

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 2102

By: Begley

(revenue and taxation - amending 68 O.S., Sections 2881
and 2884 - increased valuation of property - payment of
taxes pending appeal - codification - effective date)

AUTHORS: Add the following Senate Author and Coauthor: Williams
(Don) (principal) and Capps

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting
clause and entire bill and insert

[revenue and taxation - amending sections in Title
68 - increased valuation of property - payment of
taxes pending appeal - repealer - codification -
effective date]

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2881, as
last amended by Section 7, Chapter 358, O.S.L. 1995 (68 O.S. Supp.
1995, Section 2881), is amended to read as follows:

Section 2881. A. The secretary of the State Board of
Equalization shall notify all railroads, air carriers and public
service corporations of the ad valorem tax assessments rendered by
the State Board, including the valuation, assessment ratio and total
amount of assessment. The notice shall clearly be marked with the
date upon which the notice was prepared. Such notice shall be
mailed within one (1) working day of such date. The taxpayer shall
have ~~twenty (20)~~ thirty (30) calendar days from date of such notice
in which to file, with the ~~Clerk of the Court of Oklahoma Tax Review~~

Commission, a written complaint on a form prescribed by the ~~Oklahoma~~ Tax Commission, specifying grievances, and the pertinent facts in relation thereto in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The complaint shall specify the amount of Oklahoma assessed valuation protested and the grounds for the protest. ~~The taxpayer shall be required to send a copy of the complaint to the Oklahoma Tax Commission.~~

B. After the filing of a complaint as provided for in subsection A of this section the State Board of Equalization shall have ~~fifteen (15)~~ forty (40) days within which to file an answer. ~~The Court of Tax Review shall set a date of hearing, conduct such hearing and render its decision within sixty (60) days of the date of the notice which caused the filing of the complaint.~~ The ~~Court of Tax Review~~ Commission shall be authorized and empowered to take evidence pertinent to said complaint, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the valuation, as required by law.

C. At the time of hearing upon a complaint filed pursuant to this section, the taxpayer shall bear the burden of proof to show in what respect the action of the State Board of Equalization shall bear the burden of proof of supporting its action which is the subject matter of the complaint is incorrect.

D. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the ~~Court of Tax Review~~ Commission by filing a notice of intent to appeal with the ~~Clerk of the Court of Tax Review~~ Commission within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall give precedence to such appeals and affirm the decision of the ~~Court of Tax Review~~ Commission if supported by competent evidence.

E. If the taxpayer fails to file a written complaint within the thirty-day period herein provided for, then the assessed valuation stated in the notice, without further action of the State Board of Equalization, shall become final and absolute at the expiration of thirty (30) days from the date the notice is mailed to the taxpayer.

F. All hearings before the Tax Commission shall be conducted pursuant to the Uniform Tax Procedure Code and the Tax Commission's rules promulgated thereunder, which shall govern the procedure used for all complaints filed under this section. The proceedings before the Tax Commission and appeals therefrom shall be the sole method by which assessments or valuations shall be confirmed, corrected or adjusted. All cases pending in the Court of Tax Review on the effective date of this act shall be transferred to the Tax Commission for disposition.

G. In all instances where the notice of assessed valuation certified by the State Board of Equalization has been permitted to become final, such notice shall have the same force and be subject to the same law as a judgment of the district court.

H. If the taxpayer as identified in subsection A of this section filing a written complaint pursuant to this section fails to prevail on the complaint and any subsequent appeal as provided in this section, and the full amount of the taxes due have been paid pending appeal pursuant to Section 2884 of this title, then the taxpayer shall be liable for the costs and fees, including reasonable attorney fees, of the Tax Commission or any agent of the Tax Commission in defending the action. If the taxpayer prevails, the taxpayer shall be entitled to attorney fees and costs from the Tax Commission.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2884, as last amended by Section 2, Chapter 325, O.S.L. 1995 (68 O.S. Supp. 1995, Section 2884), is amended to read as follows:

Section 2884. A. The full amount of the taxes assessed against the property of any taxpayer who has appealed from a decision affecting the value or taxable status of such property as provided by law shall be paid at the time and in the manner provided by law; and if at the time such taxes or any part thereof become delinquent, any such appeal is pending, it shall abate and be dismissed upon a showing that such taxes have not been paid. Taxes paid under the provisions of this subsection by railroads and public service corporations shall be paid to the Oklahoma Tax Commission. Taxes paid under the provisions of this subsection by property owners other than railroads and public service corporations shall be paid to the appropriate county treasurer.

B. When such taxes are paid, the persons paying the same shall give notice to the Tax Commission, if the taxes are paid by railroads or public service corporations, or to the county treasurer, if the taxes are paid by other property owners, that an appeal involving such taxes has been taken and is pending, and that a specified portion of the tax amount is being paid under protest. The notice shall be on a form prescribed by the ~~Oklahoma~~ Tax Commission. If taxes are paid in two equal installments and the amount paid under protest does not exceed fifty percent (50%) of the full amount of assessed taxes, all protested taxes shall be specified in the second installment payment. If such amount does exceed fifty percent (50%) of the full amount of assessed taxes, then the portion of protested taxes that exceeds fifty percent (50%) of the full amount of assessed taxes shall be specified in the first installment payment and the entire second installment shall be specified to be paid under protest. The taxpayer shall attach to such notice a copy of the petition filed in the court or other appellate body in which the appeal was taken. For railroads and public service corporations, the amount of taxes protested shall not exceed the amount of tax calculated on the protested assessed

valuation specified in the complaint filed pursuant to the provisions of subsection A of Section 2881 of this title. ~~Except as otherwise provided by subsection E of this section~~

C. For taxpayers other than railroads and public service corporations, it shall be the duty of such the county treasurer to hold taxes paid under protest separate and apart from other taxes collected. Any portion of such taxes not paid under protest shall be apportioned as provided by law. The treasurer shall invest such protested taxes in the same manner as the treasurer 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 final determination of the appeal. For railroads and public service corporations, the Tax Commission shall deposit taxes paid under protest to the Protested Ad Valorem Tax Escrow Fund created in Section 3 of this act. Any portion of such taxes not paid under protest shall be apportioned as provided by law.

D. As soon as practicable after the Tax Commission determines the total amount of ad valorem taxes of railroads or public service corporations paid under protest pursuant to the provisions of subsection B of this section, the Tax Commission shall determine the amount of such taxes that would have been apportioned to each school district and each vocational-technical school district of this state if the protest had not been made. The Tax Commission shall reimburse such amount to each school district and vocational-technical school district from monies in the Education Cash Flow Revolving Fund created in Section 4 of this act. If the Education Cash Flow Revolving Fund does not contain sufficient monies to make all such reimbursements, the available monies shall be distributed proportionally among the school districts and vocational-technical school districts.

E. If upon the final determination of any such appeal, the court shall find that the property was assessed at too great an amount, the board of equalization from whose order the appeal was taken shall certify the corrected valuation of the property of such taxpayers to the Tax Commission, if the taxpayer is a railroad or public service corporation, or to the county assessor, if the taxpayer is not a railroad or public service corporation, in accordance with the decision of the court, and shall send a copy of such certificate to the county treasurer, if the taxpayer is not a railroad or public service corporation, or to the Tax Commission, if the taxpayer is a railroad or public service corporation. Upon receipt of the corrected certificate of valuation, the county assessor shall compute and certify to the county treasurer the correct amount of taxes payable by such taxpayer. ~~The~~ For taxpayers other than railroads and public service corporations, the difference between the amount paid and the correct amount payable, with accrued interest, shall be refunded by the treasurer to the taxpayer upon the taxpayer filing a proper verified claim therefor, and the remainder paid under protest, with accrued interest, shall be apportioned as provided by law. For railroads and public service corporations, the difference between the amount paid and the correct amount payable, with accrued interest, shall be refunded by the Tax Commission to the taxpayer upon the taxpayer filing a proper verified claim therefor. The remainder paid under protest, with accrued interest, shall be apportioned as provided by law; provided, the Tax Commission shall reduce the amount paid from the Protested Ad Valorem Tax Escrow Fund to a school district or vocational-technical school district which has received a reimbursement pursuant to subsection D of this section by the amount of such reimbursement and shall transfer such amount to the Education Cash Flow Revolving Fund.

~~C.~~ F. If an appeal is upon a question of valuation of the property, then the amount paid under protest by reason of the question of valuation being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the valuation of the property asserted by the taxpayer in the appeal were determined by the court to be correct.

~~D.~~ G. If an appeal is upon a question of assessment of the property, then the amount paid under protest by reason of the question of assessment being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the assessment of the property asserted by the taxpayer in the appeal was determined by the court to be correct.

~~E. The procedure for payment of taxes pending resolution of appeals as provided by this section shall be applicable to any such payment of taxes made on or after July 1, 1992.~~

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2884.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Protested Ad Valorem Tax Escrow Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of ad valorem taxes paid under protest by railroads or public service corporations pursuant to the provisions of Section 2884 of Title 68 of the Oklahoma Statutes. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tax Commission for the purpose of apportioning ad valorem taxes paid under protest, with accrued interest, after the correct amounts payable have been determined as provided by law. Expenditures from the fund shall be made upon warrants issued by the

State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2884.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Education Cash Flow Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies appropriated thereto. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tax Commission for the purpose of making payments to school districts or vocational-technical school districts in the event of protests of ad valorem taxes by railroads or public service corporations. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 3002, is amended to read as follows:

Section 3002. Each board of county commissioners, the mayor and council of each city having the statutory mayor-council form of city government, the council of each city having the statutory council-manager form of city government ~~+, or the officers exercising like power in any city having a charter form of government~~, the board of trustees of each incorporated town, and the board of education of each school district, shall meet on the first Monday in August of each year, and they shall, respectively, make, in writing, a financial statement, showing the true fiscal condition of their respective political subdivisions as of the close of the previous fiscal year ended June ~~30th~~ 30, and prior to September 1, shall make a written itemized statement of estimated needs and probable income

from all sources including ad valorem tax for the current fiscal year. Such financial statement shall be supported by schedules or exhibits showing, by classes, the amount of all receipts and disbursements, and shall be sworn to as being true and correct. The statement of estimated needs shall be itemized so as to show, by classes: ~~first, the~~

1. The several amounts necessary for the current expenses of the political subdivision and each officer and department thereof as submitted in compliance with the provisions of Section ~~2485~~ 3004 of this ~~Code~~ title; ~~second, the~~

2. The amount required by law to be provided for sinking fund purposes; ~~third, the~~ and

3. The probable income that will be received from all sources, including interest income and ad valorem taxes; ~~and.~~

The statement shall be detailed in form and amount so as to disclose the several items for which the excise board is authorized and required, by this article, to approve estimates and make appropriations. Each financial statement and estimate of needs for each county, city, incorporated town, or school district, as prepared in accordance with this section, shall be published in one issue in some legally qualified newspaper published in such political subdivision. If there be no such newspaper published in such political subdivision, such statement and estimate shall be so published in some legally qualified newspaper of general circulation therein; ~~and such.~~ The publication shall be made, in each instance, by the board or authority making the estimate. The financial statements and estimates of all counties shall be filed with the county excise board on or before August 17 of each year; ~~and the.~~ The financial statements and estimates of all incorporated towns shall be filed with the county excise board on or before August 22 of each year; ~~and the.~~ The financial statements and estimates of all cities shall be filed with the county excise board on or before

August 27 of each year; ~~and the~~. The financial statements and estimates of all school districts shall be filed with the county excise board on or before September 1 of each year. ~~Said~~ All financial statements and estimates filed pursuant to the provisions of this section shall have attached thereto an affidavit showing the publication thereof as required herein, or they may be filed and the ~~said~~ affidavit attached thereto at any time within five (5) days after the filing thereof. If the financial statements and estimates are not filed on or before the dates specified in this section, the excise board shall notify any political subdivision which has not so filed, and shall provide the State Auditor and Inspector with a list of all political subdivisions in the county failing to comply with the provisions of this section.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 3024, as amended by Section 5, Chapter 360, O.S.L. 1992 (68 O.S. Supp. 1995, Section 3024), is amended to read as follows:

Section 3024. A. There is hereby created a Court of Tax Review. The Court of Tax Review shall be comprised of one district judge from each judicial district in the state. The district judge representing each judicial district shall be selected by the Justices of the Oklahoma Supreme Court. Each case brought before the Court of Tax Review pursuant to this subsection will be heard by a panel of three (3) judges. The three judges assigned to hear each case will be selected by the Chief Justice of the Oklahoma Supreme Court and will be from congressional districts different from the congressional district in which the property or county which is the subject of the case is located. In the event that the property which is the subject of the case is located in each congressional district, then the case shall be heard by a panel of three (3) judges from the Oklahoma Court of Appeals, appointed by the Chief Justice of the Supreme Court to hear such case. A majority of the three-judge panel shall be required to render a decision in each

case. The Oklahoma Supreme Court shall establish court rules for the Court of Tax Review and the Clerk of the Oklahoma Supreme Court shall serve as Clerk of the Court of Tax Review. The Court of Tax Review is hereby vested with jurisdiction over and shall hear ~~complaints regarding valuation of public service corporation property by the State Board of Equalization as authorized by Section 2881 of this title,~~ complaints regarding actions of the State Board of Equalization regarding either intracounty or intercounty property value equalization as authorized by Section 2882 of this title, and appeals as authorized by Section 2830 of this title concerning Category 2 or Category 3 noncompliance as determined by the Oklahoma Tax Commission. The Court of Tax Review shall determine if a county deemed to be in Category 3 noncompliance is required to reimburse the Oklahoma Tax Commission from the county assessor's budget for all costs incurred as a result of the assumption of the valuation function by the Commission.

B. The Court of Tax Review shall prescribe procedures for the purpose of hearing properly filed protests against alleged illegal levies, as shown on the annual budgets filed with the State Auditor and Inspector. The Court shall reconvene as often as deemed necessary by said Court until final determination has been made as to all protested levies. The said judges shall be paid their traveling and living expenses while acting as members of said Court, out of the funds now provided by law for payment of district judges' expenses when holding court outside the counties of their residence. Decisions of the Court of Tax Review concerning alleged illegal levies shall be subject to the provisions of Sections 3025, 3026, 3027, 3028 and 3029 of this title.

SECTION 7. REPEALER 68 O.S. 1991, Section 2886, is hereby repealed.

SECTION 8. This act shall become effective November 1, 1996."

Passed the Senate the 3rd day of April, 1996.

President of the Senate

Passed the House of Representatives the ____ day of
_____, 1996.

Speaker of the House of
Representatives