

HOUSE BILL No. 2272

By Committee on Taxation

2-9

1 AN ACT concerning property taxation; relating to distribution of certain
2 property taxes paid under protest; notice by county appraiser to other
3 taxing entities of properties under protest; amending K.S.A. 79-2005
4 and repealing the existing section.
5

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

7 New Section 1. (a) Prior to June 1 of each year, the county appraiser
8 shall provide to the county clerk a certified list of all real properties that
9 are: (1) Protesting the valuation or assessment of property for the current
10 year and have not been resolved as of June 1; and (2) appraised greater
11 than \$40,000 and seeking an exemption from property or ad valorem taxes.
12 The list shall include the owner, address and appraised value of each
13 parcel.

14 (b) Prior to June 15 of each year, the county clerk shall provide the
15 list created pursuant to subsection (a) to each taxing jurisdiction
16 potentially impacted by the protest or exemption along with the assessed
17 value of each parcel.

18 New Sec. 2. (a) Prior to January 10 of each year, the county treasurer
19 shall provide to each taxing jurisdiction potentially impacted by an escrow
20 a certified list of all real properties that have tax dollars escrowed pursuant
21 to K.S.A. 79-2005(a)(2), and amendments thereto. The list shall include
22 the owner, address and assessed value of each parcel, and amount of tax
23 for that entity escrowed.

24 (b) This list may be sent electronically, if delivery can be confirmed.

25 Sec. 3. K.S.A. 79-2005 is hereby amended to read as follows: 79-
26 2005. (a) (1) Any taxpayer, before protesting the payment of such
27 taxpayer's taxes, shall be required, either at the time of paying such taxes,
28 or, if the whole or part of the taxes are paid prior to December 20, no later
29 than December 20, or, with respect to taxes paid in whole or in part in an
30 amount equal to at least 1/2 of such taxes on or before December 20 by an
31 escrow or tax service agent, no later than January 31 of the next year, to
32 file a written statement with the county treasurer, on forms approved by
33 the state board of tax appeals and provided by the county treasurer, clearly
34 stating the grounds on which the whole or any part of such taxes are
35 protested and citing any law, statute or facts on which such taxpayer relies
36 in protesting the whole or any part of such taxes. When the grounds of

1 such protest is an assessment of taxes made pursuant to K.S.A. 79-332a
2 and 79-1427a, and amendments thereto, the county treasurer may not
3 distribute the taxes paid under protest until such time as the appeal is final.

4 (2) *Commencing on July 1, 2021, the county treasurer shall place in*
5 *a trust account in escrow and shall not distribute the portion of taxes that*
6 *exceeds the preceding year's taxes until such time as the appeal is final if:*

7 *(A) The grounds of such protest is the valuation of or assessment of taxes*
8 *on property classified in subclass 1 of class 1 of section 1 of article 11 of*
9 *the constitution of the state of Kansas, and the amount of tax exceeding the*
10 *preceding year's tax is \$500 or more; or (B) the grounds of such protest is*
11 *the proper classification of commercial and industrial machinery and*
12 *equipment, or the valuation of or assessment of taxes on property*
13 *classified in subclass 6 of class 1 of section 1 of article 11 of the*
14 *constitution of the state of Kansas, and the amount of tax exceeding the*
15 *preceding year's tax is \$5,000 or more. The provisions of this paragraph*
16 *shall not apply to newly constructed structures, unless the appraisal*
17 *exceeds the building permit enumerated costs by 115%.*

18 (3) When the grounds of such protest is that the valuation or
19 assessment of the property upon which the taxes are levied is illegal or
20 void, the county treasurer shall forward a copy of the written statement of
21 protest to the county appraiser who shall within 15 days of the receipt
22 thereof, schedule an informal meeting with the taxpayer or such taxpayer's
23 agent or attorney with reference to the property in question. At the
24 informal meeting, it shall be the duty of the county appraiser or the county
25 appraiser's designee to initiate production of evidence to substantiate the
26 valuation of such property, including a summary of the reasons that the
27 valuation of the property has been increased over the preceding year, any
28 assumptions used by the county appraiser to determine the value of the
29 property and a description of the individual property characteristics,
30 property specific valuation records and conclusions. The taxpayer shall be
31 provided with the opportunity to review the data sheets applicable to the
32 valuation approach utilized for the subject property. The county appraiser
33 shall take into account any evidence provided by the taxpayer which
34 relates to the amount of deferred maintenance and depreciation of the
35 property. The county appraiser shall review the appraisal of the taxpayer's
36 property with the taxpayer or such taxpayer's agent or attorney and may
37 change the valuation of the taxpayer's property, if in the county appraiser's
38 opinion a change in the valuation of the taxpayer's property is required to
39 assure that the taxpayer's property is valued according to law, and shall,
40 within 15 business days thereof, notify the taxpayer in the event the
41 valuation of the taxpayer's property is changed, in writing of the results of
42 the meeting. In the event the valuation of the taxpayer's property is
43 changed and such change requires a refund of taxes and interest thereon,

1 the county treasurer shall process the refund in the manner provided by
2 subsection (l).

3 (b) No protest appealing the valuation or assessment of property shall
4 be filed pertaining to any year's valuation or assessment when an appeal of
5 such valuation or assessment was commenced pursuant to K.S.A. 79-1448,
6 and amendments thereto, nor shall the second half payment of taxes be
7 protested when the first half payment of taxes has been protested.
8 Notwithstanding the foregoing, this provision shall not prevent any
9 subsequent owner from protesting taxes levied for the year in which such
10 property was acquired, nor shall it prevent any taxpayer from protesting
11 taxes when the valuation or assessment of such taxpayer's property has
12 been changed pursuant to an order of the director of property valuation.

13 (c) A protest shall not be necessary to protect the right to a refund of
14 taxes in the event a refund is required because the final resolution of an
15 appeal commenced pursuant to K.S.A. 79-1448, and amendments thereto,
16 occurs after the final date prescribed for the protest of taxes.

17 (d) If the grounds of such protest shall be that the valuation or
18 assessment of the property upon which the taxes so protested are levied is
19 illegal or void, such statement shall further state the exact amount of
20 valuation or assessment which the taxpayer admits to be valid and the
21 exact portion of such taxes which is being protested.

22 (e) If the grounds of such protest shall be that any tax levy, or any
23 part thereof, is illegal, such statement shall further state the exact portion
24 of such tax which is being protested.

25 (f) Upon the filing of a written statement of protest, the grounds of
26 which shall be that any tax levied, or any part thereof, is illegal, the county
27 treasurer shall mail a copy of such written statement of protest to the state
28 board of tax appeals and the governing body of the taxing district making
29 the levy being protested.

30 (g) Within 30 days after notification of the results of the informal
31 meeting with the county appraiser pursuant to subsection (a), the
32 protesting taxpayer may, if aggrieved by the results of the informal
33 meeting with the county appraiser, appeal such results to the state board of
34 tax appeals.

35 (h) After examination of the copy of the written statement of protest
36 and a copy of the written notification of the results of the informal meeting
37 with the county appraiser in cases where the grounds of such protest is that
38 the valuation or assessment of the property upon which the taxes are levied
39 is illegal or void, the board shall conduct a hearing in accordance with the
40 provisions of the Kansas administrative procedure act, unless waived by
41 the interested parties in writing. If the grounds of such protest is that the
42 valuation or assessment of the property is illegal or void the board shall
43 notify the county appraiser thereof.

1 (i) In the event of a hearing, the same shall be originally set not later
2 than 90 days after the filing of the copy of the written statement of protest
3 and a copy, when applicable, of the written notification of the results of the
4 informal meeting with the county appraiser with the board. With regard to
5 any matter properly submitted to the board relating to the determination of
6 valuation of residential property or real property used for commercial and
7 industrial purposes for taxation purposes, it shall be the duty of the county
8 appraiser to initiate the production of evidence to demonstrate, by a
9 preponderance of the evidence, the validity and correctness of such
10 determination except that no such duty shall accrue to the county or
11 district appraiser with regard to leased commercial and industrial property
12 unless the property owner has furnished to the county or district appraiser
13 a complete income and expense statement for the property for the three
14 years next preceding the year of appeal. No presumption shall exist in
15 favor of the county appraiser with respect to the validity and correctness of
16 such determination. In all instances where the board sets a request for
17 hearing and requires the representation of the county by its attorney or
18 counselor at such hearing, the county shall be represented by its county
19 attorney or counselor. The board shall take into account any evidence
20 provided by the taxpayer which relates to the amount of deferred
21 maintenance and depreciation for the property. In any appeal from the
22 reclassification of property that was classified as land devoted to
23 agricultural use for the preceding year, the taxpayer's classification of the
24 property as land devoted to agricultural use shall be presumed to be valid
25 and correct if the taxpayer provides an executed lease agreement or other
26 documentation demonstrating a commitment to use the property for
27 agricultural use, if no other actual use is evident.

28 (j) When a determination is made as to the merits of the tax protest,
29 the board shall render and serve its order thereon. The county treasurer
30 shall notify all affected taxing districts of the amount by which tax
31 revenues will be reduced as a result of a refund.

32 (k) If a protesting taxpayer fails to file a copy of the written statement
33 of protest and a copy, when applicable, of the written notification of the
34 results of the informal meeting with the county appraiser with the board
35 within the time limit prescribed, such protest shall become null and void
36 and of no effect whatsoever.

37 (l) (1) In the event the board orders that a refund be made pursuant to
38 this section or the provisions of K.S.A. 79-1609, and amendments thereto,
39 or a court of competent jurisdiction orders that a refund be made, and no
40 appeal is taken from such order, or in the event a change in valuation
41 which results in a refund pursuant to subsection (a), the county treasurer
42 shall, as soon thereafter as reasonably practicable, refund to the taxpayer
43 such protested taxes and, with respect to protests or appeals commenced

1 after the effective date of this act, interest computed at the rate prescribed
2 by K.S.A. 79-2968, and amendments thereto, minus two percentage points,
3 per annum from the date of payment of such taxes from tax moneys
4 collected but not distributed. Upon making such refund, the county
5 treasurer shall charge the fund or funds having received such protested
6 taxes, except that, with respect to that portion of any such refund
7 attributable to interest the county treasurer shall charge the county general
8 fund. In the event that the state board of tax appeals or a court of
9 competent jurisdiction finds that any time delay in making its decision is
10 unreasonable and is attributable to the taxpayer, it may order that no
11 interest or only a portion thereof be added to such refund of taxes.

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

14 (m) Whenever, by reason of the refund of taxes previously received
15 or the reduction of taxes levied but not received as a result of decreases in
16 assessed valuation, it will be impossible to pay for imperative functions for
17 the current budget year, the governing body of the taxing district affected
18 may issue no-fund warrants in the amount necessary. Such warrants shall
19 conform to the requirements prescribed by K.S.A. 79-2940, and
20 amendments thereto, except they shall not bear the notation required by
21 such section and may be issued without the approval of the state board of
22 tax appeals. The governing body of such taxing district shall make a tax
23 levy at the time fixed for the certification of tax levies to the county clerk
24 next following the issuance of such warrants sufficient to pay such
25 warrants and the interest thereon. All such tax levies shall be in addition to
26 all other levies authorized by law.

27 (n) Whenever a taxpayer appeals to the board of tax appeals pursuant
28 to the provisions of K.S.A. 79-1609, and amendments thereto, or pays
29 taxes under protest related to one property whereby the assessed valuation
30 of such property exceeds 5% of the total county assessed valuation of all
31 property located within such county and the taxpayer receives a refund of
32 such taxes paid under protest or a refund made pursuant to the provisions
33 of K.S.A. 79-1609, and amendments thereto, the county treasurer or the
34 governing body of any taxing subdivision within a county may request the
35 pooled money investment board to make a loan to such county or taxing
36 subdivision as provided in this section. The pooled money investment
37 board is authorized and directed to loan to such county or taxing
38 subdivision sufficient funds to enable the county or taxing subdivision to
39 refund such taxes to the taxpayer. The pooled money investment board is
40 authorized and directed to use any moneys in the operating accounts,
41 investment accounts or other investments of the state of Kansas to provide
42 the funds for such loan. Each loan shall bear interest at a rate equal to the
43 net earnings rate of the pooled money investment portfolio at the time of

1 the making of such loan. The total aggregate amount of loans under this
2 program shall not exceed \$50,000,000 of unencumbered funds pursuant to
3 article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments
4 thereto. Such loan shall not be deemed to be an indebtedness or debt of the
5 state of Kansas within the meaning of section 6 of article 11 of the
6 constitution of the state of Kansas. Upon certification to the pooled money
7 investment board by the county treasurer or governing body of the amount
8 of each loan authorized pursuant to this subsection, the pooled money
9 investment board shall transfer each such amount certified by the county
10 treasurer or governing body from the state bank account or accounts
11 prescribed in this subsection to the county treasurer who shall deposit such
12 amount in the county treasury. Any such loan authorized pursuant to this
13 subsection shall be repaid within four years. The county or taxing
14 subdivision shall make not more than four equal annual tax levies at the
15 time fixed for the certification of tax levies to the county clerk following
16 the making of such loan sufficient to pay such loan within the time period
17 required under such loan. All such tax levies shall be in addition to all
18 other levies authorized by law.

19 (o) *Except as provided in subsection (a)*, the county treasurer shall
20 disburse to the proper funds all portions of taxes paid under protest and
21 shall maintain a record of all portions of such taxes which are so protested
22 and shall notify the governing body of the taxing district levying such
23 taxes thereof and the director of accounts and reports if any tax protested
24 was levied by the state.

25 (p) This statute shall not apply to the valuation and assessment of
26 property assessed by the director of property valuation and it shall not be
27 necessary for any owner of state assessed property, who has an appeal
28 pending before the state board of tax appeals, to protest the payment of
29 taxes under this statute solely for the purpose of protecting the right to a
30 refund of taxes paid under protest should that owner be successful in that
31 appeal.

32 Sec. 4. K.S.A. 79-2005 is hereby repealed.

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