

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2118**

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

Senate Sub. for HB 2118 would establish new notice and public hearing requirements for certain taxing subdivisions, prohibit certain real property valuation increases, and provide a one-time delay in the deadline for payment of property taxes.

Notice and Public Hearing Requirements

The bill would establish, beginning in 2021, new notice and public hearing requirements for certain taxing subdivisions prior to property tax increases above a revenue-neutral rate. The bill would not apply to school districts or to any taxing subdivisions receiving less than \$5,000 annually in property taxes.

On or before June 15 of each year, beginning in 2021, the bill would require county clerks to submit the revenue-neutral rate to all other taxing subdivisions at the same time estimated assessed valuation information is provided. "Revenue-neutral rate" would be defined to mean the tax rate for the current tax year that would generate the same property tax revenue as levied the previous tax year using the current tax year's total assessed valuation. The bill would require the Director of Accounts and Reports to modify budget information forms to show the revenue-neutral rate.

*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>

The taxing subdivisions affected by the bill would be prohibited from levying rates that exceed the revenue-neutral rates unless the taxing subdivisions have published notice on their websites of the proposed intent to exceed such rates and announcing a public hearing on such action. On or before July 15, the bill would also require governing bodies to notify county clerks of their intent to exceed revenue-neutral rates. County clerks subsequently would be required to notify each taxpayer with property in taxing subdivisions seeking to exceed such rates of the public hearings at least 10 days in advance of the hearings. The bill would require county clerks to send consolidated notifications for all taxing subdivisions relevant to a parcel of property *via* mail unless taxpayers and county clerks both have consented to service by electronic means. The bill would require all costs associated with notification requirements to be borne by taxing subdivisions seeking to exceed their revenue-neutral rates, with payment for such costs due to county clerks by December 31.

The bill would require, at public hearings required to be held on or before September 10, governing bodies to provide interested taxpayers an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. At the conclusion of the public hearings, the bill would require a majority vote of governing bodies adopting resolutions or ordinances that approve exceeding the revenue-neutral rates, prior to adoption of proposed budgets resulting in a tax rate that exceeds the revenue-neutral rates.

The public hearings could be conducted in conjunction with other required budget hearings of the taxing subdivisions. Governing bodies taking such action would be required to submit on or before September 20 to each county clerk the amount of property taxes to be levied. Taxing subdivisions not complying with the notification and public hearing requirements outlined in the bill would be required to refund to taxpayers any over-collected property taxes.

The bill also would repeal, beginning in 2021, the current property tax lid law applicable to cities and counties (KSA 79-2925c).

Prohibited Valuation Increases

The bill would prohibit an increase in the appraised valuation of real property solely as a result of normal repair, replacement, or maintenance of existing improvements on the property.

Property Tax Payment Delay

The bill would prohibit interest from accruing on unpaid property tax for tax year 2019 from May 10, 2020, through August 10, 2020. The tax would not be considered delinquent for that time and counties would be required to waive any costs related to delinquent property tax collection charged to taxpayers prior to August 11, 2020.

The bill would also delay, for tax year 2019 only, the preparation of a list of real estate subject to sale due to delinquent taxes until after August 10, 2020, and the publication deadline of such list would be delayed until September 1, 2020. Real estate sales of property as a result of delinquent taxes in 2020 otherwise scheduled to occur on the first Tuesday of September would be scheduled to occur on or before the fourth Monday of October.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill, as introduced, would have created income tax credits related to the aviation and aerospace industries. The Senate Committee on Assessment and Taxation, on May 13, 2020, removed the contents of the bill; inserted the contents of SB 294 (as amended by the Senate Committee of the Whole), the contents of SB 295, and provisions delaying interest and fees for payments of real and personal property taxes; and created a substitute bill. The Committee further amended the contents of SB 294 by changing the latest allowed date of the public hearing from September 15 to September 10, requiring consolidated notices from county clerks, and adopting technical amendments. Background information for SB 294 and SB 295 is provided below.

A fiscal note on the provisions of the bill delaying property tax interest and fees was not immediately available.

SB 294 (Notice and Public Hearing Requirements)

The bill was introduced by Senators Tyson, Alley, Braun, Estes, Goddard, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, Olson, Petersen, Thompson, Wagle, and Wilborn.

In the Senate Committee on Assessment and Taxation hearing on February 7, 2020, representatives of Americans for Prosperity, the Kansas Association of Realtors, the Kansas Chamber, the Kansas Farm Bureau, and the Kansas Policy Institute, and a Linn County Commissioner, appeared as proponents. Proponents stated the bill's provisions would improve property tax transparency and accountability, and noted the legislation generally was patterned after a law Utah has had in place since the 1980s.

Representatives of the City of Lenexa, Kansas Association of Chiefs of Police, Kansas Association of Counties (KAC), Kansas Association of School Boards, Kansas Sheriffs Association, League of Kansas Municipalities

(LKM), and Unified Government of Wyandotte County and Kansas City, Kansas, appeared in opposition. Opponents also included the Andover Fire Chief, Andover City Council President, Atchison Director of Administration Service, McPherson Police Chief, McPherson Fire Chief, Riley County Counselor, and Shawnee County Counselor. Opponents cited several concerns with the bill, including the potential costs that could be incurred by the affected taxing subdivisions.

Additional written-only testimony was submitted by several proponents, opponents, and neutral parties.

On February 13, 2020, the Senate Committee on Assessment and Taxation amended the bill to delay its implementation until 2021 while clarifying the revenue-neutral levy computation and a number of statutory timelines local officials would be required to follow, increase from \$5,000 to \$20,000 the level of annual property taxes below which taxing subdivisions would not be required to be subject to the bill's provisions, exclude school districts from the bill's provisions, and repeal the current tax lid law.

On February 25, 2020, the Senate Committee of the Whole amended the bill to clarify that county clerks be reimbursed for notification costs by December 31 of each year from those taxing subdivisions seeking to exceed revenue-neutral rates, to decrease from \$20,000 to \$5,000 the level of taxes below which taxing subdivisions would not be subject to the bill's provisions, and to remove a requirement for notice in official county newspapers.

A fiscal note on SB 294, as amended, was not immediately available.

SB 295 (Prohibited Valuation Increases)

The bill was introduced by Senators Tyson, Alley, Braun, Estes, Goddard, Hilderbrand, Longbine, Lynn, Masterson, Olson, Petersen, Thompson, Wagle, and Wilborn.

In the Senate Committee on Assessment and Taxation hearing, testimony in support of the bill was offered by a representative of the Kansas Policy Institute. Written-only proponent testimony was offered by the Kansas Agribusiness Retailers Association, Kansas Association of Wheat Growers, Kansas Grain and Feed Association, Kansas Soybean Association, and Renew Kansas Biofuels Association. Opponent testimony was provided by representatives of the KAC and the LKM. Neutral testimony was provided by representatives of the Property Valuation Division of the Kansas Department of Revenue (KDOR) and the Kansas County Appraisers Association.

According to the fiscal note prepared by the Division of the Budget, the KDOR estimates enactment of the bill has the potential to decrease property tax revenues by a negligible amount. The KAC and the LKM indicate enactment of the bill has the potential to reduce the amount of local property tax revenues collected, but they are unable to make a precise estimate of the fiscal effect on local governments. Any fiscal effect associated with enactment of SB 295 is not reflected in *The FY 2021 Governor's Budget Report*.