

PRESENTATION TO THE COMMITTEE ON LEGAL GOVERNMENT

BY

THE KANSAS STATE COURT OF TAX APPEALS

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January 30, 2012

The purpose of this testimony is to provide input about the potential impact of the proposed Senate Bill 347. Senate Bill No. 347 would amend K.S.A. 2011 Supp. § 74-2438a by exempting filing fee requirements for all "municipalities," which is defined as follows:

12-105(a) "Municipality" means and includes county, township, city, school district of whatever name or nature, community junior college, municipal university, city, county or district hospital, drainage district, cemetery district, fire district, and other political subdivision or taxing unit, and including their boards, bureaus, commissions, committees and other agencies, such as, but not limited to, library board, park board, recreation commission, hospital board of trustees having power to create indebtedness and make payment of the same independently of the parent unit.

Municipalities are involved in every equalization appeal, protest appeal, and tax grievance appeal that comes before the Court. These three categories constitute approximately 75% of the cases which the Court handles.

Municipalities appeal small claims decisions to the regular division if they do not agree with the small claims decision. If municipalities did not have to pay a filing fee, they would be provided with a very unfair advantage over any entity paying property taxes that are required to pay a filing fee for the very same appeal. In FY'10 of the 2518 appeals (EQ and PR) filed, 185 were filed by municipalities. In FY'11 of the 2451 appeals (EQ and PR) filed, 153 were filed by municipalities.

If the Court were to no longer charge filing fees to municipalities, as defined by K.S.A. 12-105a, it would cost the Court more than \$240,000 per year at the current fee schedule. That amount totals 24% of all filing fees collected by the Court. Such a reduction would require either an increase in SGF funding (which is very unlikely to occur) or require the Court to again raise filing fees on residential and commercial properties.

By statute, the Court is prohibited from imposing a filing fee on residential appeals to the small claims division and only allowed to raise the filing fee for regular division residential appeals from the current \$25 to \$35. In FY'11, there were 102

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Attachment 5

appeals (EQ and PR) with a \$25 filing fee. In FY' 12 (to date), there has been 137 appeals (EQ and PR) with a \$25 filing fee. This would indicate that even increasing the filing fee for the regular division residential appeals by the authorized \$10 would result in under a \$2,000 increase in the Court's filing fee fund.

Therefore exempting the "municipalities" would ultimately place the filing fee burden on the commercial property taxpayers.

If the cost of appealing to COTA is too high, the taxpayer is disadvantaged since the appeals process is the safety check on local decisions. Municipalities and the Department of Revenue gain power when taxpayers cannot afford to go through the appeal process - especially since the changes in 2008. In 2008 the Legislature made COTA the gatekeeper for taxpayer appeals and eliminated the District Court process. All COTA decisions that are appealed by a party go directly to the Kansas Court of Appeals, in lieu of the District Court and then the Court of Appeals.

There is the other alternative of reducing Court staff. However the Court has reduced staff from 36 to 18 over the last several years, all the while working diligently to speed up the time it takes for an appeal to make its way through the process. While the Court would acknowledge that there is still room for improvement, great strides have been made in the last couple of years. The Court is now docketing appeals within a day or two of the received date. In fact, FY'11 was the first year in which all of the appeals that were filed with the Court were docketed in the fiscal year filed with the Court. This is significant because, due to the property tax cycle, the end of the fiscal year is the busiest time for the Court. The Court has also eliminated most status conferences and is now going directly to the pre-trial conference in order to make appeals move at a more appropriate speed through the process.

All of this is to say that if the Court is required to reduce staff, we will not have the capacity to continue at the current pace let alone to continue to improve. It is ironic that the municipalities are asking to have their filing fees exempted, yet the Court is continually receiving complaints from the municipalities that the Court is not producing decisions in a timely fashion. If COTA were to be required to again reduce staff, as could happen with the implementation of this exemption, this complaint would be exacerbated dramatically.

In conclusion, as you consider SB 347, please be cognizant that, if this bill were to be approved, the Court would be left with two options. They are as follows:

- To again increase the filing fees for those entities who will be left to bear the burden; or,
- Cut staff dramatically, resulting in the potential of not having an independent and impartial arbitrator, COTA, available in a timely fashion to the taxpayers of Kansas which would be very detrimental to the taxpayers of our state.

COURT OF TAX APPEALS

STAFF (FTE)	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12
Judges/Board	5	5	3	3	3	3	3	4	4	4	4	4
Executive Director	1	1	1	1	1	1	1	1	0	0	0	0
Attorneys	5	5	4	3	3	3	4	5	5	5	5	5
Administration	25	18	17	13	14	14	12	12	10	10	9	9
TOTAL	36	29	27	20	21	21	20	21	19	19	18	18

In 2009 the Chief Hearing Officer assumed the responsibilities of the Executive Director (without any additional salary) in order to meet budget constraints. That action continues today.

BUDGET ALLOCATIONS

	FY'07	FY'08	FY'09	FY'10	FY'11	FY'12	FY'13
SGF	1,482,559	1,637,685	1,563,589	1,367,805	1,308,004	960,738	970,216
DUP							
FEE	10,206	5,000	5,000	5,000	5,000	5,000	5,000
FILING FEE	417,733	495,409	641,234	605,242	682,964	1,018,852	1,032,107
	\$1,910,498	\$2,138,094	\$2,209,823	\$1,987,046	\$2,036,422	\$1,979,590	\$2,002,323
Filing Fee % of budget	22%	23%	29%	30%	34%	51.50%	51.50%

ACTUAL FILING FEE REVENUES

	FY'07	FY'09	FY'09	FY'10	FY'11	FY'12	FY'13
	\$365,386	\$341,980	\$320,435	\$354,812	\$610,295	???	???

The Court raised filing fees substantially in Nov., 2010 and again in Sept., 2011 in order to comply with the budget as approved by the legislature and signed by the Governor.

The first year of COTA's filing fee fund existence was FY '04 and that year the filing fee collections totaled \$171,749. In FY'05, after the filing fee regulation was revised and greater emphasis was placed on the collection efforts, receipts increased to \$339,666.

NUMBER OF APPEALS PER YEAR

	FY'07	FY'08	FY'09	FY'10	FY'11	FY'12	projected
SMALL CLAIMS	4,690	4,592	2,570	4,538	3,177	3,290	
REGULAR							
DIVISION	6,423	6,584	4,852	5,984	5,419	4,479	
TOTAL FILINGS	11,113	11,176	7,422	10,522	8,596	7,769	

	Old Fee	Nov, '10 Fee	Sept, '11 Fee (with \$960 K SGF)
PV			
\$250,000 or less	\$25		\$125
\$250,001 to \$1,000,000	\$50		\$200
\$1,000,001 to \$5,000,000	\$100		\$300
\$5,000,001 to \$10,000,000	\$175		\$400
more than \$10,000,000	\$250		\$500
DT			
\$1,000 or less	\$25	\$100	\$100
\$1,001 to \$10,000	\$50	\$150	\$150
\$10,001 to \$100,000	\$175	\$250	\$300
More than \$100,000	\$250	\$250	\$500
EQ/PR Not for Profit < \$100,000			
EQ/PR \$250,000 or less	\$10	\$10	\$10
EQ/PR \$250,001 to \$1,000,000	\$50	\$125	\$125
EQ/PR \$1,000,001 to \$5,000,000	\$75	\$125	\$200
EQ/PR \$5,000,001 to \$10,000,000	\$125	\$200	\$300
EQ/PR more than \$10,000,000	\$175	\$200	\$400
EQ/PR single family residential	\$200	\$200	\$500
EQ/PR farmsteads	\$0	\$25	\$25
EQ/PR mobile/man. homes	\$0	\$25	\$25
All other personal property		\$50	\$150
IRBX for property with value in excess of \$1 million			
IRBX for property with value of \$1 million or less	\$250	\$500	\$1,000
IRB Filing Statements	\$250	\$250	\$500
EDX for property with value in excess of \$1 million	\$250	\$500	\$1,000
EDX for property with value of \$1 million or less	\$250	\$250	\$500
TX (personal property except oil leases)	\$50	\$75	\$100
TX (real estate & oil leases 79-201t)	\$50	\$125	\$400
TX not-for-profit < \$100,000	\$10	\$10	\$10
TG			
Mortgage Registration Protests	\$15	\$25	\$25
No Fund Warrants	\$15	\$25	\$25
Requests for Reappraisal	\$50	\$150	\$150
Appeal by Co. Com. concerning PVD ratio determination	\$50	\$250	\$2,000
Small Claims not-for-profit < \$100,000			
Small Claims single family residential	\$10	\$10	\$10
Small Claims DT Homestead /\$500 or less	\$0	\$0	\$0
Homestead above \$500	\$0	\$0	\$0
Small claims other EQ/PR & PV	\$0	\$50	\$50
\$250,000 or less	\$20	\$100	\$100
\$250,001 to \$1,000,000	\$20	\$100	\$150
\$1,000,001 to \$1,999,999	\$20	\$100	\$200
Small Claims DT			
\$500 but less than \$10,001	\$20	\$50	\$50
\$10,001 to \$14,999	\$20	\$50	\$150