

Approved March 14, 2002
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on February 5, 2002 in Room 519-S of the Capitol.

All members were present except: Representative Cook, excused
Representative Howell, excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor
Winnie Crapson, Secretary

Conferrees appearing before Committee: Representative Ballou
Representative Tanner
Larry Baer, Kansas League of Municipalities
Marlee Carpenter, Kansas Chamber of Commerce & Industry
Bernie Koch, Wichita Chamber of Commerce
Donald Seifert, City of Olathe
Mike Taylor, City of Wichita
Christy Caldwell, Topeka Chamber of Commerce

Others Attending: See attached list.

Without objection bill will be introduced at the request of the Historical Society to make technical changes to the historical tax credit bill passed last year. [HB 2760 - State register of historic places, approval of local unit of government]

Hearing was opened on HB 2716 - Property taxation, limitations on exemptions.

Chairman Edmonds reported the Fiscal Note is not yet completed.

Representative Ballou testified in support of the bill (Attachment #1). He noted this was the first bill he had drafted eight years ago and had decided to try again because of the growth in his District and other areas of the State. Rep. Ballou believes that it is only fair to all the taxpayers of the State that every one pay their fair share and with the high cost of education going up every year, he believes that the State and Local governments should not be allowed to abate the school's portion of property tax. He described the impact on schools whenever a new business comes to town. He explained that the bill provides that when the city, county or state wants to abate taxes for whatever length of time that collection of taxes for the local school system could not be abated.

In response to questions, Representative Ballou said that while the opinion of the school is sought, they have no control over whether tax is abated or not abated; that line 24 on page 3 has to do with revenue bonds on new construction and that current abatements will continue through the time of that abatement; that this applies only to school district mill review; that school districts could participate in neighborhood revitalization if they want; that he would say community colleges would be included as "educational".

Representative Ballou said Legislative Research is developing information on exactly how many dollars are being abated currently.

Representative Ballou accepted Representative Edmonds' invitation to participate as a member of the Committee for this session.

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Representative Tanner testified in support of HB 2716 referring to his written testimony (Attachment #2). He appeared on behalf of funding for schools and while nothing in the bill suggests school finance matters, the net effect in this change in tax policy will be a great stride forward for schools in our state. He considers he has been one of the members of the Legislature who is most aggressive on the matter of economic growth but that each effort to attract industry and commerce to an area must take great care not to eviscerate funding for schools. He described the situation with regard to schools when a new business is attracted to a community and noted there are more issues than job creation.

Representative Tanner does not think there is any community in the state that does not want to see its business grow and he has applauded the Legislature for its foresight in earmarking lottery funds for economic development. He provided examples where business has been attracted as a result. This bill is an attempt to protect the school financial structure at a time when dollars are short and when the local community is asked to take on more responsibility in the passage of Local Option Budgets, creating a tax shift from the state to the locality. He gave the example of Garden City where granting of tax abatements resulted in attracting the meatpacking industries which began to develop a work force that was basically heads of families and mothers in families with large numbers of children who had to be educated. The local school board was given the responsibility of educating them under the burden of a tax abatement.

Representative Tanner considers a 20 mill school tax a rather light burden for any industry to pay when looking at the entire tax structure they would be under without abatement. He noted the Committee is chief among those on the House side responsible for preserving the financial structure of the schools of Kansas until there is an opportunity to rewrite the School Finance law.

In response to a question Representative Tanner said it is difficult for small businesses without a large work force to obtain a tax abatement from the city and county commissioners. He noted that a tax rebate is not a bad thing in principle, but that the school tax portion should not be abated. He called attention to the provision for "payment in lieu of taxes" (PILOT).

Representative Gatewood said he can appreciate why the bill has been brought before the Committee and believe the cost benefit analysis when abatements are granted should be used.

Chris Courtwright verified that when an abatement is granted and the property is off the tax rolls for ten years, local governments and the Property Valuation Division are supposed to make a record of how much evaluation is taken off the tax roles. He believes the PVD makes an annual report. The PILOT is a different situation and is negotiated separately. a different situation. He does not believe property on which an abatement has been granted is part of the formula that determines the local levy.

Representative Tanner said a local school district determines their needs and determines the mill levy according to those needs.

In response to a question about the downside for cities and counties, Representative Tanner said that while people would testify this will have a chilling effect on local economic development, it is a judgment call. Every business moving into a town wants good schools and the business community has supported schools throughout the years. He said one of the first things to say to a business in attempting to attract them would be that we will continue to assess the school portion of the levy which helps attract a quality work force and helps the business to succeed.

Representative Owens said he strongly supported what has been said about the impact of good schools. That has been the hallmark in attracting business to Overland Park and Johnson County. He believes that to make a decision on this bill it is important to know the ups and downs.

Representative Tanner said he understands the theory that you need not tax the business, that if hundreds of people have jobs, they are going to be paying taxes. However, skewing the formula puts an undue burden on income tax and sales tax.

Representative Larkin said school finance was the subject of an interim study in 1991.

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Representative Toplikar said when he was serving on the Olathe city council there was extensive consideration of abatements. He believes there is a need to tighten controls on when abatements should be given and when they should not. When a business is "pirated" and relocates in another community they may be paying their school levy in one city and get the abatement in the district to which they move. He suggested that there could at least be a moratorium in the present fiscal crisis and noted this is not a new tax, but a change in policy.

Larry Baer presented testimony in opposition to **HB 2716** on behalf of the Kansas League of Municipalities (Attachment #3). He stated the tax abatements would not have been granted without a favorable cost benefit ratio. In response to questions he said tax abatements were a tool cities have available to assist in the attraction of new business or in the retention of old business which becomes a part of the overall taxation mix.

Marlee Carpenter testified in opposition to **HB 2716** on behalf of the Kansas chamber of Commerce and Industry (Attachment #4). She also said tax abatements are a very important tool in attracting and retaining business in the state and that because school district mill levies make up a large portion of the local mill levy, the enactment of **HB 2716** would reduce the effectiveness of the property tax abatement and the local community's ability to grow its tax base. The testimony stated that in 2000, only 7.7% of property was exempt due to revenue bonds and that the point must be made that owners of much of the exempted property have agreed to make "in lieu of" payments to local governments and school districts.

The Kansas Chamber of Commerce and Industry believes that Kansas does not necessarily need to be the most friendly tax-state in the region, but for Kansas to compete, it needs a competitive tax structure. She testified an official school finance position for this year has not yet been formulated by the Executive Committee of KCCI to develop a policy statement on public education.

Bernie Koch testified in opposition to **HB 2716** on behalf of the Wichita Chamber of Commerce (Attachment #5). He testified that about half of all tax abatements granted in Kansas are granted in Sedgwick County and over 70 percent of those are not for land and buildings. They are for machinery and equipment. Mr. Koch said Wichita has a strong manufacturing base with twenty-five percent of the workforce engaged in manufacturing. He said that Wichita has suffered 8,000 layoffs recently and that one study concludes that the Wichita Metro area economy is the seventh most impacted in the U.S. by the September 11 terrorist attacks. He called the attention of the committee to tables attached to his testimony comparing Kansas property tax rates for machinery and equipment in 2000 with those in surrounding states and provided details of the 2001 tax levies in Sedgwick County.

Mr. Koch testified that economic development people for an abatement but they don not ask for an abatement of the portion for the school district. He knows of only one instance in Wichita and Sedgwick County when the land or the existing structure on that land was abated. They are not shifting taxes but delaying the payment of taxes for up to ten years. He noted there is a permanent abatement of taxes on farm equipment and machinery. Her would say that the incentive offered by the tax abatement produces more revenue for the state than is lost to the state. Some of the cost benefit analyses look specifically at the school district, taking into account how many new students will be brought to the school district as a result of the tax abatement.

Mr. Koch said he believes the schools and of our work force are important to our community but the tax incentive is also important. He said he believes a standard cost benefit analysis process has been developed by Kansas, Inc.

Cost benefit analysis was actually used in Wichita before it was required by the state law.

In response to a question about putting a sales tax on professional fees, Mr. Koch said every place that has been tried it has been rescinded.

He believes the benefits of tax abatements exceed the losses and that this bill would have a negative impact. Considering that wages in manufacturing are higher than for other types of jobs, 1.6 jobs are created for every manufacturing job created in Sedgwick County.

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Donald Seifert, Policy Development Leader of the City of Olathe, presented testimony in opposition to **HB 2716** on behalf of the City (Attachment #6). He stated that as a longstanding home rule policy position, Olathe has opposed legislation restricting the use of property tax abatements. They believe under current law there is opportunity for school districts to provide input into the tax abatement process. In Olathe all tax abatement proposals are discussed with the local school district and the school district is represented on the Olathe Economic Development Advisory Board. He provided a copy of the City's Policy Relating to Property Tax Abatements for New Businesses, calling attention to requirement that the City and Olathe Chamber of Commerce shall meet with representatives of the Unified School District to discuss applications requesting tax abatements prior to discussion of the request by the City Council.

In response to questions, Mr. Seifert said that under its policy Olathe grants tax abatements for from three to ten years and does not allow for the continuation of abatements when they expire. The previously abated companies could request a new abatement in the case of a planned expansion. He believes that taking into account increases in sales tax that result, the fiscal impact on a case-by-case basis would indicate that tax abatement is beneficial. When asked how many industries who have had tax abatements and later came onto the tax rolls have moved out, Mr. Seifert said the community has been engaged in this process since the late 1980s and he cannot recall any company that has left. Some companies have asked for a continuation of abatements but on amended terms.

Mike Taylor presented testimony on behalf of the City of Wichita in opposition to **HB 2716** (Attachment #7). Mr. Taylor said the bill would have a devastating effect on economic development at a time when retaining and expanding existing business and attracting new business is more difficult and more crucial than ever and attempts to fix a problem which doesn't exist in Wichita. In Wichita, as a matter of policy, existing property is not exempt and tax abatements are offered only on new construction, additions or equipment. Wichita City Council never abates taxes on land, which means the school district or other taxing jurisdictions are not giving up taxes they are already getting.

The Wichita school district always has the opportunity to review, comment on and oppose any proposed tax abatement or exemption. He referred to provisions under K.S.A. 12-147 providing a legal mechanism for a "payment-in-lieu-of taxes" and stated the key is for the school district and the city to work together to reach an agreement on a case-by-case basis to work out a solution in the best interests of the overall community.

Mr. Taylor testified the school district has never actually opposed any tax abatements given in Wichita and the position of the City is that not only is **HB 2716** unneeded and unjustified, it is detrimental to the economic well-being of Wichita and the entire State of Kansas. He noted that several years ago when the headquarters of Pizza Hut moved to Dallas, they were made to pay over \$1 million in tax abatements.

Representative Ballou noted that while there is the right by statute, to his knowledge land is not abated anywhere in the state.

Christy Caldwell testified in opposition to **HB 2716** on behalf of the Topeka Chamber of Commerce (Attachment #8). She testified the Chamber believes disallowing tax abatement would significantly reduce the effectiveness of this incentive. Before offer of an abatement is made in Topeka, a cost-benefit analysis is completed and an administrative review is done by representatives of all taxing authorities, including the school district affected. She testified that to her knowledge no school district has opposed giving a tax abatement. The abatement is based upon number of jobs created at a specified wage level, and it is looked at each year to ensure they are still providing that number of jobs at that wage level. If they reduce their employment or their wage levels are not what they said they would be, they do not receive their tax abatement for that year.

Hearing on **HB 2716** was closed.

Meeting adjourned at 11:00 a.m. The next meeting is scheduled for February 6.