

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)

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

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) calendar days from date of such notice in which to
file, with the Clerk of the Court of Tax Review, 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) 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 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 State Board of Equalization shall bear the burden of proof of supporting its action which is the subject matter of the complaint.

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 by filing a notice of intent to appeal with the Clerk of the Court of Tax Review 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 if supported by competent evidence.

E. 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 or 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 Oklahoma Tax Commission or any

agent of the Tax Commission in defending the action. If the taxpayer prevails, he shall be entitled to attorney fees and costs from the Tax Commission. The costs and fees shall also include any reimbursement to the state for the expenses of the Court of Tax Review. The taxpayer shall also be liable for interest at the rate as provided in Section 2913 of this title on the full amount of the taxes paid under protest and held by the county treasurer pursuant to Section 2884 of this title.

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 Oklahoma 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, it~~ It shall be the duty of ~~such~~ the county treasurer to hold taxes paid under protest by taxpayers, other than railroads and public service corporations, separate and apart from other taxes collected. The Oklahoma Tax Commission shall deposit taxes paid under protest by railroads and public service corporations to the Protested Ad Valorem Tax Revolving Fund created in Section 3 of this act. 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. 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 Oklahoma 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. 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 difference between the amount paid and the correct amount payable with accrued interest shall be refunded by the treasurer or the Oklahoma Tax Commission 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.

C. 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. 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~~ were 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 Revolving 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. This act shall become effective November 1, 1996.

Passed the House of Representatives the 13th day of March, 1996.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate