

February 25, 2014

REVISED

The Honorable Richard Carlson, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Carlson:

SUBJECT: Revised Fiscal Note for HB 2614 by House Committee on Taxation

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2614 is respectfully submitted to your committee.

The 2008 Legislature passed HB 2018, which renamed the Board of Tax Appeals (BOTA) the Court of Tax Appeals (COTA); renamed Board members as tax law judges; and transferred all jurisdiction, rights, powers, duties, and functions of BOTA to COTA. HB 2614 would undo these changes. In addition, the bill would change the judges' annual salary from an amount equal to district court judges to the annual salary of an administrative law judge. The chief hearing officer's annual salary would be changed from an amount equal to district court judges to the annual salary of an entry level administrative hearing officer. The bill would allow a BOTA member to continue to serve for a period of 90 days after the expiration of a term, or until a successor has been appointed and confirmed, whichever is shorter. The bill allows any BOTA member or the chief hearing officer to be removed for cause by filing a petition in the district court of Shawnee County. Under current law, members and the chief hearing officer can only be removed by the Governor for cause.

The bill would provide that the Board does not have the power or duty to question who has authority to sign a taxpayer's appeal; to question who may represent the taxpayer in the hearing; to determine whether the taxpayer representative is authorized to practice law; or to question whether a contingent fee is a violation of public policy. The Board would not be allowed to take any action or fail to take an action that would impede a settlement between the county and the taxpayer.

The bill eliminates the \$10 filing fee for not-for-profit organizations appeals under \$100,000 and the \$25 filing fee for residential appeals in the agency's regular division. The bill requires the agency to refund the taxpayer's filing fee if a waiver has not been agreed upon by the parties and the order is not issued within 120 days. Review of final orders of the Board may be conducted by the district court or the Kansas Court of Appeals, whichever the appellant chooses. Bond requirements for appeals from orders of the Director of Property Valuation of the Department of Revenue would be repealed.

The bill would increase the threshold that allows the Small Claims and Expedited Hearings Division of the Board of Tax Appeals to hear appeals, except property devoted to agriculture use, from \$2.0 million to \$5.0 million. Appeals decided by the Board must be made available to the public and published on the Board’s website site within 30 days of the decision. The Board would be required to publish a monthly report that includes all appeals decided that month as well as all appeals which have not been decided and are beyond the 120-day limit.

The bill would require that property be valued every two years for property tax purposes beginning in tax year 2015. Any improvements to existing property or any other property that a value has not been established would be valued for the remaining portion of the biennium. The two-year valuation would not apply to commercial and industrial machinery and equipment. The taxpayer, under current law, has the burden of proof on leased commercial and industrial property, unless the taxpayer has furnished the county appraiser a complete income and expense statement for the three years before the appeal; however, this bill would allow the taxpayer to provide this information at any time after the appeal.

The bill requires any appraisal made by the county or district appraiser be made available through the discovery process to the taxpayer, the taxpayer’s attorney, or the taxpayer’s representative. If a taxpayer presents a property-specific appraisal conducted by a certified general appraiser that determines the property’s valuation to be less than that determined by a mass real estate appraisal conducted by the county or district appraiser, then the taxpayer’s property-specific appraisal would be accepted by the Board. The bill would lower the interest rate that is currently charged on delinquent property taxes by 4.0 percent. The original fiscal note did not mention this change to current law.

Estimated State Fiscal Effect				
	FY 2014 SGF	FY 2014 All Funds	FY 2015 SGF	FY 2015 All Funds
Revenue	--	--	--	(\$240,000)
Expenditure	--	--	\$2,825,000	\$2,695,000
FTE Pos.	--	--	--	--

The Court of Tax Appeals estimates that the provisions of HB 2413 which reduce the judges’ and chief hearing officer’s annual salaries to an amount equal to the annual salary of an administrative law judge and an entry level administrative hearing officer would reduce expenditures from its fee funds by \$130,000 in FY 2015 and each subsequent year. The agency indicates it would require \$25,000 from the State General Fund to update its website to enable the site to give status updates of pending matters before the agency. The agency estimates it would cost an additional \$5,000 each year to maintain the system. The agency also estimates that removal of the not-for-profit \$10 filing fee and the residential \$25 filing fee would decrease the annual filing fee revenue by approximately \$30,000.

Passage of HB 2614 would decrease property tax revenues by requiring a property-specific appraisal conducted by a certified general appraiser to be accepted over the appraisal conducted by the county or district appraiser, by assessing valuations on a two-year basis, and by

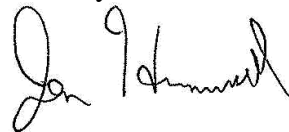
lowering the amount of interest earnings collected on delinquent property taxes. The Department of Revenue indicates that requiring a property-specific appraisal to be accepted over the appraisal conducted by the county or district appraiser has the potential to reduce statewide assessed property values by 0.5 percent per year beginning in tax year 2014 or FY 2015. Assessing valuations on a two-year basis is estimated to reduce the growth in property tax revenues by 1.0 percent per year beginning in tax year 2015 or FY 2016. Reducing the current interest rate that is charged on delinquent property taxes by 4.0 percent, from 5.0 percent to 1.0 percent, would reduce the deterrent effect for late or nonpayment of property taxes and would reduce the amount of interest earnings that are collected from delinquent property taxes; however, the amount of reduced interest earnings cannot be estimated.

The state funds directly affected by this bill are the two building funds, the Educational Building Fund (EBF) and the State Institutions Building Fund (SIBF). The Department of Revenue estimates this bill would decrease revenues to these two funds by \$210,000 in FY 2015, with \$140,000 from the EBF and \$70,000 from the SIBF. For FY 2016, this bill would decrease revenues to these two funds by \$680,000, with \$453,333 from the EBF and \$226,667 from the SIBF.

The bill would also have an effect on state expenditures for aid to school districts. To the extent that school districts receive less property tax revenue through the state's uniform mill levy, the state customarily provides additional state aid through the school finance formula. The Department of Revenue estimates the increased state expenditures for aid to schools to be \$2.8 million in FY 2015 and \$9,070,000 in FY 2016. The bill would also decrease revenues to any local government that levies a property tax. Since the original fiscal note was issued, the Department of Revenue revised its fiscal effect to include information on assessing valuations on a two-year basis and by lowering the interest rate on delinquent property taxes. Any fiscal effect associated with HB 2614 is not reflected in *The FY 2015 Governor's Budget Report*.

The League of Kansas Municipalities and the Kansas Association of Counties both indicate that the new two-year valuation process, changes in the burden of proof requirements for appraisals, and reduction in interest rates for delinquent taxes have the potential to reduce property tax revenues for local governments. However, the League of Kansas Municipalities and the Kansas Association of Counties are unable to estimate the overall fiscal effect on local governments.

Sincerely,



Jon Hummell,
Interim Director of the Budget

cc: Steve Neske, Department of Revenue
Jody Allen, Tax Appeals
Melissa Wangemann, Association of Counties
Larry Baer, League of Municipalities