

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1921 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 6-1.1-15-4 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After
5 receiving a petition for review which is filed under section 3 of this
6 chapter, the division of appeals of the state board of tax commissioners
7 shall conduct a hearing at its earliest opportunity. In addition, the
8 division of appeals of the state board may assess the property in
9 question, correcting any errors which may have been made. **The state
10 board of tax commissioners, including its division of appeals, is not
11 required to assess the property in question. The state board of tax
12 commissioners, including it division of appeals, may limit the scope
13 of the appeal to the issues raised in the petition and the evaluation
14 of the evidence presented in support of those issues.** The division of
15 appeals of the state board shall give notice of the date fixed for the
16 hearing, by mail, to the taxpayer and to the appropriate township
17 assessor, county assessor, and county auditor. The division of appeals
18 of the state board shall give these notices at least ~~ten (10)~~ **thirty (30)**
19 days before the day fixed for the hearing.
20 (b) If a petition for review does not comply with the state board of
21 tax commissioners' instructions for completing the form prescribed
22 under section 3 of this chapter, the division of appeals of the state
23 board of tax commissioners shall return the petition to the petitioner
24 and include a notice describing the defect in the petition. The petitioner
25 then has thirty (30) days from the date on the notice to cure the defect
26 and file a corrected petition. The division of appeals of the state board
27 of tax commissioners shall deny a corrected petition for review if it

1 does not substantially comply with the state board of tax
2 commissioners' instructions for completing the form prescribed under
3 section 3 of this chapter.

4 (c) The state board of tax commissioners shall prescribe a form for
5 use in processing petitions for review of actions by the county property
6 tax assessment board of appeals. The state board shall issue
7 instructions for completion of the form. The form must require the
8 division of appeals of the state board, to indicate agreement or
9 disagreement with each item that is:

10 (1) indicated on the petition submitted under section 1(e) of this
11 chapter;

12 (2) included in the township assessor's response under section
13 1(g) of this chapter; and

14 (3) included in the county property tax assessment board of
15 appeals' findings, record, and determination under section 2.1(d)
16 of this chapter.

17 The form must also require the division of appeals of the state board to
18 indicate the issues in dispute and its reasons in support of its resolution
19 of those issues.

20 (d) After the hearing the division of appeals of the state board shall
21 give the petitioner, the township assessor, the county assessor, and the
22 county auditor:

23 (1) notice, by mail, of its final determination;

24 (2) a copy of the form completed under subsection (c); and

25 (3) notice of the procedures they must follow in order to obtain
26 court review under section 5 of this chapter.

27 (e) **Except as provided in subsection (f)**, the division of appeals
28 of the state board of tax commissioners shall conduct a hearing within
29 ~~six (6)~~ **nine (9)** months after a petition in proper form is filed with the
30 division, excluding any time due to a delay reasonably caused by the
31 petitioner.

32 **(f) With respect to an appeal of a real property assessment**
33 **that takes effect on the assessment date on which a general**
34 **reassessment of real property takes effect under IC 6-1.1-4-4, the**
35 **division of appeals of the state tax board of tax commissioners shall**
36 **conduct a hearing within one (1) year after a petition in proper**
37 **form is filed with the division, excluding any time due to a delay**
38 **reasonably caused by the petitioner.**

39 **(g) Except as provided in subsection (h)**, the division of appeals
40 shall make a determination within ~~the later of forty-five (45)~~ **ninety**
41 **(90)** days after the hearing or the date set in an extension order issued
42 by the chairman of the state board of tax commissioners.

43 **(h) With respect to an appeal of a real property assessment**
44 **that takes effect on the assessment date on which a general**
45 **reassessment of real property takes effect under IC 6-1.1-4-4, the**
46 **division of appeals shall make a determination within the later of**
47 **one hundred eighty (180) days after the hearing or the date set in**
48 **an extension ordered issued by the chairman of the state tax board**
49 **of tax commissioners.**

50 **(i) However,** The state board of tax commissioners may not extend
51 the final determination date **under subsection (g) or (h)** by more than
52 one hundred eighty (180) days.

1 (j) Except as provided in subsection ~~(g)~~: (k):

2 (1) the failure of the division of appeals to make a determination
3 within the time allowed by this subsection shall be treated as a
4 final determination of the state board of tax commissioners to
5 deny the petition; and

6 (2) a final decision of the division of appeals is a final
7 determination of the state board of tax commissioners.

8 ~~(g)~~ (k) A final determination of the division of appeals is not a
9 final determination of the state board of tax commissioners if the state
10 board of tax commissioners:

11 (1) gives notice to the parties that the state board of tax
12 commissioners will review the determination of the division of
13 appeals within fifteen (15) days after the division of appeals
14 gives notice of the determination to the parties or the maximum
15 allowable time for the issuance of a determination under
16 subsection ~~(f)~~ (g) or (h) expires; or

17 (2) determines to rehear the determination under section 5 of this
18 chapter.

19 The state board of tax commissioners shall conduct a review under
20 subdivision (1) in the same manner as a rehearing under section 5 of
21 this chapter.

22 (l) **A person participating in the hearing required under
23 subsection (a) is entitled to introduce evidence that is otherwise
24 proper and admissible without regard to whether that evidence has
25 previously been introduced at a hearing before the county property
26 tax assessment board of appeals. A person wishing to introduce
27 evidence described in this subsection shall exchange all
28 documentary evidence and identify all witnesses and a brief
29 statement of their testimony:**

30 **(1) to all parties to the appeal; and**

31 **(2) at least fifteen (15) days before the hearing required
32 under subsection (a)."**

33 Page 2, between lines 32 and 33, begin a new paragraph
34 and insert:

35 "SECTION 3. IC 33-3-5-2 IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The tax court is a court
37 of limited jurisdiction. The tax court has exclusive jurisdiction over any
38 case that arises under the tax laws of this state and that is an initial
39 appeal of a final determination made by:

40 (1) the department of state revenue with respect to a listed tax
41 (as defined in IC 6-8.1-1-1); or

42 (2) the state board of tax commissioners.

43 (b) The tax court also has any other jurisdiction conferred by
44 statute.

45 (c) The cases over which the tax court has exclusive original
46 jurisdiction are referred to as original tax appeals in this chapter. The
47 tax court does not have jurisdiction over a case unless:

48 (1) the case is an original tax appeal; or

49 (2) the tax court has otherwise been specifically assigned

1 jurisdiction by statute.

2 (d) ~~A taxpayer that appeals~~ **In an appeal** to the tax court, **the**
3 **county or township assessor** shall, at the time the appeal is filed, elect
4 to have all evidentiary hearings in the appeal conducted in one (1) of
5 the following counties:

6 (1) Allen County.

7 (2) Jefferson County.

8 (3) Lake County.

9 (4) Marion County.

10 (5) St. Joseph County.

11 (6) Vanderburgh County.

12 (7) Vigo County.

13 (e) ~~A taxpayer that is an appellee in an appeal to the tax court~~
14 ~~shall, within thirty (30) days after it receives notice of the appeal, elect~~
15 ~~to have all evidentiary hearings in the appeal conducted in a county~~
16 ~~listed in subsection (d):~~

17 (f) (e) The tax court does not have jurisdiction over a case that is
18 an appeal from a final determination made by the department of state
19 revenue under IC 4-32 other than a final determination concerning the
20 gaming card excise tax established under IC 4-32-15."

21 Page 3, line 10, delete "The tax court shall review" and insert

22 **"Judicial review of disputed issues of fact must be confined to:**

23 **(1) the record of the proceeding before the state board of tax**
24 **commissioners, including its division of appeals; and**

25 **(2) any additional evidence taken under subsection (c).**

26 **The tax court may not try the cause de novo or substitute its**
27 **judgment for that of the state board of tax commissioners,**
28 **including its division of appeals. Judicial review is limited only to**
29 **those issues raised before the state board of tax commissioners, or**
30 **otherwise described by the state board of tax commissioners,**
31 **including its division of appeals, in its final determination.**

32 (b) A person may obtain judicial review of an issue that was
33 not raised before the state board of tax commissioners only to the
34 extent that the:

35 (1) issue concerns whether a person who was required to be
36 notified of the commencement of a proceeding under this
37 chapter was notified in substantial compliance with the
38 applicable law; or

39 (2) interests of justice would be served by judicial resolution
40 of an issue arising from a change in controlling law
41 occurring after the state board of tax commissioners' action.

42 (c) The tax court may receive evidence in addition to that
43 contained in the record of the determination of the state board of
44 tax commissioners, including its division of appeals, only if it
45 relates to the validity of the determination at the time it was taken
46 and is needed to decide disputed issues regarding one (1) or both of
47 the following:

48 (1) **Improper constitution as a decision making body or**
49 **grounds for disqualification of those taking the agency**
50 **action.**

1 **(2) Unlawfulness of procedure or decision making process.**
 2 **This subsection applies only if the additional evidence could not, by**
 3 **due diligence, have been discovered and raised in the**
 4 **administrative proceeding giving rise to a proceeding for judicial**
 5 **review.**

6 **(d) The tax court may remand a matter to the state board of**
 7 **tax commissioners before final disposition of a petition for review**
 8 **with directions that the state board of tax commissioners or its**
 9 **division of appeals, as appropriate, conduct further factfinding or**
 10 **that the state board of tax commissioners or its division of appeals,**
 11 **as appropriate, prepare an adequate record, if:**

12 **(1) the state board of tax commissioners or its division of**
 13 **appeals failed to prepare or preserve an adequate record;**

14 **(2) the state board of tax commissioners or its division of**
 15 **appeals improperly excluded or omitted evidence from the**
 16 **record; or**

17 **(3) a relevant law changed after the action of the state board**
 18 **of tax commissioners or its division of appeals and the tax**
 19 **court determines that the new provision of the law may**
 20 **control the outcome.**

21 **(e) The burden of demonstrating the invalidity of an action**
 22 **taken by the state board of tax commissioners, including its**
 23 **division of appeals, is on the party to the judicial review proceeding**
 24 **asserting the invalidity.**

25 **(f) The validity of an action taken by the state board of tax**
 26 **commissioners, including its division of appeals, shall be**
 27 **determined in accordance with the standards of review provided**
 28 **in this section as applied to the agency action at the time it was**
 29 **taken.**

30 **(g) The tax court shall make findings of fact on each material**
 31 **issue on which the court's decision is based.**

32 **(h) The tax court shall grant relief under section 15 of this**
 33 **chapter only if the tax court determines that a person seeking**
 34 **judicial relief from a final determination of the state board of tax**
 35 **commissioners has been prejudiced by an action by the state board**
 36 **of tax commissioners, including its division of appeals, that is:**

37 **(1) arbitrary, capricious, an abuse of discretion, or otherwise**
 38 **not in accordance with the law;**

39 **(2) contrary to constitutional right, power, privilege, or**
 40 **immunity;**

41 **(3) in excess of statutory jurisdiction, authority, or**
 42 **limitations, or short of statutory right;**

43 **(4) without observance or procedure required by law; or**

44 **(5) unsupported by substantial and reliable evidence."**

45 Page 3, delete lines 11 through 16.

46 Page 3, line 17, delete "(c)" and insert "(i)".

47 Page 3, line 21, delete "(d)" and insert "(j)".

48 Page 3, line 31, delete "(e)" and insert "(k)".

49 Page 4, line 37, delete "to" and insert "to:

50 **(1)".**

1 Page 4, line 39, delete "." and insert "; and
2 **(2) with respect to tax appeals initiated before the effective**
3 **date of this SECTION that have not had a hearing or trial in**
4 **the tax court, the state board of tax commissioners has sixty**
5 **(60) days after the effective date of this SECTION to prepare**
6 **and certify a record of proceedings to the tax court. The**
7 **county or township whose assessment is being challenged has**
8 **sixty (60) days after the date the certified record is filed with**
9 **the tax court to intervene in the action."**
10 Renumber all SECTIONS consecutively.
(Reference is to HB 1921 as printed February 23, 2001.)

Representative FOLEY