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MEMORANDUM

To: Madam Chairperson and Members of the Special Committee on Taxation
From: Office of Revisor of Statutes
Date: November 30, 2021
Subject: K.S.A. 2021 Supp. 79-2988
(2021 Senate Bill 13, Section 1; Later amended by 2021 House Bill 2104, Section 11)

Summary

K.S.A. 2021 Supp. 79-2988 establishes new notice, public hearing and approval requirements for any taxing subdivision that seeks to adopt a proposed budget that will result in a property tax rate that exceeds its revenue neutral rate beginning January 1, 2021.

“Revenue neutral rate” is defined as 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. K.S.A. 2021 Supp. 79-2988(e)(2).

On or before June 15 each year, the county clerk shall calculate the revenue neutral rate for each taxing subdivision and include it on the notice of estimated assessed valuation provided to each taxing subdivision for budget purposes. K.S.A. 2021 Supp. 79-2988(a).

No tax rate in excess of the revenue neutral rate shall be levied by the governing body of any taxing subdivision unless a resolution or ordinance has been approved by the governing body according to the procedure set forth in the statute. K.S.A. 2021 Supp. 79-2988(b). The procedure includes:

- (1) The governing body shall publish notice of its proposed intent to exceed its revenue neutral rate, its proposed tax rate, its revenue neutral rate and the date, time and location of the public hearing on its website and in the newspaper at least 10 days before the public hearing.
- (2) The governing body shall notify the county clerk of its intent to exceed the revenue neutral rate on or before July 20.

Beginning with tax year 2022, the county clerk shall notify each taxpayer with property in the taxing subdivision of such intent at least 10 days in advance of the hearing. The required information for all taxing subdivisions relevant to the taxpayer's property shall be consolidated on one notice in a format prescribed by the director of accounts and reports. The notice shall include the revenue neutral rate of each taxing subdivision relevant to the taxpayer's property and the proposed tax rates of those taxing subdivisions providing notice of their proposed intent to exceed their revenue neutral rates. The notice shall also provide various property specific information and the date, time and location of the public hearing. K.S.A. 2021 Supp. 79-2988(b)(2)

For calendar years 2022 and 2023, the county's printing and postage costs are to be reimbursed by the secretary of revenue from the taxpayer notification costs fund. K.S.A. 2021 Supp. 79-2989. In the event such costs are not reimbursed pursuant to K.S.A. 2021 Supp. 79-2989, the county clerk may seek reimbursement from the taxing subdivisions required to send notice. K.S.A. 2021 Supp. 79-2988(f).

(3) The governing body shall conduct the public hearing to consider exceeding the revenue neutral rate not sooner than August 20 and not later than September 20. The hearing may be held in conjunction with the proposed budget hearing.

(4) A majority vote of the governing body, by adoption of a resolution or ordinance to approve exceeding the revenue neutral rate, is required prior to adoption of a proposed budget that will result in a tax rate in excess of the revenue neutral rate. Such vote shall be conducted at the public hearing after the governing body has heard from interested taxpayers. If the governing body approves exceeding the revenue neutral rate, the governing body shall not adopt a budget that results in a tax rate in excess of its proposed tax rate as stated in the notice.

If a governing body does not comply with the notice and hearing procedures, the governing body shall refund to taxpayers any taxes collected above the revenue neutral rate. K.S.A. 2021 Supp. 79-2988(c).

If the governing body must conduct a public hearing to approve exceeding the revenue neutral rate under this section, the governing body shall certify, on or before October 1, to the proper county clerk the amount of ad valorem tax to be levied. K.S.A. 2021 Supp. 79-2988(d).

79-2988. Tax levy; approval to exceed revenue neutral rate by taxing subdivisions; requirements; notices and contents; public hearing; majority vote of governing body; duties of county clerk; costs. (a) On or before June 15 each year, the county clerk shall calculate the revenue neutral rate for each taxing subdivision and include such revenue neutral rate on the notice of the estimated assessed valuation provided to each taxing subdivision for budget purposes. The director of accounts and reports shall modify the prescribed budget information form to show the revenue neutral rate.

(b) No tax rate in excess of the revenue neutral rate shall be levied by the governing body of any taxing subdivision unless a resolution or ordinance has been approved by the governing body according to the following procedure:

(1) At least 10 days in advance of the public hearing, the governing body shall publish notice of its proposed intent to exceed the revenue neutral rate by publishing notice: (A) On the website of the governing body, if the governing body maintains a website; and

(B) in a weekly or daily newspaper of the county having a general circulation therein. The notice shall include, but not be limited to, its proposed tax rate, its revenue neutral rate and the date, time and location of the public hearing.

(2) On or before July 20, the governing body shall notify the county clerk of its proposed intent to exceed the revenue neutral rate and provide the date, time and location of the public hearing and its proposed tax rate. For all tax years commencing after December 31, 2021, the county clerk shall notify each taxpayer with property in the taxing subdivision, by mail directed to the taxpayer's last known address, of the proposed intent to exceed the revenue neutral rate at least 10 days in advance of the public hearing. Alternatively, the county clerk may transmit the notice to the taxpayer by electronic means at least 10 days in advance of the public hearing, if such taxpayer and county clerk have consented in writing to service by electronic means. The county clerk shall consolidate the required information for all taxing subdivisions relevant to the taxpayer's property on one notice. The notice shall be in a format prescribed by the director of accounts and reports. The notice shall include, but not be limited to:

(A) The revenue neutral rate of each taxing subdivision relevant to the taxpayer's property;

(B) the proposed property tax revenue needed to fund the proposed budget of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;

(C) the proposed tax rate based upon the proposed budget and the current year's total assessed valuation of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate;

(D) the tax rate and property tax of each taxing subdivision on the taxpayer's property from the previous year's tax statement;

(E) the appraised value and assessed value of the taxpayer's property for the current year;

(F) the estimates of the tax for the current tax year on the taxpayer's property based on the revenue neutral rate of each taxing subdivision and any proposed tax rates that exceed the revenue neutral rates;

(G) the difference between the estimates of tax based on the proposed tax rate and the revenue neutral rate on the taxpayer's property described in subparagraph (F) for any taxing subdivision that has a proposed tax rate that exceeds its revenue neutral rate; and

(H) the date, time and location of the public hearing of the taxing subdivision, if the taxing subdivision notified the county clerk of its proposed intent to exceed its revenue neutral rate.

Although the state of Kansas is not a taxing subdivision for purposes of this section, the notice shall include a statement of the statutory mill levies imposed by the state and the estimate of the tax for the current year on the taxpayer's property based on such levies.

(3) The public hearing to consider exceeding the revenue neutral rate shall be held not sooner than August 20 and not later than September 20. The governing body shall provide interested taxpayers desiring to be heard an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. The public hearing may be conducted in conjunction with the proposed budget hearing pursuant to K.S.A. 79-2929, and amendments thereto, if the governing body otherwise complies with all requirements of this section. Nothing in this section shall be construed to prohibit additional public hearings that provide additional opportunities to present testimony or public comment prior to the public hearing required by this section.

(4) A majority vote of the governing body, by the adoption of a resolution or ordinance to approve exceeding the revenue neutral rate, shall be required prior to adoption of a proposed budget that will result in a tax rate in excess of the revenue neutral rate. Such vote of the governing body shall be conducted at the public hearing after the governing body has heard from interested taxpayers. If the governing body approves exceeding the revenue neutral rate, the governing body shall not adopt a budget that results in a tax rate in excess of its proposed tax rate as stated in the notice provided pursuant to this section.

(c) Any governing body subject to the provisions of this section that does not comply with subsection (b) shall refund to taxpayers any property taxes over-collected based on the amount of the levy that was in excess of the revenue neutral rate. The provisions of this subsection shall not be construed as prohibiting any other remedies available under the law.

(d) Notwithstanding any other provision of law to the contrary, if the governing body of a taxing subdivision must conduct a public hearing to approve exceeding the revenue neutral rate under this section, the governing body of the taxing subdivision shall certify, on or before October 1, to the proper county clerk the amount of ad valorem tax to be levied.

(e) As used in this section:

(1) "Taxing subdivision" means any political subdivision of the state that levies an ad valorem tax on property.

(2) "Revenue neutral rate" means 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. To calculate the revenue neutral rate, the county clerk shall divide the property tax revenue for such taxing subdivision levied for the previous tax year by the total of all taxable assessed valuation in such taxing subdivision for the current tax year, and then multiply the quotient by 1,000 to express the rate in mills. The revenue neutral rate shall be expressed to the third decimal place.

(f) In the event that a county clerk incurred costs of printing and postage that were not reimbursed pursuant to K.S.A. 2021 Supp. 79-2989, and amendments thereto, such county clerk may seek reimbursement from all taxing subdivisions required to send the notice. Such costs shall be shared proportionately by all taxing subdivisions that were included on the same notice based on the total property tax levied by each taxing subdivision. Payment of such costs shall be due to the county clerk by December 31.

(g) The provisions of this section shall take effect and be in force from and after January 1, 2021.

79-2989. Taxpayer notification costs fund; notice of intent to exceed revenue neutral rate by taxing subdivisions; duties of county clerk; transfers from state general fund; administered by secretary of revenue. (a) For calendar years 2022 and 2023, if a county clerk has printing or postage costs pursuant to K.S.A. 2021 Supp. 79-2988, and amendments thereto, the county clerk shall notify and provide documentation of such costs to the secretary of revenue. The secretary of revenue shall certify the amount of moneys attributable to such costs and shall transmit a copy of such certification to the director of accounts and reports. Upon such receipt of such certification, the director of accounts and reports shall transfer an amount of moneys equal to such certified amount from the state general fund to the taxpayer notification costs fund of the department of revenue. The secretary of revenue shall transmit a copy of each such certification to the director of legislative research and the director of the budget.

(b) There is hereby established in the state treasury the taxpayer notification costs fund that shall be administered by the secretary of revenue. All expenditures from the taxpayer notification costs fund shall be for the purpose of paying county printing and postage costs pursuant to K.S.A. 2021 Supp. 79-2988, and amendments thereto. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of revenue or the secretary's designee.