

Approved: February 25, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:08 a.m. on February 19, 1993 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Feleciano Jr., Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Bill Edds, Revisor of Statutes
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Committee Secretary

Conferees appearing before the committee: Gordon Garrett, Commercial Property Association
Anne Smith, Kansas Association of Counties
Nancy Hempin, Douglas County Treasurer and
President, Kansas County Treasurer's Association
Leon White, County Commission, Butler County

Others attending: See attached list

The meeting was opened with the hearing on **SB 264**.

SB 264--Interest payable on refunds of protested property taxes

Gordon Garrett, Commercial Property Association, appeared as a proponent of **SB 264**. He said they supported this bill because it is a stroke of fairness in the appraisal process. Commercial property owners who have paid their taxes under protest and if the appeal is not settled for a long period of time, the owners are out the amount of taxes paid in for this long period. Interest should be paid on the refund when the case is settled. This may help to settle some of these cases in a shorter period of time. (Attachment 1)

Several questions were asked by the committee regarding how the money would be recovered from the local units and if the money should not be spent until the protest is settled.

Comments from Jerry McCoy, Sedgwick County Treasurer, and Gerry Ray, Johnson County Board of Commissioners, were passed to the committee. Their comments were in opposition to **SB 264**. (Attachments 2 and 3)

Anne Smith, Kansas Association of Counties, appeared with some concerns about **SB 264**. The first was how the monies would be refunded procedurally and how the counties are to budget for the potential of this interest money being refunded. She also mentioned the percent of interest being higher than what is being paid at this time. (Attachment 4)

Nancy Hempen, Douglas County Treasurer and President, Kansas County Treasurer's Association, spoke to answer several questions which were discussed. She explained that it would help if the protests were made in the spring when the values change rather than waiting until the tax statements are received. She said the counties would have to earmark the money that is under protest, because the smaller entities need the money, or the tax payers would end up paying for the protest funds. From her testimony, she asked for clarification and the intent of the proposed legislation. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:08 a.m. on February 19, 1993.

The hearing was closed on **SB 264**.

The hearing and discussion on **SB 194** was opened.

SB 194--Countywide sales tax to finance facilities in certain counties

Leon White, County Commissioner, Butler County, appeared as a proponent for **SB 194**. He read from a prepared statement. (Attachment 6) He said Butler County is seeking the option of imposing a sales tax to finance certain county building improvements. The only change in the law is to amend KSA 1992 Supplement 12-187 to add Butler County. He said the increase in the sales tax would have to be voted on by the county. Also the sales tax would be in effect only as long as it takes to raise the necessary funds to pay for the improvements defined in the ballot question. Butler County is one of the counties in the state that is experiencing growth and he said these demands should include the option for elected officials to present optional financing methods before the people of the county so as not to depend upon the property tax too heavily. He urged the committee to pass **SB 194** favorably

The hearing on **SB 194** was closed.

The chairperson asked if the committee was ready to take action on this bill.

Senator Corbin moved to pass **SB 194** favorably. The motion was seconded by Senator Martin. The motion carried.

The attention of the committee was turned to **SB 252**.

Staff reported on a proposed amendment to **SB 252** by adding to line 27, after the comma, the words "in accordance with the administrative procedures act".

Senator Tiahrt moved the amendment to **SB 252** be adding to line 27, the words "in accordance with the administrative procedures act". The motion was seconded by Senator Sallee. Motion carried.

Senator Tiahrt moved to pass **SB 252** favorably as amended. The motion was seconded by Senator Bond. The motion carried.

The meeting adjourned at 11:55 a.m.

The next meeting is scheduled for February 22, 1993.

DATE: Feb 19, 1993

[illegible]

CPAK

Commercial Property
Association of Kansas

Gordon T. Garrett
Vice President -
Legal Counsel

February 19, 1993

Board of Directors

Randy Austin
Fairlawn Plaza
Topeka

Tim Earnest
Melvin Simon Co.
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Greg Erbert
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Dan Tucker
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Kansas City, KS

Larry Winn
Attorney
Overland Park

TO: SENATE COMMITTEE ON ASSESSMENT & TAXATION

FROM: GORDON GARRETT - V.P. AND LEGAL COUNSEL -

RE: SENATE BILL #264

Madame Chair and members of the Committee, I'm Gordon Garrett and I represent the Commercial Property Association of Kansas.

We wish to support Senate Bill #264 as being a stroke of fairness in the appraisal process and probably long overdue.

Our support of this bill is not a criticism of appraisers in general or any one appraiser in particular. Most county appraisers are competent, intelligent, and professional. This bill is simply the logical and fair thing to do.

We feel there are 2 compelling reasons to support this bill.

(1) The appeals process is now backlogged for years. Commercial Property owners who have property under appeal and who will eventually get a refund, have been deprived of a significant amount of interest on the amount of tax money that has already been paid in.

(2) Most importantly, as the system now stands an appraiser and their employer have nothing to lose by making an error on the high side. There is always the chance the taxpayer will ignore it or become fatigued with the appeals process, let alone the fact that if the taxpayer gets a refund the local government has used the money interest free.

Even though there are safeguards in the system, without interest on refunds there may be too much of a temptation to error on the high side of an appraisal.

The argument against this bill is that appraisers and counties will say that the biggest delays in the appeal process have to do with the Board of Tax Appeals and is not their fault. This is a valid observation. However if #264 is passed it will give Counties a

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reason to help speed up the process and to follow up on all appeals, as they are the party that will be liable for the interest on any refund.

Thank you for the opportunity to speak and I will stand for any questions.



SEDGWICK COUNTY, KANSAS

TREASURER

Jerry McCoy
SUITE 107

COUNTY COURTHOUSE, WICHITA, KANSAS

MAILING ADDRESS: P.O. BOX 2909, WICHITA, KANSAS 67201-2909

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February 18, 1993

The Hon. Audrey Langworthy, Chairperson
and Members of Senate Assessment & Taxation Committee
State Capitol, Rm. 143N
Topeka, KS 66612

RE: SB 264

Dear Chair Langworthy,

I am strongly opposed to SB 264 and its provisions for refunding interest on protested taxes for the following reasons:

- 1) Sec 1, Part k apparently orders refund of interest on protested taxes without regard to the final amount of taxes adjudged to be correct. Could result in interest refund on taxes not actually paid.
- 2) Taxing districts will be penalized for lengthy appeal process by BOTa. With a potential 3-year delay in BOTa decisions, a \$100,000 refund could cost a taxing district \$130,000.
- 3) Taxing districts would have to budget for interest refunds, thereby increasing their delinquency rate and reducing their taxing district credit worthiness while increasing the cost of borrowed funds (bonds, etc.)
- 4) Would require 1 additional person in treasurer's office at an annual cost of \$30,000 (wages/benefits) just to calculate refunds. Another example of an unfunded State mandate.

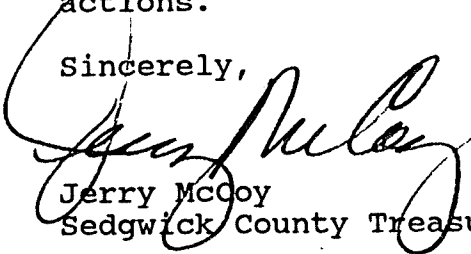
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- 5) Taxpayer already has sufficient ability to protest when real-estate valuation notices are mailed in Spring. This is when they should be encouraged to work out differences instead of waiting until tax statements are made.

The changes this legislation provides is well intended, but it is bad legislation. Appraisals are made by counties on a good faith basis but many tax protests are the result of uninformed taxpayer opinion.

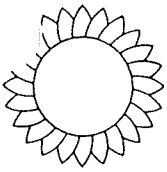
A better solution may be to provide additional resources and increase efforts to reduce the amount of time a taxpayer must wait for BOTA results. All tax protests involving Homesteads should be given priority and resolved within 6 months of the filing a tax protest. The ability to file a tax protest should be limited to 1 per tax year, not one for 1st half payment and a second for 2nd half. Failure to respond to a valuation change notice within a reasonable period of time should preclude further tax protest actions.

Sincerely,



Jerry McCoy
Sedgwick County Treasurer

JM/jq



Johnson County
Kansas

FEBRUARY 19, 1993

SENATE ASSESSMENT AND TAXATION COMMITTEE

HEARING ON SENATE BILL 264

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR
JOHNSON COUNTY BOARD OF COMMISSIONERS

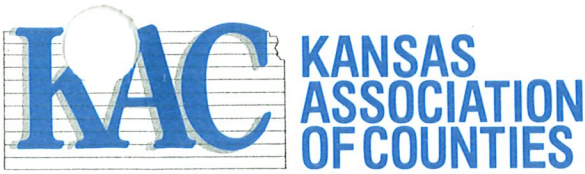
Madam Chairman, members of the Committee, the Johnson County Board of Commissioners opposes Senate Bill 264. The bill would require that counties pay interest on taxes paid under protest when the Board of Tax Appeals rules in favor of the taxpayer.

Johnson County's opposition is based on the following reasons:

1. The bill does not stipulate that interest will be on only the amount of the over payment. This can result in interest being due on the full amount when the major portion was a valid tax.
2. Considering the backlog that has been experienced by the Board of Tax Appeals in the past several years, the county could be libel for the interest payments for a number of years.
3. The 10% rate of interest is several percentage points higher than the market rate that the county will be earning.

Although this is an idea that at first seems to be a equitable approach, the County is obligated to look at it from the point of view of how it will affect the overall welfare of the government and the taxpayers who support it. In this time of revenue problems being encountered by governmental organizations, the Johnson County Commissioners urge this Committee to carefully study the impact of this or any legislation that will have a negative revenue impact on local government. The Commission requests that Senate Bill 264 not be recommended for passage.

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attachment 3-1*



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John T. Torbert, CAE

TO: Senate Assessment and Taxation Committee
Chairman Audrey Langworthy

FROM: Anne Smith
Director of Legislation

DATE: February 19, 1993

RE: SB 264

The Kansas Association of Counties has some concerns with SB 264.

The first concern pertains to how the interest monies will be refunded procedurally. Our county treasurers distribute revenues not only to counties but also to cities and schools. It will be difficult to backtrack and get the refund money from all of these entities. Administratively, the process of refunding this interest money could prove to be extremely complex.

Another problem concerns how the counties are to budget for the potential of this interest money being refunded. The uncertainty of whether or not the county will have to refund the interest on protested property taxes could be very troublesome and result in a county never knowing for sure when their budgets will be depleted. The counties would need some additional authority to levy in their budgets for this unknown expense.

Thank you for your consideration of our concerns. Douglas County Treasurer Nancy Hempen is here to help answer questions.

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KANSAS COUNTY TREASURERS' ASSOCIATION

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JOANN HAMILTON
OSAGE COUNTY
Secretary

KEVIN JONES
OTTAWA COUNTY
Treasurer

Feb. 18, 1993

TO: Senate Committee on Assessment and Taxation

FROM: Nancy Hempen, Douglas County Treasurer and President
of the Kansas County Treasurer's Association.

RE: Senate Bill 264

Please accept these comments as concerns to the clarification and the intent of the proposed legislation.

Under current law, refunds on protested taxes are made after each level of hearing. Is the intent of this legislation to refund interest on a protested tax that is adjusted at the State Board of Tax Appeals level or to include all previous levels of refunds?

If the refund of interest is for all previous levels, is it calculated from the payment date/due date or from date the initial tax refund was made?

Operating under a cash basis law, taxing districts will have to budget and levy for the potential refund of interest that was never included for collection which in turn could cost ALL taxpayers more money.

If governing bodies are forced to use no fund warrants, taxpayers will pay the cost of the legal publication (twice) as well as a levy for the no fund warrants plus interest (K.S.A. 10-1009).

The interest rate of 10% is greater than the rate of return that local entities are receiving. A compromise would be to use a rate equal to the published investment rate at the time of the refund.

Thank you for allowing me the time to express these concerns.

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TESTIMONY OF LEON WHITE, CHAIRMAN
BUTLER COUNTY BOARD OF COMMISSIONERS

Regarding Senate Bill 194

February 19, 1993

Senator Langworthy and members of the Assessment and Taxation Committee, thank you for the opportunity to appear before you today regarding Senate Bill 194. My name is Leon White, I am Chairman of the Butler County Board of Commissioners. With me today is ~~Cindy Ball, County Commissioner from Andover,~~ and David Yearout, the Butler County Planner.

Senate Bill 194 proposes to amend K.S.A. 1992 Supplement 12-187 to provide Butler County the option of seeking the imposition of countywide retailers' sales taxes to finance certain county building improvements. The proposed amendment simply adds Butler County to the list of six existing counties with this special funding option and clarifies that the monies raised would be available for those improvements to county buildings and facilities that are determined locally to be needed. This is the only change we ask to the existing law. To this end, the Butler County Board of Commissioners asks that you approve this amendment and submit it to the full Senate with a strong recommendation for passage.

Leon White Testimony

We feel it is very important to stress a few relevant facts for your use in your deliberations. First and foremost, the imposition of the retailers' sales tax cannot occur unless and until the voters of Butler County approve it. It is necessary that we identify the scope and estimated costs of any proposed improvements before the question is placed on the ballot. Finally, and also extremely important, the sales tax would be in effect only for as long as it took to raise the necessary funds to pay for the improvements defined in the ballot question. All of these limitations are written into the existing law and are felt to be strong reasons for the successful use of this funding option in many of those counties that are presently authorized to use this law.

Butler County's needs for improvements to its buildings and facilities are great. The existing Courthouse was built in 1908 and does not meet either current Americans with Disabilities Act standards or many of the current building and safety code standards. The Butler County Judicial Building, including the existing County Jail, was built in 1971, but it too fails to meet many of the current standards. Butler County has made certain modifications to these facilities through the years to minimize some of the deficiencies; but it is evident that a more comprehensive and thorough renovation is necessary to resolve the problems and provide the needed office and facility space.

Leon White Testimony

In addition, Butler County will need to provide additional office and facility space for our growing County. This may include a new jail, judicial facilities, juvenile detention facilities, administrative offices and meeting and storage space. All these needs must be addressed by our County's citizens in the coming years. The requested amendment in Senate Bill 194 simply provides Butler County with another optional funding source to meet these needs based on the wishes of our citizens.

Butler County is one of only a few counties within the State of Kansas that is experiencing growth. Butler County's rate of growth is one of the highest in the State, and we continue to realize the growing demands this new population places on local government. Our abilities to respond to these demands should include the availability of all funding alternatives possible to allow the local elected officials to present optional financing methods before the local electorate so as not to depend on the property tax too heavily. During public meetings on a proposed improvement project last year, the public continually expressed more support for use of a sales tax as a method to finance the project, as opposed to a property tax. Senate Bill 194 provides that additional flexibility to Butler County in addressing its building and office space needs.

Leon White Testimony

The Butler County Board of Commissioners unanimously supports the passage of Senate Bill 194 and requests this Committee favorably pass the bill as introduced and recommend its passage and approval to the Senate, House and Governor.

Thank you for the opportunity to testify before you today. I'll be happy to respond to any questions you may have.