SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2456

As Amended by House Committee on Taxation

Brief*

HB 2456, as amended, would statutorily define for property tax purposes beginning in tax year 2014 commercial and industrial machinery and equipment to include such property used directly in the manufacture of cement, lime or similar products.

Property that would be eligible would include kilns, pumps, lifts, process fans, bucket elevators, compressors, raw mills, hammer mills, grinders, conveyors, ball mills, mixers, storage tanks, scales, crushers, reclaimers, processing vessels, filters, electric motors, cement and clinker coolers, finish mills, separators, electric hoists, stackers, roller mills, clinker breakers, hydraulic and lubricating systems used directly in manufacturing and processing activities, analyzers, aeration systems, air pollution control equipment, bulk loading systems, material and gas flow distribution gates, and handling and transport systems. Any such property valued and assessed as public utility property would not qualify for the statutory designation as commercial and industrial machinery and equipment.

Background

A Legislative Post Audit report (R-13-003) presented to the Legislature in 2013 questioned whether certain machinery and equipment was being appropriately and consistently assessed across the state.

---

*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

Generally, the distinction as to whether commercial and industrial machinery and equipment would be classified as "fixtures" (determined by state law enacted originally in 1866 to be part of real property) became increasingly important after a property tax exemption was enacted in 2006 for certain machinery and equipment acquired on and after July 1 of that year.

Part of the instructions that the State has provided to county appraisers under current law involves a "three-part" test to determine whether personal property has in fact become a fixture to real property. That test includes annexation to the realty; adaptation to the use of that part of the realty with which it is attached; and the intention of the party making the annexation. All three parts must be met for the personal property to be construed as a fixture. This three-part test relative to the determination of fixtures has been cited by the Kansas Supreme Court as far back as 1872.

The fiscal note from the Department of Revenue raised the potential constitutional concern that the bill could depart from what voters therefore would have commonly understood the distinction between real and personal property to be when the property tax classification amendment was adopted in 1986.

Proponents of the bill argued that similar types of property were being assessed as real property in some counties and as personal property in others, and that some counties were being too aggressive with the application of the three-part test in an effort to assure that certain property would remain taxable as real estate (and not qualify for the 2006 exemption).

Opponents argued that the three-part test has long-standing precedent in case law and state statute, and that moving away from the guidelines promulgated by the State under current law would further narrow the tax base and shift the tax burden on to other classes of property, especially residential.

The fiscal note provided by the Department of Revenue indicated the bill would be expected to produce a reduction in assessed valuation such that receipts from the mandatory school district general fund property tax levy (20 mills) would be reduced by $0.795 million annually, and receipts from the levies for state building funds (1.5 mills) would be reduced by $0.060 million annually.

The following table summarizes the fiscal impact through FY 2019:

($ in millions)

	20 mills	1.5 mills	Total
FY 2015	$ (0.795)	$ (0.060)	**$ (0.855)**
FY 2016	(0.795)	(0.060)	**(0.855)**
FY 2017	(0.795)	(0.060)	**(0.855)**
FY 2018	(0.795)	(0.060)	**(0.855)**
FY 2019	(0.795)	(0.060)	**(0.855)**
5-year total	**$ (3.975)**	**$ (0.300)**	**$ (4.275)**