

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2118**

As Amended by Senate on Final Action

Brief*

Senate Sub. for HB 2118, as amended, would establish new notice and public hearing requirements for certain taxing subdivisions, prohibit certain real property valuation increases, enact the Golden Years Homestead Property Tax Freeze Act (Tax Freeze Act), authorize certain payment options for property taxes, repeal the Selective Assistance for Effective (SAFE) Senior Relief property tax refund program, and provide a one-time delay in the deadline for payment of property taxes.

Notice and Public Hearing Requirements

The bill would establish, beginning in 2021, new notice and public hearing requirements for certain taxing subdivisions prior to property tax increases above a revenue-neutral rate. The bill would not apply to school districts or to any taxing subdivisions receiving less than \$5,000 annually in property taxes.

On or before June 15 of each year, beginning in 2021, the bill would require county clerks to submit the revenue-neutral rate to all other taxing subdivisions at the same time estimated assessed valuation information is provided. "Revenue-neutral rate" would be defined to mean the tax rate for the current tax year that would generate the same property tax revenue as levied the previous tax year using the current tax year's total assessed valuation. The bill would

*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>

require the Director of Accounts and Reports to modify budget information forms to show the revenue-neutral rate.

The taxing subdivisions affected by the bill would be prohibited from levying rates that exceed the revenue-neutral rates unless the taxing subdivisions have published notice on their websites of the proposed intent to exceed such rates and announcing a public hearing on such action. On or before July 15, the bill would also require governing bodies to notify county clerks of their intent to exceed revenue-neutral rates. County clerks subsequently would be required to notify each taxpayer with property in taxing subdivisions seeking to exceed such rates of the public hearings at least ten days in advance of the hearings. The bill would require county clerks to send consolidated notifications for all taxing subdivisions relevant to a parcel of property *via* mail unless taxpayers and county clerks both have consented to service by electronic means. The bill would require all costs associated with notification requirements to be borne by taxing subdivisions seeking to exceed their revenue-neutral rates, with payment for such costs due to county clerks by December 31.

The bill would require, at public hearings required to be held on or before September 10, governing bodies to provide interested taxpayers an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. At the conclusion of the public hearings, the bill would require a majority vote of governing bodies adopting resolutions or ordinances that approve exceeding the revenue-neutral rates, prior to adoption of proposed budgets resulting in a tax rate that exceeds the revenue-neutral rates.

The public hearings could be conducted in conjunction with other required budget hearings of the taxing subdivisions. Governing bodies taking such action would be required to submit on or before September 20 to each county clerk the amount of property taxes to be levied. Taxing subdivisions not complying with the notification and public

hearing requirements outlined in the bill would be required to refund to taxpayers any over-collected property taxes.

The bill also would repeal, beginning in 2021, the current property tax lid law applicable to cities and counties (KSA 79-2925c).

Prohibited Valuation Increases

The bill would prohibit an increase in the appraised valuation of real property solely as a result of normal repair, replacement, or maintenance of existing improvements on the property.

Property Tax Payment Plan

The bill would authorize county treasurers to establish partial payments and establish payment plans for all property taxes. Current law grants county treasurers authority to accept partial payment for delinquent property taxes.

Golden Years Homestead Property Tax Freeze Act

The bill would establish a new property tax circuit breaker refund program (refund program) beginning in tax year 2020 that would provide refunds of a portion of property taxes paid on qualifying residential homestead property equivalent to the total property tax increase over the base year. For taxpayers qualifying at the time of enactment, tax year 2019 liability would be deemed as the base year. For all other taxpayers, the base year would be the first year in which they are eligible to claim the refund provided by the Tax Freeze Act. The maximum amount of any refund under the program would be \$2,500.

In order to qualify for the refund program, the bill would require a taxpayer to have a household income of less than \$50,000 and be 65 years of age or older or a disabled

veteran. The value of the qualifying residential homestead property would have to be less than \$350,000. Qualifying taxpayers would be ineligible to claim a Tax Freeze Act refund if they are seeking to claim the existing Homestead Property Tax Refund. The bill would allow surviving spouses of qualified individuals to continue in the refund program unless they subsequently remarry. The bill would require Tax Freeze Act claims to be filed by April 15, relative to refund amounts determined by the previous property tax year's liability.

Under the bill, "disabled veterans" would include Kansas residents honorably discharged from active service in any branch of the armed forces of the United States or Kansas National Guard who have been determined to have a 50 percent permanent disability sustained while on active duty.

Beginning with the second year of the program, the Director of Taxation would be required to send county clerks electronic records by October 1 of each year containing names of eligible claimants who have received refunds under the Tax Freeze Act for the prior year.

Under the bill, the Director of Taxation would have authority to apply refunds to any state tax liability of the qualified individual or other member of the household. Remaining refunds would first be applied to any delinquent property taxes on the homestead and then to any current property tax liability.

The bill would grant the Secretary of Revenue authority to adopt rules and regulations necessary for administration of the Tax Freeze Act.

Repeal of SAFE Senior Relief Program

The bill would, beginning in tax year 2020, eliminate the SAFE Senior Relief property tax refund program, which provided certain taxpayers with an income tax credit equal to 75 percent of the amount of certain property taxes paid.

Property Tax Payment Delay

The bill would prohibit interest from accruing on unpaid property tax for tax year 2019 from May 10, 2020, through August 10, 2020. The tax would not be considered delinquent for that time and counties would be required to waive any costs related to delinquent property tax collection charged to taxpayers prior to August 11, 2020.

The bill would also delay, for tax year 2019 only, the preparation of a list of real estate subject to sale due to delinquent taxes until after August 10, 2020, and the publication deadline of such list would be delayed until September 1, 2020. Real estate sales of property as a result of delinquent taxes in 2020 otherwise scheduled to occur on the first Tuesday of September would be scheduled to occur on or before the fourth Monday of October.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill, as introduced, would have created income tax credits related to the aviation and aerospace industries. The Senate Committee on Assessment and Taxation (Senate Committee), on May 13, 2020, removed the contents of the bill; inserted the contents of SB 294 (as amended by the Senate Committee of the Whole), the contents of SB 295, and provisions delaying interest and fees for payments of real and personal property taxes; and created a substitute bill. The Senate Committee further amended the contents of SB 294 by changing the latest allowed date of the public hearing from September 15 to September 10, requiring consolidated notices from county clerks, and adopting technical

amendments. Background information for SB 294 and SB 295 is provided below.

The Senate, on May 21, 2020, amended the bill on final action to insert the provisions of Substitute for HB 2607, as recommended by the House Committee on Taxation (House Committee), to insert provisions creating the Tax Freeze Act and to repeal the SAFE Senior Relief property tax refund program. Background information for these provisions is provided below.

A fiscal note on the provisions of the bill delaying property tax interest and fees was not immediately available.

SB 294 (Notice and Public Hearing Requirements)

The bill was introduced by Senators Tyson, Alley, Braun, Estes, Goddard, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, Olson, Petersen, Thompson, Wagle, and Wilborn.

In the Senate Committee hearing on February 7, 2020, representatives of Americans for Prosperity, the Kansas Association of Realtors, the Kansas Chamber, the Kansas Farm Bureau, and the Kansas Policy Institute, and a Linn County Commissioner, appeared as proponents. Proponents stated the bill's provisions would improve property tax transparency and accountability, and noted the legislation generally was patterned after a law Utah has had in place since the 1980s.

Representatives of the City of Lenexa, Kansas Association of Chiefs of Police, Kansas Association of Counties (KAC), Kansas Association of School Boards, Kansas Sheriffs Association, League of Kansas Municipalities (LKM), and Unified Government of Wyandotte County and Kansas City, Kansas, appeared in opposition. Opponents also included the Andover Fire Chief, Andover City Council President, Atchison Director of Administration Service, McPherson Police Chief, McPherson Fire Chief, Riley County

Counselor, and Shawnee County Counselor. Opponents cited several concerns with the bill, including the potential costs that could be incurred by the affected taxing subdivisions.

Additional written-only testimony was submitted by several proponents, opponents, and neutral parties.

On February 13, 2020, the Senate Committee amended the bill to delay its implementation until 2021 while clarifying the revenue-neutral levy computation and a number of statutory timelines local officials would be required to follow, increase from \$5,000 to \$20,000 the level of annual property taxes below which taxing subdivisions would not be required to be subject to the bill's provisions, exclude school districts from the bill's provisions, and repeal the current tax lid law.

On February 25, 2020, the Senate Committee of the Whole amended the bill to clarify that county clerks be reimbursed for notification costs by December 31 of each year from those taxing subdivisions seeking to exceed revenue-neutral rates, to decrease from \$20,000 to \$5,000 the level of taxes below which taxing subdivisions would not be subject to the bill's provisions, and to remove a requirement for notice in official county newspapers.

A fiscal note on SB 294, as amended, was not immediately available.

SB 295 (Prohibited Valuation Increases)

The bill was introduced by Senators Tyson, Alley, Braun, Estes, Goddard, Hilderbrand, Longbine, Lynn, Masterson, Olson, Petersen, Thompson, Wagle, and Wilborn.

In the Senate Committee hearing, testimony in support of the bill was offered by a representative of the Kansas Policy Institute. Written-only proponent testimony was offered by the Kansas Agribusiness Retailers Association, Kansas Association of Wheat Growers, Kansas Grain and Feed

Association, Kansas Soybean Association, and Renew Kansas Biofuels Association. Opponent testimony was provided by representatives of the KAC and the LKM. Neutral testimony was provided by representatives of the Property Valuation Division of the Kansas Department of Revenue (KDOR) and the Kansas County Appraisers Association.

According to the fiscal note prepared by the Division of the Budget, the KDOR estimates enactment of the bill has the potential to decrease property tax revenues by a negligible amount. The KAC and the LKM indicate enactment of the bill has the potential to reduce the amount of local property tax revenues collected, but they are unable to make a precise estimate of the fiscal effect on local governments. Any fiscal effect associated with enactment of SB 295 is not reflected in *The FY 2021 Governor's Budget Report*.

Sub. for HB 2607 (Property Tax Payment Plans)

The bill was introduced by the House Committee at the request of Representative Kelly on behalf of the cities in Montgomery County. As introduced, the bill would have established specific guidelines for counties seeking to authorize installment payment plans for residential property.

At the House Committee hearing on February 20, 2020, Representative Kelly appeared as a proponent, as did a representative of the League of Kansas Municipalities and the Caney City Administrator. A representative of the Kansas Association of Counties and the Riley County Treasurer appeared in opposition. Written-only testimony in opposition was submitted by the Kansas County Treasurers Association. No neutral testimony was provided.

On February 24, 2020, the House Committee amended the bill to remove its original provisions and to expand the authority of county treasurers in current law to allow for property tax partial payments and payment plans. The House Committee recommended a substitute bill be created.

According to the fiscal note prepared by the Division of the Budget on HB 2607 as introduced, the KDOR did not anticipate any impact on the amount of property taxes collected but noted that the timing of receipts could be affected.

Golden Years Homestead Property Tax Freeze Act and SAFE Senior Relief Repeal

The Tax Freeze Act was originally introduced in 2019 as SB 91 and passed the Senate as a part of SB 104. The Tax Freeze Act, as passed by the Senate in Senate Sub. for HB 2118, included the following changes to the version passed by the Senate in SB 104:

- The base tax year is changed to 2019;
- The initial year of the program is changed to 2020;
- The date for which the list of eligible claimants must be delivered by to counties is changed from October 15 to October 1; and
- An annual cap on the maximum amount of refund under the program was added.

Additionally, SB 104 did not repeal the SAFE Senior property tax refund program and did provide for qualifying disabled veterans to participate in the existing Homestead Refund Program.

The Tax Freeze Act is projected to increase State General Fund (SGF) receipts by \$0.9 million in FY 2021, decrease SGF receipts by \$5.7 million in FY 2022, and decrease SGF receipts by \$12.3 million in FY 2023.