
HOUSE BILL 2777

State of Washington

65th Legislature

2018 Regular Session

By Representative Jenkins

Read first time 01/16/18. Referred to Committee on Finance.

1 AN ACT Relating to improving and updating administrative
2 provisions related to the board of tax appeals; amending RCW
3 82.03.020, 82.03.030, 82.03.040, 82.03.050, 82.03.060, 82.03.070,
4 82.03.080, 82.03.090, 82.03.100, 82.03.110, 82.03.120, 82.03.140,
5 82.03.150, 82.03.160, and 82.03.170; adding a new section to chapter
6 82.03 RCW; and creating a new section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 82.03.020 and 1967 ex.s. c 26 s 31 are each amended
9 to read as follows:

10 (1) The board of tax appeals, hereinafter ~~((in chapter 26, Laws~~
11 ~~of 1967 ex. sess.))~~ referred to as the board, ~~((shall))~~ must consist
12 of three members qualified by experience and training in the field of
13 state and local taxation, appointed by the governor with the advice
14 and consent of the senate, and no more than two of whom at the time
15 of appointment or during their terms ~~((shall))~~ may be members of the
16 same political party.

17 (2) Beginning with appointments made after the effective date of
18 this section, at least two members of the board must be attorneys
19 licensed to practice law in the state of Washington with substantial
20 knowledge of Washington tax law. At least one attorney member must
21 have substantial experience in making a record suitable for judicial

1 review. Any nonattorney member must have substantial experience in
2 the fields of residential and commercial property appraisal.

3 (3) Each member of the board must attend at least twenty hours of
4 judicial training deemed by the board to be appropriate for
5 instructing members in Washington law, evidentiary procedures, and
6 judicial practice and ethics.

7 **Sec. 2.** RCW 82.03.030 and 1967 ex.s. c 26 s 32 are each amended
8 to read as follows:

9 Members of the board (~~(shall)~~) must be appointed for a term of
10 six years and until their successors are appointed and have
11 qualified. (~~In case of a vacancy, it shall~~) Vacancies must be
12 filled by appointment by the governor, in accordance with section 1
13 of this act, for the unexpired portion of the term in which (~~said~~)
14 the vacancy occurs(~~(: PROVIDED, That the terms of the first three~~
15 ~~members of the board shall be staggered so that one member shall be~~
16 ~~appointed to serve until March 1, 1969, one member until March 1,~~
17 ~~1971, and one member until March 1, 1973))~~).

18 **Sec. 3.** RCW 82.03.040 and 1967 ex.s. c 26 s 33 are each amended
19 to read as follows:

20 Any member of the board may be removed for inefficiency,
21 malfeasance or misfeasance in office, upon specific written charges
22 filed by the governor, who (~~shall~~) must transmit such written
23 charges to the member accused and to the chief justice of the supreme
24 court. The chief justice (~~shall~~) must thereupon designate a
25 tribunal composed of three judges of the superior court to hear and
26 adjudicate the charges. Such tribunal (~~shall~~) must fix the time of
27 the hearing, which (~~shall~~) must be public, and the procedure for
28 the hearing, and the decision of such tribunal (~~shall be~~) are final
29 and not subject to review by the supreme court. Removal of any member
30 of the board by the tribunal (~~shall disqualify such~~) disqualifies
31 that member (~~for~~) from reappointment.

32 **Sec. 4.** RCW 82.03.050 and 2013 c 23 s 311 are each amended to
33 read as follows:

34 (1) The board (~~(shall)~~) must operate on (~~(either a part-time or)~~)
35 a full-time basis(~~(, as determined by the governor. If it is~~
36 ~~determined that the board shall operate on a full-time basis, each~~
37 ~~member of the board shall receive an annual salary to be determined~~

1 ~~by the governor. If it is determined that the board shall operate on~~
2 ~~a part-time basis, each member of the board shall receive~~
3 ~~compensation on the basis of seventy-five dollars for each day spent~~
4 ~~in performance of his or her duties, but such compensation shall not~~
5 ~~exceed ten thousand dollars in a fiscal year)). Each member of the~~
6 ~~board must devote his or her full time and efforts to the efficient~~
7 ~~discharge of the duties of the board.~~

8 (2) Board members must receive an annual salary in the same range
9 as that established for equivalent members of class four boards under
10 RCW 43.03.250.

11 (3) Each board member ((shall)) must receive reimbursement for
12 travel expenses incurred in the discharge of his or her duties in
13 accordance with RCW 43.03.050 and 43.03.060 as now existing or
14 hereafter amended.

15 **Sec. 5.** RCW 82.03.060 and 2013 c 23 s 312 are each amended to
16 read as follows:

17 ~~((Each member of the board of tax appeals:~~
18 ~~(1) Shall not)) (1) No member of the board may be a candidate for~~
19 ~~((nor)) or hold any other public office or trust, and ((shall)) may~~
20 ~~not engage in any occupation or business interfering with or~~
21 ~~inconsistent with his or her duty as a member of the board, ((nor~~
22 ~~shall he or she)) or serve on or under any committee of any political~~
23 ~~party; and~~

24 ~~(2) ((Shall not)) No member of the board may, for a period of one~~
25 ~~year after the termination of his or her membership on the board, act~~
26 ~~in a representative capacity before the board on any matter.~~

27 **Sec. 6.** RCW 82.03.070 and 1988 c 222 s 2 are each amended to
28 read as follows:

29 (1) The board ((may)) must appoint, discharge and fix the
30 compensation of an executive director, tax referees, ((a)) law
31 clerks, and such other clerical, professional and technical
32 assistants as may be necessary to properly discharge the obligations
33 of this chapter.

34 (2) The board may delegate administrative powers to the executive
35 director as the board deems appropriate and desirable for the
36 efficient discharge of its duties and obligations.

37 (3) A tax referee must be competent to perform the duties of the
38 office and have substantial experience relevant to his or her

1 responsibilities as a tax referee. Tax referees (~~shall~~) are not
2 (~~be~~) subject to chapter 41.06 RCW.

3 **Sec. 7.** RCW 82.03.080 and 2013 c 23 s 313 are each amended to
4 read as follows:

5 (~~The board shall as soon as practicable after the initial~~
6 ~~appointment of the members thereof,~~) (1) The board must meet and
7 elect from among its members a chair(~~,~~ ~~and shall~~) at least
8 biennially (~~thereafter meet and elect such a chair~~).

9 (2) A majority of the board constitutes a quorum when transacting
10 official business of the agency. The board may act when one board
11 position is vacant.

12 **Sec. 8.** RCW 82.03.090 and 1967 ex.s. c 26 s 38 are each amended
13 to read as follows:

14 (1) The principal office of the board (~~shall~~) must be at the
15 state capital, but it may sit or hold hearings at any other place in
16 the state. (~~A majority of the board shall constitute a quorum for~~
17 ~~making orders or decisions, promulgating rules and regulations~~
18 ~~necessary for the conduct of its powers and duties, or transacting~~
19 ~~other official business, and may act though one position on the board~~
20 ~~be vacant.~~) The board must provide for regular hearings in the most
21 populous county west of the crest of the Cascade mountains and east
22 of the crest of the Cascade mountains for the conduct of informal
23 proceedings.

24 (2) One or more members may hold hearings and take testimony to
25 be reported for action by the board when authorized by rule or order
26 of the board. (~~The board shall perform all the powers and duties~~
27 ~~specified in this chapter or as otherwise provided by law.~~)

28 NEW SECTION. **Sec. 9.** On or before November 1, 2018, and in
29 compliance with RCW 43.01.036, the board must provide the governor
30 and the appropriate committees of the legislature with a detailed
31 report on the following:

32 (1) The current number of pending appeals, categorized by the
33 year in which each such appeal was filed;

34 (2) The number of appeals closed, since the effective date of
35 this section, categorized by the year in which each such appeal was
36 filed;

1 (3) The number of appeals filed since the effective date of this
2 section; and

3 (4) A detailed plan, to be executed by the board, to address
4 pending appeals.

5 **Sec. 10.** RCW 82.03.100 and 1967 ex.s. c 26 s 39 are each amended
6 to read as follows:

7 The board (~~shall~~) must make findings of fact and prepare a
8 written decision in each case decided by it, and such findings and
9 decision (~~shall be~~) are effective upon being signed by two or more
10 members of the board and upon being filed at the board's principal
11 office, and (~~shall be~~) are open to public inspection at all
12 reasonable times.

13 **Sec. 11.** RCW 82.03.110 and 1967 ex.s. c 26 s 40 are each amended
14 to read as follows:

15 The board (~~shall either publish at its expense or make~~
16 ~~arrangements with a publishing firm for the publication of those of~~
17 ~~its findings and decisions which are of general public interest~~)
18 must publish those of its orders and decisions issued after the
19 effective date of this section which are of precedential value, in
20 such form as to assure (~~reasonable distribution thereof~~) such
21 decisions are available for online research, including through a
22 publicly available web site. The board may, in addition, identify,
23 publish, and make available online orders and decisions issued prior
24 to the effective date of this section that are of precedential value.

25 **Sec. 12.** RCW 82.03.120 and 1988 c 222 s 3 are each amended to
26 read as follows:

27 The board (~~shall~~) must maintain at its principal office a copy
28 (~~of its final findings and decisions. The findings and decisions~~
29 ~~shall be available for public inspection at the principal office of~~
30 ~~the board at all reasonable times~~), electronic or otherwise, of all
31 final orders and decisions until transferred to the state archives in
32 accordance with state agency retention policies and chapter 40.14
33 RCW. The orders and decisions maintained at the principal office of
34 the board must be available for public inspection at all reasonable
35 times; however, this provision may be satisfied by making the orders
36 and decisions available via a publicly available web site.

1 **Sec. 13.** RCW 82.03.140 and 2000 c 103 s 1 are each amended to
2 read as follows:

3 (~~In all appeals over which the board has jurisdiction under RCW~~
4 ~~82.03.130, a party taking an appeal may elect either a formal or an~~
5 ~~informal hearing, such election to be made according to rules of~~
6 ~~practice and procedure to be promulgated by the board:~~) (1) A party
7 filing an appeal with the board must elect either a formal or an
8 informal proceeding, according to rules of practice and procedure
9 adopted by the board. If no such election is made, the appeal must be
10 treated as an election for an informal proceeding: PROVIDED, That
11 nothing (~~shall~~) prevents the assessor or taxpayer, as a party to an
12 appeal pursuant to RCW 84.08.130, within twenty days from the date of
13 the receipt of the notice of appeal, from filing with the clerk of
14 the board notice of intention that the hearing be a formal one:
15 PROVIDED, HOWEVER, That nothing herein (~~shall~~) may be construed to
16 modify the provisions of RCW 82.03.190: AND PROVIDED FURTHER, That
17 upon an appeal under RCW 82.03.130(1)(e), the director of revenue
18 may, within ten days from the date of its receipt of the notice of
19 appeal, file with the clerk of the board notice of its intention that
20 the hearing be held pursuant to chapter 34.05 RCW.

21 (2) A responding party may file a cross appeal. In the event that
22 appeals are taken (~~from the same decision, order, or determination,~~
23 ~~as the case may be, by different parties and only one of such parties~~
24 ~~elects a formal hearing, a formal hearing shall be granted~~) by
25 different parties from the same decision, order, or determination,
26 and only one party elects a formal proceeding, the appeal must be
27 conducted as a formal proceeding.

28 **Sec. 14.** RCW 82.03.150 and 2000 c 103 s 2 are each amended to
29 read as follows:

30 In all appeals involving an informal hearing before the board or
31 any of its members or tax referees, the board (~~or its~~), any member
32 of the board, and the board's tax referees (~~shall~~) have all powers
33 relating to administration of oaths, issuance of subpoenas, and
34 taking of depositions as are granted to agencies by chapter 34.05
35 RCW. The board, (~~or its~~) any member of the board, and the board's
36 tax referees (~~, shall~~) also have all powers granted the department
37 of revenue pursuant to RCW 82.32.110. In the case of appeals within
38 the scope of RCW 82.03.130(1)(b) the board or any member thereof may
39 obtain such assistance, including the making of field investigations,

1 from the staff of the director of revenue as the board or any member
2 thereof may deem necessary or appropriate.

3 **Sec. 15.** RCW 82.03.160 and 2000 c 103 s 3 are each amended to
4 read as follows:

5 In all appeals involving a formal hearing before the board or any
6 of its members or tax referees, the board (~~((or its))~~), any member of
7 the board, and the board's tax referees (~~((shall))~~) have all powers
8 relating to administration of oaths, issuance of subpoenas, and
9 taking of depositions as are granted to agencies in chapter 34.05
10 RCW; and the board, and each member thereof, or its tax referees,
11 (~~((shall be))~~) are subject to all duties imposed upon, and (~~((shall))~~)
12 have all powers granted to, an agency by those provisions of chapter
13 34.05 RCW relating to adjudicative proceedings. The board, (~~((or its))~~)
14 any member of the board, and the board's tax referees(~~((, shall))~~) also
15 have all powers granted the department of revenue pursuant to RCW
16 82.32.110. In the case of appeals within the scope of RCW
17 82.03.130(1)(b), the board, or any member thereof, may obtain such
18 assistance, including the making of field investigations, from the
19 staff of the director of revenue as the board, or any member thereof,
20 may deem necessary or appropriate: PROVIDED, HOWEVER, That any
21 communication, oral or written, from the staff of the director to the
22 board or its tax referees (~~((shall))~~) may be presented only in open
23 hearing.

24 **Sec. 16.** RCW 82.03.170 and 1988 c 222 s 7 are each amended to
25 read as follows:

26 All proceedings, including both formal and informal hearings,
27 before the board or any of its members or tax referees (~~((shall))~~) must
28 be conducted in accordance with such rules of practice and procedure
29 as the board may prescribe. The board (~~((shall))~~) must publish such
30 rules and arrange for (~~((the reasonable distribution thereof))~~) public
31 access to the rules, including through a publicly available web site.

32 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.03
33 RCW to read as follows:

34 (1) The board may require parties to attend a mandatory
35 settlement conference at any time before or after the appeal has been
36 heard.

1 (2)(a) The board must provide an informal voluntary and
2 confidential mediation process. The purpose of the mediation is to
3 help the parties reach an agreement that settles the dispute. The
4 board must adopt rules for the conduct of mediation, including
5 appropriate fees, consistent with the purpose of the mediation.

6 (b) Any person appointed as a neutral mediator must have
7 substantial experience in Washington tax law or in residential and
8 commercial property appraisals. The mediator's role is to assist the
9 parties to work together to reach a mutually agreeable dispute
10 resolution. The mediator will not issue a decision in the matter. An
11 agreement reached by the parties during the mediation must be
12 memorialized in writing and signed by the parties before the board
13 may enter an order closing the appeal.

14 (c) All mediation discussions, statements of parties, and
15 materials provided as part of the mediation are confidential, must be
16 destroyed or returned to the parties after mediation is complete, and
17 may not be used for any other purpose or in any other proceeding.

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