

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1338

By: Begley, Hamilton, Pope
(Clay), Maddux, Beutler,
Eddins, Covey and Turner
of the House

and

Roberts, Weedn, Kerr and
Muegge of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2808, as amended by Section 2, Chapter 57, O.S.L. 1995 (68 O.S. Supp. 1996, Section 2808), which relates to definitions; modifying definition; amending 68 O.S. 1991, Section 2881, as last amended by Section 7, Chapter 358, O.S.L. 1995 (68 O.S. Supp. 1996, Section 2881), which relates to increase of valuation of property of railroads, air carriers, and public service corporations; modifying time period in which to file certain complaint; modifying time period in which to file answer; requiring State Board of Equalization to give certain notice; permitting Attorney General to appear in certain actions; requiring Court of Tax Review to give certain notice; deleting burden of proof upon hearing of complaint; modifying certain notice of appeal; providing for precedence to be given by Oklahoma Court of Civil Appeals to certain appeal; providing that assessed valuation becomes final upon expiration of certain time period; providing that notice has certain force and effect; amending 68 O.S. 1991, Section 3024, as last amended by Section 20, Chapter 97, O.S.L. 1996 (68 O.S. Supp. 1996, Section 3024), which relates to the Court of Tax Review; re-creating Court of Tax Review; modifying membership of Court of Tax Review; providing for designation of certain judges; requiring certain scheduling conference; providing for certain court existence to cease; providing for transfer of certain cases; providing for disposition of pending cases; amending Section 61, Chapter 316, O.S.L. 1992, as amended by Section 4, Chapter 24, O.S.L. 1996 (19 O.S. Supp. 1996, Section 215.37M), which relates to contracts with private attorneys; permitting legal representation upon certain agreement regarding ad valorem tax matters; providing for payment for legal costs; providing for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2808, as amended by Section 2, Chapter 57, O.S.L. 1995 (68 O.S. Supp. 1996, Section 2808), is amended to read as follows:

Section 2808. A. ~~The term public~~ As used in the Ad Valorem Tax Code:

1. "Public service corporation, as used in the Ad Valorem Tax Code, shall include" means all transportation companies, transmission companies, all gas, electric, light, heat and power companies and all waterworks and water power companies, and all persons authorized to exercise the right of eminent domain or to use or occupy any right-of-way, street, alley, or public highway, along, over or under the same in a manner not permitted to the general public. "Public service corporation" shall also include any entity enumerated in this subsection which is authorized pursuant to Title 52 of the Oklahoma Statutes to seek the right of eminent domain or to use or occupy any right-of-way, street, alley, or public highway, along, over, or under the same in a manner not permitted to the general public, whether the entity attempts to obtain such rights and regardless of the manner in which such rights are or may be obtained. Public service corporation property shall not include gathering lines and pumping stations located on a lease and used exclusively to pump or transport oil or gas produced on such lease;

~~B. As used in the Ad Valorem Tax Code the term transportation~~

2. "Transportation company shall include" means any company, corporation, trustee, receiver, or any other person owning, leasing or operating for hire, a street railway, canal, steamboat line, and also any sleeping car company, parlor car company and express company, and any other company, trustee, or person in any way engaged in such business as a common carrier. As used in the Ad Valorem Tax Code, the term "transportation company" shall not include any railroad or any air carrier. However, all railroad and air carrier property shall continue to be valued and assessed by the State Board of Equalization for purposes of ad valorem taxation-;

~~C. The term transmission~~ 3. "Transmission company shall include" means any company, corporation, trustee, receiver, or other person owning, leasing or operating for hire any telegraph or telephone line or radio broadcasting system; and

~~D. The term person as used in the Ad Valorem Tax Code shall include~~ 4. "Person" means individuals, partnerships, associations, and corporations in the singular as well as plural number.

~~E. B.~~ As used in the Ad Valorem Tax Code, ~~the terms~~ "transmission company" and "public service corporation" shall not be construed to include cable television companies.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2881, as last amended by Section 7, Chapter 358, O.S.L. 1995 (68 O.S. Supp. 1996, 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, which shall clearly be marked with the date upon which ~~the notice~~ it 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 the date of ~~such~~ the 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~~ with 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~~ include 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. If the taxpayer fails to file a written complaint within the thirty-day period provided for in this section, 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.

C. After the filing of a complaint ~~as~~ provided for in subsection A of this section, the State Board of Equalization shall have ~~fifteen (15)~~ thirty (30) 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, and notify in writing the taxpayer and the State Board of Equalization of its decision within sixty (60) days of the date of the ~~notice which caused the filing of the complaint~~ scheduling conference. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to ~~said~~ the complaint, and for that purpose, ~~is authorized to~~ may 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. The State Board of Equalization shall notify, in writing and by certified mail, the Attorney General and all affected school districts and other recipients of ad valorem tax revenue of the complaint provided for by this section within ten (10) days of the filing of the complaint.

E. The Attorney General may appear in all actions to enforce the valuation and assessment of property by the State Board of Equalization and the collection of ad valorem tax which is the subject of the complaint filed pursuant to this section.

F. 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)~~ thirty (30) calendar days of the date the final decision is ~~rendered~~ sent to the parties. Appeal shall be ~~made to~~ brought in the Oklahoma Supreme Court ~~which~~ in the same manner as provided for other appeals from the Court of Tax Review. The Supreme Court shall

give precedence to such appeals and affirm the decision of the Court of Tax Review if supported by competent evidence. If the Oklahoma Supreme Court assigns the appeal to the Court of Civil Appeals, the Oklahoma Court of Civil Appeals shall give precedence to the appeal and affirm the decision of the Court of Tax Review if supported by competent evidence.

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 not subject to further appeal.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 3024, as last amended by Section 20, Chapter 97, O.S.L. 1996 (68 O.S. Supp. 1996, Section 3024), is amended to read as follows:

Section 3024. A. There is hereby ~~created~~ re-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 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 judges of the Court of Civil Appeals, appointed by the Chief Justice of the Supreme Court to hear such case.~~ For each case brought before the Court of Tax Review, the Chief Justice of the Oklahoma Supreme Court shall assign the case to a judicial administrative district. The presiding judge of the judicial administrative district to which the case is assigned shall appoint a panel of three (3) judges of the district court, who shall determine in what county the case will be heard. A majority of the three-judge panel shall be required to render a decision in each case. The Oklahoma Supreme Court shall establish

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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.

B. The Court of Tax Review is hereby vested with jurisdiction over and shall hear ~~complaints~~:

1. Complaints regarding valuation of public service corporation property by the State Board of Equalization as authorized by Section 2881 of this title, ~~complaints~~ for which a scheduling conference shall be required within twenty (20) days of the answer filed by the State Board of Equalization;

2. 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~~

3. 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.~~ C. 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 the Court until final determination has been made as to all protested levies. The judges shall be paid their traveling and living expenses while acting as members of the 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.

D. The Court of Tax Review as it existed prior to November 1, 1997, shall cease to exist and all duties and responsibilities of

such court, except as provided in this section, shall be transferred to the Court of Tax Review as re-created in this section.

E. All cases which have not been submitted for determination in the Court of Tax Review as it existed prior to November 1, 1997, shall be transferred to the Court of Tax Review as it exists after November 1, 1997, for disposition. All cases which have been submitted by the parties for determination in the Court of Tax Review prior to November 1, 1997, shall remain with the panel to which they have been assigned for final determination.

SECTION 5. AMENDATORY Section 61, Chapter 316, O.S.L. 1992, as amended by Section 4, Chapter 24, O.S.L. 1996 (19 O.S. Supp. 1996, Section 215.37.M), is amended to read as follows:

Section 215.37M. A. If the district attorney and the board of county commissioners of any county agree, legal representation in any civil case in which the county is interested or a party and the district attorney is required to represent the county pursuant to Section 215.4 of ~~Title 19 of the Oklahoma Statutes~~ this title may be provided by contract with a private attorney. The costs of such contract shall be paid by the board of county commissioners out of its account for general government operation, or other account, as may be appropriate.

B. If the district attorney and the board of county commissioners of any county agree, legal representation in any civil case in which a county officer or employee is a party and the district attorney is required to represent the county pursuant to Section 215.25 of ~~Title 19 of the Oklahoma Statutes~~ this title may be provided by contract with a private attorney. The costs of such contract shall be paid by the board of county commissioners out of its account for general government operation, or other account, as may be appropriate.

C. If a district attorney and the District Attorneys Council agree, prosecution of any criminal matter may be provided by contract with a private attorney, who shall be designated as a special assistant district attorney, if the case load of the office of the district attorney is such that adequate

representation of the interest of the state is not possible without appointment of one or more special assistant district attorneys. The special assistant district attorney shall be appointed by the district attorney. The special assistant district attorney may serve with or without compensation, however, compensation shall be allowed only if the cost of compensation can be paid out of funds for the current fiscal year, designated for the salaries and operating expenses, for the office of the district attorney requesting the appointment or appointments. No supplemental appropriations shall be authorized for appointment of special assistant district attorneys.

D. If the district attorney and the board of education of any school district agree, legal representation in any ad valorem tax matter in which the district attorney is required to represent the school district may be provided by an attorney employed or retained by the school district. The costs of such representation shall be paid by the board of education out of its account for general government operation, or other account, as may be appropriate.

SECTION 4. RECODIFICATION Section 2, Chapter 187, O.S.L. 1996 (68 O.S. Supp. 1996, Section 3106.1), shall be recodified as Section 3127.1 of Title 68 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 5. This act shall become effective November 1, 1997.

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