

As Reported by the House Ways and Means Committee

130th General Assembly

Regular Session

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Sub. H. B. No. 138

Representatives McClain, Letson

Cosponsor: Representative Amstutz

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A B I L L

To amend sections 5703.02, 5717.01, 5717.011, 1
5717.02, and 5717.04 and to enact sections 2
5703.021 and 5717.031 of the Revised Code to make 3
changes to the law governing the Board of Tax 4
Appeals, including authorizing a small claims 5
docket within the Board, requiring the Board to 6
adopt rules to manage appeals and operate a 7
mediation program, requiring the Board to receive 8
notices of appeal and statutory transcripts 9
electronically, providing pleading standards for 10
appeals to the Board, and expressly authorizing 11
the Board to consider motions. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5703.02, 5717.01, 5717.011, 5717.02, 13
and 5717.04 be amended and sections 5703.021 and 5717.031 of the 14
Revised Code be enacted to read as follows: 15

Sec. 5703.02. There is hereby created the board of tax 16
appeals, which shall exercise the following powers and perform the 17
following duties: 18

(A) Exercise the authority provided by law to hear and 19

determine all appeals of questions of law and fact arising under 20
the tax laws of this state in appeals from decisions, orders, 21
determinations, or actions of any tax administrative agency 22
established by the law of this state, including but not limited to 23
appeals from: 24

(1) Actions of county budget commissions; 25

(2) Decisions of county boards of revision; 26

(3) Actions of any assessing officer or other public official 27
under the tax laws of this state; 28

(4) Final determinations by the tax commissioner of any 29
preliminary, amended, or final tax assessments, reassessments, 30
valuations, determinations, findings, computations, or orders made 31
by ~~him~~ the tax commissioner; 32

(5) Adoption and promulgation of rules of the tax 33
commissioner. 34

(B) Appoint a secretary of the board of tax appeals, who 35
shall serve in the unclassified civil service at the pleasure of 36
the board, and any other employees as are necessary in the 37
exercise of the powers and the performance of the duties and 38
functions that the board is by law authorized and required to 39
exercise, and prescribe the duties of all employees, and to fix 40
their compensation as provided by law; 41

(C) Maintain a journal, which shall be open to public 42
inspection and in which the secretary shall keep a record of all 43
of the proceedings and the vote of each of its members upon every 44
action taken by it; 45

(D) Adopt and promulgate, in the manner provided by section 46
5703.14 of the Revised Code, and enforce all rules relating to the 47
procedure of the board in hearing appeals it has the authority or 48
duty to hear, and to the procedure of officers or employees whom 49

the board may appoint; provided that section 5703.13 of the Revised Code shall apply to and govern the procedure of the board. Such rules shall include, but need not be limited to, the following:

(1) Rules governing the creation and implementation of a mediation program, including procedures for requesting, requiring participation in, objecting to, and conducting a mediation;

(2) Rules requiring the tax commissioner, county boards of revision, and municipal boards of appeal created under section 718.11 of the Revised Code to electronically file any transcript required to be filed with the board of tax appeals, and instructions and procedures for the electronic filing of such transcripts.

(3) Rules establishing procedures to control and manage appeals filed with the board. The procedures shall include, but not be limited to, the establishment of a case management schedule that shall include expected dates related to discovery deadlines, disclosure of evidence, pre-hearing motions, and the hearing, and other case management issues considered appropriate.

Sec. 5703.021. (A) There is hereby established a small claims docket within the board of tax appeals.

(B) An appeal may be filed with the board of tax appeals and assigned to the small claims docket as authorized under division (C) of this section, provided the appeal is either of the following:

(1) Commenced under section 5717.01 of the Revised Code in which the property at issue qualifies for the partial tax exemption described in section 319.302 of the Revised Code; or

(2) Commenced under section 5717.011 or 5717.02 of the Revised Code when the amount in controversy claimed by the

taxpayer does not exceed ten thousand dollars exclusive of 80
interest and penalty. The board by rule may modify the 81
jurisdictional dollar threshold for cases qualifying for the small 82
claims docket. 83

(C)(1) An appeal may be assigned to the small claims docket 84
only if either of the following applies: 85

(a) The appellant is one or more taxpayers that requests 86
assignment of the appeal to the small claims docket; 87

(b) The appellant is not a taxpayer, and the appellant files 88
with the notice of appeal a written statement from every taxpayer 89
that is a party to the appeal stating that each such taxpayer 90
consents to the appeal being assigned to the small claims docket. 91

(2) After an appeal is assigned to the small claims docket or 92
the regular docket, the board may reassign the case to the regular 93
docket or the small claims docket, respectively, only with the 94
written consent of all the parties or as authorized under division 95
(D) of this section. 96

(D) Notwithstanding division (B) of this section, the board 97
shall reassign an appeal initially assigned to the small claims 98
docket to the regular docket upon the request of a party that is a 99
taxpayer, when the appeal presents an issue of public or great 100
general interest or presents a constitutional issue, or when the 101
board determines that the appeal does not meet the requirements of 102
division (B) of this section. 103

(E) The board shall adopt rules to implement procedures to 104
provide informal review of the taxpayers' appeals in the small 105
claims docket, which may include telephonic hearings. 106

(F) A decision or order for an appeal assigned to the small 107
claims docket shall be conclusive as to all parties and may not be 108
appealed, and shall be recorded in the journal required by 109
division (C) of section 5703.02 of the Revised Code, but such a 110

decision or order shall not be considered as precedent in any 111
other case, hearing, or proceeding. 112

(G) The appearance of an attorney at law licensed to practice 113
law in this state on behalf of any party to an appeal assigned to 114
the small claims docket is permitted but not required. A person 115
other than a natural person, which is a real party in interest as 116
taxpayer or claimant, or an entity that may participate by 117
statute, may commence such an appeal or appear through an attorney 118
at law licensed to practice law in this state. Such an 119
organization may, through any bona fide officer, partner, member, 120
trustee, or salaried employee, file and present its claim or 121
defense in any appeal assigned to the small claims docket, 122
provided the organization does not, in the absence of 123
representation by an attorney at law licensed to practice law in 124
this state, engage in cross-examination, argument, or other acts 125
of advocacy. The board may provide by rule for additional 126
guidelines applicable to practice before the board. 127

Sec. 5717.01. An appeal from a decision of a county board of 128
revision may be taken to the board of tax appeals within thirty 129
days after notice of the decision of the county board of revision 130
is mailed as provided in division (A) of section 5715.20 of the 131
Revised Code. Such an appeal may be taken by the county auditor, 132
the tax commissioner, or any board, legislative authority, public 133
official, or taxpayer authorized by section 5715.19 of the Revised 134
Code to file complaints against valuations or assessments with the 135
auditor. Such appeal shall be taken by the filing of a notice of 136
appeal, in person or by certified mail, express mail, facsimile 137
transmission, electronic transmission, or by authorized delivery 138
service, with the board of tax appeals and with the county board 139
of revision. If notice of appeal is filed by certified mail, 140
express mail, or authorized delivery service as provided in 141
section 5703.056 of the Revised Code, the date of the United 142

States postmark placed on the sender's receipt by the postal 143
service or the date of receipt recorded by the authorized delivery 144
service shall be treated as the date of filing. If notice of 145
appeal is filed by facsimile transmission or electronic 146
transmission, the date and time the notice is received by the 147
board shall be the date and time reflected on a timestamp provided 148
by the board's electronic system, and the appeal shall be 149
considered filed with the board on the date reflected on that 150
timestamp. Any timestamp provided by another computer system or 151
electronic submission device shall not affect the time and date 152
the notice is received by the board. Upon receipt of such notice 153
of appeal such county board of revision shall by certified mail 154
notify all persons thereof who were parties to the proceeding 155
before such county board of revision, and shall file proof of such 156
notice with the board of tax appeals. The county board of revision 157
shall thereupon certify to the board of tax appeals a transcript 158
of the record of the proceedings of the county board of revision 159
pertaining to the original complaint, and all evidence offered in 160
connection therewith. Such appeal may be heard by the board of tax 161
appeals at its offices in Columbus or in the county where the 162
property is listed for taxation, or the board of tax appeals may 163
cause its examiners to conduct such hearing and to report to it 164
their findings for affirmation or rejection. An appeal may proceed 165
pursuant to section 5703.021 of the Revised Code on the small 166
claims docket if the appeal qualifies under that section. 167

The board of tax appeals may order the appeal to be heard on 168
the record and the evidence certified to it by the county board of 169
revision, or it may order the hearing of additional evidence, and 170
it may make such investigation concerning the appeal as it deems 171
proper. 172

Sec. 5717.011. (A) As used in this chapter, "tax 173
administrator" has the same meaning as in section 718.01 of the 174

Revised Code. 175

(B) Appeals from a municipal board of appeal created under 176
section 718.11 of the Revised Code may be taken by the taxpayer or 177
the tax administrator to the board of tax appeals or may be taken 178
by the taxpayer or the tax administrator to a court of common 179
pleas as otherwise provided by law. If the taxpayer or the tax 180
administrator elects to make an appeal to the board of tax appeals 181
or court of common pleas, and subject to section 5703.021 of the 182
Revised Code with respect to appeals assigned to the small claims 183
docket, the appeal shall be taken by the filing of a notice of 184
appeal with the board of tax appeals or court of common pleas, the 185
municipal board of appeal, and the opposing party. The notice of 186
appeal shall be filed within sixty days after the day the 187
appellant receives notice of the decision issued under section 188
718.11 of the Revised Code. ~~The~~ An appeal filed with a court of 189
common pleas is governed by the Rules of Civil Procedure and other 190
rules of practice and procedure applicable to civil actions. For 191
an appeal filed with the board of tax appeals, the notice of 192
appeal may be filed in person or by certified mail, express mail, 193
facsimile transmission, electronic transmission, or by authorized 194
delivery service as provided in section 5703.056 of the Revised 195
Code. If the notice of appeal is filed by certified mail, express 196
mail, or authorized delivery service as provided in section 197
5703.056 of the Revised Code, the date of the United States 198
postmark placed on the sender's receipt by the postal service or 199
the date of receipt recorded by the authorized delivery service 200
shall be treated as the date of filing with the board. If notice 201
of appeal is filed by facsimile transmission or electronic 202
transmission, the date and time the notice is received by the 203
board shall be the date and time reflected on a timestamp provided 204
by the board's electronic system, and the appeal shall be 205
considered filed with the board on the date reflected on that 206

timestamp. Any timestamp provided by another computer system or 207
electronic submission device shall not affect the time and date 208
the notice is received by the board. The notice of appeal shall 209
have attached thereto and incorporated therein by reference a true 210
copy of the decision issued under section 718.11 of the Revised 211
Code ~~and shall specify the errors therein complained of,~~ but 212
failure to attach a copy of such notice and incorporate it by 213
reference in the notice of appeal does not invalidate the appeal. 214

(C) A notice of appeal for an appeal filed with the board of 215
tax appeals shall contain a short and plain statement of the 216
claimed errors in the decision of the municipal board of appeal 217
showing that the appellant is entitled to relief and a demand for 218
the relief to which the appellant claims to be entitled. An 219
appellant may amend the notice of appeal once as a matter of 220
course within sixty days after the certification of the 221
transcript. Otherwise, an appellant may amend the notice of appeal 222
only after receiving leave of the board or the written consent of 223
each adverse party. Leave of the board shall be freely given when 224
justice so requires. 225

(D) Upon the filing of a notice of appeal with the board of 226
tax appeals, the municipal board of appeal shall certify to the 227
board of tax appeals a transcript of the record of the proceedings 228
before it, together with all evidence considered by it in 229
connection therewith. Such appeals may be heard by the board at 230
its office in Columbus or in the county where the appellant 231
resides, or it may cause its examiners to conduct such hearings 232
and to report to it their findings for affirmation or rejection. 233
The board may order the appeal to be heard upon the record and the 234
evidence certified to it by the administrator, but upon the 235
application of any interested party the board shall order the 236
hearing of additional evidence, and the board may make such 237
investigation concerning the appeal as it considers proper. An 238

appeal may proceed pursuant to section 5703.021 of the Revised Code on the small claims docket if the appeals qualifies under that section. 239
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~~(D)~~(E) If an issue being appealed under this section is 242
addressed in a municipal corporation's ordinance or regulation, 243
the tax administrator, upon the request of the board of tax 244
appeals, shall provide a copy of the ordinance or regulation to 245
the board of tax appeals. 246

Sec. 5717.02. (A) Except as otherwise provided by law, 247
appeals from final determinations by the tax commissioner of any 248
preliminary, amended, or final tax assessments, reassessments, 249
valuations, determinations, findings, computations, or orders made 250
by the commissioner may be taken to the board of tax appeals by 251
the taxpayer, by the person to whom notice of the tax assessment, 252
reassessment, valuation, determination, finding, computation, or 253
order by the commissioner is required by law to be given, by the 254
director of budget and management if the revenues affected by that 255
decision would accrue primarily to the state treasury, or by the 256
county auditors of the counties to the undivided general tax funds 257
of which the revenues affected by that decision would primarily 258
accrue. Appeals from the redetermination by the director of 259
development services under division (B) of section 5709.64 or 260
division (A) of section 5709.66 of the Revised Code may be taken 261
to the board of tax appeals by the enterprise to which notice of 262
the redetermination is required by law to be given. Appeals from a 263
decision of the tax commissioner or county auditor concerning an 264
application for a property tax exemption may be taken to the board 265
of tax appeals by the applicant or by a school district that filed 266
a statement concerning that application under division (C) of 267
section 5715.27 of the Revised Code. Appeals from a 268
redetermination by the director of job and family services under 269
section 5733.42 of the Revised Code may be taken by the person to 270

which the notice of the redetermination is required by law to be 271
given under that section. 272

(B) The appeals shall be taken by the filing of a notice of 273
appeal with the board, and with the tax commissioner if the tax 274
commissioner's action is the subject of the appeal, with the 275
county auditor if the county auditor's action is the subject of 276
the appeal, with the director of development services if that 277
director's action is the subject of the appeal, or with the 278
director of job and family services if that director's action is 279
the subject of the appeal. The notice of appeal shall be filed 280
within sixty days after service of the notice of the tax 281
assessment, reassessment, valuation, determination, finding, 282
computation, or order by the commissioner, property tax exemption 283
determination by the commissioner or the county auditor, or 284
redetermination by the director has been given as provided in 285
section 5703.37, 5709.64, 5709.66, or 5733.42 of the Revised Code. 286
The notice of appeal may be filed in person or by certified mail, 287
express mail, facsimile transmission, electronic transmission or 288
by authorized delivery service. If the notice of appeal is filed 289
by certified mail, express mail, or authorized delivery service as 290
provided in section 5703.056 of the Revised Code, the date of the 291
United States postmark placed on the sender's receipt by the 292
postal service or the date of receipt recorded by the authorized 293
delivery service shall be treated as the date of filing. If notice 294
of appeal is filed by facsimile transmission or electronic 295
transmission, the date and time the notice is received by the 296
board shall be the date and time reflected on a timestamp provided 297
by the board's electronic system, and the appeal shall be 298
considered filed with the board on the date reflected on that 299
timestamp. Any timestamp provided by another computer system or 300
electronic submission device shall not affect the time and date 301
the notice is received by the board. The notice of appeal shall 302

have attached to it and incorporated in it by reference a true 303
copy of the notice sent by the commissioner, county auditor, or 304
director to the taxpayer, enterprise, or other person of the final 305
determination or redetermination complained of, ~~and shall also~~ 306
~~specify the errors therein complained of,~~ but failure to attach a 307
copy of that notice and to incorporate it by reference in the 308
notice of appeal does not invalidate the appeal. 309

(C) A notice of appeal shall contain a short and plain 310
statement of the claimed errors in the determination or 311
redetermination of the tax commissioner, county auditor, or 312
director showing that the appellant is entitled to relief and a 313
demand for the relief to which the appellant claims to be 314
entitled. An appellant may amend the notice of appeal once as a 315
matter of course within sixty days after the certification of the 316
transcript. Otherwise, an appellant may amend the notice of appeal 317
only after receiving leave of the board or the written consent of 318
each adverse party. Leave of the board shall be freely given when 319
justice so requires. 320

(D) Upon the filing of a notice of appeal, the tax 321
commissioner, county auditor, or the director, as appropriate, 322
shall certify to the board a transcript of the record of the 323
proceedings before the commissioner, auditor, or director, 324
together with all evidence considered by the commissioner, 325
auditor, or director in connection with the proceedings. Those 326
appeals or applications may be heard by the board at its office in 327
Columbus or in the county where the appellant resides, or it may 328
cause its examiners to conduct the hearings and to report to it 329
their findings for affirmation or rejection. 330

~~(D)~~(E) The board may order the appeal to be heard upon the 331
record and the evidence certified to it by the commissioner, 332
county auditor, or director, but upon the application of any 333
interested party the board shall order the hearing of additional 334

evidence, and it may make an investigation concerning the appeal 335
that it considers proper. An appeal may proceed pursuant to 336
section 5703.021 of the Revised Code on the small claims docket if 337
the appeal qualifies under that section. 338

Sec. 5717.031. The board of tax appeals may consider and 339
decide motions, including, but not limited to, motions in limine, 340
before the board makes a decision on any matter. 341

Sec. 5717.04. ~~The~~ This section does not apply to any decision 342
and order of the board made pursuant to section 5703.021 of the 343
Revised Code. Any such decision and order shall be conclusive upon 344
all parties and may not be appealed. 345

The proceeding to obtain a reversal, vacation, or 346
modification of a decision of the board of tax appeals shall be by 347
appeal to the supreme court or the court of appeals for the county 348
in which the property taxed is situate or in which the taxpayer 349
resides. If the taxpayer is a corporation, then the proceeding to 350
obtain such reversal, vacation, or modification shall be by appeal 351
to the supreme court or to the court of appeals for the county in 352
which the property taxed is situate, or the county of residence of 353
the agent for service of process, tax notices, or demands, or the 354
county in which the corporation has its principal place of 355
business. In all other instances, the proceeding to obtain such 356
reversal, vacation, or modification shall be by appeal to the 357
court of appeals for Franklin county. 358

Appeals from decisions of the board determining appeals from 359
decisions of county boards of revision may be instituted by any of 360
the persons who were parties to the appeal before the board of tax 361
appeals, by the person in whose name the property involved in the 362
appeal is listed or sought to be listed, if such person was not a 363
party to the appeal before the board of tax appeals, or by the 364

county auditor of the county in which the property involved in the appeal is located. 365
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Appeals from decisions of the board of tax appeals 367
determining appeals from final determinations by the tax 368
commissioner of any preliminary, amended, or final tax 369
assessments, reassessments, valuations, determinations, findings, 370
computations, or orders made by the commissioner may be instituted 371
by any of the persons who were parties to the appeal or 372
application before the board, by the person in whose name the 373
property is listed or sought to be listed, if the decision 374
appealed from determines the valuation or liability of property 375
for taxation and if any such person was not a party to the appeal 376
or application before the board, by the taxpayer or any other 377
person to whom the decision of the board appealed from was by law 378
required to be sent, by the director of budget and management if 379
the revenue affected by the decision of the board appealed from 380
would accrue primarily to the state treasury, by the county 381
auditor of the county to the undivided general tax funds of which 382
the revenues affected by the decision of the board appealed from 383
would primarily accrue, or by the tax commissioner. 384

Appeals from decisions of the board upon all other appeals or 385
applications filed with and determined by the board may be 386
instituted by any of the persons who were parties to such appeal 387
or application before the board, by any persons to whom the 388
decision of the board appealed from was by law required to be 389
sent, or by any other person to whom the board sent the decision 390
appealed from, as authorized by section 5717.03 of the Revised 391
Code. 392

Such appeals shall be taken within thirty days after the date 393
of the entry of the decision of the board on the journal of its 394
proceedings, as provided by such section, by the filing by 395
appellant of a notice of appeal with the court to which the appeal 396

is taken and the board. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within ten days of the date on which the first notice of appeal was filed or within the time otherwise prescribed in this section, whichever is later. A notice of appeal shall set forth the decision of the board appealed from and the errors therein complained of. Proof of the filing of such notice with the board shall be filed with the court to which the appeal is being taken. The court in which notice of appeal is first filed shall have exclusive jurisdiction of the appeal.

In all such appeals the ~~tax~~ commissioner or all persons to whom the decision of the board appealed from is required by such section to be sent, other than the appellant, shall be made appellees. Unless waived, notice of the appeal shall be served upon all appellees by certified mail. The prosecuting attorney shall represent the county auditor in any such appeal in which the auditor is a party.

The board, upon written demand filed by an appellant, shall within thirty days after the filing of such demand file with the court to which the appeal is being taken a certified transcript of the record of the proceedings of the board pertaining to the decision complained of and the evidence considered by the board in making such decision.

If upon hearing and consideration of such record and evidence the court decides that the decision of the board appealed from is reasonable and lawful it shall affirm the same, but if the court decides that such decision of the board is unreasonable or unlawful, the court shall reverse and vacate the decision or modify it and enter final judgment in accordance with such modification.

The clerk of the court shall certify the judgment of the court to the board, which shall certify such judgment to such

public officials or take such other action in connection therewith 429
as is required to give effect to the decision. The "taxpayer" 430
includes any person required to return any property for taxation. 431

Any party to the appeal shall have the right to appeal from 432
the judgment of the court of appeals on questions of law, as in 433
other cases. 434

Section 2. That existing sections 5703.02, 5717.01, 5717.011, 435
5717.02, and 5717.04 of the Revised Code are hereby repealed. 436

Section 3. The amendment by this act of division (D)(2) of 437
section 5703.02 of the Revised Code takes effect January 1, 2015. 438

Section 4. Any rule adopted by the Board of Tax Appeals under 439
division (D)(3) of section 5703.02 of the Revised Code shall apply 440
to appeals filed with the Board on or after January 1, 2015. 441