

Senate Substitute for HOUSE BILL No. 2313

AN ACT concerning taxation; relating to property taxation; providing for the reimbursement of property taxes to certain property owners and operators resulting from a forced shutdown or restriction by the state, county, city or other political subdivision of the state; allowing Kansas national guard and reservist members who are in good standing to receive a property tax exemption for up to two motor vehicles; authorizing continuation of the statewide levy for schools and the exemption of a portion of residential property from such levy; relating to the board of tax appeals and authorizing appointment by the governor of a member pro tempore when a vacancy on the board exists; directing a post audit study of taxation and exemption issues relating to non-profit and governmental entities competing against for-profit businesses; amending K.S.A. 74-2433, as amended by section 5 of 2021 House Bill No. 2104, 79-201x and 79-5107 and K.S.A. 2020 Supp. 72-5142 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The owner of any building listed and assessed for property taxation purposes as real property that maintains a business on the property that was shut down or restricted by the state, county, city or other political subdivision of the state pursuant to an executive order issued by the governor pursuant to K.S.A. 48-925, and amendments thereto, or any action taken by a county, city or other political subdivision of the state related to a state of disaster emergency declared pursuant to K.S.A. 48-924, and amendments thereto, or state of local disaster emergency declared pursuant to K.S.A. 48-932, and amendments thereto, may make application to the board of county commissioners of the county in which such property is located for the reimbursement of the property taxes levied upon such property during the shutdown or restriction. The county treasurer shall reimburse from the county general fund any owner who makes an application or operator that joins in an application that is determined to be valid for the period of time that the shutdown or restriction remained in effect. For ordered shutdowns, the reimbursement shall be calculated as a $\frac{1}{365}$ amount of the total ad valorem real property taxes levied by the state, county and all other taxing subdivisions due for the property for the year multiplied by the number of calendar days the ordered shutdown was in effect. For ordered restrictions, the reimbursement shall be calculated as a $\frac{1}{365}$ amount of the total ad valorem real property taxes levied by the state, county and all other taxing subdivisions due for the property for the year multiplied by the percentage of the ordered restrictions and further multiplied by the number of calendar days the ordered restriction was in effect.

(b) If the owner is the operator of the business on the property that was shut down or restricted, the owner shall be entitled to 100% of such reimbursement amount. If the owner is not the operator of such business that was shut down or restricted from conducting operations: (1) The owner shall disclose and attest to the identity of the operator of such business on the application form; (2) the owner shall be entitled to 50% of such reimbursement amount; (3) the operator of such business shall be entitled to 50% of such reimbursement amount if such operator joins in the owner's application; and (4) such operator that joins in the owner's application may elect to assign such operator's share of the reimbursement amount to the owner to be credited against any delinquent rent due to the owner.

(c) If the state, a city or other political subdivision of the state was the governmental entity that shut down or restricted the business resulting in a reimbursement to an owner or operator pursuant to this section, such governmental entity that shut down or restricted the business shall reimburse the county for the cost of such reimbursement.

(d) For purposes of this section, "restriction" or "restricted" means any occupancy limitation, limitation on periods of operation or the exertion by any governmental entity of other significant control on business resources or functionality.

(e) The provisions of this section shall be applicable on and after January 1, 2022.

New Sec. 2. The legislative post audit committee shall direct the legislative division of post audit to conduct a study of the economic

impact of taxation and exemption issues relating to non-profit organizations and governmental entities competing against for-profit businesses. The study shall be conducted during calendar year 2021, and the final study report shall be submitted to the legislature on or before January 15, 2022.

Sec. 3. K.S.A. 2020 Supp. 72-5142 is hereby amended to read as follows: 72-5142. (a) The board of education of each school district shall levy an ad valorem tax upon the taxable tangible property of the school district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the school district's general fund budget that is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment school district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school years ~~2019-2020~~ 2021-2022 and ~~2020-2021~~ 2022-2023.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose described in subsection (a)(3), shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(d) No school district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 4. K.S.A. 74-2433, as amended by section 5 of 2021 House Bill No. 2104, is hereby amended to read as follows: 74-2433. (a) There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of three members who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. For members appointed after June 30, 2014, one of such members shall have been regularly admitted to practice law in the state of Kansas and for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state; one of such members shall have engaged in active practice as a certified public accountant for a period of at least five years and one such member shall be a licensed certified general real property appraiser. In addition, the governor shall also appoint a chief hearing officer, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, who, in addition to other duties prescribed by this act, shall serve as a member pro tempore of the board. No successor shall be appointed for any judge of the court of tax appeals appointed before July 1, 2014. Such persons shall continue to serve as members on the board of tax appeals until their terms expire. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, including the chief hearing officer, shall exercise any power, duty or function as a member of the board until confirmed by the senate. Not more than two members of the board shall be of the same political party. Members of the board, including the chief hearing officer, shall be residents of the state. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, no more than one member shall be appointed from any one of the congressional districts of Kansas unless, after having exercised due diligence, the governor is unable to find a qualified replacement within 90 days after any vacancy on the board occurs. The members of the board, including

the chief hearing officer, shall be selected with special reference to training and experience for duties imposed by this act and shall be individuals with legal, tax, accounting or appraisal training and experience. State board of tax appeals members shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. The board shall be bound by the doctrine of stare decisis limited to published decisions of an appellate court. Members of the board, including the chief hearing officer, shall hold office for terms of four years. A member may continue to serve for a period of 180 days after the expiration of the member's term, or until a successor has been appointed and confirmed, whichever is shorter. Except as otherwise provided, such terms of office shall expire on January 15 of the last year of such term. If a vacancy occurs on the board, or in the position for chief hearing officer, the governor shall appoint a successor to fill the vacancy for the unexpired term. Nothing in this section shall be construed to prohibit the governor from reappointing any member of the board, including the chief hearing officer, for additional four-year terms. The governor shall select one of its members to serve as chairperson. The votes of two members shall be required for any final order to be issued by the board. Meetings may be called by the chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

(b) Any member appointed to the state board of tax appeals and the chief hearing officer may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state board of tax appeals shall appoint, subject to approval by the governor, an executive director of the board, to serve at the pleasure of the board. The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined by the board, subject to the limitations of appropriations thereof; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The executive director shall perform such other duties as directed by the board.

(d) Appeals decided by the state board of tax appeals shall be made available to the public and shall be published by the board on the board's website within 30 days after the decision has been rendered. The board shall also publish a monthly report that includes all appeals decided that month as well as all appeals which have not yet been decided and are beyond the time limitations as set forth in K.S.A. 74-2426, and amendments thereto. Such report shall be made available to the public and transmitted by the board to the members of the Kansas legislature.

(e) After appointment, members of the state board of tax appeals that are not otherwise a state certified general real property appraiser shall complete the following course requirements: (1) A tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value; (2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value; (3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal; (4) an appraisal course with an emphasis on Kansas property tax laws; (5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and (6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto. Such courses shall be courses approved by the Kansas real estate appraisal board pursuant to K.S.A. 58-4105, and amendments thereto. Any member appointed to the board who is a certified real property appraiser shall only be required to take such

educational courses as are required to maintain the appraisal license. The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements and prescribing continued education requirements for members of the board.

(f) The state board of tax appeals shall have no capacity or power to sue or be sued.

(g) It is the intent of the legislature that proceedings in front of the board of tax appeals be conducted in a fair and impartial manner and that all taxpayers are entitled to a neutral interpretation of the tax laws of the state of Kansas. The provisions of the tax laws of this state shall be applied impartially to both taxpayers and taxing districts in cases before the board. Valuation appeals before the board shall be decided upon a determination of the fair market value of the fee simple of the property. Nothing in this section shall prohibit a property owner, during a property valuation appeal before the board, from raising arguments regarding classification. Cases before the board shall not be decided upon arguments concerning the shifting of the tax burden or upon any revenue loss or gain which may be experienced by the taxing district.

(h) Notwithstanding any provisions of subsection (a) to the contrary, the governor may appoint a former member in good standing of the board of tax appeals to serve as a member pro tempore of the board for a period not to exceed one year when, after having exercised due diligence, ~~more than one~~ a vacancy on the board exists. Such member pro tempore may exercise any power, duty or function as is necessary to serve as a member of the board. Such member pro tempore shall serve at the pleasure of the governor and receive compensation for each day of actual attendance or work as a member based on a proration of the annual salary provided in K.S.A. 74-2434, and amendments thereto. The provisions of this subsection shall expire on June 30, 2023.

Sec. 5. K.S.A. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2019~~ 2021 and ~~2020~~ 2022, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-5142, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.

Sec. 6. On and after January 1, 2022, K.S.A. 79-5107 is hereby amended to read as follows: 79-5107. (a) Except as provided in subsection (e), the tax imposed by this act upon any motor vehicle, other than a motor vehicle ~~which that~~ replaces a motor vehicle previously registered and taxed in this state and to which registration plates are transferred, ~~which that~~ has been acquired, or brought into the state, or for any other reason becomes subject to registration after the owner's regular annual motor vehicle registration date, shall become due and payable at the time such motor vehicle becomes subject to registration under the laws of this state and the amount of tax to be paid by the owner for the remainder of the tax year shall be an amount ~~which that~~ is equal to $\frac{1}{12}$ of the tax ~~which that~~ would have been due upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in the registration year of the owner of such vehicle. Such tax shall be paid at the time of the registration of such motor vehicle.

(b) Except as provided in subsection (e), the tax upon a motor vehicle, ~~which that~~ replaces a motor vehicle previously registered and taxed in this state and to which registration plates are transferred, ~~which that~~ is registered at any time other than the annual registration date prescribed by law for the registration of such motor vehicle, shall be in an amount equal to the amount by which: (1) One-twelfth of the tax ~~which that~~ would have been due upon such replacement motor vehicle for the full registration year multiplied by the number of full calendar months remaining in the registration year for such motor vehicle, exceeds (2) one-twelfth of the tax ~~which that~~ would have been due for the full registration year upon the motor vehicle replaced multiplied by the number of full calendar months remaining in such registration year.

Such tax shall be paid at the time of registration of such replacement vehicle.

(c) Whenever the tax imposed under this act has been paid upon any motor vehicle and title to such vehicle is transferred and no replacement vehicle is substituted therefor such taxpayer shall be entitled to a refund in an amount equal to $\frac{1}{12}$ of the tax due upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in such registration year. Whenever the tax imposed under this act upon any replacement motor vehicle for the remainder of the registration year is less than the tax paid on the motor vehicle replaced for the remainder of such registration year, the taxpayer shall be entitled to a refund in the amount ~~by which~~ *that* the tax paid upon the vehicle replaced exceeds the tax due upon the replacement vehicle. All refunds shall be paid by the county treasurer from the moneys received from taxes upon motor vehicles imposed by this act ~~which~~ *that* have not been distributed. No refund shall be made under the authority of this subsection for a sum less than \$5.

(d) Whenever the tax imposed under this act has been paid upon any motor vehicle and the owner thereof has established residence in another state during such vehicle's registration year, such owner shall be entitled to a refund of such taxes in an amount equal to $\frac{1}{12}$ of the tax paid upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in such registration year after the month of establishing residence in another state. No such refund shall be allowed ~~unless and until~~ the owner submits ~~to the county treasurer~~ evidence of a valid driver's license and motor vehicle registration in another state; *to the county treasurer* and surrenders the Kansas license plate. All refunds shall be paid by the county treasurer from the moneys received from taxes upon motor vehicles ~~which~~ *that* have not been distributed. No refund shall be made for a sum less than \$5.

(e) (1) No tax shall be levied under the provisions of this act upon not more than two motor vehicles ~~which~~ *that* are owned by a resident individual *who is*:

(A) ~~Who is~~ In the full-time military service of the United States, is absent from this state solely by reason of military orders on the date of such individual's application for registration and such motor vehicles are maintained by such individual outside of this state;

(B) ~~who is~~ a member of the military service of the United States and is mobilized or deployed on the date of such individual's application for registration; ~~or~~

(C) ~~who is~~ a full-time member of the military service of the United States, and is stationed in Kansas; ~~or who is a full-time active guard and reservist~~

(D) *a current member in good standing* of the Kansas army or air national guard or a ~~Kansas~~ unit of the reserve forces of the United States ~~under authority of title 10 or title 32 of the U.S. code, and is stationed or assigned in Kansas military.~~

(2) The owner of a motor vehicle not subject to tax pursuant to the provisions of ~~subsection (e) paragraph (1)~~ who has paid the tax levied under the provisions of K.S.A. 79-5101, and amendments thereto, may apply for a refund with the county treasurer not later than one year from the effective date of this act. The county treasurer shall refund any such taxes previously paid by such owner of a motor vehicle.

(3) The provisions of this subsection shall be applicable ~~on and~~ after December 31, ~~2013~~ 2021.

Sec. 7. K.S.A. 74-2433, as amended by section 5 of 2021 House Bill No. 2104 and 79-201x and K.S.A. 2020 Supp. 72-5142 are hereby repealed.

Sec. 8. On and after January 1, 2022, K.S.A. 79-5107 is hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.