

MINUTES

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

Septemer 18-19, 2008
Room 545-N—Statehouse

Members Present

Representative Kenny Wilk, Chairperson
Senator Les Donovan, Vice-Chairperson
Senator Pat Apple
Senator Janis Lee
Senator Derek Schmidt
Representative Sydney Carlin
Representative Stan Frownfelter
Representative John Grange
Representative Jeff King
Representative Bill Light
Representative Steve Lukert
Representative Ron Worley

Members Absent

Senator Karin Brownlee

Members Present

Corey Carnahan, Kansas Legislative Research Department
Chris Courtwright, Kansas Legislative Research Department
Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of Revisor of Statutes

Conferees

Representative Sharon Schwartz
Representative Dale Swenson
Representative Lee Tafanelli
Randall Allen, Kansas Association of Counties
Mark Beck, Director, Property Valuation Division
Mark Beshears, Vice-President, State and Local Tax, Sprint/Nextel
David Bleakley, Eastern Kansas Oil and Gas Association
Alan Conroy, Kansas Legislative Research Department
Kent Craft, Past President, Kansas Bass Anglers Sportsman Society Chapter
Federation Nation
Richard Cram, Kansas Department of Revenue

Ken Daniel, Topeka Independent Business Association (verbal only)
Gary Davidson, Montgomery County
David Dayvault, Kansas Independent Oil & Gas Association
Paul Finney, Humboldt, Kansas
Tony Folsom, Deputy Director, Property Valuation Division
Sheldon Hamilton, Atchison Director of Finance
Dan Heskett, Wildlife and Parks
Lynn Kent, Property Valuation Division
Matthew Zimmerman, Emporia City Manager

Thursday, September 18 Morning Session

Chairperson Kenny Wilk called the Special Committee on Assessment and Taxation to order at 10:00 a.m.

Chris Courtwright, Kansas Legislative Research Department (KLRD), reviewed the agenda (Attachment 1) and charges to the Committee from the Legislative Coordinating Council (LCC) on the following subjects (Attachment 2):

- | | |
|------------------------------------|------------------------------|
| 1. "Slider" Formula | 6. Local Bonded Indebtedness |
| 2. Sales Tax-Telecommunications | 7. Gas Severance Tax |
| 3. Property Tax Relief for Seniors | 8. Mill Levy Issues |
| 4. Taxation of Watercraft | 9. Aerospace Engineer Credit |
| 5. Coalbed Methane Valuation | 10. Farm NOL Carrybacks |

Five of the subjects will be discussed at this meeting, and five at the October meeting. In November, the Committee will review and discuss the draft reports and make recommendations.

Mr. Courtwright also reviewed final FY 2008 State General Fund (SGF) receipts and FY 2009 SGF receipts through August (Attachment 3).

Alan Conroy, KLRD, discussed and answered queries regarding receipts credited to all funds for FY 2006-2008 (Attachment 4).

Topic 10–Farm NOL Carrybacks

Mr. Courtwright gave an overview of net operating loss (NOL) carrybacks and the extent to which they would have been expanded, pursuant to HB 2992 (Attachment 5). He said one policy question that would need to be considered before reintroducing some version of the bill in 2009 would be whether the proposed expansion should continue to be retroactive to tax year 2007; or whether it should be prospective from tax year 2009. This decision would have obvious implications relative to the (as yet undetermined) fiscal impact.

Paul Finney, Humboldt, spoke in support of HB 2992 (Attachment 6). He explained that without the proposed carryback expansion, he would continue to owe taxes on the capital gain incurred, relative to the difference between \$5 per acre, which is what the land was worth in 1931, and \$1,000 per acre, which is what the land was worth upon his mother's death in 1994.

Richard Cram, Kansas Department of Revenue, reviewed the background of NOL carrybacks (Attachment 7), including the extent to which other states allow both carrybacks and carryforwards of NOLs.

The Chairperson recessed the meeting at 11:45 a.m.

Afternoon Session

The Chairperson called the meeting to order at 1:30 p.m.

Topic 5—Coalbed Methane Valuation

Lynn Kent, Property Valuation Division (PVD), reviewed the valuation process of coalbed methane gas in Kansas (Attachment 8) and answered questions from the Committee.

Gary Davidson, landowner in Montgomery County, stated there are inequities in the tax burden of landowners relative to the gas companies (Attachment 9).

David M. Dayvault, Kansas Independent Oil & Gas Association, spoke in favor of the present valuation of coalbed methane production (Attachment 10). He suggested any legislative changes regarding valuation as a result of political pressures would be an unfortunate development in what had up until now been an objective and professional process.

David Bleakley, Eastern Kansas Oil and Gas Association, also spoke in favor of the present valuation of coalbed methane production (Attachment 11). He stated the oil and gas industry did not develop the current valuation system, which had stood the test of time.

Topic 4—Taxation of Watercraft

Mr. Courtwright gave an overview and history of HCR 5015 (Attachment 12), which was referred to the Senate Committee of the Whole in early April, but was not subsequently acted on by the full Senate.

The Legislative Coordinating Council (LCC), at the request of Representative Bowers, charged the Special Committee on Assessment and Taxation with reviewing the property tax burden on watercraft and the policy implications associated with HCR 5015 and with making any recommendations deemed appropriate to the 2009 Legislature.

One key question that would need to be addressed before reintroducing the latest version of the amendment in 2009 would be whether to wait until 2010 to place it on the ballot or to seek a special election in 2009.

Other issues that could come into play with a potential new system would include whether or not watercraft could be more easily registered and taxed by counties using existing resources, such as the Vehicle Information Processing System, as opposed to the current fair market value methodology.

Representative Sharon Schwartz appeared before the Committee in support of HCR 5015 (Attachment 13). She stated Kansas is losing revenue under the current tax policy as owners choose to move their boats to surrounding states for storage where the tax policy is more equitable.

Representative Dale Swenson appeared before the Committee in support of HCR 5015 “as is” (Attachment 14). He stated that HCR 5015 would authorize the Legislature, beginning in tax year 2009, to classify watercraft on a different basis from other property. The amendment would have no immediate fiscal impact unless the Legislature passed a law changing the tax treatment of watercraft.

Kent Craft, past President of the Kansas BASS Chapter Federation Nation, appeared before the Committee in support of HCR 5015 (Attachment 15).

Representative Lee Tafanelli appeared before the Committee in support of HCR 5015. He stated the passage of the amendment would help stimulate the Kansas economy. He submitted written testimony (Attachment 16) on behalf of Dennis Hewitt of Ozawkie.

Representative John Grange noted that when the entrance fee was reduced to the state parks by 50 percent, attendance nearly doubled. He said he hoped a boat tax reduction would work the same way.

Dan Heskett, Wildlife and Parks, explained that federal matching funds are made available to states based on boats being registered in the “state of principal use.” The definition of “state of principal use” is generally the state in which that boat will be most used during a calendar year, and does not necessarily relate directly to residency of the owners. Mr. Heskett has been gathering information from the surrounding states regarding the extent to which Kansas residents have boats registered in those states and agreed to provide an update on that research at the October meeting.

The Chairperson adjourned the meeting at 4:30 p.m.

Friday, September 19 Morning Session

The Chairperson called the meeting to order at 9:00 a.m.

Topic 1—Machinery and Equipment Exemptions and Slider Provisions – 2006

Mr. Courtwright reviewed the commercial and industrial machinery and equipment exemptions and slider provisions (Attachment 17). He also discussed the slider distribution formula.

The charge to the Committee is to review the secondary distribution formula for slider payments made by counties to other local units of government as a result of the business machinery and equipment property tax relief legislation enacted in 2006 and 2007. The Committee is to further study whether the proper distribution to local units of government is being made, and if there should be additional state oversight to assure compliance with the statutory formula. Finally, the Committee is charged with reviewing the equity of the slider formula and making any recommendations deemed appropriate to the 2009 Legislature.

Tony Folsom, PVD, gave an overview of the slider reimbursements made to the counties for 2007 (Attachment 18) and the calculations for those payments. The total amount of reimbursements for the first year was \$25,860,360.

Matthew Zimmerman, Emporia City Manager, testified for the city (Attachment 19) and said Emporia officials believed the distribution formula had created unintended consequences. He argued that slider monies should not be distributed to certain entities (such as libraries and recreation commissions) which rely on other taxing subdivisions to make property tax levies on their behalf. He also said the distribution formula should be based upon changes in the estimated assessed valuation instead of changes in property tax levies. Finally, he suggested the Legislature consider earmarking the slider funds for only those taxing jurisdictions like cities and counties that provide services such as police and fire protection.

Sheldon Hamilton, Atchison Director of Finance, testified before the Committee (Attachment 20). He stated there needs to be additional state oversight to assure compliance with the proper distribution of slider funds within the counties. His review of the slider indicated that the amount of the slider was correctly calculated pursuant to K.S.A. 79-2978(b)(1), but was not distributed pursuant to K.S.A. 79-2978(e)(2). He also said he would have preferred the Legislature provide the tax relief via a refundable income tax credit instead of narrowing the property tax base and causing tax shifts to other classes of property.

Randall Allen, Executive Director of the Kansas Association of Counties, testified (Attachment 21) that it was critical for the Legislature to continue to make the slider payments as promised when the machinery and equipment property tax exemptions were enacted by the 2006 Legislature. He also said the Kansas Association of Counties was not aware of any reason to require additional state oversight of county treasurers' distribution of slider payments.

Ken Daniel, Topeka Independent Business Association, said the exemption approved in 2006 was very important to many Kansas businesses.

Topic 2—Sales Tax-Telecommunications

Mr. Courtwright provided an overview of various versions of legislation regarding telecommunications machinery and equipment sales tax refunds (Attachment 22). The LCC, at the suggestion of Representative Wilk, assigned the sales tax refund issue to the Special Committee on Assessment and Taxation and asked the Committee to study the proposal as an equity issue relative to the current exemption for manufacturing machinery and equipment. The Committee also was asked to review the relevant provisions of Senate Sub. for HB 2412 and make any recommendations deemed appropriate to the 2009 Legislature.

Mark Beshears, Vice-President, State and Local Tax, Sprint/Nextel, appeared in support of proposed legislation that would create the right to a refund of sales tax paid on the purchase of certain telecommunications machinery and equipment in Kansas (Attachment 23). In response to a question, Mr. Beshears said that given the fiscal condition of the state, if he had to pick some subset of such purchases to qualify for the refunds, it would involve the machinery and equipment relating to high-speed and broadband expansion.

Mr. Courtwright provided a tentative agenda for the October meeting (Attachment 24).

Gordon Self, Office of the Revisor of Statutes, provided information to Committee members on the machinery and equipment property tax exemptions and on the *Kansas Constitution* (Attachment 25).

The Chairperson adjourned the meeting at 11:30 a.m.

Prepared by Kathleen Beavers
Edited by Corey Carnahan

Approved by Committee on:

October 24, 2008

(Date)