

SPECIAL SESSION OF 2020

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 4**

As Recommended by Senate Committee on  
Assessment and Taxation

**Brief\***

SB 4 would establish new notice and public hearing requirements for certain taxing subdivisions, prohibit certain real property valuation increases, and provide a one-time delay in the deadline for payment of property taxes, enact the Taxpayer Protection Act, extend certain income and privilege tax filing and payment deadlines, authorize county treasurers to establish partial payments and establish payment plans for all property taxes, and provide for county discretion in handling *de minimis* property tax penalty charges.

The bill would be in effect upon publication in the *Kansas Register*.

***Notice and Public Hearing Requirements***

The bill would establish, beginning in 2021, new notice and public hearing requirements for certain taxing subdivisions prior to property tax increases above a revenue-neutral rate. The bill would not apply to school districts or to any taxing subdivisions receiving less than \$5,000 annually in property taxes.

On or before June 15 of each year, beginning in 2021, the bill would require county clerks to submit the revenue-neutral rate to all other taxing subdivisions at the same time estimated assessed valuation information is provided. "Revenue-neutral rate" would be defined to mean the tax rate

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\*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.kslegislature.org>

for the current tax year that would generate the same property tax revenue as levied the previous tax year using the current tax year's total assessed valuation. The bill would require the Director of Accounts and Reports to modify budget information forms to show the revenue-neutral rate.

The taxing subdivisions affected by the bill would be prohibited from levying rates that exceed the revenue-neutral rates unless the taxing subdivisions have published notice on their websites of the proposed intent to exceed such rates and announcing a public hearing on such action. On or before July 15, the bill would also require governing bodies to notify county clerks of their intent to exceed revenue-neutral rates. County clerks subsequently would be required to notify each taxpayer with property in taxing subdivisions seeking to exceed such rates of the public hearings at least 10 days in advance of the hearings. The bill would require county clerks to send consolidated notifications for all taxing subdivisions relevant to a parcel of property *via* mail unless taxpayers and county clerks both have consented to service by electronic means. The bill would require all costs associated with notification requirements to be borne by taxing subdivisions seeking to exceed their revenue-neutral rates, with payment for such costs due to county clerks by December 31.

The bill would require, at public hearings required to be held on or before September 10, governing bodies to provide interested taxpayers an opportunity to present oral testimony within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment. At the conclusion of the public hearings, the bill would require a majority vote of governing bodies adopting resolutions or ordinances that approve exceeding the revenue-neutral rates, prior to adoption of proposed budgets resulting in a tax rate that exceeds the revenue-neutral rates.

The public hearings could be conducted in conjunction with other required budget hearings of the taxing subdivisions. Governing bodies taking such action would be

required to submit on or before September 20 to each county clerk the amount of property taxes to be levied. Taxing subdivisions not complying with the notification and public hearing requirements outlined in the bill would be required to refund to taxpayers any over-collected property taxes.

The bill also would repeal, beginning in 2021, the current property tax lid law applicable to cities and counties (KSA 79-2925c).

### ***Prohibited Valuation Increases***

The bill would prohibit an increase in the appraised valuation of real property solely as a result of normal repair, replacement, or maintenance of existing improvements on the property.

### ***Property Tax Payment Delay***

The bill would prohibit interest from accruing on unpaid property tax for tax year 2019 from May 10, 2020, through August 10, 2020. The tax would not be considered delinquent for that time and counties would be required to waive any costs related to delinquent property tax collection charged to taxpayers prior to August 11, 2020.

The bill would also delay, for tax year 2019 only, the preparation of a list of real estate subject to sale due to delinquent taxes until after August 10, 2020, and the publication deadline of such list would be delayed until September 1, 2020. Real estate sales of property as a result of delinquent taxes in 2020 otherwise scheduled to occur on the first Tuesday of September would be scheduled to occur on or before the fourth Monday of October.

### ***Taxpayer Protection Act***

The bill would, on and after January 1, 2021, require paid tax return preparers to sign any income tax return prepared by or substantially prepared by the preparer and to include the preparer's federal preparer tax identification number on any such return. Any failure to do so would subject the preparer to a civil penalty of \$50 per return with a maximum of \$25,000 in civil penalties per preparer per year. Any civil penalties assessed could be appealed pursuant to the Kansas Administrative Procedure Act. Any penalties collected would be deposited in the State General Fund.

The bill would authorize the Secretary of Revenue (Secretary) to enjoin any person from acting as a paid tax preparer by seeking a temporary or permanent order from a court of competent jurisdiction enjoining such conduct. Under the bill, an injunction could be issued by a court if the preparer has engaged in any of the following conduct:

- Prepared a return that understates the taxpayer's liability due to an "unreasonable position," as that term is defined in the Internal Revenue Code;
- Prepared a return that understates the taxpayer's liability due to "willful or reckless conduct," as that term is defined in the Internal Revenue Code;
- Fails to, when required, furnish a signed copy of the return including the preparer's federal preparer tax identification number, retain a copy of the return, or be diligent in determining eligibility for tax benefits;
- Negotiates a check issued to the taxpayer by the Kansas Department of Revenue (KDOR) without the permission of the taxpayer;

- Engages in any conduct subject to any criminal penalty provided for in Chapter 79 of the *Kansas Statutes Annotated* or amendments thereto;
- Misrepresents the preparer's education, experience, or eligibility to practice tax preparation;
- Guarantees the payment of any tax refund or the allowance of any tax credit; or
- Engages in any other fraudulent or deceptive conduct that substantially interferes with proper administration of Kansas tax laws.

The bill would allow the Secretary to seek the assistance of the Attorney General or the Attorney General's designee in pursuing such injunctions, and the Secretary would be required to publish an annual report concerning such injunctions on the website of the Kansas Department of Revenue.

Further, the bill would provide that any person, whether or not a resident of Kansas, submits to the jurisdiction of the courts of the State of Kansas for purposes of such injunctions by engaging in any conduct that could give rise to a cause of action under the Taxpayer Protection Act. The bill would provide that legal actions brought under the Act would be brought in the district court of Shawnee County. The Secretary would be permitted to enter into consent judgments with respect to violations of the Act in lieu of actions seeking injunctions.

Finally, the bill would authorize the Secretary to promulgate rules and regulations necessary to carry out the provisions of the Taxpayer Protection Act.

### ***Filing and Payment Extension***

The bill would extend, for tax year 2019, the deadline for filing income and privilege tax returns otherwise due April 15,

2020, through July 15, 2020, to July 15, 2020. The bill would also prohibit the imposition of penalty or interest associated with such returns if the liability is paid on or before July 15, 2020.

### ***Property Tax Payment Plans and Partial Payments***

The bill would authorize county treasurers to establish partial payments and establish payment plans for all property taxes. Current law grants treasurers authority to accept partial payment for delinquent property taxes.

### ***County Discretion Concerning De Minimis Property Tax Penalty Charges***

The bill would provide that counties have discretion in refunding, crediting, or retaining any penalties and interest charged to taxpayers between May 11, 2020, and the effective date of the bill that are rendered void by this act up to the amount of \$25.

### **Background**

The bill was introduced by Senators Tyson, Alley, Baumgardner, Berger, Braun, Goddard, Hilderbrand, Kerschen, Lynn, Olson, Petersen, Rucker, Thompson, and Wagle.

On June 3, 2020, the bill was referred to and later passed by the Senate Committee on Assessment and Taxation. During the Senate Committee meeting, it was noted the bill is identical to HB 2702, which was passed the Legislature at its *sine die* session and vetoed by the Governor on June 1, 2020.

Additional background on the conferees and testimony from HB 2702 from the 2020 regular session may be found in

the conference committee report for HB 2702, as passed by the Legislature.

A fiscal note on the bill was not immediately available.