

FIRST REGULAR SESSION

[CORRECTED]

# SENATE BILL NO. 261

97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR RUPP.

Read 1st time February 5, 2013, and ordered printed.

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TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal section 138.431, RSMo, and to enact in lieu thereof one new section relating to the assignment of hearing officers by the state tax commission.

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*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Section A. Section 138.431, RSMo, is repealed and one new section  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] **any** scheduling  
8 order is first issued by the commission [and signed by the hearing officer  
9 assigned, unless another hearing officer is assigned to the case for disposition by  
10 other language in said order], **however, if no scheduling order has been**  
11 **issued, then a hearing officer shall be assigned no later than sixty days**  
12 **after the appeal is filed by the taxpayer.**

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

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

19 more than one change of hearing officer shall be allowed for each party in any  
20 appeal.

21 3. The commission may, in its discretion, reserve such appeals as it deems  
22 fit to be heard and decided by the full commission, a quorum thereof, or any  
23 commissioner, subject to the provisions of section 138.240, and, in such case, the  
24 decision shall be final, subject to judicial review in the manner provided in  
25 subsection 4 of section 138.470.

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

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

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

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