

Approved: Feb 14, 1994
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 10, 1994 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee, Senator Wisdom

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: Senator Tim Emert
Senator Carolyn Tillotson
Charles Gregor, Executive Director, Leavenworth-Lansing Area Chamber of Commerce
Representative Kenny A. Wilk
David Cunningham, Director, Property Valuation Division
Gayle Landoll, County Clerks' Association

Others attending: See attached list

APPROVAL OF MINUTES

Senator Tiahrt moved to approve the minutes of February 9, 1994. The motion was seconded by Senator Martin. The motion carried.

INTRODUCTION OF BILLS

Senator Tim Emert requested the introduction of a bill which concerns the inheritance act and a mechanism to require the filing of a tax on checking and savings accounts by decedents.

Senator Martin moved the introduction of this bill. The motion was seconded by Senator Sallee. The motion carried.

HB 2623--TAX LEVY COMPUTATION EXCLUSIVE OF LATE FILING PENALTIES

Senator Carolyn Tillotson introduced Charles Gregor, Executive Director, Leavenworth-Lansing Area Chamber of Commerce.

Mr. Gregor spoke about the portion, new Section 2, of the bill that will permit a Board of County Commissioners of any county to waive penalties and interest imposed as a result of discovery in 1993 and 1994 of tangible personal property which has been omitted from the tax roles or the value of which has been under reported. (Attachment 1) He explained the problem which has occurred in his area and gave an example. He said it is a drastic change in applied standards. He urged support of SB 2623.

There were questions from the committee. Mr. Gregor said this bill gives the businesses a year to understand the fiscal implication of the state law and to get rid of the equipment upon which they are being taxed. He was asked why this is limited to 1993-1994 and he said it is a one time problem. This professional auditing service is new and they have been advertising statewide. They are getting paid on a contingency basis so the legislature is going to see a lot more of this across the state.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:08 a.m. on February 10, 1994.

Representative Kenny A. Wilk said he would like to remind the committee that the penalty fee of 100 per cent is quite onerous. It is a real problem in Leavenworth county and this is an attempt to allow the county commissioners to grant the waiver.

David Cunningham, Director, Property Valuation Division, said he was in support of SB 2623 although he said he was not taking a position on new Section 2. (Attachment 2) This bill originated out of the working task force this summer. It excludes from the tax base penalties added for the untimely filing of the personal property rendition. Budgets are usually calculated on the base including the penalty and if that has been abated there is a shortfall of revenue.

Mr. Cunningham was asked by committee members if the counties have been operating in violation of the constitution. He said the counties have not been focusing on the commercial personal property tax, they have been focusing on the real estate side. He said Shawnee County has quite an extensive form to fill out but it has been voluntary reporting. He is now in the process of hiring staff who have the expertise to assist the counties. He also said he thinks it will be a statewide problem. The comment was made that an effort should be made to define "used" and "usable".

Senator Langworthy announced there was testimony from Larry Clark, Kansas County Appraisers' Association on HB 2622, HB 2623 and HB 2624. (Attachment 3)

The hearing was closed on HB 2623.

HB 2622--ABATEMENT OF PERSONAL PROPERTY VALUES

Gayle Landoll, County Clerk's Legislative Committee, asked for support of HB 2622. (Attachment 4) She said it would cancel the tax when the valuation is equivalent to a \$5 tax bill. This would enable the County Clerks to determine the tax levies based on the actual valuation subject to taxation.

David Cunningham, Director, Property Valuation Division, reported this bill also came out of the working task force. It abates the value associated with five dollar tax bills. He said it is not economically feasible to send and collect tax bills for five dollars or less. However, under current law the value generating the tax is left on the books. He said he is in support of SB 2622.

The hearing was closed on HB 2622.

HB 2624--PROPERTY TAX EXEMPTION REQUEST FOR GOVERNMENTAL RIGHTS-OF-WAY NOT REQUIRED.

David Cunningham, Director, Property Valuation Division, said this bill also came out of the working task force. It is a clean up bill and would allow the appraiser to remove governmental right-of-way properties from the appraisal/tax roles without an application to and an order from the State Board of Tax Appeals.

Senator Tiahrt moved to pass HB 2624 favorably. The motion was seconded by Senator Martin. The motion carried.

Senator Bond moved to amend HB 2622 in line 16 to raise the amount from \$5 to \$10 and pass the bill favorably. The motion was seconded by Senator Sallee. The motion carried.

Senator Langworthy announced the meeting of the subcommittee on SB 541 and SB 542 will meet this afternoon at 3:30 p.m. in the west lounge.

The meeting adjourned at 11:55 a.m.

The next meeting is scheduled for February 14, 1994.

DATE: Thursday, February 10, 1997

[illegible]

Madame Chairman, Members of the Committee:

Thank you for the opportunity to address you on this bill, and specifically that portion of the bill that will permit a Board of County Commissioners of any county to waive penalties and interest imposed as a result of discovery in 1993 and 1994 of tangible personal property which has been omitted from the tax roles or the value of which has been underreported.

This provision of the bill is critical in that it offers a way to prevent undue hardship to, or even the destruction of, many small businesses that will be, or have been, subject to audit of personal property by virtue of the state requirement for such audits.

Leavenworth County has entered into a contract with a professional auditor to conduct an audit of all businesses within the county. I suspect that many other counties will do the same or something similar, due to insufficient personnel strength in county appraiser's offices and the lack of experience and expertise in evaluating and appraising the wide variety of property subject to audit.

This has been the case in Leavenworth County, which entered into a contract with a professional auditor that provides a fixed fee per audit, as well as contingent audit fees equal to 10% of audit revenue collections produced after appeals and protests. This contract arrangement has produced a most zealous and detailed audit of businesses, involving a very strict interpretation and application of state property tax law.

*Senate Assess & Tax
February 10, 1994
attach 1-1*

Please allow me to provide an example of the impact of this radical change of tax law enforcement standard. A small manufacturing firm bought an very specialized and expensive piece of equipment 65 years ago. The cost was \$30,000. All appropriate taxes were paid. The machinery was used for 30 years. 35 years ago, in disrepair and overcome by new technologies and materials, it was relegated to a basement corner, junk, with no salvage value that would approach the cost and trouble of removing it and throwing it out. Today, that piece of junk, long forgotten in the corner of the basement, is valued by audit at 20% of its original cost, \$6,000, and full taxes on that valuation, plus 100% penalty and interest, for the prior three years, is applied and due.

The impact of such a change in standards of tax law enforcement is terribly damaging, even destructive, to many of our businesses. This bill will allow local government, the Board of County Commissioners, to apply its ^{is} discretion to individual cases, and forgive the penalties and interest due on back taxes resulting from the audit process. This is not intended to protect anyone who has intentionally been avoiding paying their legitimate, full share of property taxes. It does however, offer protection to those who have honestly and concientiously been paying what they considered their full tax obligation and who now find that they face severe financial hardship, if not ruin.

Louis Klemp statement.

ECONOMIC IMPACT - JOBS - TAX BASE

SETBACK FOR ECON. DEV. EFFORTS, WASTING THOSE EFFORTS AND RESOURCES, PUBLIC & PRIVATE,
THAT HAVE BEEN DEVOTED TO BRING NEW BUSINESSES TO LV. COUNTY, KANSAS

It has also revealed an ignorance of those laws on the part of businesses, particularly small businesses, the professionals, including some accountants, who advise those businesses, and even on the part of the county appraiser's office itself. Many businesses, for example, have in good faith, applied federal guidelines on depreciation in reporting property, both to the federal government and the county.

The audit process has produced a very sudden and traumatic change in the standard of application of business property tax law, a change that has come without warning to our small businesses and manufacturers who were confident they had been paying all applicable personal property taxes and who entered the audit process with no real apprehension. These businesses have been paying property taxes based on a county-wide standard that has existed for decades, a standard thought to be in full compliance with law, a standard accepted by the county appraiser's office; indeed, over the decades, the county appraiser's office has been a major player in establishing that standard.

Our small businesses are now very fearful. I have met with business people who are close to panic. They are bewildered. They are aware of what this sudden change in standard has produced in some businesses already subjected to audit and the onerous costs associated with the results of audits that go back three years and carry a penalty of 100% plus interest.

Charlie Gregorworth
Exec. Dir. Leavenworth Area Chamber of Commerce

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



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Department of Revenue
Division of Property Valuation

MEMORANDUM

To: Senator Audrey Langworthy, Chair
Senate Assessment and Taxation Committee

From: David C. Cunningham, Director, *DCC*
Division of Property Valuation

Date: February 9, 1994

Subject: House Bills 2622, 2623 and 2624

Thank you for the opportunity to appear in support of House Bills 2622, 2623 and 2624. These Bills are more of a technical nature in that they do not change or affect any tax policy issues. These Bills will make the appraiser's job easier, clean up the appraisal roles and assist local governmental entities with right-of-way exemptions.

H. B. 2622

Abate value associated with five dollar tax bills. It is not economically feasible to send and collect tax bills for five dollars or less; however, under current law the value generating the tax is left on the books when the taxes are abated. This does not allow the county clerk to balance the appraisal role with the tax roll. A more appropriate solution is to abate the value associated with the five dollar or less tax bill thereby eliminating the record keeping problem.

H. B. 2623

Exclude from the tax base penalties added for the untimely filing of the personal property rendition. Taxpayers who file their personal

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attach 2-1

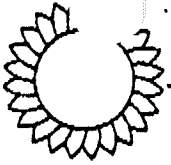
Senator Audrey Langworthy, Chair
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property renditions late are assessed a penalty which currently becomes part of the counties' tax base. The taxpayer may petition the State Board of Tax Appeals to have all or a portion of the penalty abated. Currently, the county has no ability to adjust the tax base for this change and that results in a potential shortfall of revenue because budgets are calculated on the base including the penalty that has been abated in some amount.

H. B. 2624

Allow the appraiser to remove governmental right-of-way properties from the appraisal/tax roles without an application to and order from the State Board of Tax Appeals. This type of legislation has been adopted for properties acquired by the Kansas Department of Transportation; however, local units of government were not addressed. This change will save both the counties and the state board time and money.

Once again, thank you for the time to testify on these Bills. If there are questions, I would be pleased to respond.



Johnson County
Kansas

Office of the County Appraiser

February 9, 1994

Senator Audrey Langworthy, Chair
Senate Assessment and Taxation Committee
300 SW 10th Ave Room # 143-N
Topeka, Ks 66612-1504

Dear Senator Langworthy:

The Kansas County Appraisers Association supports the passage of House Bills 2622, 2623 and 2624. Attached to this letter is a copy of the testimony given during the initial hearings on those bills in the House Taxation Committee.

A scheduling conflict has kept me from appearing personally to testify, but my testimony would be no different than what was presented in the earlier hearing.

Sincerely,

Larry J. Clark, Chairman
Kansas County Appraisers Association
Legislative Committee

Senate Assess + Tax
February 10, 1994
attach 3-1

HOUSE BILL 2622

HOUSE COMMITTEE ON TAXATION

JANUARY 19, 1994

Mr. Chairman and members of the House Committee on Taxation, my name is Larry Clark and I am here representing the Kansas County Appraisers' Association in support of passage of House Bill 2622.

During the 1992 session, this legislature passed a bill which required the county treasurer to cancel any personal property tax bill or a tax bill on the royalty interest of an oil or gas well which is less than five dollars (\$5). That created a situation in which levied revenues did not equal revenues actually received. When that occurs taxing jurisdictions must make adjustments up to and including raising levies in the following year to account for the lost revenue, which forces everyone's taxes to increase.

Appraisers are involved in this issue because this proposal involves appraisers in a possible solution. What is proposed is that each time an appraisal is calculated on personal and oil or gas property, a second calculation be made of the possible tax liability using the previous tax year's mill rate. If the resulting estimated tax bill is less than \$5, the appraiser does not include the value of that property on the certified appraisal roll. By doing so, that property value is not used to set levies and counties may avoid cancelling tax bills later, after levies are set.

This could be accomplished without a great deal of extra work and may be done as a part of the program which calculates value in those counties using such programs.

HOUSE BILL 2623

HOUSE COMMITTEE ON TAXATION

JANUARY 19, 1994

Mr. Chairman and members of the House Committee on Taxation, my name is Larry Clark and I am here representing the Kansas County Appraisers' Association in support of passage of House Bill 2623.

Much like House Bill 2622 the involvement of appraisers in this issue is advisory. Appraisers are required under current law to assess prescribed penalties for the late filing of personal property renditions. Property owners, on the other hand, may and in many cases do, receive relief from some or all of those penalties through a grievance filed with the State Board of Tax Appeals.

The problem which this bill seeks to address is that the grievance procedure is not typically accomplished until budgets and levies are set, based on values which include the penalties. It is unusual for the State Board of Tax Appeals to completely eliminate a penalty, but it is not unusual for the Board to significantly reduce it. In some instances those penalties equal 50% or even 100% of the value of the property involved. If a county is experiencing a significant amount of late filing, the result may be a valuation base which is inflated with penalties that may receive significant reductions after levies are set.

Since the penalty is intended to be a transitory value increase and is subject to change up to and including removal, the Appraisers' Association would support efforts to allow county clerks to remove that portion of the valuation from the base prior to calculating levies. Any tax revenue received from penalties not challenged in a given year could be carried forward and budgeted for in ensuing tax years.

HOUSE BILL 2624

HOUSE COMMITTEE ON TAXATION

JANUARY 19, 1994

Mr. Chairman and members of the House Committee on Taxation, my name is Larry Clark and I am here representing the Kansas County Appraisers' Association in support of passage of House Bill 2624.

The Appraisers' Association fully supports the principle of taxation as the rule and exemption as the exception and would oppose efforts to weaken the current exemption application procedures. The situation addressed in this bill however is one in which the use is clearly governmental in nature. The application exercise then becomes one of costly paper shuffling between levels of government at the expense of taxpayers and for no useful purpose.

We, therefore, support the exception spelled out in this proposed legislation which would eliminate the application requirement for property dedicated for right-of-way purposes by units of local government.

February 10, 1994

To: Senate Assessment and Taxation Committee
Senator Audrey Langworthy, Chairperson

From: Gayle Landoll, Marshall County Clerk
and Vice-Chair, County Clerk's Legislative Committee

Re: House Bill #2622

Thank you for this opportunity to ask for your support of House Bill 2622.

This bill would cancel the valuation, up front, rather than cancel the tax, after the fact, when the valuation is equivalent to a \$5.00 tax bill.

Eliminating the valuation up front would enable the County Clerks to determine the tax levies based on the actual valuation subject to taxation. It would be an assurance to the taxing districts, especially those operating under the tax lid, that the levies would be calculated to provide the amount of tax dollars legally levied.

The law, as it is now, forces us to set levies knowing the resulting tax will be somewhat less than was published and approved by the various tax districts.

Cancelling the tax, but not the valuation, is very confusing, particularly when preparing the tax abstract. We must certify the taxes to the County Treasurer including those under \$5.00, then abate the ones under \$5.00 and certify the resulting taxes in the proper proportion for each taxing district, but not adjust the valuation.

It seems to me that coming up with a uniform assessed valuation as the criteria for determining the cancellation point would be the fairest method, but barring that, the solution this bill offers makes much more sense than the current method of cancelling the tax and not the valuation.

In closing, I'd like to again ask you to consider this bill favorably.

Respectfully submitted,



Gayle Landoll
Marshall County Clerk
KCCA Legislative Committee

Senate Assess & Taxation
February 10, 1994
attach 4-1