

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Taxation** recommends **SB 119** be amended on page 3, in line 36, after the period by inserting "With regard to any matter properly submitted to the district court relating to the determination of valuation of residential property or real property used for commercial and industrial purposes for taxation purposes or the determination of classification of property for assessment purposes, the county appraiser shall have the duty to initiate the production of evidence to demonstrate, by a preponderance of the evidence, the validity and correctness of such determination.";

On page 4, following line 18, by inserting:

"Sec. 3. K.S.A. 74-2433 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 ~~90~~ 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. 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 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."

On page 14, in line 23, after the first comma by inserting "74-2433,";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after the first semicolon by inserting "burden of proof of judicial review in district court; extending the time a board member may continue to serve after such member's term expires; authorizing appointment by the governor of a member pro tempore under certain conditions;"; in line 6, after the comma by inserting "74-2433,"; and the bill be passed as amended.

_____ Chairperson