

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2104**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for HB 2104, as amended, would re-authorize the statewide school finance levy and amend law related to the list of eligible county appraisers, appraisal standards, Board of Tax Appeals (BOTA) administration, property valuation appeals, judicial review of property tax disputes, BOTA membership, and school district budget certification.

***20-Mill Property Tax Levy Re-authorization and
Homestead Exemption***

The bill would re-authorize the 20-mill property tax levy for school years 2021-2022 and 2022-2023.

The bill would continue the exemption of residential property up to \$20,000 of appraised value from the 20-mill property tax levy for tax years 2021 and 2022.

List of Eligible County Appraisers

The bill would stipulate that the Department of Revenue's Director of Property Valuation (Director) provide notice to certain persons and provide an opportunity for a hearing under the Kansas Administrative Procedure Act (KAPA) prior to removing their names from the eligibility list for the office of county appraiser for certain acts or omissions.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill also would require county commissions to notify the Director when persons no longer hold the office of county appraiser, except upon expiration of a four-year term, and include the reason for separation from employment unless otherwise precluded by law from doing so. The Director subsequently would be required to make notations on eligibility list records of such persons.

Appraisal Standards

The bill would remove the authority of the Director to adopt rules and regulations concerning appropriate standards for the performance of appraisals for property taxation. [*Note:* Current language directing the Director to adopt appraiser directives on the same topic would be retained.]

The bill would require appraisals to be performed in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). The Director would be permitted to require compliance with additional standards only to the extent these standards do not conflict with USPAP.

BOTA Administration

The bill would change the time in which aggrieved parties may request a full and complete opinion from BOTA from 14 days following the receipt of a summary decision from BOTA to 21 days following service of a summary decision from BOTA. Service would be defined according to KAPA.

The bill would require BOTA to serve orders and notices *via* electronic means to parties and their attorneys who have requested and consented to such electronic service. Any service by electronic means would be deemed complete upon transmission.

Property Valuation Appeals

The bill would prohibit BOTA or a county appraiser from increasing the appraised valuation of property as a result of an appeal of the valuation of the property or an informal meeting concerning the property in question.

Judicial Review

Current law allows, at the election of a taxpayer, any summary decision or full and complete opinion of BOTA issued after June 30, 2014, to be appealed by filing a petition for review in district court. Any appeal to the district court must be a trial *de novo* that includes an evidentiary hearing where issues of law and fact are determined anew.

The bill would provide, with regard to any BOTA decision or opinion properly submitted to the district court relating to the determination of valuation of residential or commercial and industrial real property or the classification of property for assessment purposes, county appraisers would have the duty to initiate the production of evidence to demonstrate by a preponderance of evidence the validity and correctness of such determination.

BOTA Membership

The bill would extend the time beyond which a member of BOTA may continue to serve after the expiration of the member's term, absent the appointment and confirmation of a successor, from 90 to 180 days.

The bill would also provide when more than one vacancy on BOTA exists, the Governor may appoint a former member of BOTA who remains in good standing to serve as a member *pro tempore* of BOTA for a period of up to one year. The member *pro tempore* would be permitted to exercise any power, duty, or function of a member of BOTA and would

serve at the pleasure of the Governor and receive prorated compensation of the annual salary of members of BOTA. The bill would sunset the *pro tempore* membership provisions on June 30, 2023.

Revenue-Neutral Rate Notice and Hearing Date Changes

The bill would modify several dates passed in SB 13. The bill would change the earliest possible date for a taxing subdivision to consider exceeding the revenue-neutral rate from August 10 to August 20 and the latest possible date for such hearing from September 10 to September 20. The bill would change the date by which taxing subdivisions required to conduct a public hearing to exceed the revenue-neutral rate must certify the amount of property tax to be levied from September 20 to October 1.

School District Budget Certification

The bill would allow school districts required to hold a hearing for exceeding the district's revenue-neutral rate pursuant to the provisions of SB 13 to certify their budgets to the State Board of Education as late as September 20. Current law requires all school districts to certify their budgets to the State Board of Education by August 25, which would remain the applicable certification date for school districts not required to hold a hearing for exceeding the district's revenue-neutral rate.

Background

The bill was introduced by the House Committee on Taxation at the request of a representative of of the Cerebral Palsy Research Foundation of Kansas (CPRFK). As introduced, the bill would have exempted certain non-profit educational institutions from sales tax on certain purchases.

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by representatives of the CPRFK. Written-only **proponent** testimony was provided by a representative of InterHab.

No neutral or **opponent** testimony was provided.

The House Committee amended the bill to change its effective date to upon publication in the *Kansas Register*.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the CPRFK. Proponents stated the provisions of the bill would assist the CPRFK with constructing improved housing for residents.

The Senate Committee amended the bill by removing the contents of the bill as introduced and inserting the contents of SB 98, as amended by the Senate Committee on Assessment and Taxation; SB 119, as introduced; SB 277, as introduced; and the provisions regarding school district budget certification dates, and creating a substitute bill.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to modify certain dates related to SB 13.

Fiscal Information

SB 98

According to the fiscal note prepared by the Division of the Budget on SB 98, as introduced, the Kansas Association

of Counties indicates enactment of the bill has the potential to increase litigation costs for county governments by an indeterminate amount. The Kansas Department of Revenue, BOTA, and the Office of Judicial Administration indicate enactment of the bill would have no fiscal effect on the State. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

SB 119

According to the fiscal note prepared by the Division of the Budget on SB 119, the provisions of the bill are expected to have a negligible or indeterminate impact on state revenues and expenditures.

SB 277

According to the fiscal note prepared by the Division of the Budget on SB 277, as introduced, revenues from the 20-mill statewide property tax are estimated to be \$752.4 million in FY 2022 and \$770.6 million in FY 2023. Enactment of the bill is reflected in *The FY 2022 Governor's Budget Report*.

Taxation; property tax; school finance; judicial review; Board of Tax Appeals; property valuation