

# SENATE BILL REPORT

## SB 6175

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As Reported by Senate Committee On:  
Trade & Economic Development, January 30, 2014

**Title:** An act relating to modifying the tax appeal process.

**Brief Description:** Modifying the tax appeal process.

**Sponsors:** Senator Braun.

**Brief History:**

**Committee Activity:** Trade & Economic Development: 1/21/14, 1/30/14 [DPS-WM, DNP].

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### SENATE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 6175 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Braun, Chair; Angel, Vice Chair; Baumgartner and Holmquist Newbry.

**Minority Report:** Do not pass.

Signed by Senators Chase, Ranking Member; Pedersen.

**Staff:** Jeff Olsen (786-7428)

**Background:** Model Tax Tribunal Act. The American Bar Association adopted the Model State Administrative Tax Tribunal Act in 2006 as a recommended model for states to adopt. The purpose of the act is to increase public confidence in the fairness of the state tax system by providing a taxpayer who has received an assessment a hearing of record before an independent agency with tax expertise before requiring the payment of the tax assessment.

Board of Tax Appeals. The Washington State Board of Tax Appeals (Board) was established in 1967 as an independent agency to hear tax appeals. Board members are appointed by the Governor, and qualify by having experience and training in the field of state and local taxation. At the time of appointment, no more than two board members may be members of the same political party.

Tax Appeal Process. Taxpayers seeking to challenge their tax assessment may file an appeal with the proper taxing authority. For excise tax appeals, a taxpayer may file a petition with

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the Department of Revenue (Department). If the taxpayer does not agree with the final decision from the Department, they may file an appeal with the Board. A taxpayer must pay all taxes, penalties, and interest in full before any action may be instituted in court to contest the amounts due. For property tax appeals, a taxpayer may file a petition with their county board of equalization challenging their property's valuation. County boards of equalization are independent bodies formed to hear property tax valuation cases. If a taxpayer does not agree with a decision from a county board of equalization, they may file a petition with the Board.

**Summary of Bill (Recommended Substitute):** Qualifications for persons appointed to the Board are modified to include requiring substantial experience making the record in a tax case suitable for judicial review. The Governor is granted authority to appoint additional pro tempore members to the Board for a one-year term, which may be renewed for one additional year. Salaries for Board members may be no less than the salaries provided for superior court judges. The Board must operate on a full-time basis and must maintain hearing offices in King and Spokane counties, in addition to its principal office in Olympia, Washington.

A taxpayer requesting a formal hearing must pay to the Board a \$250 fee. Informal hearings require a \$50 fee. The Board may waive the fee in certain cases due to financial hardship. The Board must stay collection of any assessment of the Department on petition of the taxpayer, unless the Board finds the assessment may not be collected at the conclusion of the stay or the taxpayer's appeal lacks merit. In formal hearings for excise tax appeals, the Board must award fees and other expenses to the prevailing party. The amount awarded to a taxpayer may not exceed \$50,000 and the amount awarded to the Department may not exceed \$2,500. Final decisions of the Board may be appealed directly to the Court of Appeals.

The Board must establish procedures for conducting mediation conferences between parties. Mediation conferences are not mandatory, and the Board must establish fees for conducting mediations.

A joint taskforce on the reform of the tax appeals process is created. Taskforce members include the chair and ranking members of the tax policy committees in the Senate and the House of Representatives, a representative of the Governor's Office, and a representative from the following agencies or organizations: the Administrator for the Courts, the Board of Tax Appeals, the Department, the Office of the Attorney General, the Association of Washington Counties, the Washington State Bar Association, the Association of Washington Business, the Counsel on State Taxation, and the University of Washington School of Law. The taskforce must make recommendations regarding improvements to the tax appeal process to the appropriate committees of the Legislature and the Governor by December 1, 2014.

**EFFECT OF CHANGES MADE BY TRADE & ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute):** The Board may deny a stay of collection of a tax assessment if the amount may not be collected at the conclusion of the stay or the appeal lacks merit. Adds that the Department must grant or deny a taxpayer's petition within 120 days of filing. Restricts awarding of attorneys' fees to excise tax cases and limits the amount awarded to the Department to \$2,500. Creates a joint legislative taskforce to review the

current performance of the tax appeal process and make recommendations to the Legislature by December 1, 2014.

**Appropriation:** None.

**Fiscal Note:** Available..

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** Yes.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: The Committee had a work session on the tax appeal process in November to learn about how to improve the process in Washington. There must be a balanced relationship between the taxpayer and their government. The work session considered a broad array of options for reforming the tax appeal process. There are a number of deficiencies in the current tax appeal process. The current Board is not an effective forum for handling complex excise tax cases; it is designed to handle a large volume of property tax cases. Most excise tax cases go directly to superior court, which is not an efficient process. One remedy is to increase the Board members' pay and authority. Decisions of the Board should be directly appealable to the Court of Appeals. The Board should be able to stay collection on taxes while a taxpayer is appealing their case before the Board. Awarding of attorneys' fees should ensure that only strong claims are filed and provide incentives for compromise. The Board may also conduct mediations to resolve cases quickly and efficiently.

CON: This is a complex issue that does have room for improvement, and there is support for the goals of improving the relationship between the taxpayer and government. It appears that the issue is with complex excise tax cases, and property tax cases are not necessarily the issue. There should be some efforts to address the current Board backlog.

OTHER: Assessors are more directly impacted by property taxes. The mediation process could be a challenge with the presumption of correctness in current law. There is a concern regarding awarding of attorneys' fees, which might provide incentive for attorneys to make sure they get their fees. The Board should have the discretion to award attorney fees, and the fees should be restricted more than the current proposed limit. Attorneys' fees may not be appropriate for tax appeals, and may shift taxpayers to informal decisions or superior court. The stay of collections standards are not specific, which may just lead to a delay in paying taxes.

**Persons Testifying:** PRO: Senator Braun, prime sponsor; Brett Durbin, Riddell Williams, citizens; Amber Carter, Assn. of WA Business.

CON: Brian Enslow, WA State Assn. of Counties.

OTHER: Monty Cobb, WA Assn. of County Officials; Kate Adams, Dept. of Revenue.