

HOUSE BILL No. 2116

By Representatives Rhiley, Bergquist and Wasinger

1-31

1 AN ACT concerning the state board of tax appeals; hearings, attendance
2 by the use of audio or video electronic communication; amending
3 K.S.A. 74-2433 and repealing the existing section.
4

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

6 Section 1. K.S.A. 74-2433 is hereby amended to read as follows: 74-
7 2433. (a) There is hereby created a state board of tax appeals, referred to in
8 this act as the board. The board shall be composed of three members who
9 shall be appointed by the governor, subject to confirmation by the senate
10 as provided in K.S.A. 75-4315b, and amendments thereto. For members
11 appointed after June 30, 2014, one of such members shall have been
12 regularly admitted to practice law in the state of Kansas and for a period of
13 at least five years, have engaged in the active practice of law as a lawyer,
14 judge of a court of record or any other court in this state; one of such
15 members shall have engaged in active practice as a certified public
16 accountant for a period of at least five years and one such member shall be
17 a licensed certified general real property appraiser. In addition, the
18 governor shall also appoint a chief hearing officer, subject to confirmation
19 by the senate as provided in K.S.A. 75-4315b, and amendments thereto,
20 who, in addition to other duties prescribed by this act, shall serve as a
21 member pro tempore of the board. No successor shall be appointed for any
22 judge of the court of tax appeals appointed before July 1, 2014. Such
23 persons shall continue to serve as members on the board of tax appeals
24 until their terms expire. Except as provided by K.S.A. 46-2601, and
25 amendments thereto, no person appointed to the board, including the chief
26 hearing officer, shall exercise any power, duty or function as a member of
27 the board until confirmed by the senate. Not more than two members of
28 the board shall be of the same political party. Members of the board,
29 including the chief hearing officer, shall be residents of the state. Subject
30 to the provisions of K.S.A. 75-4315c, and amendments thereto, no more
31 than one member shall be appointed from any one of the congressional
32 districts of Kansas unless, after having exercised due diligence, the
33 governor is unable to find a qualified replacement within 90 days after any
34 vacancy on the board occurs. The members of the board, including the
35 chief hearing officer, shall be selected with special reference to training
36 and experience for duties imposed by this act and shall be individuals with

1 legal, tax, accounting or appraisal training and experience. State board of
2 tax appeals members shall be subject to the supreme court rules of judicial
3 conduct applicable to all judges of the district court. The board shall be
4 bound by the doctrine of stare decisis limited to published decisions of an
5 appellate court. Members of the board, including the chief hearing officer,
6 shall hold office for terms of four years. A member may continue to serve
7 for a period of 90 days after the expiration of the member's term, or until a
8 successor has been appointed and confirmed, whichever is shorter. Except
9 as otherwise provided, such terms of office shall expire on January 15 of
10 the last year of such term. If a vacancy occurs on the board, or in the
11 position for chief hearing officer, the governor shall appoint a successor to
12 fill the vacancy for the unexpired term. Nothing in this section shall be
13 construed to prohibit the governor from reappointing any member of the
14 board, including the chief hearing officer, for additional four-year terms.
15 The governor shall select one of its members to serve as chairperson. The
16 votes of two members shall be required for any final order to be issued by
17 the board. Meetings may be called by the chairperson and shall be called
18 on request of a majority of the members of the board and when otherwise
19 prescribed by statute.

20 (b) Any member appointed to the state board of tax appeals and the
21 chief hearing officer may be removed by the governor for cause, after
22 public hearing conducted in accordance with the provisions of the Kansas
23 administrative procedure act.

24 (c) The state board of tax appeals shall appoint, subject to approval
25 by the governor, an executive director of the board, to serve at the pleasure
26 of the board. The executive director shall: (1) Be in the unclassified
27 service under the Kansas civil service act; (2) devote full time to the
28 executive director's assigned duties; (3) receive such compensation as
29 determined by the board, subject to the limitations of appropriations
30 thereof; and (4) have familiarity with the tax appeals process sufficient to
31 fulfill the duties of the office of executive director. The executive director
32 shall perform such other duties as directed by the board.

33 (d) Appeals decided by the state board of tax appeals shall be made
34 available to the public and shall be published by the board on the board's
35 website within 30 days after the decision has been rendered. The board
36 shall also publish a monthly report that includes all appeals decided that
37 month as well as all appeals which have not yet been decided and are
38 beyond the time limitations as set forth in K.S.A. 74-2426, and
39 amendments thereto. Such report shall be made available to the public and
40 transmitted by the board to the members of the Kansas legislature.

41 (e) After appointment, members of the state board of tax appeals that
42 are not otherwise a state certified general real property appraiser shall
43 complete the following course requirements: (1) A tested appraisal course

1 of not less than 30 clock hours of instruction consisting of the
2 fundamentals of real property appraisal with an emphasis on the cost and
3 sales approaches to value; (2) a tested appraisal course of not less than 30
4 clock hours of instruction consisting of the fundamentals of real property
5 appraisal with an emphasis on the income approach to value; (3) a tested
6 appraisal course of not less than 30 clock hours of instruction with an
7 emphasis on mass appraisal; (4) an appraisal course with an emphasis on
8 Kansas property tax laws; (5) an appraisal course on the techniques and
9 procedures for the valuation of state assessed properties with an emphasis
10 on unit valuation; and (6) a tested appraisal course on the techniques and
11 procedures for the valuation of land devoted to agricultural use pursuant to
12 K.S.A. 79-1476, and amendments thereto. Any member appointed to the
13 board who is a certified real property appraiser shall only be required to
14 take such educational courses as are required to maintain the appraisal
15 license. The executive director shall adopt rules and regulations
16 prescribing a timetable for the completion of the course requirements and
17 prescribing continued education requirements for members of the board.

18 (f) The state board of tax appeals shall have no capacity or power to
19 sue or be sued.

20 (g) It is the intent of the legislature that proceedings in front of the
21 board of tax appeals be conducted in a fair and impartial manner and that
22 all taxpayers are entitled to a neutral interpretation of the tax laws of the
23 state of Kansas. *The taxpayer, or anyone representing the taxpayer, may*
24 *elect to attend any proceeding in front of the board of tax appeals by audio*
25 *or video electronic communication.* The provisions of the tax laws of this
26 state shall be applied impartially to both taxpayers and taxing districts in
27 cases before the board. Valuation appeals before the board shall be decided
28 upon a determination of the fair market value of the fee simple of the
29 property. Nothing in this section shall prohibit a property owner, during a
30 property valuation appeal before the board, from raising arguments
31 regarding classification. Cases before the board shall not be decided upon
32 arguments concerning the shifting of the tax burden or upon any revenue
33 loss or gain which may be experienced by the taxing district.

34 Sec. 2. K.S.A. 74-2433 is hereby repealed.

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