

M I N U T E S

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

September 18-19, 1975

Thursday, September 18

The meeting was called to order by Vice-Chairman Stark shortly after 10:00 a.m., with all members except Senator Gaar (who was present for the afternoon session) and Representative Hineman present. Staff present for all or part of the day: Bill Edds, Arden Ensley, Mike Heim, Roy Johnson and Richard Ryan.

Minutes of Last Meeting

It was moved by Representative Brooks and seconded by Senator Simpson that the minutes of the August 21-22 meeting be approved. Motion carried.

Proposal No. 7 - Job Expansion Act

Bill Edds reviewed, section-by-section, the latest mock-up of H.B. 2153, with Secretary of Revenue Kent Kalb, Bob Olsen of his legal staff, and Donald O'Conner, representing KACI, joining in answering questions.

In reply to a question relating to a facility as defined in Sec. 2(a), Mr. O'Conner stated that a building on leased land could qualify as a facility.

In response to a suggestion that perhaps the beginning dates in Sec. 2(b)(2) should be revised to correspond to the revised effective date of the act in Sec. 8, Mr. Kalb stated that they did not need to be the same. It was moved by Senator Janssen and seconded by Senator Christy that no change be made. Motion carried.

Denial of credit for a facility used by another in the same or a substantially identical enterprise immediately prior to its transfer to the taxpayer (Sec. 2(b)(3)) was explained by Mr. O'Conner as intended to discourage "peddling credits", i.e., acquiring a credit by merely buying a going concern. Mr. Kalb added that in later sections transfers are permitted in certain successor type situations as distinguished from unrelated transactions.

In reply to a question, Mr. O'Conner expressed his opinion that a credit would be allowable if a purchaser changed the nature of the business, from an automobile repair shop to a farm implement business, for instance.

Representative Wilkin expressed concern that one result of the provision under discussion could be to encourage a shift to a new location in preference to buying a business and continuing it at the same location, thus contributing to urban sprawl and to the defeat of efforts to restore or improve downtown areas.

Another question raised concerned a possible inconsistency between a provision in Sec. 2(d) where credit is allowed for what otherwise would be an ineligible replacement facility if the investment in it exceeds \$5 million or 500% of the investment in the old facility, and a provision in Sec. 2(a) where credit is allowed for an expansion if the investment in it exceeds \$1 million or 100% of the investment in the original facility. Mr. O'Conner's answer was that this is a policy question. Mr. Olsen suggested that, with regard to the point made earlier by Representative Wilkin, this might tend to encourage expansion in a downtown area in preference to moving out to a new location.

In reply to a question whether a person opening up a new business in the vacant Crosby store building in Topeka, for instance, could qualify for a credit, Mr. O'Conner said this would depend on the construction of "immediately prior to" in Sec. 2(b)(3). Mr. Olsen referred to this as a judicial decision which could be replaced with a statutorily prescribed time period, but added that the latter also could be somewhat arbitrary.

It was noted that the three year deferral of the beginning of the credit allowed in Sec. 3, when added to the initial acquisition period (Sec. 2(b)(2)) and the 10 year credit (Sec. 1(a)), would provide a potential scope of 16 years during which credits would be available.

In reply to a question as to whether one suspending the credit under Sec. 5 could later resume operations at an expanded level and thus increase both the credit and the period, Mr. O'Conner stated that the amount but not the length of the credit could be increased in this manner.

Mr. Kalb presented a written report on five areas as to which questions had been raised at the August meeting. Copies of the detailed report are filed in the Committee notebooks. In summary, Mr. Kalb reported that: (1) Subchapter S corporations could qualify for credits, with procedures to be provided by regulation; (2) there would be no similar trickle down in the case of cooperatives, unless a different result was provided for by legislation; (3) estates could be included through one of two alternative amendments drafted by the Department (see action below); (4) the loss carryback and carryforward problem could be handled by regulations; and (5) it would be desirable for the legislature to expressly include or exclude farming operations, with no distinction between feedlot operation and other agricultural pursuits.

It was moved by Senator Christy and seconded by Representative Thiessen that the Committee adopt the alternative provision as to estates (adding to Sec. 4 a new subsection "e") for which the Department expressed a preference. Motion carried.

Mr. Kalb stated that the bill as amended, though not solving all problems, could be administered. However, he added that an effective audit program would be required and requested support of funds for such a program if the bill is enacted.

Mr. Severn reported that the Budget Division had found no reason to revise its fiscal note as a result of the amendments.

Mr. Bud Grant, KACI, distributed copies of a letter relating to the effectiveness of a somewhat similar West Virginia law.

Proposal No. 6 - Assessment/Sales Ratio Study

Dr. Tollefson reviewed for the Committee a report of the Technical Advisory Committee, copies of which are filed in the Committee notebooks. The report, prepared at the request of the Committee, contains 8 recommendations described as being in some cases intended to improve the study and in others to allay concerns about it. Dr. Tollefson called attention to the uses of "class" and "sub-class" in the report, the former designating the kind of political subdivision in which property is located and the latter referring to use. He also noted that the recommendations do not have a one to one relationship to problem areas considered.

In summary, the eight recommendations are as follows:

1. Continue to place primary if not sole reliance on sales data.
2. Supplement sales data with appraisals when the number of sales is inadequate (less than 20 sales in a given class).
3. Require that all real estate transfers (including installment contract sales) be recorded and a certificate of value completed.
4. Make completion of a real estate transfer questionnaire mandatory.
5. Continue to use the median ratio.
6. Change the time period of the study.
7. Adopt a new method of computing ratios for the urban and rural property classes (weighted by sub-class valuations represented).

8. Use annual ratios to provide information for property tax administrators, but a moving average (three years) of ratios for public policy decisions.

A question was asked as to the law (75-503) referring to market value and listing factors to be considered and whether an assessor doing the latter can arrive at 30% of market value. Dr. Tollefson's reply was that the assessor should be able to come close.

With regard to the possibility of substituting an appraisal ratio study for the sales ratio study, Dr. Tollefson stressed the validity problem associated with a mass appraisal program, and the "inordinate expense" and perhaps impossibility of a fee appraisal system.

The recommendation of a minimum of 20 sales applies only to classes, not to subclasses. A question was asked as to whether 20 sales, all of pasture land, would be valid as applied to irrigated land. Dr. Tollefson said that a later recommendation addresses this problem in part. He added that it would be desirable to have finer use classifications but that this would require much more data and greatly increase the cost of the study. He admitted to feeling uncomfortable about only five agricultural investment sales in Riley County in 1974, for instance, but stated the Committee's judgement that improvement in this area would not be worth the cost.

In reply to a question as to the basis for selecting 20 sales, Dr. Tollefson said that examination of prior ratio studies indicated that ratios in counties with 20 sales or more generally followed the state trend, while those in counties with fewer sales tended to fluctuate more. He explained the criteria as a matter of judgement.

Recommendation No. 3, to include contract sales, was explained as: (1) increasing the reliability of the study, (2) making it more complete, i.e., applying to all properties, and (3) reducing the number of appraisals required.

Asked for an alternative to requiring completion of the questionnaire by statute (Recommendation No. 4), Dr. Tollefson said we could go on as now, getting the information in many cases though not absolutely required. The issue was described by Representative Stark as violating the right of privacy for school finance purposes.

With regard to the recommendation (No. 6) re changing the period of the study, the staff raised a question as to what study it would be when 1975 calendar year sales were compared with May 15, 1976, values, for instance. Further, this apparently would be the latest available for use in the 1977 Session. Dr. Tollefson agreed that this would mean using data averaging eight months older than at present.

In reply to a question, Dr. Tollefson said that the proposed change in the procedure for computing the ratios (Recommendation No. 7) had not been applied in any urban areas but that if properties were properly classified it should help solve the changing use problem.

With regard to the recommendation (No. 8) of averaging the last three ratios for school finance purposes, Dr. Tollefson said that no evaluation of the effect of the recommendation as submitted as compared to the present method of determining district wealth had been made, but that this would be done.

In reply to questions, Dr. Tollefson stated that the assessment/sales ratio (supplemented by appraisals the purpose of which is to estimate what property would sell for) is valid for determining market value if that is used as a measure of wealth. However, if income were made the only factor in determining wealth, use of the sales ratio study would be inappropriate.

Dr. Pine, another member of the Technical Advisory Committee, noted that sales data is available but there is a question as to what kind of income data should be used if a change were made to that basis of measuring value. He suggested that future income rather than current use income should be used.

Dr. Fisher, the third member of the Technical Advisory Committee, answered an earlier question as to whether 79-503 should be amended in the affirmative, stating that it would be clearer to limit the section to market value, striking the listing of factors to be considered.

Mr. Kalb reported on a suggestion from former Representative Clyde Hill relating to use of information from certificates of value and vital statistics in inheritance tax administration. He indicated that this would require some statutory changes and computerization of inheritance tax administration, with a question as to whether the cost of the latter would be justified.

As to the ratio study, Mr. Kalb noted that presently there is not a single county within the 20% tolerance allowed by 79-1436b.

Friday, September 19

The meeting was called to order by Chairman Gaar shortly after 9:00 a.m., with all members except Representatives Hineman and Wilkin present. Staff: same as first day.

#### Proposal No. 5 - Motor Vehicle Taxation

The staff reviewed the results of a 24-county survey of the effect on local unit revenues from the property tax of four

possible plans - S.B. 52 using urban and rural county average mill rates, S.B. 52 with county average mill rates, S.B. 52 with state average mill rate, and the Indiana law.

The results showed generally, as would be expected, a closer correspondence to present revenues from taxation of motor vehicles under the rural/urban averages plan, with the county average plan in second place. In both cases, the total revenue would tend to be below the present basis because of concentration of vehicles in urban areas with high tax rates. This effect would be offset, to some extent at least, by elimination of second half delinquencies through the requirement that the tax be paid in full when the vehicle is registered.

It was pointed out that the comparison relates to revenues from the taxation of motor vehicles only, not total property tax revenues. There could be some shifting of property taxes to or from real property or other types of personal property, depending on whether revenues from the motor vehicle tax were greater or smaller than the present tax on motor vehicles. Section 12 of the bill ties the proposed motor vehicle tax revenues in with the tax lid aggregate dollar levy limit for units subject to the lid - counties, cities and junior colleges. School districts are subject to budget limitations, and revenues from the vehicle tax would become a source of revenue not associated with the property tax and used to reduce the property tax requirement for funding the budget.

As requested, the Property Valuation Division submitted a report on the correspondence of the 16% on the remaining balance depreciation in the bill to depreciation in the market. It was found that a depreciation rate of 20% on the remaining balance would be more indicative of the historical automotive market than is 16%. However, other factors, notably the energy crisis, are affecting the present market and causing it to vary from the historical trend.

A question was raised as to what effect changing the depreciation rate (to 15% or 14%, etc.) would have on revenues from the proposed motor vehicle tax. It was suggested that such an adjustment might be used to produce revenues generally closer to the present tax on motor vehicles.

The Division of Property Valuation suggested a clarifying amendment in Section 5 of S.B. 52, relating to the computation of depreciation by model years. It was moved by Representative Garrett and seconded by Representative Powell that the bill be so amended. Motion carried.

The Division of Property Valuation raised a question relating to responsibility for the initial classification of motor vehicles (S.B. 52, p. 3, Sec. 4, lines 23-24; and p. 8, lines 22 to 28). After discussion, it was moved by Representative Garrett and seconded by Senator Janssen that clarifying language be worked out by the staff, the Division, and county officials, and submitted to the Committee for review. Motion carried.

The staff reported that some other technical amendments had been suggested for consideration.

As a test of sentiment, the Chairman asked for a show of hands as to first choices among the four alternative plans, with the following results:

Indiana Plan: Representatives Stark and Thiessen.

S.B. 52 - statewide av.: -

S.B. 52 - co. av.: Senators Chaney, Gaar, Janssen, Simpson

S.B. 52 - R/U avs.: Senator Christy; Representatives Brooks, Garrett, Powell, Whittaker

It was moved by Representative Garrett and seconded by Senator Christy that the R/U average plan be retained in S.B. 52. It was moved as a substitute motion by Senator Janssen and seconded by Representative Stark that S.B. 52 be amended to use the county average mill rate.

In support of their positions, Senator Janssen noted the advantage of 105 rates over 210 rates; Senator Simpson stressed the advantage of eliminating the problem of determining the exact situs of the vehicle within the county; Senator Chaney stressed elimination of a rate differential for two persons who might live across the street from each other; and Senator Christy noted the objection of farmers to having the tax on their cars increased.

Also discussed was the fact that while many city dwellers might find the taxes on their cars reduced and many rural residents might find the taxes on their cars increased, the revenues would remain where the vehicle had its situs. For instance, no city would receive any revenue from a car having its situs outside of the city limits. However, there could be some shifting of taxes to or from other types of property within urban or non-urban areas. The substitute motion carried, with Senators Chaney, Janssen and Simpson and Representatives Brooks, Stark and Thiessen voting "Aye". Senator Christy and Representatives Garrett, Powell and Whittaker voted "Nay". (It was noted that if all members had been present and the vote had been tied the Chairman would have voted "Aye".)

It was moved by Representative Stark and seconded by Senator Simpson that S.B. 52, as amended, and subject to technical amendments as noted above, and to review of the depreciation rate, be recommended for passage. Motion carried, with Senators Chaney, Janssen and Simpson, and Representatives Brooks, Powell, Stark, Thiessen, and Whittaker voting "Aye". Senator Christy and Representative Garrett voted "Nay".

The staff was instructed to have a mock-up of S.B. 52 with the amendments adopted, and technical amendments suggested, for consideration at the next meeting of the Committee.

The Division of Property Valuation was asked to have data from Johnson County (computer) and at least a sampling of other counties, by computer or otherwise, as to the effect of alternative depreciation rates on revenues from the county average motor vehicle tax for consideration at the next meeting, and to keep in mind the need to have similar information as to the rural/urban plan for the 1976 Session.

### Staff Reports

Staff presented a report on state general fund receipts for the first two months of FY 1976, copies of which are filed in the Committee notebooks.

Staff also called attention to two Board of Tax Appeals orders, copies of which are filed in the Committee notebooks. One held that light poles and electrical lines are not "structures" within the meaning of 79-3603(p) and the other that property leased by a hospital is exempt from 1974 (but not prior year) taxes under 79-201, twelfth, as enacted in 1974 and effective for all taxable years commencing after December 31, 1973.

The Committee agreed to include in its report to the 1976 Legislature recommendations that the standing committees develop clarifying legislation in each of these areas.

### Plans for Next Meeting

Because of a conflict with a meeting of the National Legislative Conference, the date of the next meeting was changed from October 9 to October 3, starting at 9:00 a.m. in Room 517.

The Chairman announced that the agenda would include Proposals 67, Oil and Gas Incentives; 5, Motor Vehicle Taxation; and 8, Agricultural Land Valuation.

Prepared by Roy Johnson

Approved by Committee on:

October 3, 1975

(Date)