

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1656
Committee Substitute Favorable 6/7/00
Committee Substitute #2 Favorable 6/20/00

Short Title: Lincoln County E&R Board.

(Local)

Sponsors:

Referred to:

May 23, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF
3 EQUALIZATION AND REVIEW FOR LINCOLN COUNTY.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-322 reads as rewritten:

6 "**§ 105-322. Lincoln County board of equalization and review.**

7 (a) ~~Personnel Board Composed of Commissioners if Special Board Not~~
8 ~~Appointed. — Except as otherwise provided herein, If the board of county commissioners~~
9 ~~does not appoint a special board of equalization and review as provided in this section,~~
10 ~~the board of equalization and review of each the county shall be composed of the~~
11 ~~members of the board of county commissioners.~~

12 (a1) Appointment of Special Board. — Upon the adoption of a resolution so
13 providing, the board of commissioners is authorized to appoint a special board of
14 equalization and review to carry out the duties imposed under this section. The resolution
15 shall provide for the membership, qualifications, terms of office and the filling of vacancies on
16 the board. The special board shall be composed of five members and three alternate
17 members. The board of commissioners shall also designate the chairman a chair of the
18 special board. board from the membership of the board. The special board shall elect a

1 vice-chair from its membership to serve as acting chair in the absence of the chair as
2 necessary. To be eligible for appointment to the special board, the board of county
3 commissioners must find that the person has satisfactory knowledge of or experience in
4 real estate, fee appraisals, banking, farming, or other business management.

5 Members of the special board shall serve a term of two years. No member may serve
6 more than three consecutive terms. Vacancies shall be filled by the board of county
7 commissioners; a successor appointed to fill a vacancy shall serve for the remainder of
8 the term. Members of the special board shall serve at the pleasure of the board of county
9 commissioners.

10 ~~The resolution may also authorize a taxpayer to appeal a decision of the special board~~
11 ~~with respect to the listing or appraisal of his property or the property of others to the~~
12 ~~board of county commissioners.—The resolution creating the special board shall be~~
13 ~~adopted not later than the first Monday in March of the year for which it is to be effective~~
14 ~~and shall continue in effect until revised or rescinded. It shall be entered in the minutes~~
15 ~~of the meeting of the board of commissioners and a copy thereof shall be forwarded to~~
16 ~~the Department of Revenue within 15 days after its adoption.~~

17 ~~Nothing in this subsection (a) shall be construed as repealing any law creating a~~
18 ~~special board of equalization and review or creating any board charged with the duties of~~
19 ~~a board of equalization and review in any county.~~

20 (a2) Quorum; Alternates. – A majority of the members of the special board shall
21 constitute a quorum for the purpose of transacting business. A decision of the special
22 board shall be made by a majority of the members present. An alternate member of the
23 special board shall have all the powers and duties of a regular board member when sitting
24 as a member of the board or of any subcommittee or panel created by the board. The
25 board of county commissioners shall adopt a resolution setting forth any other provisions
26 it deems necessary to govern the proceedings of the special board and any subcommittee
27 or panel created by the special board.

28 (b) Compensation. – The board of county commissioners shall fix the
29 compensation and allowances to be paid members of the board of equalization and
30 review for their services and expenses.

31 (c) Oath. – Each member of the board of equalization and review shall take the
32 oath required by Article VI, § 7 of the North Carolina Constitution with the following
33 phrase added to it: ‘that I will not allow my actions as a member of the board of
34 equalization and review to be influenced by personal or political friendships or
35 obligations.’. The oath must be filed with the clerk of the board of county
36 commissioners.

37 (d) Clerk and Minutes. – The assessor or a person designated by the assessor shall
38 serve as clerk to the board of equalization and review, shall be present at all meetings,
39 shall maintain accurate minutes of the actions of the board, shall draft all written
40 decisions of the special board, and shall give to the board such information as ~~he~~ the clerk
41 may have or can obtain with respect to the listing and valuation of taxable property in the
42 county. The chair of the special board shall review all written decisions drafted by the

1 clerk. Only the chair of the special board or, in the chair's absence, the vice-chair can
2 execute the decisions of the special board.

3 (e) Time of Meeting. — ~~Each~~ Except as otherwise provided in this section, each
4 year the board of equalization and review shall hold its first meeting not earlier than the
5 first Monday in April and not later than the first Monday in May. ~~In years in which a~~
6 ~~county does not conduct a real property revaluation, the~~ The board shall complete its duties
7 on or before the third Monday following its first meeting ~~advertised adjournment date~~
8 unless, in its opinion, a longer period of time is necessary or expedient to a proper
9 execution of its responsibilities. ~~In no event shall~~ Except as provided in subdivision (g)(7)
10 of this section, the board may not sit later than July 1 except to hear and determine
11 requests made under the provisions of subdivision (g)(2), below, when such requests are
12 made within the time prescribed by law. ~~In the year in which a county conducts a real~~
13 ~~property revaluation, the board shall complete its duties on or before December 1, except that it~~
14 ~~may sit after that date to hear and determine requests made under the provisions of subdivision~~
15 ~~(g)(2), below, when such requests are made within the time prescribed by law. From the time of~~
16 ~~its first meeting until its adjournment, the~~ The board shall meet at such times as it deems
17 reasonably necessary to perform its statutory duties and to receive requests and hear the
18 appeals of taxpayers under the provisions of subdivision (g)(2), below. ~~this section.~~

19 (f) Notice of Meetings and Adjournment. — A notice of the date, hours, place, and
20 purpose of the first meeting of the board of equalization and review shall be published at
21 least three times in some newspaper having general circulation in the county, the first
22 publication to be at least 10 days prior to the first meeting. The notice shall also state the
23 dates and hours on which the board will meet following its first meeting and the date on
24 which it expects to adjourn; it shall also carry a statement that in the event of earlier or
25 later adjournment, notice to that effect will be published in the same newspaper. Should
26 a notice be required on account of earlier adjournment, it shall be published at least once
27 in the newspaper in which the first notice was published, such publication to be at least
28 five days prior to the date fixed for adjournment. Should a notice be required on account
29 of later adjournment, it shall be published at least once in the newspaper in which the first
30 notice was published, such publication to be prior to the date first announced for
31 adjournment.

32 (g) Powers and Duties. — The board of equalization and review has the following
33 powers and duties:

- 34 (1) ~~Powers and Duties.~~ — ~~It shall be the duty of the board of equalization and~~
35 ~~review to~~ Duty to Review Tax Lists. — The board shall examine and
36 review the tax lists of the county for the current year to the end that all
37 taxable property shall be listed on the abstracts and tax records of the
38 county and appraised according to the standard required by G.S. 105-
39 283, and the board shall correct the abstracts and tax records to conform
40 to the provisions of this Subchapter. In carrying out its responsibilities
41 under this subdivision (g)(1), the board, on its own motion or on
42 sufficient cause shown by any person, shall:

- 1 a. List, appraise, and assess any taxable real or personal property
2 that has been omitted from the tax lists.
- 3 b. Correct all errors in the names of persons and in the description
4 of properties subject to taxation.
- 5 c. Increase or reduce the appraised value of any property that, in the
6 board's opinion, ~~shall have~~ has been listed and appraised at a
7 figure that is below or above the appraisal required by G.S. 105-
8 283; however, the board shall not change the appraised value of
9 any real property from that at which it was appraised for the
10 preceding year except in accordance with the terms of G.S. 105-
11 286 and 105-287.
- 12 d. Cause to be done whatever else ~~shall be~~ is necessary to make the
13 lists and tax records comply with the provisions of this
14 Subchapter.
- 15 e. Embody actions taken under the provisions of subdivisions
16 (g)(1)a through (g)(1)d, above, in appropriate orders and have the
17 orders entered in the minutes of the board.
- 18 f. Give written notice to the taxpayer at ~~his~~ the taxpayer's last-
19 known address in the event the ~~board shall~~ board, by appropriate
20 order, ~~increase~~ increases the appraisal of any property or ~~list~~ lists
21 for taxation any property omitted from the tax lists under the
22 provisions of this subdivision (g)(1).

23 (2) Duty to Hear Taxpayer Appeals. – On request, the board of equalization
24 and review shall hear any taxpayer who owns or controls property
25 taxable in the county with respect to the listing or appraisal of ~~his~~ the
26 taxpayer's property or the property of others.

- 27 a. A request for a hearing under this subdivision (g)(2) shall be
28 made in writing to or by personal appearance before the board
29 prior to its adjournment. However, if the taxpayer requests
30 review of a decision made by the board under the provisions of
31 subdivision (g)(1), above, notice of which was mailed fewer than
32 15 days prior to the board's adjournment, the request for a
33 hearing thereon may be made within 15 days after the notice of
34 the board's decision was mailed.
- 35 b. Taxpayers may file separate or joint requests for hearings under
36 the provisions of this subdivision (g)(2) at their election.
- 37 c. At a hearing under provisions of this subdivision (g)(2), the
38 board, in addition to the powers it may exercise under the
39 provisions of subdivision (g)(3), below, shall hear any evidence
40 offered by the appellant, the assessor, and other county officials
41 that is pertinent to the decision of the appeal. Upon the request
42 of an appellant, the board shall subpoena witnesses or documents
43 if there is a reasonable basis for believing that the witnesses have

1 or the documents contain information pertinent to the decision of
2 the appeal.

- 3 d. On the basis of its decision after any hearing conducted under
4 this subdivision (g)(2), the board shall adopt and have entered in
5 its minutes an order reducing, increasing, or confirming the
6 appraisal appealed or listing or removing from the tax lists the
7 property whose omission or listing has been appealed. The board
8 shall notify the appellant by mail as to the action taken on ~~his~~the
9 appeal not later than 30 days after the board's adjournment.

- 10 (3) Powers in Carrying Out Duties. – In the performance of its duties under
11 subdivisions (g)(1) and (g)(2), above, the board of equalization and
12 review may exercise the following powers:

- 13 a. It may appoint committees composed of its own members or
14 other persons to assist it in making investigations necessary to its
15 work. It may also employ expert appraisers in its discretion. The
16 expense of the employment of committees or appraisers shall be
17 borne by the county. The board may, in its discretion, require the
18 taxpayer to reimburse the county for the cost of any appraisal by
19 experts demanded by ~~him~~the taxpayer if the appraisal does not
20 result in material reduction of the valuation of the property
21 appraised and if the appraisal is not subsequently reduced
22 materially by the board or by the Department of Revenue.

- 23 b. The board, in its discretion, may examine any witnesses and
24 documents. It may place any witnesses under oath administered
25 by any member of the board. It may subpoena witnesses or
26 documents on its own motion, and it must do so when a request
27 is made under the provisions of subdivision (g)(2)c, above.

28 A subpoena issued by the board shall be signed by the ~~chairman~~
29 chair of the board, directed to the witness or to the person having
30 custody of the document, and served by an officer authorized to
31 serve subpoenas. Any person who willfully fails to appear or to
32 produce documents in response to a subpoena or to testify when
33 appearing in response to a subpoena shall be guilty of a Class 1
34 misdemeanor.

- 35 (4) Power to Submit Reports. – Upon the completion of its other duties, the
36 board may submit to the Department of Revenue a report outlining the
37 quality of the reappraisal, any problems it encountered in the reappraisal
38 process, the number of appeals submitted to the board and to the
39 Property Tax Commission, the success rate of the appeals submitted,
40 and the name of the firm that conducted the reappraisal. A copy of the
41 report should be sent by the board to the firm that conducted the
42 reappraisal.

- 1 (5) Duty to Appoint Motor Vehicle Review Subcommittee. – The chair of
2 the board of equalization and review shall appoint a subcommittee at the
3 board's first meeting of the calendar year. The subcommittee shall hear
4 and decide all appeals relating to the appraisal, situs, and taxability of
5 classified motor vehicles under G.S. 105-330.2(b) and may meet as
6 needed to exercise this authority. The subcommittee shall consist of
7 three board members and three alternate members, which may include
8 the alternate board members. Three members shall constitute a quorum
9 for the purpose of transacting business. A decision of the subcommittee
10 shall be made by a majority of the members.
- 11 (6) Power to Designate Reappraisal Year Panels. – In any reappraisal year,
12 the chair of the board of equalization and review may divide the board
13 into separate panels consisting of three members, which may include the
14 alternate board members. The chair shall designate one member of each
15 panel to serve as its chair and may change the members of the panels
16 during the year. Three members of each panel shall constitute a quorum
17 for the purpose of transacting business. A decision of the panel shall be
18 made by a majority of the members. A decision of a panel constitutes a
19 decision of the board of equalization and review.
- 20 (7) Duty to Change Abstracts and Records After Adjournment. – Following
21 adjournment upon completion of its duties under subdivisions (g)(1) and
22 (g)(2) of this section, the board shall continue to meet to carry out the
23 following duties:
- 24 a. To hear and decide all appeals relating to discovered property
25 under G.S. 105-312(d) and (k).
- 26 b. To hear and decide all appeals relating to the appraisal, situs, and
27 taxability of classified motor vehicles under G.S. 105-330.2(b),
28 as provided in subdivision (g)(5) of this section.
- 29 c. To hear and decide all appeals relating to audits conducted under
30 G.S. 105-296(j) and (l) of property classified at present-use value
31 and property exempted or excluded from taxation."
- 32 Section 2. Two of the initial five appointees to the special board of
33 equalization and review shall be appointed to serve a one-year term.
- 34 Section 3. This act applies only to Lincoln County.
- 35 Section 4. This act is effective when it becomes law.