~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 24, 2018

**S. 793**

Introduced by Senator Sheheen

S. Printed 1/24/18--S.

Read the first time January 9, 2018.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 793) to amend the Code of Laws of South Carolina, 1976, to enact the “Property Tax Procedure Act”; to amend Section 12‑60‑30, relating to South, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 5 and inserting:

/ SECTION 5. Section 12‑60‑2120(A) and (B) of the 1976 Code is amended to read:

“(A)(1) A property taxpayer may appeal a property tax assessment proposed by a division of the department by filing a written protest with the department.

(2) The department shall notify any affected counties of the written protest.

(B)(1) A property taxpayer may protest any denial of a tax exemption by the department for property he believes is exempt from property tax by filing a written protest with the department.

(2) If a written protest is filed by a taxpayer, other than an individual, then the department must notify any affected counties of the written protest.”/

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 9, 2018**

**State Expenditure**

This bill amends the duties of the Department of Revenue (DOR), as related to property tax appeals. The bill requires DOR to issue a determination no later than one year after the date a written protest is filed. Unless granted an extension, failure to issue a department determination within one year requires that the department notify the taxpayer and any affected county of the right to request a contested case hearing before the Administrative Law Court. This bill further stipulates that a refund can only be granted for a maximum of three tax years preceding the final determination, unless otherwise approved by the Administrative Law Court.

Currently, DOR is required to issue a determination in response to a property tax appeal within nine months, and DOR is not required to provide notification to any taxpayer or county of the right to request a contested case hearing in the event that a determination is not issued by the department within that time.

**Administrative Law Court.** The Administrative Law Court currently has jurisdiction to hear contested cases related to property taxes. This bill is not expected to significantly increase the number of cases brought before the ALC. This bill is anticipated to have no expenditure impact on the general fund, federal funds, or other funds.

**Department of Revenue.** This billalters the duties of the department, as related to property tax appeals. The revised duties of the department are procedural in nature. As such, we do not expect that the bill will have an expenditure impact to the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “PROPERTY TAX PROCEDURE ACT”; TO AMEND SECTION 12‑60‑30, RELATING TO SOUTH CAROLINA REVENUE PROCEDURES DEFINITIONS, SO AS TO PROVIDE DEFINITIONS; TO AMEND SECTION 12‑60‑450, RELATING TO APPEALS OF PROPOSED ASSESSMENTS, SO AS TO REQUIRE THE DEPARTMENT TO NOTIFY AFFECTED COUNTIES IN CERTAIN INSTANCES; TO AMEND SECTION 12‑60‑2120, RELATING TO PROPERTY TAX APPEALS BY WRITTEN PROTEST, SO AS TO PROVIDE THAT THE DEPARTMENT SHALL NOTIFY ANY AFFECTED COUNTIES OF A WRITTEN PROTEST; TO AMEND SECTION 12‑60‑2140, RELATING TO CERTAIN PAYMENTS AND REFUNDS, SO AS TO PROVIDE THAT NO REFUND IS DUE FOR ANY TAX YEAR BEFORE THE THREE TAX YEARS IMMEDIATELY PRECEDING THE FINAL DETERMINATION; AND TO AMEND SECTION 12‑60‑2150, RELATING TO FILING A CLAIM FOR A REFUND, SO AS TO PROVIDE FOR CERTAIN NOTIFICATIONS AND TO PROVIDE THAT A FAILURE TO TIMELY ISSUE A WRITTEN NOTICE IS CONSIDERED A DENIAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Property Tax Procedure Act”.

SECTION 2. Section 12‑60‑30 of the 1976 Code is amended by adding appropriately numbered items to read:

“( ) ‘Local governing body’ means, for property tax purposes, the governing body of a county, municipality, or other political subdivision that is entitled to receive any portion of the tax revenue generated from a property tax assessment.

( ) ‘Affected county’ means, for property tax purposes, a county that administers property tax collections for its own jurisdiction or for another local governing body and is in a property tax dispute with a taxpayer.

( ) ‘Chief executive officer’ means, for property tax purposes, the official identified in Section 8‑13‑1110(B)(5).

( ) ‘Chief administrative official’ means, for property tax purposes, the official identified in Section 8‑13‑1110(B)(6).”

SECTION 3. Section 12‑60‑30(10) of the 1976 Code is amended to read:

“(10) ‘Department determination’ means the final determination within the department from which a ~~person~~ taxpayer or a local governing body, as applicable, may request a contested case hearing before the Administrative Law Court.”

SECTION 4. Section 12‑60‑450(E) of the 1976 Code is amended to read:

“(E)(1) The department ~~will~~ shall make a department determination using the information provided by the taxpayer in accordance with Section 12‑60‑30(15)(c)(iii).

(2) A department determination ~~adverse to the taxpayer~~ must be in writing and must:

(a) be sent by first class mail or delivered to the taxpayer and any affected county;

(b) explain the basis for the department’s determination;

(c) inform the taxpayer and any affected county of ~~his~~ the right to request a contested case hearing; and

(d) if a proposed assessment was protested, explain that the taxes will be assessed in thirty days and payment demanded unless the taxpayer or any local governing body requests a contested case hearing.

(3) The department must issue the department determination ~~on a proposed assessment~~ not later than ~~nine months~~ one year after the date the written protest or claim was filed with the department by the taxpayer unless the department requests and is granted an extension of time not to exceed six months from the Administrative Law Court. Upon failure of the department to timely issue the department determination, the ~~taxpayer may~~ department shall notify the taxpayer and any affected county of the right to request a contested case hearing before the Administrative Law Court for a determination of the tax controversy. A request for a contested case hearing before the Administrative Law Court must be made in accordance with its rules and must be made within thirty days after the date the department’s notice was sent by first class mail or delivered to the taxpayer or any affected county.

(4) In order to comply with the provisions of this section requiring the department to notify affected counties, the department shall notify the chief executive officer, auditor, assessor, and treasurer of each affected county. The county auditor, upon notification, shall notify any local governing bodies by notifying the chief administrative official of each local governing body.”

SECTION 5. Section 12‑60‑2120(A) and (B) of the 1976 Code is amended to read:

“(A)(1) A property taxpayer may appeal a property tax assessment proposed by a division of the department by filing a written protest with the department.

(2) The department shall notify any affected counties of the written protest.

(B)(1) A property taxpayer may protest any denial of a tax exemption by the department for property he believes is exempt from property tax by filing a written protest with the department.

(2) The department shall notify any affected counties of the written protest.”

SECTION 6. Section 12‑60‑2140(C) of the 1976 Code is amended to read:

“(C) After a final determination, if the property tax assessment is less than the adjusted property tax assessment, a corrected property tax assessment must be made and entered, provided that a refund is not due for any tax year before the three tax years immediately preceding the final determination unless the Administrative Law Court approves the refund. The overpayment of tax must be refunded together with interest determined in accordance with Section 12‑54‑25 on the overpayment.”

SECTION 7. Section 12‑60‑2150(B), (D), and (F) of the 1976 Code is amended to read:

“(B) The department shall notify the counties affected by the claim for refund by notifying the chief executive officer, auditor, assessor, and treasurer of each affected county. A county auditor, upon notification, shall notify ~~any affected municipalities or other political subdivisions~~ the chief administrative official of any local governing bodies affected by the claim for refund.

(D) The appropriate division of the department shall determine what refund is due, if any, and give the taxpayer written notice of its determination as soon as practicable after a claim has been filed, but not later than six months after the date the claim for refund was filed with the department. If the department fails to timely issue a written notice of its determination, that failure is considered a written denial of the claim for refund.

(F) The department shall consider the ~~claim~~ written protest, determine the correct property tax assessment, and issue ~~any necessary orders~~ a department determination in accordance with the provisions of Section 12‑60‑450(E). All appeals before the department must be conducted as provided in Section 12‑60‑450(C) through (E).”

SECTION 8. This act takes effect upon approval by the Governor.

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