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Testimony of Arlen Siegfried

Thank you Chairman Kleeb and the distinguished members of the House Tax Committee for the opportunity to testify before you regarding the characteristics and necessity of HB 2240. In previous testimony it was revealed before this Committee that House Substitute for Senate Bill 231, passed and signed into law in 2014, contained a provision pertaining to the use of staff as small claims hearing officers. This provision prevented the Small Claims and Expedited Hearings Division from using the three staff attorney in that position.

The staff attorneys have been used as hearing officers since the creation of the small claims function in 1999. Their use to supplement the contractual hearing officers is required because the division must hear on an average of 2,600 small claims appeal hearings in about eight weeks. This is a statutory requirement and part of the legislative oversight of the Board of Tax Appeals. To accomplish this we must use a minimum of six small claim hearing officers.

BOTA presently has two hearing officers under contract. If we are allowed to use the staff attorneys, the statutory requirement could be accomplished by hiring one more contractual officer. If we are not allowed to use staff, it will require the hiring and training of four more officers at a cost of \$115,000. The use of staff is efficient because they are already paid as unclassified employees and are highly qualified. Their experience in this function is from seven to fifteen years. The eight critical weeks of small claims hearings coincides with the slow time in the regular division. Therefore we will not be in danger of failing to produce timely written decisions. This more efficient use of personnel saves BOTA at least \$115,000 per year.

Concern was expressed they would be used in small claims hearings and then sit as the attorney in the regular division appeal on the same case. I assure you the described scenario cannot happen because of BOTA policy. The regular division hearing is always *de novo* and no board members or staff who has previously heard any of the evidence may participate.

HB 2240, which was created by the House General Budget Subcommittee, is very simple. It removed the one line stating:

“The chief hearing officer shall not appoint as a hearing officer any person employed by the Board, including, but not limited to, any

person employed by the board as an attorney.” (K.S.A. 2014-Supp. 74-233f)

The Subcommittee generated this bill because it allows adherence to the Governor’s budget recommendations and continues the saving yearly going forward. The Senate Ways and Means also adopted a provision recommending the passage of HB 2240 for the same reason.

Thank you for taking the time to consider my testimony and I hope you will pass HB 2240 out favorably.