

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 119**

As Amended by House Committee on Taxation

**Brief\***

SB 119, as amended, would amend law related to the list of eligible county appraisers, appraisal standards, Board of Tax Appeals (BOTA) administration, property valuation appeals, judicial review of property tax disputes, and BOTA membership.

***List of Eligible County Appraisers***

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

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

***Appraisal Standards***

The bill would remove the authority of the Director to adopt rules and regulations concerning appropriate standards

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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>

for the performance of appraisals for property taxation. [*Note:* Current language directing the Director to adopt appraiser directives on the same topic would be retained.]

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

### ***Board of Tax Appeals Administration***

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

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

### ***Property Valuation Appeals***

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

### ***Judicial Review***

Current law allows, at the election of a taxpayer, any summary decision or full and complete opinion of BOTA issued after June 30, 2014, to be appealed by filing a petition for review in district court. Any appeal to the district court

must be a trial *de novo* that includes an evidentiary hearing where issues of law and fact are determined anew.

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

### ***Board of Tax Appeals Membership***

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

The bill would also provide when more than one vacancy on BOTA exists, the Governor may appoint a former member of BOTA who remains in good standing to serve as a member *pro tempore* of BOTA for a period of up to one year. The member *pro tempore* would be permitted to exercise any power, duty, or function of a member of BOTA and would serve at the pleasure of the Governor and receive prorated compensation of the annual salary of members of BOTA. The bill would sunset the *pro tempore* membership provisions on June 30, 2023.

### **Background**

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

### ***Senate Committee on Assessment and Taxation***

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas Chamber of Commerce and the Kansas Policy Institute and by a representative of the Kansas Grain and Feed Association and the Renew Kansas Biofuels Association. Proponents stated the provisions of the bill would simplify numerous elements of the property valuation process. Written-only **proponent** testimony was provided by a representative of the Kansas Cooperative Council.

Written-only **opponent** testimony was provided by a representative of the Kansas County Appraisers Association.

Neutral testimony was provided by a representative of the Kansas Association of Counties.

### ***House Committee on Taxation***

In the House Committee hearing, **proponent** testimony was provided by a representative of the Kansas Chamber of Commerce, stating the provisions of the bill would simplify numerous elements of the property valuation process.

**Opponent** testimony was provided by a representative of the Kansas County Appraisers Association, stating the prohibition on valuation increases upon appeal could violate the *Kansas Constitution* requirement of uniform and equal valuation of property.

Neutral testimony was provided by the Director of Property Valuation and a representative of the Kansas Association of Counties.

The House Committee amended the bill to insert the contents of SB 98, as amended by the Senate Committee on Assessment and Taxation, regarding judicial review of property tax disputes and BOTA membership.

## **Fiscal Information**

### **SB 119**

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

### **SB 98 (*Judicial Review of Property Tax Disputes and BOTA Membership*)**

According to the fiscal note prepared by the Division of the Budget on SB 98, as introduced, the Kansas Association of Counties indicates enactment of the bill has the potential to increase litigation costs for county governments by an indeterminate amount. The Kansas Department of Revenue, BOTA, and the Office of Judicial Administration indicate enactment of the bill would have no fiscal effect on the State. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

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