

COMMITTEE STATEMENT

LB 194

HEARING DATE: January 21, 1999

COMMITTEE ON: Revenue

TITLE: (Revenue Committee) Change provisions relating to property taxation

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results: 7/0/0/1

7	Yes	Senators Coordsen, Landis, C. Peterson, Raikes, Redfield, Schellpeper and Wickersham
0	No	
0	Present, not voting	
1	Absent	Senator Hartnett

PROPONENTS

George Kilpatrick, Legal Counsel
Catherine Lang

REPRESENTING

Committee on Revenue
Property Tax Division

OPPONENTS

Jim Cunningham
Thomas O'Neill
Roger Keetle

REPRESENTING

Nebraska Catholic Conference
Independent Colleges & Universities of NE
NE Association of Hospitals & Health Systems

NEUTRAL

Ruth Jackson

REPRESENTING

Franklin County Assessor

SUMMARY OF PURPOSE AND/OR CHANGES:

LB 194 would enact the recommendations of the Property Tax Administrator. Generally, the proposal deals with the repeal of obsolete provisions, education of and enforcement against county assessors, and defining and providing procedures regarding clerical errors as opposed to omitted property. The proposal also moves up by 11 days the deadline for assessors to complete the valuation of property prior to equalization. Section by section the bill:

COMMITTEE STATEMENT

Sections 1, 9, and 27 would amend section 13-509, 77-125, and 77-1514 to strike references to the valuation of motor vehicles. These changes to these sections are also made in LB 141.

Section 2 would amend section 18-2147 to provide that a notice of the division of property taxes pursuant to tax increment financing must be made to the county assessor by August 1st of the year in which the division is to be effective.

Section 3 would amend section 23-3202 to provide that the Property Tax Administrator need not hold an assessor's certificate. This change is also contained in LB 36.

Section 4 would amend section 60-3006 to correct a reference to county board as the "county board of equalization". This change is also contained in LB 141.

Section 5 would amend section 77-101 to incorporate sections 7 and 8 into the property tax statutes.

Sections 6, 14 through 19, and 27 amend several sections of the statutes to move earlier the date by which the county assessor must complete the assessment from March 1st to April 20th.

Section 7 would define clerical error to include mathematical error, computer malfunction, printing or data entry errors, or incorrect records.

Section 8 would define assessment roll to mean the complete and verified list of taxable and exempt property.

Section 10 would amend section 77-202.03 to provide a procedure for cases when a tax exempt property is purchased by another exempt entity which continues it in a tax-exempt use. Also, the bill would provide that if the county board reviews and returns previously tax-exempt property to the tax rolls, the usual valuation and protest procedures apply.

Section 11 would rearrange section 77-1233.04, dealing with the listing of personal property, and again amend the penalty provisions. Under LB 194, any personal property returned for taxation between May 1 and August 1 would be subject to a penalty of ten percent of the taxes due. Property returned on or after August 1 would be subject to a penalty of 25%. Currently, the penalties are (a) \$25 or 10% of the taxes due whichever is greater if the taxpayer self-reports the omission (contained in section 77-1233.05 to be repealed outright in the bill), and (b) \$100 or 50%, whichever is greater, if the assessor discovers the omission.

Section 12 would amend section 77-1233.06 to harmonize the repeal of section 77-1233.05.

Section 13 gives the power to the Property Tax Administrator to adopt rules and regulations and by these and other means develop and conduct educational programs and tests for assessors.

Section 20 would amend section 77-1327 to repeal an obsolete reference to mobile homes as a class of real property.

Section 21 rewrites section 77-1330 (enforcement against county assessors) to rearrange its provisions and incorporate sections 77-425 and 1336, which are repealed outright by the bill. Section 77-378 which deals with enforcement of the property tax statutes and rules through the local county attorney would also be repealed outright.

COMMITTEE STATEMENT

Subsection (1) allows the Property Tax Administrator to issue and revise rules containing minimum standards of assessment performance. Manuals and directives could be issued without going through the rules and regulations procedures. Local assessment shall comply with the standards. These provisions are currently in section 77-1336 (1).

Subsection (2) allows the Property Tax Administrator to examine any records or books of counties relating to assessment. Failure to produce such records constitutes grounds for suspension of an assessor's certificate.

Subsection (3) provided that after examination of the books and records of a county, the PTA shall issue a report to the county assessor and board. If the examination indicated that the county was not up to standard, corrective measures are suggested.

Subsection (4) then allows the PTA to request corrective measures. If possible, the corrective measures shall be made in time to be included with the current year's assessment. Individual protests may follow and all corrections are to be complete by August 10th. If the county fails to implement the corrective measures, the PTA may suspend the assessment function of the county as allowed under subsection (6) and implement the corrective measures. The county is to pay the cost and the PTA may seek reimbursement from the State Treasurer by diverting aid to be distributed to the county. The enforcement provisions are present in the current section 77-1330.

Subsection (5) provides that if the failures contained in a report to a county and the orders from the PTA resulting therefrom are not addressed within one year, the PTA may issue an order for the county and its assessor to show cause why its assessment function should not be suspended. The hearing is to be held at least ten days after notice.

Subsection (6) provides that the PTA is to be the local assessor during any such suspension. Procedures regarding the suspension of the county assessment function are currently contained in section 77-1336, to be repealed outright by the bill.

Subsection (7) allows the PTA to suspend the certificate of an assessor or deputy assessor for refusal to diligently perform his or her responsibilities. Hearing procedures are provided. These provisions are currently contained in section 77-425, to be repealed outright by the bill.

Subsection (8) provided that these enforcement actions are subject to the Nebraska Administrative Procedures Act. Appeals are to be pursuant to the Tax Equalization and Review Commission Act. These provisions are currently within section 77-1336, to be repealed outright by the bill.

Section 22 would amend section 77-1501 to strike the requirement that the county board of equalization make all adjustments to the average of the class or subclass. New language is also added to provide that the designated official for motor vehicles, rather than the county assessor, appear at hearings on the exemption of motor vehicles.

Section 23 would amend section 77-1503.01 to clearly prohibit the county board of equalization from acting with regard to state assessed property.

Section 24 would amend section 77-1504 to require the "other information" considered by the county board of equalization be "documented" information. The intention is to remove simple opinion from the process.

Section 25 would amend section 77-1504.01 to allow the TERC, when making class adjustments at the request of the county after individual protests, to adjust only those of the class or area which were not adjusted pursuant to the individual protest process.

COMMITTEE STATEMENT

Section 26 would amend section 77-1507 to incorporate clerical errors into the omitted property procedures.

Section 28 would amend section 77-1515 to provide that an action against a county to enforce the creation of the abstract of assessment would be before TERC instead of the court system.

Section 29 is a new section that allows correction of clerical errors which affect valuation until July 15th (the end of the protest period). After that, clerical errors which do not change value could still be corrected.

Section 30 would amend section 77-1734.01 to strike obsolete language and allow correction of clerical errors or honest mistake or understanding regardless of whether or not the owner had notice.

Section 31 repeals the original sections, and

Section 32 repeals thirteen sections outright. In addition to those already mentioned above, the bill would repeal nine sections dealing with mortgages in the property tax context. The statutes are obsolete. All the repealed sections are attached to the back of this bill summary.

Section 33 declares an emergency.

EXPLANATION OF AMENDMENTS, IF ANY:

The Committee Amendments:

1. Add two new sections amending section 77-202.01 and 202.03 to clarify that penalties assessed against property tax exempt organizations which file late for exemption are assessed against the property instead of the organization, and to clarify that such penalties are distributed to all taxing units in proportion to property taxes.
2. Add a new section allowing county treasurers to provide individual, mailed notice of delinquent real estate taxes instead of the published notice required in section 77-1802.
3. Add a new section amending section 77-5007 to harmonize the Tax Equalization and Review Commission Act to the provision in LB 194 that provides for appeals of assessor discipline cases to the TERC.
4. Modify the definition of assessment roll to strike the inclusion of exempt personal property.
5. Strike manuals as eligible for issue without the necessity of going through the rule and regulation process. Directives would still be exempt from those requirements, and
6. Harmonize a date change made in LB 140.

Senator William R. Wickersham, Chairman
Committee on Revenue