

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 46**

**Representative Amstutz**

—

**A BILL**

To amend sections 5717.01, 5717.011, and 5717.02 and 1  
to enact section 5703.021 of the Revised Code to 2  
create a small claims division of the Ohio Board 3  
of Tax Appeals, to allow for parties to file a 4  
notice of appeal to the Board by facsimile or 5  
electronic transmission using electronic mail, to 6  
require the Board to establish a case management 7  
schedule for appeals, and to authorize the Tax 8  
Commissioner to expedite and issue a final 9  
determination for residential property value 10  
appeals with written consent of the parties. 11

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

**Section 1.** That sections 5717.01, 5717.011, and 5717.02 be 12  
amended and section 5703.021 of the Revised Code be enacted to 13  
read as follows: 14

**Sec. 5703.021.** (A) There is hereby established a small claims 15  
division of the board of tax appeals. 16

(B) The small claims division shall have jurisdiction over 17  
any proceeding that is filed as a small claims case by election of 18  
the appellant and written agreement of all the parties or 19  
reassigned by the board with the written consent of all the 20

parties, and that is either of the following: 21

(1) Commenced under section 5717.01 of the Revised Code in 22  
which the property at issue qualifies for the partial tax 23  
exemption described in section 319.302 of the Revised Code; or 24

(2) Commenced under section 5717.011 or 5717.02 of the 25  
Revised Code when the amount in controversy claimed by the 26  
taxpayer does not exceed ten thousand dollars exclusive of 27  
interest and penalty. The board by rule may modify the 28  
jurisdictional dollar threshold for cases qualifying for the small 29  
claims division. 30

(C) Notwithstanding division (B) of this section, the board 31  
shall reassign an appeal initially assigned to the small claims 32  
division to the regular docket upon request of a party or when the 33  
appeal presents an issue of public or great general interest or 34  
presents a constitutional issue, or when the board determines that 35  
the appeal does not meet the requirements of division (B) of this 36  
section. 37

(D) The board may reassign to the small claims docket any 38  
appeal originally assigned to the regular docket with the written 39  
consent of all the parties. 40

(E) The board shall adopt rules to implement procedures to 41  
provide informal review of the taxpayers' appeals in the small 42  
claims division, which may include telephonic hearings. 43

(F) A decision or order of the small claims division shall be 44  
conclusive as to all parties and may not be appealed, and shall be 45  
recorded in the journal required by division (C) of section 46  
5703.02 of the Revised Code, but such a decision or order shall 47  
not be considered as precedent in any other case, hearing, or 48  
proceeding. 49

(G) The appearance of an attorney at law licensed to practice 50  
law in this state on behalf of any party to an appeal assigned to 51

the small claims docket is permitted but not required. A person 52  
other than a natural person, which is a real party in interest as 53  
taxpayer or claimant, or an entity that may participate by 54  
statute, may commence such an appeal or appear through an attorney 55  
at law licensed to practice law in this state. Such an 56  
organization may, through any bona fide officer, partner, member, 57  
trustee, or salaried employee, file and present its claim or 58  
defense in any appeal in the small claims division, provided the 59  
organization does not, in the absence of representation by an 60  
attorney at law licensed to practice law in this state, engage in 61  
cross-examination, argument, or other acts of advocacy. The board 62  
may provide by rule for additional guidelines applicable to 63  
practice before the board. 64

**Sec. 5717.01.** An appeal from a decision of a county board of 65  
revision may be taken to the board of tax appeals within thirty 66  
days after notice of the decision of the county board of revision 67  
is mailed as provided in division (A) of section 5715.20 of the 68  
Revised Code. Such an appeal may be taken by the county auditor, 69  
the tax commissioner, or any board, legislative authority, public 70  
official, or taxpayer authorized by section 5715.19 of the Revised 71  
Code to file complaints against valuations or assessments with the 72  
auditor. Such appeal shall be taken by the filing of a notice of 73  
appeal, in person or by certified mail, express mail, facsimile 74  
transmission, electronic transmission using electronic mail, or by 75  
authorized delivery service, with the board of tax appeals and 76  
with the county board of revision. If notice of appeal is filed by 77  
certified mail, express mail, or authorized delivery service as 78  
provided in section 5703.056 of the Revised Code, the date of the 79  
United States postmark placed on the sender's receipt by the 80  
postal service or the date of receipt recorded by the authorized 81  
delivery service shall be treated as the date of filing. If notice 82  
of appeal is filed by facsimile transmission or electronic 83

transmission using electronic mail, the date and time of 84  
transmission shall be treated as the date of filing. Upon receipt 85  
of such notice of appeal such county board of revision shall by 86  
certified mail notify all persons thereof who were parties to the 87  
proceeding before such county board of revision, and shall file 88  
proof of such notice with the board of tax appeals. The county 89  
board of revision shall thereupon certify to the board of tax 90  
appeals a transcript of the record of the proceedings of the 91  
county board of revision pertaining to the original complaint, and 92  
all evidence offered in connection therewith. Such appeal may be 93  
heard by the board of tax appeals at its offices in Columbus or in 94  
the county where the property is listed for taxation, or the board 95  
of tax appeals may cause its examiners to conduct such hearing and 96  
to report to it their findings for affirmation or rejection. An 97  
appeal may proceed pursuant to section 5703.021 of the Revised 98  
Code in the small claims division if the appeal qualifies under 99  
that section. 100

The board of tax appeals may order the appeal to be heard on 101  
the record and the evidence certified to it by the county board of 102  
revision, or it may order the hearing of additional evidence, and 103  
it may make such investigation concerning the appeal as it deems 104  
proper. 105

**Sec. 5717.011.** (A) As used in this chapter, "tax 106  
administrator" has the same meaning as in section 718.01 of the 107  
Revised Code. 108

(B) Appeals from a municipal board of appeal created under 109  
section 718.11 of the Revised Code may be taken by the taxpayer or 110  
the tax administrator to the board of tax appeals or may be taken 111  
by the taxpayer or the tax administrator to a court of common 112  
pleas as otherwise provided by law. If the taxpayer or the tax 113  
administrator elects to make an appeal to the board of tax appeals 114

or court of common pleas, and subject to section 5703.021 of the 115  
Revised Code with respect to small claims proceedings, the appeal 116  
shall be taken by the filing of a notice of appeal with the board 117  
of tax appeals or court of common pleas, the municipal board of 118  
appeal, and the opposing party. The notice of appeal shall be 119  
filed within sixty days after the day the appellant receives 120  
notice of the decision issued under section 718.11 of the Revised 121  
Code. The notice of appeal may be filed in person or by certified 122  
mail, express mail, facsimile transmission, electronic 123  
transmission using electronic mail, or by authorized delivery 124  
service as provided in section 5703.056 of the Revised Code. If 125  
the notice of appeal is filed by certified mail, express mail, or 126  
authorized delivery service as provided in section 5703.056 of the 127  
Revised Code, the date of the United States postmark placed on the 128  
sender's receipt by the postal service or the date of receipt 129  
recorded by the authorized delivery service shall be treated as 130  
the date of filing. If notice of appeal is filed by facsimile 131  
transmission or electronic transmission using electronic mail, the 132  
date and time of the transmission shall be treated as the date of 133  
filing. The notice of appeal shall have attached thereto and 134  
incorporated therein by reference a true copy of the decision 135  
issued under section 718.11 of the Revised Code and shall specify 136  
the errors therein complained of, but failure to attach a copy of 137  
such notice and incorporate it by reference in the notice of 138  
appeal does not invalidate the appeal. 139

(C) Upon the filing of a notice of appeal with the board of 140  
tax appeals, the municipal board of appeal shall certify to the 141  
board of tax appeals a transcript of the record of the proceedings 142  
before it, together with all evidence considered by it in 143  
connection therewith. Such appeals may be heard by the board at 144  
its office in Columbus or in the county where the appellant 145  
resides, or it may cause its examiners to conduct such hearings 146  
and to report to it their findings for affirmation or rejection. 147

The board may order the appeal to be heard upon the record and the evidence certified to it by the administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make such investigation concerning the appeal as it considers proper. An appeal may proceed pursuant to section 5703.021 of the Revised Code in the small claims division if the appeals qualifies under that section.

(D) If an issue being appealed under this section is addressed in a municipal corporation's ordinance or regulation, the tax administrator, upon the request of the board of tax appeals, shall provide a copy of the ordinance or regulation to the board of tax appeals.

**Sec. 5717.02.** (A) Except as otherwise provided by law, appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be taken to the board of tax appeals by the taxpayer, by the person to whom notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner is required by law to be given, by the director of budget and management if the revenues affected by that decision would accrue primarily to the state treasury, or by the county auditors of the counties to the undivided general tax funds of which the revenues affected by that decision would primarily accrue. Appeals from the redetermination by the director of development under division (B) of section 5709.64 or division (A) of section 5709.66 of the Revised Code may be taken to the board of tax appeals by the enterprise to which notice of the redetermination is required by law to be given. Appeals from a decision of the tax commissioner or county auditor concerning an application for a property tax exemption may be taken to the board

of tax appeals by the applicant or by a school district that filed 180  
a statement concerning that application under division (C) of 181  
section 5715.27 of the Revised Code. Appeals from a 182  
redetermination by the director of job and family services under 183  
section 5733.42 of the Revised Code may be taken by the person to 184  
which the notice of the redetermination is required by law to be 185  
given under that section. 186

(B) The appeals shall be taken by the filing of a notice of 187  
appeal with the board, and with the tax commissioner if the tax 188  
commissioner's action is the subject of the appeal, with the 189  
county auditor if the county auditor's action is the subject of 190  
the appeal, with the director of development if that director's 191  
action is the subject of the appeal, or with the director of job 192  
and family services if that director's action is the subject of 193  
the appeal. The notice of appeal shall be filed within sixty days 194  
after service of the notice of the tax assessment, reassessment, 195  
valuation, determination, finding, computation, or order by the 196  
commissioner, property tax exemption determination by the 197  
commissioner or the county auditor, or redetermination by the 198  
director has been given as provided in section 5703.37, 5709.64, 199  
5709.66, or 5733.42 of the Revised Code. The notice of appeal may 200  
be filed in person or by certified mail, express mail, facsimile 201  
transmission, electronic transmission using electronic mail, or by 202  
authorized delivery service. If the notice of appeal is filed by 203  
certified mail, express mail, or authorized delivery service as 204  
provided in section 5703.056 of the Revised Code, the date of the 205  
United States postmark placed on the sender's receipt by the 206  
postal service or the date of receipt recorded by the authorized 207  
delivery service shall be treated as the date of filing. If notice 208  
of appeal is filed by facsimile transmission or electronic 209  
transmission using electronic mail, the date and time of the 210  
transmission shall be treated as the date of filing. The notice of 211

appeal shall have attached to it and incorporated in it by 212  
reference a true copy of the notice sent by the commissioner, 213  
county auditor, or director to the taxpayer, enterprise, or other 214  
person of the final determination or redetermination complained 215  
of, and shall also specify the errors therein complained of, but 216  
failure to attach a copy of that notice and to incorporate it by 217  
reference in the notice of appeal does not invalidate the appeal. 218

(C) Upon the filing of a notice of appeal, the tax 219  
commissioner, county auditor, or the director, as appropriate, 220  
shall certify to the board a transcript of the record of the 221  
proceedings before the commissioner, auditor, or director, 222  
together with all evidence considered by the commissioner, 223  
auditor, or director in connection with the proceedings. Those 224  
appeals or applications may be heard by the board at its office in 225  
Columbus or in the county where the appellant resides, or it may 226  
cause its examiners to conduct the hearings and to report to it 227  
their findings for affirmation or rejection. The board shall 228  
institute procedures to control and manage appeals governed by 229  
this section. The procedures shall include the conduct of 230  
discovery such that, upon the filing of the statutory transcript 231  
in an appeal, the board, through its attorney examiners, shall 232  
establish a case management schedule in consultation with the 233  
parties and their counsel subject to section 5703.021 of the 234  
Revised Code. 235

(D) The board may order the appeal to be heard upon the 236  
record and the evidence certified to it by the commissioner, 237  
county auditor, or director, but upon the application of any 238  
interested party the board shall order the hearing of additional 239  
evidence, and it may make an investigation concerning the appeal 240  
that it considers proper. An appeal may proceed pursuant to 241  
section 5703.021 of the Revised Code in the small claims division 242  
if the appeal qualifies under that section. 243



**Section 2.** That existing sections 5717.01, 5717.011, and 244  
5717.02 of the Revised Code are hereby repealed. 245

**Section 3.** This section applies to any residential property 246  
case that has been appealed from a board of revision and is 247  
docketed before the Board of Tax Appeals. Upon the written consent 248  
of the parties to have the case transferred to the Department of 249  
Taxation, the Tax Commissioner may process such appeals and issue 250  
a determination that is final for all parties. The Commissioner 251  
shall establish a practice and procedure for processing such 252  
cases. Any request by a party for transfer of a case to the 253  
Department of Taxation under this section shall be made within two 254  
years from the effective date of this section. This authority is 255  
granted in conjunction with section 5703.021 of the Revised Code. 256