

HOUSE BILL No. 2472

By Committee on Judiciary

1-19

1 AN ACT concerning the state board of tax appeals; relating to orders;
2 judicial review; amending K.S.A. 2015 Supp. 74-2426 and 77-618 and
3 repealing the existing sections.
4

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

6 Section 1. K.S.A. 2015 Supp. 74-2426 is hereby amended to read as
7 follows: 74-2426. (a) Orders of the state board of tax appeals on any
8 appeal, in any proceeding under the tax protest, tax grievance or tax
9 exemption statutes or in any other original proceeding before the board
10 shall be rendered and served in accordance with the provisions of the
11 Kansas administrative procedure act. Notwithstanding the provisions of
12 ~~subsection (g) of K.S.A. 77-526(g)~~, and amendments thereto, a written
13 summary decision shall be rendered by the board and served within 14
14 days after the matter was fully submitted to the board unless this period is
15 waived or extended with the written consent of all parties or for good
16 cause shown. Any aggrieved party, within 14 days of receiving the board's
17 decision, may request a full and complete opinion be issued by the board
18 in which the board explains its decision. *Except as provided in subsection*
19 *(c)(4)*, this full *and complete* opinion shall be served by the board within
20 90 days of being requested. If the board has not rendered a summary
21 decision or a full and complete opinion within the time periods described
22 in this subsection, and such period has not been waived by the parties nor
23 can the board show good cause for the delay, then the board shall refund
24 any filing fees paid by the taxpayer.

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

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

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

36 (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 person has the right to appeal any final order of~~
12 ~~the board issued after June 30, 2014, by filing a petition with the court of~~
13 ~~appeals or the district court. Any appeal to the district court shall be a trial~~
14 ~~de novo. Any aggrieved party may file a petition for review of the board's~~
15 ~~order in the court of appeals. For purposes of such an appeal, the board's~~
16 ~~order shall become final only after the issuance of a full and complete~~
17 ~~opinion pursuant to subsection (a).~~

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

35 (C) *If a taxpayer requests review of a summary decision or full and*
36 *complete opinion in district court pursuant to subsection (c)(4)(B), the*
37 *taxpayer shall provide notice to the board as well as the parties. Upon*
38 *receipt of the notice, the board's jurisdiction shall terminate,*
39 *notwithstanding any prior request for a full and complete opinion under*
40 *subsection (a), and the board shall not issue such opinion.*

41 (d) If review of an order of the state board of tax appeals to the court
42 of appeals relating to excise, income or estate taxes, is sought by a person
43 other than the director of taxation, such person shall give bond for costs at

1 the time the petition is filed. The bond shall be in the amount of 125% of
2 the amount of taxes assessed or a lesser amount approved by the court of
3 appeals and shall be conditioned on the petitioner's prosecution of the
4 review without delay and payment of all costs assessed against the
5 petitioner.

6 Sec. 2. K.S.A. 2015 Supp. 77-618 is hereby amended to read as
7 follows: 77-618. Judicial review of disputed issues of fact shall be
8 confined to the agency record for judicial review as supplemented by
9 additional evidence taken pursuant to this act, except that review of:

10 (a) Orders of the director of workers' compensation under the
11 workmen's compensation act shall be in accordance with K.S.A. 44-556,
12 and amendments thereto;

13 (b) orders of the Kansas human rights commission under the Kansas
14 act against discrimination or the Kansas age discrimination in employment
15 act shall be in accordance with K.S.A. 44-1011 and 44-1021, and
16 amendments thereto;

17 (c) orders of the division of vehicles, other than orders under K.S.A.
18 8-254, and amendments thereto, which deny, cancel, suspend or revoke a
19 driver's license shall be in accordance with K.S.A. 8-259, and amendments
20 thereto;

21 (d) orders of the secretary of labor under K.S.A. 72-5413 through 72-
22 5431, and amendments thereto, shall be in accordance with K.S.A. 72-
23 5430a, and amendments thereto; ~~and~~

24 (e) orders of the state fire marshal under K.S.A. 31-144, and
25 amendments thereto, shall be in accordance with that section; *and*

26 (f) *orders of the state board of tax appeals under K.S.A. 74-2426, and*
27 *amendments thereto, shall be in accordance with that section.*

28 Sec. 3. K.S.A. 2015 Supp. 74-2426 and 77-618 are hereby repealed.

29 Sec. 4. This act shall take effect and be in force from and after its
30 publication in the statute book.