

TAX TRIBUNAL: TRAINING, OUTSIDE WORK, AND DISQUALIFICATION PROCEDURES

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House Bill 4412 as enacted
Public Act 438 of 2018
Sponsor: Rep. Brandt Iden
House Committee: Tax Policy
Senate Committee: Finance
Complete to 1-25-19

SUMMARY:

In brief, House Bill 4122 amends the Tax Tribunal Act to do the following:

- Require certain training for Tribunal members.
- Allow Tribunal members to engage in other remunerative employment or business or professional activity, subject to certain conditions.
- Establish procedures under which a Tribunal member may be disqualified from a proceeding.

Specifically, the bill requires members of the Tribunal to receive training on matters relevant to Tribunal work, including proper courtroom procedures, state and local tax issues, accepted appraisal practices, and proper assessing practices.

The bill specifies that a Tribunal member's responsibility to personally perform the duties of his or her office includes at least maintaining his or her docket as assigned and directed by the chairperson and in accordance with the rules of the Tribunal.

The bill also removes from the Act a provision that prohibits Tribunal members from engaging in other business or professional activity for remuneration. Under the bill, a Tribunal member may engage in any other gainful employment or business or professional activity for remuneration, subject to possible disqualification as described below.

Under the bill, a member assigned to a proceeding before the entire Tribunal may be disqualified, by order of the chairperson or upon motion of a party to the proceeding or a Tribunal member assigned to the proceeding, for any reason for which a judge may be disqualified from a civil proceeding under Rule 2.003 of the Michigan Court Rules.¹ (These include such reasons as bias or various personal or material conflicts of interest or appearances of impropriety.)

A motion for disqualification by a party to the proceeding must be reviewed and either approved or denied by the Tribunal member presiding over the proceeding. The moving party may appeal denial of a motion to the chairperson or, if the chairperson is presiding over the proceeding, to a randomly assigned attorney member of the Tribunal.

¹ https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/Documents/HTML/CRs/Ch%20202/Court%20Rules%20Book%20Ch%202-Responsive%20HTML5/Court_Rules_Book_Ch_2/Court_Rules_Chapter_2/Court_Rules_Chapter_2.htm?rhtocid=0_2#TOC_Rule_2_003

A motion for disqualification by a party to the proceeding must be filed within 14 days after discovery of the grounds for disqualification. If a trial is scheduled for a date that is within 15 days after the discovery, the motion must be made as far in advance of the trial date as is reasonably possible.

Disqualification may be waived with the consent of all parties and shall be in writing or placed on the record.

MCL 205.721 and 205.722

The bill takes effect October 1, 2019.

BACKGROUND INFORMATION:

As noted on its website,² the Tax Tribunal is an administrative court that hears tax appeals for all Michigan taxes. Most of the Tribunal’s appeals involve property taxes; however, the Tribunal also hears other state tax issues. The Tribunal is divided into two divisions: the “Entire Tribunal” and the “Residential Property and Small Claims Division” (typically referred to simply as Small Claims). With the exception of principal residence and qualified agricultural exemption appeals, any case may be filed in the Entire Tribunal. Only certain cases—property disputes involving residential property, poverty, and disputes involving other classifications with amounts in contention under \$100,000—may be filed in the Small Claims Division.

Members of the Tax Tribunal are appointed by the governor with the advice and consent of the Senate. The Tax Tribunal is housed in the Department of Licensing and Regulatory Affairs. It was transferred by a 1991 executive order to LARA’s predecessor (the Department of Commerce) from Treasury. That same order allows the governor to name the chairperson of the Tribunal.³

FISCAL IMPACT:

House Bill 4412 would cause an increase in costs for the Department of Licensing and Regulatory Affairs, due to required training for members of the Tax Tribunal. The department estimates that costs related to this training would total \$10,000 per member per year. The bill would have no impact on departmental revenues or on other units of state or local government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

² <https://www.michigan.gov/taxtrib/>

³ <http://legislature.mi.gov/doc.aspx?mcl-205-800>