

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **HB 2643**, as amended by House Committee, on page 1, in line 17, after "conform" by inserting "to the definitions of real and personal property in Kansas law and"; in line 21, by striking all following "(2)"; by striking all in lines 22 through 24; in line 25, by striking "(3)"; in line 26, by striking all following "determined"; in line 27, by striking all before the comma and inserting "from the definitions of real and personal property provided in Kansas law"; also in line 27, by striking "following"; also in line 27, after "part" by inserting "fixture law"; in line 30, after "thereto" by inserting ", and shall consider the following"; in line 31, by striking "Annexation to the realty" and inserting "The annexation of the machinery and equipment to the real estate"; in line 32, following "(B)" by inserting "the"; also in line 32, by striking "the part of"; in line 33, after "attached" by inserting "and determination whether the property at issue serves the real estate"; in line 34, after "annexation" by inserting ", based on the nature of the item affixed; the relation and situation of the party making the annexation; the structure and mode of annexation; and the purpose or use for which the annexation was made.

(3) The basic factors for clarifying items as real or personal property are their designated use and purpose. The determination of whether property is real or personal must be made on a case-by-case basis. All three parts of the three-part fixture test must be satisfied for the item to be classified as real property";

Also on page 1, in line 35, by striking "For all tax years commencing after December 31,"; by striking all in line 36;

On page 2, by striking all in lines 1 through 18 and inserting "(a) After July 1, 2014, the owner

of any project being constructed with the proceeds of industrial revenue bonds which has been exempted from ad valorem taxation pursuant to K.S.A. 79-201a *Second*, and amendments thereto, or the owner of any property exempted from ad valorem taxation pursuant to section 13 of article 11 of the constitution of the state of Kansas, shall within 30 days of the completion of any improvement on the project, notify the county appraiser of such completion and the county appraiser upon receipt of such notification shall classify such improvement as real property, personal property or a combination of both real and personal property within 180 days of receipt of the notice, and shall notify the owner of such classification. The owner, if aggrieved by the county appraiser's classification, may appeal such classification to the court of tax appeals pursuant to K.S.A. 79-1409, and amendments thereto.

(b) Any property appraised as given in subsection (a) shall not be reclassified within two years after the expiration of the tax exemption period absent the approval of the court of tax appeals upon a hearing in a decision upheld upon appeal, if any, and:

- (1) A material physical change to such property;
- (2) a material change in the use of such property; or
- (3) a substantial change in directly applicable law.

(c) After the expiration of the two years the appraiser shall classify such property as required by K.S.A. 79-1459, and amendments thereto.";

Also on page 2, in line 24, after "(a) " by inserting "Except as provided in article 5a of chapter 79 of the Kansas statutes annotated, and amendments thereto,";

On page 4, following line 22, by inserting:

"Sec. 9. K.S.A. 2013 Supp. 12-1744a is hereby amended to read as follows: 12-1744a. (a) At least seven days prior to the issuance of any revenue bonds, the city or county shall file a statement with the state court of tax appeals of such proposed issuance containing the following information:

(1) The name of the city or county proposing to issue the revenue bonds, the lessee, the guarantor, if any, the paying or fiscal agent, the underwriter, if any, and all attorneys retained to render

an opinion on the issue;

(2) a legal description of any property to be exempted from ad valorem taxes, including the city or county in which the facility will be located;

(3) the appraised valuation of the property to be exempted from ad valorem taxes as shown on the records of the county as of the next preceding January 1. Any listing of property shall not constitute a classification of the property. Classification of any property acquired during the tax exemption period shall be determined at the end of the exemption period in accordance with section 2, and amendments thereto;

(4) the estimated total cost of the facility showing a division of such total cost between real and personal property;

(5) if the facility to be financed is an addition to or further improvement of an existing facility the cost of which was financed by revenue bonds issued under the provisions of this act, the date of issuance of such revenue bonds, and if such facility or any portion thereof is presently exempt from property taxation, the period for which the same is exempt;

(6) the principal amount of the revenue bonds to be issued;

(7) the amount of any payment to be made in lieu of taxes;

(8) an itemized list of service fees or charges to be paid by the lessee together with a detailed description of the services to be rendered therefor;

(9) a reasonably detailed description of the use of bond proceeds, including whether they will be used to purchase, acquire, construct, reconstruct, improve, equip, furnish, enlarge or remodel the facility in question;

(10) the proposed date of issuance of such revenue bonds.

(b) Any change in the information or documents required to be filed pursuant to subsection (a) which does not materially adversely affect the security for the revenue bond issue may be made within the fifteen-day period prior to issuance of the revenue bonds by filing the amended information or

document with the state court of tax appeals.

(c) Any notice required to be filed pursuant to the provisions of subsection (a) shall be accompanied by a filing fee, which shall be fixed by rules and regulations of the state court of tax appeals, in an amount sufficient to defray the cost of reviewing the information and documents required to be contained in the notice.

(d) Information required to be filed by subsection (a) of this section shall be in addition to any filing required by K.S.A. 79-210, and amendments thereto.

(e) The state court of tax appeals may require any information listed under subsection (a) deemed necessary, to be filed by a city or county concerning agreements entered into prior to the effective date of this act.

(f) The state court of tax appeals shall prepare and compile annually a report containing the information required to be filed pursuant to subsection (a) for each issuance of revenue bonds made pursuant to K.S.A. 12-1740 et seq., and amendments thereto. Such report shall be published in convenient form for the use and information of the legislature, taxpayers, public officers and other interested parties, and shall be available on January 10 of each year.

Sec. 10. K.S.A. 2013 Supp. 79-251 is hereby amended to read as follows: 79-251. Prior to the granting of an exemption for any property from ad valorem taxation pursuant to the provisions of section 13 of article 11 of the ~~Kansas~~ constitution of the state of Kansas, the board of county commissioners of any county or the governing body of any city, as the case requires, shall be required to do the following:

(a) Develop and adopt official policies and procedures for the granting of such exemptions including:

(1) The required preparation of an analysis of the costs and benefits of each exemption, including the effect of the exemption on state revenues, prior to the granting of such exemption;

(2) a procedure for monitoring the compliance of a business receiving an exemption with any

terms or conditions established by the governing body for the granting of the exemption;

(b) conduct a public hearing on the granting of such exemption. Notice of the public hearing shall be published at least once seven days prior to the hearing in the official city or county newspaper, as the case requires, and shall indicate the purpose, time and place thereof. In addition to such publication notice, the city or county clerk, as the case requires, shall notify in writing the governing body of the city or county and unified school district within which the property proposed for exemption is located; and

(c) adopt a resolution containing the following findings of fact:

(1) That the property for which the exemption is to be granted will be used exclusively for the purposes specified in section 13 of article 11 of the ~~Kansas~~ constitution of the state of Kansas; and

(2) if the business using the property is relocating from one city or county to another within this state, that the business has received approval of the secretary of commerce prior to qualifying for the exemption upon a finding by the secretary that such relocation is necessary to prevent the business from relocating outside this state.

(d) Any listing of property submitted by the business as part of the exemption process shall not constitute a classification of the property. Classification of any property acquired during the tax exemption shall be determined at the end of the exemption period in accordance with section 2, and amendments thereto.;

And by renumbering sections accordingly;

Also on page 4, in line 23, after "Supp." by inserting "12-1744a, 79-251 and"; also in line 23, by striking "is" and inserting "are";

On page 1, in the title, in line 4, after "Supp." by inserting "12-1744a, 79-251 and"; in line 5, by striking "section" and inserting "sections"
