

Property Tax Administration; Senate Sub. for HB 2104

Senate Sub. for HB 2104 amends law related to the list of eligible county appraisers, the qualifications of county and district appraisers, appraisal standards, Board of Tax Appeals (BOTA) administration and membership, property valuation appeals, judicial review of property tax disputes, and school district budget certification.

List of Eligible County Appraisers

The bill stipulates 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 requires 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 is required to make notations on eligibility list records of such persons.

Appraisal Standards

The bill removes the authority of the Director to adopt rules and regulations concerning appropriate standards for the performance of appraisals for property taxation. [*Note: Continuing law requires the Director to adopt appraiser directives on the same topic.*]

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

BOTA Administration

The bill changes 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" is defined according to KAPA.

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

Property Valuation Appeals

The bill prohibits 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

Continuing 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 provides, 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 have the duty to initiate the production of evidence to demonstrate by a preponderance of evidence the validity and correctness of such determination.

BOTA Membership

The bill extends 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 also provides, 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* is permitted to exercise any power, duty, or function of a member of BOTA; serves at the pleasure of the Governor; and receives prorated compensation of the annual salary of members of BOTA. The bill sunsets the *pro tempore* membership provisions on June 30, 2023.

Appraiser and BOTA Member Qualifications

The bill eliminates a provision providing that a person may be qualified for the position of county or district appraiser by holding a valid residential evaluation specialist or certified assessment evaluation designation from the International Association of Assessing Officers.

The bill requires any continuing education courses required of appraisers for retaining their status on the list of eligible appraisers that are not offered by the Property Valuation Division, Department of Revenue, to be courses approved by the Real Estate Appraisal Board.

On and after July 1, 2022, the bill requires courses necessary to qualify for a registered mass appraiser designation and subsequent continuing education courses to be approved by the Real Estate Appraisal Board.

The bill requires mandatory courses for members of BOTA that are not otherwise state-certified general real property appraisers to be approved by the Real Estate Appraisal Board.

Revenue-neutral Rate Notice and Hearing Date Changes

The bill modifies several dates enacted in 2021 SB 13. The bill changes the earliest possible date for a taxing subdivision to consider exceeding the revenue-neutral rate from

August 10 to August 20 and the latest possible date for such hearing from September 10 to September 20. The bill changes the date by which taxing subdivisions required to conduct a public hearing to exceed the revenue-neutral rate must certify the amount of property tax to be levied from September 20 to October 1.

School District Budget Certification

The bill allows school districts required to hold a hearing for exceeding the district's revenue-neutral rate pursuant to the provisions of 2021 SB 13 to certify their budgets to the State Board of Education as late as September 20. Current law requires all school districts to certify their budgets to the State Board of Education by August 25, which remains the applicable certification date for school districts not required to hold a hearing for exceeding the district's revenue-neutral rate.