

MAR 22 1990

WAYS & MEANS CALENDAR

HOUSE FILE 2559
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 827)

Passed House, Date 3/22/90 (p.1515) Passed Senate, Date 4/5/90 (p.1579)
Vote: Ayes 89 Nays 0 Vote: Ayes 44 Nays 0
Approved April 24, 1990

A BILL FOR

1 An Act relating to the process by which a taxpayer appeals a
2 decision of the local board of review to the district court
3 and providing for the reinstatement of appeals dismissed and
4 providing an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2559

S-5885

1 Amend House File 2559, as passed by the House, as
2 follows:

- 3 1. Page 1, line 4, by striking the figure "1."
- 4 2. Page 1, line 16, by inserting after the word
- 5 "review" the following: "clerk of the board of
- 6 review, the assessor, or deputy assessor".
- 7 3. Page 1, by striking lines 18 through 33.

By COMMITTEE ON WAYS AND MEANS
WILLIAM W. DIELEMAN, Chairperson

S-5885 FILED APRIL 4, 1990
amended 4/5 (p.1580)

Conference Committee appointed 4/6/90

18 Reps. Chapman (Chair), Brand Bennett, De Groot, Jabor (p. 2267)
19 Senators Bjorkman (Chair), Doyle, Graign, Heaster, & Sossehally (p. 1643)

Passed per Conference Committee Report

House 4/7/90 (p. 2278)
92-0

Senate 4/7/90 (p. 1694)
+7-0

1 Section 1. Section 441.38, Code 1989, is amended to read
2 as follows:

3 441.38 APPEAL TO DISTRICT COURT.

4 1. Appeals may be taken from the action of the board of
5 review with reference to protests of assessment, to the
6 district court of the county in which the board holds its
7 sessions within twenty days after its adjournment or May 31,
8 whichever date is later. No new grounds in addition to those
9 set out in the protest to the board of review as provided in
10 section 441.37 can be pleaded, but additional evidence to
11 sustain those grounds may be introduced. The assessor shall
12 have the same right to appeal and in the same manner as an
13 individual taxpayer, public body or other public officer as
14 provided in section 441.42. Appeals shall be taken by a
15 written notice to that effect to the chairperson or presiding
16 officer of the board of review and served as an original
17 notice.

18 2. In proceedings appealing the decision of a board of
19 review under this chapter by the property owner in any court
20 of the state, if the property owner has delivered proper
21 notice of appeal to the sheriff of the proper county with the
22 intent that the notice be served immediately upon the person
23 selected by the owner from among those persons designated for
24 service in subsection 1, the delivery of the notice of appeal
25 to the sheriff shall be deemed a commencement of the appeal
26 proceedings. If the sheriff, after receiving the delivery of
27 notice of appeal, fails or is unable to serve the notice of
28 appeal upon that designated person within the time period
29 required under subsection 1, the inability or failure shall
30 not deprive the court of jurisdiction of the appeal if the
31 property owner, within twenty days after delivery of notice of
32 appeal to the sheriff, makes application to the proper
33 district court for further direction as to service.

34 Sec. 2. REINSTATEMENT.

35 Any proceeding appealing the decision of a board of review

1 pending or filed after January 1, 1988, which has been
2 dismissed by reason of the failure to serve notice of appeal
3 on a person as selected from among the two persons designated
4 in section 441.38, within the time period required under that
5 section, shall be reinstated by the court in which such
6 proceeding was dismissed, after notice and hearing as
7 prescribed by the court.

8 Sec. 3.

9 This Act, being deemed of immediate importance, is
10 effective upon enactment.

11 EXPLANATION

12 Present law requires that a property owner seeking to
13 appeal a decision of a local board of review as to a property
14 tax assessment must serve personal notice upon the chairperson
15 or presiding officer of the board of review within 20 days
16 after adjournment of the board or May 31, whichever is the
17 later. If notice can not be served within that time frame,
18 the property owner's right to appeal expires. The bill
19 provides that appeal proceedings will begin upon delivery of
20 notice to the sheriff for the sheriff's serving of the notice
21 on the proper party and that the sheriff's failure or
22 inability to serve the notice within the proper time frame
23 will not deprive the district court of jurisdiction if the
24 property owner, within 20 days of the timely delivery of
25 notice to the sheriff, makes application to the district court
26 for further direction as to service of notice on the
27 chairperson or presiding officer of the board of review. This
28 added provision for serving of notice is similar to that found
29 in section 472.19, subsection 2, for serving of notice of
30 appeal from condemnation proceedings.

31 The bill also provides for the reinstatement of appeals
32 that were pending or filed after January 1, 1988, and which
33 were dismissed as a result of the inability to serve notice on
the chairperson or presiding officer of the board of review
within the time frame required under section 441.38.

1 The bill takes effect upon enactment.
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SENATE AMENDMENT TO HOUSE FILE 2559

H-6142

- 1 Amend House File 2559, as passed by the House, as
- 2 follows:
- 3 1. Page 1, line 4, by striking the figure "1."
- 4 2. Page 1, line 16, by inserting after the word
- 5 "review" the following: ", clerk of the board of
- 6 review, the assessor, or deputy assessor".
- 7 3. Page 1, by striking lines 18 through 33.

RECEIVED FROM THE SENATE

H-6142 FILED APRIL 5, 1990

REFUSED TO CONCUR (p. 2085)

Senate inserted 4/6 (p. 1643)

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 2559

To the Speaker of the House of Representatives and the
President of the Senate:

We, the undersigned members of the conference committee
appointed to resolve the differences between the House of
Representatives and the Senate on House File 2559, a bill for
An Act relating to the process by which a taxpayer appeals a
decision of the local board of review to the district court and
providing for the reinstatement of appeals dismissed and
providing an effective date, respectfully make the following
report:

1. That the Senate recedes from its amendment, H-6142.
2. That House File 2559 passed by the House, is amended as

follows:

1. Page 1, line 14, by inserting after the word "by" the
following: "filing".
2. Page 1, by striking lines 15 through 33 and inserting
the following: "~~written notice to that effect to the
chairperson or presiding officer of the board of review and
served as an original notice.~~ of appeal with the clerk of
district court. Filing of the written notice of appeal shall
preserve all rights of appeal of the appellant.
2. Notice of appeal shall be served as an original notice
on the chairperson, presiding officer, or clerk of the board of
review after the filing of notice under subsection 1 with the
clerk of district court.
3. Page 2, by inserting after line 7 the following:
"Any rights of appeals reinstated as a result of this
section shall be exercised by filing of notice of appeal by

CCR-2559

Page 2

June 30, 1991, as provided for in section 441.38, subsection 1
and served as provided for in section 441.38, subsection 2."

ON THE PART OF THE HOUSE:

KAY CHAPMAN, Chairperson
WILLIAM BRAND
WAYNE BENNETT
KENNETH DE GROOT
DAVID TABOR

ON THE PART OF THE SENATE:

JIM RIORDAN, Chairperson
DONALD V. DOYLE
EUGENE FRAISE
JACK W. HESTER
JOHN E. SOORHOLTZ

CCR-2559 FILED APRIL 7, 1990
REPORT ADOPTED. (p. 2277)

Adopted 4/7 (p. 1694)

Chapman, Chair
Brand
Metcalf

NSB 827

WAYS AND MEANS

HOUSE FILE 2554
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON TABOR)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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8 whichever date is later. No new grounds in addition to those
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10 section 441.37 can be pleaded, but additional evidence to
11 sustain those grounds may be introduced. The assessor shall
12 have the same right to appeal and in the same manner as an
13 individual taxpayer, public body or other public officer as
14 provided in section 441.42. Appeals shall be taken by a
15 written notice to that effect to the chairperson or presiding
16 officer of the board of review and served as an original
17 notice.

18 2. In proceedings appealing the decision of a board of
19 review under this chapter by the property owner in any court
20 of the state, if the property owner has delivered proper
21 notice of appeal to the sheriff of the proper county with the
22 intent that the notice be served immediately upon the person
23 selected by the owner from among those persons designated for
24 service in subsection 1, the delivery of the notice of appeal
25 to the sheriff shall be deemed a commencement of the appeal
26 proceedings. If the sheriff, after receiving the delivery of
27 notice of appeal, fails or is unable to serve the notice of
28 appeal upon that designated person within the time period
29 required under subsection 1, the inability or failure shall
30 not deprive the court of jurisdiction of the appeal if the
31 property owner, within twenty days after delivery of notice of
32 appeal to the sheriff, makes application to the proper
33 district court for further direction as to service.

34 Sec. 2. REINSTATEMENT.

35 Any proceeding appealing the decision of a board of review

1 pending or filed after January 1, 1988, which has been
2 dismissed by reason of the failure to serve notice of appeal
3 on a person as selected from among the two persons designated
4 in section 441.38, within the time period required under that
5 section, shall be reinstated by the court in which such
6 proceeding was dismissed, after notice and hearing as
7 prescribed by the court.

8 Sec. 3.

9 This Act, being deemed of immediate importance, is
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11 EXPLANATION

12 Present law requires that a property owner seeking to
13 appeal a decision of a local board of review as to a property
14 tax assessment must serve personal notice upon the chairperson
15 or presiding officer of the board of review within 20 days
16 after adjournment of the board or May 31, whichever is the
17 later. If notice can not be served within that time frame,
18 the property owner's right to appeal expires. The bill
19 provides that appeal proceedings will begin upon delivery of
20 notice to the sheriff for the sheriff's serving of the notice
21 on the proper party and that the sheriff's failure or
22 inability to serve the notice within the proper time frame
23 will not deprive the district court of jurisdiction if the
24 property owner, within 20 days of the timely delivery of
25 notice to the sheriff, makes application to the district court
26 for further direction as to service of notice on the
27 chairperson or presiding officer of the board of review. This
28 added provision for serving of notice is similar to that found
29 in section 472.19, subsection 2, for serving of notice of
30 appeal from condemnation proceedings.

31 The bill also provides for the reinstatement of appeals
32 that were pending or filed after January 1, 1988, and which
33 were dismissed as a result of the inability to serve notice on
34 the chairperson or presiding officer of the board of review
35 within the time frame required under section 441.38.

1 The bill takes effect upon enactment.

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HOUSE FILE 2559

AN ACT

RELATING TO THE PROCESS BY WHICH A TAXPAYER APPEALS A DECISION OF THE LOCAL BOARD OF REVIEW TO THE DISTRICT COURT AND PROVIDING FOR THE REINSTATEMENT OF APPEALS DISMISSED AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 441.38, Code 1989, is amended to read as follows:

441.38 APPEAL TO DISTRICT COURT.

1. Appeals may be taken from the action of the board of review with reference to protests of assessment, to the district court of the county in which the board holds its sessions within twenty days after its adjournment or May 31, whichever date is later. No new grounds in addition to those set out in the protest to the board of review as provided in section 441.37 can be pleaded, but additional evidence to sustain those grounds may be introduced. The assessor shall have the same right to appeal and in the same manner as an individual taxpayer, public body or other public officer as provided in section 441.42. Appeals shall be taken by filing a written notice ~~to that effect to the chairperson or presiding officer of the board of review and served as an original notice of appeal with the clerk of district court.~~ Filing of the written notice of appeal shall preserve all rights of appeal of the appellant.

2. Notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review after the filing of notice under subsection 1 with the clerk of district court.

Sec. 2. REINSTATEMENT.

Any proceeding appealing the decision of a board of review pending or filed after January 1, 1988, which has been dismissed by reason of the failure to serve notice of appeal

on a person as selected from among the two persons designated in section 441.38, within the time period required under that section, shall be reinstated by the court in which such proceeding was dismissed, after notice and hearing as prescribed by the court.

Any rights of appeals reinstated as a result of this section shall be exercised by filing of notice of appeal by June 30, 1991, as provided for in section 441.38, subsection 1 and served as provided for in section 441.38, subsection 2.

Sec. 3.

This Act, being deemed of immediate importance, is effective upon enactment.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2559, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *Cepher 24*, 1990

TERRY E. BRANSTAD
Governor