

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 213

Introduced by Cornett, 45.

Read first time January 13, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-5001, 77-5004, 77-5005, 77-5013, 77-5017, 77-5022, and
3 77-5024.01, Revised Statutes Cumulative Supplement, 2008;
4 to change provisions relating to the Tax Equalization and
5 Review Commission; to authorize intervention in actions
6 before the commission; to provide operative dates; and to
7 repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5001, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 77-5001 Sections 77-5001 to 77-5031 and section 8 of this
4 act shall be known and may be cited as the Tax Equalization and
5 Review Commission Act.

6 Sec. 2. Section 77-5004, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 77-5004 (1) Each commissioner shall be a qualified voter
9 and resident of the state and, for each commissioner representing
10 a congressional district, a domiciliary of the district he or she
11 represents.

12 (2) Each commissioner shall devote his or her full time
13 and efforts to the discharge of his or her duties and shall not
14 hold any other office under the laws of this state, any city or
15 county in this state, or the United States Government while serving
16 on the commission. Each commissioner shall possess:

17 (a) Appropriate knowledge of terms commonly used in or
18 related to real property appraisal and of the writing of appraisal
19 reports;

20 (b) Adequate knowledge of depreciation theories, cost
21 estimating, methods of capitalization, and real property appraisal
22 mathematics;

23 (c) An understanding of the principles of land economics,
24 appraisal processes, and problems encountered in the gathering,
25 interpreting, and evaluating of data involved in the valuation of

1 real property, including complex industrial properties and mass
2 appraisal techniques;

3 (d) Knowledge of the law relating to taxation, civil and
4 administrative procedure, due process, and evidence in Nebraska;

5 (e) At least thirty hours of successfully completed
6 class hours in courses of study, approved by the Real Property
7 Appraiser Board, which relate to appraisal and which include the
8 fifteen-hour National Uniform Standards of Professional Appraisal
9 Practice Course. If a commissioner has not received such training
10 prior to his or her appointment, such training shall be completed
11 within one year after appointment; and

12 (f) Such other qualifications and skills as reasonably
13 may be requisite for the effective and reliable performance of the
14 commission's duties.

15 (3) One commissioner shall possess ~~any~~ the certification
16 or training required to become a licensed real property appraiser
17 as set forth in section 76-2230.

18 (4) ~~Prior to January 1, 2002, the chairperson, and on and~~
19 ~~after January 1, 2002, at~~ At least two commissioners, shall have
20 been engaged in the practice of law in the State of Nebraska for at
21 least five years, which may include prior service as a judge, and
22 shall be currently admitted to practice before the Nebraska Supreme
23 Court.

24 (5) No commissioner or employee of the commission shall
25 hold any position of profit or engage in any occupation or business

1 interfering with or inconsistent with his or her duties as a
2 commissioner or employee. A person is not eligible for appointment
3 and may not hold the office of commissioner or be appointed by the
4 commission to or hold any office or position under the commission
5 if he or she holds any official office or position.

6 (6) (a) Each commissioner who meets the requirements of
7 subsection (4) of this section ~~on or after January 1, 2002,~~ shall
8 annually attend a seminar or class of at least two days' duration
9 that is:

10 (i) Sponsored by a recognized assessment or appraisal
11 organization, in each of these areas: Utility and railroad
12 appraisal; appraisal of complex industrial properties; appraisal
13 of other hard to assess properties; and mass appraisal, residential
14 or agricultural appraisal, or assessment administration; or

15 (ii) Pertaining to management, law, civil or
16 administrative procedure, or other knowledge or skill necessary for
17 performing the duties of the office.

18 (b) Each commissioner who does not meet the requirements
19 of subsection (4) of this section ~~on or after January 1, 2002,~~
20 shall within two years after his or her appointment attend at least
21 thirty hours of instruction that constitutes training for judges or
22 administrative law judges.

23 (7) The commissioners shall be considered employees of
24 the state for purposes of sections 81-1320 to 81-1328 and 84-1601
25 to 84-1615.

1 (8) The commissioners shall be reimbursed as prescribed
2 in sections 81-1174 to 81-1177 for their actual and necessary
3 expenses in the performance of their official duties pursuant to
4 the Tax Equalization and Review Commission Act.

5 Sec. 3. Section 77-5005, Revised Statutes Cumulative
6 Supplement, 2008, is amended to read:

7 77-5005 (1) Within ten days after appointment, the
8 commissioners shall meet at their office in Lincoln, Nebraska,
9 and enter upon the duties of their office.

10 (2) A majority of the commission or, in cases when a
11 panel of three commissioners hears a case, a majority of the
12 panel shall at all times constitute a quorum to transact business,
13 and one vacancy shall not impair the right of the remaining
14 commissioners to exercise all the powers of the commission.

15 (3) Any investigation, inquiry, or hearing held or
16 undertaken by the commission may be held or undertaken by or
17 before a panel of three commissioners.

18 (4) All investigations, inquiries, hearings, and
19 decisions of a panel of commissioners and every order made by a
20 panel of commissioners shall be deemed to be the order of the
21 commission. The full commission, on an application made within
22 thirty days after the date of an order, may grant a rehearing
23 and determine de novo any decisions of or orders made by a panel
24 of commissioners except an order dismissing an appeal or petition
25 for failure of the appellant or petitioner to appear at a hearing

1 on the merits. The thirty-day filing period for appeals under
2 subsection (2) of section 77-5019 shall be tolled while a motion
3 for rehearing is pending.

4 (5) All hearings or proceedings of the commission shall
5 be open to the public.

6 (6) The Open Meetings Act applies only to hearings or
7 proceedings of the commission held pursuant to the rulemaking
8 authority of the commission.

9 Sec. 4. Section 77-5013, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 77-5013 (1) The commission obtains exclusive jurisdiction
12 over an appeal or petition when:

13 (a) The commission has the power or authority to hear the
14 appeal or petition;

15 (b) An appeal or petition is timely filed;

16 (c) The filing fee, if applicable, is timely received and
17 thereafter paid; and

18 (d) In the case of an appeal, a copy of the decision,
19 order, determination, or action appealed from, or other information
20 that documents the decision, order, determination, or action
21 appealed from, is timely filed.

22 Only the requirements of this subsection shall be deemed
23 jurisdictional.

24 (2) A petition, an appeal, or the information required by
25 subdivision (1)(d) of this section is timely filed and the filing

1 fee, if applicable, is timely received if placed in the United
2 States mail, postage prepaid, with a legible postmark for delivery
3 to the commission, or received by the commission, on or before the
4 date specified by law for filing the appeal or petition. If no date
5 is otherwise provided by law, then an appeal shall be filed within
6 thirty days after the decision, order, determination, or action
7 appealed from is made.

8 (3) The filing fee for each appeal or petition filed with
9 the commission is ~~twenty-five~~ fifty dollars, except that no filing
10 fee shall be required for an appeal by a county assessor acting
11 in his or her official capacity or a county board of equalization
12 acting in its official capacity.

13 (4) The form and requirements for execution of an appeal
14 or petition may be specified by the commission in its rules and
15 regulations.

16 Sec. 5. Section 77-5017, Revised Statutes Cumulative
17 Supplement, 2008, is amended to read:

18 77-5017 (1) In resolving an appeal or petition, the
19 commission may make such orders as are appropriate for resolving
20 the dispute but in no case shall the relief be excessive compared
21 to the problems addressed. The commission may make prospective
22 orders requiring changes in assessment practices which will improve
23 assessment practices or affect the general level of assessment or
24 the measures of central tendency in a positive way. If no other
25 relief is adequate to resolve disputes, the commission may order a

1 reappraisal of property within a county, an area within a county,
2 or classes or subclasses of property within a county.

3 (2) In an appeal specified in subdivision (9) or (10)
4 of section 77-5016 for which the commission determines exempt
5 property to be taxable, ~~the commission shall order the county board~~
6 ~~of equalization to determine the taxable value of the property,~~
7 the property shall be deemed omitted property and its assessed
8 value determined pursuant to section 77-1507. The commission shall
9 order the county board of equalization to send its notice of
10 assessed value pursuant to section 77-1507 within thirty days after
11 the date the commission's order is certified pursuant to section
12 77-5018 unless the parties stipulate to such taxable assessed value
13 during the hearing before the commission. The order shall require
14 the county board of equalization to ~~(a) assess such property~~
15 ~~using procedures for assessing omitted property,~~ ~~(b) determine~~
16 ~~such taxable value within ninety days after the issuance of the~~
17 ~~commission's order,~~ and ~~(c) apply interest, but not penalty, to the~~
18 ~~taxable assessed value as of the date the commission's order was~~
19 issued or the date the taxes were delinquent, whichever is later.

20 ~~(3) A determination of the taxable value of the property~~
21 ~~made by the county board of equalization pursuant to subsection (2)~~
22 ~~of this section may be appealed to the commission within thirty~~
23 ~~days after the board's decision.~~

24 Sec. 6. Section 77-5022, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 77-5022 The commission shall annually equalize the
2 assessed value, or special value, ~~or recapture value~~ of all real
3 property as submitted by the county assessors on the abstracts
4 of assessments and equalize the values of real property that is
5 valued by the state. The commission shall have the power to adjourn
6 from time to time until the equalization process is complete.
7 Meetings held pursuant to this section may be held by means of
8 videoconference.

9 Sec. 7. Section 77-5024.01, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 77-5024.01 The commission shall give notice of the time
12 and place of the first meeting held pursuant to sections ~~77-1504.01~~
13 ~~and 77-5026~~ 77-5022 to 77-5028 by publication in a newspaper of
14 general circulation in the State of Nebraska. Such notice shall
15 contain a statement that the agenda shall be readily available for
16 public inspection at the principal office of the commission during
17 normal business hours. The agenda shall be continually revised to
18 remain current. The commission may thereafter modify the agenda and
19 need only provide notice of the meeting to the affected counties
20 in the manner provided in section ~~77-1504.01~~ ~~or~~ 77-5026. The
21 commission shall publish in its notice a list of those counties
22 certified under section 77-5027 as having assessments which may
23 fail to satisfy the requirements of law. The notice shall also
24 contain a statement advising that any petition brought by a county
25 board of equalization pursuant to section 77-1504.01 to adjust the

1 value of a class or subclass of real property will be heard between
 2 July 26 and August 10 at a date, time, and place as provided in the
 3 agenda maintained by the commission.

4 Sec. 8. Any person who has or claims an interest in an
 5 appeal or petition before the commission, in the success of either
 6 of the parties to an appeal or petition before the commission,
 7 or against both parties in an appeal or petition pending or to
 8 be brought before the commission may become a party to an action
 9 between any other persons, either by joining the appellant or
 10 petitioner in claiming what is sought by the appeal or petition, by
 11 uniting with the appellee in resisting the claim of the appellant
 12 or petitioner, or by demanding anything adversely to both the
 13 appellant or petitioner and appellee or defendant, either before
 14 or after filing an appeal or petition and before the hearing
 15 commences.

16 Sec. 9. Sections 4, 6, and 10 of this act become
 17 operative on January 1, 2010. Sections 1, 2, 3, 5, 7, 8, 9, and 11
 18 of this act become operative on their effective date.

19 Sec. 10. Original sections 77-5013 and 77-5022, Revised
 20 Statutes Cumulative Supplement, 2008, are repealed.

21 Sec. 11. Original sections 77-5001, 77-5004, 77-5005,
 22 77-5017, and 77-5024.01, Revised Statutes Cumulative Supplement,
 23 2008, are repealed.