

## M I N U T E S

## SPECIAL COMMITTEE ON USE VALUE APPRAISAL

October 24-25, 1977Monday, October 24

The meeting was called to order by Chairperson Powell at 10:00 a.m. with all members except Representative Thiessen present. Staff present: Bill Edds, Arden Ensley, Roy Johnson, Richard Ryan, and Robert Taylor. Conferees: Raymond Vaughn, Lyle Clark, Bob Walters and Wayne Hundley, Division of Property Valuation; Charles H. Clark, Atchison, County Appraisers Association, and Wanda Coder, Manhattan, County Clerks Association; Ralph Walker, Sharon Springs, President, Kansas Irrigation and Water Resources Association, Frank Troutman, Executive Secretary, Southwest Kansas Irrigation Association, and Guy Gibson, Chief Engineer, Water Resources Division, Department of Agriculture; Mark Edelman, Kansas State University.

It was moved by Senator Kerr and seconded by Representative Jarchow that the minutes of the September 26-27 meeting be approved. Motion carried.

Clerks/Assessors Suggestions

Director of Property Valuation Vaughn explained that a nine-member committee of clerks and assessors, with assistance from the Division of Property Valuation, had been working for two years on a proposed recodification and revision of the statutes relating to their respective responsibilities. The goal of this undertaking, stimulated by enactment of the 1974 appraiser law, was to form guidelines and clarify the respective duties of the two offices. The results included rearrangement of pertinent statutory provisions in chronological order, elimination of duplications or inconsistencies, modification of some sections, and repeal of others.

Co-chairpersons Charles Clark, Atchison County Appraiser, and Wanda Coder, Riley County Clerk, summarized the duties pertaining to their respective offices, and Wayne Hundley, Division of Property Valuation Attorney, assisted in a detailed review of the draft submitted for consideration, furnished references to sources of the various paragraphs, and answered questions.

A few changes of a technical or clarifying nature were suggested during the review. Also, in light of a previous Committee decision, a question was raised concerning inclusion of a formal procedure for appeals by taxpayers for hearings before the appraiser. However, this was left for later consideration and action.

On conclusion of the discussion, it was moved by Senator Pomeroy and duly seconded that the DPV, Revisor, and Research staffs prepare the draft in standard form for further consideration at the next meeting, taking into account any changes that might be needed to conform to H.B. 2631, the use value bill. Motion carried.

Irrigation Hearing

Mr. Ralph Walker, President, Kansas Irrigation and Water Resources Association, submitted a written statement and statistical tables relating to Wallace County trends in irrigated acreages and production and estimates of per acre valuations under the use value proposal compared to present assessed valuations. Mr. Walker also distributed copies of a map showing estimated water level declines from 1950 to 1975 in 24 western Kansas counties, and predicted a shift from irrigated corn to pre-watered milo in Wallace County because of the declining water supplies. He noted that wells in Wallace, Wichita and Scott counties are drying up, and suggested depletion allowances (for both property tax and state income tax purposes) to compensate for this. He also suggested that little or no tax should be imposed on land idled under the new federal set-aside program.

Mr. Walker's estimates (with a 15 percent allowance for management in the case of native pasture and 20 percent for croplands) indicated increased values resulting from use value appraisal of 15.5 percent for native pasture, 37 percent for flood irrigated corn, and 48 percent for center pivot irrigated corn; and a reduction of 14.8 percent for wheat.

In the discussion, it was agreed that the current use language in the bill would cover shifts from irrigated to dry land farming. As to the taxation of set-aside land, Mr. Walters stated that historically appraisers have considered government programs as management decisions rather than as affecting the inherent capabilities of land. Other comments were to the effect that since the set-aside payments are not included in the income used in determining net return from land the end result may be a washout.

Mr. Ralph Troutman, Executive Secretary, Southwest Kansas Irrigation Association, asked whether the result would be to penalize the better manager and was assured that this would not be the case because the valuation schedule would be based on an average or typical level of management.

In reply to questions he said that metering water would be acceptable to irrigators for management purposes but not for regulation by state agencies or for purposes of taxation. He suggested that energy usage, data as to which is new becoming available, might be a better basis. Mr. Walker noted that Groundwater District No. 1 is now charging for water by the gallon and hence has a better record.

Mr. Guy Gibson, Water Resources Division, described water rights as including some common law vested rights (acquired prior to January 1, 1945), and subsequent rights acquired by appropriation through application. He stated that the same general limitations and conditions apply to both. He noted that under 1977 legislation it will be a misdemeanor after January 1, 1978, to use water other than where authorized, and that applications for a permit specify a rate of diversion (typically one acre foot per year in eastern counties, 18 inches in central, and two feet in the west). Rights when perfected must be recorded with the county register of deeds. This year the Division will get usage reports from the groundwater management districts rather than directly, to avoid duplication.

In reply to questions, Mr. Gibson said that both the Division and management districts have authority to require meters, but noted problems with costs of installing, maintaining and monitoring meters. He reported that in New Mexico, with 300 square miles of irrigated land, nine people were employed to "ride herd on meters to see that they were working."

Committee Conclusion. Representative Wilkin asked if the discussion had shown a need to add anything to the bill as applied to irrigated lands. No such need was suggested.

#### Other Business

Staff raised a question as to the desirability of including in the Committee report information as to what the DPV eight-county study showed in terms of how much time would be required to implement use value appraisal and what the costs, both state and local, might be. It was moved by Senator Pomeory and seconded by Representative Wilkin, that the Division of Property Valuation be asked to provide such information, and also information as to the time that would be required to reappraise other real property, for inclusion in the Committee report. Motion carried.

Staff also reported a suggestion by Mr. Walters that some minimum change in valuations in the state schedule, such as 10 percent, be required before the county records need be changed. Following discussion, it was moved by Senator Simpson and seconded by Representative Hineman that language providing that no change in the county records need be made until a cumulative change of 10 percent or more has occurred in the valuation within a class of property within a county or homogeneous region be drafted for consideration at the next meeting. Motion carried, with one dissenting vote.

Senator Kerr expressed concern about some of the interpretations and conclusions drawn from the preliminary data from the impact study which had been reported in the newspapers. Representative Slattery and Jarchow defended this as a proper exercise of the responsibility of a legislator to communicate information to his constituents.

Tuesday, October 25

The meeting was called to order by Chairperson Powell at 9:15 a.m., with all members except Representative Thiessen present. Staff present: Bill Edds, Arden Ensley, Roy Johnson, Richard Ryan, and Robert Taylor. Conferees: Raymond Vaughn, Lyle Clark, Bob Walters, Mike Goodwin, and Bob Badnock, Division of Property Valuation; Mark Edelman, Kansas State University.

Valuation of State Assessed Utilities  
Motor Carriers

Lyle Clark presented written information as to 1976 Utility and Railroad Statistics, tables showing comparisons of unit market values allocated to Kansas from 1970 to 1977 and of assessed valuations (30 percent of allocated market value) for the same period, and the statutes under which these properties are valued.

It was reported that utility and railroad assessed valuations represented 15.13 percent of the total assessed valuation of all taxable properties in Kansas for 1976, while utilities and railroads were billed for 13.43 percent of the total general property taxes in Kansas for 1976. (Substantial parts of transportation lines are located in rural areas where mill levies generally are lower.)

The comparisons from 1970 to 1977 included values determined by an outside appraisal firm, hired in 1969 under legislative direction to review the Kansas procedures and valuations, and reported in 1971. While there were variations among types of utilities, the total determined by the appraisal company in 1971 was slightly below the values determined by DPV in both 1970 and 1971.

Mike Goodwin presented and answered questions about a written statement describing the procedures followed in valuing utilities. The methods used in developing each indicator of value under three standard appraisal approaches- cost, market, and income - were explained in detail.

In response to questions, Mr. Goodwin stated that there is no predetermined weighting of the indicators of value. All are used in a judgment process by the Director, who makes the final determination. When asked if they were subject to negotiation, Mr. Goodwin stated that hearings are scheduled 15 days before the valuations are sent to the utilities, and that discussion generally centers on the indicators of value used.

In response to another question, Mr. Goodwin said that out of about 235 to 240 appraisals, one appeal to the Board of Tax Appeals is now outstanding.

Director Vaughn reported that both the Division and individual utilities sometimes call in outside appraisers and the Director then hears both and makes a decision.

Other answers to questions included the following. Capitalization rates now used for electric cooperatives are about 4.5 to 5 percent, and others range from 8 to 10 or 10.5 percent. In the distribution of valuations within Kansas, buildings or other like improvements, vehicles, and material and supplies, are allocated according to situs and the remainder on a line mile basis.

When asked if any statutory changes are needed, Mr. Vaughn replied that our system, which has been improved since 1969, looks pretty good and that he would hesitate to recommend any change. When asked if a legislator can tell his or her constituents who may inquire that utilities are assessed at 30 percent of market value, Mr. Vaughn's reply was "Yes."

When asked how the capitalization rates are determined, Mr. Goodwin said they are found in the market place using a band of investment approach to determine the return required by an investor. He stated that in this area of market analysis less judgment is required than in some other areas.

When asked if the overall percentage increase in utility valuations (in the area of 5 percent a year) is not low in an inflationary economy, Mr. Vaughn replied that some valuations (railroads) are down while others (electric) are up substantially, and that this reflects what is going on in the economy.

Other questions raised concerned the detail of how a final 1977 utility valuation (KGE, for instance) was arrived at, comparisons between valuations for rate making purposes and for property tax purposes, and the availability to the DPV of figures submitted to regulatory bodies. The Director was requested to provide further information in these areas at the next meeting.

Representative Jarchow reported that the original cost submitted to the Division of Property Valuation by the Williams Brothers Pipeline Company of Tulsa, Oklahoma, in 1977 was \$59 million, while for rate making purposes it submitted to the Kansas Corporation Commission a fair value of \$78 million.

Bob Badnock presented a written explanation of the appraisal, assessment, and taxation of over the road motor carrier equipment by DPV. By statute the tax, all of the revenue from which now goes to the state general fund, is computed by multiplying the assessed valuation by the state average mill levy for the prior year. The levy applied to the assessments made as of January 1, 1977, was 87.6654 mills.

A Committee member noted that if a complete reappraisal of all real property resulted in increased valuations statewide and correspondingly lower mill rates, revenues from the motor carrier tax would be reduced.

#### Reappraisal Discussion

When asked how assessment at 30 percent of market value, assuming it was achieved, could be maintained in a highly inflationary economy, Mr. Vaughn replied that the ratio study is a good tool to tell an appraiser what is happening in his county. He added that as the use of computers increases, keeping up can be accomplished.

Another question asked was what might happen if the Legislature does not act and someone goes to court. Mr. Vaughn replied that when it gets into court there is little room left for discretion.

Representative Hineman asked if it would be helpful to have a right to use the ratio study as a leverage to help solve the problem, and distributed copies of a proposal along this line for review by the DPV and staff and further consideration at the next meeting.

Mr. Vaughn called attention to an Atchison County reappraisal which has been underway for two years and may go on the rolls in 1978, and to 79-1436b, 79-1439, 79-1445 and 79-1446, under which the Atchison County action could trigger reappraisals across the entire state. Lyle Clark noted that the listing required by 79-1445 now shows all 105 counties as not being in compliance.

#### Appeals

Staff submitted a revised draft of a subsection relating to appeals relating to the valuation schedule (including appeal directly to the Board of Tax Appeals with DPV a necessary party pursuant to a previous Committee decision), under which the deadline for appealing to the BTA would be April 10, the same as the deadline for taxpayers to appeal to the county board on other real property issues. The times prescribed by hearing by the Board and for the rendering of its orders was discussed, with a suggestion that they might be accelerated. It was moved by Representative Hineman and seconded by Senator Simpson that they be reduced from 60 and 90 days to 30 and 60 days unless the Board finds this to be unacceptable. Motion carried.

It was noted that Mr. Vaughn also had expressed a desire for DPV to be a party to appeals from the assignment of classifications but not in cases of equalization per se. After discussion of the various areas of appeal involving agricultural lands, including qualification for use value appraisal, it was moved by Senator Simpson and seconded by Representative Slattery that the DPV be made a party to appeals from the county board in all areas other than matters of equalization of assessments. Motion carried.

Mr. Vaughn also had asked to be made a party to tax protest actions involving the valuation or classification of lands in agricultural use. After discussion, it was moved by Senator Simpson and seconded by Representative Hineman that the DPV be made a party to any payment under protest of taxes relating to land in agricultural use. Motion carried.

#### Rollback Tax

Staff submitted a revision of Section 4, including three alternative methods for computing the rollback tax:

- (1) Market value of use to which changed X ratio for that class (or if none by county ratio) X rate for year less use value tax paid
- (2) Market value in agriculture X 30 percent X rate - use value tax paid
- (3) Market value in agriculture X rural ratio X rate - use value tax paid

A motion by Representative Hineman and seconded by Senator Kerr to adopt alternative number 2 was made but later withdrawn.

A motion by Representative Wilkin to adopt number 2 with a 10-year rollback failed to receive a second.

A motion by Representative Slattery and seconded by Senator Pomeroy to adopt number 2 with "for use in agriculture" deleted and a three-year rollback was made but later withdrawn. It was noted that the effect of alternative 2 with the deletion proposed would be the same as the present language, and this interpretation was confirmed by the DPV.

It was moved by Senator Johnston and seconded by Representative Hineman that alternative 2 be adopted with a five-year rollback. Motion failed.

It was moved by Senator Simpson and seconded by Representative Wilkin that the original provision with an eight-year rollback be adopted. Motion failed on a 5-5 vote.

It was moved by Representative Slattery and seconded by Senator Pomeroy that the original provision with a six-year rollback be adopted. Motion carried on a 6-4 vote.

Staff reported that no statute prescribing the method of distributing delinquent taxes, as provided for in the last sentence of the first paragraph of Section 4, had been found. It was moved by Senator Pomeroy and seconded by Senator Simpson that this sentence be deleted and that the last sentence in the balloon version be inserted in its place. Motion carried.

It was moved by Representative Wilkin and seconded by Senator Simpson that the same paragraph be amended to make the rollback tax payable in the same manner as other taxes. Motion carried.

#### Other Business

It was moved by Representative Jarchow and seconded by Senator Pomeroy that the Committee reconsider its action on the section imposing a penalty for not reappraising other locally assessed real property. At the suggestion of the Chairman and with the understanding that such a motion would be in order when the full bill draft is reviewed again, the motion was withdrawn.

Staff had asked about inclusion of an additional explanatory page with the Summary DPV Report. It was moved by Senator Simpson and seconded by Representative Jarchow that this be done. Motion carried.

#### Plans For Further Meetings

It was agreed that the agenda for the November 7-8 meeting would include discussion of the School District Impact Study and of the revision of the tax shift table (Table VII) in the county impact study (on November 7 if possible), further discussion of the valuation of state assessed utilities, and review the use value and clerk/appraiser bill drafts. Staff was authorized to make clarifying changes in the first part of Section 3 of the use value bill draft.

It also was decided to hold an evening session on November 7, and to request Legislative Coordinating Council approval of a final meeting on November 17 (and 18 if necessary).

Prepared by Roy H. Johnson

Approved by Committee on:

November 7, 1977  
(date)