

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:40 a.m. on February 16, 2004, in Room 519-S of the Capitol.

All members were present except:

Senator Barbara Allen
Senator Lana Oleen- excused

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Jay Befort, Kansas Department of Revenue
Joan Wagon, Secretary, Kansas Department of Revenue
Marlee Carpenter, Kansas Chamber of Commerce
Kevin Robertson, Kansas Dental Association
Christina Collins, Kansas Medical Society

Others attending:

See Attached List.

Senator Corbin called the Committee's attention to the minutes of the February 11 and 12 meetings.

Senator Goodwin moved to approve the minutes of the February 11 and 12, 2004, meetings, seconded by Senator Taddiken. The motion carried.

SB 428—Injunctions and restraining orders preventing taxpayers with delinquent taxes from engaging in business

Jay Befort, a staff attorney for the Kansas Department of Revenue, testified in support of **SB 428**. He explained that the bill will strengthen and streamline the existing procedures for enjoining the operation of businesses delinquent in their tax payments. The bill would allow the Department to file a civil action in Shawnee County District Court to enjoin a taxpayer from doing business in Kansas if the taxpayer has not reported or paid sales or withholding taxes for six consecutive months. In addition, the bill provides a clear standard upon which the court can act when granting the injunction, and it sets out fines for violators of the court's temporary restraining order or the injunction. Mr. Befort emphasized that the Department will continue to use the injunction process as a final remedy after other collection efforts have been exhausted.

(Attachment 1)

Senator Journey asked Mr. Befort if the Department would object to including language in the bill which provides that the Department will use the process only as a last resort. Mr. Befort indicated that the Department would have no objection to that provision.

Marlee Carpenter, Kansas Chamber of Commerce, testified in opposition to **SB 428**. She pointed out that the bill does not provide any safe harbor provisions for taxpayers when they have a dispute with the Department of Revenue. To ensure that there is no doubt about the intent of the legislation, she requested that the bill include provisions for taxpayers who have tax issues on appeal. (Attachment 2)

There being no others wishing to testify, the hearing on **SB 428** was closed.

SB 468—Revocation or nonrenewal of certain professional licenses for delinquent taxes and returns

Joan Wagon, Secretary, Department of Revenue, testified in support of **SB 468**, which proposes a professional license renewal tax clearance process. She noted that the bill is one of several proposals the

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Department supports in order to step up compliance efforts. She went on to explain that **SB 468** would require various licensing bodies to adopt procedures for the nonrenewal of professional licenses after receiving notice from the Department that the licensee is not current in the payment of taxes or filing of tax returns. Once the licensing agency has been notified that the licensee is delinquent in paying state taxes or filing returns, the licensing agency can renew the licensee only upon receiving a tax clearance certificate from the Department that the licensee is current. Secretary Wagon emphasized that the license nonrenewal provisions will not be triggered if the licensee's tax liability is under administrative appeal or is the subject of a current pay plan with the Department. In conclusion, she called attention to a list of the licensing agencies and professions affected by the bill attached to her written testimony, noting that it would affect almost 118,000 licensees. In addition, she called attention to the last paragraph of her testimony, which lists states which currently have professional license tax clearance programs. She noted that states with these programs uniformly report them as very effective in achieving tax compliance. (Attachment 3)

Jeff Scott, Executive Manager of Compliance and Enforcement, joined Secretary Wagon to answer questions from the Committee. Mr. Scott reported that the Department contacted every licensing agency in the state, and all of the agencies agreed that the proposed compliance process is a good idea. In response to a question regarding the current amount of unpaid taxes, Secretary Wagon noted that, after the amnesty program was completed, \$300 million still remains in the Department's accounts receivable for taxes owed but not paid. She noted that the Department attempts to collect and to be reasonable and work out a tax payment plan. But at some point, delinquent taxpayers who do not respond to the Department's efforts must be required to pay their taxes. Mr. Scott clarified that the bill provides that taxpayers under formal appeal or a current payment plan are considered current in any instance.

Secretary Wagon confirmed that the bill provides that the Department will run a tax clearance 90 days prior to the license renewal date. Both the licensing agency and the delinquent taxpayer would be notified that the licensee must deal with taxes owed within 90 days. She noted that licensees would have been previously notified that their taxes were delinquent; however, they would not have been notified that their professional license was at risk. She reiterated that, in order to get their license renewed, delinquent licensees would not be required to pay the entire amount of taxes due but could set up a payment plan. She commented that the Department has found that many times people who get behind simply procrastinate until it becomes a problem to pay their taxes. She observed that other forms of collection are not as effective as the proposed tax clearance process. Mr. Scott clarified that, once a payment plan is set up, the Department will immediately issue a tax clearance certificate, and a license will most likely be issued by the agency within 24 hours. Secretary Wagon confirmed that she would not have a problem with increasing the 90 day notice time. Mr. Scott commented that the Department does not want take away anyone's license but simply wants another tool to bring delinquent taxpayers into compliance.

Senator Corbin called the Committee's attention to written testimony in support of **SB 468** with amendments submitted by Philip Bradley, Kansas Licensed Beverage Association. (Attachment 4)

Kevin Robertson, Kansas Dental Association (KDA), testified in opposition to **SB 468**. He explained that the bill would impact all dentists at the same time because all dental licenses are renewed every two years on January 1. He noted that license nonrenewal would result in a dentist's office being closed, leaving the entire staff unemployed. In addition, access to dental care could suffer. He reasoned that implementation of the bill would take away the license that allows a dentist to earn the income to pay taxes, and licensing fees would increase because the Dental Board would be required to conduct an investigation and hold a hearing before suspending a license. In conclusion, Mr. Robertson discussed KDA's concerns about the Department's ability to accurately and consistently determine a dentist's tax liability. (Attachment 5)

Christina Collins, Kansas Medical Society (KMS), testified in opposition to **SB 468**. KMS believes that, although all Kansans should pay their taxes, elimination of a licensee's ability to earn income is a harsh penalty, and it has many far reaching consequences. Physicians may have to temporarily close their practice, redirect patients, and cancel managed care contracts with insurance companies. In addition, they would no longer be eligible for state-required professional liability insurance. Ms. Collins noted that, once a license is revoked, it may become much more difficult and expensive to obtain professional liability insurance when reinstated. She argued that adequate remedies already exist to ensure that taxes can be collected. In conclusion, she pointed out that licensing boards will be asked to divert their already thin resources to tax

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collection, a responsibility traditionally in the realm of the Secretary of Revenue. (Attachment 6)

Marlee Carpenter, Kansas Chamber of Commerce, testified in opposition to **SB 468**, noting that the Chamber agrees that all businesses should pay taxes; however, the bill does not provide adequate due process safeguards for the licensed professional to dispute their claims. Ms. Carpenter also pointed out that the bill has no provisions to address the possibility that Department of Revenue may not provide information to the licensing body in a timely fashion. As a result, it is possible that licensed professionals may be unable to practice while waiting on a license renewal. (Attachment 7)

With regard to Ms. Carpenter's concern that the bill does not include sufficient notification time, Secretary Wagnon suggested that the bill could be amended to indicate that the triggering point for delinquency is applicable only after the Department makes a final assessment of the amount of tax owed. She noted that the determination of an error would occur prior to a final assessment being issued.

Senator Cobrin called the Committee's attention to testimony in opposition to **SB 468** submitted by Pam Scott, Kansas Funeral Directors and Embalmers Association. (Attachment 8)

There being no others wishing to testify, the hearing on **SB 468** was closed.

The meeting was adjourned at 11:55 a.m.

The next meeting is scheduled for February 17, 2004.