

STATE AFFAIRS COMMITTEE

March 26, 1965

The meeting was called to order by Vice-Chairman, Ernest Unruh, who introduced John Corkhill, speaking for Senator Glee Smith on S.B. 229. Mr. Corkhill explained that under the public employees retirement system, certain rules applied to employees who work beyond the mandatory retirement age; that by accident two employees worked beyond this stage and that by law the state would have to go back and recover the overpayment; that this bill is just a waiver in these cases. He then asked to amend one other employee into the bill, one Robert A. Baldwin. Mr. Corkhill stated that one of these individuals is now deceased and the other two every elderly.

Senator Steineger appeared to discuss S.B. 170, stating that it proposes to authorize Kansas City Kansas to make application to the Federal government for a "foreign trade zone"; that this would make it possible to ship foreign made items into this zone but no customs would be paid until the goods was sold and removed from the zone; that the reverse would apply on U. S. goods sent abroad; that it would enable a manufacturer or distributor to operate without tying up large capital. Miss Jacquart inquired if there would be federal customs inspectors to police the zone and Mr. Steineger stated that there would be.

H.B. 1067 came up for discussion and Mr. Thad Kinnaman, President Kansas Ass'n. of Watersheds discussed the proposal, using a map to explain how water levels might affect the land involved for tax reduction. He pointed out that probably the top of the dam should be used as a basis for figuring how far the water might extend out in certain circumstances, and that a tax rebate should be given to the owner on this land that might be affected. Mr. Babcock stated that with regard to the effect on the local community and its tax receipts, very little is lost; that they receive so much more in benefits than it costs in tax loss. Mr. Rogers inquired about the difference in acreage involved between spillway level and top of the dam level, and Mr. Kinnaman showed on the map that very little acreage would actually be involved. Mr. Buchele stated that if the owners can get reduction in taxes they will give the easement, but if no benefit is granted, then the easement will have to be purchased. Mr. Bill Patterson, Contracting Officer for Twin Caney Watershead stated that he had worked with local owners on the basis of the 1961 law, and obtained easements on that basis, and that he just can't go back and tell them that now there is a difference in elevation of 7 to 9 feet in determining the acreage; that in obtaining easements he has

gone beyond the point of return, and would like to have the bill read on the basis of level from the top of the dam.

Mr. Smurro of the Water Resources Board stated that he had some proposed amendments, which were handed to Mr. Rogers who is on the sub-committee working on this bill. Vice Chairman Unruh appointed Ross Doyen to work with him on this particular matter.

Rep. Nowlin stated that he concurred wholly with the proposed amendments.

Mr. Fribley moved that S.B. 170 be recommended favorably. Motion was seconded by Mr. Buchele and carried unanimously.

Mr. Fribley then moved the adoption of the proposed amendment on S.B. 229. Motion was seconded by Mr. Buchele and carried unanimously. Thereupon, Mr. Fribley moved that 229 as amended be recommended for passage. Upon second by Mr. Buchele, motion carried unanimously.

The meeting was adjourned.

Smurro

House Bill No. 1067

By Committee on State Affairs

- Pg. 1 Line 19 - Change the word "act" to "section."
- Pg. 1 Line 21 - Change the word "approval" to "certifying completion".
After the word "dam," insert the words, "or reservoir".
- Pg. 2 Line 3 - In item (2) after the word "dam", insert the words
"or reservoir".
- Pg. 2 Lines 4, 5, 6 - Strike out item (4)
- Pg. 2 Line 8 - Change the word "Approval," to "Certification"
- Pg. 2 Line 9 - Change the word "Approval," to "Certification."
- Pg. 2 Line 11 - After the word "land," insert the words "or any part of it."
- Pg. 2 Line 13 - After the word "land," insert the words, "or part of it."
- Pg. 3 Line 4 - After the word "apply," insert the words, "to the chief
engineer of the division of water resources."
- Pg. 4 Line 1 - After the word, "who," insert the words, "otherwise in
applicable provisions of
accordance with/sections KSA 82a-406 and 82a-407 and
acts amendatory thereof or supplemental thereto"
- Pg. 4 Line 14 - Change the word, "act," to, "section."
- Pg. 4 Line 19 - Change the word, "approval," to "Certifying Completion."
- Pg. 4 Line 25, / 26, 27 - Strike out item (4)
- Pg. 4 Line 25, / ~~After the word "land," insert the words, "or any part of it."~~
- Pg. 4 Line 29 - Change the word "approval" to "Certification."
- Pg. 4 Lines 30 & 31 - Change the word "approval" to "certification."
- Pg. 5 Line 1 - After the word "land," insert the words, "or any part of it."
- Pg. 5 Line 4 - After the word, "land," insert the words, "or part of it."
- Pg. 5 Line 8 - Change the word, "deemed," to "as determined"

Pg. 5 Line 14 - After the word "reservoir." insert the words "(f) No reduction shall be granted under the provisions of this section unless the landowner shall apply to the chief engineer of the division of water resources for a certificate of completion and reduction of valuation within one (1) year after the effective date of this act or within one (1) year after actual completion of the dam or reservoir whichever is later."

Kinnaman

Thad Kinnaman before the State Affairs Committee of the House,
26 March 1965, 1:00 p.m., Room 522, State House, Topeka, Kansas.

HOUSE BILL No. 1067

SECTION 3. Page 4 - Line 24. Following the word "land" change the comma to a period and strike out the word "and". Strike out lines 25, 26 and 27.

Page 5 - Line 13. Following "higher than the" add "top of the dam" and strike out the remainder of that line and all of line 14. Between lines 14 and 15 add the following paragraph: "(f) No reduction shall be granted under provision of this section unless the landowner shall apply to the chief engineer of the division of water resources for a certificate of completion and reduction of valuation within one (1) year after the effective date of this act or within two (2) years after actual completion of the dam or reservoir whichever is later."

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Not affecting watershed structures, but in the interest of consistency, consideration may be given to the following changes in Section 1:

- Page 1 - Line 21. Following the word "dam" insert the words "or reservoir".
- Page 2 - Line 3. Following the words "of the dam" insert the words "or reservoir" ahead of the comma.
- Page 2 - Line 3. Following the words "contiguous to the dam" insert "or reservoir".
- Page 2 - Line 4. Following the word "land" change the comma to a period, and strike out the remainder of line four (4) and all of lines five (5) and six (6).
- Page 3 - Line 4. Following the word "apply" add the words "to the chief engineer of the division of water resources".

Dagen

COMMITTEE REPORT

MR. CHAIRMAN:

Your Committee on Agriculture and Livestock submits its final report on Proposal No. 28 -- Water Storage - Tax Exemption, introduced by Representative Marvin Clark.

This proposal is concerned primarily with reductions in assessed valuation granted to landowners who comply with the provisions of the water storage laws, which are contained in Article 4, Chapter 82a, of the General Statutes. The Committee has carefully reviewed the content and historical development of these laws, including the amendment proposed in Senate Bill 394 of the 1963 session. (This bill passed the Senate, but failed to receive a constitutional majority on third reading in the House of Representatives.) Although the first law providing for reductions in assessed valuation in connection with construction of water storage dams was enacted in 1911, the present laws are basically those which were enacted in 1941, with several subsequent amendments.

The responsibility for the administration of these laws is divided between the county commissioners and the county clerk or assessor at the local level, and the division of water resources of the State Board of Agriculture at the state level. In addition, there are several other state agencies and organizations which are interested in the application and administration of the water storage laws. The Committee conducted a hearing at which members of the agencies and organizations discussed various aspects of the application and administration of these laws. Additional information was made available to the Committee through staff conferences with these persons. As a result of these conferences, the Committee has received testimony from the water resources division of, and the attorney for, the State Board of Agriculture; office of the Attorney General; State Association of Kansas Watersheds; State Soil Conservation Committee; Water Resources Board; and a county commissioner from Brown County.

Information as to the number and amount of reductions in assessed valuation granted under the water storage laws in each county during the 1963 tax year was obtained from the county clerks. The results of this survey and information presented by conferees are available in the files of the Research Department.

Under existing statutes, there are three types of reductions in assessed valuation. There are those which are granted under the authority of Article 4, Chapter 82a, G.S. 1935. These reductions were primarily granted for the construction of flood detention dams and/or water storage reservoirs, but in a very few cases they were granted to landowners who donated land to the state or one of its agencies or subdivisions (usually the Forestry, Fish, and Game Commission). A schedule set forth in this law determined the amount of reduction to be granted, but no time limit on the reduction was specified. This law was repealed in 1941 when the water storage laws were revised, but the reductions granted therein were perpetuated by a provision in 82a-407, G.S. 1949. During the 1963 tax year, 34 landowners received a reduction in assessed valuation under the provisions of the law that was in effect immediately prior to 1941. The aggregate of the 34 reductions was \$103,351.

A second type of reduction in assessed valuation is granted under 82a-405, G.S. 1961 Supp.. If a landowner constructs a water storage reservoir in accordance with the provisions of this statute, a reduction in assessed valuation, determined by a prescribed schedule, is granted for a ten-year period. The maximum reduction allowed is \$5,000, but under no circumstances can it exceed 40% of the assessed valuation of the entire contiguous acreage owned by the landowner upon which the reservoir is located. Throughout the state in the 1963 tax year 599 such reductions were granted by county clerks or assessors. These reductions totaled \$1,240,231.

In return for the reductions granted under this law, the county commissioners may, when necessary and as provided in 82a-408, G.S. 1949, declare that a drought emergency exists and open those reservoirs to the public which have a surplus of water. According to data collected by the Research Department, there is a record of only nine reservoirs being opened officially in accordance with this statute. Eight of these were opened to the public in 1963, seven being in one county.

The third type of reduction is authorized by 82a-409, G.S. 1961 Supp.. In this case, a reduction is granted to a landowner in return for his donation of land, easements, or rights of way to the state or one of its agencies or subdivisions. Such donations occur primarily in connection with the development of watershed districts. The landowner is entitled to a twenty-year reduction in assessed valuation on his entire contiguous acreage, the law providing that the annual amount of such reduction shall be equivalent to twice the assessed valuation of the land donated as determined by the county clerk or assessor. This law does not establish any monetary limit on the amount of reduction in assessed valuation. (An amendment in 1959 removed a provision which limited the total amount of the reduction to a maximum of 40% of the assessed valuation of the entire contiguous acreage.)

Only 20 such reductions were granted in the 1963 tax year, for a total reduction of \$53,215. However, according to testimony presented to the Committee, the potential number of reductions which might be granted under this law is large, since the prospect of a tax benefit under this law is offered as an incentive to landowners to donate land to the rapidly developing watershed districts.

Recommendations

It has become evident to the Committee that there is considerable confusion in the administration of the reductions in assessed valuation allowed under the water storage laws. This confusion is primarily the result of ambiguities within the existing statutes. The Attorney General has received numerous questions about this law, many of which have been difficult to answer. In one opinion he said ". . . the statutes, through the evolution of various amendments, are very confusing in their terms." It also should be noted that, based on the aforementioned survey made by the Research Department and on other information presented to the committee, the reductions in assessed valuation are not being determined in a uniform manner at the county level.

Because the water storage laws play an important role in the development of water resources in Kansas, the statutes should be clearly stated so that they can be applied uniformly. Your Committee, therefore, recommends that the following specific changes be made in these laws:

1. The phrase "entire contiguous acreage," contained in 82a-405 and 82a-409, G.S. 1961 Supp., should be precisely defined in order to eliminate the possibility of various interpretations.
2. Section 82a-409 should be amended to provide specifically that the acreage donated to the state or any of its subdivisions is limited to the acreage owned by the donor at the time the donation is made. Acreage which is subsequently acquired by the landowner should not be subject to a reduction in assessed valuation.
3. Both 82a-405 and 82a-409 should be amended to provide specifically that the entitlement to reduction in assessed valuation shall remain with the land regardless of the sale of all or any part of it.

4. Section 82a-409 should be amended to provide that the dollar amount of reduction is to remain constant throughout the twenty-year period of reduction. That is, the annual amount of such reduction shall be based on the assessed valuation of the land donated at the time it was donated.

5. Amendments should be made to 82a-405 and 82a-409 to require landowners who are potentially entitled to and desire a reduction in assessed valuation under these laws, to apply for a certificate of completion and/or a reduction in valuation within one year after actual completion of the dam or reservoir.

6. Section 82a-407 should be amended to provide that the county clerks or assessors shall be furnished by the chief engineer more detailed information concerning the specific land area involved in each project for which he issues a certificate of completion.

7. Another amendment to 82a-407 should require that the certificate of completion be sent directly to the county clerk or assessor, instead of to the county commissioners, since no discretion is allowed in making the reduction in valuation.

8. An amendment to 82a-409 should prescribe an engineeringly determinable limitation on the acreage which may be considered as donated. It is suggested that such acreage be limited to the land which lies below the elevation of the crest of the emergency spillway. (Where no such spillways exists, the limit should be the land which lies below the elevation of the top of the dam.)

Three fundamental policy questions with regard to sections 82a-405 and 82a-409 were not resolved by the committee. These are whether there is any longer a need or justification for the reduction in valuation allowed under 82a-405; and whether the 20-year provision should be reduced and a limit placed on the amount of the reduction allowed under 82a-409. The committee recommends that these questions be given careful consideration by the appropriate standing committees of the 1965 legislature.

Respectfully submitted,

Wm. H. Ward, Chairman

SENATE BILL No. 229

By Senator Smith

AN ACT relating to certain members of the public employees retirement system and providing for the waiver of any claims of the participating employer for refund of salaries after mandatory retirement date.

Be it enacted by the Legislature of the State of Kansas:

1 SECTION 1. The following members of the public employees re-
2 tirement system having reached the mandatory retirement age under
3 the provisions of the Kansas public employees retirement system
4 were inadvertently retained on the payroll of the participating em-
5 ployer beyond said mandatory retirement date: Albert H. Bennett,
6 deceased; Clover Hannon. "; Robert A. Baldwin.

7 SEC. 2. To require a refund from said persons or their benefi-
8 ciaries of the overpayment of salaries paid to said persons would
9 constitute a great hardship in each case and because services were
10 actually performed for such salaries the participating employer shall
11 waive its right to recover said overpayments and that said persons or
12 their beneficiaries shall be entitled to receive retirement benefits as
13 provided by the Kansas public employees retirement system effective
14 the first day of the month coinciding with or following said person's
15 last day on the payroll on the basis of their respective then attained
16 ages.

17 SEC. 3. This act shall take effect and be in force from and after
18 its publication in the official state paper.

EXPLANATION OF SENATE BILL 229

This Act relates to certain members of the public employees retirement system who were inadvertently retained on the payroll of the state beyond their mandatory retirement age. This came about because the employees did not in fact know their true ages and did not report their true ages to their employers so that they could be retired at the proper time.

In the case of Clover Hannon, she was employed at the University of Kansas Medical Center as a maid and at a salary of \$242.00 per month. As a result of the error the net overpayment was \$2,199.72. She is now 75 years old and is entitled to a retirement benefit in the amount of \$11.61 per month.

In the case of Albert H. Bennett, he was employed by the State of Kansas in the Grain Inspection Department and living at Wichita. His records carried the erroneous date of birth of April 27, 1907 when in fact his correct date of birth was April 27, 1893. Mr. Bennett died in service on August 14, 1964. His wife and one minor child survive him. When his correct age was determined the net amount of salary overpayment was \$2,816.83. Retirement benefit to his surviving spouse would be about \$5.00 per month.

The Attorney General has given his opinion that the amounts of payment beyond mandatory retirement dates were unlawful and that it was mandatory that such amounts be recovered from either the individual or the estate of these former employees. In both cases to require a repayment would work a great hardship on the former employee and the beneficiary of the deceased employee.

The last regular session of the legislature in Chapter 413 waived the right of the state to recover similar payments to four other employees that had occurred at that time. This is following the same practice as occurred in those cases.

ADDITION TO SENATE BILL 229

In the case of Robert A. Baldwin, he was employed by the State Department of Revenue as a laborer and at a salary of \$294.00 per month. As a result of the error the net overpayment was \$492.20. He is now over seventy (70) years of age and is entitled to a retirement benefit in the amount of \$12.79 per month.