

SESSION OF 2021

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2104**

As Agreed to March 30, 2021

**Brief\***

Senate Sub. for HB 2104 would amend 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, BOTA membership, and school district budget certification.

***List of Eligible County Appraisers***

The bill would stipulate that 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 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.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

### ***Appraisal Standards***

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 appraisals to 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.

### ***BOTA Administration***

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 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.

### ***Property Valuation Appeals***

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.

### ***Judicial Review***

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.

### ***BOTA Membership***

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.

The bill would also provide 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* would be permitted to exercise any power, duty, or function of a member of BOTA and would serve at the pleasure of the Governor and receive prorated compensation of the annual salary of members of BOTA. The bill would sunset the *pro tempore* membership provisions on June 30, 2023.

### ***Appraiser and BOTA Member Qualifications***

The bill would eliminate 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 would require 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 Kansas Real Estate Appraisal Board.

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

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

### ***Revenue-Neutral Rate Notice and Hearing Date Changes***

The bill would modify several dates passed in SB 13. The bill would change 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 would change 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 would allow school districts required to hold a hearing for exceeding the district's revenue-neutral rate pursuant to the provisions of 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 would remain the applicable certification date for school districts not required to hold a hearing for exceeding the district's revenue-neutral rate.

### **Conference Committee Action**

The Conference Committee agreed to the provisions of Senate Sub. for HB 2104 and agreed to amend the bill by deleting provisions re-authorizing the statewide 20-mill school finance levy and \$20,000 residential value exemption and by inserting the provisions of SB 72, concerning county or district appraiser and BOTA member qualifications.

### **Background**

#### ***HB 2104***

The bill was introduced by the House Committee on Taxation at the request of a representative of of the Cerebral Palsy Research Foundation of Kansas (CPRFK). As introduced, the bill would have exempted certain non-profit educational institutions from sales tax on certain purchases.

### *House Committee on Taxation*

In the House Committee hearing, **proponent** testimony was provided by representatives of the CPRFK. Written-only **proponent** testimony was provided by a representative of InterHab.

No neutral or **opponent** testimony was provided.

The House Committee amended the bill to change its effective date to upon publication in the *Kansas Register*.

### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the CPRFK. Proponents stated the provisions of the bill would assist the CPRFK with constructing improved housing for residents.

The Senate Committee amended the bill by removing the contents of the bill as introduced and inserting the contents of SB 98, as amended by the Senate Committee on Assessment and Taxation; SB 119, as introduced; SB 277, as introduced; and the provisions regarding school district budget certification dates, and creating a substitute bill.

### *Senate Committee of the Whole*

The Senate Committee of the Whole amended the bill to modify certain dates related to SB 13.

### **SB 72**

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas Chamber of Commerce and the Kansas Policy Institute, who stated the bill's provisions would ensure Kansas appraisal training and qualifications are in accord with Kansas law. Written-only **proponent** testimony was provided by a representative of the Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association and by a representative of the Kansas Cooperative Council.

**Opponent** testimony was provided by a representative of Riley County, who stated the bill's provisions would hinder the State's ability to ensure uniform and equal property appraisal. Written-only **opponent** testimony was provided by representatives of the Board of County Commissioners of Barton County, the International Association of Assessing Officers, the Kansas Association of Counties, and the Kansas County Appraisers Association and by a real estate appraiser.

Neutral testimony was provided by the Director of Property Valuation.

### **Fiscal Information**

#### ***Senate Sub. for HB 2104***

#### ***SB 98***

According to the fiscal note prepared by the Division of the Budget on SB 98, as introduced, the Kansas Association of Counties indicates enactment of the bill has the potential to increase litigation costs for county governments by an indeterminate amount. The Kansas Department of Revenue, BOTA, and the Office of Judicial Administration indicate

enactment of the bill would have no fiscal effect on the State. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

**SB 119**

According to the fiscal note prepared by the Division of the Budget on SB 119, the provisions of the bill are expected to have a negligible or indeterminate impact on state revenues and expenditures.

**SB 72**

According to the fiscal note prepared by the Division of the Budget, the Real Estate Appraisal Board, the Department of Revenue, and the Kansas Association of Counties indicate enactment of the bill could increase costs associated with training, credentialing, and employing county appraisers, but specific costs could not be estimated. Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Taxation; property tax; judicial review; Board of Tax Appeals; property valuation

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