

As Amended by Senate Committee

Session of 2006

SENATE BILL No. 423

By Committee on Assessment and Taxation

1-23

10 AN ACT concerning property taxation; relating to appeals of orders of
11 the board of tax appeals; attorney fees and costs; amending K.S.A. 74-
12 2426 and repealing the existing section.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 74-2426 is hereby amended to read as follows: 74-
16 2426. (a) Orders of the board of tax appeals on any appeal, in any pro-
17 ceeding under the tax protest, tax grievance or tax exemption statutes or
18 in any other original proceeding before the board shall be rendered and
19 served in accordance with the provisions of the Kansas administrative
20 procedure act. Notwithstanding the provisions of subsection (g) of K.S.A.
21 77-526 and amendments thereto, a final order of the board shall be ren-
22 dered in writing and served within 120 days after the matter was fully
23 submitted to the board unless this period is waived or extended with the
24 written consent of all parties or for good cause shown.

25 (b) No final order of the board shall be subject to review pursuant to
26 subsection (c) unless the aggrieved party first files a petition for recon-
27 sideration of that order with the board in accordance with the provisions
28 of K.S.A. 77-529 and amendments thereto.

29 (c) Any action of the board pursuant to this section is subject to re-
30 view in accordance with the act for judicial review and civil enforcement
31 of agency actions, except that:

32 (1) The parties to the action for judicial review shall be the same
33 parties as appeared before the board in the administrative proceedings
34 before the board. The board shall not be a party to any action for judicial
35 review of an action of the board.

36 (2) There is no right to review of any order issued by the board in a
37 no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq.,
38 19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and
39 statutes of a similar character.

40 (3) The court of appeals has jurisdiction of any action for review per-
41 taining to property appraised and assessed by the director of property
42 valuation, excise, income or inheritance taxes assessed by the director of
43 taxation and the exemption of any property from property taxation. The

- 1 district court of the proper county has jurisdiction in all other cases.
- 2 (4) Review of orders issued by the board of tax appeals relating to
3 the valuation or assessment of property for ad valorem tax purposes or
4 relating to the tax protest shall be conducted by the district court of the
5 county in which the property is located or, if located in more than one
6 county, the district court of any county in which any portion of the prop-
7 erty is located. *If the review of an order as provided in this subsection is*
8 *sought by a county and the taxpayer prevails on such appeal, the court*
9 *~~shall~~ may award to the taxpayer reasonable attorney fees and costs in-*
10 *curring by the taxpayer on such appeal.*
- 11 (5) In addition to the cost of the preparation of the transcript, the
12 appellant shall pay to the board the other costs of certifying the record
13 to the reviewing court. Such payment shall be made prior to the trans-
14 mission of the agency record to the reviewing court.
- 15 (d) If review of an order of the board relating to excise, income or
16 inheritance taxes, is sought by a person other than the director of taxation,
17 such person shall give bond for costs at the time the petition is filed. The
18 bond shall be in the amount of 125% of the amount of taxes assessed or
19 a lesser amount approved by the court of appeals and shall be conditioned
20 on the petitioner's prosecution of the review without delay and payment
21 of all costs assessed against the petitioner.
- 22 (e) If review of an order is sought by a party other than the director
23 of property valuation or a taxing subdivision and the order determines,
24 approves, modifies or equalizes the amount of valuation which is assess-
25 able and for which the tax has not been paid, a bond shall be given in the
26 amount of 125% of the amount of the taxes assessed or a lesser amount
27 approved by the reviewing court. The bond shall be conditioned on the
28 petitioner's prosecution of the review without delay and payment of all
29 costs assessed against the petitioner.
- 30 Sec. 2. K.S.A. 74-2426 is hereby repealed.
- 31 Sec. 3. This act shall take effect and be in force from and after its
32 publication in the statute book.