

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 3901

By: Pfeiffer of the House

and

Montgomery of the Senate

[revenue and taxation - Court of Tax Review -
expanding jurisdiction of court in certain cases -
effective date]

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AMENDMENT NO. 1. Page 1, strike the enacting clause

Passed the Senate the 26th day of April, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2022.

Presiding Officer of the House
of Representatives

1 ENGROSSED HOUSE
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6 [revenue and taxation - Court of Tax Review -
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3024, is
13 amended to read as follows:

14 Section 3024. A. There is hereby re-created a Court of Tax
15 Review. For each case brought before the Court of Tax Review, the
16 Chief Justice of the Oklahoma Supreme Court shall assign the case to
17 a judicial administrative district in which no property that is the
18 subject of the case is located. The presiding judge of the judicial
19 administrative district to which the case is assigned shall appoint
20 a panel of three judges of the district court, who shall determine
21 in what county the case will be heard. A majority of the three-
22 judge panel shall be required to render a decision in each case.
23 The Oklahoma Supreme Court shall establish court rules for the Court

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1 of Tax Review and the Clerk of the Oklahoma Supreme Court shall
2 serve as Clerk of the Court of Tax Review.

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

5 1. Complaints challenging an order of the county board of
6 equalization sustaining a valuation of real or personal property
7 with an assessed fair cash value in excess of Three Million Dollars
8 (\$3,000,000.00) as authorized by Section 2880.1 of this title, for
9 which a scheduling conference shall be required within twenty (20)
10 days of the answer filed by the county assessor;

11 2. Complaints regarding valuation of public service corporation
12 property by the State Board of Equalization as authorized by Section
13 2881 of this title, for which a scheduling conference shall be
14 required within twenty (20) days of the answer filed by the State
15 Board of Equalization;

16 ~~2.~~ 3. Complaints regarding actions of the State Board of
17 Equalization regarding either intracounty or intercounty property
18 value equalization as authorized by Section 2882 of this title; and

19 ~~3.~~ 4. Appeals as authorized by Section 2830 of this title
20 concerning Category 2 or Category 3 noncompliance as determined by
21 the Oklahoma Tax Commission. The Court of Tax Review shall
22 determine if a county deemed to be in Category 3 noncompliance is
23 required to reimburse the Oklahoma Tax Commission from the county
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1 assessor's budget for all costs incurred as a result of the
2 assumption of the valuation function by the Commission.

3 C. The Court of Tax Review shall prescribe procedures for the
4 purpose of hearing properly filed protests against alleged illegal
5 levies, as shown on the annual budgets filed with the State Auditor
6 and Inspector. The Court shall reconvene as often as deemed
7 necessary by the Court until final determination has been made as to
8 all protested levies. The judges shall be paid their traveling and
9 living expenses while acting as members of the Court, out of the
10 funds now provided by law for payment of district judges' expenses
11 when holding court outside the counties of their residence.
12 Decisions of the Court of Tax Review concerning alleged illegal
13 levies shall be subject to the provisions of Sections 3025, 3026,
14 3027, 3028 and 3029 of this title.

15 D. The Court of Tax Review as it existed prior to July 1, 1997,
16 shall cease to exist and all duties and responsibilities of such
17 court, except as provided in this section, shall be transferred to
18 the Court of Tax Review as re-created in this section.

19 E. All cases which have not been submitted for determination in
20 the Court of Tax Review as it existed prior to July 1, 1997, shall
21 be transferred to the Court of Tax Review as it exists after July 1,
22 1997, for disposition. All cases which have been submitted by the
23 parties for determination in the Court of Tax Review prior to July
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1 1, 1997, shall remain with the panel to which they have been
2 assigned for final determination.

3 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2880.1, is
4 amended to read as follows:

5 Section 2880.1 A. Both the taxpayer and the county assessor
6 shall have the right of appeal from any order of the county board of
7 equalization sustaining a valuation of real or personal property at
8 an assessed fair cash value in excess of Three Million Dollars
9 (\$3,000,000.00) to the ~~district court of the same county~~ Court of
10 Tax Review, and right of appeal of either may be either upon
11 questions of law or fact including value, or upon both questions of
12 law and fact. Appeals from any other order of the county board of
13 equalization shall be filed in the district court of the same
14 county. The county assessor is the proper party defendant in any
15 appeal to the district court or Court of Tax Review brought by the
16 taxpayer. The taxpayer is the proper party defendant in any appeal
17 to the district court or Court of Tax Review brought by the county
18 assessor. In either case, the county board of equalization shall
19 not be considered a party in any litigation from an appeal brought
20 pursuant to this section. In case of appeal the trial in the
21 district court or Court of Tax Review shall be de novo. Provided,
22 the county assessor shall not be permitted to appeal an order of the
23 county board of equalization upon a question of the
24 constitutionality of a law upon which the board based its order, but

1 the county assessor is hereby authorized in such instance to request
2 a declaratory judgment to be rendered by the district court or Court
3 of Tax Review in cases involving real or personal property with an
4 assessed fair cash value in excess of Three Million Dollars
5 (\$3,000,000.00).

6 B. Notice of appeal shall be filed with the county clerk as
7 secretary of the county board of equalization, which appeal shall be
8 filed in the district court or Court of Tax Review, as the case may
9 be, within thirty (30) calendar days of the date the board of
10 equalization order was mailed, or in the event that the order was
11 delivered, from the date of delivery. It shall be the duty of the
12 county clerk to preserve all complaints and to make a record of all
13 orders of the board and both the complaint and orders shall be a
14 part of the record in any case appealed to the district court or
15 Court of Tax Review from the county board of equalization.

16 C. Either the taxpayer or the county assessor may appeal from
17 the district court or Court of Tax Review to the Supreme Court, as
18 provided for in the Code of Civil Procedure, but no matter shall be
19 reviewed on such appeal which was not presented to the district
20 court or Court of Tax Review.

21 D. In such appeals to the district court or Court of Tax Review
22 and to the Supreme Court and in requests for declaratory judgment it
23 shall be the duty of the district attorney to appear for and
24 represent the county assessor. The General Counsel or an attorney

1 for the Tax Commission may appear in such appeals or requests for
2 declaratory judgment on behalf of the county assessor, either upon
3 request of the district attorney for assistance, or upon request of
4 the county assessor. It shall be the mandatory duty of the board of
5 county commissioners and the county excise board to provide the
6 necessary funds to enable the county assessor to pay the costs
7 necessary to be incurred in perfecting appeals and requests for
8 declaratory judgment made by the county assessor to the courts.

9 E. In all appeals taken by the county assessor the presumption
10 shall exist in favor of the correctness of the county assessor's
11 valuation and the procedure followed by the county assessor.

12 SECTION 3. AMENDATORY 68 O.S. 2021, Section 2877, is
13 amended to read as follows:

14 Section 2877. A. Upon receipt of an appeal from action by the
15 county assessor on the form prescribed by the Oklahoma Tax
16 Commission, the secretary of the county board of equalization shall
17 fix a date of hearing, at which time said board shall be authorized
18 and empowered to take evidence pertinent to said appeal; and for
19 that purpose, is authorized to compel the attendance of witnesses
20 and the production of books, records, and papers by subpoena, and to
21 confirm, correct, or adjust the valuation of real or personal
22 property or to cancel an assessment of personal property added by
23 the assessor not listed by the taxpayer if the personal property is
24 not subject to taxation or if the taxpayer is not responsible for

1 payment of ad valorem taxes upon such property. The secretary of
2 the board shall fix the dates of the hearings provided for in this
3 section in such a manner as to ensure that the board is able to hear
4 all complaints within the time provided for by law. In any county
5 with a population less than three hundred thousand (300,000)
6 according to the latest Federal Decennial Census, the county board
7 of equalization shall provide at least three dates on which a
8 taxpayer may personally appear and make a presentation of evidence.
9 At least ten (10) days shall intervene between each such date. No
10 final determination regarding valuation protests shall be made by a
11 county board of equalization until the taxpayer shall have failed to
12 appear for all three such dates. The county board of equalization
13 shall be required to follow the procedures prescribed by the Ad
14 Valorem Tax Code or administrative rules and regulations promulgated
15 pursuant to such Code governing the valuation of real and personal
16 property. The county board of equalization shall not modify a
17 valuation of real or personal property as established by the county
18 assessor unless such modification is explained in writing upon a
19 form prescribed by the Oklahoma Tax Commission. The affidavits
20 prescribed in paragraph 2 of subsection E of this section will be
21 maintained by the county board of equalization as part of the
22 hearing record. Each decision of the county board of equalization
23 shall be explained in writing upon a form prescribed by the Oklahoma
24 Tax Commission. The county board of equalization shall make a

1 record of each proceeding involving an appeal from action by the
2 county assessor either in transcribed or tape recorded form.

3 B. In all cases where the county assessor has, without giving
4 the notice required by law, increased the valuation of property as
5 listed by the taxpayer, and the taxpayer has knowledge of such
6 adjustment or addition, the taxpayer may at any time prior to the
7 adjournment of the board, file an appeal in the form and manner
8 provided for in Section 2876 of this title. Thereafter, the board
9 shall fix a date of hearing, notify the taxpayer, and conduct the
10 hearing as required by this section.

11 C. The taxpayer or agent may appear at the scheduled hearing
12 either in person, by telephone or other electronic means, or by
13 affidavit.

14 D. If the taxpayer or agent fails to appear before the county
15 board of equalization at the scheduled hearing, unless advance
16 notification is given for the reason of absence, the county shall be
17 authorized to assess against the taxpayer the costs incurred by the
18 county in preparation for the scheduled hearing. If such costs are
19 assessed, payment of the costs shall be a prerequisite to the filing
20 of an appeal to the district court or Court of Tax Review. A
21 taxpayer that gives advance notification of their absence shall be
22 given the opportunity to reschedule the hearing date.

23 E. 1. In order to increase taxpayer transparency, a member of
24 the board of equalization shall not directly or indirectly

1 communicate with the county assessor or any deputy assessor or
2 designated agent on any matter relating to any pending appeal before
3 the board of equalization prior to the actual hearing.

4 2. Prior to the presentation of any evidence at a county board
5 of equalization hearing, each member of the board hearing the
6 protest must sign an affidavit stating the member is not in
7 violation of paragraph 1 of this subsection.

8 3. Prior to the presentation of any evidence at a county board
9 of equalization hearing, all parties to the proceeding must sign an
10 affidavit stating that the evidence being presented is true to the
11 best of their belief and knowledge.

12 4. The provisions of paragraph 1 of this subsection shall not
13 apply to a routine communication between the county assessor and the
14 board of equalization that relates to the administration of an
15 appraisal roll, including a communication made in connection with
16 the certification, correction, or collection of an account that is
17 not the subject of a pending appeal.

18 5. The affidavit required in paragraph 2 of this subsection
19 shall be in the following form: "My name is [insert name]. I have
20 not communicated with another person in violation of subsection E of
21 Section 2877 of Title 68 of the Oklahoma Statutes."

22 6. The affidavit required in paragraph 3 of this subsection
23 shall be in the following form: "My name is [insert name]. The
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1 information I will present today is true and correct to the best of
2 my belief and knowledge."

3 SECTION 4. AMENDATORY 68 O.S. 2021, Section 2945, is
4 amended to read as follows:

5 Section 2945. A. If any person shall knowingly and willfully
6 make or give under oath or affirmation a false and fraudulent list
7 of taxable personal property, or a false and fraudulent list of any
8 taxable personal property under the control of the person or
9 required to be listed by the person, or shall knowingly and
10 willfully make false answer to any question which may be put under
11 oath by any person, board or commission authorized to examine
12 persons under oath in relation to the value or amount of any taxable
13 personal property, the person shall be deemed guilty of the felony
14 of perjury, and upon conviction shall be punished as is provided by
15 law for the punishment of the felony of perjury.

16 B. If any taxpayer, or any official, employee, or agent of the
17 taxpayer, shall fail or refuse, upon proper request, to permit the
18 inspection of any property or the examination of any books, records
19 and papers by any person authorized by the Ad Valorem Tax Code to do
20 so, or shall fail or refuse to comply with any subpoena duces tecum
21 legally issued under authority of this Code, the taxpayer shall be
22 stopped from questioning or contesting the amount or validity of any
23 assessment placed upon the property of the taxpayer to the board of
24 equalization. Nothing in this section shall impair or impede the

1 right of the taxpayer to appeal any order of the board of
2 equalization to the district court or Court of Tax Review as
3 provided for in Section 2880.1 of this title.

4 SECTION 5. This act shall become effective January 1, 2023.

5 Passed the House of Representatives the 22nd day of March, 2022.

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8 _____
Presiding Officer of the House
of Representatives

9 Passed the Senate the ___ day of _____, 2022.

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Presiding Officer of the Senate