

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3901

By: Pfeiffer

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6 AS INTRODUCED

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

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

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

17 Section 3024. A. There is hereby re-created a Court of Tax
18 Review. For each case brought before the Court of Tax Review, the
19 Chief Justice of the Oklahoma Supreme Court shall assign the case to
20 a judicial administrative district. The presiding judge of the
21 judicial administrative district to which the case is assigned shall
22 appoint a panel of three judges of the district court, who shall
23 determine in what county the case will be heard. A majority of the
24 three-judge panel shall be required to render a decision in each
case. The Oklahoma Supreme Court shall establish court rules for

1 the Court of Tax Review and the Clerk of the Oklahoma Supreme Court
2 shall 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 regarding valuation of real and personal property
6 from any order of the county board of equalization as authorized by
7 Section 2880.1 of this title, for which a scheduling conference
8 shall be required within twenty (20) days of the answer filed by the
9 county board of equalization;

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

15 ~~2.~~ 3. Complaints regarding actions of the State Board of
16 Equalization regarding either intracounty or intercounty property
17 value equalization as authorized by Section 2882 of this title; and

18 ~~3.~~ 4. Appeals as authorized by Section 2830 of this title
19 concerning Category 2 or Category 3 noncompliance as determined by
20 the Oklahoma Tax Commission. The Court of Tax Review shall
21 determine if a county deemed to be in Category 3 noncompliance is
22 required to reimburse the Oklahoma Tax Commission from the county
23 assessor's budget for all costs incurred as a result of the
24 assumption of the valuation function by the Commission.

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

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

17 E. All cases which have not been submitted for determination in
18 the Court of Tax Review as it existed prior to July 1, 1997, shall
19 be transferred to the Court of Tax Review as it exists after July 1,
20 1997, for disposition. All cases which have been submitted by the
21 parties for determination in the Court of Tax Review prior to July
22 1, 1997, shall remain with the panel to which they have been
23 assigned for final determination.
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1 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2880.1, is
2 amended to read as follows:

3 Section 2880.1 A. Both the taxpayer and the county assessor
4 shall have the right of appeal from any order of the county board of
5 equalization to the ~~district court of the same county~~ Court of Tax
6 Review, and right of appeal of either may be either upon questions
7 of law or fact including value, or upon both questions of law and
8 fact. The county assessor is the proper party defendant in any
9 appeal to the ~~district court~~ Court of Tax Review brought by the
10 taxpayer. The taxpayer is the proper party defendant in any appeal
11 to the ~~district court~~ Court of Tax Review brought by the county
12 assessor. In either case, the county board of equalization shall
13 not be considered a party in any litigation from an appeal brought
14 pursuant to this section. In case of appeal the trial in the
15 ~~district court~~ Court of Tax Review shall be de novo. Provided, the
16 county assessor shall not be permitted to appeal an order of the
17 county board of equalization upon a question of the
18 constitutionality of a law upon which the board based its order, but
19 the county assessor is hereby authorized in such instance to request
20 a declaratory judgment to be rendered by the ~~district court~~ Court of
21 Tax Review.

22 B. Notice of appeal shall be filed with the county clerk as
23 secretary of the county board of equalization, which appeal shall be
24 filed in the ~~district court~~ Court of Tax Review within thirty (30)

1 calendar days of the date the board of equalization order was
2 mailed, or in the event that the order was delivered, from the date
3 of delivery. It shall be the duty of the county clerk to preserve
4 all complaints and to make a record of all orders of the board and
5 both the complaint and orders shall be a part of the record in any
6 case appealed to the ~~district court~~ Court of Tax Review from the
7 county board of equalization.

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

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

1 E. In all appeals taken by the county assessor the presumption
2 shall exist in favor of the correctness of the county assessor's
3 valuation and the procedure followed by the county assessor.

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

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

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

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

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

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

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

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

22 B. A board of tax roll corrections is hereby created and shall
23 consist of the chair of the board of county commissioners as chair
24 or, in the chair's absence, the vice-chair of the board of county

1 commissioners or their statutory designee, the chair of the county
2 equalization board or, in the chair's absence, the vice-chair of the
3 county equalization board as vice-chair, the county clerk as
4 nonvoting member and secretary, and the county assessor, a majority
5 of whom shall constitute a quorum. The board is hereby authorized
6 to hear and determine allegations of error, mistake or difference as
7 to any item or items so contained in the tax rolls, in any instances
8 hereinafter enumerated, on application of any person or persons
9 whose interest may in any manner be affected thereby, or by his or
10 her agent or attorney, verified by affidavit and showing that the
11 complainant was not at fault through failure to fulfill any duty
12 enjoined upon him or her by law, or upon discovery by the county
13 treasurer or assessor before the tax has been paid or attempted to
14 be paid and disclosure by statement of fact in writing signed by the
15 treasurer or assessor and verified by the assessor or treasurer as
16 the case may be. Such right shall not be available to anyone
17 attempting to acquire, or who has acquired, the lien of the county
18 for such tax, whether by purchase, assignment, deed or otherwise.
19 In counties with two county boards of equalization, the chair of
20 each such board shall serve, in alternating years, as the vice-chair
21 of the board of tax roll corrections. When a complaint is pending
22 before the board of tax roll corrections, such taxes as may be owed
23 by the protesting taxpayer shall not become due until thirty (30)
24 days after the decision of the board of tax roll corrections. When

1 a complaint is filed on a tax account which has been delinquent for
2 more than one (1) year, and upon showing that the tax is delinquent,
3 the complaint shall be dismissed, with prejudice.

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

5 1. Any personal or real property has been assessed to any
6 person, firm, or corporation not owning or claiming to own the same;

7 2. Property exempt from taxation has been assessed;

8 3. Exemption deductions allowed by law have not been taken into
9 account;

10 4. The same property, whether real or personal, has been
11 assessed more than once for the taxes of the same year;

12 5. Property, whether real or personal, has been assessed in the
13 county for the taxes of a year to which the same was not subject;

14 6. Improvements to real estate or other property assessed have
15 been destroyed by fire, or that the value of land has been impaired,
16 damaged or destroyed by wildfires, floods or overflow of streams,
17 and the county assessor has made and entered an adjustment to
18 assessments previously made and entered;

19 7. Lands or lots have in any manner been erroneously described;

20 8. Any valuation or valuations assessed and entered are at
21 variance with the valuation finally equalized;

22 9. Any valuation or valuations returned for assessment and not
23 increased by the county assessor have been entered on the assessment
24 rolls for equalization at variance with the value returned, or in

1 the event of increase by either the county assessor or the county
2 board of equalization and no notice thereof was sent; provided,
3 offer of proof of failure to receive notice may not be heard;

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

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

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

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

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

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

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

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

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

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

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

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

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

23 F. Beginning January 1, 1987, notwithstanding the one-year
24 limitations period for filing a claim for refund as provided in

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

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

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

21 I. Notice of appeal shall be served upon the county clerk, as
22 secretary of the board of tax roll corrections, and a copy served
23 upon the county assessor. The appeal shall be filed in the ~~district~~
24 ~~court~~ Court of Tax Review within fifteen (15) days of the date of

1 the mailing of the order of the board of tax roll corrections to the
2 taxpayer.

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

5 Section 2877. A. Upon receipt of an appeal from action by the
6 county assessor on the form prescribed by the Oklahoma Tax
7 Commission, the secretary of the county board of equalization shall
8 fix a date of hearing, at which time said board shall be authorized
9 and empowered to take evidence pertinent to said appeal; and for
10 that purpose, is authorized to compel the attendance of witnesses
11 and the production of books, records, and papers by subpoena, and to
12 confirm, correct, or adjust the valuation of real or personal
13 property or to cancel an assessment of personal property added by
14 the assessor not listed by the taxpayer if the personal property is
15 not subject to taxation or if the taxpayer is not responsible for
16 payment of ad valorem taxes upon such property. The secretary of
17 the board shall fix the dates of the hearings provided for in this
18 section in such a manner as to ensure that the board is able to hear
19 all complaints within the time provided for by law. In any county
20 with a population less than three hundred thousand (300,000)
21 according to the latest Federal Decennial Census, the county board
22 of equalization shall provide at least three dates on which a
23 taxpayer may personally appear and make a presentation of evidence.
24 At least ten (10) days shall intervene between each such date. No

1 final determination regarding valuation protests shall be made by a
2 county board of equalization until the taxpayer shall have failed to
3 appear for all three such dates. The county board of equalization
4 shall be required to follow the procedures prescribed by the Ad
5 Valorem Tax Code or administrative rules and regulations promulgated
6 pursuant to such Code governing the valuation of real and personal
7 property. The county board of equalization shall not modify a
8 valuation of real or personal property as established by the county
9 assessor unless such modification is explained in writing upon a
10 form prescribed by the Oklahoma Tax Commission. The affidavits
11 prescribed in paragraph 2 of subsection E of this section will be
12 maintained by the county board of equalization as part of the
13 hearing record. Each decision of the county board of equalization
14 shall be explained in writing upon a form prescribed by the Oklahoma
15 Tax Commission. The county board of equalization shall make a
16 record of each proceeding involving an appeal from action by the
17 county assessor either in transcribed or tape recorded form.

18 B. In all cases where the county assessor has, without giving
19 the notice required by law, increased the valuation of property as
20 listed by the taxpayer, and the taxpayer has knowledge of such
21 adjustment or addition, the taxpayer may at any time prior to the
22 adjournment of the board, file an appeal in the form and manner
23 provided for in Section 2876 of this title. Thereafter, the board
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1 shall fix a date of hearing, notify the taxpayer, and conduct the
2 hearing as required by this section.

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

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

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

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

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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.

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22 58-2-9958 AQH 12/20/21

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