

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:00 a.m. on February 16, 2009, in Room 535-N of the Capitol.

All members were present except Representative Frownfelter, who was excused. Representative Melanie Meier sat in for Representative Frownfelter.

Committee staff present:

Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Hank Avila, Kansas Legislative Research Department
Chris Courtwright, Kansas Legislative Research Department
Kathy Beavers, Committee Assistant

Conferees appearing before the committee:

Ron Allen, Manager of the Pawnee Watershed District
Representative Pat George
Carol Bonebrake, Cosgrove, Webb & Oman
Sam Catanese, President, Investment Resources Corporation, Wichita, Kansas
Edwin Olson, Manhattan Area Housing Partnership
Fred Bentley, Kansas Housing Resources Corporation
Bill Caton, Excel Development Group, Auburn, Kansas
Randall Hrabe, Northwest Kansas Housing, Incorporated
Ed Keating, Overland Property Group, LLC
Tom Bishop, Executive Director, Homestead Affordable Housing Incorporated
Gary Post, Lyon County Appraiser

Others attending:

See attached list.

Chairman Carlson called the meeting to order at 9:10 a.m.

The Chairman opened the hearing on **HB 2321**.

HB 2321 - Political subdivision under the Kansas retailers' sales tax act to include Horsethief Reservoir Benefit District.

Gordon Self, Office of the Revisor of Statutes, briefed the committee on **HB 2321** and stood for questions.

Ron Allen, Manager of the Pawnee Watershed District, testified in support of **HB 2321** (Attachment 1). In his testimony he gave a brief history of the creation of the Horsethief Reservoir Benefit District. An application to the Kansas Department of Revenue, under K.S.A. 79-3602, for a sales tax exemption for goods and services purchased in conjunction with construction was denied. Mr. Allen had assumed that when **HB 2582** (the original) was adopted in 2004, creating the Benefit District, it automatically became an agency of state government. He was told that the District was ineligible under that statute since funding comes from the collection of a .15% sales tax from the four counties comprising the Benefit District. Those counties are Ford, Finney, Gray and Hodgeman. **HB 2321** will remedy this situation by declaring that the Horsethief Reservoir Benefit District is a political subdivision of state government, making them eligible for the exemption. He stood for questions.

Representative Pat George testified in support of **HB 2321** (Attachment 2). He asked that the committee support this bill to fix the technicality in the original bill (**HB 2582**). He stood for questions.

The Chairman closed the hearing on **HB 2321** and opened the hearing on **HB 2319**.

Scott Wells, Office of the Revisor of Statutes, briefed the committee on **HB 2319** and stood for questions.

HB 2319 - Determination of fair market value of certain rental property for property tax purposes.

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on February 16, 2009, in Room 535-N of the Capitol.

Carol Bonebrake, Cosgrove, Webb & Oman, testified in support of **HB 2319** (Attachment 3). Ms. Bonebrake stated in her testimony that the purpose of **HB 2319** is to incorporate existing case law into the statute and clarify that in the appraisal of Section 42 housing projects, an appraiser must consider the restrictions imposed upon the property by the state and federal government. Ms. Bonebrake referenced the Kansas Court of Appeals case In re Equalization Appeal of Ottawa Housing Assn., L.P., which held that “taxing authorities should consider the effects of low-income housing contracts when valuing the property for ad valorem taxes.” She stood for questions.

Sam Catanese, President, Investment Resources Corporation, Wichita, Kansas, testified in support of **HB 2319** (Attachment 4). He stated that he is the managing member of entities that own over 40 apartment projects in 16 counties that have binding recorded agreements with HUD and Kansas Housing Resources Corporation that set rents at significantly lower levels than the typical market rate. He cited an example of a property valued by an appraiser at \$3.5 million paying \$44,000 in taxes during the 2006-2007 year and then the same property was valued by the new county assessor at \$8 million and \$101,00 in taxes. This was a tax increase of 120%. Mr. Catanese stated that over \$100,000 has been spent and countless hours also spent protesting the valuations of their affordable housing properties at Court of Tax Appeal and in district court. He requested help and support of **HB 2319** to correct the method of valuation to be fair and consistent with the use of affordable housing properties. He stood for questions.

Edwin Olson, Manhattan Area Housing Partnership (MAHP), testified in support of **HB 2319** (Attachment 5). Mr. Olson recounted the housing Manhattan Area Housing Partnership has and examples of the income, staffing, taxes and supplies relating to the property. The annual property tax amount is 300% more than that of the property’s previous contribution to the local tax base. He stood for questions.

Fred Bentley, Kansas Housing Resources Corporation, testified in support of **HB 2319** (Attachment 6). Mr. Bentley stated that there are varied and unequal real estate appraisals of Section 42 properties across the state. Affordable housing is crucial to every community and in order to provide a uniform and consistent method of appraisal that recognizes the unique characteristics of a Section 42 tax credit property, Kansas Housing Resources Corporation encourages passage of **HB 2319**. He stood for questions.

Bill Caton, Excel Development Group, Auburn, Kansas, testified in support of **HB 2319** (Attachment 7). In his testimony, Mr. Caton stated that **HB 2319** provides the necessary legislative directive to have fair and uniform assessment of section 42 properties and other affordable housing programs administered by HUD and USDA Rural Development in Kansas.” He stood for questions.

Randall Hrabec, Executive Director of the Northwest Kansas Planning & Development Commission and board member of the Northwest Kansas Housing, Incorporated (NWKHI), testified in support of **HB 2319** (Attachment 8). He stated that Northwest Kansas Housing, Incorporated has built 92 single family units in 10 different rural communities throughout northwest Kansas. Except for two of the homes, all of the properties were built with IRS Section 42 Low Income Housing Tax Credit funds along with other funding sources. Mr. Hrabec stated that some county appraisers are valuing the properties based on market value approach and not the restricted income as originally mandated in law. He stood for questions.

Ed Keating, Overland Property Group, LLC, testified in support of **HB 2319** (Attachment 9). He stated, “Unfortunately, there are apartment communities associated with the Section 42 Program that are in grave financial danger due to valuation issues for real estate tax purposes.” Increases in taxes could result in rent increases to tenants of these properties. He stood for questions.

Tom Bishop, Executive Director, Homestead Affordable Housing, Incorporated testified in support of **HB 2319** (Attachment 10). Section 42 projects have “Land Use Restriction Agreements”. These agreements restrict rents, income and details the required replacement reserves accounts to be maintained. The basis of the value for taxes should be income based. These developments cannot be financially feasible if taxed on the cost of development. He stood for questions.

Chairman Carlson called attention to written testimony from Chris Wilson, Executive Director of Kansas Building Industry Association (Attachment 11) in support of **HB 2319**.

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on February 16, 2009, in Room 535-N of the Capitol.

The Chairman called attention to the written testimony from Gary Post, Lyon County Appraiser, in opposition to **HB 2319** (Attachment 12).

The Chairman closed the hearing on **HB 2319**.

Chairman Carlson told the committee members that, if time permits, the following bills will be worked, Tuesday, February 17, 2009:

- **HB 2175** - Repealing statute which provides penalty for misclassification of employees.
- **HB 2321** - Political subdivision under the Kansas retailers' sales tax act to include horsethief reservoir benefit district.

Gary Post, Lyon County Appraiser, submitted written testimony only in opposition to **HB 2319** (Attachment 12).

The next meeting is scheduled for February 17, 2009.

The meeting was adjourned at 10:50 a.m.