

SENATE BILL No. 309

By Committee on Assessment and Taxation

1-23

1 AN ACT concerning property taxation; relating to judicial review; burden
2 of proof in district court; amending K.S.A. 74-2426 and repealing the
3 existing section.
4

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

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

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

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

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

35 (2) There is no right to review of any order issued by the board in a
36 no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq.,

1 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and
2 statutes of a similar character.

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

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

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

14 (B) At the election of a taxpayer, any summary decision or full and
15 complete opinion of the board of tax appeals issued after June 30, 2014,
16 may be appealed by filing a petition for review in the district court. Any
17 appeal to the district court shall be a trial de novo. Notwithstanding K.S.A.
18 77-619, and amendments thereto, the trial de novo shall include an
19 evidentiary hearing at which issues of law and fact shall be determined
20 anew. *With regard to any matter properly submitted to the district court*
21 *relating to the determination of valuation of residential property or real*
22 *property used for commercial and industrial purposes for taxation*
23 *purposes or the determination of classification of property for assessment*
24 *purposes, the county appraiser shall have the duty to initiate the*
25 *production of evidence to demonstrate, by a preponderance of the*
26 *evidence, the validity and correctness of such determination.* District court
27 review of orders issued by the board relating to the valuation or
28 assessment of property for ad valorem tax purposes or relating to the tax
29 protest shall be conducted by the court of the county in which the property
30 is located, or, if located in more than one county, the court of any county in
31 which any portion of the property is located.

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

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

1 review without delay and payment of all costs assessed against the
2 petitioner.

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

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