

## LEGISLATIVE BILL 653

Approved by the Governor May 26, 1989

Introduced by Hall, 7; Kristensen, 37

AN ACT relating to property taxation; to amend section 77-1513, Reissue Revised Statutes of Nebraska, 1943, and section 77-1510, Revised Statutes Supplement, 1988; to create a commission; to provide duties for the commission; to change provisions relating to appeals from actions of the county board of equalization and the costs of such appeals; to provide for confession of judgment as prescribed; to repeal the original sections; and to declare an emergency.

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

Section 1. There is hereby created the Property Assessment and Taxation Commission. The commission shall consist of eleven members as follows: (1) The chairperson of the Revenue Committee of the Legislature; (2) the Tax Commissioner; (3) three licensed appraisers; (4) three county assessors; and (5) three property owners. Of the members appointed to the commission pursuant to subdivisions (3), (4), and (5) of this section, no member shall reside in the same congressional district as any other member appointed pursuant to the same subdivision.

The members described in subdivisions (3), (4), and (5) of this section shall be appointed by the Governor with the approval of a majority of the Legislature within thirty days of the effective date of this act to serve through June 30, 1992. Vacancies created by members described in such subdivisions shall be filled by the Governor for the remainder of the term. Members of the commission shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 2. The Property Assessment and Taxation Commission shall conduct an analysis and review of the system of valuing and taxing real and personal property in Nebraska.

The commission shall:

(1) Examine the accuracy of assessment under the current system both with respect to equalization of classes of property among and within taxing jurisdictions and equalization among specific pieces of

property within the same class in a taxing jurisdiction:

(2) Examine methods of assessment used in other states, including states that centrally assess property;

(3) Identify the results of inadequacies found in Nebraska property assessment methods if any inadequacies are found;

(4) Recommend improvements that could be made in the property assessment process;

(5) Examine different ways in which state responsibility for property assessment could be implemented; and

(6) Prepare a report, with recommendations and a plan and any necessary legislation to implement the recommendations, to be presented to the Legislature by January 1, 1991.

The commission may receive staff support from the offices of the Director of Research, the Legislative Fiscal Analyst, and the Revisor of Statutes.

Sec. 3. That section 77-1510, Revised Statutes Supplement, 1988, be amended to read as follows:

77-1510. Appeals may be taken from any action of the county board of equalization to the district court in the following manner:

(1) The appeal shall be filed within forty-five days after adjournment of the board which shall be deemed to be May 31 of the year in which the action is taken;

(2) The appeal shall be deemed to be filed for purposes of granting jurisdiction with the filing of the petition in district court and praecipe for summons in the district court and the filing of a request for a transcript with the county clerk. The county clerk shall prepare the transcript as soon as practicable after requested and shall deliver the same to the taxpayer for filing with the clerk of the district court upon receipt from the taxpayer of the appropriate fees for its preparation. No proceedings shall be held on the appeal of the taxpayer until the summons has been served and the transcript has been filed in district court; and

(3) A bond of no less than fifty dollars and no more than two hundred dollars, as determined by the district court, shall be filed with the petition in the form of a cash deposit or signature bond, property bond, or other bond approved by the county clerk.

After an appeal has been initiated, the board shall have no power or authority to compromise, settle,

or otherwise change the action it has taken with respect to such assessment, and exclusive jurisdiction thereof shall be vested in the district court, except that the board may offer to confess judgment pursuant to section 4 of this act. No appeal shall in any manner suspend the collection of any tax, or the duties of officers relating thereto, during the pendency of the same appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending. If by final order of a court it is thereafter determined that such tax or a part thereof should be refunded, the county treasurer is authorized to make the refund upon receiving a certified copy of such final order, the refund to be made from funds in his or her possession or accruing to the various taxing districts to the extent which they profited from the original overpayment.

The county may cross appeal, without giving bond, for the reason that the actual value of the owner's property is too low and should be increased in value as of the assessment date from which the appeal was taken.

In the event that the taxpayer as a part of his or her appeal challenges the values as determined by the agricultural land valuation manual as issued or the validity of any other manual mandated by the Tax Commissioner, the taxpayer shall at the time of filing his or her petition give notice to the Tax Commissioner of any such challenge and serve a copy of the petition upon the Tax Commissioner by certified mail within three days of the filing of the petition, and thereafter the Tax Commissioner shall be considered a party defendant in the appeal. Notwithstanding the denominating of the Tax Commissioner as a party defendant, the Tax Commissioner shall not be required to further plead in the cause but shall have the privilege of participating in the action without the necessity of intervention. The burden of proof shall be on the taxpayer to show the defect of the values as established in the agricultural land valuation manual or the defect in any other manual prescribed by the Tax Commissioner for use by the counties. The court in its final order may, if the taxpayer has sustained his or her burden of proof, alter the valuation as established in the agricultural land valuation manual or as necessary to correct a defect in any other manual mandated by the Tax Commissioner, in which case the court shall as a part of its findings set out specifically the defect found and the factual basis supporting such finding.

Any party may appeal the final order of the district court entered pursuant to this section to the Supreme Court in the manner provided for appeals in equity cases, and the Supreme Court shall thereafter review the case de novo on the record.

Sec. 4. After an appeal from any action of the county board of equalization is brought, the board may, with approval of the court, offer in court to confess judgment for part of the value claimed or part of the causes involved in the action. If (1) the appellant is present and refuses to accept such confession of judgment in full of his or her demands against the board in such action or the appellant fails to attend having had reasonable notice that the offer would be made, its amount, and the time of making it and (2) at trial the appellant does not recover more than was offered to be confessed, the appellant shall pay all the costs and fees the board incurred after making the offer. The offer shall not be deemed to be an admission of the cause of action or relief to which the appellant is entitled, and the offer shall not be given in evidence at the trial.

Sec. 5. That section 77-1513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1513. Whenever any person shall appeal appeals to the district court from the assessment of his or her property as fixed by the county board of equalization, and the appeal shall be is sustained in whole or in part, the costs of such appeal, including costs of witnesses, if any, shall be paid by the county wherein such property is situated may be taxed by the court as it deems just. In case If the appeal is not sustained in whole or in part, the costs shall be paid by the appellant or if a cross appeal by the board is sustained in whole or in part, the cost of such appeal or cross appeal, including costs of witnesses, may be taxed by the court as it deems just. Whenever any person shall appeal appeals from the assessment of another as fixed by the county board of equalization, and said the appeal shall be is sustained in whole or in part, the costs of such appeal shall may be taxed to the appellee. If ; and where the appeal is not sustained, the costs shall may be taxed to the appellant, unless the appellant shall be is the county assessor or county clerk, in which case the costs shall be paid by the county.

Sec. 6. That original section 77-1513, Reissue Revised Statutes of Nebraska, 1943, and section

77-1510, Revised Statutes Supplement, 1988, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.