

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:08 a.m. on January 25, 2000, in Room 519-S of the Capitol.

All members were present except: Senator Sandy Praeger – Excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Richard Jones, Kansas Association of Conservation Districts
Senator Alicia Salisbury
Paul Welcome, Kansas County Appraisers Association
Senator Tim Emert
Shirley Sicilian, Kansas Department of Revenue
Tony Folsom, Kansas Board of Tax Appeals

Others attending: See attached list.

Richard Jones, Kansas Association of Conservation Districts, requested the introduction of a bill. At their annual convention held in November of 1999, the 105 conservation districts passed a resolution asking the Kansas Legislature to allow voters at the next general election to decide if the retailers' sales and compensating use tax should be increased by a quarter of a cent and the proceeds be placed in special funds and used only for the purpose of providing additional moneys to be used for soil and water conservation, for state parks and lakes, and for wildlife restoration habitat programs. (Attachment 1)

Senator Hardenburger moved to introduce the proposed resolution, seconded by Senator Corbin. The motion carried.

The minutes of the January 19 and 20, 2000, meetings were approved.

SB 374–Property taxation; concerning aggrieved taxpayer appeals

Senator Alicia Salisbury informed the Committee that she suggested the concept of **SB 374** to the 1999 interim Committee on Assessment and Taxation after a taxpayer called her attention to a problem he had after he appealed the valuation placed on his property. She pointed out that the essence of the bill is found on pages two and three in Section 2.

Senator Salisbury explained that the bill amends the portion of the statute which creates the Small Claims Division of the Board of Tax Appeals (BOTA), allowing counties over 10,000 to no longer have county hearing officers. In that case, a taxpayer can file a claim in the Small Claims Division of BOTA. In the particular instance that prompted her to request the bill, the taxpayer had a hearing in the Small Claims Division. The hearing officer settled on a valuation of the taxpayer's property that was under what the county appraiser had set it. The county appraiser, in turn, appealed the settlement order of the Small Claims Division hearing officer to BOTA. She explained that **SB 374** would limit an appeal to BOTA to a taxpayer in that type of situation by striking in Section 2 "A county or district appraiser may appeal to the state board of tax appeals from any order of the hearing officer or panel." Senator Salisbury suggested a further amendment, which had been drafted by the Revisor of Statutes office. The amendment would also strike the ability of the county appraiser to appeal further to the district court.

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Senator Salisbury emphasized that **SB 374** is responsive to taxpayers with small property ownership and that it was not meant to judge the valuation put on the property by the county appraiser. She noted that she is well aware that the county appraisers and the Kansas Association of Counties do not support the bill and that she is sensitive to the concerns they voiced during the interim hearing. She further noted that the county appraisers feel that the bill allows one hearing officer with limited training too much power. She agreed with the interim committee that this issue deserves to be revisited as there are qualification requirements for members of BOTA, but there are no qualification requirements for hearing officers in the Small Claims Division.

Another issue raised by county appraisers is that there may be instances where a hearing officer makes a decision based on false information presented by the property owner or where the county could have incorrect information but would not be able to appeal as a matter of due process. In answer to these concerns, Senator Salisbury pointed out that testimony to the Small Claims Division may be informal, but it must be given under oath. She noted that, by law, it is the duty of the county appraiser to initiate production of evidence pertaining to the valuation he placed on the property. Thus, the county appraiser has a definite opportunity to provide evidence as to why a certain valuation amount was placed on the property.

Senator Salisbury noted that a concern raised by a member of the interim committee was that the bill could have an adverse effect on sales ratio studies. In addition, the Kansas Association of Counties expressed their concern that it would have an adverse affect on other taxpayers. In response to these concerns, she pointed out that the bill does not concern a practice that has run rampant. She noted that, since the time the Small Claims Division was created, there have been relatively few instances when a county appraiser has chosen to appeal from an order by the Small Claims Division.

In conclusion, Senator Salisbury quoted a portion of the concerned taxpayer's letter to her as follows: "If the creation of the Small Claims Division was to relieve the state Board of Tax Appeals from some of their case load and to expedite the appeals process, then this process might be counter productive." Furthermore, he states, "The taxpayers who go through this process feel that perhaps they are going to be singled out by the county appraiser and will have to enter a cycle of continuous appeals." He concludes by saying, "Your simple amendment will go a long way to improve the public's confidence and the ability of individuals to make their case at the appropriate level without fear of becoming entangled in a morass of further appeals in the event they gain a favorable decision from the hearing officer."

In response to committee questions, Mr. Hayward clarified that **SB 374** with the proposed amendment simply prevents the county appraiser from appealing to BOTA and the district court. Senator Salisbury noted that the concerns raised by counties and county appraisers with regard to due process are policy issues. She feels that if the legislative intent of creating the Small Claims Division was out of a sensitivity to the individual taxpayer and the small business owner, the question before the Committee is, "How sensitive do you want to be about the burden that a property tax is placing on individuals?" In her opinion, it is preferable to encourage individual property owners and small business owners to make any appeal on their property valuation to the Small Claims Division rather than going directly to BOTA, placing further burdens on BOTA.

Senator Langworthy confirmed that Senator Salisbury agrees that the Legislature should consider increasing the qualifications for hearing officers in the Small Claims Division if it is felt that the county appraisers have raised a legitimate issue about the responsibility given to hearing officers in the Small Claims Division. Senator Langworthy noted that interim Assessment and Taxation Committee discussed this issue but took no action on this bill.

Senator Langworthy called attention to written testimony in opposition to **SB 374** submitted by Keyta D. Kelly, County Counselor at Large, County of Leavenworth. Ms. Kelly notes that the state constitution grants all taxpayers equal protection of the law, not just the discontented, and contends that the bill would violate appraisers' right to equal protection of the law. (Attachment 2)

Paul Welcome, Kansas County Appraisers Association, testified in opposition to **SB 374**. By eliminating the county's ability to appeal a decision of the Small Claims Division, he contended that the bill will remove checks and balances currently in the system. Without the checks currently in place, he maintained that the integrity of the appeals process will be in doubt. (Attachment 3) Mr. Welcome informed the Committee that of 2,420 small claims cases heard, only 41 appeals were appealed to BOTA by county appraisers. He explained that some of those appeals were to define where the value is to be placed in order to determine the

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proper assessment.

SB 417—Amending the homestead property tax refund act; concerning the filing date

Senator Tim Emert explained that currently, in order to obtain a homestead property tax refund, one must file a request by April 15. The April 15 deadline creates problems for persons who cannot get their income tax return filed by that date. He noted that those persons can get an extension for filing their income tax return, but that extension does not apply to the homestead property tax refund. The bill moves the filing deadline for the homestead refund from April 15 back to the prior date, October 15, which was recently changed to April 15 to conform with other deadlines. Senator Emert noted that the Department of Revenue supports the amendment.

Shirley Sicilian, Kansas Department of Revenue, confirmed that the Department supports **SB 417**. She commented that although the current April 15 deadline has some simplification benefits in that it coincides with the deadline for income tax returns and food sales refund credits, the Department believes that moving the date to October 15 will reduce the number of late filings and requests for extension. In addition, she suggested an additional amendment which would allow appeals from a denial of a homestead refund claim to go through an informal process with the Secretary of Revenue. (Attachment 4)

SB 411—Property taxation; concerning appeals procedures for certain valuation controversies

Tony Folsom, general counsel for BOTA, testified in support of **SB 411**. He discussed the proposed amendments which concern the publication of board orders, single-family residential appeals, tax grievances, clarification of who can appear on behalf of taxpayers and counties, and a waiver of the sixty-day period to conduct small claims hearings. (Attachment 5)

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for January 26, 2000.