

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2490**

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

Senate Sub. for HB 2490 would provide for expanded property tax abatement in cases of property destroyed by disaster, amend law related to administrative procedure of the State Board of Tax Appeals (BOTA), amend law related to the list of persons eligible to be county appraisers, prohibit certain valuation increases, impose new requirements on appraisal directives, and amend law related to judicial review of property valuation appeals.

Property Tax Abatement Expansion

The bill would expand the authority of county commissions to abate property taxes on certain types of property destroyed or substantially destroyed by natural disasters.

The bill would broaden the authority to include all buildings and agricultural improvements listed as real property for situations wherein such property has been damaged in a gubernatorial-declared disaster and restoration costs would equal or exceed 50 percent of pre-damage market value. Similar authority exists under current law for counties to abate taxes on damaged residential homestead property. The provisions of the bill would be retroactive to tax year 2019.

*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>

BOTA Administration Changes

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 the Kansas Administrative Procedures Act (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.

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.

County Appraiser List Eligibility

The bill would require the Director of Property Valuation (Director), Department of Revenue (KDOR), provide notice to individuals and an opportunity for a hearing under KAPA prior to removing their names from the eligibility list 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.

Valuation Increase Upon Appeal

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.

Appraisal Directives

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

Judicial Review of Valuation Appeals

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.

Effective Date

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

Background

The bill, as introduced, would have extended the carry-forward time for net operation losses for Kansas income taxpayers. The Senate Committee on Assessment and Taxation (Senate Committee), on May 13, 2020, removed the contents of the bill; inserted the contents of SB 242 as amended, SB 262 as amended, SB 264 as amended by the Senate Committee of the Whole, SB 265, SB 272, SB 297, and SB 309 as amended by the Senate Committee of the Whole; and recommended a substitute bill. The background for each of the included bills is provided below.

SB 242 (Property Tax Abatement Expansion)

The bill was introduced by Senator Holland.

In the Senate Committee hearing, Senator Holland and representatives of the Kansas Cooperative Council, Kansas Grain and Feed Association, and Kansas Soybean Association; a Leavenworth County Commissioner; and a Leavenworth County resident provided proponent testimony on the bill. The proponents discussed the damage in multiple counties in northeast Kansas resulting from the May 2019 tornado and indicated owners of property that no longer exists had received property tax bills later in the year based on the valuation on January 1.

The bill as introduced would have expanded the authority of county commissions to abate taxes on damaged agricultural improvements. The Senate Committee amended the bill to broaden its application to all damaged buildings and

improvements listed as real estate, including public grain warehouses.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill would have no fiscal effect on the agency operations of the KDOR or the BOTA. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.

SB 262 (BOTA Administration Changes, Decision Timeline)

The bill was introduced by the Senate Committee at the request of Senator Alley.

In the Senate Committee hearing, a representative of the Kansas Policy Institute testified in support of the bill, stating the bill would provide clarity to the time required to request a full opinion of BOTA. No neutral or opponent testimony was provided.

The Senate Committee amended the bill to clarify service would be defined according to KAPA and to change the number of days to request a full and complete opinion from 14 to 21.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, BOTA states the bill would have no fiscal effect.

SB 264 (County Appraiser List Eligibility)

The bill was introduced by the Senate at the request of Senator Alley.

During the Senate Committee hearing representatives of the Kansas Chamber, the Kansas Policy Institute, and the

Renew Kansas Biofuels Association appeared as proponents. The Kansas Cooperative Council submitted written-only testimony in support of the bill.

A representative of the Kansas Association of Counties (KAC) appeared in opposition. Representatives of the KDOR Division of Property Valuation (PVD) and the Kansas County Appraisers Association provided neutral testimony.

On February 12, the Senate Committee amended the bill to add the provision requiring the Director to provide notice to the person regarding the opportunity to be heard under the KAPA prior to removing the name of such person from the eligible county or district appraisers list for certain acts or omissions.

The Senate Committee of the Whole on February 25 removed a provision in the bill that would have specifically established termination from the office of county or district appraiser in one or more counties as one of the acts or omissions authorizing the Director to remove names from the eligibility list.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the KDOR indicates there would be no impact on state or local property tax revenues; and additional duties detailed in the legislation would not be expected to have any significant impact on the operations of the PVD.

SB 265 (BOTA Administration Changes, Notices)

The bill was introduced by the Senate Committee at the request of Senator Alley.

In the Senate Committee hearing, a representative of the Kansas Policy Institute appeared as a proponent, stating that the bill would be taxpayer-friendly. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on the bill, BOTA indicates the bill would require \$10,000 from the State General Fund in FY 2021 to implement the bill and contract with a vendor to modify the existing case management system. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.

SB 272 (Valuation Increase Upon Appeal)

The bill was introduced by the Senate at the request of Senator Alley.

In the Senate Committee hearing, a representative of the Kansas Chamber of Commerce testified in support of the bill. Written-only testimony in support of the bill was offered by the Kansas Agribusiness Retailers Association, the Kansas Grain and Feed Association, and the Renew Kansas Biofuels Association. Representatives of the KAC and the Kansas County Appraisers Association testified in opposition to the bill. No neutral testimony was provided.

According to the fiscal note prepared by the Division of the Budget on the bill, the KDOR indicates enactment of the bill has the potential to decrease property tax revenues by a negligible amount. The KAC indicates enactment of the bill has the potential to reduce the amount of local property tax revenues. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.

SB 297 (Appraisal Directives)

The bill was introduced by the Senate Committee at the request of Senator Alley. In the Senate Committee hearing, the Director and representatives of the Kansas Chamber of Commerce and Kansas Policy Institute testified in support of the bill, stating that the bill would ensure property in Kansas is appraised under the highest standards of appraisal practice. No other testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

According to the fiscal note prepared by the Division of the Budget, the KDOR states the bill would have no fiscal effect.

SB 309 (Judicial Review of Valuation Appeals; BOTA Administration Changes, BOTA Membership)

The bill was introduced by the Senate at the request of Senator Miller.

In the Senate Committee hearing, representatives of the Kansas Chamber, Kansas Cooperative Council, Kansas Grain and Feed Association, and Kansas Policy Institute provided proponent testimony. Representatives of the KAC and Kansas County Appraisers Association provided opponent testimony.

The Senate Committee of the Whole amended the bill to insert a provision related to continued service on BOTA.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Department of Revenue and the Office of Judicial Administration anticipated no fiscal effect on their operations.