

Approved: 2/15/94
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Keith Roe at 9:00 a.m. on February 11, 1994 in Room 519-S of the Capitol.

All members were present except: Representative Grotewiel, excused
Representative Larkin, excused
Representative Lowther, excused

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

Conferees appearing before the committee:
J. Michael Grear - Kiowa County Attorney
Philip Elwood - Goodell, Stratton, Edmonds & Palmer
Charles Ashley - Pratt Regional Medical Center

Others attending: See attached list

The minutes of February 9, 1994, were approved as read.

Chairperson Roe opened the hearing on HB 2774.

HB 2774 - Property tax exemption for leased property used for local health officer purposes.

J. Michael Grear, Kiowa County Attorney, testified in support of HB 2774 and said it will provide a valuable tool to rural Kansas counties to retain and recruit medical doctors. Mr. Grear also said the proposed new language deals directly with an ongoing problem in Kiowa County (Attachment 1).

Philip Elwood, Goodell, Stratton, Edmonds & Palmer, testified that he supports the concept of HB 2774 but is concerned for small communities that, in putting together packages to attract and keep physicians, find themselves with an additional economic burden of property taxes. Mr. Elwood said the Legislature could send a clear signal to BOTa that physician clinics are to be property tax exempt (Attachment 2).

Charles Ashley, Pratt Regional Medical Center, testified on HB 2774 and explained the problems faced by Pratt County officials when they purchased a building to house a federally certified rural health clinic. Mr. Ashley said he believes the determination of taxability should be based on the activity taking place in the building on a day to day basis (Attachment 3).

Written testimony in support of HB 2774 was submitted by the Edwards County Clerk and the Edwards County Hospital (Attachment 4).

Chairperson Roe concluded the hearing on HB 2774.

Representative Adkins requested information relating to HB 2888, on the impact of the motor vehicle tax plan on local units, especially those in Johnson County.

The meeting adjourned at 9:40 a.m.
The next meeting is scheduled for February 15, 1994.

DATE 2/11/84

REPRESENTING

[illegible]

J. MICHAEL GREAR

KIOWA COUNTY ATTORNEY

211 EAST FLORIDA

GREENSBURG, KANSAS 67054

(316) 723-2721

February 10, 1994

The House Committee on Taxation

I am strongly in favor of HB2774 because it will provide a valuable tool to rural Kansas counties to retain and recruit medical doctors. The proposed new language deals directly with an ongoing problem in Kiowa County.

In 1992, two of the three medical doctors in Kiowa County retired. The remaining doctor, Gene Cannata, had no interest in purchasing the existing clinic building from the two retired doctors. He was overworked and had no desire to assume financial and management responsibilities for the building. It became imperative at that time to take positive actions to retain Dr. Cannata, as well as to attract additional doctors to the county. The clinic building was bought pursuant to contract, and in turn was leased to Dr. Cannata on the following terms: \$500 rent a month for each doctor, and \$100 rent a month for each physician assistant practicing at the clinic. This is a subsidized lease arrangement because the county's monthly cost is \$1,720.00, not including the cost of the building's maintenance and improvements. This arrangement has led to Kiowa County presently having three (3) doctors and one (1) physician assistant practicing in the clinic.

Despite the obvious benefits gained by our county's purchase of the clinic, present Kansas tax law penalizes the action. In addition to the money lost each month on the difference between costs and rent, the county is responsible for the real property tax on the building. Pursuant to an administrative hearing requested by Kiowa County, the Kansas Board of Tax Appeals ruled that K.S.A. 79-201a (the subject of HB2774) does not apply to the clinic because use of the building for medical purposes is not an "exclusive" county or state governmental purpose as required by the law. Further, the Board indicated that the granting of exceptions to the tax laws was the function of the Legislature, not an administrative agency.

I would urge the creation of an exemption for county-owned medical clinics. Larger communities such as Topeka, Wichita and Salina do not need to directly support their doctors. Higher

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Attachment 1

medicare reimbursement rates, more efficient coordination of services, and multiple doctors (which reduces on-call time), makes larger towns more attractive places for doctors to practice. Rural communities must take drastic actions in order to attract and retain doctors. The tax exemption contained in HB2774 would assist rural counties in providing a place for prospective doctors to practice, an important selling point in doctor recruitment.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Grear", written over a horizontal line.

MICHAEL GREAR
Kiowa County Attorney

JMG/cmw

TESTIMONY IN SUPPORT
OF
HOUSE BILL #2774
PRESENTED BY H. PHILIP ELWOOD
OF
GOODELL, STRATTON, EDMONDS & PALMER
February 11, 1994

A. In the current health care environment the recruitment of physicians to provide medical care and treatment in rural communities is a major challenge faced by governmental and not-for-profit hospitals throughout Kansas.

1. It is necessary to offer physicians many inducements to locate or relocate in rural communities.

2. The provision of suitable clinic office space has become an expected part of the recruitment package.

3. The governmental and not-for-profit hospitals located in rural communities become the focal point of the effort to recruit physicians because they are, or are perceived to be, the leader in the provision of medical care and treatment within the community.

B. Kansas law already recognizes that the provision of clinic space is part of the hospital purpose. See K.S.A. 19-4601 for the definition of a hospital as applied to county hospital. The district hospital law is to the same effect.

1. The Kansas courts are beginning to recognize that the provision of clinic space is, in fact, a governmental or proprietary function as defined by K.S.A. 79-201(a) even without Amendment. See Meade Hospital District vs. Kansas Board of Tax Appeals, Shawnee County District Court, 91CV931 decision June 16, 1993.

2. This decision was reached at considerable length and significant expense. At present the decisions are not uniform so that one county may gain an exemption for a physician clinic and another may not.

C. Some form of amendment to this statute would be very helpful in giving the Board of Tax Appeals and others more specific guidance with respect to Legislative intent in this area. Proposed amendment goes part way; it should certainly be considered favorably, though it may be possible to make it more uniform in its application without the artifice of requiring the local health officer to be located within a particular clinic facility in order to clothe that facility with the mantle of property tax exemption.

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Attachment 2

House of Representatives
Taxation Committee

February 11, 1994

RE: HB 2774

Early in 1993, a medical clinic building located in Pratt became available for sale, due to the owner/physicians retirement from private practice. Pratt County was interested in buying the clinic to house the county health department. Pratt Regional Medical Center was interested in the building to operate a federally certified rural health clinic. In a cooperative effort, Pratt Regional Medical Center purchased the clinic building agreeing to share the building with Pratt County and the County Health Department under a lease agreement with Pratt County. Had either of these entities purchased the building solely for its own purposes, the building would have been exempt from property tax. However, since both entities use the building under an arrangement of one party leasing from the other, the property has been judged to be used for the purpose of generating rental income and became taxable. I believe that the determination of taxability should be based on the activity taking place in the building on a day to day basis.

The Kansas Department of Health and Environment published a report identifying Pratt County as one of the 52 counties in Kansas critically underserved for primary care practitioners. Pratt County also is designated as a federal Health Personnel Shortage Area (HPSA). Along with many other counties in Kansas, Pratt County has found it a difficult challenge to recruit and retain physicians in Pratt.

In February of this year, a medical office building being built on the Pratt Regional Medical Center campus will be completed. This building is owned by Pratt County, financed by property taxes collected over the years, and was built to help Pratt County recruit and retain physicians to Pratt. Pratt County is assessing itself property taxes on this building because recruited physicians will rent office space there. This building was built to provide a place for recruited physicians to practice medicine, not to generate rental income. It does not seem reasonable to collect property tax on a building financed with property taxes.

Thank you for this opportunity.

Charles L. Ashley, FHFMA
Executive Director of Professional Services
Pratt Regional Medical Center

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Attachment 3

EDWARDS COUNTY CLERK

PAM MEADOWS

EDWARDS COUNTY COURTHOUSE
KINSLEY, KANSAS 67547
PH# 316-659-3121
FAX# 316-659-2583

February 10, 1993

Representative Keith Roe
State Capitol Building Room 170 W
Topeka, Kansas 66612

Dear Representative Roe:

We strongly support the passage of House Bill No. 2774 concerning the tax exemption on real property leased or owned by the county for the purpose of providing office space needed to perform the duties of the local health officer even if it is used for a non-exempt health care provider purpose.

Edwards County owns a 50 bed rural hospital in south central Kansas. This facility was under leased management until 1989. Upon the termination of the lease agreement, Edwards County Commissioners struggled to keep the facility in operation. They were granted no-fund warrants by the State Board of Tax Appeals and they appointed a seven member Board of Trustee to operate the hospital.

The previous leasing firm had built a new medial clinic adjacent to the hospital in 1985. This four year old structure became the property of Edwards County when the lease management of the hospital was terminated. This medical clinic remains on the tax rolls even though it is county owned and operated.

Edwards County continues to struggle to replace our retiring doctors. With only one doctor our county is currently critically underserved. This medical clinic is one "drawing card" used in our efforts of doctor recruitment. The the annual property taxes in excess of \$5,000.00 on the clinic are a financial burden to our struggling rural hospital. This building has sat empty since the latter part of 1992. The 1993 property taxes had to be paid by the County's General Fund.

We urge you to support this legislation. This clinic building represents the hopes of many of our citizens in securing future health care in Edwards County. Please help us by removing this tax expense which Edwards County or the Edwards County Hospital are paying with other tax dollars.

Sincerely,

*Pam Meadows*Pam Meadows
Edwards County Clerk*Delores Wiedemann*Delores Wiedemann
Edwards County Hospital
Asst. Administrator*2/11/94*
House Taxation Cmte
Attachment 4