

Date
MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 8, 2006 in Room 519-S of the Capitol.

All members were present except:
Representative Gordon - excused

Committee staff present:
Chris Courtwright, Legislative Research Department
Gordon Self, Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:
Representative Jerry Henry
Representative Jene Vickrey
Secretary Wagon, Kansas Department of Revenue (DOR)
Tony Folsom, Deputy Director of Property Valuation Division, DOR
Derek Franklin, Co-Chair of the Sports Complex Committee
Ross A. VanderHamm, Paola City Manager
Mark Low, Meade County Appraiser
Judy Moler, General Counsel/Leg. Services Director, Kansas Association of Counties
Rebecca W. Crotty, Chairperson, Kansas Board of Tax Appeals (BOTA)
Trevor C. Wohlford, Executive Director/Attorney, BOTA
Linda Terrill, Attorney, Neill, Terrill & Embree
Marlee Carpenter, The Kansas Chamber of Commerce
Paul Welcome, Johnson County Appraiser, written testimony only

Others attending:
See attached list.

Representative Kirk introduced her intern, Carli Watkins, from Kansas University and Representative Treaster called attention to pages serving from Haven, Kansas.

The Chairman opened the floor for bill introductions.

Representative Huntington requested a bill introduction regarding sales tax credits for motion picture production companies. Representative Owens made a motion to introduce Representative Huntington bill request. Representative O'Malley seconded. The motion carried.

HB 2681 - Authorizing countywide retailers' sales tax for Atchison county.

Representative Jerry Henry said that the bill would allow Atchison County to impose a .25% local retailer's sales tax to finance the costs of construction and maintenance of sports and recreational facilities. The people of Atchison County would have the opportunity to vote on this issue (Attachment 1). He introduced Glenda Purkis, President of the Atchison Chamber of Commerce.

Derek Franklin said that the mission of the Sports Complex Committee is to build a multi-faceted sports facility in Atchison County. There have been public meetings and to date, a total of \$38,000 has been raised for this project. An option on a parcel of land is near finalization and both school districts in Atchison County are very supportive of this project (Attachment 2).

The Chairman closed the public hearing on **HB 2681**.

Representative Huff made a motion that the Committee move **HB 2681** out favorably and place it on the consent calendar. Representative Thull seconded the motion. The motion carried.

HB 2794 - Classification of cities for sales taxation purposes.

Representative Jene Vickrey, sponsor of the bill, spoke about the overwhelming community support of the bill. He urged the Committee to pass the amendment that would identify the City of Paola as

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a Class D City, permitting them to submit to their voters a ballot question regarding tax increases (No written testimony).

Ross A. VanderHamm, Paola City Manager, testified that Paola is experiencing unprecedented growth and with that comes the typical growing pains and exposure of deficiencies in their infrastructure, as well as their community buildings. The ability to allow taxpayers to consider an increase in their sales tax rate to assist in upgrading the vital infrastructure needs of Paola is what **HB 2794** provides, and he urged passage of the bill. Attached to his testimony were letters reflecting community support (Attachment 3).

The Chairman closed the public hearing on **HB 2794**.

Representative Huff made a motion that the Committee move **HB 2794** out favorably and place it on the consent calendar. Representative Treaster seconded the motion. The motion carried.

HB 2767 - Increasing membership of the board of tax appeals.

Chris Courtwright said that the bill would expand the membership of the State Board of Tax Appeals from three to five members. During the 2003 session the legislature decreased that number from five to three members. There would be a fiscal note commensurate with two salaries equal or level to district court judge. Mr. Self reviewed the requirements for a position on the BOTA board.

The Chairman opened the hearing on **HB 2767**.

Proponents:

Mark Low, Meade County Appraiser, testified on behalf of the Kansas County Appraisers' Association. He said that on many occasions there were only two members serving on the State Board of Tax Appeal due to lack of qualified people to serve resulting in split decisions or delays due to conflict of interests. Residential cases can take anywhere from six to eleven months for a decision, and commercial cases takes nine months or more to get a decision. With five members there would be a better chance that at least two members would be able to hear cases at any given time and should help speed up the decisions (Attachment 4).

Judy Moler, General Counsel/Legislative Services Director, Kansas Association of Counties, testified that the Association support the bill (Attachment 5).

Paul Welcome, Johnson County Appraiser, submitted testimony in support of increasing BOTA from three to five members, which would enable them to handle the backlog of cases and become current with residential cases being heard in the original tax calendar (Attachment 6).

Neutral:

Rebecca W. Crotty, Chairperson, Kansas State Board of Tax Appeals, provided input about the potential impact of the proposed bill and discussed alternative measures to improve agency operations. The fiscal impact would add at least \$260,000 for two new members, and \$50,000 in salaries and benefits for support staff plus additional dollars for moving and office space expenses.

She delineated three alternatives for improved operations: 1) Technology improvements, 2) Pre-hearing and discovery procedures and 3) One member decision-making authority. Ms. Crotty explained the current status of BOTA's docket. She explained that the process is in transition and another six months would give them the necessary time to streamline the process (Attachment 7).

Trevor Wohlford, BOTA explained the current process of BOTA and answered questions on the status of current cases. There was a request for the approximate time frame between hearing dates and decisions being made, and Mr. Wohlford agreed to provide that data.

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The Chairman requested that staff develop a series of four-to-five questions to ask counties to determine trend lines or areas of concern in order to ascertain how to streamline the system.

Tony Folsom briefed the Committee on the process of annual county audits. They compare properties that are sold to their appraised values and complete a sales ratio study to determine if counties are in compliance (10% high or low). If not, DOR assists the county to bring them back into compliance. Currently there are four or five counties out of compliance. In response to a request for the number of hearings and resolutions at the county level, Tony Folsom said he would gather that information.

Secretary Wagnon suggested that they be given 30 minutes to allow Pete Davis and his staff to present a briefing on the process of appraisal status in 30 minutes.

Opponents:

Linda Terrill, Neill, Terrill & Embree, said that for the first time in 25 years of practice in her field, the changes made by the Kansas Legislature, and subsequent appointments made by the Governor, have made the Kansas Board of Tax Appeals unquestionably the single most improved state tax tribunal in the United States. She said "Currently Kansas law requires 'two' BOTAs members to 'act.' If they remove the requirement for two to act, then one member could hear and decide a case with a statutory right to appeal that decision to the full board. This would solve the problem and cost nothing" (Attachment 8).

Marlee Carpenter, KS Chamber of Commerce, said that the Chamber had concerns over difficulty in finding additional qualified members to serve. She requested that if Board membership is increased, qualification of membership be closely scrutinized (Attachment 9).

After discussion about the pros and cons of Linda Terrill's suggestion to change the requirement for two members to act with a statutory right to appeal that decision to the full board, the Chairman said he was inclined to introduce an amendment regarding that change. However, he said he would wait until a later date. He requested that Ms. Terrill prepare a balloon amendment that addressed her change.

The Chairman closed the hearing on **HB 2767**.

The meeting was adjourned at 10:30 A.M. The next meeting is February 9, in 313-S, which is a joint meeting of the Taxation and Utility Committees.