

HOUSE BILL No. 2422

By Committee on Taxation

4-2

1 AN ACT concerning property taxation; relating to valuation, appeals;
2 amending K.S.A. 2014 Supp. 79-1404a, 79-1494 and 79-2005 and
3 repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 79-1404a is hereby amended to read as
7 follows: 79-1404a. The director of property valuation shall have authority
8 to review any valuation change made by a county or district appraiser
9 pursuant to K.S.A. 79-1448 ~~and 79-2005~~, and amendments thereto, or a
10 hearing officer or panel pursuant to K.S.A. 79-1606, and amendments
11 thereto, and may rescind such change upon written findings that such
12 change has caused property not to be valued according to law, provided
13 however, no valuation change shall be rescinded more than 60 days after
14 the date of such change. Any party aggrieved by an order of the director of
15 property valuation rescinding a valuation change may appeal such order to
16 the state board of tax appeals as provided in K.S.A. 74-2438, and
17 amendments thereto.

18 Sec. 2. K.S.A. 2014 Supp. 79-1494 is hereby amended to read as
19 follows: 79-1494. A binding arbitration process is hereby established in
20 Lyon, Ellis, Saline and Shawnee counties. The director of property
21 valuation shall develop a list of persons qualified by virtue of experience
22 and training in the field of property appraisal and tax administration to act
23 as arbitrators of property valuation disputes. The board of county
24 commissioners of such counties shall, on or before August 25, 1992, and
25 on or before August 25 of each ensuing year, by resolution fix the salary to
26 be paid each arbitrator who shall serve in such county and notify the
27 director of property valuation of the amount thereof. The state shall
28 assume a portion of the cost of such arbitration process in accordance with
29 appropriation acts of the legislature.

30 The county clerk shall furnish an arbitration request form together with
31 a statement of explanation of the consequences of a request for binding
32 arbitration to any property owner who desires to submit the final
33 determination of classification or appraised valuation by the county
34 appraiser to binding arbitration. Such form and statement shall be
35 prescribed by the director of property valuation. The arbitration request
36 form shall be completed and filed with the county clerk within 18 days of

1 the date that a final determination of classification or appraised valuation
2 was mailed to the property owner as provided in K.S.A. 79-1448, and
3 amendments thereto. The property owner may rescind such request by
4 notifying the county clerk prior to the expiration of such 18-day period
5 provided that no hearing has already been conducted thereon, and in such
6 case, the date upon which such notice was received by the county clerk
7 shall be deemed to be the date that an appeal was made to a hearing officer
8 or panel pursuant to K.S.A. 79-1606, and amendments thereto. A request
9 for binding arbitration shall be in lieu of an appeal to the hearing officer or
10 panel as provided in K.S.A. 79-1606, and amendments thereto.

11 Every request for binding arbitration shall be promptly set for hearing
12 by the county clerk. The property owner and the board of county
13 commissioners shall select an arbitrator to conduct the hearing from the
14 list prepared by the director of property valuation. In the absence of
15 agreement by the property owner and the board of county commissioners,
16 the chief judge of the judicial district in which the property is located shall
17 select the arbitrator from the list. All such hearings shall be completed on
18 or before the last business day in June. The county clerk shall notify the
19 property owner and the county appraiser of the date for hearing at least 10
20 days in advance of such hearing. Every request for arbitration shall be
21 determined by order of the arbitrator on or before July 5, and the arbitrator
22 shall have no authority to be in session thereafter. Such order may affirm
23 the final determination of the county appraiser, adopt the contentions of
24 the property owner or make any other decision supported by the
25 preponderance of the evidence submitted. Such recorded orders shall be
26 open to public inspection. Notice of the decision of the arbitrator shall be
27 mailed by the county clerk to the property owner and the county appraiser
28 within 15 days of the hearing. The decision of the arbitrator shall be final
29 and not subject to appeal, and the property owner shall be precluded from
30 protesting the valuation of the same property pursuant to K.S.A. 79-2005,
31 and amendments thereto.

32 The director of property valuation shall prescribe guidelines governing
33 the duties of arbitrators under this section.

34 The provisions of this section shall apply to all taxable years
35 commencing after December 31, 1992, through December 31, 1995.

36 Sec. 3. K.S.A. 2014 Supp. 79-2005 is hereby amended to read as
37 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such
38 taxpayer's taxes, shall be required, either at the time of paying such taxes,
39 or, if the whole or part of the taxes are paid prior to December 20, no later
40 than December 20, or, with respect to taxes paid in whole or in part in an
41 amount equal to at least $\frac{1}{2}$ of such taxes on or before December 20 by an
42 escrow or tax service agent, no later than January 31 of the next year, to
43 file a written statement with the county treasurer, on forms approved by

1 the state board of tax appeals and provided by the county treasurer, clearly
2 stating the grounds on which the whole or any part of such taxes are
3 protested and citing any law, statute or facts on which such taxpayer relies
4 in protesting the whole or any part of such taxes. When the grounds of
5 such protest is an assessment of taxes made pursuant to K.S.A. 79-332a
6 and 79-1427a, and amendments thereto, the county treasurer may not
7 distribute the taxes paid under protest until such time as the appeal is final.
8 ~~When the grounds of such protest is that the valuation or assessment of the~~
9 ~~property upon which the taxes are levied is illegal or void, the county~~
10 ~~treasurer shall forward a copy of the written statement of protest to the~~
11 ~~county appraiser who shall within 15 days of the receipt thereof, schedule~~
12 ~~an informal meeting with the taxpayer or such taxpayer's agent or attorney~~
13 ~~with reference to the property in question. The county appraiser shall~~
14 ~~review the appraisal of the taxpayer's property with the taxpayer or such~~
15 ~~taxpayer's agent or attorney and may change the valuation of the taxpayer's~~
16 ~~property, if in the county appraiser's opinion a change in the valuation of~~
17 ~~the taxpayer's property is required to assure that the taxpayer's property is~~
18 ~~valued according to law, and shall, within 15 business days thereof, notify~~
19 ~~the taxpayer in the event the valuation of the taxpayer's property is~~
20 ~~changed, in writing of the results of the meeting. In the event the valuation~~
21 ~~of the taxpayer's property is changed and such change requires a refund of~~
22 ~~taxes and interest thereon, the county treasurer shall process the refund in~~
23 ~~the manner provided by subsection (f).~~

24 (b) ~~No protest appealing the valuation or assessment of property shall~~
25 ~~be filed pertaining to any year's valuation or assessment when an appeal of~~
26 ~~such valuation or assessment was commenced pursuant to K.S.A. 79-1448,~~
27 ~~and amendments thereto, nor shall the second half payment of taxes be~~
28 ~~protested when the first half payment of taxes has been protested.~~
29 ~~Notwithstanding the foregoing, this provision shall not prevent any~~
30 ~~subsequent owner from protesting taxes levied for the year in which such~~
31 ~~property was acquired, nor shall it prevent any taxpayer from protesting~~
32 ~~taxes when the valuation or assessment of such taxpayer's property has~~
33 ~~been changed pursuant to an order of the director of property valuation.~~

34 (e) ~~A protest shall not be necessary to protect the right to a refund of~~
35 ~~taxes in the event a refund is required because the final resolution of an~~
36 ~~appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto,~~
37 ~~occurs after the final date prescribed for the protest of taxes.~~

38 (d) ~~If the grounds of such protest shall be that the valuation or~~
39 ~~assessment of the property upon which the taxes so protested are levied is~~
40 ~~illegal or void, such statement shall further state the exact amount of~~
41 ~~valuation or assessment which the taxpayer admits to be valid and the~~
42 ~~exact portion of such taxes which is being protested.~~

43 (e)(c) ~~If the grounds of such protest shall be that any tax levy, or any~~

1 part thereof, is illegal, such statement shall further state the exact portion
2 of such tax which is being protested.

3 ~~(f)~~(d) Upon the filing of a written statement of protest, the grounds of
4 which shall be that any tax levied, or any part thereof, is illegal, the county
5 treasurer shall mail a copy of such written statement of protest to the state
6 board of tax appeals and the governing body of the taxing district making
7 the levy being protested.

8 ~~(g)~~(e) Within 30 days after notification of the results of the informal
9 meeting with the county appraiser pursuant to subsection (a), the
10 protesting taxpayer may, if aggrieved by the results of the informal
11 meeting with the county appraiser, appeal such results to the state board of
12 tax appeals.

13 ~~(h)~~ After examination of the copy of the written statement of protest
14 and a copy of the written notification of the results of the informal meeting
15 with the county appraiser in cases where the grounds of such protest is that
16 the valuation or assessment of the property upon which the taxes are levied
17 is illegal or void, the board shall conduct a hearing in accordance with the
18 provisions of the Kansas administrative procedure act, unless waived by
19 the interested parties in writing. If the grounds of such protest is that the
20 valuation or assessment of the property is illegal or void the board shall
21 notify the county appraiser thereof.

22 ~~(i)~~(f) In the event of a hearing, the same shall be originally set not
23 later than 90 days after the filing of the copy of the written statement of
24 protest and a copy, when applicable, of the written notification of the
25 results of the informal meeting with the county appraiser with the board.
26 ~~With regard to any matter properly submitted to the board relating to the~~
27 ~~determination of valuation of residential property or real property used for~~
28 ~~commercial and industrial purposes for taxation purposes, it shall be the~~
29 ~~duty of the county appraiser to initiate the production of evidence to~~
30 ~~demonstrate, by a preponderance of the evidence, the validity and~~
31 ~~correctness of such determination except that no such duty shall accrue to~~
32 ~~the county or district appraiser with regard to leased commercial and~~
33 ~~industrial property unless the property owner has furnished to the county~~
34 ~~or district appraiser a complete income and expense statement for the~~
35 ~~property for the three years next preceding the year of appeal. No~~
36 ~~presumption shall exist in favor of the county appraiser with respect to the~~
37 ~~validity and correctness of such determination. In all instances where the~~
38 ~~board sets a request for hearing and requires the representation of the~~
39 ~~county by its attorney or counselor at such hearing, the county shall be~~
40 ~~represented by its county attorney or counselor.~~

41 ~~(j)~~(g) When a determination is made as to the merits of the tax
42 protest, the board shall render and serve its order thereon. The county
43 treasurer shall notify all affected taxing districts of the amount by which

1 tax revenues will be reduced as a result of a refund.

2 ~~(k)~~(h) If a protesting taxpayer fails to file a copy of the written
3 statement of protest and a copy, when applicable, of the written
4 notification of the results of the informal meeting with the county
5 appraiser with the board within the time limit prescribed, such protest shall
6 become null and void and of no effect whatsoever.

7 ~~(h)~~(i) (1) In the event the board orders that a refund be made pursuant
8 to this section or the provisions of K.S.A. 79-1609, and amendments
9 thereto, or a court of competent jurisdiction orders that a refund be made,
10 and no appeal is taken from such order, ~~or in the event a change in~~
11 ~~valuation which results in a refund pursuant to subsection (a),~~ the county
12 treasurer shall, as soon thereafter as reasonably practicable, refund to the
13 taxpayer such protested taxes and, with respect to protests or appeals
14 commenced after the effective date of this act, interest computed at the rate
15 prescribed by K.S.A. 79-2968, and amendments thereto, minus two
16 percentage points, per annum from the date of payment of such taxes from
17 tax moneys collected but not distributed. Upon making such refund, the
18 county treasurer shall charge the fund or funds having received such
19 protested taxes, except that, with respect to that portion of any such refund
20 attributable to interest the county treasurer shall charge the county general
21 fund. In the event that the state board of tax appeals or a court of
22 competent jurisdiction finds that any time delay in making its decision is
23 unreasonable and is attributable to the taxpayer, it may order that no
24 interest or only a portion thereof be added to such refund of taxes.

25 (2) No interest shall be allowed pursuant to paragraph (1) in any case
26 where the tax paid under protest was inclusive of delinquent taxes.

27 ~~(m)~~(j) Whenever, by reason of the refund of taxes previously received
28 or the reduction of taxes levied but not received as a result of decreases in
29 assessed valuation, it will be impossible to pay for imperative functions for
30 the current budget year, the governing body of the taxing district affected
31 may issue no-fund warrants in the amount necessary. Such warrants shall
32 conform to the requirements prescribed by K.S.A. 79-2940, and
33 amendments thereto, except they shall not bear the notation required by
34 such section and may be issued without the approval of the state board of
35 tax appeals. The governing body of such taxing district shall make a tax
36 levy at the time fixed for the certification of tax levies to the county clerk
37 next following the issuance of such warrants sufficient to pay such
38 warrants and the interest thereon. All such tax levies shall be in addition to
39 all other levies authorized by law.

40 ~~(n)~~(k) Whenever a taxpayer appeals to the board of tax appeals
41 pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, or
42 pays taxes under protest related to one property whereby the assessed
43 valuation of such property exceeds 5% of the total county assessed

1 valuation of all property located within such county and the taxpayer
2 receives a refund of such taxes paid under protest or a refund made
3 pursuant to the provisions of K.S.A. 79-1609, and amendments thereto, the
4 county treasurer or the governing body of any taxing subdivision within a
5 county may request the pooled money investment board to make a loan to
6 such county or taxing subdivision as provided in this section. The pooled
7 money investment board is authorized and directed to loan to such county
8 or taxing subdivision sufficient funds to enable the county or taxing
9 subdivision to refund such taxes to the taxpayer. The pooled money
10 investment board is authorized and directed to use any moneys in the
11 operating accounts, investment accounts or other investments of the state
12 of Kansas to provide the funds for such loan. Each loan shall bear interest
13 at a rate equal to the net earnings rate of the pooled money investment
14 portfolio at the time of the making of such loan. The total aggregate
15 amount of loans under this program shall not exceed \$50,000,000 of
16 unencumbered funds pursuant to article 42 of chapter 75 of the Kansas
17 Statutes Annotated, and amendments thereto. Such loan shall not be
18 deemed to be an indebtedness or debt of the state of Kansas within the
19 meaning of section 6 of article 11 of the constitution of the state of Kansas.
20 Upon certification to the pooled money investment board by the county
21 treasurer or governing body of the amount of each loan authorized
22 pursuant to this subsection, the pooled money investment board shall
23 transfer each such amount certified by the county treasurer or governing
24 body from the state bank account or accounts prescribed in this subsection
25 to the county treasurer who shall deposit such amount in the county
26 treasury. Any such loan authorized pursuant to this subsection shall be
27 repaid within four years. The county or taxing subdivision shall make not
28 more than four equal annual tax levies at the time fixed for the certification
29 of tax levies to the county clerk following the making of such loan
30 sufficient to pay such loan within the time period required under such loan.
31 All such tax levies shall be in addition to all other levies authorized by law.

32 ~~(p)~~(l) The county treasurer shall disburse to the proper funds all
33 portions of taxes paid under protest and shall maintain a record of all
34 portions of such taxes which are so protested and shall notify the
35 governing body of the taxing district levying such taxes thereof and the
36 director of accounts and reports if any tax protested was levied by the
37 state.

38 ~~(p)~~(m) This statute shall not apply to the valuation and assessment of
39 property assessed by the director of property valuation and it shall not be
40 necessary for any owner of state assessed property, who has an appeal
41 pending before the state board of tax appeals, to protest the payment of
42 taxes under this statute solely for the purpose of protecting the right to a
43 refund of taxes paid under protest should that owner be successful in that

1 appeal.

2 Sec. 4. K.S.A. 2014 Supp. 79-1404a, 79-1494 and 79-2005 are
3 hereby repealed.

4 Sec. 5. This act shall take effect and be in force from and after its
5 publication in the statute book.