

Approved: March 6, 1995
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on February 20, 1995 in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Martin, Senator Bond, Senator Clark, Senator Feleciano, Jr., Senator Hardenburger, Senator Lee, Senator Ranson, Senator Sallee and Senator Wisdom.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Gayle Addington, Acting Secretary to the Committee

Conferees appearing before the committee:

Others attending: See attached list

Senator Langworthy called the attention of the committee to a handout from the Kansas Community Service Program as requested by the committee. (Attachment 1)

SB 40--ESTABLISHMENT OF KANSAS TAX COURT AND PROPERTY TAX APPEALS BOARD

Senator Corbin, chairperson of the Subcommittee on **SB 40**, called the committee's attention to a report and balloon on the work by the subcommittee. (Attachment 2 and 3)

Staff reported on the balloon and the changes which were made in the original bill. The first change was the effective date from July 1 to the printing in the Kansas Register. Another change was to have the three judges nominated by the Kansas Supreme Court Nominating Commission on page 2. A third major change was to have one of the tax court judges be a certified general real property appraiser. Another major change was the threshold in getting into the division of the tax court was increased from \$10,000 to \$15,000, or in the case of a multiple year assessment, not more than \$15,000 in any one year of the assessment, which is on page 3. Another major change was the composition of the Property Tax Appeals Board, and the subcommittee decided to have these members appointed by the Kansas Tax Board--page 6. Another major change on page 11 is to reinstate the requirements for formal Director of Taxation hearings, but provides that interest on any of those hearings would end after one year, subsequent to a date on which a request for hearing, such as an assessment, is received. That is in New Section 22.

There was discussion by the committee and a question was asked of Secretary LaFaver if it makes sense to keep the Director of Taxation in place for claims described as small? Secretary LaFaver said he hoped that particularly with small claims, they would be handled by the Director in the informal hearing. He felt if it goes directly to the small claims court, nothing has been solved. Senator Martin said sometimes these smaller cases can be just as onerous as some of the larger cases. He said he did not agree with it as it is written.

The committee asked for a diagram, and Tom Severn, Research, provided a diagram on the black board of how the appeals would be handled.

Senator Corbin said they were trying to streamline the procedure.

Lucky DeFries, Kansas Bar Association, said the Tax Court can meet with an individual judge or with all three of the judges. There is also a requirement that the decision be handed down within a certain amount of time.

Senator Martin spoke of a time length of potentially 18 months before the Board of Tax Appeals hears a case.

Mr. DeFries said **SB 40** has a requirement that the Board will have to render their decision in ten days. He did not think that would continue to be a problem.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on February 20, 1995.

Senator Martin made a motion to adopt the amendments to **SB 40** proposed on the balloon. The motion was seconded by Senator Lee. The motion carried.

Senator Martin made a motion to amend **SB 40** so that any case \$15,000 and under would be able to bypass the formal hearing for the Director of Taxation and go directly to the Tax Court. The motion was seconded by Senator Corbin.

The committee asked if Secretary LaFaver would like to speak to this motion. Secretary LaFaver said he hoped the Department of Revenue could continue to resolve virtually all of these cases at the informal process. He said he did have a worry that the avenue to the Tax Court will become a common avenue. The accountability from the Secretary down to the staff who are making these early judgments gets impaired.

Senator Langworthy asked if it was his plan to reorganize so that these kinds of bureaucratic delays will be lessened? Secretary LaFaver said now there is not adequate resources to put in there. It will take putting more staff into the job of doing the informal conferences. It is important to do it rapidly.

Lucky DeFries, Kansas Bar Association, said 75-80% of the cases that go through the Director of Taxation are being resolved at that level.

The vote was taken upon the amendment of Senator Martin. The motion carried.

Tom Severn, Research Department, presented a flow chart with the concept of the motion of Senator Martin. (Attachment 4)

Senator Clark asked what core of people do we have that are familiar and are experts on use value? Can we include those people in our criteria of requirements to serve on this Board?

Senator Martin said anyone who is certified in the general appraisal field would have to be familiar with the use value concepts.

Senator Clark also asked who is on the Judicial Nominating Committee and staff said it is composed of attorneys and lay persons.

Senator Bond made a motion a pass **SB 40** favorably as amended. The motion was seconded by Senator Lee. The motion carried.

The meeting adjourned at 12:00 noon.

The next meeting is scheduled for Tuesday, February 21, 1995.



KANSAS

DEPARTMENT OF COMMERCE & HOUSING

Bill Graves
Governor

Gary Sherrer
Secretary

January 23, 1995

TO: Business Entities
FROM: Kansas Department of Commerce & Housing
RE: Kansas Community Service Program - Approved Projects

Enclosed please find a list of nonprofit community service organization's that have been approved to participate in the Kansas Community Service Program. Business firms, banking institutions or insurance companies may donate cash to these approved projects and receive tax credits based on the size of the donation, location of the project, and amount of tax credit allocated to the project.

For further information about the Kansas Community Service Program contact Marty Miller or Sondra Clark at the Kansas Department of Commerce & Housing, (913) 296-3485 or TTY number (913) 296-3487.

*Senate Assess + Tax
Feb 20, 1995
attach 1-1*

COUNTY	PROJECT	AMOUNT
Brown	Tri County Manor Living Center, Inc Debbie Selle, Director of Nursing 1890 Euclid Horton, KS 66439	\$30,176
Gove	Gove County Healthcare Endowment, Inc. Carol Kinderkineck PO Box 143 Quinter, KS 67752	120,514
Harvey	Friendly Acres, Inc. Mike Kaufmann, Executive Director 200 Southwest 14th Street Newton, KS 67114	90,000
	Newton Healthcare Corporation Art DeHoogh, Vice-President of Dev. PO Box 308 411 SE 2nd St. Newton, KS 67114	206,449
Johnson	Johnson County CASA Lynn Hendrickson, Executive Director PO Box 31 Olathe, KS 66051-0031	4,500
	CLASP, Inc. Virginia Stuhr, Fund Raising Coordinator 15613 Reeds Overland Park, KS 66223	3,400
	Community Living Opportunities, Inc. Mary G. Pepitone, Dir. of Community Support 6900 West 80th Street Overland Park, KS 66204	125,000
	Community Living Opportunities, Inc. Mary G. Pepitone, Dir. of Community Support 6900 West 80th Street Overland Park, KS 66204	182,077
	Health Partnership of JOCO, Inc. Donna Miller, Executive Director 8600 W. 95th Overland Park, KS 66212	20,500
	Lifeskills Management Center, Inc. James J. Khalili, Ph.D., Executive Director 115 North Cooper Olathe, KS 66061	29,808

	Safehome, Inc. Maggie Hardie, Development Director PO Box 4469 Overland Park, KS 66204	14,099
	The Salvation Army Kansas and Western Missouri Div Hdgt Bud Cooper, Director of Development 3637 Broadway PO Box 412577 Kansas City, MO 64141-2577	107,750
	Temporary Lodging for Children Sherry L. Love, LMSW, ACSW, Executive Director 480 S. Rogers Rd. PO Box 3505 Olathe, KS 66063-3505	8,493
	United Community Services of JOCO, Inc. Karen Wulfkuhle, Executive Director 6400 Glenwood, Suite 205 Overland Park, KS 66202-4021	16,513
Pratt	Pratt Regional Medical Center DeWayne Bryan, Director of Development 200 Commodore Pratt, KS 67124	34,300
Reno	Community Health Center, Inc. Cindy Vanover, Direcot of Fund Development 1701 E. 23rd Hutchinson, KS 67502	50,000
	Hutchinson Area Student Health Services, Inc. Nancy S. Conley, RPA-C, Clinic Manager 425 E. 13th Hutchinson, KS 67501	18,678
	Kids After School, Inc. Skip Wilson, Director One Compound Drive Hutchinson, KS 67502	35,840
	Interfaith Housing Services, Inc. John Scott, Executive Director 1326 East Avenue "A" PO Box 1992 Hutchinson, KS 67504-1992	71,181
	Reno County Child Care Association Ed Linberg, Sick Children Task Force Chair 21 West Second Hutchinson, KS 67591	14,650

	Skylights, Inc. Joan E. Bellamy, Ph.D., Executive Director 500 West 20th, Suite 114 Hutchinson, KS 67502	43,500
Salina	The Saint Francis Academy, Inc. Donna Bartunek 509 East Elm Street Salina, KS 67401-2348	794,697
Sedgwick	Garden Plain Horizon Foundation Loretta Haines, President 241 Garnett Court Garden Plain, KS 67050	204,750
	Rainbows United, Inc. Lorraine, Bockorny, Executive Director 2615 N. Wellesley Wichita, KS 67220-2496	937,750
Shawnee	Kansas MADD, Inc. Max Sutherland, State Administrator 3601 SW 29th Street, Suite 244 Topeka, KS 66614	32,882
	Keys for Networking, Inc. Dr. Jane Adams, Executive Director 117 S.W. Sixth Avenue Topeka, KS 66603	46,660
	Marian Clinic, Inc. Patricia Hurley, Executive Director Medical Plaza Building 1001 Garfield Topeka, KS 66604	30,250
Sumner	Sumner County Mental Health Center Gregory G. Olson, M.S., Executive Director 215 West Eighth Wellington, KS 67152	259,674
Wyandotte	Associated Youth Services A. Donald Wise, Executive Director PO Box 6145 3111 Strong Avenue Kansas City, KS 66106	510,557
	Catholic Housing Services, Inc. Jeanette Porter, Development Director 759 Vermont Street Kansas City, KS 66101-3740	27,000

KANSAS DEPARTMENT OF COMMERCE & HOUSING
Kansas Community Service Tax Credit Program

ANNUAL BUDGET: \$5,000,000

NAME OF ORGANIZATION	TAX CREDIT ALLOCATED	PROJECT TOTAL	*PROJECT	COST PER PERSON BENEFIT	50% TAX CREDIT 50%	70% TAX CREDIT 70%	CITY	COUNTY
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KANSAS DEPARTMENT OF COMMERCE & HOUSING
Kansas Community Service Tax Credit Program

ANNUAL BUDGET: \$5,000,000

NAME OF ORGANIZATION	TAX CREDIT ALLOCATED	PROJECT TOTAL	*PROJECT	COST PER PERSON BENEFIT	50% TAX CREDIT 50%	70% TAX CREDIT 70%	CITY	COUNTY
Associated Youth Services	510,557	1,021,115	1		X		KC	WY
Jo Co CASA	4,500	9,000	1		X		OLATHE	JO
Catholic Housing Services	27,000	54,000	3		X		KC	WY
CLASP, Inc.	3,400	6,800	1		X		OP	JO
Community Health Center	50,000	100,000	3		X		HUTCH	RN
Community Living Opp.	182,077	364,154	3		X		OP	JO
Community Living Opp.	125,000	251,000	1		X		OP	JO
Friendly Acres	90,000	180,000	3		X		NEWTON	HV
Garden Plain Horizon Found.	204,750	292,500	3			X	GARDEN PL	SG
GO CO Endowment	120,514	172,163	3			X	QUINTER	GO
Health Partnership of JOCO	20,500	41,000	3		X		OP	JO
Hutch Area Student Health	18,678	37,356	3		X		HUTCH	RN
Interfaith Housing	71,181	142,361	1		X		HUTCH	RN
KS MADD	32,882	65,765	1		X		TOPEKA	SN
Keys for Networking	46,660	93,320	1		X		TOPEKA	SN
Kids After School	35,840	71,679	1		X		HUTCH	RN
Lifeskills Mgm. Center	29,808	59,616	1		X		OLATHE	JO
Marian Clinic	30,250	60,500	3		X		TOPEKA	SN
Newton Med Center	206,449	412,898	3		X		NEWTON	HV
Pratt Regional Med Center	34,300	49,000	3			X	PRATT	PR
Rainbows United, Inc.	937,750	1,875,500	1		X		WICHITA	SG
RN CO Child Care Assoc.	14,650	29,300	1		X		HUTCH	RN
ST Francis Academy	794,697	1,135,282	1			X	SALINA	SA
Safehome, Inc.	14,099	28,198	1		X		OP	JO
The Salvation Army	107,750	215,500	1		X		OLATHE	JO
Skylights, Inc.	43,500	87,000	3		X		HUTCH	RN
SU Mental Health Center	259,674	370,963	3			X	WELLINGTON	SU
Teaching for Children	8,493	16,985	1		X		OLATHE	JO
Tri Co Manor Living	30,176	43,109	3			X	HORTON	BR

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KANSAS DEPARTMENT OF COMMERCE & HOUSING
Kansas Community Service Tax Credit Program

ANNUAL BUDGET: \$5,000,000

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NAME OF ORGANIZATION	TAX CREDIT ALLOCATED	PROJECT TOTAL	*PROJECT	COST PER PERSON BENEFIT	50% TAX CREDIT 50%	70% TAX CREDIT 70%	CITY	COUNTY
USC CO	16,513	33,025	1		X		OLATHE	JO
TOTALS	\$4,071,648	\$7,319,089	23	\$0	24	6	30	30
TAX CREDIT REMAINING	(\$928,352)							

*PROJECT: 1-A BLUEPRINT FOR INVESTING IN THE FUTURE OF KANSAS CHILDREN AND FAMILIES; 2-PREVENTION OF CRIME IN AN IMPOVERISHED AREA; 3-CONTRIBUTE TO HEALTH CARE SERVICES

Subcommittee Report -- SB40

The subcommittee consisted of Senators Corbin (Chair), Bond, Sallee, Martin and Lee. Senator Langworthy also attended all meetings. The subcommittee met five times to consider SB40. The following groups or conferees testified: Alan Alderson; Mark Burghart, Lucky DeFreise, Ben Neill and Ron Smith from the Bar Association; T.C. Anderson of the Association of CPA's; Karen France, KS Assn. of Realtors; John LaFever, Secretary of Revenue; David Praeger and Mark Ciardullo, Dept. of Revenue; Jack Shriver, Chairman, State Board of Tax Appeals(SBOTA); and Richard Rodewald. Staff of SBOTA provided information on the status of tax appeals. The Division of Property Valuation provided information relating to the appeals process and the history of the removal of the boards of County commissioners from that process. Staff summarized studies by the Federation of Tax Administrators and the International Association of Assessing Officers of the appeal process in other states and provided information on the appeals process for property taxes. The subcommittee's recommendations for SB40 are embodied in the balloon amendments.

Briefly stated, the SBOTA would be eliminated as of July 1, 1995, in favor of a Tax Court of three judges. Two would be attorneys, and one would be a certified real property appraiser. The judges would be appointed by the Supreme Court Nominating Commission for staggered eight-year terms. Cases currently on appeal before SBOTA would be continued before the Tax Court.

There would be a small claims division for cases involving less than \$15,000 for any year involved in the case. Hearings before the Small Claims Division would be informal and would be heard by one of the judges of the Tax Court or the Tax Court could designate hearing officers to hear small claims cases. Appealing to the Small Claims Division would be at the option of the taxpayer. Decisions in this Division would be final.

There would be a Property Tax Appeals Board which would serve at the pleasure of the Tax Court. The Board would consist of five members; one from each congressional district and the balance at large. No more than three would be of the same political party. At least two of the members would be certified general real property appraisers. The others would be required to have been licensed real estate salespersons or brokers, or real estate appraisers prior to appointment. Decisions of the Board would be required within 10 working days. Decisions of the Board would be appealable directly to the Tax Court.

The subcommittee initially had decided to recommend that the formal appeal to the Director of Taxation be eliminated and that those appeals be taken directly to the Tax Court. Following further testimony from the Secretary the formal appeal was retained as under current law for cases currently on appeal. For cases appealed after the effective date of the act, the formal appeal to the Director would be optional with the taxpayer.

*Senate Assess + Tax
2-20-95
attach 2-1*

SENATE BILL No. 40

By Committee on Assessment and Taxation

1-12

9 AN ACT relating to taxation; concerning the administration and prose-
 10 cution of certain tax appeals; establishing the Kansas tax court and the
 11 property tax appeals board and prescribing authorities, duties and
 12 functions therefor; abolishing the state board of tax appeals; amending
 13 K.S.A. 74-2426, 74-2434, 79-3383 and 79-3384 and K.S.A. 1994 Supp.
 14 79-213, 79-1575, 79-2005, 79-3226, 79-3610, 79-4226 and 79-5205 and
 15 repealing the existing sections; also repealing K.S.A. 74-2433, 74-
 16 2433a, 74-2433b, 74-2433c, 74-2433d, 74-2433e, 74-2434, 74-2435,
 17 74-2436, 74-2437, 74-2437a, 74-2437b and 74-2439.
 18

and 79-2970
and 79-2005

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

20 New Section 1. (a) The state board of tax appeals established by
 21 K.S.A. 74-2433 is hereby abolished, and all of the powers, duties, func-
 22 tions, records, property and personnel of the state board of tax appeals
 23 are hereby transferred to the Kansas tax court, except as otherwise pro-
 24 vided in this act.

On and after July 1, 1995,

25 (b) The Kansas tax court established by this act shall be a continuation
 26 of the state board of tax appeals with regard to the powers, duties and
 27 functions prescribed by this act.

28 New Sec. 2. (a) The Kansas tax court shall be the successor in every
 29 way to the powers, duties and functions of the state board of tax appeals
 30 in which such powers, duties and functions were vested prior to the ef-
 31 fective date of this act, except as otherwise provided in this act.

July 1, 1995.

32 (b) Whenever the state board of tax appeals, or words of like effect,
 33 is referred to or designated by a statute, contract or other document, such
 34 reference or designation shall be deemed to apply to the Kansas tax court.

On and after July 1, 1995,

35 (c) All rules and regulations and all orders and directives of the state
 36 board of tax appeals in existence on the effective date of this act shall
 37 continue to be effective and shall be deemed to be the rules and regu-
 38 lations and orders or directives of the Kansas tax court until revised,
 39 amended, repealed or nullified pursuant to law.

July 1, 1995,

40 New Sec. 3. (a) On the effective date of this act, all unexpended
 41 balances of appropriations to the state board of tax appeals shall be trans-
 42 ferred to the Kansas tax court to carry out the powers, duties and func-
 43 tions transferred to the Kansas tax court by the provisions of this act.

July 1, 1995

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1 (b) On the ~~effective date of this act~~ liability for all accrued compen- July 1, 1995
 2 sation or salaries of officers and employees who, immediately prior to
 3 such date, were engaged in the performance of powers, duties or func-
 4 tions of the state board of tax appeals abolished or transferred by this act
 5 shall be assumed and paid by the Kansas tax court as established by this
 6 act.

7 New Sec. 4. No appeal, suit, action or other proceedings, judicial or
 8 administrative, lawfully commenced, or which could have been com-
 9 menced, ~~before the state board of tax appeals abolished by this act shall~~ on or before July 1, 1995,
 10 abate by reason of the governmental reorganization effected under the
 11 provisions of this act. Jurisdiction over any such appeal, suit, action or
 12 other proceeding shall be succeeded to by the Kansas tax court.

13 New Sec. 5. On ~~the effective date of this act~~ all officers and em- July 1, 1995
 14 ployees who were engaged immediately prior to the effective date of this
 15 act in the performance of powers, duties and functions of the state board
 16 of tax appeals and who, in the opinion of the Kansas tax court are nec-
 17 essary to perform the powers, duties and functions transferred to the
 18 Kansas tax court under the provisions of this act shall become officers
 19 and employees of the Kansas tax court. Any such officer or employee shall
 20 retain all retirement benefits and rights of civil service which had accrued
 21 to or vested in such officer or employee prior to ~~the effective date of this~~
 22 ~~act~~, and the service of each such officer and employee so transferred shall
 23 be deemed to have been continuous. All transfers and any abolishment
 24 of positions of personnel in the classified civil service under the Kansas
 25 civil service act shall be in accordance with civil service laws and any rules
 26 and regulations adopted thereunder.

27 New Sec. 6. (a) When any conflict arises as to the disposition of any
 28 power, duty or function, the disposition of necessary officers and em-
 29 ployees or the unexpended balance of any appropriation or any unex-
 30 pended moneys received by the state board of tax appeals as a result of
 31 any abolishment or transfer made by this act, or under authority of this
 32 act, such conflict shall be resolved by the governor, and the decision of
 33 the governor shall be final.

34 (b) When any conflict arises as to the proper disposition of any prop-
 35 erty or records as a result of any abolishment or transfer made under this
 36 act, or under authority of this act, such conflict shall be resolved by the
 37 governor, and the decision of the governor shall be final. On and after July 1, 1995,

38 New Sec. 7. (a) ~~There is hereby created the Kansas tax court. The~~
 39 Kansas tax court shall consist of three judges appointed by the governor
 40 from a list of nominees selected by the nominating commission ~~estab-~~ supreme court
 41 lished pursuant to subsection (c). Each judge shall be appointed for a
 42 term of eight years, except that of the judges first appointed, one shall be
 43 appointed for a term of four years, one shall be appointed for a term of

1 six years and one shall be appointed for a term of eight years. Each judge
2 may be appointed to one additional eight-year term by the governor. If a
3 vacancy occurs on the Kansas tax court, the governor shall appoint a suc-
4 cessor to fill the vacancy for the unexpired term.

5 (b) [Each judge] shall: (1) Have been regularly admitted to practice
6 law in the state of Kansas; (2) be a resident of Kansas at the time of taking
7 the oath of office and shall maintain residency in Kansas while holding
8 office; and (3) for a period of at least five years, have engaged [either] in
9 the active practice of law as a lawyer, judge of a court of record or any
10 other court in this state, [or] as a full-time teacher of law in an accredited
11 law school, for any combination thereof.

Two of such judges

12 (c) There is hereby established the Kansas tax court nominating com-
13 mittee which shall be composed of five members appointed as follows:
14 One selected by the Kansas bar association, one selected by the Kansas
15 society of certified public accountants, one selected by the Kansas asso-
16 ciation of county appraisers, one selected by the Kansas chamber of com-
17 merce and industry and one selected by the Kansas association of realtors.
18 Upon being notified of a vacancy on the Kansas tax court, the nominating
19 committee shall consider all qualified applicants for the vacant position
20 and nominate three qualified applicants to the governor for the vacant
21 position.

or as a certified public accountant who has maintained
registration as an active attorney with the Kansas
supreme court,

; and one judge shall be classified as a certified
general real property appraiser pursuant to the state
certified and licensed real property appraisers act

22 [(d)] The Kansas tax court shall have no capacity to sue or be sued.

[(c)]

23 New Sec. 8. (a) There shall be a division of the Kansas tax court
24 known as the small claims division. The judges of the tax court shall sit
25 as judges of the small claims division. Each judge shall have authority to
26 hear and decide the cases heard as a small claims judge.

27 (b) At the election of the taxpayer, the small claims division shall have
28 jurisdiction over any appeal of a decision, finding, order or ruling of the
29 director of taxation in which the amount of tax in controversy does not
30 exceed \$10,000.

\$15,000, or in the case of a multiple year assessment
of tax or denial of refund of tax, the amount of tax in
controversy does not exceed \$15,000 for any year
included therein

31 (c) A taxpayer may elect to appeal a decision, finding, order or ruling
32 of the director of taxation to the small claims division instead of appealing
33 to the regular division of the Kansas tax court. A taxpayer who elects to
34 appeal to the regular division shall not appeal to the small claims division
35 in the same matter. A taxpayer shall commence a proceeding in the small
36 claims division by filing a notice of appeal in the form prescribed by the
37 rules of the Kansas tax court which shall state the nature of the taxpayer's
38 claim. Notice of appeal shall be provided to the appropriate unit of gov-
39 ernment named in the notice of appeal. Upon the filing of a notice of
40 appeal in the small claims division, the division shall have exclusive juris-
41 diction over the case.

42 (d) The hearing in the small claims division shall be informal. The
43 judge may hear any testimony and receive any evidence the judge deems

3-4

1 necessary or desirable for a just determination of the case. All testimony
2 shall be given under oath. A party may appear personally or may be rep-
3 resented by an attorney or other representative. No transcript of the pro-
4 ceeding shall be kept.

5 (e) At any time prior to entry of judgment, a taxpayer may dismiss a
6 case in the small claims division. The dismissal shall be with prejudice.

7 (f) The judgment in the small claims division shall be conclusive upon
8 all parties and may not be appealed. The judgment shall not be considered
9 as judicial precedent and shall have no force or effect in any other case,
10 hearing or proceeding and shall not be cited as such.

11 (g) The Kansas tax court may designate hearing officers to hear cases
12 appealed to the small claims division. Any determination made by a des-
13 ignated hearing officer shall be binding and have the same force and
14 effect as if the determination had been made by a judge.

15 New Sec. 9. The Kansas tax court is established as an independent
16 agency within the executive branch of state government. All budgeting,
17 purchasing and related management functions shall be administered un-
18 der the direction of the chief judge of the Kansas tax court. All vouchers
19 for expenditures from appropriations to or for the Kansas tax court shall
20 be approved by the chief judge or a person or persons designated by the
21 chief judge for that purpose. All records of the state board of tax appeals
22 shall be transferred to the Kansas tax court on the effective date of this
23 act.

24 New Sec. 10. (a) Each judge of the Kansas tax court shall receive an
25 annual salary as provided in this section. Each of the judges of the Kansas
26 tax court shall devote full time to the duties of such position.

27 (b) (1) The annual salary of the chief judge shall be an amount equal
28 to the annual salary paid by the state to a district judge designated as
29 administrative judge.

30 (2) The annual salary of a judge other than the chief judge shall be
31 an amount equal to the annual salary paid by the state to a district judge.

32 New Sec. 11. The Kansas tax court, within amounts budgeted for it,
33 may appoint such employees as may be necessary, and such employees
34 shall be in the unclassified service of the Kansas civil service act.

35 New Sec. 12. The Kansas tax court shall keep an accurate record of
36 its official proceedings and shall keep a seal, engraved with the words,
37 "State of Kansas, Tax Court." Such seal may be used to authenticate the
38 official acts of the Kansas tax court or any judge thereof, but failure to
39 use the seal shall not invalidate any such act. The Kansas tax court ad-
40 ministrator shall be the custodian of the seal and records and be author-
41 ized to affix the seal in all proper cases.

42 New Sec. 13. The Kansas tax court shall have the following powers
43 and duties:

1 (a) To hear appeals from the director of taxation and the director of
2 property valuation on decisions, findings, orders, rulings and interpreta-
3 tions by such directors, and to hear appeals from the property tax appeals
4 board;

and to hear appeals authorized pursuant to
subsection (b) of section 17

5 (b) to hear appeals from the director of property valuation on the
6 assessment of state assessed property;

7 (c) to constitute, sit and act as the state board of equalization as pro-
8 vided in K.S.A. 79-1409, and amendments thereto;

9 (d) to correct errors and irregularities under the provisions of article
10 17 of chapter 79 of the Kansas Statutes Annotated, and amendments
11 thereto;

12 (e) to authorize the issuance of emergency warrants by taxing dis-
13 tricts, as provided in article 29 of chapter 79 of the Kansas Statutes An-
14 notated, and acts amendatory thereof or supplemental thereto, and au-
15 thORIZING the issuance of warrants by cities or counties under statutes of
16 this state;

17 (f) to authorize increases in tax levies by taxing districts, as provided
18 in article 19 of chapter 79 of the Kansas Statutes Annotated, and acts
19 amendatory thereof or supplemental thereto;

20 (g) to review and decide applications for exemptions from property
21 taxation submitted pursuant to K.S.A. 79-213, and amendments thereto;

22 (h) to adopt rules and regulations relating to the performance of its
23 duties and particularly with reference to procedure before the court on
24 hearings and appeals; and

25 (i) such other powers as may be prescribed.

26 New Sec. 14. Proceedings before the Kansas tax court shall be gov-
27 erned by the provisions of the Kansas administrative procedure act except
28 as otherwise specifically provided herein. Hearings shall be conducted by
29 one judge, unless the chief judge determines that the case should be
30 heard *en banc*. The hearing *en banc* may be allowed for the original
31 hearing or a hearing on reconsideration.

A taxpayer may be represented by an attorney,
any person enrolled to practice before the
United States Tax Court, or may appear pro se.

32 New Sec. 15. The Kansas tax court shall have the power to summon
33 witnesses from any part of the state to appear and give testimony, and to
34 compel the witnesses to produce records, books, papers and documents
35 relating to any subject matter before the court. Summons, subpoenas and
36 subpoenas duces tecum may be directed to the sheriff of any county and
37 may be made returnable at such time as the Kansas tax court shall de-
38 termine. No fees shall be charged by the sheriff for service thereof. Wit-
39 ness fees and mileage shall be allowed and may be taxed as costs to either
40 party in the discretion of the Kansas tax court.

41 The Kansas tax court shall have power to issue an order directing dep-
42 ositions of witnesses residing within or without the state, to be taken,
43 upon proper notice to interested parties, if any, in like manner that dep-

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1 positions of witnesses are taken in civil actions pending in district court, in
2 any matter before the Kansas tax court.

3 New Sec. 16. (a) There shall be a division of the Kansas tax court
4 known as the property tax appeals board, referred to in this act as the
5 board. The board shall consist of five members, who shall be appointed
6 by the governor. Not more than three members of the board shall be of
7 the same political party. Members of the board shall be residents of the
8 state. Members of the board shall be selected with special reference to
9 training and experience in real estate appraisal and valuation. Except as
10 otherwise provided in this section, not less than two of the members of
11 the board shall satisfy all criteria for designation as a Kansas certified
12 appraiser. Members shall hold office for terms of six years except that of
13 the members first appointed, three shall be the members of the state
14 board of tax appeals abolished by this act whose term of office expires
15 after July 1, 1995, who shall serve for the remainder of such term of office
16 and shall receive the annual salary provided by K.S.A. 74-2434, as in effect
17 on June 30, 1995. If a vacancy occurs on the board, the governor shall
18 appoint a successor to fill the vacancy for the unexpired term. Upon ex-
19 piration of a member's term, the member shall continue to serve at the
20 pleasure of the governor until a successor is selected.

21 (b) Hearings before the board shall be conducted by one member. A
22 record of any proceeding before the board shall not be maintained. At
23 the conclusion of any hearing in which the valuation of property is in
24 issue, the board member shall issue a summary disposition within 18
25 hours stating the value of the property arrived at by the board member.
26 Orders issued by the board shall not be required to contain specific find-
27 ings of fact and conclusions of law in any matter in which the value of
28 specific property is in issue.

29 (c) Any member of the board may be removed by the governor for
30 cause, after a public hearing conducted in accordance with the provisions
31 of the Kansas administrative procedure act.

32 (d) The board shall have no capacity to sue or be sued.

33 New Sec. 17. The board shall have the following powers and duties:

34 (a) Hearing and deciding applications for the refund of protested
35 taxes under the provisions of K.S.A. 79-2005, and amendments thereto;
36 and

37 (b) hearing and deciding appeals from decisions rendered pursuant
38 to the provisions of article 16 of chapter 79 of the Kansas Statutes An-
39 notated, and acts amendatory thereof or supplemental thereto.

40 New Sec. 18. Each member of the property tax appeal board shall
41 receive an annual salary equal to the annual salary paid to a ~~negative~~
42 judge by the state.

43 Sec. 19 / K.S.A. 74-2426 is hereby amended to read as follows: 74-

(a) There shall be a division of the Kansas tax court known as the property tax appeals board, referred to in this act as the board. The board shall consist of five members, who shall be appointed by and serve at the pleasure of the Kansas tax court. Not more than three members of the board shall be of the same political party. Members of the board shall be residents of the state. Subject to the provision of K.S.A. 1994 Supp. 75-4315c, one shall be appointed from each of the congressional districts of Kansas and the remainder from the state at large. Not less than two of the members of the board shall be classified as certified general real property appraisers pursuant to the state certified and licensed real property appraisers act. The members of the board, other than the certified general real property appraisers, shall, at a minimum have: (1) Been actively engaged as a licensed real estate salesperson or broker for the five years immediately preceding their appointment; (2) been actively engaged as a licensed real estate appraiser for the four years years immediately preceding their appointment; or (3) performed real estate appraisals as an occupation for at least five years preceding their appointment. All such members shall be in the unclassified service of the Kansas civil service act.

10 working days

(a)

(1)

(2)

(b) A taxpayer may elect to appeal any application or decision referenced in subsection (a) to the regular division of the Kansas tax court. The filing of an appeal with the board shall not be a prerequisite for filing an appeal with the regular division of the Kansas tax court under this section.

On and after July 1, 1995,

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1 2426. (a) *Orders of the board of tax appeals Any final action of the Kansas*
2 *tax court on any appeal, in any proceeding under the tax protest, tax*
3 *grievance or tax exemption statutes or in any other original proceeding*
4 *before the board Kansas tax court shall be rendered and served in ac-*
5 *cordance with the provisions of the Kansas administrative procedure act.*
6 *Notwithstanding the provisions of subsection (g) of K.S.A. 77-526 and*
7 *amendments thereto, a final order of the board Kansas tax court shall be*
8 *rendered in writing and served within 120 days after the matter was fully*
9 *submitted to the board unless this period is waived or extended with the*
10 *written consent of all parties or for good cause shown Kansas tax court.*

11 (b) *No final order of the board shall be subject to review pursuant to*
12 *subsection (c) unless the aggrieved party first files a petition for recon-*
13 *sideration of that order with the board in accordance with the provisions*
14 *of K.S.A. 77-529 and amendments thereto.*

15 (c) (b) *Any final action of the board Kansas tax court pursuant to this*
16 *section is subject to review in accordance with the act for judicial review*
17 *and civil enforcement of agency actions, except that:*

18 (1) *The parties to the action for judicial review shall be the same*
19 *parties as appeared before the board Kansas tax court in the administra-*
20 *tive proceedings before the board Kansas tax court. The board Kansas*
21 *tax court shall not be a party to any action for judicial review of an action*
22 *of the board Kansas tax court.*

23 (2) *There is no right to review of any order issued by the board in a*
24 *no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-1662 et seq.,*
25 *19-2752a, 79-2938, 79-2939 and 79-2951, and amendments thereto, and*
26 *statutes of a similar character.*

27 (3) *The court of appeals has jurisdiction of any action for review per-*
28 *taining to property appraised and assessed by the director of property*
29 *valuation or excise, income or inheritance taxes assessed by the director*
30 *of taxation. The district court of the proper county has jurisdiction in all*
31 *other cases.*

32 (4) *Review of orders issued by the board of tax appeals relating to*
33 *the valuation or assessment of property for ad valorem tax purposes or*
34 *relating to the tax protest shall be conducted by the district court of the*
35 *county in which the property is located or, if located in more than one*
36 *county, the district court of any county in which any portion of the prop-*
37 *erty is located. Review of orders relating to tax exemption under K.S.A.*
38 *79-201 et seq., and amendments thereto, shall be conducted by the dis-*
39 *trict court of Shawnee county.*

40 (5) (4) *In addition to the cost of the preparation of the transcript, the*
41 *appellant shall pay to the board Kansas tax court the other costs of cer-*
42 *tyfying the record to the reviewing court. Such payment shall be made*
43 *prior to the transmission of the agency record to the reviewing court.*

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1 (c) A petition for review filed in accordance with the act for judicial
2 review and civil enforcement of agency actions shall contain a brief state-
3 ment of the pertinent facts, including the amount of tax assessed, and be
4 accompanied by certified copies of the final order issued by the Kansas
5 tax court.

6 (d) If review of an order final action of the board Kansas tax court
7 relating to excise, income or inheritance taxes, is sought by a person other
8 than the director of taxation, such person shall give bond for costs at the
9 time the petition is filed. The bond shall be in the amount of 125% of
10 the amount of taxes assessed or a lesser amount approved by the court
11 of appeals and shall be conditioned on the petitioner's prosecution of the
12 review without delay and payment of all costs assessed against the peti-
13 tioner.

14 (e) If review of an order final action of the Kansas tax court is sought
15 by a party other than the director of property valuation or a taxing sub-
16 division and the order determines, approves, modifies or equalizes the
17 amount of valuation which is assessable and for which the tax has not
18 been paid, a bond shall be given in the amount of 125% of the amount
19 of the taxes assessed or a lesser amount approved by the reviewing court.
20 The bond shall be conditioned on the petitioner's prosecution of the re-
21 view without delay and payment of all costs assessed against the peti-
22 tioner.

23 Sec. 20. ¹ K.S.A. 74-2438 is hereby amended to read as follows: 74-
24 2438. An appeal may be taken to the state board of tax appeals Kansas
25 tax court from any finding, ruling, order, decision, final determination or
26 other final action on any case of the director of taxation or, director of
27 property valuation or property tax appeals board by any person aggrieved
28 thereby. Notice of such appeal shall be filed with the secretary of the
29 board Kansas tax court within 30 days after such finding, ruling, order,
30 decision, final determination or other action on a case, and a copy served
31 upon the director concerned. Upon receipt of a timely appeal, the board
32 Kansas tax court shall conduct a hearing in accordance with the provisions
33 of the Kansas administrative procedure act. The hearing before the board
34 Kansas tax court shall be a de novo hearing unless the parties agree to
35 submit the case on the record made before the director. No interest shall
36 accrue on the amount of the assessment of tax subject to any such appeal
37 beyond 120 days after the date the matter was fully submitted, except
38 that, if a final order is issued within such time period, interest shall con-
39 tinue to accrue until such time as the tax liability is fully satisfied, and if
40 a final order is issued beyond such time period, interest shall recommence
41 to accrue from the date of such order until such time as the tax liability
42 is fully satisfied.

On and after July 1, 1995,

, or as provided by subsection (b) of section 17

On and after July 1, 1995,

43 Sec. 21. ¹ K.S.A. 1994 Supp. 79-213 is hereby amended to read as

1 follows: 79-213. (a) Any property owner requesting an exemption from
2 the payment of ad valorem property taxes assessed, or to be assessed,
3 against their property shall be required to file an initial request for ex-
4 emption, on forms approved by the ~~board of tax appeals~~ *Kansas tax court*
5 and provided by the county appraiser.

6 (b) The initial exemption request shall identify the property for which
7 the exemption is requested and state, in detail, the legal and factual basis
8 for the exemption claimed.

9 (c) The request for exemption shall be filed with the county appraiser
10 of the county where such property is principally located.

11 (d) After a review of the exemption request, and after a preliminary
12 examination of the facts as alleged, the county appraiser shall recommend
13 that the exemption request either be granted or denied, and, if necessary,
14 that a hearing be held. If a denial is recommended, a statement of the
15 controlling facts and law relied upon shall be included on the form.

16 (e) The county appraiser, after making such written recommenda-
17 tion, shall file the request for exemption and the recommendations of the
18 county appraiser with the ~~board of tax appeals~~ *Kansas tax court*.

19 (f) Upon receipt of the request for exemption, the ~~board~~ *Kansas tax*
20 *court* shall docket the same and notify the applicant and the county ap-
21 praiser of such fact.

22 (g) After examination of the request for exemption, and the county
23 appraiser's recommendation related thereto, the ~~board~~ *Kansas tax court*
24 may fix a time and place for hearing, and shall notify the applicant and
25 the county appraiser of the time and place so fixed. In any case where a
26 party to such request for exemption requests a hearing thereon, the same
27 shall be granted. Hearings shall be conducted in accordance with the
28 provisions of the Kansas administrative procedure act. In all instances
29 where the ~~board~~ *Kansas tax court* sets a request for exemption for hear-
30 ing, the county shall be represented by its county attorney or county
31 counselor.

32 (h) In the event of a hearing, the same shall be originally set not later
33 than 90 days after the filing of the request for exemption with the ~~board~~
34 *Kansas tax court*.

35 (i) During the pendency of a request for exemption, no person, firm,
36 unincorporated association, company or corporation charged with real
37 estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-
38 2004a, and amendments thereto, on the tax books in the hands of the
39 county treasurer shall be required to pay the tax from the date the request
40 is filed with the county appraiser until the expiration of 30 days after the
41 ~~board~~ *Kansas tax court* issued its order thereon and the same becomes a
42 final order. In the event that taxes have been assessed against the subject
43 property, no interest shall accrue on any unpaid tax for the year or years

1 In question nor shall the unpaid tax be considered delinquent from the
2 date the request is filed with the county appraiser until the expiration of
3 30 days after the board Kansas tax court issued its order thereon. In the
4 event the board Kansas tax court determines an application for exemption
5 is without merit and filed in bad faith to delay the due date of the tax,
6 the tax shall be considered delinquent as of the date the tax would have
7 been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments
8 thereto, and interest shall accrue as prescribed therein.

9 (j) In the event the board Kansas tax court grants the initial request
10 for exemption, the same shall be effective beginning with the date of first
11 exempt use.

12 (k) In conjunction with its authority to grant exemptions, the board
13 Kansas tax court shall have the authority to abate all unpaid taxes that
14 have accrued from and since the date of first exempt use. In the event
15 that taxes have been paid during the period where the subject property
16 has been determined to be exempt, the board Kansas tax court shall have
17 the authority to order a refund of taxes for a period not to exceed three
18 years.

19 (l) The provisions of this section shall not apply to: (1) Farm machin-
20 ery and equipment exempted from ad valorem taxation by K.S.A. 79-201j,
21 and amendments thereto; (2) personal property exempted from ad valo-
22 rem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing
23 apparel, household goods and personal effects exempted from ad valorem
24 taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5)
25 hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and
26 amendments thereto; (6) merchants' and manufacturers' inventories ex-
27 empted from ad valorem taxation by K.S.A. 79-201m and amendments
28 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n,
29 and amendments thereto; (8) property exempted from ad valorem taxa-
30 tion by K.S.A. 79-201a *Seventeenth* and amendments thereto, including
31 all property previously acquired by the secretary of transportation or a
32 predecessor in interest, which is used in the administration, construction,
33 maintenance or operation of the state system of highways. The secretary
34 of transportation shall at the time of acquisition of property notify the
35 county appraiser in the county in which the property is located that the
36 acquisition occurred and provide a legal description of the property ac-
37 quired; (9) property exempted from ad valorem taxation by K.S.A. 79-
38 201a *Ninth*, and amendments thereto, including all property previously
39 acquired by the Kansas turnpike authority which is used in the adminis-
40 tration, construction, maintenance or operation of the Kansas turnpike.
41 The Kansas turnpike authority shall at the time of acquisition of property
42 notify the county appraiser in the county in which the property is located
43 that the acquisition occurred and provide a legal description of the prop-

erty acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; and (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

~~Sec. 22. K.S.A. 1994 Supp. 79-1575 is hereby amended to read as follows: 79-1575. As soon as practicable after the return or affidavit is filed, the director shall make an examination thereof and determine the correct amount of the tax liability shall issue final determinations of tax liability hereunder in the manner prescribed by K.S.A. 79-3226, and amendments thereto. If the tax found due is less than the amount paid, the excess paid shall be refunded to the personal representative who paid the tax. If the tax found due shall be greater than the amount theretofore paid, or if a claim for a refund is denied, notice shall be mailed to the person filing the return by registered or certified mail. Within 30 days after the mailing of the notice any personal representative aggrieved by any such determination of the director may request a hearing of the director relating to the tax liability by filing a written request with the director. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. An order finding additional tax shall be accompanied by a notice and demand for payment. The tax shall be paid within 30 days thereafter, together with interest on the additional tax from the date the tax was due unless an appeal is taken in the manner provided by K.S.A. 74-2438, and amendments thereto. No additional tax shall be assessed for less than \$25.~~

Sec. ~~22~~²¹ K.S.A. 1994 Supp. 79-2005 is hereby amended to read as follows: 79-2005. (a) Any taxpayer, before protesting the payment of such taxpayer's taxes, shall be required, either at the time of paying such taxes, or, if the whole or part of the taxes are paid prior to December 20, no later than December 20, or, with respect to taxes paid in whole on or before December 20 by an escrow or tax service agent, no later than January 31 of the next year, to file a written statement with the county treasurer, on forms approved by the state board of tax appeals property

New Sec. 22. (a) Notwithstanding any other provision of law to the contrary, no interest shall accrue on the amount of the assessment of tax subject to a hearing held by the director of taxation pursuant to chapter 79 of the Kansas Statutes Annotated after one year subsequent to the date on which a request for hearing regarding such assessment is received by the director.

(b) The provisions of this section shall be applicable to all requests for hearing received on and after the effective date of this act.

Sec. 23. K.S.A. 79-2970 is hereby amended to read as follows: 79-2970. (a) No interest shall accrue on the amount of the assessment of tax subject to a hearing held by the director of taxation pursuant to chapter 79 of the Kansas Statutes Annotated beyond 120 days after the date the matter was fully submitted, except that, if a final order is issued within such time period, interest shall continue to accrue until such time as the tax liability is fully satisfied, and if a final order is issued beyond such time period, interest shall recommence to accrue from the date of such order until such time as the tax liability is fully satisfied.

(b) The provisions of this section shall not be applicable to any assessment of tax to which the provisions of section 22 apply.

24. On and after July 1, 1995,

1 *tax appeals board* and provided by the county treasurer, clearly stating
2 the grounds on which the whole or any part of such taxes are protested
3 and citing any law, statute or facts on which such taxpayer relies in pro-
4 testing the whole or any part of such taxes. When the grounds of such
5 protest is that the valuation or assessment of the property upon which
6 the taxes are levied is illegal or void, the county treasurer shall forward a
7 copy of the written statement of protest to the county appraiser who shall
8 within 15 days of the receipt thereof, schedule an informal meeting with
9 the taxpayer or such taxpayer's agent or attorney with reference to the
10 property in question. The county appraiser shall review the appraisal of
11 the taxpayer's property with the taxpayer or such taxpayer's agent or at-
12 torney and may change the valuation of the taxpayer's property, if in the
13 county appraiser's opinion a change in the valuation of the taxpayer's
14 property is required to assure that the taxpayer's property is valued ac-
15 cording to law, and shall, within 15 business days thereof, notify the tax-
16 payer in the event the valuation of the taxpayer's property is changed, in
17 writing of the results of the meeting. In the event the valuation of the
18 taxpayer's property is changed and such change requires a refund of taxes,
19 the county treasurer shall process the refund in the manner provided by
20 subsection (l).

21 (b) No protest appealing the valuation or assessment of property shall
22 be filed pertaining to any year's valuation or assessment when an appeal
23 of such valuation or assessment was commenced pursuant to K.S.A. 79-
24 1448, and amendments thereto, nor shall the second half payment of taxes
25 be protested when the first half payment of taxes has been protested.
26 Notwithstanding the foregoing, this provision shall not prevent any sub-
27 sequent owner from protesting taxes levied for the year in which such
28 property was acquired, nor shall it prevent any taxpayer from protesting
29 taxes when the valuation or assessment of such taxpayer's property has
30 been changed pursuant to an order of the director of property valuation.

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

35 (d) If the grounds of such protest shall be that the valuation or as-
36 sessment of the property upon which the taxes so protested are levied is
37 illegal or void, such statement shall further state the exact amount of
38 valuation or assessment which the taxpayer admits to be valid and the
39 exact portion of such taxes which is being protested.

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

43 (f) Upon the filing of a written statement of protest, the grounds of

1 which shall be that any tax levied, or any part thereof, is illegal, the county
2 treasurer shall mail a copy of such written statement of protest to the
3 state board of tax appeals ~~property tax appeals board~~ and the governing
4 body of the taxing district making the levy being protested.

5 (g) Within 30 days after notification of the results of the informal
6 meeting with the county appraiser pursuant to subsection (a), the pro-
7 testing taxpayer may, if aggrieved by the results of the informal meeting
8 with the county appraiser, appeal such results to the state board of tax
9 appeals.

10 (h) After examination of the copy of the written statement of protest
11 and a copy of the written notification of the results of the informal meet-
12 ing with the county appraiser in cases where the grounds of such protest
13 is that the valuation or assessment of the property upon which the taxes
14 are levied is illegal or void, the board shall conduct a hearing in accor-
15 dance with the provisions of the Kansas administrative procedure act,
16 unless waived by the interested parties in writing. If the grounds of such
17 protest is that the valuation or assessment of the property is illegal or void
18 the board shall notify the county appraiser thereof.

19 (i) In the event of a hearing, the same shall be originally set not later
20 than 90 days after the filing of the copy of the written statement of protest
21 and a copy, when applicable, of the written notification of the results of
22 the informal meeting with the county appraiser with the board. In all
23 instances where the board sets a request for hearing and requires the
24 representation of the county by its attorney or counselor at such hearing,
25 the county shall be represented by its county attorney or counselor.

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

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

35 (l) In the event the board orders that a refund be made and no appeal
36 is taken from such order, the county treasurer shall, as soon thereafter as
37 reasonably practicable, refund to the taxpayer such protested taxes from
38 tax moneys collected but not distributed. Upon making such refund, the
39 county treasurer shall charge the fund or funds having received such
40 protested taxes.

41 (m) Whenever, by reason of the refund of taxes previously received
42 or the reduction of taxes levied but not received as a result of decreases
43 in assessed valuation, it will be impossible to pay for imperative functions

1 for the current budget year, the governing body of the taxing district
2 affected may issue no-fund warrants in the amount necessary. Such war-
3 rants shall conform to the requirements prescribed by K.S.A. 79-2940,
4 and amendments thereto, except they shall not bear the notation required
5 by such section and may be issued without the approval of the state board
6 of tax appeals. The governing body of such taxing district shall make a tax
7 levy at the time fixed for the certification of tax levies to the county clerk
8 next following the issuance of such warrants sufficient to pay such war-
9 rants and the interest thereon. All such tax levies shall be in addition to
10 all other levies authorized by law.

11 (n) The county treasurer shall disburse to the proper funds all por-
12 tions of taxes paid under protest and shall maintain a record of all portions
13 of such taxes which are so protested and shall notify the governing body
14 of the taxing district levying such taxes thereof and the director of ac-
15 counts and reports if any tax protested was levied by the state.

16 (o) This statute shall not apply to the valuation and assessment of
17 property assessed by the director of property valuation and it shall not be
18 necessary for any owner of state assessed property, who has an appeal
19 pending before the board of tax appeals, to protest the payment of taxes
20 under this statute solely for the purpose of protecting the right to a refund
21 of taxes paid under protest should that owner be successful in that appeal.

22 ~~Sec. 24. K.S.A. 1004 Supp. 79-3226 is hereby amended to read as~~
23 ~~follows: 79-3226. (a) As soon as practicable after the return is filed, the~~
24 ~~director of taxation shall examine it and shall determine the correct~~
25 ~~amount of the tax. If the tax found due shall be greater than the amount~~
26 ~~theretofore paid, or if a claim for a refund is denied, notice shall be mailed~~
27 ~~to the taxpayer. Within 60 days after the mailing of such notice the tax-~~
28 ~~payer may request a hearing of the director relating to the tax liability by~~
29 ~~filing a written request with the director. The hearing shall be conducted~~
30 ~~in accordance with the provisions of the Kansas administrative procedure~~
31 ~~act. An order an informal conference with the director of taxation relating~~
32 ~~to the tax liability or denial of refund by filing a written request with the~~
33 ~~director which sets forth the objections to the proposed liability or pro-~~
34 ~~posed denial of refund. The director shall hold an informal conference~~
35 ~~with the taxpayer and shall issue a written final determination thereon.~~
36 ~~The informal conference shall not constitute an adjudicative proceeding~~
37 ~~under the Kansas administrative procedure act. Informal conferences held~~
38 ~~pursuant to this section may be conducted by the director or the director's~~
39 ~~designee. The rules of evidence shall not apply to an informal conference~~
40 ~~and no record shall be made, except at the request and expense of the~~
41 ~~director or taxpayer. The director or director's designee shall issue a writ-~~
42 ~~ten final determination within 180 days of the date of the request for~~
43 ~~informal conference. In the event that a written final determination is not~~

1 ~~rendered within 180 days, the taxpayer may appeal to the Kansas tax~~
2 ~~court.~~

3 (b) A final determination finding additional tax shall be accompanied
4 by a notice and demand for payment. Notice under this section shall be
5 sent by first-class mail in the case of individual taxpayers and by registered
6 or certified mail in the case of all other taxpayers. The tax shall be paid
7 within 20 days thereafter, together with interest at the rate per month
8 prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto,
9 on the additional tax from the date the tax was due unless an appeal is
10 taken in the manner provided by K.S.A. 74-2438 and amendments
11 thereto, but no additional tax shall be assessed for less than \$5. Interest
12 at such rate shall continue to accrue on any additional tax liability during
13 the course of any appeal.

14 Sec. 25. K.S.A. 79-3383 is hereby amended to read as follows: 79-
15 3383. A distributor may request a hearing ~~an informal conference~~ on any
16 order of the director assessing any tax, additional tax, or penalty. A dis-
17 tributor may also request a hearing ~~an informal conference~~ after notice
18 by the director that the director intends to revoke, cancel or suspend a
19 license issued under the provisions of this act. ~~Such request shall be made~~
20 ~~within 15 days after the receipt of the order or notice from the director.~~
21 ~~Hearings under this section shall be conducted in accordance with the~~
22 ~~provisions of the Kansas administrative procedure act.~~

23 Sec. 26. K.S.A. 79-3384 is hereby amended to read as follows: 79-
24 3384. Following the hearing ~~informal conference~~ the director shall make
25 a final decision or final determination and in case any tax or additional
26 tax becomes due thereby, the director's order shall be accompanied by a
27 demand for payment of any tax due. A distributor may appeal from the
28 decision of the director in the manner prescribed in K.S.A. 74-2438 and
29 amendments thereto ~~and may appeal from decisions of the board of tax~~
30 ~~appeals in the manner prescribed by K.S.A. 74-2426 and amendments~~
31 ~~thereto.~~

32 Sec. 27. K.S.A. 1994 Supp. 79-3610 is hereby amended to read as
33 follows: 79-3610. The director of taxation shall examine all returns filed
34 under the provisions of this act, and shall issue final determinations of tax
35 liability hereunder in the manner prescribed by K.S.A. 79-3226, and
36 amendments thereto, relating to income taxes. Any determination may
37 be made on the basis of a generally recognized valid and reliable sampling
38 technique, whether or not the person being audited has complete records
39 of transactions and whether or not such person consents. In any such
40 case, the director shall notify the taxpayer in writing of the sampling
41 technique to be utilized, including the design and population of such
42 sample. If the taxpayer demonstrates that any such technique used was
43 ~~not in accordance with generally recognized sampling techniques, the~~

1 ~~audit shall be dismissed with respect to that portion of the audit based~~
2 upon such technique, and a new audit shall be performed. Within 60 days
3 after the mailing of notice of the director's determination any taxpayer
4 may request a hearing of an informal conference with the director relating
5 to such taxpayer's tax liability, including the issue of whether the use of
6 a generally recognized sampling technique achieved a result that was re-
7 flective of the taxpayer's actual tax liability, and a hearing on informal
8 conference thereon shall be had conducted and the director shall make a
9 final determination and give the taxpayer notice thereof. In case any per-
10 son required by the provisions of this act to make a return fails or refuses
11 to do so, the director, after notice to such person, and a hearing thereon,
12 shall make a final determination of the amount of such tax according to
13 the director's best judgment and information.

14 Whenever the director of taxation has reason to believe that a person
15 liable for tax under any provisions of the Kansas retailers' sales tax act is
16 about to depart from the state or to remove such person's property there-
17 from, or to conceal oneself or such person's property therein, or to do
18 any other act tending to prejudice, jeopardize or render wholly or partly
19 ineffectual the collection of such sales tax unless proceedings be brought
20 without delay, the director shall immediately make an assessment for all
21 sales taxes due from such taxpayer, noting such finding on the assessment.
22 The assessment shall be made on the basis of emergency proceedings in
23 accordance with the provisions of K.S.A. 77-536 and amendments
24 thereto. Thereupon a warrant shall forthwith be issued for the collection
25 of the tax as provided in K.S.A. 79-3235, and amendments thereto. The
26 taxpayer may within 15 days from the date of filing of such warrant re-
27 quest a hearing by an informal conference with the director on the cor-
28 rectness of the jeopardy assessment. Hearings under this section shall be
29 conducted in accordance with the provisions of the Kansas administrative
30 procedure act.

31 Sec. 28. K.S.A. 1994 Supp. 79-4226 is hereby amended to read as
32 follows: 79-4226. Every operator shall make and keep a complete and
33 accurate record in the form required by the director showing the gross
34 quantity of coal, oil or gas severed and removed from each lease, pro-
35 duction unit or mine, the names of the purchasers of such products, the
36 price paid therefor and the date of purchase. Every purchaser of coal, oil
37 or gas severed in this state who is required to collect and remit the tax
38 on the same shall make and keep a complete and accurate record in the
39 form required by the director showing the gross quantity of coal, oil or
40 gas purchased from each lease, production unit or mine, the price paid
41 therefor, the name of the operator and the date of purchase. Such records
42 shall at all times during business hours of the day be available for and
43 subject to inspection by the director, or the director's duly authorized

1 ~~agents and employees, for a period of three years from the last day of the~~
2 ~~calendar year to which the records pertain. Such records shall be pre-~~
3 ~~served during the entire period during which they are subject to inspec-~~
4 ~~tion by the director, unless the director in writing previously authorized~~
5 ~~their disposal.~~

6 The amount of taxes imposed by this act is to be assessed within three
7 years after the return is filed; ~~and no proceedings in court for the collec-~~
8 ~~tion of such taxes shall be begun after the expiration of such period. In~~
9 ~~the case of a false or fraudulent return with intent to evade tax, the tax~~
10 ~~may be assessed or a proceeding in court for collection of such tax may~~
11 ~~be begun at any time, within two years from the discovery of such fraud.~~
12 ~~The provisions of K.S.A. 79-3226, and amendments thereto, relating to~~
13 ~~procedures for contesting a proposed assessment of additional tax or the~~
14 ~~dental of a refund shall apply as if set forth in this section. No refund~~
15 ~~shall be allowed by the director after three years from the date the return~~
16 ~~was filed, or one year after the assessment is made, whichever is the later~~
17 ~~date unless before the expiration of such period a claim therefor is filed~~
18 ~~by the taxpayer. No suit or action to recover on any claim for refund shall~~
19 ~~be commenced until after the expiration of six months from the date of~~
20 ~~filing a claim therefor with the director.~~

21 Before the expiration of time prescribed in this section for the assess-
22 ment of additional tax or the filing of a claim for refund, the director is
23 hereby authorized to enter into an agreement in writing with the taxpayer
24 consenting to the extension of the periods of limitations for the assess-
25 ment of tax or for the filing of a claim for refund, at any time prior to the
26 expiration of the periods of limitations. The periods so agreed upon may
27 be extended by subsequent agreements in writing made before the ex-
28 piration of the periods previously agreed upon. In consideration of such
29 agreement or agreements, interest due in excess of 48 months on any
30 additional tax shall be waived.

31 Sec. 29. K.S.A. 1994 Supp. 79-5205 is hereby amended to read as
32 follows: 79-5205. (a) At such time as the director of taxation shall deter-
33 mine that a dealer has not paid the tax as provided by K.S.A. 79-5204,
34 and amendments thereto, the director may immediately assess a tax based
35 on personal knowledge or information available to the director of taxation;
36 mail to the taxpayer at the taxpayer's last known address or serve in per-
37 son, a written notice of the amount of tax, penalties and interest; and
38 demand its immediate payment. If payment is not immediately made,
39 because collection of every assessment made hereunder is presumed to
40 be in jeopardy due to the nature of the commodity being taxed, the di-
41 rector may immediately collect the tax, penalties and interest in any man-
42 ner provided by K.S.A. 1994 Supp. 79-5212, and amendments thereto.

43 ~~(b) The taxpayer may appeal the assessment request an informal con-~~

1 ~~ference with the director within 15 days from the date of mailing of the~~
 2 ~~notice or the date of personal service of the notice given pursuant to~~
 3 ~~subsection (a), by requesting in writing a hearing by an informal confer-~~
 4 ~~ence with the director on the correctness of the assessment. The hearing~~
 5 ~~shall be conducted in accordance with the provisions of the Kansas ad-~~
 6 ~~ministrative procedure act. The provisions of K.S.A. 79-3026, and amend-~~
 7 ~~ments thereto, relating to procedures for contesting a proposed assessment~~
 8 ~~of additional tax or the denial of a refund shall apply as if set forth in this~~
 9 ~~section. An appeal of the assessment shall not stay the collection of the~~
 10 ~~assessment but shall stay the sale of real or personal property seized pur-~~
 11 ~~suant to K.S.A. 1994 Supp. 79-5212, and amendments thereto, until the~~
 12 ~~director rules on the correctness of the assessment.~~

13 (c) The tax, penalties and interest assessed by the director of taxation
 14 are presumed to be valid and correctly determined and assessed. The
 15 burden is upon the taxpayer to show their incorrectness or invalidity. Any
 16 statement filed by the director of taxation with the court or any other
 17 certificate by the director of taxation of the amount of tax, penalties and
 18 interest determined or assessed is admissible in evidence and is prima
 19 facie evidence of the facts it contains.

20 (d) In making an assessment pursuant to subsection (a), the director
 21 of taxation may consider but shall not be bound by a plea agreement or
 22 ~~judicial determination made in any criminal case.~~

23 Sec. ~~30~~ K.S.A. 74-2426, 74-2433, 74-2433a, 74-2433b, 74-2433c, 74-
 24 2433d, 74-2433e, 74-2434, 74-2435, 74-2436, 74-2437, 74-2437a, 74-
 25 2437b, 74-2438, 74-2439, 79-3383 and 79-3384 and K.S.A. 1994 Supp.
 26 79-213, 79-1575, 79-2005, 79-3226, 79-3610, 79-4226 and 79-5205 are
 27 hereby repealed.

28 Sec. ~~31~~. This act shall take effect and be in force from and after its
 29 publication in the statute book.

25. On and after July 1, 1995,

and 79-2970

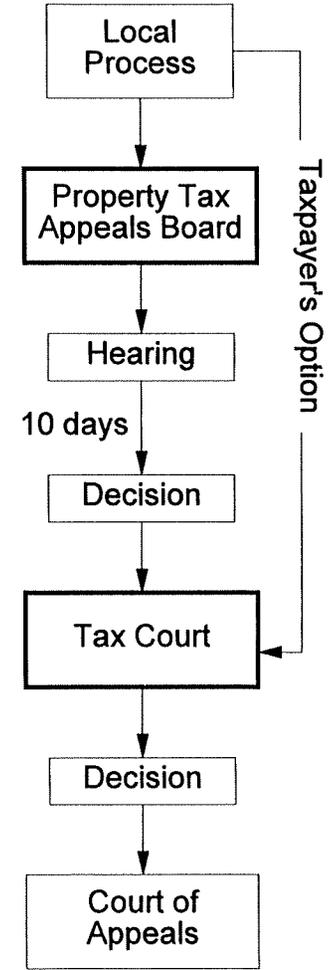
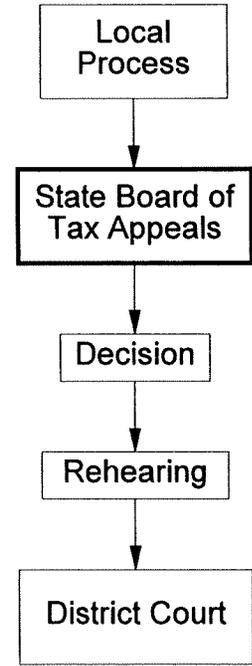
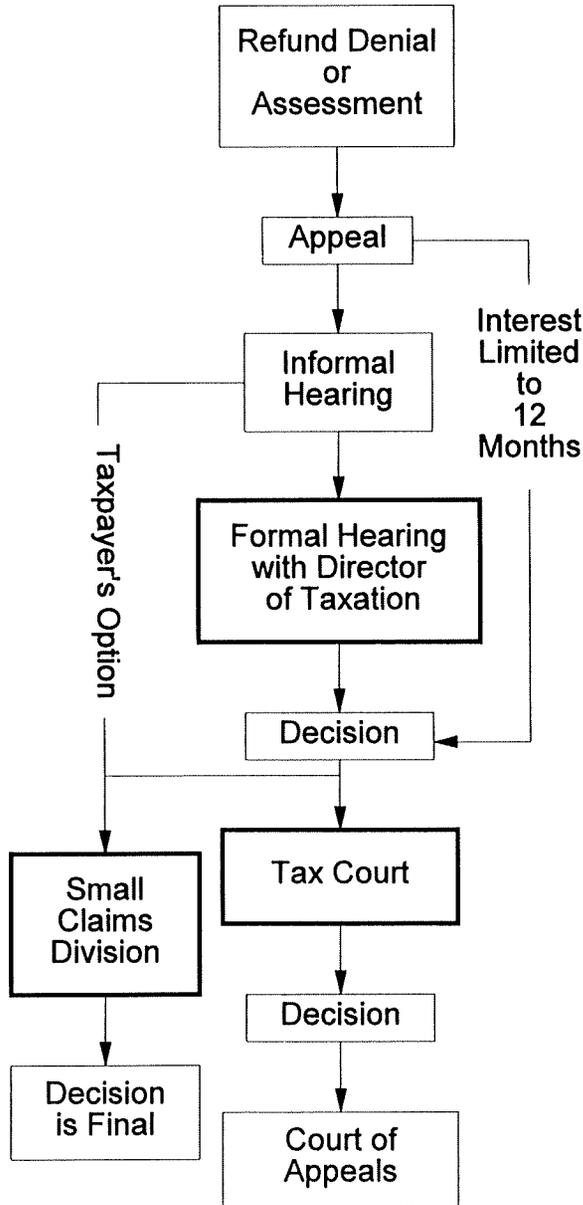
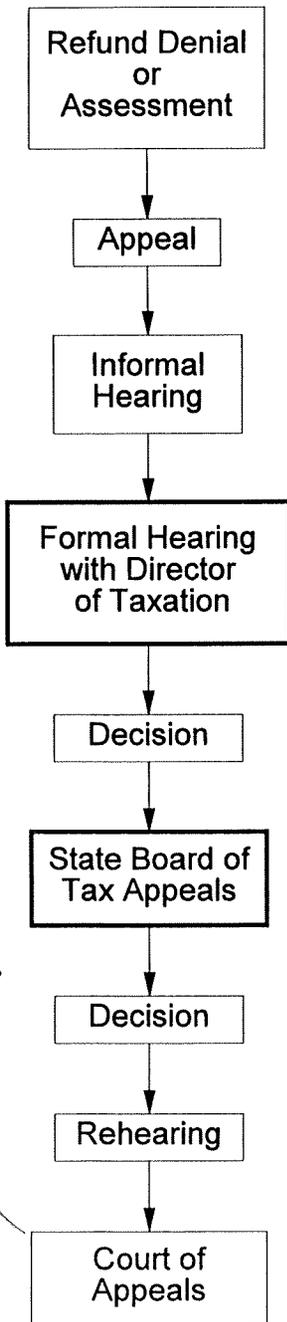
and 79-2005

26

Kansas register

Dept. of Revenue Excise Taxes
Current Law S.B.40

Property Taxes
Current Law S.B.40



Senate Assessment and Taxation
2-20-95
Attachment # 7