

## M I N U T E S

## SPECIAL COMMITTEE ON USE VALUE APPRAISAL

August 15-16, 1977Monday, August 15

The meeting was called to order by Chairperson Powell at 9:30 a.m., with all members present. Staff present: Bill Edds, Arden Ensley, Roy Johnson, Richard Ryan, and Robert Taylor. Conferees: Raymond Vaughn, Director of Property Valuation, Lyle Clark and Bob Walters, Division of Property Valuation; Dale Dennis, State Department of Education; Mark Edelman, K.S.U.

On motion by Representative Hineman, seconded by Senator Simpson, the minutes of the July 11-12 meeting were approved.

Staff Reports

Staff distributed copies of and reviewed a letter from Dr. Flinchbaugh proposing a modification of the procedures in the school district impact study to indicate the effect of use value appraisal on school district wealth by using 1975 use value data as a basis and making the computations for the first year of the 4-year averaging and the fourth year (but not the two intervening years individually). This would simplify the collection of data where the bill calls for 8-year averaging, and substantially reduce the number of computer runs required. After discussion, it was moved by Representative Hineman and seconded by Representative Thiessen that the requested modification of procedures be approved. Motion carried.

Staff reported on a telephone conversation with Dr. Bidwell, K.S.U. Agronomist, in which Dr. Bidwell expressed the opinion that securing the services of qualified soil scientists on a contract basis would be a practical approach, mentioning retired federal employees and individuals in the academic field in neighboring states as potential sources.

Staff distributed copies of and reviewed a bill enacted in Nebraska this year to require counties which have not implemented a revaluation plan to do so by January 1, 1978, and each year thereafter. Failure to do so before January 2, 1978, would result in forfeiture of 10 percent of money the county would be entitled to under the Personal Property Tax Relief Fund; forfeiture of 20 percent for failure to do so before January 2, 1979; and forfeiture of 50 percent for failure to do so before January 2, 1980, and each year thereafter.

The Personal Property Tax Relief Fund was established in 1972 when a program of gradually eliminating the tax on six classes of personal property was inaugurated: (1) agricultural income-producing machinery and equipment, except motor vehicles; (2) business inventories; (3) livestock; (4) feed, fertilizer, and farm inventory; (5) grain and seed; and (6) poultry, fish, honeybees, and fur bearing animals. Appropriations from the general sales tax and income tax to the Personal Property Tax Relief Fund for distribution to local units for partial replacement of revenue losses resulting from the above exemptions (which will be 100 percent exemptions of all the listed classes by January 1, 1980) are scheduled as follows: FY 1978-79, \$58.6 million; FY 1979-80, \$62.2 million; FY 1980-81 and each year thereafter, \$70 million.

Staff also distributed information from the Monthly Review, Federal Reserve Bank of Kansas City, June, 1977, and Farm Real Estate Market Developments, Economic Research Service, U.S. Department of Agriculture, July, 1977, relating to results of annual surveys of sales of farm real estate and the extent to which the land sold is expected to remain in agricultural use five years after the transfer.

### Status of County Records

The Division of Property Valuation reported that its field men had been instructed to check each county in their district to determine whether the records were in good enough shape to serve as an inventory base for reappraising the county. The records were found to be adequate for this purpose in all but nine counties. When asked what would be necessary to get the records in shape in the nine counties, Mr. Vaughn said that in six of the counties it would be necessary to practically start over, with the problem being less critical in the other three. As to the availability of qualified appraisers in these counties, Mr. Vaughn said that only three were completely lacking. In reply to another question, Mr. Vaughn stated that because of their size (not among the larger counties), the job could be done in the nine counties in two years.

### Appeal Options

The Committee reviewed an outline of various appeal options and a memorandum summarizing the laws of fifteen states in which the local assessment review agency is appointed, in part at least, rather than being composed solely of elected officials serving ex officio. In some cases, appointment is by the local governing body or some other local entity, in some by a state official, and two have a combination of state and local appointment. In some cases, qualifications for appointment are prescribed.

Points brought out in the discussion included questions as to the desirability of having the commissioners who appoint the appraiser also sit in judgment on his work, the potential costs of creating a separate appeal agency, whether the benefits of a change would be justified when any change could be expected to meet opposition, the relative merits of local versus state determination of appeals in technical areas such as the use value schedule and soil classifications, the importance of uniformity (which suggests a stronger state role), possible requirements that the appraiser, or a soil scientist, be present in appropriate situations, differences between appeals as to qualification for use value appraisal and soil classifications and appeals bringing into question the state prescribed schedule of values, and a number of other considerations.

It was moved by Senator Kerr and seconded by Senator Simpson that a provision be inserted in the law expressly authorizing the appraiser to review problems with taxpayers and make changes prior to certification of the tax roll. Motion carried.

It was moved by Senator Simpson and seconded by Senator Johnston that a five-member board be created, consisting of the county commissioners and two persons appointed by the county clerk. Motion failed.

It was moved by Senator Kerr and seconded by Representative Hineman that the county board of equalization be left as it is now constituted. Motion carried.

It was moved by Representative Wilkin and seconded by Representative Hineman that appeals involving the use value schedule itself (and not clerical errors or classification issues) go directly to the Board of Tax Appeals. Motion carried. (It was noted that this recommendation was not intended to affect the option of paying taxes under protest and appealing either to the BTA or the district court.)

It was moved by Representative Hineman and seconded by Senator Simpson that it be required that the Division of Property Valuation be a party to the case in appeals involving the use value schedule. Motion carried.

It was moved by Senator Kerr and seconded by Senator Simpson that there be added a provision that any decision of a county board of equalization may be appealed to the Board of Tax Appeals by the Director of Property Valuation. Motion carried.

Tuesday, August 16

The meeting was called to order by Chairperson Powell at 9:00 a.m., with all members except Representative Slattery present. Staff present: Arden Ensley, Roy Johnson, Bob Taylor. Conferees: Raymond Vaughn, Lyle Clark, Bob Walters, and Mark Edelman.

Senator Simpson raised a question as to the involvement of the Division of Property Valuation in cases where taxes are paid under protest. Responses indicated that the Division has a right to intervene but no right to appeal an adverse decision unless it has intervened. Further information in this area was requested.

#### Other Policy Questions

A checklist of a dozen policy questions relating to issues previously discussed by the Committee, but not decided, was reviewed.

As to a suggestion for use of real and personal property valuations as determined during the prior calendar year for budgeting and levy purposes, the consensus was that the idea warrants further exploration but is beyond the scope of the present Committee's assignment.

With regard to qualification of a fish farm for use value appraisal, it was noted that the Florida attorney general had ruled that a catfish farm qualified under the law of that state. The consensus was that a fish farm would be comparable to a feedlot, where land but not improvements would qualify.

After discussion of the questions raised by some appraisers as to distinguishing between homesites and land used in agriculture where small tracts in suburban areas are involved, and suggestions that some acreage limitation on homesites might be helpful, the consensus was that this should be left as a judgment call for the appraiser. Also discussed was whether the statute should specify what land under buildings would qualify. The consensus decision was to leave this to rules and regulations.

As to the relationship, if any, of ponds exempt under 82a-405 and 79-201g. to use value, the decision was to take another look at this at a later meeting in light of any further information that may be developed by the staff or the Division.

Further consideration was given to the subject of when and how a change in use would be determined. One suggestion was that since in some areas of the state platting (with no further action) was common years ago, platting alone should not establish rollback tax liability and that it would be better to base the decision on when physical change takes place. An additional suggestion was that this might be appropriate for old plats but not for platting in the future. Determination of change of use as of January 1, with requirement of a notice of change of use also was suggested.

A possible requirement of notice of potential rollback tax liability on the tax statement for land being appraised at its agricultural use value, or on all tax statements, was discussed. The Division of Property Valuation was asked to bring back suggestions as to how this might most effectively be handled from the standpoint both of catching the attention of taxpayers who might be affected and of administrative feasibility and costs.

Further consideration was given to the relative advantages of the House and Senate bill rollback concepts and to the distribution of rollback tax revenues. It was suggested that it would be necessary for a truly deferred tax to be credited to taxing units and funds, but that this would not be necessary if a strictly penalty approach were followed.

As to classes of property other than agricultural lands, the Committee was urged to go on record as being in favor of enforcing the statutes calling for assessment at 30 percent of fair market value. Among approaches considered were use of the sales/assessment ratio as an adjustment tool and the imposition of dollar penalties for failure to comply with statutory requirements.

It was moved by Senator Simpson and seconded by Representative Jarchow that the house rollback concept (with the number of years not specified) be retained in the bill rather than adopting the Senate approach. Motion carried, with one dissenting vote.

It was moved by Senator Kerr and seconded by Senator Simpson that property be required to be reappraised as of January 1, following a change in use, with the rollback tax assessed then and due the following November 1. Motion carried.

It was moved by Senator Kerr and seconded by Senator Johnston that the bill provide ~~(1) that a change of use would occur~~ (a) on recording of a plat after the date of publication of the act, or (b) when use of the land no longer fit the description in Section 2 of the act; and (2) that, except where an entire tract is platted, rollback tax liability would apply only to any part no longer qualifying under Section 2. Motion carried.

It was moved by Representative Hineman and seconded by Senator Simpson that the owner be required to give notice of a change in use within 60 days after such change or by March 1, whichever comes first, with a penalty of 10 percent of the rollback tax due if such notice is not given. Motion carried.

It was moved by Senator Kerr and seconded by Representative Jarchow that the bill require that rollback taxes be distributed in the manner now provided for back taxes. Motion carried.

It was moved by Senator Kerr and seconded by Representative Hineman that provision be made, for one year only, for withholding 100 percent of the county government's share of the local ad valorem tax reduction fund (LAVTRF) for failure to reappraise all locally assessed real property by the time the use value act is implemented. Motion carried.

It was moved by Senator Simpson and seconded by Representative Wilkin that a provision be added that if, in any succeeding year, the assessment ratio for any class of locally assessed real property in any county varies by more than 20 percent from the 30 percent standard, the county government would lose its share of the LAVTRF. Motion carried, with one dissenting vote.

#### Other Business

It was moved by Representative Wilkin and seconded by Representative Hineman that the Legislative Coordinating Council be asked to approve payment from legislative appropriations of \$898.40 for reproduction of copies of the full report on the Division of Property Valuation's study. Motion carried.

#### Next Meeting

The agenda for the meeting on September 26-27 will include: (1) review and discussion of the Cloud County and Division of Property Valuation reports and preliminary data from the county portion of the K.S.U. impact study; (2) items as to which further information or other input was requested; and (3) remaining items on the policy questions checklist, including school finance and the assessment/sales ratio study.

Prepared by Roy Johnson

Approved by Committee on:

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(Date)