 68 O.S. 1981, Section 2469, is amended to read as follows:

Section 2469. In all cases where the illegality of the tax is alleged to arise by reason of some action from which the laws provide no appeal, the aggrieved person shall pay the full amount of the taxes at the time and in the manner provided by law, and shall give notice to the officer collecting the taxes showing the grounds of complaint and that suit will be brought against the officer for recovery of them. It shall be the duty of such collecting officer to hold such taxes separate and apart from all other taxes collected by him, for a period of thirty (30) days, and if within such time summons shall be served upon such officer in a suit for recovery of such taxes, the officer shall further hold such taxes until the final determination of such suit. The treasurer shall invest such protested taxes in the same manner as he invests surplus tax funds not paid under protest, but shall select an investment medium which will permit prompt refund or apportionment of such protested taxes upon expiration of the thirty-day period after notice or upon final determination of the suit. All such suits shall be brought in the court having jurisdiction thereof, and they shall have precedence therein. If, upon final determination of any such suit, the court shall determine that the taxes were illegally collected, as not being due and owing, the Court shall render judgment showing the correct and legal amount of taxes due by such person, and shall issue such order in accordance with the court's findings, and if such order shows that the taxes so paid are in excess of the legal and correct amount due, the collecting officer shall pay to such person the excess, together with all accrued interest on the excess amount, and shall take his receipt therefor.

SECTION 3. AMENDATORY Section 86, Chapter 162, O.S.L. 1988 (68 O.S. Supp. 1990, Section 2886), is amended to read as follows:

Section 2886. A. In all cases where the illegality of the tax is alleged to arise by reason of some action from which the laws provide no appeal, the aggrieved person shall pay the full amount of the taxes at the time and in the manner provided by law, and shall give notice to the officer collecting the taxes showing the grounds of complaint and that suit will be brought against the officer for recovery of them. It shall be the duty of such collecting officer to hold such taxes separate and apart from all other taxes collected by him, for a period of thirty (30) days, and if within such time summons shall be served upon such officer in a suit for recovery of such taxes, the officer shall further hold such taxes until the final determination of such suit. The treasurer shall invest such protested taxes in the same manner as he invests surplus tax funds not paid under protest, but shall select an investment medium which will permit prompt refund or apportionment of such protested taxes upon expiration of the thirty-day period after notice or upon final determination of the suit.

B. All such suits shall be brought in the court having jurisdiction thereof, and they shall have precedence therein. If, upon final determination of any such suit, the court shall determine that the taxes were illegally collected, as not being due and owing, the court shall render judgment showing the correct and legal amount of taxes due by such person, and shall issue such order in accordance with the court's findings, and if such order shows that the taxes so paid are in excess the legal and correct amount due, the collecting officer shall pay to such person the excess, together with all accrued interest on the excess amount, and shall take his receipt therefor.

SECTION 4. Sections 2 and 3 of this act shall become effective January 1, 1992.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 30th day of April, 1991.

Speaker of the House of  
Representatives

Passed the Senate the 11th day of April, 1991.

President of the Senate