

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 11, 2005 in Room 519-S of the Capitol.

All members were present.

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:

Senator Mark Taddiken
Senator Phillip Journey
Brad Harrelson, Kansas Farm Bureau
Randall Allen, Kansas Association of Counties
Don Denny, Unified Government of Wyandotte County
Bob VanCrum, Greater KCK Chamber of Commerce
Ken Daniels, Midway Wholesale, Topeka (no written testimony)
Paul Welcome, Johnson County Appraiser
Ed Jaskinia, Associated Landlords of Kansas (no written testimony)
*Written testimony only
*John R Todd, Wichita Real Estate Broker, *Mike Billinger, Ellis County Treasurer
*John Donley, Kansas Livestock Assn.

Others attending:

See attached list.

SB 158 - Property tax exemption for hay and cotton storage structures

This bill would narrow an existing property tax exemption for certain farm storage and drying equipment to provide that the current exemption, which applies for any eight of the next 10 tax years following acquisition or construction, would not be renewable after that time period. The bill would further provide a new property tax exemption effective for tax year 2005 for farm storage structures designed and used for hay storage. The new exemption similarly would be available for any eight of the next 10 tax years following construction or assembly and would sunset after this initial exemption period. The fiscal note is unknown at this time.

The Chairman opened the public hearing on **SB 158**.

Senator Mark Taddiken appeared in support of **SB 158** (Attachment1). Currently Kansas has an eight-year property tax exemption for facilities built by agricultural producers that are used for drying and storing certain agricultural crops. The bill would clarify that hay storage structures are covered under the statute. Currently the statute speaks to hay and haylage but then refers to a federal code that is interpreted not to include hay and would place a one time limit on the exemption.

Brad Harrelson, Kansas Farm Bureau testified in support of **SB 158** (Attachment2). The underlying statute contemplated allows a property tax exemption for farm storage and drying equipment for most agricultural commodities. Hay storage was not included in the list for eligibility at the time and they suggested that hay should be classified alongside corn, wheat, beans, milo, etc. as an ag- commodity.

John Donley, Kansas Livestock Assn, submitted written testimony in support of **SB 158** (Attachment 3). Uniform environmental laws and favorable tax laws provide our livestock operations with competitive advantages that other states envy. **SB 158** is a good additional cost cutting measure that Kansas livestock operators appreciate and keeps them competitive.

A question was raised whether the bill was exclusive to family operations or was applicable to commercial

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operations as well. Mr. Donley replied that the bill would include a variety of new business structures for large farm operations that would be eligible for this exemption.

Tony Folsom, Deputy Director of Property Valuation, stated that lines 24 and 25 on page 1 of **SB 158** refer to the code of Federal Regulations and those codes state that commercial properties are not included. The third section of the bill, starting on line 40, does not reference the Federal codes, therefore he believed that commercial structures could be exempted under that language.

The Chairman requested Mr. Folsom prepare a balloon that would exclude commercial operations, applying only to family farm operations, which most believed was the intent of Senator Taddiken. Mr. Folsom agreed to verify the intent with Senator Taddiken and prepare a balloon.

Discussion followed regarding an issue of possible discriminatory policy. Representative Owens requested that legal research be conducted to determine if there would be legal difficulties if challenged. Mr. Courtwright stated that they would work with PVD, however the exclusion in the current law had been in effect since 1978. Representative Siegfried requested clarification on exactly what business structures are being excluded. Mr. Folsom stated that he would provide a copy of the Federal Regulation codes to the Committee and a balloon to the Committee Secretary.

The Chairman closed the hearing on **SB 158**.

SB 126 - Amendment of tax rolls by county appraiser in certain circumstances and payment of tax under protest.

Mr. Courtwright stated that the bill would authorize county appraisers to amend the current year's property tax appraisal rolls up to October 31 when a final determination of property valuation appeals had been made for the prior tax year. Under current law, appraisers are unable to amend the current year's appraisal rolls to reflect final adjustments of a prior year's valuation after June 15. The bill also would authorize a property owner whose tax escrow agent pays the first-half taxes on or before December 20 to file a protest on or prior to January 31 of the next year. These changes were recommended by the County Appraisers Association and the PVD.

The Chairman opened the public hearing on **SB 126**.

Paul Welcome, Johnson County Appraiser, appeared in support of **SB 126**, a taxpayer friendly bill (Attachment 4). He stated the county appraiser was not allowed to change the following year's tax roll and the property owner had to file a payment under protest for the current year to receive the adjustment when they pay their taxes by December 20th. This cannot occur with the 2nd half payment under protest due to the timing for the following year's tax roll.

Ed Jaskinia, Associated Landlords of Kansas, appeared in support of **SB 126**. He spoke of an experience when his parents lost their right to appeal due to current limitations (no written testimony).

The Chairman stated that there may be a clarification amendment submitted for the bill.

The Chairman closed the hearing on **SB 126**.

SB 45 - Personal judgement against owner for unpaid real property taxes

SB 45 would provide a new methodology for a county to attempt to collect certain unpaid real property taxes by authorizing the commencement of a civil action under the Code of Civil Procedure in district court. Any judgement on such civil action would become a lien on the real estate.

The Chairman opened the public hearing on **SB 45**.

Senator Phillip Journey testified that his support of **SB 45** is conditional upon the adoption of the attached balloon amendment (Attachment 5). **SB 45** would allow county treasurers to impose civil judgements for

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unpaid taxes, and to file these civil actions creating a judgement against the tax debtor. It also allows county government to dispose of the property in a manner pursuant to statute to pay the tax obligation against the property.

Discussion followed regarding the process for payment of tax obligation from sale of property

Randall Allen, Kansas Association of Counties, expressed strong support for **SB 45**, a bill offering an additional way for counties to tackle the ongoing problem of delinquent taxes (Attachment 6). Delinquent taxes are a drain on all tax-paying citizens, as governments are required to levy additional taxes to finance basic services to the extent that delinquent taxes are not paid. **SB 45** offers the alternative of commencing a civil procedure to force payment of real estate taxes. In response to a question he stated that the Association had not participated in drafting the language of **SB 45**, that it came from the Unified Government of Wyandotte County.

Discussion followed regarding the current law, verses the new proposed legislation. In response to a question regarding what percentage of taxes was delinquent for any given year. Mr. Allen stated his association would provide that information, by the county, to the Committee.

After a discussion on the definition and time line of delinquent taxes, Mr. Allen stated they would have no objection to modification of the definition of delinquency to allow more latitude to ensure multiple judgements would not be filed one day after the due date. He agreed to provide data on the delinquency rate, by county, to the Committee.

Don Denny, Unified Government of Wyandotte County testified in support of **SB 45** that would give officials an additional tool to collect delinquent taxes (Attachment 7). The Unified Government works with property owners who have fallen on hard times and can't pay their full tax bill by working out a reasonable payment plan.

He stated **SB 45** would give local government the same tool businesses regularly use to collect debts by allowing them to obtain a civil judgement to collect delinquent tax against those who could easily afford to pay their taxes but do not, such as out-of-county or out-of-state landlords who buy rental property, take all the profit they can, let it fall into disrepair, and then abandon the property. His testimony outlined collection procedures under **SB 45** and the process of tax collection under tax sale.

Bob VanCrum, Greater KCK Chamber of Commerce, appeared in support of **SB 45** stating that it was not fair to any taxpayer, business or individuals, that pay their taxes on time to permit some real estate property owners who intentionally and perpetually leave their real estate taxes in arrears by nearly three years in order to just avoid tax foreclosure on the property (Attachment 8). Too often it is the small business whose mortgagees pay the taxes who bears the largest brunt of the defaulting big landowners who could easily pay up but aren't forced to.

Concerns were raised regarding future possible abuse and it was suggested that a balloon be drafted that would provide a provision for a safeguard against possible abuse.

Written testimony in support of **SB 45** was submitted by Mike Billinger, Ellis County Treasurer (Attachment 9).

Ken Daniels, Midway Wholesale, Topeka, appeared as an opponent of **SB 45**. He stated that giving the government the ability to bring a civil action against a property owner that owes delinquent taxes and who has been paying penalties, is parallel to extortion (no written testimony).

Written testimony in opposition of **SB 45** was submitted by John R. Todd, Wichita real estate broker (Attachment 10).

The Chairman closed the hearing on **SB 45**.

The meeting was recessed at 10:25 a.m., and reconvened on adjournment of the House at 11:40 a.m.

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SB 13 - Confidentiality and disclosure requirements of tax information.

Representative Goico made a motion to adopt an amendment that would codify that the Attorney General would indeed have the authority to prosecute for violations of confidentiality (Attachment 11). Representative Huff seconded the motion.

Discussion followed regarding how far that authority should be extended, and the intent of “shall or may” language.

Several Committee members requested clarification from the Attorney General’s office regarding the language and intent of the amendment.

Mr. Self stated that to clarify Representative Goico’s intent, there should be mention of the county or district attorney as well. He described the difference between shall or may and its importance to the amendments.

Representative Goico withdrew his amendment. Representative Huff seconded the withdrawal.

Representative Goico offered a motion that would add language pertaining to concurrent authority of the county or district attorney to prosecute for violations of confidentiality. Representative Huff seconded the motion.

Representative Hill made a substitute motion regarding a language change to “the Attorney General shall, concurrent with the district or county attorney, have the authority to prosecute for violations of confidentiality, etc. Representative Goico seconded the substitute motion.

Discussion followed regarding the intent of the original amendment and confusion over current jurisdiction of county attorneys, district attorneys and the Attorney General.

Mr. Self explained the three parts of the bill that would be changed to accommodate the proposed amendment. The Chairman stated that, with the motion, the revisor had the ability to put the proper language into the bill that matches the intent of the proposed amendment.

Representative Hill closed his substitute motion. The motion carried.

Representative Goico made the motion for a second balloon amendment pertaining to the limitation of confidential information to city or county having a population less than 5,000 (Attachment 12). Representative Carlson seconded the motion.

Discussion followed regarding the reasoning behind the amendment.

Representative closed his amendment. The motion failed.

The Chairman closed the hearing on **SB 13**, with the intent to continue the discussion at a future meeting.

The Chairman adjourned the meeting at 12:15 p.m. The next meeting is March 15, 2005.