

MEMORANDUM

TO: All County Appraisers, County Clerks, County Commissioners, County Treasurers
and County Registers of Deeds

FROM: Roger Hamm, Deputy Director, Division of Property Valuation

DATE: July 6, 2016

SUBJECT: 2016 Legislative Summary

The 2016 Legislative Summary centers on 1) House Substitute for Senate Bill 280 and 2) Senate Substitute for House Bill 2088. Both bills will go into effect July 1, 2016, with most provisions impacting the 2017 calendar/tax year. In an effort to organize these large bills, both are kept separate but broken down under several general recognizable topics.

Summary

House Substitute for Senate Bill 280:

Administrative – Tax and Debt Collection

Abandoned or repossessed personal property – When personal property is abandoned or repossessed after it is assessed and before taxes are paid, the owner or lessee of any real property upon which the personal property was situated at the time of abandonment or repossession shall acquire the personal property free of any tax lien for unpaid taxes if the property is acquired by such landowner or lessee within 12 months of the time such property is deemed abandoned or within 12 months of the time legal proceedings are commenced to effect a repossession. The bill provides that in no circumstances shall the landowner or lessee be liable for any taxes owed prior to the date the personal property is acquired by such landowner or lessee. This most often occurs with abandoned or repossessed manufactured homes. *House Substitute for Senate Bill 280 § 21 amending K.S.A. 2015 Supp. 79-2026*

Claims against delinquent real and personal property tax – Delinquent real property taxes are now added to delinquent personal property taxes to be checked by the county treasurer when claims are allowed pursuant to K.S.A. 79-2010. In effect, the bill would allow the county commissioners in accordance with K.S.A. 79-2012 to authorize the county treasurer to credit said claimant/taxpayer with the amount of said claim against their delinquent real or personal property taxes. *House Substitute for Senate Bill 280 § 20 amending K.S.A. 79-2011*

Delinquent real property interest rate – For 2017 the interest rate on delinquent real property taxes will be increasing by five percentage points. This rate added to the rate prescribed by K.S.A. 79-2968 which is 5% for July 1, 2016 makes the delinquent real property tax rate for 2017, 10%. This only changes the delinquent real property tax rate. The *2017 Interest Rate Memo* will follow with more details on rate changes for 2017. *House Substitute for Senate Bill 280 § 18 amending K.S.A. 2015 Supp. 79-2004*

Appeals

Alternate appeal process – Taxpayers have a new alternate appeal process after the spring informal meeting pursuant to K.S.A. 79-1448. Within 60 days after the date when the notice of informal meeting results is mailed to the taxpayer pursuant to K.S.A. 79-1448, any taxpayer aggrieved by the final determination of the county appraiser, who has not filed an appeal with the board of tax appeals, may file with the county appraiser a third-party fee simple appraisal performed by a Kansas certified general real property appraiser that reflects the value of the property as of January 1 for the same tax year being appealed. Within 15 days after receipt of the appraisal, the county appraiser shall review and consider such appraisal in the determination of the valuation or classification of the taxpayer's property and mail a supplemental notice of final determination. If the final determination is not in favor of the taxpayer, the county appraiser shall notify the taxpayer that the county is required to perform its own, or commission a fee simple single property appraisal. The county appraiser has 90 days to furnish that appraisal along with a new supplemental notice of determination and, if not in favor of the taxpayer, include an explanation of the reasons the county appraiser did not rely on the taxpayer's appraisal. Whenever a taxpayer submits a fee simple single property appraisal the burden of proof shall be on the county appraiser to dispute the value of that appraisal. Any taxpayer aggrieved by the final determination of the county appraiser may appeal to the state board of tax appeals as provided in K.S.A. 79-1609, and amendments thereto, within 30 days subsequent to the date of mailing of the supplemental notice of final determination. *House Substitute for Senate Bill 280 New § 23*

Appeals before the board of tax appeals – Valuation appeals before the board of tax appeals shall be decided upon a determination of the fair market value of the fee simple of the property. Nothing in this section shall prohibit a property owner from raising arguments regarding classification. *House Substitute for Senate Bill 280 § 4 amending K.S.A. 2015 Supp. 74-2433*

Duty at informal meeting – The county appraiser is required at the informal meeting for both the valuation notice appeal (spring equalization appeal) and payment under protest appeal to provide a summary of the reasons that the valuation of the property increased, any assumptions used, a description of the individual property characteristics, property specific valuation records, and conclusions. The taxpayer shall be provided an opportunity to review data sheets applicable to the valuation approach used. The county appraiser shall take into account any evidence provided by the taxpayer which relates to the amount of deferred maintenance and depreciation for the property. *House Substitute for Senate Bill 280 § 13 & 19 amending K.S.A. 2015 Supp. 79-1448 and 79-2005*

Judicial review – Any aggrieved party may file a petition for judicial review of the board's order in the court of appeals. For purposes of such appeal, the board's order becomes final only after issuance of a full and complete opinion. In addition, at the election of the taxpayer, any summary decision or full and complete opinion of the board issued after June 30, 2014 may be appealed to the district court and the appeal shall be a trial de novo. The trial de novo shall include an evidentiary hearing at which issues of law and fact shall be determined anew. If a taxpayer requests review in district court, the board's jurisdiction terminates notwithstanding any prior request for a full and complete opinion and the board shall not issue such opinion. An appeal of a board order shall be to the court of appeals,

unless the taxpayer requests review in the district court. *House Substitute for Senate Bill 280 § 3 amending K.S.A. 2015 Supp. 74-2426*

Judicial review – The Kansas judicial review act was amended to provide that judicial review of issues of fact in review of board of tax appeals orders shall be in accordance with K.S.A. 74-2426. *House Substitute for Senate Bill 280 § 6 amending K.S.A. 2015 Supp. 77-618*

Oil and Gas – Production information used to establish the fair market value of producing oil or gas leases that have commenced production during the preceding calendar year, must be limited to production occurring prior to April 1 of the calendar year in which the property is being assessed. Information used to establish the fair market value of any base lease or property producing oil or gas for the first time in economic quantities on and after October 1 of the preceding calendar year must be limited to production occurring prior to July 1 of the calendar year in which the property is being assessed. This provision shall apply to tax years commencing on and after December 31, 2016. *House Substitute for Senate Bill 280 § 7 amending K.S.A. 2015 Supp. 79-331*

Valuation methodologies – If the director of property valuation has developed and adopted methodologies to value a type of property, then it shall be the duty of the county appraiser to demonstrate compliance with such methodologies. *House Substitute for Senate Bill 280 § 5 amending K.S.A. 2015 Supp. 74-2433*

Appraisal

Adopted methodologies – If the director of property valuation has developed and adopted methodologies to value specific types of property, the county appraiser shall be required to follow such methodologies beginning with the 2017 valuation year. Prior to January 1, 2017, the secretary of revenue shall adopt rules and regulations necessary to administer the provisions. *House Substitute for Senate Bill 280 § 14 amending K.S.A. 79-1456*

Appraiser removal – The director of property valuation is authorized to remove any person from the list of persons eligible to be appointed to the office of county appraiser for any of the following acts or omissions:

- (1) Failing to meet the minimum qualifications established by K.S.A. 19-432;
- (2) a plea of guilty or nolo contendere to, or conviction of any crime involving moral turpitude or any felony charge; or
- (3) entry of final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of an appraisal or real or personal property.

Any person removed from the list of persons eligible to be appointed county appraiser under this section shall immediately forfeit the office of county or district appraiser. An appeal may be taken to the state board of tax appeals from final action of the director pursuant to this section pursuant to K.S.A. 74-2438. The director may relist a person as an eligible county appraiser upon a showing of mitigating circumstances, restitution or expungement. *House Substitute for Senate Bill 280 § 2 amending K.S.A. 19-432*

Appraiser restrictions – The county appraiser shall not at any time request from a taxpayer

- (1) any appraisal for the purpose of obtaining mortgage financing;
- (2) any fee appraisal conducted more than 12 months prior to January 1 of the year under appeal; or
- (3) documents detailing individual lease agreements.

The county appraiser may request a certified rent roll from the taxpayer. *House Substitute for Senate Bill 280 § 11 amending K.S.A. 79-1412a*

Commercial property valuation increases – Language relating to substantial and compelling reasons to increase a valuation was repealed. In its place is added language that for the next two taxable years following the taxable year that the valuation for commercial real property has been reduced due to a final determination made pursuant to the valuation appeals process, the county appraiser shall review the computer-assisted mass-appraisal of the property and if the valuation in either of those two years exceeds the value of the previous year by more than 5%, excluding new construction, change in use or change in classification, the county appraiser shall either: (1) Adjust the valuation of the property based on the information provided in the previous appeal; or (2) order an independent fee simple appraisal of the property to be performed by a Kansas certified real property appraiser. As used in this section, "new construction" means the construction of any new structure or improvements or the remodeling or renovation of any existing structures or improvements on real property. Since the first impacted year will be the 2017 appraisal year, the county appraiser will need to review 2015 and 2016 for any final reductions to value. *House Substitute for Senate Bill 280 § 15 amending K.S.A. 2015 Supp. 79-1460*

Market study published – The county appraiser is require to annually publish the results of the market study analysis prescribed by the director of property valuation at least 10 business days prior to mailing change of valuation notices in the official county newspaper and on the official county website, if the county maintains a county website. *House Substitute for Senate Bill 280 § 16 amending K.S.A. 79-1460a*

Mass Appraisal – The reference to “mass appraisal” was removed in the provision stating that the appraisal process for all property for tax purposes shall conform to generally accepted appraisal procedures and standards consistent with the definition of market value. *House Substitute for Senate Bill 280 § 9 amending K.S.A. 2015 Supp. 79-503a*

Mass Appraisal – Removed from the definition of “Written appraisal” was the statement that “appraisals produced by the computer assisted mass appraisal system prescribed or approved by the director of property valuation shall be deemed to be written appraisals for purposes of this act.” *House Substitute for Senate Bill 280 § 10 amending K.S.A. 79-504*

Parcel inspection – The reference to viewing and inspecting “17%” of the parcels in the county in one year meeting the requirements of the six year view and inspect requirements was removed. It is now clear that the county appraiser is to view and inspect every parcel once every six years starting in 2000. *House Substitute for Senate Bill 280 § 17 amending K.S.A. 2015 Supp. 79-1476*

Parcel splits – The county appraiser shall apportion the valuation among owners of tracts whenever a tract of land has been assessed and is thereafter divided into tracts owned by different persons and any one or more of such persons makes an application. *House Substitute for Senate Bill 280 § 8 amending K.S.A. 2015 Supp. 79-425a*

Budget

Blue Valley recreation commission – The Blue Valley recreation commission appointed by the Blue Valley unified school district number 229 shall submit its proposed budget to the board of education of the school district prior to adopting a budget. *House Substitute for Senate Bill 280 § 25 amending K.S.A. 2015 Supp. 12-1927*

Classification

Agricultural land – In any appeal from the reclassification of property classified as land devoted to agricultural use for the preceding year, the taxpayer’s classification of the property as land devoted to agricultural use shall be presumed to be valid and correct if the taxpayer provides an executed lease document or other documentation demonstrating a commitment to use the property for agricultural purposes, if no other actual use is evident. *House Substitute for Senate Bill 280 § 13 & 19 amending K.S.A. 2015 Supp. 79-1448 and 79-2005*

Agricultural land on residential parcels (mixed use) – Language was removed to clarify that if a parcel has land devoted to agricultural purposes and land used for suburban residential acreages, rural home sites or farm home sites, the county appraiser shall determine the amount of the parcel used for agricultural purposes and value it and assess it accordingly as land devoted to agricultural purposes. The county appraiser shall then determine the amount of the remaining land used for other purposes and value that land and assess it according to its use. In other words, the bill allows a mixed-use classification of residential and land devoted to agricultural use for a single parcel. *House Substitute for Senate Bill 280 § 17 amending K.S.A. 2015 Supp. 79-1476*

Bed and Breakfast Property – Classification of a bed and breakfast property has been amended to remove any requirements of residential use or partial use as a bed and breakfast but still maintains the residential classification. *House Substitute for Senate Bill 280 § 12 amending K.S.A. 2015 Supp. 79-1439*

Compliance

Commercial real property out of compliance – When a county fails to meet the minimum appraisal standards for commercial real property established by the official Kansas appraisal/sales ratio study conducted for the preceding year, the director of property valuation is required to perform, or to contract with an independent third party to perform, a market-based appraisal of no less than 1% of the commercial properties appraised by the computer-assisted mass-appraisal system within the county as a verification of the accuracy of such system. The properties shall be selected so to represent a sample of the commercial property types which failed to meet statistical compliance in the county. The property owner shall be allowed the opportunity to meet with the appraiser to offer pertinent data, and this appraisal will not be the official appraisal of the property. If the independent appraisal reveals a statistical deviation greater than 5% on more than 25% of the audited properties, then the director will perform additional audits in those counties and require corrective action necessary to ensure a fair and accurate appraisal. *House Substitute for Senate Bill 280 New § 22*

Failure to meet minimum appraisal standards – In counties which fail to meet the minimum standards for substantial compliance, the director of property valuation shall present the results of the sales ratio study to the board of county commissioners in an open meeting. The presentation shall include a summary of the number of appeals filed in the county and their outcomes. *House Substitute for Senate Bill 280 New § 24*

Exemption

Healthcare foundation airport – All property owned and primarily operated as an airport by a healthcare foundation exempt from federal income tax pursuant to I.R.C. Section 501(c)(3) is exempt from property tax. The provision commences January 1, 2016 and expires and has no effect on and after January 1, 2021. Application for exemption will need to be made to the state board of tax appeals. *House Substitute for Senate Bill 280 New § 1*

Senate Substitute for House Bill 2088:

Budget Approval (Property Tax Lid)

Senate Substitute for House Bill 2088, more commonly referred to as the property tax lid bill, focuses on the budget side of the property tax equation. This legislative summary is the division's effort to provide a general overview of the bill's content. Questions about budget preparations should be directed to the Municipal Services Team, Kansas Department of Administration at 785.296.3356 or 785.296.8083.

Senate Substitute for House Bill 2088, changes the tax calendar, enacts election requirements for cities and counties beginning January 1, 2017 for budget year 2018, and outlines two specific procedures for budget approval for 1) municipalities and 2) cities and counties. At the end of this summary is a tax calendar that reflects those changes and the new appeal procedure in House Substitute for Senate Bill 280 new section 23.

Budget Approval for Municipalities

Only a few changes were made to how municipalities are required to approve budgets. Those amendments made by Senate Substitute for House Bill 2088 will be underlined for emphasis.

K.S.A. 2015 Supp. 79-2925b required municipalities in preparing and approving budgets for the new year to not increase those budgets from the prior year more than the preceding years consumer price index for all urban consumers. However, nothing prohibits a municipality from increasing the amount to property tax to be levied if the municipality approves the proposed increase with a majority vote of the governing body by the adoption of a resolution and publishes its vote to approve the appropriation or budget including the increase in the official county newspaper.

Municipalities are defined as political subdivisions which levy property tax including townships, municipal universities, school districts, community colleges, drainage, fire, hospital and watershed districts, and other taxing units.

A municipality shall **not** include any taxing subdivision which receive \$1,000 or less in annual property tax revenues or any city or county.

This bill made only minor changes to the exceptions that allow municipalities to increase budgets without a vote of the governing body. Municipalities are required, in response to increases in total tangible property valuation, to reduce the amount of tax levied to the prior year's level, except for the following:

1. Inflation allowance based on the preceding years consumer price index for all urban consumers;
2. Valuation added from new improvements to real property;
3. Valuation added from **all** increased personal property;
4. Valuation added from property located within newly added jurisdictional territory;
5. Valuation added because property has changed in use.

Also excluded from the computation are:

1. property taxes that have previously been approved by voters,
2. taxes levied to pay principal and interest upon bonded indebtedness, temporary notes and no-fund warrants, and
3. taxes collected pursuant to the 21.5 mills (20 mills for school general fund and 1.5 mills for educational and institutional building fund) in state property tax levies. *Senate Substitute for House Bill 2088 § 5 amending K.S.A. 2015 Supp. 79-2925b*

Budget Approval for Cities and Counties (New Election Requirement)

On and after **January 1, 2017**, in the case of cities and counties any resolution approved by the governing body to increase property tax to fund any appropriation or budget in an amount exceeding that of the next preceding year as adjusted to reflect the preceding five year average consumer price index for all urban consumers (not less than zero), shall not become effective unless such resolution has been submitted to and approved by a majority of the qualified electors of the city or county voting at an election. The election:

- may be held at the next regularly scheduled election in August or November (K.S.A. 10-120);
- may be a mail ballot election (K.S.A. 25-431 et seq.);
- may be a special election called by the city or county;
- may be held more than once a year; and
- costs are the responsibility of the city or county holding the election.

For cities and counties, Senate Substitute for House Bill 2088 also contains two sets of conditions that can be factored into the budgets before a resolution approved by a governing board of a city or county requires an election. Those two lists, (1) and (2), are provided below.

- (1) Increased revenues, in the current year, that are produced and attributable to the taxation of:
 - (a) The construction of any new structures or improvements, or remodeling or renovation of any existing structures or improvement on real property. (Do not include ordinary maintenance or repair.);
 - (b) *all* increased personal property valuation;
 - (c) real property located within added jurisdictional territory;
 - (d) real property which has changed in use;
 - (e) expiration of any abatement of property from property tax (for example IRBX/EDX); or
 - (f) expiration of a tax increment financing district, rural housing incentive district, neighborhood revitalization area or any other similar property tax rebate or redirection program.
- (2) Increased property tax revenues that will be spent on:
 - (a) Bond, temporary notes, no fund warrants, state infrastructure loans and interest payments not exceeding the amount of ad valorem property taxes levied in support of such payments, and payments made to a public building commission and lease payment but only to the extent such payments were obligation that existed prior to July 1, 2016;
 - (b) payment of special assessments not exceeding the amount of ad valorem property taxes levied in support of such payments;
 - (c) court judgements or settlements of legal actions against the city or county and legal costs directly related to such judgements;
 - (d) expenditures of city or county funds that are specifically mandated by federal or state law with such mandates becoming effective on or after July 1 2015, and loss of funds from federal sources after January 1, 2017, where the city or county is contractually obligated to provide a service;
 - (e) expenses relating to a federal, state or local disaster or federal, state or local emergency, including, but not limited to, a financial emergency, declared by a federal or state official.

The board of county commissioners may request the governor to declare such disaster or emergency; or

- (f) increased costs above the consumer price index for law enforcement, fire protection or emergency medical services.

Also factored into the budget computations which do not require an election are:

- Any increased property tax revenues generated for law enforcement, fire protection or emergency medical services but not tax revenues used for the construction or remodeling of buildings.
- When property tax revenues levied by the city or county have declined:
 - In one or more of the next preceding three calendar years and the increase in funding from property tax revenue does not exceed the preceding three year average revenue adjusted by the previous year's consumer price index for all urban consumers; or
 - The increase in property tax to be levied is less than the change in the consumer price index **plus** loss of assessed value that has occurred as the result of legislative action, judicial action or a ruling by the board of tax appeals.
- Whenever the city or county is required by law to levy taxes for the financing of the budget of any political or governmental subdivision that is not authorized by law to levy taxes on its own behalf, and the governing board of any city or county is not authorized or empowered to modify or reduce the amount of taxes levied, the tax levies of the political subdivision shall not be included in or considered in computing the aggregate limitation upon the property tax levies of the city or county. *Senate Substitute for House Bill 2088 New § 6*

Mail Ballot - Elections for Cities and Counties

Senate Substitute for House Bill 2088 included guidelines for conducting an election using mail ballots. The city or county shall certify to the county clerk and county election officer for the county no later than July 1, that an election is necessary to approve the resolution. The election officer will set the election to be conducted in accordance with K.S.A. 25-431 et seq., on September 15 following notification. If September 15 is on a Sunday, the election will be the next business day. The county board of canvassers shall conduct a canvass of the election no later than the 5th day following the date of the election. *Senate Substitute for House Bill 2088 New § 7*

K.S.A. 2015 Supp. 25-432 was amended to allow mail ballot elections for the purpose of approving a resolution, to be held on the same date as another election. *Senate Substitute for House Bill 2088 § 8 amending K.S.A. 2015 Supp. 25-432*

The following calendar has been updated based on the provisions of House Substitute for Senate Bill 280 and Senate Substitute for House Bill 2088.

Real Property Deadlines

<u>Last day for:</u>	<u>Date</u>	<u>K.S.A.</u>
County to mail valuation notices	March 1	79-1460
Public Utility Companies to file property rendition	March 20	79-5a02
Taxpayers to file Equalization Appeal (30 days from date county mailed notice)	30 days	79-1448
Informal meeting with County Appraiser	May 15	79-1448
County Appraiser to provide final determination	May 20	79-1448
Taxpayer to file with board of tax appeals (30 days from date of informal decision)	Date varies	79-1606
OR Taxpayer to file single property appraisal with county appraiser (60 days from date county mailed notice)	60 days	
County appraiser to review/consider/send supplemental determination of value	15 days	2016 HSSB280,
County appraiser to provide single property appraisal/determination of value	90 days	New Sec. 23
Taxpayer to file with board of tax appeals (30 days from date of final determination of value)	30 days	
County Appraiser to certify values to County Clerk	June 1	79-1466
PVD to certify Public Utility values to County Clerk	June 1	79-5a27
County Clerk certifies abstract of value to Director of Property Valuation	July 15	79-1604

Personal Property Deadlines

<u>Last Day for:</u>	<u>Date</u>	<u>K.S.A.</u>
Taxpayers to file personal property rendition	March 15	79-306
Taxpayers to file oil and gas property rendition	April 1	79-332a
County to mail valuation notices	May 1	79-1460
Taxpayers to file Equalization Appeal	May 15	79-1448
Informal meeting with County Appraiser	Date varies	79-1448
County Appraiser to provide final determination	Date varies	79-1448
County Appraiser to certify values to County Clerk	June 1	79-1467
Hearing Officer/Panel to hold hearings	July 1	79-1606
Hearing Officer/Panel to issue order/decision	July 5	79-1606
Taxpayer to file with board of tax appeals (30 days from date of informal decision)	Date varies	79-1606
County Clerk certifies abstract of value to Director of Property Valuation	July 15	79-1604

Budget, Levy, and Tax Deadlines

<u>Last Day for:</u>	<u>Date</u>	<u>K.S.A.</u>
County Clerk to notify taxing districts of value for budget	June 15	2016 HB2088, Sec. 1
City/County to certify to County Clerk/election officer the need for election for budget increase using mail ballot to be held on September 15	July 1	2016 HB2088, New Sec. 7
Governing bodies certify budget to County Clerk (except if city/county election)	August 25	79-1801
City/County Budget Elections, if necessary:		
At regularly scheduled election	August	2016 HB2088,
Mail ballot election	September 15	New Sec. 6 & 7
Special election called by city/county	Date varies	
City/County certify budget to County Clerk if election held to increase budget	October 1	79-1801
County Clerk certifies tax roll to County Treasurer	November 1	79-1803
County Clerk certifies abstract of value, levy, and tax to Director of Property Valuation	November 15	79-1806a
Tax Statements sent by County Treasurer	December 15	79-2001
Tax Payments Due - Full or first half	December 20	79-2004 Real 79-2004a Personal
Tax Payment Due - Second half	May 10 of following yr	79-2004 Real 79-2004a Personal

