

Senate Study Bill 1054 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON FEENSTRA)

A BILL FOR

1 An Act relating to the property assessment appeal board by
2 striking the future repeal of provisions relating to the
3 board, modifying procedures and requirements for appeals to
4 the board, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.559, subsection 20, Code 2017, is
2 amended to read as follows:

3 20. Apportion and collect the costs assessed by the district
4 court against the board of review or any taxing ~~body~~ district
5 resulting from an appeal of property assessments as provided
6 in [section 441.40](#).

7 Sec. 2. Section 428.4, subsection 1, Code 2017, is amended
8 to read as follows:

9 1. Property shall be assessed for taxation each year.
10 Real estate shall be listed and assessed in 1981 and every
11 two years thereafter. The assessment of real estate shall
12 be the value of the real estate as of January 1 of the year
13 of the assessment. The year 1981 and each odd-numbered year
14 thereafter shall be a reassessment year. In any year, after
15 the year in which an assessment has been made of all the real
16 estate in an assessing jurisdiction, the assessor shall value
17 and assess or revalue and reassess, as the case may require,
18 any real estate that the assessor finds was incorrectly valued
19 or assessed, or was not listed, valued, and assessed, in the
20 assessment year immediately preceding, also any real estate
21 the assessor finds has changed in value subsequent to January
22 1 of the preceding real estate assessment year. However, a
23 percentage increase on a class of property shall not be made
24 in a year not subject to an equalization order unless ordered
25 by the department of revenue. The assessor shall determine
26 the actual value and compute the taxable value thereof as of
27 January 1 of the year of the revaluation and reassessment. The
28 assessment shall be completed as specified in [section 441.28](#),
29 but no reduction or increase in actual value shall be made for
30 prior years. If an assessor makes a change in the valuation
31 of the real estate as provided for, [sections 441.23, 441.37,](#)
32 [441.37A, and 441.38](#), ~~and 441.39~~ apply.

33 Sec. 3. Section 441.37A, subsection 1, Code 2017, is amended
34 to read as follows:

35 1. a. ~~For the assessment year beginning January 1, 2007,~~

1 ~~and all subsequent assessment years beginning before January 1,~~
2 ~~2021, appeals~~ Appeals may be taken from the action of the board
3 of review with reference to protests of assessment, valuation,
4 or application of an equalization order to the property
5 assessment appeal board created in [section 421.1A](#). However, a
6 property owner or aggrieved taxpayer or an appellant described
7 in [section 441.42](#) may bypass the property assessment appeal
8 board and appeal the decision of the local board of review to
9 the district court pursuant to [section 441.38](#).

10 *b.* For an appeal to the property assessment appeal board to
11 be valid, ~~written notice must be filed by the party appealing~~
12 ~~the decision with the secretary of the property assessment~~
13 ~~appeal board~~ a party must file an appeal with the board within
14 twenty days after the date of adjournment of the local board
15 of review or May 31, whichever is later. The ~~written notice~~
16 ~~of appeal shall include a petition setting forth the basis of~~
17 the appeal and the relief sought. No new grounds in addition
18 to those set out in the protest to the local board of review
19 as provided in [section 441.37](#) can be pleaded, but additional
20 evidence to sustain those grounds may be introduced. The
21 assessor shall have the same right to appeal to the assessment
22 appeal board as an individual taxpayer, public body, or other
23 public officer as provided in [section 441.42](#). An appeal to the
24 board is a contested case under [chapter 17A](#).

25 *c.* Filing of the ~~written notice of appeal and petition~~
26 with the ~~secretary of the~~ property assessment appeal board
27 shall preserve all rights of appeal of the appellant, except as
28 otherwise provided in [subsection 2](#). ~~A copy of the appellant's~~
29 ~~written notice of appeal and petition shall be mailed by the~~
30 ~~secretary of the property assessment appeal board to the local~~
31 ~~board of review whose decision is being appealed.~~

32 *d.* ~~In all cases where a change in assessed valuation of one~~
33 ~~hundred thousand dollars or more is petitioned for, the local~~
34 ~~board of review shall mail a copy of the written notice of~~
35 ~~appeal and petition to all affected taxing districts as shown~~

1 ~~on the last available tax list.~~ A copy of the appellant's
2 appeal shall be sent by the property assessment appeal board to
3 the local board of review whose decision is being appealed.

4 e. The property assessment appeal board may, by rule,
5 provide for the filing of ~~a notice of appeal and petition with~~
6 ~~the secretary of the board~~ an appeal by electronic means. All
7 requirements of **this section** for an appeal to the board shall
8 apply to an appeal filed electronically.

9 Sec. 4. Section 441.37A, subsection 2, paragraph b, Code
10 2017, is amended to read as follows:

11 b. Each appeal may be considered by one or more members of
12 the board, and the chairperson of the board may assign members
13 to consider appeals. If a hearing is requested, it shall be
14 open to the public and shall be conducted in accordance with
15 the rules of practice and procedure adopted by the board. The
16 board may provide by rule for participation in such hearings
17 by telephone or other means of electronic communication.
18 However, any deliberation of the board or of board members
19 considering the appeal in reaching a decision on any appeal
20 shall be confidential. Any deliberation of the board or of
21 board members to rule on procedural motions in a pending appeal
22 or to deliberate on the decision to be reached in an appeal
23 is exempt from the provisions of **chapter 21**. The property
24 assessment appeal board or any member of the board considering
25 the appeal may require the production of any books, records,
26 papers, or documents as evidence in any matter pending before
27 the board that may be material, relevant, or necessary for the
28 making of a just decision. Any books, records, papers, or
29 documents produced as evidence shall become part of the record
30 of the appeal. Any testimony given relating to the appeal
31 shall be ~~transcribed~~ electronically recorded and made a part of
32 the record of the appeal.

33 Sec. 5. Section 441.37A, subsection 3, Code 2017, is amended
34 to read as follows:

35 3. a. The burden of proof for all appeals before the

1 board shall be as stated in [section 441.21, subsection 3](#). The
2 board members considering the appeal shall determine anew all
3 questions arising before the local board of review ~~which that~~
4 relate to the liability of the property to assessment or the
5 amount ~~thereof~~ of the assessment. All of the evidence shall
6 be considered and there shall be no presumption as to the
7 correctness of the valuation of assessment appealed from. ~~The~~
8 ~~property assessment appeal board shall issue a decision in each~~
9 ~~appeal filed with the board~~. If the appeal is considered by
10 less than the full membership of the board, the determination
11 made by such members shall be forwarded to the full board
12 for approval, rejection, or modification. If the initial
13 determination is rejected by the board, it shall be returned
14 for reconsideration to the board members making the initial
15 determination. ~~Any deliberation of the board regarding an~~
16 ~~initial determination shall be confidential~~.

17 *b.* The decision of the board shall be considered the final
18 agency action ~~for purposes of further appeal, and is subject~~
19 to judicial review as provided in section 441.37B, except as
20 otherwise provided in [section 441.49](#). ~~The decision shall be~~
21 ~~final unless appealed to district court as provided in section~~
22 ~~441.38~~. A decision of the board modifying an assessment shall
23 be sent to the county auditor and the assessor, who shall
24 correct the assessment books accordingly. An appeal of the
25 board's decision under section 441.37B shall not itself stay
26 execution or enforcement of the board's decision.

27 *c.* The levy of taxes on any assessment appealed to the board
28 shall not be delayed by any proceeding before the board, and
29 if the assessment appealed from is reduced by the decision of
30 the board, any taxes levied upon that portion of the assessment
31 reduced shall be abated or, if already paid, shall, by order
32 of the board, be refunded or credited against future property
33 taxes levied against the property.

34 *d.* If the subject of an appeal is the application of an
35 equalization order, the property assessment appeal board shall

1 not order a reduction in assessment greater than the amount
2 that the assessment was increased due to application of the
3 equalization order.

4 e. Each party to the appeal shall be responsible for the
5 costs of the appeal incurred by that party.

6 Sec. 6. NEW SECTION. **441.37B Appeal to district court from**
7 **property assessment appeal board.**

8 A party who is aggrieved or adversely affected by an
9 action of the property assessment appeal board may seek
10 judicial review of the action as provided in chapter 17A.
11 Notwithstanding section 17A.19, subsection 2, a petition for
12 judicial review of the action of the property assessment appeal
13 board shall be filed in the district court of the county where
14 the property that is subject to the appeal is located.

15 Sec. 7. Section 441.38, Code 2017, is amended to read as
16 follows:

17 **441.38 Appeal to district court from local board of review.**

18 1. Appeals may be taken from the action of the local board
19 of review with reference to protests of assessment, to the
20 district court of the county in which the board holds its
21 sessions within twenty days after ~~its~~ the board's adjournment
22 or May 31, whichever date is later. ~~Appeals may be taken from~~
23 ~~the action of the property assessment appeal board to the~~
24 ~~district court of the county where the property which is the~~
25 ~~subject of the appeal is located within twenty days after the~~
26 ~~letter of disposition of the appeal by the property assessment~~
27 ~~appeal board is postmarked to the appellant. No new grounds~~
28 in addition to those set out in the protest to the local board
29 of review as provided in section 441.37, ~~or in addition to~~
30 ~~those set out in the appeal to the property assessment appeal~~
31 ~~board, if applicable,~~ can be pleaded. Additional evidence
32 to sustain those grounds may be introduced ~~in an appeal from~~
33 ~~the local board of review to the district court. However, no~~
34 ~~new evidence to sustain those grounds may be introduced in~~
35 ~~an appeal from the property assessment appeal board to the~~

1 ~~district court.~~ The assessor shall have the same right to
2 appeal and in the same manner as an individual taxpayer, public
3 body, or other public officer as provided in [section 441.42](#).
4 Appeals shall be taken by filing a written notice of appeal
5 with the clerk of district court. Filing of the written notice
6 of appeal shall preserve all rights of appeal of the appellant.

7 ~~2. If the appeal to district court is taken from the action~~
8 ~~of the local board of review, notice~~ Notice of appeal shall
9 be served as an original notice on the chairperson, presiding
10 officer, or clerk of the board of review after the filing of
11 notice under [subsection 1](#) with the clerk of district court. ~~If~~
12 ~~the appeal to district court is taken from the action of the~~
13 ~~property assessment appeal board, notice of appeal shall be~~
14 ~~served as an original notice on the secretary of the property~~
15 ~~assessment appeal board after the filing of notice under~~
16 ~~[subsection 1](#) with the clerk of district court.~~

17 3. The court shall hear the appeal in equity and determine
18 anew all questions arising before the board of review that
19 relate to the liability of the property to assessment or
20 the amount of the assessment. The court shall consider all
21 of the evidence and there shall be no presumption as to the
22 correctness of the valuation or assessment appealed from. The
23 court's decision shall be certified by the clerk of the court
24 to the county auditor and the assessor, who shall correct the
25 assessment books accordingly.

26 Sec. 8. Section 441.39, Code 2017, is amended by striking
27 the section and inserting in lieu thereof the following:

28 **441.39 Notice of assessment protests and appeals to taxing**
29 **districts.**

30 1. If a property owner or aggrieved taxpayer appeals a
31 decision of the board of review to the property assessment
32 appeal board or to district court and requests an adjustment in
33 valuation of one hundred thousand dollars or more, the assessor
34 shall notify all affected taxing districts as shown on the last
35 available tax list.

1 2. In addition to any other requirement for providing
2 of notice, if a property owner or aggrieved taxpayer files
3 a protest against the assessment of property valued by the
4 assessor at five million dollars or more or files an appeal
5 to the property assessment appeal board or the district court
6 with regard to such property, the assessor shall provide notice
7 to the school district in which such property is located
8 within ten days of the filing of the protest or the appeal, as
9 applicable.

10 Sec. 9. Section 441.40, Code 2017, is amended to read as
11 follows:

12 **441.40 Costs, fees, and expenses apportioned.**

13 The clerk of the court shall likewise certify to the county
14 treasurer the costs assessed by the court on any appeal from a
15 board of review to the district court, in all cases where ~~said~~
16 the costs are taxed against the board of review or any taxing
17 ~~body~~ district. Thereupon the county treasurer shall compute
18 and apportion the ~~said~~ costs between the various taxing ~~bodies~~
19 districts participating in the proceeds of the collection of
20 the taxes involved in any such appeal, and ~~said~~ the treasurer
21 shall so compute and apportion the various amounts which ~~said~~
22 the taxing ~~bodies~~ districts are required to pay in proportion
23 to the amount of taxes each of ~~said~~ the taxing ~~bodies~~ districts
24 is entitled to receive from the whole amount of taxes involved
25 in each of such appeals. The ~~said~~ county treasurer shall
26 deduct from the proceeds of all general taxes collected the
27 amount of costs so computed and apportioned by the treasurer
28 from the moneys due to each taxing ~~body~~ district from general
29 taxes collected. The amount ~~se~~ deducted shall be certified to
30 each taxing ~~body~~ district in lieu of moneys collected. ~~Said~~
31 The county treasurer shall pay to the clerk of the district
32 court the amount of ~~said~~ the costs so computed, apportioned,
33 and collected by the treasurer in all cases now on file or
34 hereafter filed in which ~~said~~ the costs have not been paid.

35 Sec. 10. Section 441.41, Code 2017, is amended to read as

1 follows:

2 **441.41 Legal counsel.**

3 In the case of cities having an assessor, the city legal
4 department shall represent the assessor and board of review
5 in all litigation dealing with assessments. In the case of
6 counties, the county attorney shall represent the assessor and
7 board of review in all litigation dealing with assessments.
8 Any taxing ~~body~~ district interested in the taxes received from
9 such assessments may be represented by an attorney and shall
10 be required to appear by attorney upon written request of the
11 assessor to the presiding officer of any such taxing ~~body~~
12 district. The conference board may employ special counsel to
13 assist the city legal department or county attorney as the case
14 may be.

15 Sec. 11. Section 441.44, Code 2017, is amended to read as
16 follows:

17 **441.44 Notice of voluntary settlement.**

18 1. The property assessment appeal board may adopt rules
19 establishing requirements for notices of voluntary settlements
20 in appeals before the board to be served upon affected taxing
21 districts.

22 2. No A voluntary court settlement of an assessment appeal
23 shall not be valid unless written notice ~~thereof~~ of the
24 settlement shall first be served upon each of the affected
25 ~~taxing bodies interested in the taxes derived from such~~
26 assessment districts.

27 Sec. 12. Section 443.11, Code 2017, is amended to read as
28 follows:

29 **443.11 Procedure on appeal.**

30 The appeal provided for in [section 443.8](#) shall be taken
31 within ten days from the time of the final action of the
32 assessor or auditor, by a written notice to that effect to the
33 assessor or auditor, and served as an original notice. The
34 court on appeal shall hear and determine the rights of the
35 parties in the same manner as appeals from the board of review,

1 as prescribed in [sections ~~441.39~~ 441.38](#) and [441.43](#).

2 Sec. 13. Section 602.8102, subsection 61, Code 2017, is
3 amended to read as follows:

4 61. Certify the final decision of the district court
5 in an appeal of the tax assessments as provided in section
6 ~~441.39~~ [441.37B](#) or [441.38](#). Costs of the appeal to be assessed
7 against the board of review or a taxing ~~body~~ district shall be
8 certified to the treasurer as provided in [section 441.40](#).

9 Sec. 14. REPEAL. 2005 Iowa Acts, chapter 150, section 134,
10 as amended by 2013 Iowa Acts, chapter 123, section 62, and 2015
11 Iowa Acts, chapter 109, section 1, is repealed.

12 Sec. 15. REPEAL. Sections 441.38A and 441.38B, Code 2017,
13 are repealed.

14 Sec. 16. APPLICABILITY. This Act applies to assessment
15 years beginning on or after January 1, 2018.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 In 2005, the property assessment appeal board was
20 established. The legislation establishing the property
21 assessment appeal board included a future repeal of the board
22 effective July 1, 2013. This future repeal provision was
23 amended in 2013 to extend the date of the repeal to July 1,
24 2018. In 2015, the future repeal provision was again extended
25 from July 1, 2018, to July 1, 2021.

26 This bill repeals the property assessment appeal board's
27 future repeal provisions, including the 2013 and 2015
28 amendments to those provisions, and makes corresponding
29 changes.

30 The bill also modifies language regarding the form of filing
31 of appeals with the property assessment appeal board by no
32 longer requiring a separate notice of appeal and a petition,
33 but instead only requiring the appeal to include the contents
34 currently required to be in the petition.

35 The bill provides that testimony given relating to an appeal

1 before the board is required to be electronically recorded,
2 instead of transcribed as required under current law.

3 The bill strikes a provision of current law that requires any
4 deliberation of the board regarding an initial determination
5 to be confidential.

6 The bill strikes provisions in Code section 441.38 governing
7 appeals from the property assessment appeal board to district
8 court and specifies that judicial review of board decisions are
9 governed by Code chapter 17A (Iowa administrative procedure
10 Act). However, the bill requires petitions for judicial review
11 to be filed in the county where the property subject to the
12 appeal is located, without the option of filing in Polk county
13 district court.

14 Current law requires that tax amounts reduced due to a
15 reduction in the assessment by the property assessment appeal
16 board be refunded if the taxes have already been paid. The
17 bill provides that the reduced amount may be refunded or
18 credited against future property tax liability.

19 The bill authorizes the property assessment appeal board to
20 adopt rules establishing requirements for notices of voluntary
21 settlements in appeals before the board to be served upon
22 affected taxing districts.

23 The bill also makes corresponding changes and reorganizes
24 some provisions governing the property assessment appeal board.

25 The bill applies to assessment years beginning on or after
26 January 1, 2018.