

March 8, 2016

The Honorable Marvin Kleeb, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Kleeb:

SUBJECT: Fiscal Note for HB 2714 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2714 is respectfully submitted to your committee.

HB 2714 would amend current law relating to property valuation, appeals and procedure. The bill would require the property valuation used as a basis for ad valorem taxation be valued on a two-year basis beginning January 1, 2017. For any improvements to existing property or any other property for which a value has not been established as of the first year, there must be established a valuation or increased valuation for the property for the year of valuation and the remaining portion of the two-year period.

Any aggrieved party may file a petition in the court of appeals for a judicial review of a Board of Tax Appeals order. However, a taxpayer may choose to have any summary decision or full and complete opinion of the Board issued after June 30, 2014, reviewed in district court. A taxpayer must provide notification to the Board and other parties of the request for district court review. Once the Board receives the notice, the Board's jurisdiction over the case would be terminated.

Valuation appeals before the Board could not be decided upon whether or not the mass appraisal of the property was done correctly, but upon a determination of the fair market value of owning the property. Counties or districts would be required to demonstrate compliance with methodologies developed and adopted by the Director of Property Valuation of the Department of Revenue. If an appraiser fails to demonstrate compliance, the Board would award judgment in the matter to the taxpayer. For any property valuation appeal that requires a taxpayer to pay a filing fee to the Board, an equal fee must also be charged to the county where the property is located.

Each parcel of real property would be required to be individually appraised at its fair market value. For the purposes of determining the value of an individual parcel of real property, the county appraiser could not consider the parcel as an economic unit with any adjoining parcel.

The bill would require the county appraiser to prepare and deliver to the taxpayer, prior to an informal meeting, a written narrative and summary of the reasons that the valuation increased. The summary must include any assumptions used by the county appraiser to determine the property's value. The county appraiser or the Board of Tax Appeals would be required to take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance, re-tenant reserves and tenant improvement depreciation for the property. In any appeal from the reclassification of property that was originally classified as land devoted to agricultural use, the taxpayer's classification of the property as land devoted to agricultural use would be required to be presumed to be valid and correct if the taxpayer provides an executed lease document documenting a commitment to use the property for agricultural purposes.

The bill provides that if a parcel has land devoted to agricultural purposes and land used for suburban recreational acreages, rural home sites or farm home sites, the county appraiser must determine the amount of the parcel used for agricultural purposes and value it and assess it accordingly as land devoted to agricultural purposes. The county appraiser must then determine the amount of the remaining land used for such other purposes and value that land and assess it according to its use.

The county treasurer could not distribute taxes paid under protest until an appeal is final. The bill also requires the county appraiser to prepare and deliver to the taxpayer prior to the informal meeting a written narrative and summary of the reasons that the valuation increased.

According to the Department of Revenue, passage of HB 2714 would decrease out-year property tax revenues. The Department estimates the assessed value of property in FY 2019, or the second year of the first biennium, would be lower under the bill compared to the assessed value of property under the current annual process. The state funds directly affected by this bill are the two building funds, the Educational Building Fund (EBF) and the State Institutions Building Fund (SIBF). The Department of Revenue estimates this bill would decrease revenues to these two funds by \$400,000 in FY 2019, with \$266,666 from the EBF and \$133,334 from the SIBF. The bill would decrease property tax revenues by \$5.37 million that school districts would receive through the state's uniform mill levy. The bill would also decrease revenues to any local government that levies a property tax. To make these estimates, the Department assumed that the average assessed value of property under current law would increase at the average growth rate from CY 2012 to CY 2015, or 1.93 percent. The Department also assumed that the total assessed value of property under HB 2714 would include the average total value of new improvement to existing property from CY 2012 to CY 2015, or \$378.41 million.

The Board of Tax Appeals estimates that the bill would require \$100,000 from the Board of Tax Appeals Filing Fee Fund in FY 2017 to hire 2.00 Administrative Assistant FTE positions to invoice, track, and collect fees from the counties. The agency estimates that it could collect

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additional revenue of \$350,000 in the same fund. However, the Board notes that over a two year period, taxpayers dismissed approximately 30.0 percent of cases in the Regular Division (which includes all cases except small claims). If the Board was required to reimburse counties for fees paid for dismissed cases, the amount of revenue realized by the agency would be less.

HB 2714 would likely have a fiscal effect on local governments from the reduction in property tax revenues and from increased expenditures associated with the change to the appeals process. However, a fiscal effect cannot be estimated.

The Office of Judicial Administration indicates that the bill would have a negligible fiscal effect on the Judicial Branch. Any fiscal effect associated with HB 2714 is not reflected in *The FY 2017 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Jody Allen, Tax Appeals
Jack Smith, Department of Revenue
Ashley Michaelis, Judiciary
Melissa Wangemann, Association of Counties