

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 98

As Amended by Senate Committee on
Assessment and Taxation

Brief*

SB 98, as amended, would amend law related to judicial review of property tax disputes and membership of the State Board of Tax Appeals (BOTA).

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

*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>

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.

Background

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, the Kansas Grain and Feed Association and Renew Kansas Biofuels Association, and the Kansas Policy Institute. Written-only **proponent** testimony was provided by a representative of the Kansas Cooperative Council.

Written-only **opponent** testimony to the bill was provided by a representative of the Kansas County Appraisers Association.

Neutral testimony was provided by a representative of the Kansas Association of Counties.

The Senate Committee amended the bill to insert the provisions related to *pro tempore* membership of BOTA.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, 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*.

Property taxation; judicial review; Board of Tax Appeals