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Sam Brownback, Governor

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Testimony of Arlen Siegfried

Thank you Chairman Donovan, and the distinguished members of the Senate Tax Committee, for the opportunity to testify about the characteristics and necessity of House Bill 2240.

House Substitute for Senate Bill 231, passed and signed into law in 2014, contained a provision pertaining to the use of Board of Tax Appeals staff being used as small claims hearing officers. This provision prevented the Small Claims and Expedited Hearings Division from using the three staff attorneys in that position.

The staff attorneys have been used as hearing officers since the creation of the small claims function in 1999. Their use to supplement the contractual hearing officers is required because the division must process an average of 2,600 small claims appeal hearings in about eight weeks. This is a statutory requirement and part of the legislative oversight of the Board of Tax Appeals. To accomplish this we must use a minimum of six small claims hearing officers.

BOTA presently has two officers under contract. If we are allowed to use the staff attorneys the statutory requirement could be accomplished by hiring one more contractual officer. If we are not allowed to use them, it will require the hiring, and training of four more officers at a cost of \$115,000.00. The use of the staff attorneys is efficient because they are already paid as unclassified employees and are highly qualified. Their experience in this function is from ten to fifteen years. The eight critical weeks of small claims hearings coincides with the slow time in the regular division. Therefore we will not be in danger of failing to produce timely written decisions. This more efficient use of personnel saves BOTA at least \$115,000.00 per year.

There was concern expressed that staff would be used in small claims hearings and then sit as the attorney in the regular division appeal on the same case. I assure you the described scenario cannot happen because of BOTA's policy. The regular division hearing is always De Novo and no Board member or staff who has previously heard any of the evidence may participate.

HB 2240, which was created by the House General Budget Sub-Committee, is very simple. It removes one line stating the following:

"The chief hearing officer shall not appoint as a hearing officer any person employed by the board, including, but not limited to, and person employed by the board as an attorney"
(K.S.A. 2014 Supp. 74-2433f).

The Sub-Committee generated this bill because it allows adherence to the Governor's budget recommendations and continues a yearly saving going forward.

The Senate Ways and Means also adopted a provision recommending the passage of HB 2240 for the same reason.

The House Tax Committee, in its wisdom, added two amendments to the bill. They are as follows:

- The bill will become effective on its publication in the Kansas Register. This is important because the small claim season begins with some appeals in April. This amendment allows the use of the attorneys before July 1, 2015.
- The bill was amended to state an appointee who is a certified Kansas Appraiser would not have to go through the redundancy of taking appraisal courses they have already taken to be certified. That appointee could move directly to full pay instead of starting at partial pay until they completed said courses.

Thank you for taking the time to consider my testimony and I hope you will pass HB 2240 out favorably.