

SESSION OF 2008

**CONFERENCE COMMITTEE REPORT BRIEF  
SUBSTITUTE FOR HOUSE BILL NO. 2018**

As Agreed to April 2, 2008

**Brief\***

Sub. for HB 2018 would rename the State Board of Tax Appeals (BOTA) the State Court of Tax Appeals (COTA) and make a number of other changes relative to the composition and duties of that entity, which would be construed to be an administrative law court within the executive branch of government. Various sections provide for the transfer of all jurisdiction, rights, powers, duties, and functions of BOTA to COTA.

In addition to the three board members, who would be renamed as "tax law judges," the bill would create a new position, chief hearing officer. The chief hearing officer, who would serve as a judge *pro tempore* of the Court, would be appointed by the Governor and subject to Senate confirmation (as are members of BOTA under current law and as would be judges of COTA under the bill).

Any member of BOTA appointed prior to July 1, 2008 could continue to serve as a judge until his or her term expires. Additional language would clarify that the Governor could reappoint any judge, including the chief hearing officer, to additional four-year terms. All judges and the chief hearing officer would be required to be selected with special reference to tax, legal, or accounting training and experience. Existing requirements that at least one member be a certified public

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accountant and another be a lawyer would be retained relative to the judges.

A current prohibition against more than one member from any congressional district would be retained but could be waived if the Governor, after exercising due diligence, has been unable to find a qualified replacement within 90 days of a vacancy.

The current small claims division of BOTA would be renamed the “small claims and expedited hearings division” of COTA. The chief hearing officer would be responsible for appointing hearing officers of this division.

A current prohibition against filing fees being imposed for certain single-family residential cases would be relaxed such that a filing fee of up to \$35 may be charged for appeals of decisions of the small claims and expedited hearings division to the full COTA.

The Kansas Court of Appeals would have jurisdiction for review of most final COTA orders (except for certain no-fund warrant proceedings). Current law provides that district courts conduct any reviews of BOTA decisions relating to the valuation or assessment of all non-state-appraised property. Additional language would clarify that votes of two judges would be required for any final order of COTA.

Additional language would clarify that the Court of Appeals would have jurisdiction for review of most final orders issued after June 30, 2008.

### **Conference Committee Action**

The Conference Committee on April 2, 2008, agreed to a technical amendment relative to cases that may be currently active; and agreed to the compromise proposal that the congressional district restriction would be retained but could be

waived if the Governor were to be unable to find a qualified replacement, after exercising due diligence, within 90 days.

## **Background**

The original bill dealt with corporation franchise tax relief.

The original HB 2018, introduced in the 2007 Session, would have expanded the size of BOTA from three to five members.

A subcommittee chaired by Representative Tim Owens, after extensive study, recommended introduction of the substitute bill. The substitute bill approved by the House would have eliminated the prohibition against having more than one member from any congressional district.

The Senate Assessment and Taxation Committee amended the bill to retain that prohibition. The Senate Committee of the Whole added the provision that would clarify the effective date of the bill's changes relative to cases that may be currently active.

A fiscal note provided by BOTA staff indicated that the substitute bill would necessitate additional spending of \$165,000 for FY 2009. Of this amount, approximately \$140,000 would be attributable to the additional salary and benefits for the new position; and \$25,000 would be attributable to costs associated with reconfiguration of the current workspace and new furniture.

The filing fee fund would be expected to see increased receipts of \$35,000 assuming that a \$35 fee were to be applied to certain appeals that advance beyond the small claims and expedited hearings division.

state board of tax appeals