

AMENDMENTS TO LB 965

Introduced by Revenue.

1 1. Strike original sections 16 and 21 and insert the
2 following new sections:

3 Sec. 14. Section 77-1345.01, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 77-1345.01 (1) On or before July 15 in the year of
6 application, the county assessor shall approve or deny the
7 application for special valuation filed pursuant to section
8 77-1345. On or before July 22, the county assessor shall issue
9 notice of approval or denial.

10 (2) If the application is approved by the county
11 assessor, the land shall be valued as provided in section 77-1344
12 and, on or before July 22, the county board of equalization shall
13 send a property valuation notice for special value and recapture
14 value to the owner and, if not the same, the applicant. Within
15 thirty days after the mailing of the notice, a written protest of
16 the special value or recapture value may be filed.

17 (3) (a) If the application is denied by the assessor, a
18 written protest of the denial of the application may be filed
19 within thirty days after the mailing of the denial.

20 (b) If the denial of an application for special valuation
21 is reversed on appeal and the application is approved, the land
22 shall be valued as provided in section 77-1344 and the county
23 board of equalization shall send the property valuation notice for

1 special value and recapture value to the owner and, if not the
2 same, the applicant or his or her successor in interest, within
3 fourteen days after the date of the final order. Within thirty days
4 after the mailing of the notice, a written protest of the special
5 value or recapture value may be filed.

6 (4) If the county board of equalization takes action
7 pursuant to section 77-1504 or 77-1507 and the applicant filed
8 an application for special valuation pursuant to subsection (3)
9 of section 77-1345, the county assessor shall approve or deny the
10 application within fifteen days after the filing of the application
11 and issue notice of the approval or denial as prescribed in
12 subsection (1) of this section. If the application is denied by
13 the county assessor, a written protest of the denial may be filed
14 within thirty days of the mailing of the denial.

15 (5) The assessor shall mail notice of any action taken
16 by him or her on an application to the owner and the applicant if
17 different than the owner.

18 (6) All provisions of section 77-1502 except dates for
19 filing of a protest, the period for hearing protests, and the date
20 for mailing notice of the county board of equalization's decision
21 are applicable to any protest filed pursuant to this section.

22 (7) The county board of equalization shall decide any
23 protest filed pursuant to this section within thirty days after the
24 filing of the protest.

25 (8) The clerk shall mail a copy of any decision made by
26 the county board of equalization on a protest filed pursuant to
27 this section to the owner and the applicant if different than the

1 owner within seven days after the board's decision.

2 (9) Any decision of the county board of equalization
3 may be appealed to the Tax Equalization and Review Commission, in
4 accordance with section 77-5013, within thirty days after the date
5 of the decision.

6 (10) ~~Any~~ If a failure to give notice as prescribed
7 by this section prevented timely filing of a protest or appeal
8 provided for in this section, any applicant may petition the
9 Tax Equalization and Review Commission in accordance with section
10 77-5013, on or before December 31 of each year, to determine
11 whether the land will receive special valuation for that year,
12 to determine special value for that year or years, or for 2009
13 and prior years to determine recapture value for that year. if
14 a failure to give notice as prescribed by this section prevented
15 timely filing of a protest or appeal provided for in this section.

16 Sec. 17. Section 77-1734.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-1734.01 (1) In the case of an amended federal income
19 tax return or whenever a person's return is changed or corrected
20 by the Internal Revenue Service or other competent authority that
21 decreases the Nebraska adjusted basis of the person's taxable
22 tangible personal property, the county treasurer shall refund that
23 portion of the tax paid that is in excess of the amount due after
24 the amendment or correction.

25 (2) In case of payment made of any property taxes or any
26 payments in lieu of taxes with respect to property as a result of
27 a clerical error or honest mistake or misunderstanding, on the part

1 of a county or other political subdivision of the state or any
2 taxpayer, the county treasurer to whom the tax was paid ~~may~~ shall
3 refund ~~or credit~~ that portion of the tax paid as a result of the
4 clerical error or honest mistake or misunderstanding. A claim for
5 a refund pursuant to this section shall be made in writing to the
6 county treasurer to whom the tax was paid within three years after
7 the date the tax was due or within ninety days after filing the
8 amended return or the correction becomes final.

9 (3) Before the refund ~~or credit~~ may be is made,
10 the county treasurer shall receive verification from the county
11 assessor or other taxing official that such error or mistake was
12 made or the amended return was filed or the correction made, and
13 the claim for refund ~~or credit~~ shall be submitted to the county
14 board. The county board shall pass upon the claim as any other
15 claim made against the county. The refund shall be made in the
16 manner prescribed in section 77-1736.06. The claim for a refund
17 or credit pursuant to this section shall be made in writing to
18 the county treasurer to whom the tax was paid within two years
19 from the date the tax was due. The ordering of a refund or
20 credit by the county board pursuant to this section shall not
21 have a dispositional effect on any similar claim for refund or
22 credit made by another taxpayer. Upon verification, the county
23 board shall approve the claim. The refund shall be made in the
24 manner prescribed in section 77-1736.06. Such refund shall not
25 have a dispositional effect on any similar refund for another
26 taxpayer. This section may not be used to challenge the valuation
27 of property, the equalization of property, or the constitutionality

1 of a tax.

2 Sec. 20. Section 77-5004, Revised Statutes Supplement,
3 2007, is amended to read:

4 77-5004 (1) Each commissioner shall be a qualified voter
5 and resident of the state and, for each commissioner representing
6 a congressional district, a domiciliary of the district he or she
7 represents.

8 (2) Each commissioner shall devote his or her full time
9 and efforts to the discharge of his or her duties and shall not
10 hold any other office under the laws of this state, any city or
11 county in this state, or the United States Government while serving
12 on the commission. Each commissioner shall possess:

13 (a) Appropriate knowledge of terms commonly used in or
14 related to real property appraisal and of the writing of appraisal
15 reports;

16 (b) Adequate knowledge of depreciation theories, cost
17 estimating, methods of capitalization, and real property appraisal
18 mathematics;

19 (c) An understanding of the principles of land economics,
20 appraisal processes, and problems encountered in the gathering,
21 interpreting, and evaluating of data involved in the valuation of
22 real property, including complex industrial properties and mass
23 appraisal techniques;

24 (d) Knowledge of the law relating to taxation, civil and
25 administrative procedure, due process, and evidence in Nebraska;

26 (e) At least thirty hours of successfully completed
27 class hours in courses of study, approved by the Real Property

1 Appraiser Board, which relate to appraisal and which include the
2 fifteen-hour National Uniform Standards of Professional Appraisal
3 Practice Course. If a commissioner has not received such training
4 prior to his or her appointment, such training shall be completed
5 within one year after appointment; and

6 (f) Such other qualifications and skills as reasonably
7 may be requisite for the effective and reliable performance of the
8 commission's duties.

9 (3) One commissioner shall possess any certification or
10 training required to become a licensed real property appraiser as
11 set forth in section 76-2230.

12 (4) Prior to January 1, 2002, the chairperson, and on and
13 after January 1, 2002, at least two commissioners, shall have been
14 engaged in the practice of law in the State of Nebraska for at
15 least five years, which may include prior service as a judge, and
16 shall be currently admitted to practice before the Nebraska Supreme
17 Court.

18 (5) No commissioner or employee of the commission shall
19 hold any position of profit or engage in any occupation or business
20 interfering with or inconsistent with his or her duties as a
21 commissioner or employee. A person is not eligible for appointment
22 and may not hold the office of commissioner or be appointed by the
23 commission to or hold any office or position under the commission
24 if he or she holds any official office or position.

25 (6) (a) Each commissioner who meets the requirements of
26 subsection (4) of this section on or after January 1, 2002, shall
27 annually attend a seminar or class of at least two days' duration

1 that is:

2 (i) Sponsored by a recognized assessment or appraisal
3 organization, in each of these areas: Utility and railroad
4 appraisal; appraisal of complex industrial properties; appraisal
5 of other hard to assess properties; and mass appraisal, residential
6 or agricultural appraisal, or assessment administration; or

7 (ii) Pertaining to management, law, civil or
8 administrative procedure, or other knowledge or skill necessary for
9 performing the duties of the office.

10 (b) Each commissioner who does not meet the requirements
11 of subsection (4) of this section on or after January 1, 2002,
12 shall within two years after his or her appointment attend at least
13 thirty hours of instruction that constitutes training for judges or
14 administrative law judges.

15 (7) The commissioners shall be considered employees of
16 the state for purposes of sections ~~81-1301 to 81-1391~~ 81-1320 to
17 81-1328 and 84-1601 to 84-1615.

18 (8) The commissioners shall be reimbursed as prescribed
19 in sections 81-1174 to 81-1177 for their actual and necessary
20 expenses in the performance of their official duties pursuant to
21 the Tax Equalization and Review Commission Act.

22 Sec. 21. Section 77-5019, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 77-5019 (1) Any party aggrieved by a final decision in
25 a case appealed to the commission, any party aggrieved by a final
26 decision of the commission on a petition, or any party aggrieved
27 by an order of the commission issued pursuant to section 77-5020

1 or sections 77-5023 to 77-5028 shall be entitled to judicial
2 review in the Court of Appeals. Upon request of the county, the
3 Attorney General may appear and represent the county or political
4 subdivision in cases in which the commission is not a party.
5 Nothing in this section shall be deemed to prevent resort to other
6 means of review, redress, or relief provided by law.

7 (2)(a) Proceedings for review shall be instituted by
8 filing a petition and the appropriate docket fees in the Court
9 of Appeals within thirty days after the date on which a final
10 appealable order is entered by the commission. All parties of
11 record shall be made parties to the proceedings for review. The
12 commission shall only be made a party of record if the action
13 complained of is an order issued by the commission pursuant to
14 section 77-1504.01 or 77-5020 or sections 77-5023 to 77-5028.
15 Summons shall be served on all parties within thirty days after
16 the filing of the petition in the manner provided for service
17 of a summons in section 25-510.02. The court, in its discretion,
18 may permit other interested persons to intervene. No bond or
19 undertaking is required for an appeal to the Court of Appeals.

20 (b) A petition for review shall set forth: (i) The name
21 and mailing address of the petitioner; (ii) the name and mailing
22 address of the county whose action is at issue or the commission;
23 (iii) identification of the final decision at issue together with
24 a duplicate copy of the final decision; (iv) the identification of
25 the parties in the case that led to the final decision; (v) the
26 facts to demonstrate proper venue; (vi) the petitioner's reasons
27 for believing that relief should be granted; and (vii) a request

1 for relief, specifying the type and extent of the relief requested.

2 (3) The filing of the petition or the service of summons
3 upon the commission shall not stay enforcement of a decision. The
4 commission may order a stay. The court may order a stay after
5 notice of the application for the stay to the commission and to
6 all parties of record. The court may require the party requesting
7 the stay to give bond in such amount and conditioned as the court
8 directs.

9 (4) Upon receipt of a petition the date for submission
10 of the official record shall be determined by the court. The
11 commission shall prepare a certified copy of the official record of
12 the proceedings had before the commission in the case. The official
13 record, ~~unless limited by the written request of the petitioner,~~
14 shall include: (a) Notice of all proceedings; (b) any pleadings,
15 motions, requests, preliminary or intermediate rulings and orders,
16 and similar correspondence to or from the commission pertaining to
17 the case; (c) the transcribed record of the hearing before the
18 commission, including all exhibits and evidence introduced during
19 the hearing, a statement of matters officially noticed by the
20 commission during the proceeding, and all proffers of proof and
21 objections and rulings thereon; and (d) the final order appealed
22 from. The official record in an appeal of a commission decision
23 issued pursuant to sections 77-5023 to 77-5028 may be limited by
24 the request of a petitioner to those parts of the record pertaining
25 to a specific county. The commission shall charge the petitioner
26 with the reasonable direct cost or require the petitioner to pay
27 the cost for preparing the official record for transmittal to the

1 court in all cases except when the petitioner is not required to
2 pay a filing fee. If payment is required, payment of the cost,
3 as estimated by the commission, for preparation of the official
4 record shall be paid to the commission prior to preparation of the
5 official record and the commission shall not transmit the official
6 record to the court until payment of the actual costs of its
7 preparation is received.

8 (5) The review shall be conducted by the court for error
9 on the record of the commission. If the court determines that
10 the interest of justice would be served by the resolution of any
11 other issue not raised before the commission, the court may remand
12 the case to the commission for further proceedings. The court may
13 affirm, reverse, or modify the decision of the commission or remand
14 the case for further proceedings.

15 (6) Appeals under this section shall be given precedence
16 over all civil cases.

17 Sec. 23. Section 81-1316, Revised Statutes Supplement,
18 2007, is amended to read:

19 81-1316 (1) All agencies and personnel of state
20 government shall be covered by sections 81-1301 to 81-1319 and
21 shall be considered subject to the State Personnel System, except
22 the following:

23 (a) All personnel of the office of the Governor;

24 (b) All personnel of the office of the Lieutenant
25 Governor;

26 (c) All personnel of the office of the Secretary of
27 State;

- 1 (d) All personnel of the office of the State Treasurer;
- 2 (e) All personnel of the office of the Attorney General;
- 3 (f) All personnel of the office of the Auditor of Public
4 Accounts;
- 5 (g) All personnel of the Legislature;
- 6 (h) All personnel of the court systems;
- 7 (i) All personnel of the Board of Educational Lands and
8 Funds;
- 9 (j) All personnel of the Public Service Commission;
- 10 (k) All personnel of the Nebraska Brand Committee;
- 11 (l) All personnel of the Commission of Industrial
12 Relations;
- 13 (m) All personnel of the State Department of Education;
- 14 (n) All personnel of the Nebraska state colleges and the
15 Board of Trustees of the Nebraska State Colleges;
- 16 (o) All personnel of the University of Nebraska;
- 17 (p) All personnel of the Coordinating Commission for
18 Postsecondary Education;
- 19 (q) All personnel of the Governor's Policy Research
20 Office, but not to include personnel within the State Energy
21 Office;
- 22 (r) All personnel of the Commission on Public Advocacy;
- 23 (s) All agency heads;
- 24 (t) (i) The Director of Behavioral Health of the Division
25 of Behavioral Health; (ii) the Director of Children and Family
26 Services of the Division of Children and Family Services; (iii)
27 the Director of Developmental Disabilities of the Division of

1 Developmental Disabilities; (iv) the Director of Medicaid and
2 Long-Term Care of the Division of Medicaid and Long-Term Care; (v)
3 the Director of Public Health of the Division of Public Health; and
4 (vi) the Director of Veterans' Homes of the Division of Veterans'
5 Homes;

6 (u) The chief medical officer established under section
7 81-3115, the Administrator of the Office of Juvenile Services, and
8 the chief executive officers of the Beatrice State Developmental
9 Center, Lincoln Regional Center, Norfolk Regional Center, Hastings
10 Regional Center, Grand Island Veterans' Home, Norfolk Veterans'
11 Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans'
12 Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth
13 Rehabilitation and Treatment Center-Geneva;

14 (v) All personnel employed as pharmacists, physicians,
15 psychiatrists, psychologists, service area administrators, or
16 facility operating officers of the Department of Health and Human
17 Services; and

18 (w) Deputies and examiners of the Department of Banking
19 and Finance and the Department of Insurance as set forth in
20 sections 8-105 and 44-119, except for those deputies and examiners
21 who remain in the State Personnel System; and -

22 (x) All personnel of the Tax Equalization and Review
23 Commission.

24 (2) At each agency head's discretion, up to the following
25 number of additional positions may be exempted from the State
26 Personnel System, based on the following agency size categories:

27 Number of Agency Number of Noncovered

	Employees	Positions
1		
2	less than 25	0
3	25 to 100	1
4	101 to 250	2
5	251 to 500	3
6	501 to 1000	4
7	1001 to 2000	5
8	2001 to 3000	8
9	3001 to 4000	11
10	4001 to 5000	14
11	over 5000	25

12 The purpose of having such noncovered positions shall
13 be to allow agency heads the opportunity to recruit, hire,
14 and supervise critical, confidential, or policymaking personnel
15 without restrictions from selection procedures, compensation rules,
16 career protections, and grievance privileges. Persons holding the
17 noncovered positions shall serve at the pleasure of the agency head
18 and shall be paid salaries set by the agency head.

19 (3) No changes to this section or to the number of
20 noncovered positions within an agency shall affect the status
21 of personnel employed on the date the changes become operative
22 without their prior written agreement. A state employee's career
23 protections or coverage by personnel rules and regulations shall
24 not be revoked by redesignation of the employee's position as a
25 noncovered position without the prior written agreement of such
26 employee.

27 Sec. 25. Original section 76-214, Revised Statutes

1 Supplement, 2007, is repealed.

2 2. On page 15, line 23, after "regarding" insert
3 "taxable".

4 3. On page 37, line 18, strike "21" and insert "25"; in
5 line 23 after "sections" insert "77-115,"; and in line 25 after the
6 second comma insert "77-1345.01,".

7 4. On page 38, line 1, strike the first "and" and after
8 the first comma insert "and 77-5019,"; in line 2 strike "76-214,"
9 and strike "and" and insert "77-5004,"; and in line 3 after the
10 first comma insert "and 81-1316,".

11 5. Renumber the remaining sections accordingly.