

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6392

BILL NUMBER: HB 1049

DATE PREPARED: Jan 13, 2000

BILL AMENDED: Jan 13, 2000

SUBJECT: Property tax appeal procedures.

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**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires that determinations by the State Board of Tax Commissioners and the Tax Court be based on the record generated in the proceedings before the State Board of Tax Commissioners in matters concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; (3) property tax exemptions; or (4) property tax credits. It provides that there is a rebuttable presumption in these matters that the county determination being appealed is correct. This bill makes related changes. It also requires the Division of Appeals of the State Board of Tax Commissioners to give notice of the date fixed for certain hearings at least 30 days before the date instead of at least ten days before the date. (The introduced version of this bill was prepared by the Commission on Courts.)

Effective Date: July 1, 2000.

Explanation of State Expenditures: (Revised) This bill contains several changes to the way in which the State Board of Tax Commissioners (State Tax Board) is required to conduct assessment appeals hearings and to the way that cases are presented to and reviewed by the Tax Court.

A) Under this bill, the State Tax Board would not be required to actually assess property when the property's assessment is under appeal. The State Tax Board would be permitted to limit the scope of the appeal to issues raised in the appeal petition and the evaluation of evidence presented in support of those issues. Since the State Tax Board rarely assesses property under appeal, this provision merely codifies current practice and would have no real fiscal impact.

This bill would also require the Tax Board to give notice of a hearing on a petition for review to the taxpayer and appropriate local assessing officials at least 30 days before the hearing date rather than the 10 day notice required under current law.

B) This bill would put the burden of proof on the petitioner when appealing an assessment. There would be

a rebuttable presumption that the local assessment determination is correct. The petitioner would have to prove through the weight of the evidence that the local assessment determination is in error. Currently, when these cases progress to the Tax Court, the State Tax Board must defend the local assessment while defending the State Tax Board's determination. This provision would lessen the burden on the State Tax Board in defending a determination in a Tax Court case. The shift of this burden to the appellant might cause some reduction in the number of cases appealed to the Tax Court.

C) The bill requires the State Tax Board to include separately stated findings of fact for all aspects of a State Tax Board determination. This provision codifies current practice by the State Tax Board in creating a record for Tax Court cases.

D) Under current law, the Secretary of the State Tax Board must transmit a certified transcript of the appeal proceedings to the court. This proposal would require the Secretary to submit a certified record of proceedings to the Tax Court when appeals are heard. The record must include copies of all notices, petitions, motions, pleadings, orders, briefs, requests, rulings, photos, and other written documents. The record must also include evidence received by or considered by the State Tax Board and information on a site inspection, if any. The State Tax Board already includes this information in the transcript of proceedings prepared under current law.

E) The bill would require that judicial review must be confined to the record of proceeding before the State Tax Board in Tax Court cases involving appeals of determinations concerning property tax assessments, deductions, exemptions and credits. The Court would be permitted to receive additional evidence only if it relates to the validity of the determination and is needed to decide disputed issues of (1) improper constitution as a decision making body or (2) unlawfulness of the procedure or decision making process. Judicial review would also be confined to issues raised before the State Tax Board except in cases where (1) an issue concerns notification of commencement of a proceeding or (2) interests of justice would be served by judicial resolution arising from a change in law after State Tax Board action is taken. This provision would transform the Tax Court from a hybrid trial/appeals court into a strictly appeals court when considering State Tax Board cases.

All of the above provisions, taken together, could have several effects including:

- 1) A possible reduction the number of future cases appealed to the Tax Court.
- 2) A possible reduction in State Tax Board and Tax Court resources devoted to each case at the Tax Court level.

If State Tax Board resources are freed up, the Board would be able to devote these resources to addressing the backlog of appeals from the local level. This could reduce future State Tax Board expenses for contractors to hold the appeals hearings.

Additional Information: The State Tax Board currently has about 400 cases pending before the Tax Court. As of September 30, 1999, the State Tax Board's appeals backlog included 3,553 appeals on which the State Tax Board has held a hearing but has not yet issued a final determination. There were also 1,475 appeals which had not yet had a hearing. In addition, there are an unknown number of appeals of 1995 assessments still expected to be forwarded to the State Tax Board by some of the larger counties.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: If the number or outcomes of any appeals to the Tax Court are affected by the changes in this bill, then the assessed value base on which property tax rates are computed would also be affected. The tax rate would be adjusted to compensate for any change in assessed valuation. Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be increased or (reduced) by the product of the fund rate multiplied by the assessed value increase or (reduction) applicable to that fund.

State Agencies Affected: State Board of Tax Commissioners; Tax Court.

Local Agencies Affected: Local taxing units.

Information Sources: Bill Waltz, State Board of Tax Commissioners (232-3761).