

SENATE BILL No. 177

By Committee on Assessment and Taxation

2-13

AN ACT concerning taxation; relating to the state board of tax appeals; concerning appeal procedure and judicial review; amending K.S.A. 74-2426 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-2426 is hereby amended to read as follows: 74-2426. (a) Orders of the state board of tax appeals on any appeal, in any proceeding under the tax protest, tax grievance or tax exemption statutes or in any other original proceeding before the board shall be rendered and served in accordance with the provisions of the Kansas administrative procedure act. Notwithstanding the provisions of K.S.A. 77-526(g), and amendments thereto, a written summary decision shall be rendered by the board and served within 14 days after the matter was fully submitted to the board unless this period is waived or extended with the written consent of all parties or for good cause shown. Any aggrieved party, within 14 days of receiving after service of the board's decision, may file with the board a request for a full and complete opinion to be issued by the board in which the board explains its decision. Except as provided in subsection (c)(4), This full opinion shall be served by the board within 90 days of being requested. If the board has not rendered a summary decision or a full and complete opinion within the time periods described in this subsection, and such period has not been waived by the parties nor can the board show good cause for the delay, then the board shall refund any filing fees paid by the taxpayer.

(b) Final orders of the board shall be subject to review pursuant to subsection (c) except that the aggrieved party may first file a petition for reconsideration of a full and complete opinion with the board in accordance with the provisions of K.S.A. 77-529, and amendments thereto.

(c) Any action of the board pursuant to this section is subject to review in accordance with the Kansas judicial review act, except that:

(1) The parties to the action for judicial review shall be the same parties as appeared before the board in the administrative proceedings before the board. The board shall not be a party to any action for judicial review of an action of the board.

(2) There is no right to review of any order issued by the board in a

1 no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq.,
2 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and
3 statutes of a similar character.

4 (3) In addition to the cost of the preparation of the transcript, the
5 appellant shall pay to the state board of tax appeals the other costs of
6 certifying the record to the reviewing court. Such payment shall be made
7 prior to the transmission of the agency record to the reviewing court.

8 (4) Appeal of an order of the board shall be to the court of appeals as
9 provided in subsection (c)(4)(A), unless a taxpayer who is a party to the
10 order requests review in district court pursuant to subsection (c)(4)(B).

11 (A) Any aggrieved party may file a petition for review of the board's
12 order in the court of appeals. For purposes of such an appeal, the board's
13 order shall become final only after the issuance of a full and complete
14 opinion pursuant to subsection (a).

15 (B) ~~At the election of a taxpayer, any summary decision or full and~~
16 ~~complete opinion of the board of tax appeals issued after June 30, 2014,~~
17 ~~may be appealed by filing a petition for review in the district court. Any~~
18 ~~appeal to the district court shall be a trial de novo. Notwithstanding K.S.A.~~
19 ~~77-619, and amendments thereto, the trial de novo shall include an~~
20 ~~evidentiary hearing at which issues of law and fact shall be determined~~
21 ~~anew. District court review of orders issued by the board relating to the~~
22 ~~valuation or assessment of property for ad valorem tax purposes or relating~~
23 ~~to the tax protest shall be conducted by the court of the county in which~~
24 ~~the property is located, or, if located in more than one county, the court of~~
25 ~~any county in which any portion of the property is located.~~

26 (C) ~~If a taxpayer requests review of a summary decision or full and~~
27 ~~complete opinion in district court pursuant to subsection (c)(4)(B), the~~
28 ~~taxpayer shall provide notice to the board as well as the parties. Upon~~
29 ~~receipt of the notice, the board's jurisdiction shall terminate,~~
30 ~~notwithstanding any prior request for a full and complete opinion under~~
31 ~~subsection (a), and the board shall not issue such opinion. The court of~~
32 ~~appeals has jurisdiction for review of all final orders of the board issued~~
33 ~~after June 30, 2019, except as provided in subsection (c)(2). Before any~~
34 ~~action for judicial review may be brought, any party aggrieved by a~~
35 ~~summary decision shall first file a request for a full and complete opinion~~
36 ~~in accordance with the provisions of subsection (a). For purposes of an~~
37 ~~action for judicial review, the board's summary decision order shall~~
38 ~~become final only after the issuance of a full and complete opinion.~~

39 (d) If review of an order of the state board of tax appeals to the court
40 of appeals relating to excise, income or estate taxes, is sought by a person
41 other than the director of taxation, such person shall give bond for costs at
42 the time the petition is filed. The bond shall be in the amount of 125% of
43 the amount of taxes assessed or a lesser amount approved by the court of

1 appeals and shall be conditioned on the petitioner's prosecution of the
2 review without delay and payment of all costs assessed against the
3 petitioner.

4 Sec. 2. K.S.A. 74-2426 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.