

HOUSE BILL No. 4433

March 8, 2007, Introduced by Reps. Bieda, Melton and Condino and referred to the Committee on Tax Policy.

A bill to amend 1973 PA 186, entitled
"Tax tribunal act,"
by amending sections 3, 31, and 32 (MCL 205.703, 205.731, and
205.732), section 3 as amended by 1992 PA 172, and by adding
section 47.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Agency" means a board, official, or administrative agency
3 ~~who is~~ empowered to make a decision, finding, ruling, assessment,
4 determination, or order that is subject to review under the
5 jurisdiction of the tribunal or ~~who~~ **THAT** has collected a tax for
6 which **A** refund is claimed.

7 (b) "Chairperson" means the chairperson of the tribunal.

8 (c) **"MEDIATION" MEANS A VOLUNTARY PROCESS IN WHICH A MEDIATOR**

1 FACILITATES COMMUNICATION BETWEEN PARTIES, ASSISTS IN IDENTIFYING
 2 ISSUES, AND HELPS EXPLORE SOLUTIONS TO PROMOTE A MUTUALLY
 3 ACCEPTABLE SETTLEMENT.

4 (D) "MEDIATOR" MEANS A NEUTRAL THIRD PARTY WHO IS CERTIFIED BY
 5 THE TRIBUNAL UNDER SECTION 47 AS A MEDIATOR IN A PROCEEDING BEFORE
 6 THE TRIBUNAL OR AS A FACILITATOR IN THE COURT OF CLAIMS, AND WHO IS
 7 AGREED TO BY THE PARTIES.

8 (E) ~~(e)~~ "Proceeding" means an appeal **TAKEN UNDER THIS ACT.**

9 (F) ~~(d)~~ "Property tax laws" does not include the drain code of
 10 1956, ~~Act No. 40 of the Public Acts of 1956, being sections 280.1~~
 11 ~~to 280.630 of the Michigan Compiled Laws 1956 PA 40, MCL 280.1 TO~~
 12 **280.630.**

13 (G) ~~(e)~~ "Tribunal" means the tax tribunal **CREATED UNDER**
 14 **SECTION 21.**

15 Sec. 31. The ~~tribunal's~~ **TRIBUNAL HAS** exclusive and original
 16 jurisdiction ~~shall be~~ **OVER ALL OF THE FOLLOWING:**

17 (a) A proceeding for direct review of a final decision,
 18 finding, ruling, determination, or order of an agency relating to
 19 assessment, valuation, rates, special assessments, allocation, or
 20 equalization, under **THE** property tax laws **OF THIS STATE.**

21 (b) A proceeding for **A** refund or redetermination of a tax
 22 **LEVIED** under the property tax laws **OF THIS STATE.**

23 (C) **MEDIATION OF A PROCEEDING BEFORE THE TRIBUNAL.**

24 (D) **CERTIFICATION OF A MEDIATOR IN A TAX DISPUTE.**

25 (E) **ANY OTHER PROCEEDING PROVIDED BY LAW.**

26 Sec. 32. The tribunal's powers include, but are not limited
 27 to, **ALL OF THE FOLLOWING:**

1 (a) Affirming, reversing, modifying, or remanding a final
2 decision, finding, ruling, determination, or order of an agency.

3 (b) Ordering the payment or refund of taxes in a matter ~~of~~
4 **OVER** which it may acquire jurisdiction.

5 (c) Granting other relief or issuing writs, orders, or
6 directives ~~which~~ **THAT** it deems necessary or appropriate in the
7 process of disposition of a matter ~~of~~ **OVER** which it may acquire
8 jurisdiction.

9 (d) Promulgating ~~, pursuant to Act No. 306 of the Public Acts~~
10 ~~of 1969, as amended, being sections 24.201 to 24.315 of the~~
11 ~~Michigan Compiled Laws,~~ rules for the implementation of this act,
12 including rules for practice and procedure before the tribunal **AND**
13 **FOR MEDIATION AS PROVIDED IN SECTION 47, UNDER THE ADMINISTRATIVE**
14 **PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.**

15 **(E) MEDIATING A PROCEEDING BEFORE THE TRIBUNAL.**

16 **(F) CERTIFYING MEDIATORS TO FACILITATE CLAIMS IN THE COURT OF**
17 **CLAIMS AND IN THE TRIBUNAL.**

18 **SEC. 47. (1) A PERSON MAY APPLY TO THE TRIBUNAL TO BE**
19 **CERTIFIED AS A MEDIATOR. CERTIFICATION IS FOR A PERIOD OF 1 YEAR.**
20 **THE APPLICATION SHALL BE IN A FORM PRESCRIBED BY THE TRIBUNAL. A**
21 **TRIBUNAL MEMBER OR HEARING OFFICER MAY NOT BE CERTIFIED AS A**
22 **MEDIATOR.**

23 **(2) THE TRIBUNAL SHALL PROMULGATE RULES UNDER THE**
24 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**
25 **24.328, THAT ESTABLISH REQUIREMENTS FOR AN APPLICANT TO BE**
26 **CERTIFIED AS A MEDIATOR. WHETHER AN APPLICANT MEETS THE ESTABLISHED**
27 **REQUIREMENTS TO BE CERTIFIED AS A MEDIATOR SHALL BE SOLELY**

1 DETERMINED BY THE TRIBUNAL. THE REQUIREMENTS FOR CERTIFICATION AS A
2 MEDIATOR SHALL INCLUDE, BUT ARE NOT LIMITED TO, 5 YEARS OF STATE
3 AND LOCAL TAX EXPERIENCE THAT OCCURRED IMMEDIATELY PRECEDING
4 SUBMISSION OF THE APPLICATION. IF AN APPLICANT SATISFIES THE
5 REQUIREMENTS ESTABLISHED BY THE TRIBUNAL, THE TRIBUNAL SHALL
6 CERTIFY THAT APPLICANT AS A MEDIATOR. THE TRIBUNAL MAY CHARGE EACH
7 MEDIATOR CERTIFIED BY THE TRIBUNAL AN ANNUAL CERTIFICATION FEE, AS
8 DETERMINED BY THE TRIBUNAL.

9 (3) THE TRIBUNAL SHALL MAINTAIN A LIST OF CERTIFIED MEDIATORS
10 AVAILABLE TO CONDUCT A MEDIATION DESCRIBED IN SECTION 32. THE LIST
11 SHALL BE PUBLISHED AND SHALL INDICATE ALL OF THE FOLLOWING:

12 (A) THE HOURLY RATE CHARGED BY THE MEDIATOR FOR HIS OR HER
13 MEDIATION SERVICES.

14 (B) THE TYPE OF TAX THE MEDIATOR IS CERTIFIED TO MEDIATE.

15 (C) A SUMMARY OF THE MEDIATOR'S EXPERIENCE AND TRAINING.

16 (D) THE FORUM IN WHICH THE MEDIATOR IS CERTIFIED TO PRACTICE.

17 (4) A MEDIATOR SHALL DISCLOSE TO ALL PARTIES ANY CONFLICT OF
18 INTEREST THAT MAY EXIST BEFORE AGREEING TO MEDIATE A DISPUTE.

19 (5) THE TRIBUNAL SHALL MEDIATE A PROCEEDING IN WHICH IT HAS
20 EXCLUSIVE AND ORIGINAL JURISDICTION IF ALL OF THE FOLLOWING
21 CONDITIONS ARE SATISFIED:

22 (A) THE PARTIES HAVE FILED WITH THE TRIBUNAL A STIPULATION
23 THAT THEY AGREE TO PARTICIPATE IN MEDIATION.

24 (B) THE PARTIES AGREE TO A MEDIATOR.

25 (C) THE TRIBUNAL ISSUES AN ORDER DESIGNATING THE PROCEEDING
26 FOR MEDIATION.

27 (6) THE TRIBUNAL SHALL APPOINT THE MEDIATOR AGREED TO BY THE

1 PARTIES. A MEDIATOR HAS NO AUTHORITATIVE DECISION-MAKING POWER TO
2 RESOLVE A DISPUTE IN MEDIATION. THE MEDIATOR SHALL REPORT THE
3 RESULTS OF THE MEDIATION TO THE TRIBUNAL. IF AN AGREEMENT IS
4 REACHED IN A PROCEEDING BEFORE THE TRIBUNAL, THE TRIBUNAL SHALL
5 ACCEPT THE AGREEMENT IF IT MEETS THE TRIBUNAL'S REQUIREMENTS.

6 (7) STATEMENTS MADE DURING A MEDIATION CONFERENCE, INCLUDING
7 STATEMENTS MADE IN WRITTEN SUBMISSIONS, SHALL NOT BE USED AND ARE
8 NOT ADMISSIBLE IN ANY OTHER PROCEEDINGS, INCLUDING TRIAL. ANY
9 STATEMENTS, WRITTEN SUBMISSIONS OR MATERIALS, OR COMMUNICATIONS
10 BETWEEN THE PARTIES OR COUNSEL OF THE PARTIES AND THE MEDIATOR
11 RELATING TO THE MEDIATION ARE CONFIDENTIAL AND SHALL NOT BE
12 DISCLOSED WITHOUT THE WRITTEN CONSENT OF ALL PARTIES AND ARE NOT
13 SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM OF
14 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, EXCEPT FOR THE
15 FOLLOWING:

16 (A) THE REPORT OF THE MEDIATOR. THE REPORT SHALL BE IN A FORM
17 PRESCRIBED BY THE TRIBUNAL.

18 (B) INFORMATION REASONABLY REQUIRED BY TRIBUNAL PERSONNEL TO
19 ADMINISTER AND EVALUATE THE MEDIATION PROGRAM UNDER THIS SECTION.

20 (C) INFORMATION NECESSARY FOR THE TRIBUNAL TO RESOLVE DISPUTES
21 REGARDING THE MEDIATOR'S FEE.

22 (D) CONSENT JUDGMENTS.

23 (8) A MEDIATION CONFERENCE IS NOT A MEETING OF A PUBLIC BODY
24 FOR PURPOSES OF THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO
25 15.275.

26 (9) THE TRIBUNAL MAY CHARGE A FEE FOR MEDIATION.