SESSION OF 2016

SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR SENATE BILL NO. 280

As Recommended by House Committee on Taxation

Brief*

House Sub. for SB 280 would make a number of changes in law generally relating to property taxation.

One set of provisions in the bill would clarify the law governing the issuance and review of Board of Tax Appeals (BOTA) decisions. An aggrieved party would be authorized to file a petition for reconsideration after a full and complete opinion had been rendered. Also, an aggrieved party would be allowed to file a petition for review in the Kansas Court of Appeals after a full and complete BOTA opinion had been issued. Taxpayers also could appeal any summary decision or full and complete BOTA opinion by filing a petition for review in District Court. Appeals to District Court would be considered *de novo* trials with evidentiary hearings during which issues of law and fact would be determined anew. District Court reviews of BOTA orders relating to property valuation would be conducted by the court of the county in which the property in question is located.

Additional language would authorize the Department of Revenue's Director of Property Valuation to remove from the list of persons eligible to serve as county or district appraisers anyone failing to meet continuing education requirements established by the state; pleading guilty or nolo contendere or having been convicted of certain crimes; or having been the subject of a final civil judgment finding fraud, misrepresentation, or deceit in appraising property.

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

Another provision would raise the interest rate for delinquent real property taxes by five percent. Current law provides that the interest rate for delinquent property taxes is established at a foundation rate developed in KSA 2015 Supp. 79-2968 (a federally determined underpayment rate plus one percent). The bill would raise the interest rate to the foundation rate plus an additional five percent.

Tax liens could no longer be filed against the owner or lessee of certain real property upon which abandoned or repossessed personal property was situated, provided such personal property had been assessed taxes that had not yet been paid. The bill would extinguish all tax liens on the owner or lessee acquiring this type of personal property, and the owner or lessee would not be liable for any property taxes owed prior to the date the personal property was acquired.

County treasurers would be required to check delinquent real property tax lists for the preceding seven years before allowing certain claims to be paid by counties.

New language would require that production information used to establish the fair market value of producing oil and gas leases that have commenced production during the preceding calendar year, must be limited to production occurring prior to April 1 of the calendar year in which the property was being assessed. Information used to establish the fair market value of any base lease or property producing oil and gas for the first time in economic quantities on and after October 1 of the preceding calendar year must be limited to production occurring prior to July 1 of the calendar year in which the property was being assessed.

The definition of "bed and breakfast" property defined as residential and eligible for the 11.5 percent assessment rate would be expanded to include property with 5 or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days.

Additional sections of the bill would remove, beginning in tax year 2017, property tax levying and bonding authority of certain non-elected boards, including airport authorities, fire districts, recreation commissions, and historical museums. Public wholesale water supply districts seeking to continue to levy property taxes also would be required to get prior approval from the governing bodies of each public water supply district, municipality, and publicly and privately owned distribution company receiving water at wholesale. Technical changes would clarify that a number of individual property tax fund levy limits that were statutorily suspended in the 1990s would now be repealed.

A property tax exemption would be provided for tax years 2016-2020 for property owned and primarily operated as an airport by a healthcare foundation also exempt for federal income tax purposes.

With respect to matters properly submitted to BOTA regarding property valuation, county appraisers would be required to demonstrate compliance with valuation methodologies developed by the Director of Property Valuation.

Appraisal procedures and standards utilized by county appraisers would no longer be required to be adaptable to mass appraisal. Moreover, appraisals produced by the computer-assisted mass appraisal system would no longer meet the definition of "written appraisal" pursuant to KSA 79-504.

County appraisers would be prohibited from requesting certain information from taxpayers, including appraisals conducted for the purpose of obtaining mortgage financing; fee appraisals conducted within the previous 12 months; and documents detailing certain lease agreements.

During informal meetings with taxpayers, county appraisers, or their designees substantiating the valuation of property would be required to provide a summary of the reasons valuation had been increased, list all assumptions used in determining the value of the property, provide a description of the property characteristics, and all specific valuation records and conclusions. County appraisers at this time would be required to take into account all evidence provided by taxpayers regarding deferred maintenance and depreciation of the property in question.

A taxpayer's classification of property as land devoted to agricultural use would be deemed valid when executed lease agreements or any other documentation is provided demonstrating a commitment to use the property for agricultural purposes, provided no other actual use of the property was evident.

At informal hearings involving valuation of property established by counties under computer-assisted mass appraisal, the results of independent market-based appraisals conducted within the previous three months by persons certified pursuant to KSA 2015 Supp. 58-4102 presented by taxpayers would be presumed to be correct and valid. Counties would have the option of appealing the results of such independent appraisals to BOTA.

For two years following a taxable year wherein the valuation of a parcel of real property has been reduced due to the appeals process, its valuation could not be increased by county appraisers without utilizing a market-based appraisal from independent third parties paid for by the counties.

Existing statutory language would be repealed that deems counties to be in compliance with a requirement to view and inspect all real estate parcels once every 6 years when 17 percent or more of the parcels have been viewed or inspected in any given year.

For parcels containing agricultural land and land used for suburban residential, rural home sites, or farm home sites, county appraisers would be required to disaggregate the portion devoted to agricultural use and value it separately.

The Director of Property Valuation also would be required to present the sales-ratio study results to each county commission in an open meeting and provide summary information on the number of valuation protests and their outcomes.

Finally, counties would be authorized to publish the annual market study analysis on official county websites as an alternative to publication in official county newspapers.

Background

As approved by the Senate during the 2015 Session, the bill would have expanded local sales tax authority for two counties (provisions subsequently enacted in another bill). The House Taxation Committee on March 18, 2016, stripped the bill of its prior contents, recommended a substitute bill be created, and inserted the aforementioned property tax provisions.

A fiscal note on the substitute bill was not immediately available.