

SESSION OF 1998

**EXPLANATORY NOTE ON HOUSE BILL NO. 2684**

As Amended by Conference Committee

**Brief\***

H.B. 2684, as amended, would make a number of changes in statutory requirements relating to the Kansas State Board of Tax Appeals (SBOTA). Cities and counties seeking to grant economic development property tax exemptions (EDXs) also would be required to adopt resolutions containing specific factual findings that the property is being used for manufacturing, research and development, or warehousing purposes. Finally, K.S.A. 79-201a would be amended to expand a property tax exemption for property owned by local units of government (or being acquired by local units pursuant to lease-purchase agreements) when such property is utilized to provide office space for certain health care providers. Licensed psychologists would be added to the current list of providers, which includes persons licensed to practice medicine and surgery or osteopathic medicine; persons licensed to practice dentistry; persons licensed to practice optometry; and persons licensed to practice podiatry.

**SBOTA Changes**

After January 15, 1999, three of the five members would be required to have been "actively practicing" law in Kansas for at least five years. (Current law requires members to be selected with special reference to training and experience for duties imposed by the SBOTA statutes.) All members would be made subject to the Supreme Court Rules of Judicial Conduct applicable to all district court judges. SBOTA would be bound by the doctrine of *stare decisis* to adhere to published decisions of the appellate courts other than district courts. Decisions of SBOTA deemed to be of sufficient importance also would be required to be published. Members would be required to complete various courses to assure familiarity with property appraisal theory.

---

\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.ink.org/public/legislative/fulltext-bill.html>.

SBOTA would be required to appoint, subject to approval by the Governor, an executive director. The executive director, who would be required to have familiarity with the tax appeals process, would perform such duties as directed by SBOTA.

All appeals of final actions of SBOTA on property tax exemption cases would move directly to the Court of Appeals. Under current law, all property tax cases not involving state-assessed valuation issues must be appealed to district court.

The Department of Commerce and Housing would be required to provide property owners information and assistance sufficient to allow the preparation of proper requests for exemption.

### ***Small Claims Division***

The bill establishes one division within SBOTA as the Small Claims Division (SCD) as of January 1, 1999. Hearing officers appointed by the executive director would have authority to hear and decide SCD cases. Taxpayers could elect to appeal decisions, findings, orders, or rulings of the Kansas Director of Taxation to the SCD when the amount of tax in controversy does not exceed \$15,000, or, in the case of property tax valuation disputes, when the property in question is single-family residential property or the appraised valuation of the property in question is less than \$2,000,000, except that no cases involving agricultural use value could be considered in the SCD. Taxpayers could elect to skip the local hearing officer step in the appeals process and move directly to the SCD. SCD hearings would be required to be conducted within 60 days after appeals are filed, and hearing officers would be required to render decisions within 30 days of the hearings. Such hearings also would be required to be held in the counties where the property is located or in adjacent counties. Documents provided by taxpayers and county or district attorneys for SCD hearings would be returned and would be considered confidential. Taxpayers appealing to the SCD would not be precluded from appealing subsequently to SBOTA, and all such appeals would be *de novo*. The requirement under current law that counties with 10,000 or more parcels of real estate appoint local hearing officers also would be repealed. A current requirement that county appraisers during SBOTA hearings are responsible for initiating the production of evidence and demonstrating by a preponderance of evidence the validity of

appraisals for certain kinds of property also would be extended to hearings within the SCD.

### ***IRB and EDX Exemptions***

With respect to locally-granted IRB and EDX property tax exemptions, all such exemptions would be deemed approved unless a hearing would be scheduled by SBOTA within 30 days, and any such hearing would be required to be held within 90 days. The amount of time parties seeking exemption have to file motions for reconsideration would be extended from 15 to 30 days. Cities and counties seeking to grant EDXs would be mandated to adopt resolutions or ordinances stipulating that:

- the property is to be used exclusively for one of the purposes outlined in Section 13 of Article 11 of the *Kansas Constitution*; and
- if the business is relocating from elsewhere within Kansas, the Secretary of Commerce and Housing has approved the exemption based upon a finding that such relocation is necessary to prevent the business from leaving the state. (A current statute prohibiting EDX's being granted for personal property absent a determination that jobs are retained in Kansas would be repealed.)

### **Background**

The original bill dealt only with the property tax exemption for locally-owned property providing office space for licensed psychologists. The Senate floor amended in all other provisions, many of which had been in the House Committee of the Whole version of H.B. 2602.

The requirement that three of the five SBOTA members be "active-practice" attorneys would be effective after January 15. The SCD would be established as of January 1. All other provisions of the bill would be effective July 1.

The Conference Committee changes included allowing IRB and EDX exemptions to be deemed approved absent hearings being scheduled; repealing a mandate that counties with 10,000

or more parcels appoint local hearing officers; delaying the implementation of the SCD until January 1; and increasing the valuation and dollar amount ceiling restrictions on cases eligible for the SCD.