

# FINAL BILL REPORT

## EHB 2777

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### PARTIAL VETO C 174 L 18 Synopsis as Enacted

**Brief Description:** Improving and updating administrative provisions related to the board of tax appeals.

**Sponsors:** Representative Jenkins.

**House Committee on Finance**  
**House Committee on Appropriations**  
**Senate Committee on Law & Justice**  
**Senate Committee on Ways & Means**

#### **Background:**

The Board of Tax Appeals (BTA) is a full-time administrative tax court that adjudicates tax-related appeals. The BTA is made up of three board members who are appointed by the Governor, with the consent of the Senate. Each board member serves a six-year term. Board members qualify based on their training and experience in state and local tax matters. At the time of appointment, no more than two of the three board members may be members of the same political party. The BTA also includes three tax referees who hear and decide tax matters, and five supporting staff, including an executive director.

The BTA hears tax appeals from decisions of the County Board of Equalization and the Department of Revenue. The most common types of appeals are property tax valuations, property tax exemptions, assessed value direct appeals, and excise tax appeals. Most appeals must be filed within 30 days of the mailing date of the decision or determination being appealed. The BTA has no authority to accept an appeal filed after the deadline.

An appeal can be informal or formal. A decision on an informal appeal may not be appealed to superior court, but a party may challenge the BTA on its initial decision or may ask the BTA to reconsider a ruling. A final decision on a formal appeal may be appealed to superior court.

#### **Summary:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Appointments of BTA board members must ensure that at least two of the BTA members are attorneys licensed to practice law in Washington and possess substantial knowledge of Washington tax laws. In addition, one attorney board member must have substantial experience in developing a record suitable for judicial review. Any nonattorney board member must have substantial experience in residential and commercial appraisals.

The BTA must employ at least five tax referees. Two of the tax referees must be judicial members of the Washington State Bar Association and three must be state-certified general real estate appraisers.

Each BTA board member must attend at least 20 hours of judicial training, including Washington law, evidentiary procedures, and judicial practice and ethics. Board members will receive an annual salary equal to members of class four boards.

The BTA must operate on a full-time basis, and each board member must devote his or her full time and efforts in the discharge of his or her duties. The board members may delegate administrative powers to the executive director. The BTA may conduct business when one board position is vacant. Regular hearings must occur in King County and in Spokane County.

The BTA must publish all orders and decisions of precedential value made after June 7, 2018. The BTA may also identify and publish orders and decisions of precedential value decided prior to June 7, 2018. The decisions and orders must be available for online research. All final orders and decisions must be maintained at BTA's principal office until transferred to the state archives.

If a party fails to elect either a formal or informal proceeding when filing an appeal with the BTA, the appeal must be treated as an election for an informal proceeding.

The BTA may require parties to attend a mandatory settlement conference. The BTA must also provide an informal voluntary and confidential mediation process. Any person appointed as a mediator must have substantial experience in Washington tax law or in residential and commercial appraisals.

Attorney's fees and other expenses, up to \$25,000, may be awarded by the BTA to a qualified prevailing party. A "qualified party" is an individual whose net worth did not exceed \$1 million or a business with a net worth that did not exceed \$5 million at the time of the initial appeal.

The BTA must deliver a report to the Governor and appropriate legislative committees by November 1, 2018, that includes: the current number of pending appeals, the number of appeals closed since the effective date of the act, the number of appeals filed since the effective date of the act, and a detailed plan outlining how the BTA will address pending appeals.

**Votes on Final Passage:**

House 98 0

Senate 48 0 (Senate amended)  
House 98 0 (House concurred)

**Effective:**

**Partial Veto Summary:** The Governor vetoed the sections requiring: (1) the employment of five tax referees; (2) regular meetings to be held on both sides of the Cascades; (3) the mandate for settlement conferences and the creation of a mediation process; (4) that the BTA award attorney's fees and costs; and (5) the creation of precedential decisions by the BTA.