

April 17, 2013

The Honorable Les Donovan, Chairperson
Senate Committee on Assessment and Taxation
Statehouse, Room 123-E
Topeka, Kansas 66612

Dear Senator Donovan:

SUBJECT: Fiscal Note for SB 238 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 238 is respectfully submitted to your committee.

SB 238 would create a new appellate process before the Court of Tax Appeals, allowing a property owner or potential property owner to request from the county appraiser a determination of the characterization of property as (1) commercial and industrial machinery and equipment; (2) telecommunications and railroad machinery and equipment; (3) other personal property; and (4) fixtures, for the purpose of determining the legal basis for the payment of ad valorem property taxes assessed or to be assessed against such property. The county appraiser would be allowed to assess a reasonable fee to recover the administrative costs of reviewing and processing the request. The county appraiser would also be allowed to request additional information from the applicant and, if applicable, access to the property at any time during the appraiser's review of the determination request.

The county appraiser would be required to notify the Director of Property Valuation (PVD) and the Secretary of Commerce of the determination request and the Director and Secretary may respond within ten business days of receiving the request with their recommendations. The county appraiser must recommend a determination of the treatment of the property for ad valorem property tax purposes as real or personal property and provide the determination to the applicant, the PVD Director, and the Secretary of Commerce. If the county appraiser and the applicant are in agreement, a written and duly executed agreement of the county appraiser and the applicant must be executed and binding for the period ending December 31 of the tenth year following the date of the agreement.

If the county appraiser and the applicant are not in agreement, or the county appraiser believes a hearing before the Court of Tax Appeals (COTA) is necessary, the county appraiser must file a request for determination. COTA would be required to docket the matter and notify the PVD Director and the Secretary of Commerce. If COTA elects to hold a hearing, it must schedule the hearing within 30 days after the receipt of all information and data required by the

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Court relating to the request for determination. The hearing must be held within 90 days and the county must be represented by its attorney. COTA would be required to issue an order within 30 days of the hearing. The applicant would be required to commence construction or installation no later than 12 months after the date of agreement or the determination by COTA. Failure to commence construction or installation within the required timeframe would void the agreement or order.

Estimated State Fiscal Effect				
	FY 2013 SGF	FY 2013 All Funds	FY 2014 SGF	FY 2014 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$130,000	\$130,000
FTE Pos.	--	--	2.00	2.00

The Court of Tax Appeals (COTA) indicates that it currently does not provide advisory opinions regarding potential projects or possible future purchases. In order to comply with the schedule that would be required with the passage of SB 238, the Court estimates that it would need an additional \$130,000 from the State General Fund in FY 2014 and \$125,000 in FY 2015 and each subsequent year. The estimate includes \$45,000 for 1.00 clerical FTE position, \$80,000 for 1.00 Attorney FTE position, and one-time costs of \$5,000 to purchase office and computer equipment for both positions. The Department of Revenue indicates that any fiscal effect on state levies that may result with the passage of this bill would be negligible. The Department of Commerce indicates that any fiscal effect on its operations that could result from the passage of this bill would be negligible. Any fiscal effect associated with the passage of SB 238 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Larry Baer, League of Kansas Municipalities
Melissa Wangemann, Kansas Association of Counties
Steve Neske, Revenue
Jody Allen, Tax Appeals
Dan Lara, Commerce