

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:25 A.M. on February 4, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Lana Gordon- excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Martha Dorsey, Legislative Research Department

Gordon Self, Revisor of Statutes

Richard Cram, Department of Revenue

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Wagon, Department of Revenue

Others attending:

See attached list.

**SB 23 - Sales tax calculation for isolated or occasional sale of motor vehicles; refunds; verification of selling price.**

The Chairman opened the floor for continued discussions on **SB 23**. The Chairman explained the proper procedures for motions, substitute motions and motions to move the bill out.

Representative George distributed a balloon amendment to **SB 23** (Attachment 1). The balloon would add the following language in the second paragraph, after the first sentence, *The seller and purchaser shall each sign and present to the county treasurer or director of taxation the bill of sale and sworn, notarized affidavit stating the true and correct selling price of the motor vehicle or trailer and containing a warning to the seller and purchaser of the consequences of making false statements related thereto. Such bill of sale and affidavit shall be in a form promulgated by the director of taxation.* Representative George moved that his balloon be amended into SB 23. Representative Hill seconded the motion.

The Chairman requested that Secretary Wagon explain “rules and regulations” for new members. She explained that most state agencies have general authority to promulgate rules and regulations to implement statutes. Agencies provide the procedural part of the policy decisions made by the Legislature. With rules and regulations authority, agencies must stay within the confines of the policy that is established in the statute. Regulations that agencies promulgate must flow from the statute. Any statutory derivation must go through a process in which the Department of Administration and the Attorney General check to ensure that it is related to the statute. It then it proceeds to the Rules and Regulations Committee for their approval. There is also a time for public comment and the entire procedure takes nine months.

Discussion followed regarding: merit of notarization of a bill of sale and the discontinuation of that process, criminal penalties currently in statutes, possible problems involving the use of a broker, redesign of title back to be used as a bill of sale, and the creation of a warning statement regarding the consequences of making false statements that would require the signature of the seller at county treasurers office.

Copies of a car title form were distributed (Attachment 2).

Representative Dillmore made a substitute motion to amend SB 23. The following language would be struck from Representative George’s balloon. The ~~seller and purchaser shall each sign and present to the county treasurer or director of taxation the bill of sale and sworn, notarized~~ affidavit stating the true and correct selling price of the motor vehicle or trailer and containing a warning to the ~~seller and purchaser of the consequences of making false statements related thereto.~~ Such bill of sale and affidavit shall be in a form promulgated by the director of taxation. The motion was seconded by Representative Owens.

Following a technical suggestion from staff, Representative Dillmore was asked to state the intent of his substitute motion. He stated it was to eliminate the notarization and to require only the purchaser to sign the form. Staff suggested that the phrase *and sworn, notarized affidavit* be struck. After another minor suggestion, Representatives Dillmore and Owens agreed to allow the revisor the latitude to draft the entire intent of the

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substitute motion. The Chairman stated that he understood the intent of Representative Dillmore's substitute motion to be the purchasers shall sign and present to the County treasurer or to the Director of Taxation a statement specifying the true and correct selling price of the vehicle and containing a warning regarding the consequences of making false statements. Such a statement would be in a form promulgated by the Director.

After discussion, the Secretary suggested that it would cost approximately \$60,000 to reprint the current vehicle title form, making it a complete bill of sale that could be presented to the county treasurer.

Representative Dillmore closed and moved his substitute motion to **SB 23**. The motion carried.

Discussion followed regarding processes the Department could take when fraud is suspected. The Secretary stated that the Department did not need additional rules and regulations in order to carry out **SB 23** as amended.

Representative Kirk made a motion to amend **SB 23** and attach language to KSA 8-135 making it a requirement, like an odometer reading, for the seller to certify and fill in the purchase price and both the seller and buyer sign. The motion was seconded by Representative Carlin.

Representative Kirk closed and moved her amendment. The motion passed 12-7.

Representative Huff made the motion to move **SB 23**, as amended, favorably for passage. Representative Larkin seconded the motion.

Representative Hill made a substitute motion to reinstate the old regulation pertaining to issues when fraud was suspected. Language from the old regulation would be added to the bill. Representative Thull seconded the motion.

The Chairman spoke of the importance of passing the bill out of committee in order to bring it to the House in a timely way, which in his opinion was the desire of the public and most Representatives. To address the current subject matter he promised to get another bill that could be debated at another time.

Representative Hill withdrew his substitute motion.

Representative Brunk made a substitute motion to amend the language on page 12, line 16 to change the "6" to "12" months. Representative Goico seconded the motion. The motion failed 9-12.

Representative Owens expressed concern over the effect of a felony charge against people that perpetrate possible fraud. He questioned how the state planned to prove fraud charges when both the seller and the buyer agree to the price? In his opinion, **SB 23**, as written, had put the seller in a possible situation of being charged with felony. Although he wants to support the underling intent of the bill, unless the felony issue is resolved, he could not support the bill.

Secretary Wagon responded that when both parties agree on the purchase price, there is nothing in the bill that would allow them to pursue any charges of fraud. The issue of a broker, can and will be addressed in rules and regulations by saying the seller is the sellers agent. There will not be any follow-up to check for accuracy of purchase price. The Department will process the title only with the information listed.

Representative Huff closed and moved his motion. The motion carried.

The meeting was adjourned at 11:40 a.m. The next meeting is February 8, 2005.