95.883 Appeal to Circuit Court.

(1) The order or determination of the board upon the rehearing shall be conclusive and binding, but any interested party may, within twenty (20) days after the rendition of the order of the board, by petition appeal to the Circuit Court of the county in which the city of the second class is located for a review of the order of the board.

(2) The petition shall state fully the grounds upon which a review is sought, assign all errors relied on and be verified by the petitioner who shall furnish a copy to the board at the time of the filing of the same. Summons shall be issued directing the board to answer within twenty (20) days and directing the board to send the original record to the circuit clerk certifying that such record is the entire original record of the rehearing which shall be filed by the clerk of the Circuit Court and such record shall then become and be considered by the Circuit Court on the review. The appeal provided for herein shall not be considered effective unless the person making the appeal has paid to the board one-half (1/2) of the cost of the transcript of the record of the rehearing within the period provided for making the appeal.

(3) No new nor additional evidence may be introduced in the Circuit Court except as to fraud or misconduct of some person engaged in the administration of KRS 95.851 to 95.884 and KRS 95.991, and affecting the order, decision, or determination appealed from, but the court shall otherwise hear the cause upon the record as certified by the board and shall dispose of the cause in summary manner, its review being limited to determining whether or not:

(a) The board acted without or in excess of its powers;

(b) The order, decision, or determination was procured by fraud;

(c) The order, decision, or determination of the board is not in conformity with the provisions of KRS 95.851 to 95.884 and KRS 95.991;

(d) If findings of fact are in issue the party seeking to set aside any order, decision, or determination of the board shall have the burden of proof to show by clear and satisfactory evidence that the order, decision, or determination is unreasonable or unlawful. If upon appeal as herein provided the order, decision, or determination of the board is reversed the party perfecting the appeal shall be refunded by the board his portion of the costs paid for the transcript of the record made on the rehearing.

(4) The board and each interested party may appear before the Circuit Court. The court shall enter judgment affirming, modifying, or setting aside the order, decision, or determination appealed from, or in its discretion remand the cause to the board for further proceedings in conformity with the direction of the court. The court may, before judgment and upon a sufficient showing of fact, remand the cause to the board.

Effective: July 15, 1980

History: Amended 1980 Ky. Acts ch. 188, sec. 84, effective July 15, 1980. -- Created 1956 Ky. Acts ch. 16, sec. 33, effective July 1, 1956.

Legislative Research Commission Note (11/21/96). In 1974, the Reviser of Statutes renumbered KRS 95.885 as KRS 95.991. 1980 Ky. Acts ch. 188, sec. 84, a revisory act, mistakenly changed references in this statute from "KRS 95.851 to 95.885" to "KRS 95.851 to 95.991." Because these changes would

appear to effect a substantive change in the law, they have been disregarded, and the references have been made to read "KRS 95.851 to 95.884 and KRS 95.991" under KRS 7.123(4) and 7.136(1)(a).