

SECOND REGULAR SESSION

SENATE BILL NO. 686

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Pre-filed December 1, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3448S.01I

AN ACT

To repeal section 138.431, RSMo, and to enact in lieu thereof one new section relating to hearing officers for appeals before the state tax commission.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 138.431, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 138.431, to read as follows:

138.431. 1. To hear and decide appeals pursuant to section 138.430, the
2 commission shall appoint one or more hearing officers. The hearing officers shall
3 be subject to supervision by the commission. No person shall participate on
4 behalf of the commission in any case in which such person is an interested party.

5 2. The commission may assign such appeals as it deems fit to a hearing
6 officer for disposition.

7 **(1) The assignment shall be deemed made when the scheduling**
8 **order is first issued by the commission and signed by the hearing**
9 **officer assigned, unless another hearing officer is assigned to the case**
10 **for disposition by other language in said order.**

11 **(2) A change of hearing officer, or a reservation of the appeal for**
12 **disposition as described in subsection 3 of this section, shall be ordered**
13 **by the commission in any appeal upon the timely filing of a written**
14 **application by a party to disqualify the hearing officer assigned. The**
15 **application shall be filed within thirty days from the assignment of any**
16 **appeal to a hearing officer and need not allege or prove any cause for**
17 **such change and need not be verified. No more than one change of**
18 **hearing officer shall be allowed for each party in any appeal.**

19 3. The commission may, in its discretion, reserve such appeals as it deems

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 fit to be heard and decided by the full commission, a quorum thereof, or any
21 commissioner, subject to the provisions of section 138.240, and, in such case, the
22 decision shall be final, subject to judicial review in the manner provided in
23 subsection 4 of section 138.470.

24 **[3.] 4.** The manner in which appeals shall be presented and the conduct
25 of hearings shall be made in accordance with rules prescribed by the commission
26 for determining the rights of the parties; provided that, the commission, with the
27 consent of all the parties, may refer an appeal to mediation. The commission
28 shall promulgate regulations for mediation pursuant to this section. No
29 regulation or portion of a regulation promulgated pursuant to the authority of
30 this section shall become effective unless it has been promulgated pursuant to the
31 provisions of chapter 536, RSMo. There shall be no presumption that the
32 assessor's valuation is correct. A full and complete record shall be kept of all
33 proceedings. All testimony at any hearing shall be recorded but need not be
34 transcribed unless the matter is further appealed.

35 **[4.] 5.** Unless an appeal is voluntarily dismissed, a hearing officer, after
36 affording the parties reasonable opportunity for fair hearing, shall issue a
37 decision and order affirming, modifying, or reversing the determination of the
38 board of equalization, and correcting any assessment which is unlawful, unfair,
39 improper, arbitrary, or capricious. The commission may, prior to the decision
40 being rendered, transfer to another hearing officer the proceedings on an appeal
41 determination before a hearing officer. The complainant, respondent-assessor, or
42 other party shall be duly notified of a hearing officer's decision and order,
43 together with findings of fact and conclusions of law. Appeals from decisions of
44 hearing officers shall be made pursuant to section 138.432.

45 **[5.] 6.** All decisions issued pursuant to this section or section 138.432 by
46 the commission or any of its duly assigned hearing officers shall be issued no
47 later than sixty days after the hearing on the matter to be decided is held or the
48 date on which the last party involved in such matter files his or her brief,
49 whichever event later occurs.

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