

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on March 16, 1998.

Approved: _____
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 16, 1998 in Room 519-S of the Capitol.

All members were present except: Rep. Peggy Palmer
Rep. Jene Vickery

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Sicilian, Department of Revenue
Ann McMorris, Committee Secretary

Conferees appearing before the committee: none

Others attending: See attached list

Chair opened meeting for discussion on Subcommittee report on

HB 2602 - Establishment of Kansas tax appeals commission

Subcommittee Chair Tony Powell reported on the changes recommended by the subcommittee which appear in the balloon of **HB 2602** (Attachment 1). Also provided to the committee was the Subcommittee Report (Attachment 2); Fiscal Note for Subcommittee Version of **HB 2602** (Attachment 3).

The Board of Tax Appeals March 12 memorandum to the Taxation Committee is attached. (Attachment 4) July 11, 1997 memo re: Kansas Accountability Requirements for Locally-Granted Property Tax Exemptions was provided by staffer Chris Courtwright. (Attachment 5).

Committee questioned the following issues:

1. Training in the special field to be completed within a specified time by the members of the board and hearing officers.
2. Retention and creation of jobs amendment
3. Structure of the commission
4. EDX is major change in that property tax abatement has not been given for job retention
5. Fiscal note under proposed changes
6. Change name to Tax Court
7. Hearing in adjacent counties (contiguous suggested)
8. Appointment of Executive Director
9. Appointment of Commission
10. Staggered terms for commission every four years
11. More specific qualifications for executive director
12. Changes being made in the current law to help alleviate the problems now being presented.
13. Taxpayer cost being addressed
14. IRB and abatement process
15. Political considerations

Moved by Representative Powell, seconded by Representative Tanner, Taxation Committee adopt the Subcommittee Report on HB 2602. Motion carried.

The next meeting is scheduled for March 17, 1998.

Adjournment.

Attachments -5

TAXATION COMMITTEE GUEST LIST

DATE: MARCH 16, 1998

NAME	REPRESENTING
Mark Barcellona	KDOR & H
George Peterson	KS Taxpayers Network
Bill Jancee	BOEING
Paul Welcome	JOHNSON County
Mark Beck	KDOR
Doug Smith	SWKROA
Hal Hudson	NFIB/KS
Tom PALACE	KOMA

HOUSE BILL No. 2602

By Special Committee on Assessment and Taxation

12-17

9 AN ACT relating to taxation; concerning the administration and prose-
 10 cution of certain tax appeals; establishing the Kansas tax appeals com-
 11 mission and prescribing authorities, duties and functions therefor;
 12 abolishing the state board of tax appeals; amending K.S.A. 74-2426,
 13 79-213, 79-251, 79-1448, 79-1609 and 79-2005 and K.S.A. 1997 Supp.
 14 74-2438 and 77-529 and repealing the existing sections; also repealing
 15 K.S.A. 74-2433a, 74-2433b, 74-2433c, 74-2433d, 74-2433e, 74-2434,
 16 74-2435, 74-2436, 74-2437, 74-2437a, 74-2437b, 74-2439 and 79-252
 17 and K.S.A. 1997 Supp. 74-2433.

79-1611

79-252,

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 19 *Be it enacted by the Legislature of the State of Kansas:*
 20 New Section 1. (a) The state board of tax appeals established by
 21 K.S.A. 74-2433 is hereby abolished, and all of the powers, duties, func-
 22 tions, records, property and personnel of the state board of tax appeals
 23 are hereby transferred to the Kansas tax appeals commission, except as
 24 otherwise provided in this act.
 25 (b) The Kansas tax appeals commission established by this act shall
 26 be a continuation of the state board of tax appeals with regard to the
 27 powers, duties and functions prescribed by this act.
 28 New Sec. 2. (a) The Kansas tax appeals commission shall be the suc-
 29 cessor in every way to the powers, duties and functions of the state board
 30 of tax appeals in which such powers, duties and functions were vested
 31 prior to the effective date of this act, except as otherwise provided in this
 32 act.
 33 (b) Whenever the state board of tax appeals, or words of like effect,
 34 is referred to or designated by a statute, contract or other document, such
 35 reference or designation shall be deemed to apply to the Kansas tax ap-
 36 peals commission.
 37 (c) All rules and regulations and all orders and directives of the state
 38 board of tax appeals in existence on the effective date of this act shall
 39 continue to be effective and shall be deemed to be the rules and regu-
 40 lations and orders or directives of the Kansas tax appeals commission until
 41 revised, amended, repealed or nullified pursuant to law.
 42 New Sec. 3. (a) On the effective date of this act, all unexpended
 43 balances of appropriations to the state board of tax appeals shall be trans-

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House Taxation
3-16-98
Attachment 1-1

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1 ferred to the Kansas tax appeals commission to carry out the powers,
2 duties and functions transferred to the Kansas tax appeals commission by
3 the provisions of this act.

4 (b) On the effective date of this act, liability for all accrued compen-
5 sation or salaries of officers and employees who, immediately prior to
6 such date, were engaged in the performance of powers, duties or func-
7 tions of the state board of tax appeals abolished or transferred by this act
8 shall be assumed and paid by the Kansas tax appeals commission as es-
9 tablished by this act.

10 New Sec. 4. No appeal, suit, action or other proceedings, judicial or
11 administrative, lawfully commenced, or which could have been com-
12 menced, before the state board of tax appeals abolished by this act shall
13 abate by reason of the governmental reorganization effected under the
14 provisions of this act. Jurisdiction over any such appeal, suit, action or
15 other proceeding shall be succeeded to by the Kansas tax appeals com-
16 mission.

17 New Sec. 5. On the effective date of this act, all officers and em-
18 ployees who were engaged immediately prior to the effective date of this
19 act in the performance of powers, duties and functions of the state board
20 of tax appeals and who, in the opinion of the Kansas tax appeals com-
21 mission are necessary to perform the powers, duties and functions trans-
22 ferred to the Kansas tax appeals commission under the provisions of this
23 act shall become officers and employees of the Kansas tax appeals com-
24 mission. Any such officer or employee shall retain all retirement benefits
25 and rights of civil service which had accrued to or vested in such officer
26 or employee prior to the effective date of this act, and the service of each
27 such officer and employee so transferred shall be deemed to have been
28 continuous. All transfers and ~~any abolishment of positions~~ of personnel
29 in the classified civil service under the Kansas civil service act shall be in
30 accordance with civil service laws and any rules and regulations adopted
31 thereunder.

32 New Sec. 6. (a) When any conflict arises as to the disposition of any
33 power, duty or function, the disposition of necessary officers and em-
34 ployees or the unexpended balance of any appropriation or any unex-
35 pended moneys received by the state board of tax appeals as a result of
36 any abolishment or transfer made by this act, or under authority of this
37 act, such conflict shall be resolved by the governor, and the decision of
38 the governor shall be final.

39 (b) When any conflict arises as to the proper disposition of any prop-
40 erty or records as a result of any abolishment or transfer made under this
41 act, or under authority of this act, such conflict shall be resolved by the
42 governor, and the decision of the governor shall be final.

43 New Sec. 7. (a) There is hereby created the Kansas tax appeals com-

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be composed

, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto.

mission. The Kansas tax appeals commission shall consist of three commissioners appointed by the governor. Each commissioner shall be appointed for a term of six years, except that of the commissioners first appointed, one shall be appointed for a term of two years, one shall be appointed for a term of four years and one shall be appointed for a term of six years. Each commissioner may be appointed to one additional six year term by the governor. If a vacancy occurs on the Kansas tax appeals commission, the governor shall appoint a successor to fill the vacancy for the unexpired term.

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three
four
four

, subject to confirmation by the Senate as provided in K.S.A. 75-4315b, and amendments thereto. The governor shall select one of the commissioners to serve as chairman. The votes of two commissioners shall be required for any action to be taken by the commission. The governor may appoint a commissioner pro tem when a conflict prevents a commissioner from hearing an appeal or a commissioner is otherwise unavailable to hear an appeal.

(b) In addition to the commissioners appointed to serve on the Kansas tax appeals commission, the governor shall appoint one additional commissioner who shall administer the small claims division of the Kansas tax appeals commission created pursuant to section 9. The commissioner of small claims shall be appointed for a term of six years. Such commissioner may be appointed to one additional six year term by the governor.

(c) Except for the commissioner appointed pursuant to subsection

Each

(b), each commissioner shall: (1) Have been regularly admitted to practice law in the state of Kansas; (2) be a resident of Kansas at the time of taking the oath of office and shall maintain residency in Kansas while holding office; and (3) for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state, or as a certified public accountant who has maintained registration as an active attorney with the Kansas supreme court, or any combination thereof. Commissioners appointed pursuant to this section shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. Commissioners shall be bound by the doctrine of judicial precedent and shall give due deference to prior commission decisions when rendering decisions.

(d) The Kansas tax appeals commission shall have no capacity to sue or be sued.

For purposes of this subsection, judicial precedent shall be limited to published decisions of the appellate courts.

New Sec. 8. (a) The Kansas tax appeals commission shall appoint, subject to approval by the governor, an executive director of the commission, to serve at the pleasure of the commission.

(b) The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined by the commission, subject to the limitations of appropriations therefor; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director.

(c) Any commissioner of the Kansas tax appeals commission may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedures act.

(c) The executive director shall: (1) Employ persons necessary to implement the provisions of this act, including appraisers, subject to the limitations of appropriations therefor, and (2) perform such other duties as directed by the commission.

may

to serve as technical advisors only,

based upon similar facts

Should the Commission overrule a prior decision of the commission it shall be required to state the reasons and justification therefore

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1 New Sec. 9. (a) There shall be a division of the Kansas tax appeals
2 commission known as the small claims division. Hearing officers ap-
3 pointed by the executive director shall have authority to hear cases heard
4 in the small claims division. ~~Such cases shall be decided by the commis-~~
5 ~~sioner of small claims.~~

6 (b) At the election of the taxpayer, the small claims division shall have
7 jurisdiction over: (1) Any appeal of a decision, finding, order or ruling of
8 the director of taxation in which the amount of tax in controversy does
9 not exceed \$20,000, or in the case of a multiple year assessment of tax or
10 denial of refund of tax, the amount of tax in controversy does not exceed
11 \$20,000 for any year included therein; (2) hearing and deciding applica-
12 tions for the refund of protested taxes under the provisions of K.S.A.
13 79-2005, and amendments thereto, where the amount of taxes in issue is
14 less than \$20,000; or (3) hearing and deciding appeals from decisions
15 rendered pursuant to the provisions of article 16 of chapter 79 of the
16 Kansas Statutes Annotated, and acts amendatory thereof or supplemental
17 thereto wherein the appraised value in dispute is less than \$250,000.

18 (c) A taxpayer may elect to appeal any application or decision refer-
19 enced in subsection (b) to the regular division of the Kansas tax appeals
20 commission. The filing of an appeal with the small claims division shall
21 not be a prerequisite for filing an appeal with the regular division of the
22 Kansas tax appeals commission under this section. Final decisions of the
23 small claims division may be appealed to the Kansas tax appeals commis-
24 sion.

25 (d) A taxpayer shall commence a proceeding in the small claims divi-
26 sion by filing a notice of appeal in the form prescribed by the rules of
27 the Kansas tax appeals commission which shall state the nature of the
28 taxpayer's claim. Notice of appeal shall be provided to the appropriate
29 unit of government named in the notice of appeal. ~~A taxpayer who appeals~~
30 ~~to the small claims division, shall not appeal to the regular division in the~~
31 ~~same matter.~~

32 (e) The hearing in the small claims division shall be informal. The
33 hearing officer may hear any testimony and receive any evidence the
34 hearing officer deems necessary or desirable for a just determination of
35 the case. All testimony shall be given under oath. A party may appear
36 personally or may be represented by an attorney or other representative.
37 No transcript of the proceedings shall be kept.

38 (f) ~~The hearing in the small claims division shall be conducted within~~
39 ~~30 days after the appeal is filed in the small claims division. A decision~~
40 ~~shall be rendered by the commissioner of small claims within 30 days~~
41 ~~after the hearing is concluded.~~

42 New Sec. 10. (a) The hearing officers of the small claims division
43 shall be appointed by the executive director of the Kansas tax appeals

and decide

In no event shall a hearing officer be subject to any quota system based on the total amount of taxation assessments upheld or property valuations sustained.

, except an appeal, finding, order or ruling relating to an assessment issued pursuant to K.S.A. 79-5201 et seq., and amendments thereto,

value of the property, other than property devoted to agricultural use, is less than \$1,000,000 as reflected on the valuation notice or the property constitutes single family residential property

and 17

value of the property, other than property devoted to agricultural use, is less than \$1,000,000 as reflected on the valuation notice or the property constitutes single family residential property.

Any party

An appeal of a decision of the small claims division to the Kansas tax appeals commission shall be de novo.

by the taxpayer. In any valuation appeal or tax protest commenced pursuant to Articles 14 and 20 of the Kansas Statutes Annotated, and amendments thereto, **the hearing shall be conducted in the county where the property is located or a county adjacent thereto.** In any appeal from a final determination by the Secretary of Revenue, the hearing shall be conducted in the county in which the taxpayer resides or a county adjacent thereto.

A hearing officer shall have the authority to administer oaths in all matters before the hearing officer.

, a certified public accountant, a certified general appraiser, a member of the taxpayer's immediate family or an authorized employee of the taxpayer.

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hearing officer

Documents provided by a taxpayer or county or district appraiser shall be returned to the taxpayer or the county or district appraiser by the hearing officer and shall not become a part of the Commission's permanent records. Documents provided to the hearing officer shall be confidential and may not be disclosed, except as otherwise specifically provided.

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commission.

(b) Each hearing officer of the small claims division shall receive compensation in an amount determined by the executive director and approved by the commissioner.

New Sec. 11. The Kansas tax appeals commission is established as an independent agency within the executive branch of state government. All budgeting, purchasing and related management functions shall be administered under the direction of the executive director of the Kansas tax appeals commission. All vouchers for expenditures from appropriations to or for the Kansas tax appeals commission shall be approved by the executive director. All records of the state board of tax appeals shall be transferred to the Kansas tax appeals commission on the effective date of this act.

New Sec. 12. (a) Each commissioner of the Kansas tax appeals commission shall receive an annual salary as provided in this section. Each of the commissioners of the Kansas tax appeals commission shall devote full time to the duties of such position.

(b) (1) The annual salary of the chairperson shall be an amount equal to the annual salary paid by the state to a district judge designated as administrative judge.

(2) The annual salary of a commissioner other than the chairperson shall be an amount equal to the annual salary paid by the state to a district judge.

New Sec. 13. ~~The Kansas tax appeals commission, within amounts budgeted for it, may appoint such employees as may be necessary, and such employees shall be in the unclassified service of the Kansas civil service act.~~

executive director

the commission

which employees shall be in the classified service of the Kansas civil service act and may appoint attorneys and appraisers who shall be in the unclassified service of the Kansas civil service act.

New Sec. 14. The Kansas tax appeals commission shall keep an accurate record of its official proceedings and shall keep a seal, engraved with the words, "State of Kansas, Tax Appeals Commission." Such seal may be used to authenticate the official acts of the Kansas tax appeals commission or any commissioner thereof, but failure to use the seal shall not invalidate any such act. The Kansas tax appeals commission executive director shall be the custodian of the seal and records and be authorized to affix the seal in all proper cases.

Any commissioner shall have the authority to administer oaths in all matters before the commission.

New Sec. 15. Appeals decided by the Kansas tax appeals commission which the commission deems of sufficient importance to be published shall be prepared and delivered to the director of printing, who shall as speedily as possible print and publish such number of copies as shall be specified by the commission.

New Sec. 16. Except as otherwise provided by law, no appeal shall be filed or docketed in the regular division of the Kansas tax appeals commission without the payment of a docket fee in the amount of \$50. Fees collected pursuant to this section shall be credited to the state general fund.

New Sec. ~~16~~. Except as otherwise provided by law, the Kansas tax appeals commission shall have the following powers and duties:

(a) To hear appeals from the director of taxation and the director of

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property valuation on decisions, findings, orders, rulings and interpretations by such directors, and to hear appeals from the small claims division;

(b) to hear appeals from the director of property valuation on the assessment of state assessed property;

(c) to constitute, sit and act as the state board of equalization as provided in K.S.A. 79-1409, and amendments thereto;

(d) to correct errors and irregularities under the provisions of article 17 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto;

(e) to authorize the issuance of emergency warrants by taxing districts, as provided in article 29 of chapter 79 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental thereto, and authorizing the issuance of warrants by cities or counties under statutes of this state;

(f) to authorize increases in tax levies by taxing districts, as provided in article 19 of chapter 79 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental thereto;

(g) to review and decide applications for exemptions from property taxation submitted pursuant to K.S.A. 79-213, and amendments thereto;

(h) to adopt rules and regulations relating to the performance of its duties and particularly with reference to procedure before the court on hearings and appeals; and

(i) such other powers as may be prescribed.

New Sec. 17. Proceedings before the Kansas tax appeals commission shall be governed by the provisions of the Kansas administrative procedure act except as otherwise specifically provided herein. A taxpayer may be represented by an attorney, any person enrolled to practice before the United States tax court, or may appear *pro se*. Hearings shall be conducted by one commissioner, unless the chairperson determines that the case should be heard *en banc*. The hearing *en banc* may be allowed for the original hearing or a hearing on reconsideration.

New Sec. 18. The Kansas tax appeals commission shall have the power to summon witnesses from any part of the state to appear and give testimony, and to compel the witnesses to produce records, books, papers and documents relating to any subject matter before the commission. Summons, subpoenas and subpoenas *duces tecum* may be directed to the sheriff of any county and may be made returnable at such time as the Kansas tax appeals commission shall determine. No fees shall be charged by the sheriff for service thereof. Witness fees and mileage shall be allowed and may be taxed as costs to either party in the discretion of the Kansas tax appeals commission.

The Kansas tax appeals commission shall have power to issue an order directing depositions of witnesses residing within or without the state, to

(c) to hear valuation appeals and appeals of tax protests commenced pursuant to Articles 14 and 20 of the Kansas Statutes Annotated, and amendments thereto;

may

The chairman shall have the responsibility of assigning appeals to commissioners for hearing if such appeals are to be heard by one commissioner. If an appeal shall be heard by one commissioner, a certified record of the hearing shall be made available to the other commissioners for consideration when deciding such appeal. The commissioner may only make findings of fact in the appeal. The commission *en banc* shall rule on questions of law and shall issue the final determination in the appeal.

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1 be taken, upon proper notice to interested parties, if any, in like manner
2 that depositions of witnesses are taken in civil actions pending in district
3 court, in any matter before the Kansas tax appeals commission.

4 ~~Sec. 19.~~ K.S.A. 74-2426 is hereby amended to read as follows: 74-
5 2426. (a) ~~Orders of the board of tax appeals~~ Any final action of the Kansas
6 tax appeals commission on any appeal, in any proceeding under the tax
7 protest, tax grievance or tax exemption statutes or in any other original
8 proceeding before the board commission shall be rendered and served in
9 accordance with the provisions of the Kansas administrative procedure
10 act. Notwithstanding the provisions of subsection (g) of K.S.A. 77-526
11 and amendments thereto, a final order of the board commission shall be
12 rendered in writing and served within 120 days after the matter was fully
13 submitted to the board unless this period is waived or extended with the
14 written consent of all parties or for good cause shown commission.

15 (b) No final order of the board shall be subject to review pursuant to
16 subsection (e) unless the aggrieved party first files a petition for recon-
17 sideration of that order with the board in accordance with the provisions
18 of K.S.A. 77-529 and amendments thereto.

19 (c) Any final action of the board commission pursuant to this section
20 is subject to review in accordance with the act for judicial review and civil
21 enforcement of agency actions, except that:

22 (1) The parties to the action for judicial review shall be the same
23 parties as appeared before the board commission in the administrative
24 proceedings before the board commission. The board commission shall
25 not be a party to any action for judicial review of an action of the board
26 commission.

27 (2) There is no right to review of any order issued by the board com-
28 mission in a no-fund warrant proceeding pursuant to K.S.A. 12-110a,
29 12-1662 et seq., 19-2752a, 79-2938, 79-2939 and 79-2951, and amend-
30 ments thereto, and statutes of a similar character.

31 (3) The court of appeals has jurisdiction of any action for review per-
32 taining to property appraised and assessed by the director of property
33 valuation or excise, income or inheritance taxes assessed by the director
34 of taxation. The district court of the proper county has jurisdiction in all
35 other cases any final action of the Kansas tax appeals commission.

36 (4) Review of orders issued by the board of tax appeals relating to
37 the valuation or assessment of property for ad valorem tax purposes or
38 relating to the tax protest shall be conducted by the district court of the
39 county in which the property is located or, if located in more than one
40 county, the district court of any county in which any portion of the prop-
41 erty is located. Review of orders relating to tax exemption under K.S.A.
42 70-201 et seq., and amendments thereto, shall be conducted by the district
43 court of Shawnee county.

(5) In addition to the cost of the preparation of the transcript, the appellant shall pay to the board commission the other costs of certifying the record to the reviewing court. Such payment shall be made prior to the transmission of the agency record to the reviewing court.

(c) A petition for review filed in accordance with the act for judicial review and civil enforcement of agency actions shall contain a brief statement of the pertinent facts, including the amount of tax assessed, and be accompanied by certified copies of the final order issued by the Kansas tax appeals commission.

(d) If review of an order final action of the board commission relating to excise, income or inheritance taxes, is sought by a person other than the director of taxation, such person shall give bond for costs at the time the petition is filed. The bond shall be in the amount of 125% of the amount of taxes assessed or a lesser amount approved by the court of appeals and shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

(e) If review of an order final action of the commission is sought by a party other than the director of property valuation or a taxing subdivision and the order determines, approves, modifies or equalizes the amount of valuation which is assessable and for which the tax has not been paid, a bond shall be given in the amount of 125% of the amount of the taxes assessed or a lesser amount approved by the reviewing court. The bond shall be conditioned on the petitioner's prosecution of the review without delay and payment of all costs assessed against the petitioner.

21 ~~Sec. 20.~~ K.S.A. 1997 Supp. 74-2438 is hereby amended to read as follows: 74-2438. An appeal may be taken to the state board of tax appeals Kansas tax appeals commission from any finding, ruling, order, decision, final determination or other final action, including action relating to abatement or reduction of penalty and interest, on any case of the secretary of revenue or the secretary's designee by any person aggrieved thereby, or as provided by subsection (c) of section 9. Notice of such appeal shall be filed with the secretary of the board commission within 30 days after such finding, ruling, order, decision, final determination or other action on a case, and a copy served upon the secretary of revenue or the secretary's designee. Upon receipt of a timely appeal, the board commission shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. The hearing before the board commission shall be a de novo hearing unless the parties agree to submit the case on the record made before the secretary of revenue or the secretary's designee. With regard to any matter properly submitted to the board commission relating to the determination of valuation of residential property for taxation purposes, it shall be the duty of the county or district

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appraiser to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination. No presumption shall exist in favor of the county or district appraiser with respect to the validity and correctness of such determination. No interest shall accrue on the amount of the assessment of tax subject to any such appeal beyond 120 days after the date the matter was fully submitted, except that, if a final order is issued within such time period, interest shall continue to accrue until such time as the tax liability is fully satisfied, and if a final order is issued beyond such time period, interest shall recommence to accrue from the date of such order until such time as the tax liability is fully satisfied.

22 Sec. 21: K.S.A. 79-213 is hereby amended to read as follows: 79-213.

13 (a) Any property owner requesting an exemption from the payment of ad
14 valorem property taxes assessed, or to be assessed, against their property
15 shall be required to file an initial request for exemption, on forms ap-
16 proved by the board of tax appeals Kansas tax appeals commission and
17 provided by the county appraiser. The commission shall make available
18 to any property owner information and assistance sufficient to allow the
19 property owner to prepare a proper request for exemption.

20 (b) The initial exemption request shall identify the property for which
21 the exemption is requested and state, in detail, the legal and factual basis
22 for the exemption claimed.

23 (c) The request for exemption shall be filed with the county appraiser
24 of the county where such property is principally located.

25 (d) After a review of the exemption request, and after a preliminary
26 examination of the facts as alleged, the county appraiser shall recommend
27 that the exemption request either be granted or denied, and, if necessary,
28 that a hearing be held. If a denial is recommended, a statement of the
29 controlling facts and law relied upon shall be included on the form.

30 (e) The county appraiser, after making such written recommenda-
31 tion, shall file the request for exemption and the recommendations of the
32 county appraiser with the board of tax appeals commission.

33 (f) Upon receipt of the request for exemption, the board commission
34 shall docket the same and notify the applicant and the county appraiser
35 of such fact.

36 (g) After examination of the request for exemption, and the county
37 appraiser's recommendation related thereto, the board commission may
38 fix a time and place for hearing, and shall notify the applicant and the
39 county appraiser of the time and place so fixed. A request for exemption
40 prepared in accordance with instructions and assistance provided by the
41 Kansas tax appeals commission shall be deemed approved, unless the com-
42 mission schedules a hearing within 30 days after receipt of the request
43 for exemption. Any decision denying a request for exemption shall be

under (1) section 13, article 11 of the Kansas Constitution or (2) K.S.A. 79-201a
Second, and amendments thereto, for property constructed or purchased, in whole or
in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740
to 12-1749, inclusive, and amendments thereto,

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published pursuant to section 15. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board commission sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

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conducted

(h) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board commission.

Any decision denying a request for exemption shall be published pursuant to section 15.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board commission issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board commission issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board commission grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for a period not to exceed three years.

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem

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ion by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; and (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 1997 Supp. 72-6431, and amendments thereto.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (j) and (k) as amended by this act shall be applicable to all taxable years commencing after December 31,

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c. 22. K.S.A. 79-2005 is hereby amended to read as follows: 79-

2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals *Kansas tax appeals commission* and provided by the county treasurer, clearly stating the grounds on which the whole or any part of such taxes are protested and citing any law, statute or facts on which such taxpayer relies in protesting the whole or any part of such taxes. When the grounds of such protest is that the valuation or assessment of the property upon which the taxes are levied is illegal or void, the county treasurer shall forward a copy of the written statement of protest to the county appraiser who shall within 15 days of the receipt thereof, schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. The county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property, if in the county appraiser's opinion a change in the valuation of the taxpayer's property is required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer in the event the valuation of the taxpayer's property is changed, in writing of the results of the meeting. In the event the valuation of the taxpayer's property is changed and such change requires a refund of taxes and interest thereon, the county treasurer shall process the refund in the manner provided by subsection (l).

(b) No protest appealing the valuation or assessment of property shall be filed pertaining to any year's valuation or assessment when an appeal of such valuation or assessment was commenced pursuant to K.S.A. 79-1448, and amendments thereto, nor shall the second half payment of taxes be protested when the first half payment of taxes has been protested. Notwithstanding the foregoing, this provision shall not prevent any subsequent owner from protesting taxes levied for the year in which such property was acquired, nor shall it prevent any taxpayer from protesting taxes when the valuation or assessment of such taxpayer's property has been changed pursuant to an order of the director of property valuation.

(c) A protest shall not be necessary to protect the right to a refund of taxes in the event a refund is required because the final resolution of an appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto, occurs after the final date prescribed for the protest of taxes.

If the taxpayer owns property which is leased to multiple tenants, the taxpayer shall provide income and expense information for such property to the county appraiser within 30 days after the filing of the protest or prior to the date of the informal meeting, whichever is earlier. Such information shall be confidential and may not be disclosed by the county appraiser, except as otherwise specifically provided by law.

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2 d) If the grounds of such protest shall be that the valuation or as-
3 sessment of the property upon which the taxes so protested are levied is
4 illegal or void, such statement shall further state the exact amount of
5 valuation or assessment which the taxpayer admits to be valid and the
6 exact portion of such taxes which is being protested.

7 (e) If the grounds of such protest shall be that any tax levy, or any
8 part thereof, is illegal, such statement shall further state the exact portion
9 of such tax which is being protested.

10 (f) Upon the filing of a written statement of protest, the grounds of
11 which shall be that any tax levied, or any part thereof, is illegal, the county
12 treasurer shall mail a copy of such written statement of protest to the
13 state board of tax appeals *Kansas tax appeals commission* and the gov-
14 erning body of the taxing district making the levy being protested.

15 (g) Within 30 days after notification of the results of the informal
16 meeting with the county appraiser pursuant to subsection (a), the pro-
17 testing taxpayer may, if aggrieved by the results of the informal meeting
18 with the county appraiser, appeal such results to the state board of tax
19 appeals *Kansas tax appeals commission*.

20 (h) After examination of the copy of the written statement of protest
21 and a copy of the written notification of the results of the informal meet-
22 ing with the county appraiser in cases where the grounds of such protest
23 is that the valuation or assessment of the property upon which the taxes
24 are levied is illegal or void, the board *commission* shall conduct a hearing
25 in accordance with the provisions of the Kansas administrative procedure
26 act, unless waived by the interested parties in writing. If the grounds of
27 such protest is that the valuation or assessment of the property is illegal
28 or void the board shall notify the county appraiser thereof.

29 (i) In the event of a hearing, the same shall be originally set not later
30 than 90 days after the filing of the copy of the written statement of protest
31 and a copy, when applicable, of the written notification of the results of
32 the informal meeting with the county appraiser with the board *commis-*
33 *sion*. With regard to any matter properly submitted to the board relating
34 to the determination of valuation of residential property for taxation pur-
35 poses, it shall be the duty of the county appraiser to initiate the production
36 of evidence to demonstrate, by a preponderance of the evidence, the
37 validity and correctness of such determination. No presumption shall exist
38 in favor of the county appraiser with respect to the validity and correctness
39 of such determination. In all instances where the board sets a request for
40 hearing and requires the representation of the county by its attorney or
41 counselor at such hearing, the county shall be represented by its county
42 attorney or counselor.

43 (j) When a determination is made as to the merits of the tax protest,
the board *commission* shall render and serve its order thereon. The

small claims division or regular division of

1 county treasurer shall notify all affected taxing districts of the amount by
2 which tax revenues will be reduced as a result of a refund.

3 (k) If a protesting taxpayer fails to file a copy of the written statement
4 of protest and a copy, when applicable, of the written notification of the
5 results of the informal meeting with the county appraiser with the board
6 commission within the time limit prescribed, such protest shall become
7 null and void and of no effect whatsoever.

8 (l) (1) In the event the board commission orders that a refund be
9 made pursuant to this section or the provisions of K.S.A. 79-1609, and
10 amendments thereto, or a court of competent jurisdiction orders that a
11 refund be made, and no appeal is taken from such order, or in the event
12 a change in valuation which results in a refund pursuant to subsection
13 (a), the county treasurer shall, as soon thereafter as reasonably practica-
14 ble, refund to the taxpayer such protested taxes and, with respect to pro-
15 tests or appeals commenced after the effective date of this act, interest
16 computed at the rate prescribed by K.S.A. 79-2968, and amendments
17 thereto, minus two percentage points, per annum from the date of pay-
18 ment of such taxes from tax moneys collected but not distributed. Upon
19 making such refund, the county treasurer shall charge the fund or funds
20 having received such protested taxes, except that, with respect to that
21 portion of any such refund attributable to interest the county treasurer
22 shall charge the county general fund. In the event that the board or court
23 finds that any time delay in making its decision is unreasonable and is
24 attributable to the taxpayer, it may order that no interest or only a portion
25 thereof be added to such refund of taxes.

26 (2) No interest shall be allowed pursuant to paragraph (1) in any case
27 where the tax paid under protest was inclusive of delinquent taxes.

28 (m) Whenever, by reason of the refund of taxes previously received
29 or the reduction of taxes levied but not received as a result of decreases
30 in assessed valuation, it will be impossible to pay for imperative functions
31 for the current budget year, the governing body of the taxing district
32 affected may issue no-fund warrants in the amount necessary. Such war-
33 rants shall conform to the requirements prescribed by K.S.A. 79-2940,
34 and amendments thereto, except they shall not bear the notation required
35 by such section and may be issued without the approval of the state board
36 of tax appeals *Kansas tax appeals commission*. The governing body of such
37 taxing district shall make a tax levy at the time fixed for the certification
38 of tax levies to the county clerk next following the issuance of such war-
39 rants sufficient to pay such warrants and the interest thereon. All such
40 tax levies shall be in addition to all other levies authorized by law.

41 (n) The county treasurer shall disburse to the proper funds all por-
42 tions of taxes paid under protest and shall maintain a record of all portions
43 of such taxes which are so protested and shall notify the governing body

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of the taxing district levying such taxes thereof and the director of accounts and reports if any tax protested was levied by the state.

(o) This statute shall not apply to the valuation and assessment of property assessed by the director of property valuation and it shall not be necessary for any owner of state assessed property, who has an appeal pending before the board of tax appeals, to protest the payment of taxes under this statute solely for the purpose of protecting the right to a refund of taxes paid under protest should that owner be successful in that appeal.

Sec. 23. K.S.A. 79-1448 is hereby amended to read as follows: 79-

1448. Any taxpayer may complain or appeal to the county appraiser from the classification or appraisal of the taxpayer's property by giving notice to the county appraiser within 30 days subsequent to the date of mailing of the valuation notice required by K.S.A. 79-1460, and amendments thereto, for real property, and on or before May 15 for personal property. The county appraiser or the appraiser's designee shall arrange to hold an informal meeting with the aggrieved taxpayer with reference to the property in question. At such meeting it shall be the duty of the county appraiser or the county appraiser's designee to initiate production of evidence to substantiate the valuation of such property. The county appraiser may extend the time in which the taxpayer may informally appeal from the classification or appraisal of the taxpayer's property for just and adequate reasons. Except as provided in K.S.A. 79-1404, and amendments thereto, no informal meeting regarding real property shall be scheduled to take place after May 15, nor shall a final determination be given by the appraiser after May 20. Any taxpayer who is aggrieved by the final determination of the county appraiser may appeal to the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, and such hearing officer, or panel, for just cause shown and recorded, is authorized to change the classification or valuation of specific tracts or individual items of real or personal property in the same manner provided for in K.S.A. 79-1606, and amendments thereto. ~~In lieu of appealing to the hearing officer or panel appointed pursuant to K.S.A. 79-1611, and amendments thereto, any taxpayer aggrieved by the final determination of the county appraiser, other than a taxpayer owning property devoted to agricultural use, may appeal to the small claims division of the Kansas tax appeals commission if the appraised value in dispute is less than \$250,000. If the appraised value in dispute is \$250,000 or greater, then the aggrieved taxpayer may appeal to the regular division of the Kansas tax appeals commission.~~ Any taxpayer who is aggrieved by the final determination of a hearing officer or panel may appeal to the state board of tax appeals Kansas tax appeals commission as provided in K.S.A. 79-1609, and amendments thereto. An informal meeting with the county appraiser or the appraiser's designee shall be a condition precedent to an

If the taxpayer owns property which is leased to multiple tenants, the taxpayer shall provide income and expense information for such property to the county appraiser within 30 days after the filing of the appeal or prior to the date of the informal meeting, whichever is earlier. Such information shall be confidential and may not be disclosed by the county appraiser, except as otherwise specifically provided by law.

may appeal to the Kansas tax appeals commission within the time period required by K.S.A. 79-1606, and amendments thereto. Any taxpayer, other than a taxpayer owning property devoted to agricultural use, may appeal to the small claims division of the Kansas tax appeals commission within the time period required by K.S.A. 79-1606, and amendments thereto, if the value of the property on the valuation notice is less than \$500,000 or the property constitutes single family residential property.

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1 appeal to the county or district hearing panel, or to the small claims di-
2 vision of the Kansas tax appeals commission.

or regular division

3 Sec. 24. K.S.A. 79-1609 is hereby amended to read as follows: 79-
4 1609. Any person aggrieved by any order of the hearing officer or panel
5 may appeal to the state board of tax appeals Kansas tax appeals commis-
6 sion by filing a written notice of appeal, on forms approved by the state
7 board of tax appeals commission and provided by the county clerk for
8 such purpose, stating the grounds thereof and a description of any com-
9 parable property or properties and the appraisal thereof upon which they
10 rely as evidence of inequality of the appraisal of their property, if that be
11 a ground of the appeal, with the board of tax appeals commission and by
12 filing a copy thereof with the county clerk within 30 days after the date
13 of the order from which the appeal is taken. A county or district appraiser
14 may appeal to the state board of tax appeals commission from any order
15 of the hearing officer or panel. With regard to any matter properly sub-
16 mitted to the board commission relating to the determination of valuation
17 of residential property for taxation purposes, it shall be the duty of the
18 county appraiser to initiate the production of evidence to demonstrate,
19 by a preponderance of the evidence, the validity and correctness of such
20 determination. No presumption shall exist in favor of the county appraiser
21 with respect to the validity and correctness of such determination.

Sec. 26. K.S.A. 79-1611 is hereby amended to read as follows: 79-1611.

The board of county commissioners of
each county having fewer than 10,000 parcels of
real property may appoint and the board of county
commissioners of each county having 10,000 par-
cels of real property or more shall appoint at least
one hearing officer or county hearing panel of not
fewer than three individuals to hear and deter-
mine appeals from the final determination of clas-
sification and appraised valuation of real or per-
sonal property by the county appraiser. The board
of county commissioners, with the approval of the
director of property valuation, may unite with the
board of county commissioners of one or more
counties to form a district for the purpose of ap-
pointing at least one hearing officer or district
hearing panel of not fewer than three individuals.
In any county wherein a hearing officer or county
or district hearing panel is not appointed pursuant
to this section any appeal from the final determi-
nation of the county appraiser shall be filed di-
rectly with the state board of tax appeals as pro-
vided in K.S.A. 79-1609, and amendments
thereto.

No person may serve as a hearing officer or on
a county or district hearing panel who is not qual-
ified by virtue of experience and training in the
field of property appraisal and property tax ad-
ministration, such qualifications to be determined
by the director of property valuation who shall
prescribe guidelines governing the duties of the
hearing officers or county and district hearing
panels. Each hearing officer and member of a
county or district hearing panel shall attend and
complete a training program conducted by the di-
rector of property valuation or the director's des-
ignee. Any person who has performed an appraisal
of any property the appraised valuation of which
is appealed to a hearing officer or the county or
district hearing panel shall not hear such appeal
and may not participate in any deliberations on
such appeal. The board of county commissioners,
or individual members thereof, may serve as a
hearing officer or as members of the county or
district hearing panel provided they meet the
foregoing requirements.

Whenever the director of property valuation
shall conclude that any person appointed as a
hearing officer or to a county or district hearing
panel has failed or neglected to discharge such
person's duties as required by law and that the
interest of the public will be promoted by the re-
moval of such person, the director of property val-
uation shall issue an order suspending or termi-
nating such person as a hearing officer or member
of the hearing panel in the same manner and sub-
ject to the same conditions provided in subsection
(b) of K.S.A. 19-431, and amendments thereto.

The provisions of this section shall apply to all
taxable years commencing after December 31,
1992.

27 22 Sec. 25. K.S.A. 1997 Supp. 77-529 is hereby amended to read as
23 follows: 77-529. (a) Any Except as provided in subsection (e), any party,
24 within 15 days after service of a final order, may file a petition for recon-
25 sideration with the agency head, stating the specific grounds upon which
26 relief is requested. The filing of the petition is not a prerequisite for
27 seeking administrative or judicial review except as provided in K.S.A.
28 44-1010 and 44-1115, and amendments thereto, concerning orders of the
29 Kansas human rights commission, K.S.A. 55-606 and 66-118b, and
30 amendments thereto, concerning orders of the corporation commission
31 and K.S.A. 74-2426, and amendments thereto, concerning orders of the
32 board of tax appeals.

33 (b) Within 20 days after the filing of the petition, the agency head
34 shall render a written order denying the petition, granting the petition
35 and dissolving or modifying the final order, or granting the petition and
36 setting the matter for further proceedings. The petition may be granted,
37 in whole or in part, only if the agency head states, in the written order,
38 findings of fact, conclusions of law and policy reasons for the decision if
39 it is an exercise of the state agency's discretion, to justify the order. In
40 proceedings before the Kansas corporation commission, the petition is
41 deemed to have been denied if the agency head does not dispose of it
42 within 30 days after the filing of the petition.

43 An order under this section shall be served on the parties in the manner

prescribed by K.S.A. 77-531 and amendments thereto.

2 (c) Any order rendered upon reconsideration or any order denying a
3 petition for reconsideration shall state the agency officer to receive service
4 of a petition for judicial review on behalf of the agency.

5 (d) For the purposes of this section, "agency head" shall include a
6 presiding officer designated in accordance with subsection (g) of K.S.A.
7 77-514, and amendments thereto.

8 (e) Any party applying for an exemption under: (1) Section 13, article
9 11 of the Kansas Constitution, or (2) K.S.A. 79-201a Second, and amend-
10 ments thereto, for property constructed or purchased, in whole or in part,
11 with the proceeds of revenue bonds under the authority of K.S.A. 12-1740
12 to 12-1749, inclusive, and amendments thereto, may file a petition for
13 reconsideration with the Kansas tax appeals commission within 30 days
14 after service of a final order.

15 Sec. 26. K.S.A. 79-251 is hereby amended to read as follows: 79-251.

16 Prior to the granting of an exemption for any property from ad valorem
17 taxation pursuant to the provisions of section 13 of article 11 of the Kansas
18 constitution the board of county commissioners of any county or the
19 governing body of any city, as the case requires, shall be required to do
20 the following:

21 (a) Develop and adopt official policies and procedures for the grant-
22 ing of such exemptions including:

23 (1) The required preparation of an analysis of the costs and benefits
24 of each exemption, including the effect of the exemption on state reve-
25 nues, prior to the granting of such exemption;

26 (2) a procedure for monitoring the compliance of a business receiving
27 an exemption with any terms or conditions established by the governing
28 body for the granting of the exemption; and

29 (b) conduct a public hearing on the granting of such exemption. No-
30 tice of the public hearing shall be published at least once seven days prior
31 to the hearing in the official city or county newspaper, as the case re-
32 quires, and shall indicate the purpose, time and place thereof. In addition
33 to such publication notice, the city or county clerk, as the case requires,
34 shall notify in writing the governing body of the city or county and unified
35 school district within which the property proposed for exemption is lo-
36 cated; and

37 (c) adopt a resolution containing the following factual findings:

38 (1) That the property for which the exemption is being granted will
39 be used exclusively for the purposes specified in section 13, article 11 of
40 the Kansas constitution;

41 (2) if the property is to be used for manufacturing articles of com-
42 merce, that the business using the property is a person, company or cor-
43 poration engaged in the business of transforming, refining or combining

or (3) K.S.A. 79-252, and amendments thereto,

or K.S.A. 79-252, and amendments thereto,

or K.S.A. 79-252, and amendments thereto.

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or to enhance value by physical processes or packaging

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1 materials and labor to convert tangible personal property from one form
2 to another, including packaging;

3 (3) if the property is to be used for the expansion of the existing busi-
4 ness in the city or county, that the expansion will result in the employment
5 of one or more additional full-time employees by the expanding business;
6 and

7 (4) if the business using the property is relocating from another city
8 or county within the state of Kansas, that the business has received ap-
9 proval from the secretary of commerce and housing prior to qualifying
10 for the exemption.

or the retention of existing jobs as provided in K.S.A. 79-252, and amendments thereto.

Sec. 29. K.S.A. 79-252 is hereby amended to read as follows: 79-252.

30 11 ~~Sec. 27.~~ K.S.A. 74-2426, 74-2433a, 74-2433b, 74-2433c, 74-2433d,
12 74-2433e, 74-2434, 74-2435, 74-2436, 74-2437, 74-2437a, 74-2437b, 74-
13 2439, 79-213, 79-251, 79-252, 79-1448, 79-1609 and 79-2005 and K.S.A.
14 1997 Supp. 74-2433 and 74-2438 are hereby repealed.
31 15 ~~Sec. 28.~~ This act shall take effect and be in force from and after
16 January 1, 1999, and its publication in the statute book.

, 79-1611

No board of county commissioners of any county or the governing body of any city shall exempt any tangible personal property of a business pursuant to section 13 of article 11 of the Kansas constitution; whether such personal property is in the state of Kansas and subject to ad valorem taxation or has been exempted from taxation pursuant to section 13 of article 11 of the Kansas constitution, except that, if the board of county commissioners or governing body of a city makes a factual determination that such an exemption is required to retain jobs in the state of Kansas, an exemption may be granted for such tangible personal property. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All buildings or added improvements thereto, together with the land upon which such buildings or added improvements are located, and all tangible personal property purchased after the effective date of this act and associated therewith, used exclusively for the purpose of (1) manufacturing articles of commerce; (2) conducting research and development; or (3) storing goods or commodities which are sold or traded in interstate commerce, which meets the further requirements of subsections (b), (c), and (d) of this section.

(b) In order to be eligible for the exemption granted pursuant to this section, the board of county commissioners or governing body of a city shall make the following factual determinations by resolution or ordinance: (1) the exemption is necessary to facilitate the expansion of any existing business in the state of Kansas and the county or city; (2) the exemption will promote the retention of jobs in the state of Kansas and the county or city; (3) the exemption conforms with the official policies and procedures of the county or city adopted in conformance with K.S.A. 79-251 et seq. and amendments thereto; and (4) the exemption will promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas and the county or city.

(c) Any exemption granted pursuant to this act shall be in effect for not more than 10 calendar years after the calendar year in which the expansion of the existing business is completed. In conformance with the official policies of the county or city, the board of county commissioners or governing body of the city may require a payment in lieu of taxes to the county or city. Any such payment shall be received and distributed as provided in K.S.A. 12-1742, and amendments thereto.

(d) Exemptions granted in accordance with this section shall comply with the terms and conditions of K.S.A. 79-210, 79-213, and 79-251, and amendments thereto.

(e) The provisions of this section are adopted in accordance with the provisions of subsection (d) of section 13 of article 11 of the Kansas constitution.

the retention of existing jobs as provided in K.S.A. 79-252, and amendments thereto.

c. 29. K.S.A. 79-252 is hereby amended to read as follows: 79-252.

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~~No board of county commissioners of any county or the governing body of any city shall exempt any tangible personal property of a business pursuant to section 13 of article 11 of the Kansas constitution, whether such personal property is in the state of Kansas and subject to ad valorem taxation or has been exempted from taxation pursuant to section 13 of article 11 of the Kansas constitution, except that, if the board of county commissioners or governing body of a city makes a factual determination that such an exemption is required to retain jobs in the state of Kansas, an exemption may be granted for such tangible personal property. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:~~

(a) All buildings, or added improvements thereto, together with the land upon which such buildings or added improvements are located, and all tangible personal property purchased after the effective date of this act and associated therewith, used exclusively for the purpose of: (1) manufacturing articles of commerce; (2) conducting research and development; or (3) storing goods or commodities which are sold or traded in interstate commerce, which meets the further requirements of subsections (b), (c), and (d) of this section.

(b) In order to be eligible for the exemption granted pursuant to this section, the board of county commissioners or governing body of a city shall make the following factual determinations by resolution or ordinance: (1) the exemption is necessary to facilitate the expansion of any existing business in the state of Kansas and the county or city; (2) the exemption will promote the retention of jobs in the state of Kansas and the county or city; (3) the exemption conforms with the official policies and procedures of the county or city adopted in conformance with K.S.A. 79-251 et seq., and amendments thereto; and (4) the exemption will promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas and the county or city.

(c) Any exemption granted pursuant to this act shall be in effect for not more than 10 calendar years after the calendar year in which the expansion of the existing business is completed. In conformance with the official policies of the county or city, the board of county commissioners or governing body of the city may require a payment in lieu of taxes to the county or city. Any such payment shall be received and distributed as provided in K.S.A. 12-1742, and amendments thereto.

(d) Exemptions granted in accordance with this section shall comply with the terms and conditions of K.S.A. 79-210, 79-213, and 79-251, and amendments thereto.

(e) The provisions of this section are adopted in accordance with the provisions of subsection (d) of section 13 of article 11 of the Kansas constitution.

SUBCOMMITTEE REPORT ON HB 2602

HB 2602, as amended, would replace SBOTA with a new Tax Appeals Commission and make a number of changes in the appeals process. The bill also would create a new property tax exemption for certain property used for manufacturing, research and development, or warehousing purposes.

The Tax Appeals Commission

The bill would abolish the State Board of Tax Appeals on January 1, 1999 and transfer all of its powers, duties, functions, property, and personnel to a new Kansas Tax Appeals Commission (TAC). The TAC would be an independent agency within the executive branch.

The main body of TAC would consist of three commissioners appointed by the Governor, all of whom would be subject to Senate confirmation. The Governor also would be authorized to appoint a commissioner pro tem when a conflict prevents a commissioner from hearing an appeal or a commissioner is otherwise unavailable. The votes of two commissioners would be required for any TAC action. Commissioners would be required to be Kansas residents and to have been "actively practicing" law in Kansas for at least five years. Commissioners would be subject to the Supreme Court Rules of Judicial Conduct applicable to all district court judges and would be bound by the doctrine of judicial precedent to adhere to published decisions of the appellate courts. The TAC would be required to give due deference to prior TAC decisions and to state reasons and justifications for overruling a prior decision based on similar facts. Commissioners could be removed by the Governor for cause, after public hearings had been conducted in accordance with KAPA.

The TAC would be required to appoint, subject to approval by the Governor, an executive director. The executive director, who would be required to have familiarity with the tax appeals process, would be authorized to employ all persons necessary, including appraisers and hearing officers, to implement the provisions of the act.

The Small Claims Division

The bill establishes one division within the TAC as the Small Claims Division (SCD). Hearing officers appointed by the executive director would have authority to hear and decide SCD cases. Taxpayers could elect to appeal decisions, findings, orders, or rulings of the Kansas Director of Taxation to the small claims division when the amount of tax in controversy does not exceed \$20,000, or, in the case of property tax valuation disputes, when the property in question is single family residential property or the appraised valuation of the property in question is less than \$3,000,000, except that no cases involving agricultural use value could be considered in the SCD. SCD hearings would be required to be conducted within 60 days after appeals are filed, and hearing officers would be required to render decisions within 30 days of the hearings. Documents provided by taxpayers and county or district attorneys for SCD hearings would be returned and would be considered confidential. Taxpayers appealing to the small claims division would not be precluded from appealing subsequently to the regular division of TAC.

TAC Proceedings and Requirements

No appeals of any kind could be docketed in the regular TAC division without the payment of a \$50 docket fee. All such docket fees would be credited to the SGF.

Proceedings before the regular division of TAC would be governed by the provisions of the Kansas Administrative Procedures Act. Taxpayers could be represented by an attorney, any person enrolled to practice before the United States Tax Court, or could appear *pro se*. All final actions of the TAC, including final actions on nonstate-assessed property tax cases, could be appealed to the Court of Appeals. Under current law, property tax valuation cases not involving state-assessed property are appealed from SBOTA to district court before being eligible for appeal to the Court of Appeals.

The TAC would be required to provide any property owner information and assistance sufficient to all the preparation of a proper request for exemption. New language would provide that all IRB and EDX exemption requests of cities and counties prepared in accordance with guidance provided by TAC would be deemed approved unless TAC subsequently scheduled a hearing within 30 days after the requests for exemption are received. All decisions denying property tax exemption requests of any kind would be required to be published.

Property Tax Appeals Process Changes

Taxpayers appealing valuations for single family residential property or of other property except agricultural land with a valuation of \$3 million or less would have the option of skipping the local hearing officer step in the appeals process and moving directly to the SCD or to the regular division of the TAC. The requirement under current law that counties with 10,000 or more parcels or real estate appoint local hearing officers also would be repealed.

Taxpayers who own property leased to multiple tenants and who are appealing valuation or protesting taxes would be required to provide income and expense information to county appraisers. Such information would be required to be kept confidential by county appraisers.

IRB and EDX Exemptions

With respect to locally-granted property tax exemptions, the amount of time parties seeking exemption have to request reconsideration of a decision would be expanded from 15 to 30 days. Cities and counties seeking to grant EDXs would be mandated to adopt resolutions or ordinances stipulating that:

- the property is to be used exclusively for one of the purposes outlined in Section 13 of Article 11 of the *Kansas Constitution*;

- if the property is to qualify for the exemption on the basis of manufacturing, the business using the property exclusively for such purpose must be engaged in the business of transforming, refining, or combining materials and labor to convert tangible personal property from one form to another or to enhance value by physical processing or packaging;
- if the property is to be used to expand an existing business, the expansion will result in employment of one or more full-time employees or to "retain" jobs pursuant to KSA 79-252;
- if the business is relocating from elsewhere within Kansas, the Secretary of Commerce and Housing has approved the exemption.

K.S.A. 79-252 would be amended to exempt from property taxation buildings or added improvements, together with land and all associated tangible personal property, used exclusively for manufacturing, research and development, or warehousing, provided a board of county commissioners or governing body of a city has found that the exemption is necessary to facilitate the expansion of the business or to retain jobs in the state and the county or city. Exemptions so granted would be in effect for "not more than" 10 years. The exemptions provided through KSA 79-252 would be deemed to be "in accordance with" the EDX section of the Kansas Constitution.

Motor Vehicle Property Tax Exemption Filing Requirements

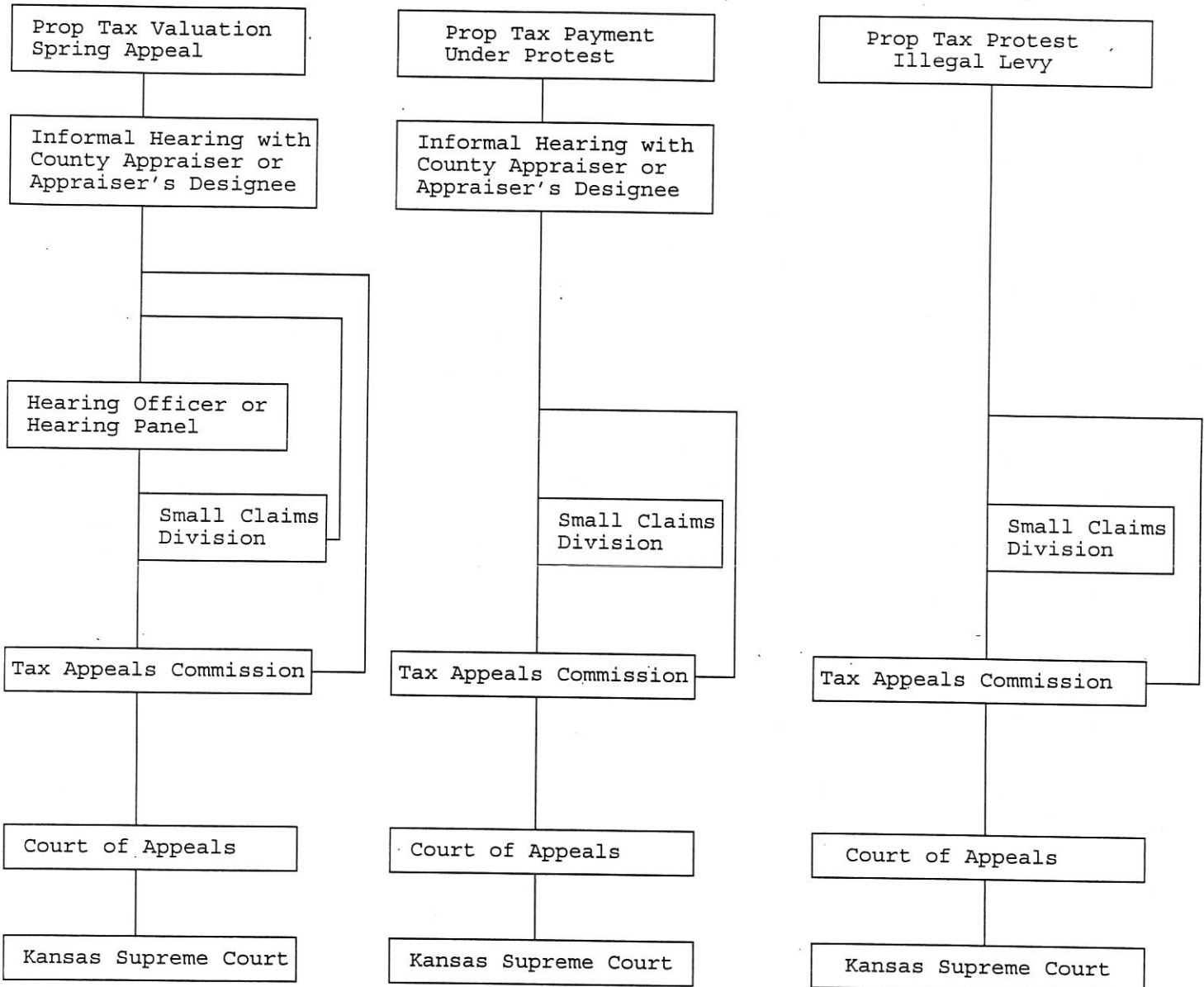
Finally, owners of motor vehicles exempt from property taxation pursuant to KSA 79-201 Ninth would also be removed from exemption filing requirements pursuant to KSA 79-213.

Changes in Appeals Process

The changes in the appeals process for property and non-property tax cases are summarized in the attached flow-charts.

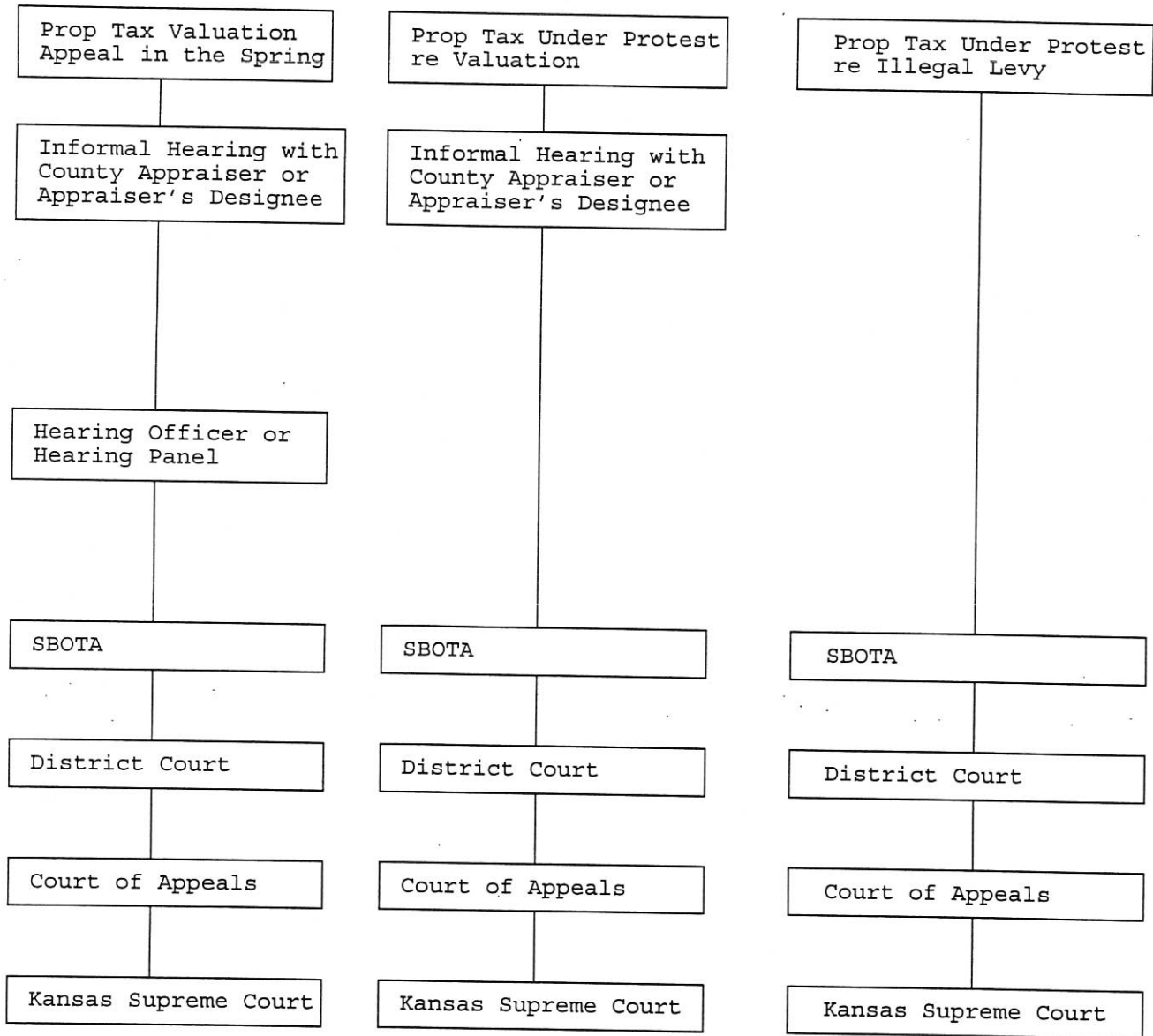
Property Tax Cases

Proposed Law



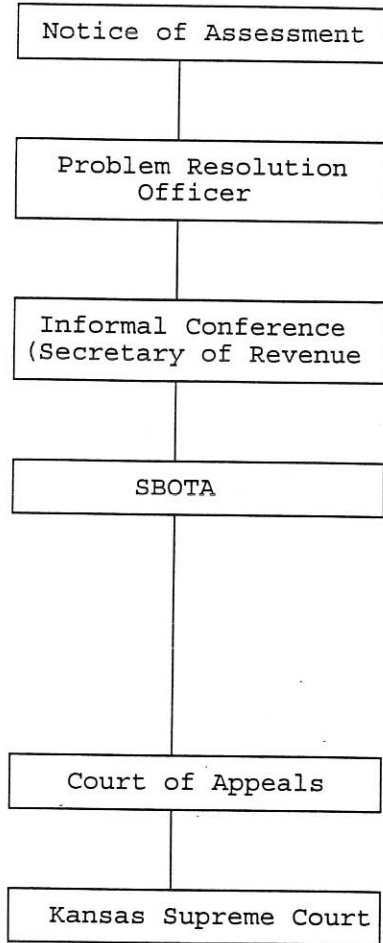
Property Tax Cases

Current Law

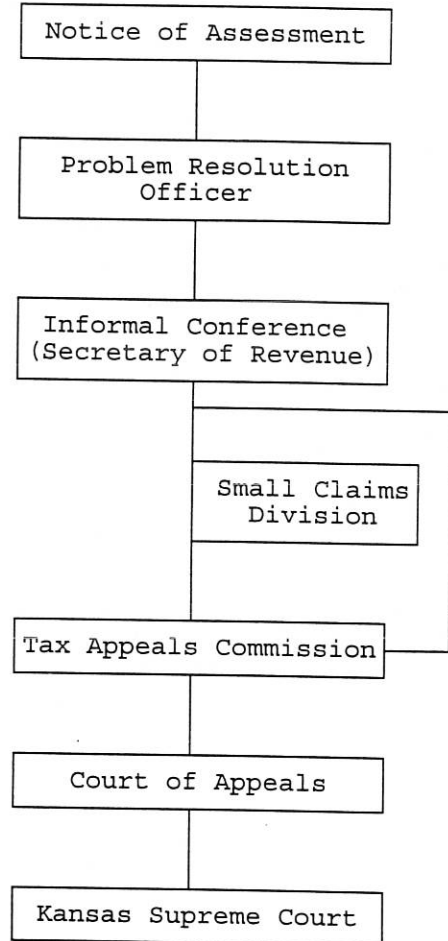


SECRETARY OF REVENUE CASES (Income, Sales & Inheritance)

Current Law



Proposed Law



March 12, 1998

MEMORANDUM

To: Rep Tony Powell and Rep Bruce Larkin

From: Chris W. Courtwright, Principal Analyst

Re: Fiscal Note for Subcommittee Version of HB 2602

The purpose of this memorandum is to update you as to the discussions I have been holding with Budget Division regarding the fiscal note on HB 2602, which would abolish the State Board of Tax Appeals (SBOTA) and replace it with a new Tax Appeals Commission (TAC).

As you may recall, Budget Division's February 2 fiscal note on the bill as introduced suggested additional FY 1999 expenditures of \$579,485 and additional FY 2000 expenditures of \$840,500. Although HB 2602 is supported by the Governor, these amounts were NOT included in the *Governor's Budget Report*. The \$579,485 figure for FY 1999 is attributable to \$555,000 in additional expenditures required for the new TAC beyond what the Governor recommended for SBOTA; and \$24,485 for the Office of Judicial Administration (attributable to an added caseload at the Court of Appeals). The \$840,500 figure for FY 2000 is disaggregated into \$790,000 of additional funding for TAC beyond what is anticipated under current law for SBOTA and \$50,500 for the OJA.

Based on my conversations with Don Cawby in Budget regarding the subcommittee amendments, we believe that there are two major amendments which warrant reductions in the fiscal note. The first of these is the elimination of the position of the Commissioner of Small

House Taxation
3-16-98
Attachment 3-1

Claims – \$50,568 for the second half of FY 1999 and \$101,291 for FY 2000. The second amendment which would reduce the fiscal note would not reduce the amount of expenditures but instead would offset those expenditures by providing more revenue for the SGF – namely, the \$50 docket fee for all cases reaching the regular division of the TAC. Our analysis suggests that this fee might raise about \$100,000 of agency earnings in FY 1999 and about \$440,000 in FY 2000.

So the increased FY 1999 expenditures would be reduced to \$528,917 (\$504,432 for TAC and \$24,485 for OJA). Agency earnings would increase by \$100,000, leaving a net FY 1999 fiscal note of \$428,917.

For FY 2000, the increased expenditures would be \$739,209 – \$688,709 for TAC and \$50,500 for OJA. With \$440,000 in increased agency earnings, the net FY 2000 fiscal note would be \$299,209.

cc Don Cawby

Carolyn Rampey

THE STATE
Bill Graves



OF KANSAS
Governor

BOARD OF TAX APPEALS

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March 12, 1998

To All Members
House Taxation Committee
Capitol Building
Topeka, KS

RE: HB 2602

Dear Representative:

Attached is a two-page memorandum that the current members of the Board of Tax Appeals asked that I pass on to each of you. This contains some of the concerns the Board members feel should be considered in your discussions on this bill.

If you have questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Rita Maichel".

Rita Maichel
Board Secretary

March 12, 1998

The amendments proposed by the House Subcommittee pose some major concerns, in addition to those summarized in the previous memorandum dated February 25, 1998.

\$ 3,000,000 valuation threshold for Small Claims Division. The House Subcommittee would eliminate the Small Claims Commissioner entirely, so the Small Claims Division hearing officers would have no supervisory authority with respect to the substantive appeal process. This may have been sensible under the original version of the bill, which limited the small claims division jurisdiction to claims involving less than \$ 20,000 in dispute, or property valuations not exceeding \$ 250,000. However, as amended by the House Subcommittee, property with valuations as high as \$3,000,000 could be appealed to the Small Claims Division. The bill also provides that documents provided by both parties to the hearing officer would not be retained for the record, and would remain confidential. Section 9(f).

Not only does this appear to be a violation of the Open Records Act, but it is extremely unwise to authorize hearing officers to adjust as much as \$ 3,000,000 in property valuation, without any supervisory oversight, without requiring them to explain in the decision the facts and rationale to support the adjustment, and most importantly without any evidence retained in the state agency's record to support such an adjustment. This could soon result in property values that are so unequal and nonuniform as to dictate another statewide mass reappraisal.

Section 9(c) requires Small Claims hearings to be conducted in the county where the property is located, or an adjacent county. For appeals of decisions of the Secretary of Revenue, the hearing would be held in the county where the taxpayer resides or an adjacent county. This sounds appealing, but it would be logistically very difficult to implement without a substantial increase in staff to schedule the hearings at the local level and arrange for suitable meeting space in each of those counties in a fairly compressed timeframe for hearing and deciding these appeals. Please note that the fiscal note on this bill, as introduced, would not provide any additional secretarial support staff for the Commission compared to current levels for the Board.

New Section 16 would assess a docket fee of \$ 50 to file an appeal in the regular division. This will generate even greater caseloads for the Small Claims Division, which would not assess a docket fee.

New Section 18 would provide that for one-commissioner hearings, the commissioner hearing the appeal would be the only member making findings of fact, but the entire commission would rule on questions of law and ultimately decide the appeal. It would also require the preparation of a certified transcript of the hearing for the consideration of the other two commissioners not hearing the case. This procedure would be cumbersome at best, as well as much more costly. At present, a transcript is not prepared unless the case is appealed, or occasionally on reconsideration. Without a large increase in court

reporter staff or contractual services, this requirement would slow down the process of deciding appeals.

New Section 22(h) requires all hearings on tax exemptions to be actually conducted within 90 days of filing with the Board. If this were to be done, the priority placed on tax exemptions, which make up about half of our caseload, would result in taxpayers waiting much longer than they presently do for their mandatory hearings in equalization and protest disputes. Yet it is already not unusual for taxpayers to wait 5 or 6 months for a valuation appeal to be scheduled at a local, convenient location. This amendment would place priority on hearings regarding tax exemptions, to the detriment (time-wise) of all other categories of cases processed by the Commission.

New Section 26 removes the current mandate that counties with more than 10,000 parcels of property are required to maintain and fund a hearing officer panel level as an intermediate step between the county appraiser and the State Board. This would result in a huge influx of cases from the larger, urban, and populated counties of the state, which have previously been screened out at the local level. From an administrative standpoint, the Board cannot handle such a significant increase in caseload without significant additional staff and other budget resources to be able to carry out this additional responsibility. Such a major change should also be phased in, so that the administrative functions can be carefully developed over time.

New Sections 28 and 29 expand significantly the policy of granting economic development exemptions, not only to expanding businesses that add new jobs to the state's economy, but also businesses that simply retain jobs in the State. This is a substantial departure from the policy in current law, which generally assumes that to qualify for exemption, the business must expand in terms of its number of employees.

July 11, 1997

To: Economic Development and Interstate Competition Committee,
CSG Midwestern Legislative Conference

From: Chris W. Courtwright, Principal Analyst

Re: Kansas Accountability Requirements for Locally-Granted Property Tax Exemptions

Cities and counties in Kansas may grant property tax exemptions in two ways—via the issuance of industrial revenue bonds (IRBs) pursuant to K.S.A. 12-1740 through 12-1749 or as “economic development” exemptions (EDXs) pursuant to Article 11, Section 13 of the *Kansas Constitution*. The IRB law has been on the books since 1961, while the constitutional amendment authorizing EDXs was adopted in 1986. The Kansas Legislature in recent years has enacted a number of “reforms” designed to provide increased accountability and evaluation criteria with respect to the granting of IRBs and EDXs, including a mandate that cost-benefit analyses be performed before the exemptions are granted. This memo will touch briefly on the statutory history of those reforms and the current restrictions on the locally-approved exemptions.

Economic Development Exemptions

The people of Kansas were somewhat ambivalent about authorizing these exemptions in 1986. The constitutional amendment was adopted only by a 51-49 margin, far smaller than the winning margin for the other constitutional amendments in the “economic development” package that year (lottery, parimutuel, liquor-by-the-drink, and property tax classification). What is now Article 11, Section 13 allows cities and counties to exempt from ad valorem taxation for up to ten years all or any portion of the appraised value of buildings, land, and tangible personal property used exclusively by businesses commencing operations after August 5, 1986, for the purposes of (1) manufacturing; (2) research and development; or (3) storing goods sold in interstate commerce. The exemptions also may be granted for similar purposes to facilitate the expansion of existing businesses, provided new employment is created as a result of such expansion. The Kansas Legislature is expressly granted the power to limit or totally prohibit the application of the exemptions by enactments uniformly applicable to all cities and counties.

Following adoption of the EDX amendment, two Attorney General opinions concluded that the State Board of Tax Appeals (SBOTA) had authority pursuant to K.S.A. 79-213 to determine whether EDXs met the legal and factual tests outlined by the *Constitution* and any additional statutory restrictions adopted by the Legislature.

The only restriction enacted during the late 1980s prohibited the EDXs from being granted to certain corporate farming operations owning or operating rabbit, poultry, or swine confinement or production facilities on agricultural land (K.S.A. 1996 Supp. 79-250). Cities, counties and business interests for several years successfully lobbied against other proposed

restrictions, including a proposal that public hearings be held prior to the granting of the exemptions.

But a bill enacted in 1990 imposed the public hearing requirement along with several other procedural restrictions. Pursuant to that 1990 legislation, cities and counties also are now required to develop and adopt official policies and procedures (including procedures for monitoring compliance of businesses receiving the exemptions) and to perform cost-benefit analyses. The public hearing language also contains requirements that public notice be published at least seven days prior to the hearings and that city and county clerks notify affected school districts in writing about the proposed exemptions. The 1990 legislation also codified the Attorney General's opinions with respect to the EDXs' having to be approved by SBOTA.

Finally, K.S.A. 79-252 was enacted to prohibit the EDXs from being granted for personal property, unless city or county governing bodies made a factual determination that the exemptions were needed to retain jobs in the state.

A reform package enacted in 1994 added a requirement that the cost-benefit analyses include the effect of the proposed exemptions on the state. (In the wake of the 1992 school finance law, school district general fund levies are now considered "state" levies.) The 1994 law also requires county clerks to transmit copies of exempt real and personal appraisal rolls and all EDX property exemption claim forms to the Director of the Property Valuation Division (PVD). The PVD Director is now required to submit an annual report on the amount of valuation exempted pursuant to EDXs to the standing tax committees of the Kansas Legislature.

Additional 1994 reform legislation required Kansas, Inc., a quasi-public economic development entity, to develop a uniform cost-benefit model for purposes of statewide data collection and for evaluation of potential EDX exemptions under consideration by cities and counties. The model is required to be made available, free of charge, to all cities and counties.

Industrial Revenue Bonds (IRBs)

K.S.A. 1996 Supp. 79-201a Second provides for an exemption of certain property pursuant to the issuance of Industrial Revenue Bonds (IRBs) by cities and counties. IRB exemptions are for a period of exactly ten years, and in order to qualify the property in question must be deeded to the governmental entity issuing the bonds. Unlike the EDXs (which are limited to manufacturing, research and development, and warehousing), IRBs can be issued to for any number of business purposes. The only restrictions on IRBs, all of which were enacted in recent years, are prohibitions against exemptions for:

1. rabbit, poultry, and swine confinement or production facilities;
2. property located in a redevelopment project (tax-increment financed) area; and
3. property used in any retail enterprise, unless the facilities are used exclusively to house the headquarters or back-office operations of the retail enterprises.

This latter prohibition against IRBs being used for most retail facilities was part of the 1994 reform package. The public hearing and cost-benefit study requirements applicable to

EDXs also were extended to IRBs in the 1994 legislation. And the new EDX language requiring county clerks to provide data to PVD and PVD to provide an annual report to the tax committees also was made applicable to IRB exemptions.

Cities and counties also are required to file a variety of statements and legal descriptions with SBOTA before the bonds can be issued and the exemptions granted. (See, for example, K.S.A. 12-1744a.)

Additional Accountability Measures Considered

A number of other policy issues have been under consideration over the last decade which would provide additional restrictions on the use of the exemptions by cities and counties in the name of additional accountability or "targeting" of economic development resources. Generally, these measures were opposed by local officials and/or the state's business community, and some were removed from the original version of the 1994 legislation before it was enacted.

- **Anti-Piracy Provision.** The Legislature has on a number of occasions considered an "anti-piracy" clause, which would prohibit cities and counties from offering exemptions to a firm considering relocating from elsewhere within the state. Lobbyists for local units successfully argued against this proposal by pointing out that an anti-piracy clause is included in the suggested "guidelines" promulgated by the League of Kansas Municipalities (though the guidelines are certainly not mandatory, and there have been instances of intra-state piracy).
- **School District Veto Power.** Another issue which has been discussed is giving school districts, which levy over half of all property taxes in Kansas, "veto" power over exemptions cities and counties are seeking to grant.
- **Curtail Prospective Exemptions to Exclude Unified School District General Fund Levy.** Since the school district general fund property tax levy is now thought of as a "state" levy and is set by the Legislature, a number of bills have been under consideration in recent years to prohibit cities and counties from granting exemptions from this particular levy. In other words, if the combined property tax levy is 127 mills, with 27 mills being attributable to the general fund school levy, the exemption could only be granted to the extent of 100 mills. While this proposal has met with stiff opposition from the state's business community and from local officials, a motion to add this concept to a bill narrowly failed on the floor of the Kansas Senate in 1994 (by a 19-19 vote).
- **Make Cost-Benefit Analyses Determinative.** When the reform legislation was introduced in 1994, it would have required SBOTA to deny proposed exemptions when the projected costs outweigh the projected benefits. This provision was stricken as the bill moved through the Legislature.
- **Require Use of the State-Funded Model.** The original 1994 legislation also contained a requirement that cities and counties use the state-funded cost-

benefit model. That provision also was removed from the bill. (The model is made available to cities and counties, but they do not have to use it.)

- **Narrowing Use of IRBs.** Another proposal would have narrowed the purposes for which IRBs may be granted to the same purposes for which EDXs may be granted (manufacturing, research and development, and warehousing).
- **Clawback or Recapture Provision.** Some legislators have supported making explicit in the law that cities and counties could put "recapture" or "claw-back" provisions in exemption agreements with businesses which would require back taxes to be remitted if the businesses did not live up to their end of the agreements. (Legal staff has opined that this language is not necessary, and cities and counties even though it is not explicit in the statutes.)
- **Mandating Payments-in-Lieu-of-Taxes (PILOTS).** Legislation under consideration in 1991 would have prohibited exemptions from being granted unless the businesses entered into agreements for PILOTS of at least 50 percent of the amount which would be collected absent the exemptions. (PILOTS are sometimes required by local units as part of the IRB and EDX agreements entered into with businesses, but are not mandatory under current law.)
- **Direct-Competition Ban.** That same 1991 bill also would have prohibited exemptions in cases where the new or expanding business was in "direct competition with another established business operating" within the city or county.
- **Other Limitations.** Cities and counties would have been prohibited from granting EDXs for more than two years at a time and would have been prohibited from exempting more than 50 percent of the valuation of a new business or 50 percent of the valuation associated with the expansion of an existing business. These provisions also were in the 1991 legislation.