

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 HOUSE BILL 3901

By: Pfeiffer of the House

5 and

6 **Montgomery** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to revenue and taxation; amending 68
11 O.S. 2021, Section 3024, which relates to the Court
of Tax Review; expanding jurisdiction of court;
12 amending 68 O.S. 2021, Sections 2880.1, 2835, 2871,
2877 and 2945, which relate to ad valorem tax
13 protests; replacing district court with Court of Tax
Review; and providing an effective date.

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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

19 Section 3024. A. There is hereby re-created a Court of Tax
20 Review. For each case brought before the Court of Tax Review, the
21 Chief Justice of the Oklahoma Supreme Court shall assign the case to
22 a judicial administrative district. The presiding judge of the
23 judicial administrative district to which the case is assigned shall
24 appoint a panel of three judges of the district court, who shall

1 determine in what county the case will be heard. A majority of the
2 three-judge panel shall be required to render a decision in each
3 case. The Oklahoma Supreme Court shall establish court rules for
4 the Court of Tax Review and the Clerk of the Oklahoma Supreme Court
5 shall serve as Clerk of the Court of Tax Review.

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

8 1. Complaints regarding valuation of real and personal property
9 from any order of the county board of equalization as authorized by
10 Section 2880.1 of this title, for which a scheduling conference
11 shall be required within twenty (20) days of the answer filed by the
12 county board of equalization;

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

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

21 ~~3.~~ 4. Appeals as authorized by Section 2830 of this title
22 concerning Category 2 or Category 3 noncompliance as determined by
23 the Oklahoma Tax Commission. The Court of Tax Review shall
24 determine if a county deemed to be in Category 3 noncompliance is

1 required to reimburse the Oklahoma Tax Commission from the county
2 assessor's budget for all costs incurred as a result of the
3 assumption of the valuation function by the Commission.

4 C. The Court of Tax Review shall prescribe procedures for the
5 purpose of hearing properly filed protests against alleged illegal
6 levies, as shown on the annual budgets filed with the State Auditor
7 and Inspector. The Court shall reconvene as often as deemed
8 necessary by the Court until final determination has been made as to
9 all protested levies. The judges shall be paid their traveling and
10 living expenses while acting as members of the Court, out of the
11 funds now provided by law for payment of district judges' expenses
12 when holding court outside the counties of their residence.
13 Decisions of the Court of Tax Review concerning alleged illegal
14 levies shall be subject to the provisions of Sections 3025, 3026,
15 3027, 3028 and 3029 of this title.

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

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

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 to the ~~district court of the same county~~ Court of Tax
8 Review, and right of appeal of either may be either upon questions
9 of law or fact including value, or upon both questions of law and
10 fact. The county assessor is the proper party defendant in any
11 appeal to the ~~district court~~ Court of Tax Review brought by the
12 taxpayer. The taxpayer is the proper party defendant in any appeal
13 to the ~~district court~~ Court of Tax Review brought by the county
14 assessor. In either case, the county board of equalization shall
15 not be considered a party in any litigation from an appeal brought
16 pursuant to this section. In case of appeal the trial in the
17 ~~district court~~ Court of Tax Review shall be de novo. Provided, the
18 county assessor shall not be permitted to appeal an order of the
19 county board of equalization upon a question of the
20 constitutionality of a law upon which the board based its order, but
21 the county assessor is hereby authorized in such instance to request
22 a declaratory judgment to be rendered by the ~~district court~~ Court of
23 Tax Review.

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

11 C. Either the taxpayer or the county assessor may appeal from
12 the ~~district court~~ Court of Tax Review to the Supreme Court, as
13 provided for in the Code of Civil Procedure, but no matter shall be
14 reviewed on such appeal which was not presented to the ~~district~~
15 ~~court~~ Court of Tax Review.

16 D. In such appeals to the ~~district court~~ Court of Tax Review
17 and to the Supreme Court and in requests for declaratory judgment it
18 shall be the duty of the district attorney to appear for and
19 represent the county assessor. The General Counsel or an attorney
20 for the Tax Commission may appear in such appeals or requests for
21 declaratory judgment on behalf of the county assessor, either upon
22 request of the district attorney for assistance, or upon request of
23 the county assessor. It shall be the mandatory duty of the board of
24 county commissioners and the county excise board to provide the

1 necessary funds to enable the county assessor to pay the costs
2 necessary to be incurred in perfecting appeals and requests for
3 declaratory judgment made by the county assessor to the courts.

4 E. In all appeals taken by the county assessor the presumption
5 shall exist in favor of the correctness of the county assessor's
6 valuation and the procedure followed by the county assessor.

7 SECTION 3. AMENDATORY 68 O.S. 2021, Section 2835, is
8 amended to read as follows:

9 Section 2835. A. On or before January 1 of each year, the
10 Oklahoma Tax Commission shall prescribe for the use of all county
11 assessors, suitable blank forms for the listing and assessment of
12 all property, both real and personal. Such forms shall contain such
13 information and instructions as may be necessary in order to obtain
14 a full and complete list of all taxable property and such forms
15 shall be used uniformly throughout the state. Any change in these
16 forms must have the approval of the Tax Commission.

17 B. It shall be the duty of the county assessor to furnish such
18 forms to any taxpayer upon request, and all personal property shall
19 be listed on such forms in the manner provided therein. Such lists
20 shall be signed and sworn to and filed with the county assessor not
21 later than March 15 of each year; and such lists may show the
22 description of real property, which may be by subdivision of quarter
23 sections, or less if any such subdivision is owned in less quantity,
24 describing such less quantity by United States Land Survey

1 nomenclature if that can be done, otherwise by metes and bounds,
2 according to ownership.

3 C. Real estate need not be listed by the taxpayer, but may be
4 listed if the taxpayer so desires, in which case the list shall show
5 the taxpayer's estimate of the value of each tract of land and shall
6 separately show the value of the buildings and improvements thereon.

7 D. All such sworn lists of property shall contain such other
8 information concerning both real and personal property as may be
9 required by such forms so prescribed.

10 E. All such sworn lists of property, any other documents
11 produced by a taxpayer to the assessor or the board of equalization
12 during the informal and formal hearing process, or during discovery
13 in any ad valorem tax appeal in the Court of Tax Review ~~or the~~
14 ~~district court~~, shall be protected as confidential and shall not be
15 available for inspection under the Open Records Act.

16 SECTION 4. AMENDATORY 68 O.S. 2021, Section 2871, is
17 amended to read as follows:

18 Section 2871. A. After delivery of the tax rolls to the county
19 treasurer of any county, no correction or alteration as to any item
20 contained therein as of such date of delivery shall ever be made,
21 except by the county treasurer and on authority of a proper
22 certificate authorized by law or pursuant to order or decree of
23 court in determination of a tax appeal or other proper case.

24

1 B. A board of tax roll corrections is hereby created and shall
2 consist of the chair of the board of county commissioners as chair
3 or, in the chair's absence, the vice-chair of the board of county
4 commissioners or their statutory designee, the chair of the county
5 equalization board or, in the chair's absence, the vice-chair of the
6 county equalization board as vice-chair, the county clerk as
7 nonvoting member and secretary, and the county assessor, a majority
8 of whom shall constitute a quorum. The board is hereby authorized
9 to hear and determine allegations of error, mistake or difference as
10 to any item or items so contained in the tax rolls, in any instances
11 hereinafter enumerated, on application of any person or persons
12 whose interest may in any manner be affected thereby, or by his or
13 her agent or attorney, verified by affidavit and showing that the
14 complainant was not at fault through failure to fulfill any duty
15 enjoined upon him or her by law, or upon discovery by the county
16 treasurer or assessor before the tax has been paid or attempted to
17 be paid and disclosure by statement of fact in writing signed by the
18 treasurer or assessor and verified by the assessor or treasurer as
19 the case may be. Such right shall not be available to anyone
20 attempting to acquire, or who has acquired, the lien of the county
21 for such tax, whether by purchase, assignment, deed or otherwise.
22 In counties with two county boards of equalization, the chair of
23 each such board shall serve, in alternating years, as the vice-chair
24 of the board of tax roll corrections. When a complaint is pending

1 before the board of tax roll corrections, such taxes as may be owed
2 by the protesting taxpayer shall not become due until thirty (30)
3 days after the decision of the board of tax roll corrections. When
4 a complaint is filed on a tax account which has been delinquent for
5 more than one (1) year, and upon showing that the tax is delinquent,
6 the complaint shall be dismissed, with prejudice.

7 C. If, upon such hearing, it appears that:

- 8 1. Any personal or real property has been assessed to any
9 person, firm, or corporation not owning or claiming to own the same;
- 10 2. Property exempt from taxation has been assessed;
- 11 3. Exemption deductions allowed by law have not been taken into
12 account;
- 13 4. The same property, whether real or personal, has been
14 assessed more than once for the taxes of the same year;
- 15 5. Property, whether real or personal, has been assessed in the
16 county for the taxes of a year to which the same was not subject;
- 17 6. Improvements to real estate or other property assessed have
18 been destroyed by fire, or that the value of land has been impaired,
19 damaged or destroyed by wildfires, floods or overflow of streams,
20 and the county assessor has made and entered an adjustment to
21 assessments previously made and entered;
- 22 7. Lands or lots have in any manner been erroneously described;
- 23 8. Any valuation or valuations assessed and entered are at
24 variance with the valuation finally equalized;

1 9. Any valuation or valuations returned for assessment and not
2 increased by the county assessor have been entered on the assessment
3 rolls for equalization at variance with the value returned, or in
4 the event of increase by either the county assessor or the county
5 board of equalization and no notice thereof was sent; provided,
6 offer of proof of failure to receive notice may not be heard;

7 10. Any valuation assessed and entered included, in whole or in
8 part, as of the date of assessment under the law relating thereto,
9 any property that had no taxable situs in the county, did not exist
10 or had been erroneously placed;

11 11. Any property subject to taxation as of January 1 of any
12 year was thereafter acquired by conveyance of title, including tax
13 title, by the county, or any city, town or school district therein;

14 12. An error resulted from inclusion in the total of levies
15 computed against the valuation entered, a tax levy or levies
16 certified and final for none or part of which such property was
17 liable in fact and the same be self-evident on recomputation, and
18 involve no question of law;

19 13. As to personal tax, if there has been an error in the name
20 of the person assessed, or, as to real property, the record owner at
21 the time of assessment desires that his or her name be entered in
22 lieu of whatever other name may have been entered as "owner" upon
23 the roll;

24

1 14. There has been any error in the tax extended against the
2 valuation entered, whether by erroneous computation or otherwise;

3 15. There has been any error in transcribing from the county
4 assessor's permanent survey record to the assessment rolls either as
5 to area or value of lands or lots or as to improvements thereon;

6 16. The county treasurer has, of his or her own volition,
7 restored to the tax rolls any tax or assessment where the entry upon
8 the tax rolls shows the same theretofore to have been stricken or
9 reduced by certificate issued by constituted authority, except where
10 restored by specific court order or in conformity to general decree
11 of the Supreme Court of Oklahoma invalidating in mass all such
12 certificates of a class certain, and except if the owner of such
13 property demand its restoration and make payment, in which instance
14 the county treasurer shall require that the owner sign on the face
15 of the owner's receipt a statement that the owner "paid voluntarily
16 without demand, request or duress"; or

17 17. Any personal property assessment and personal tax charge
18 has been entered upon the assessment and tax rolls except upon
19 proper return of assessment by the taxpayer or increase thereof with
20 due notice, or as a delinquent assessment made by the county
21 assessor or deputies in detail either on view or reliable
22 information; then, in the event any of the grounds stated in this
23 subsection are present, it shall be the duty of the board of tax
24 roll corrections to make and the secretary to enter its findings of

1 fact and to correct such error, if such exists, by issuing its
2 order, in words and figures, to accomplish such:

3 a. if such error increases the amount of tax charged, the
4 county clerk shall issue a certificate of error to the
5 county assessor ordering the assessor to certify such
6 correction or increase to the county treasurer for
7 entry on the tax rolls, and

8 b. if such error does not increase the amount of tax
9 charged, the county clerk shall issue a certificate of
10 error to the county treasurer if the tax be not paid,
11 stating the amount or other effect of such order, and
12 it shall be the duty of such county treasurer to make
13 and enter such correction upon the tax rolls and, if
14 there be a decrease to the amount of tax charged, to
15 enter a credit, in lieu of cash, for the amount of
16 decrease of tax shown in such certificate.

17 D. If, prior to such hearing by the board, as provided by this
18 section, the tax has been paid, no certificate shall issue; but if
19 less than one (1) year shall have elapsed after the payment of the
20 tax and before the filing of such application for correction of
21 error, and after such hearing the findings of fact disclose that
22 less tax was due to have been paid than was paid, then the person
23 who paid the tax, or such person's heirs, successors, or assigns,
24 may execute a cash voucher claim setting forth facts and findings,

1 verify it, and file it with the county clerk, who shall thereupon
2 deliver such claim to the county treasurer for designation of the
3 fund from which the claim must be paid and approval of the claim as
4 to availability of funds by the county treasurer. If taxes have
5 been paid under protest, the county treasurer must designate the
6 refund to be paid from such protest fund. If taxes have been paid
7 but not paid under protest and if there are funds available in
8 current collections of the taxing unit which received the taxes
9 paid, then the county treasurer must designate the refund to be paid
10 from such current collections of such taxing unit. The county clerk
11 shall thereupon issue a cash voucher against the appropriate fund of
12 the county, directing the county treasurer to pay to such person the
13 amount so found to be erroneous. The word "person" as used in this
14 subsection shall comprehend the person, firm, or corporation who
15 paid such tax and the heirs, assigns or successors, as the case may
16 be. No such claim for refund shall be allowed and paid unless the
17 same be filed within six (6) months after the effective date of the
18 order of correction.

19 E. If there be any error in the taxes collected from any
20 person, the overpayment or duplicate payment of any such taxes
21 collected in error may be recovered by the taxpayer, and the county
22 treasurer may make such payment from the resale property fund of the
23 county if funds are not available as stated in subsection D of this
24 section.

1 F. Beginning January 1, 1987, notwithstanding the one-year
2 limitations period for filing a claim for refund as provided in
3 subsection D of this section, if there be any error in taxes
4 collected from any person on property constitutionally exempt under
5 Section 6B of Article X of the Oklahoma Constitution, by the county
6 treasurer in counties with a population in excess of five hundred
7 thousand (500,000) persons, according to the latest Federal
8 Decennial Census, to the extent that such county has been reimbursed
9 from the Ad Valorem Reimbursement Fund provided by Section 193 of
10 Title 62 of the Oklahoma Statutes, the overpayment or duplicate
11 payment of any such taxes collected in error may be recovered by the
12 taxpayer as provided by law.

13 G. Upon dismissal of a complaint or denial of relief to the
14 taxpayer, the county clerk, as secretary of the board of tax roll
15 corrections, shall prepare a letter order of dismissal or denial
16 which shall be mailed to the taxpayer or person at the address found
17 on the complaint.

18 H. Both the taxpayer and the county assessor shall have the
19 right of appeal from any order of the board of tax roll corrections
20 to the ~~district court of the same county~~ Court of Tax Review. In
21 case of appeal the trial in the ~~district court~~ Court of Tax Review
22 shall be de novo.

23 I. Notice of appeal shall be served upon the county clerk, as
24 secretary of the board of tax roll corrections, and a copy served

1 upon the county assessor. The appeal shall be filed in the ~~district~~
2 ~~court~~ Court of Tax Review within fifteen (15) days of the date of
3 the mailing of the order of the board of tax roll corrections to the
4 taxpayer.

5 SECTION 5. AMENDATORY 68 O.S. 2021, Section 2877, is
6 amended to read as follows:

7 Section 2877. A. Upon receipt of an appeal from action by the
8 county assessor on the form prescribed by the Oklahoma Tax
9 Commission, the secretary of the county board of equalization shall
10 fix a date of hearing, at which time said board shall be authorized
11 and empowered to take evidence pertinent to said appeal; and for
12 that purpose, is authorized to compel the attendance of witnesses
13 and the production of books, records, and papers by subpoena, and to
14 confirm, correct, or adjust the valuation of real or personal
15 property or to cancel an assessment of personal property added by
16 the assessor not listed by the taxpayer if the personal property is
17 not subject to taxation or if the taxpayer is not responsible for
18 payment of ad valorem taxes upon such property. The secretary of
19 the board shall fix the dates of the hearings provided for in this
20 section in such a manner as to ensure that the board is able to hear
21 all complaints within the time provided for by law. In any county
22 with a population less than three hundred thousand (300,000)
23 according to the latest Federal Decennial Census, the county board
24 of equalization shall provide at least three dates on which a

1 taxpayer may personally appear and make a presentation of evidence.
2 At least ten (10) days shall intervene between each such date. No
3 final determination regarding valuation protests shall be made by a
4 county board of equalization until the taxpayer shall have failed to
5 appear for all three such dates. The county board of equalization
6 shall be required to follow the procedures prescribed by the Ad
7 Valorem Tax Code or administrative rules and regulations promulgated
8 pursuant to such Code governing the valuation of real and personal
9 property. The county board of equalization shall not modify a
10 valuation of real or personal property as established by the county
11 assessor unless such modification is explained in writing upon a
12 form prescribed by the Oklahoma Tax Commission. The affidavits
13 prescribed in paragraph 2 of subsection E of this section will be
14 maintained by the county board of equalization as part of the
15 hearing record. Each decision of the county board of equalization
16 shall be explained in writing upon a form prescribed by the Oklahoma
17 Tax Commission. The county board of equalization shall make a
18 record of each proceeding involving an appeal from action by the
19 county assessor either in transcribed or tape recorded form.

20 B. In all cases where the county assessor has, without giving
21 the notice required by law, increased the valuation of property as
22 listed by the taxpayer, and the taxpayer has knowledge of such
23 adjustment or addition, the taxpayer may at any time prior to the
24 adjournment of the board, file an appeal in the form and manner

1 provided for in Section 2876 of this title. Thereafter, the board
2 shall fix a date of hearing, notify the taxpayer, and conduct the
3 hearing as required by this section.

4 C. The taxpayer or agent may appear at the scheduled hearing
5 either in person, by telephone or other electronic means, or by
6 affidavit.

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

16 E. 1. In order to increase taxpayer transparency, a member of
17 the board of equalization shall not directly or indirectly
18 communicate with the county assessor or any deputy assessor or
19 designated agent on any matter relating to any pending appeal before
20 the board of equalization prior to the actual hearing.

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

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

5 4. The provisions of paragraph 1 of this subsection shall not
6 apply to a routine communication between the county assessor and the
7 board of equalization that relates to the administration of an
8 appraisal roll, including a communication made in connection with
9 the certification, correction, or collection of an account that is
10 not the subject of a pending appeal.

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

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

19 SECTION 6. AMENDATORY 68 O.S. 2021, Section 2945, is
20 amended to read as follows:

21 Section 2945. A. If any person shall knowingly and willfully
22 make or give under oath or affirmation a false and fraudulent list
23 of taxable personal property, or a false and fraudulent list of any
24 taxable personal property under the control of the person or

1 required to be listed by the person, or shall knowingly and
2 willfully make false answer to any question which may be put under
3 oath by any person, board or commission authorized to examine
4 persons under oath in relation to the value or amount of any taxable
5 personal property, the person shall be deemed guilty of the felony
6 of perjury, and upon conviction shall be punished as is provided by
7 law for the punishment of the felony of perjury.

8 B. If any taxpayer, or any official, employee, or agent of the
9 taxpayer, shall fail or refuse, upon proper request, to permit the
10 inspection of any property or the examination of any books, records
11 and papers by any person authorized by the Ad Valorem Tax Code to do
12 so, or shall fail or refuse to comply with any subpoena duces tecum
13 legally issued under authority of this Code, the taxpayer shall be
14 stopped from questioning or contesting the amount or validity of any
15 assessment placed upon the property of the taxpayer to the board of
16 equalization. Nothing in this section shall impair or impede the
17 right of the taxpayer to appeal any order of the board of
18 equalization to the ~~district court~~ Court of Tax Review as provided
19 for in Section 2880.1 of this title.

20 SECTION 7. This act shall become effective January 1, 2023.

21
22 COMMITTEE REPORT BY: COMMITTEE ON UTILITIES, dated 03/01/2022 - DO
23 PASS, As Coauthored.

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