

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Representative Jim Braden at  
Chairperson

9:00 a.m./~~pm~~ on March 21, 1983 in room 519S of the Capitol.

All members were present except: Representative Turnquist, who was excused.

Committee staff present:

Wayne Morris, Research Department  
Tom Severn, Research Department  
Don Hayward, Revisor of Statutes' Office  
Nancy Wolff, Secretary to the Committee

Conferees appearing before the committee:

Senator Ehrlich  
Bill Edds, Department of Revenue  
Marjorie VanBuren, Judicial Administrator  
Representative David Miller  
Representative R. D. Miller

The meeting was called to order by the Chairman.

Senator Ehrlich, sponsor of Senate Bill 166, spoke in support of the bill. Senate Bill 166, which is identical to House Bill 2347, would provide that the value of "classic" automobiles would be according to the same schedule that is utilized for valuation of "antique" automobiles. As the statutes are currently written, automobiles manufactured before 1980, but not yet old enough to be classified as antiques, would be valued on the basis of trade-in valuation in 1980. Many of these vehicles were valued at far above what they actually cost new and are currently being depreciated at 16% per year.

Representative David Miller spoke in support of Senate Bill 166. Representative Miller is one of the sponsors of House Bill 2347 which is identical to Senate Bill 166.

Representative R. D. Miller also gave testimony in support of Senate Bill 166.

Representative Ed Rolfs made a motion that Senate Bill 166 be reported favorable for passage and Representative Frey seconded the motion. The motion carried. Representative Aylward voted "No".

The committee heard from Bill Edds, Department of Revenue, relative to Senate Bill 263. Senate Bill 263 would allow appeals from the Board of Tax Appeals to be appealed directly to the Court of Appeals, thus cutting out the appeal to the District Court as a part of the process.

Marjorie VanBuren, Judicial Administrator, gave testimony that Senate Bill 263 would create some additional work for the already overburdened Court of Appeals. (Attachment I & II)

The committee took action on Senate Bill 118 which would allow an additional 1/2 mill levy by counties for the benefit of elderly services. Representative King made a motion that Senate Bill 118 be tabled and Representative Frey seconded the motion. The motion carried. Representative Wunsch voted "No".

The meeting was adjourned.





State of Kansas

## Office of Judicial Administration

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March 21, 1983

TESTIMONY BEFORE  
HOUSE ASSESSMENT AND TAXATION COMMITTEE  
Senate Bill 263  
Marjorie J. Van Buren

Senate Bill 263 would create some additional work load for the already overburdened Court of Appeals. As now drafted, additional work would result not only from the appeals themselves but also from the need to set and take bonds. No bonds are taken by the Clerk of the Appellate Courts and no mechanism exists for bonding.

We would recommend that this bill be held, pending studies now authorized by the Judicial Council on administrative procedures and Court of Appeals backlog.

If the bill is not held, we would recommend the attached amendments which would place the bonding procedure with the Board of Tax Appeals and clarify the appeals procedure.

Attachment

SENATE BILL No. 263

By Committee on Judiciary

2-11

0017 AN ACT concerning the state board of tax appeals; relating to  
0018 appeals from certain orders of the board; amending K.S.A.  
0019 74-2426 and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 74-2426 is hereby amended to read as fol-  
0022 lows: 74-2426. (a) Whenever the board of tax appeals ~~shall enter~~  
0023 ~~its enters~~ a final order on any appeal ~~or~~, in any proceeding under  
0024 the tax protest, tax grievance, ~~or~~ tax exemption statutes or in any  
0025 other original proceeding before the board other than the above  
0026 cases said, the board shall make written findings of fact forming  
0027 the basis of ~~such~~ its determination and final order and ~~such~~ the  
0028 findings shall be made a part of ~~such~~ the final order. The board  
0029 shall mail a copy of its final order to all parties to the proceeding  
0030 within ~~ten~~ 10 days following the certification of the order. The  
0031 appellant or applicant and the county appraiser shall be served by  
0032 restricted mail.

0033 (b) (1) No appeal shall be taken from a final order of the  
0034 board unless the aggrieved party ~~shall have first filed~~ *first files* a  
0035 motion for rehearing of that order with the board and the board  
0036 ~~shall have~~ *has* granted or denied the motion ~~for rehearing~~; ~~or~~  
0037 *thirty. If 30 days shall have lapsed from the filing of that date the*  
0038 *motion was filed with the board, from which it shall be presumed*  
0039 *that the board has denied the motion. Any order issued by the*  
0040 *board following a rehearing shall become the final order of the*  
0041 *board.*

0042 (2) Within ~~thirty~~ 30 days following the certification of any  
0043 final order of the board, ~~on such a motion for rehearing~~, any  
0044 aggrieved party in ~~such~~ to the appeal or proceeding may appeal

following a denial of a motion for rehearing or

upon a decision on

ATTACHMENT I I

0045 to: (A) *The court of appeals, in cases pertaining to property*  
0046 *appraised and assessed by the director of property valuation or*  
0047 *excise, income or inheritance taxes assessed by the director of*  
0048 *taxation and (B) the district court of the proper county, in all other*  
0049 *cases.*

0050 (3) No appeal shall be taken from any order of the board in a  
0051 no-fund warrant proceeding issued pursuant to K.S.A. 12-110a,  
0052 12-1662 *et seq.*, ~~19-2752, 75-4361~~ 19-2752a, 79-2938, 79-2939,  
0053 and 79-2951, and amendments thereto, and statutes of a similar  
0054 character.

0055 (4) This statute shall be exclusive in determining appeals  
0056 taken from all decisions of the board of tax appeals after the  
0057 effective date of this act and shall exclusively govern the pro-  
0058 cedure to be followed in taking any appeal from the board of tax  
0059 appeals from and after ~~such~~ *that* date.

0060 (c) (1) Appeals shall be taken by filing, with the clerk of the  
0061 district court of the proper county ~~within thirty appropriate court,~~  
0062 ~~within 30 days of the certification of the board's order to the party,~~  
0063 a written notice stating that the party appeals to the district court;  
0064 and alleging the pertinent facts upon which ~~such~~ *the* appeal is  
0065 grounded. Upon filing of the notice of appeal, the clerk of the  
0066 district court shall docket the cause as a civil action, and shall  
0067 forthwith and without precept, issue summons and cause the  
0068 same to be served upon all parties involved in the appeal to the  
0069 board of tax appeals, in accordance with the manner now pro-  
0070 vided by law in civil cases. The appellant shall also, within ten 10  
0071 days of the filing of the notice of appeal, request in writing that  
0072 the board of tax appeals certify the record of the proceedings  
0073 before the board to the district court. If a hearing was held before  
0074 the board, the appellant shall also request, at the same time, that a  
0075 transcript of that hearing be prepared and shall advance the costs  
0076 of ~~said~~ *the* transcript. Upon completion of ~~said~~ *the* transcript, the  
0077 board of tax appeals shall certify the record and transcript of  
0078 proceedings before the board to the district court in which the  
0079 appeal has been filed.

0080 (2) Jurisdiction to hear and to determine such appeals is  
0081 hereby conferred upon the district courts of this state. Such An

0083 appeal pursuant to this section shall not be heard as a trial *de novo*  
0084 but shall be limited to the transcript of the board and any other  
0085 public records of which the board can be held to have taken  
0086 notice.

0086 (3) Appeals may be taken from the district court to the ap-  
0087 pellate courts by any party to the appeal as in civil cases, except  
0088 that neither The director of property valuation nor and the direc-  
0089 tor of taxation shall *not* be required to give bond on appeal. The  
0090 final decision made in such appeals may be entered as a judgment  
0091 as in other civil cases for or against the party appealing.

0092 (d) (1) Appeals from orders *If an appeal is taken from an*  
0093 *order of the board relating to excise taxes; including; but not by*  
0094 *way of exclusion; income taxes; and from orders relating to the*  
0095 *taxation of legacies and successions shall be to the district court*  
0096 *of the county in which the appellant-taxpayer resides or the*  
0097 *county in which the estate is being administered. If the appellant*  
0098 *does not reside in Kansas or the estate is not being administered*  
0099 *in Kansas; the appeal shall be to the district court of any county*  
0100 *where real estate belonging to the estate is located or in Shawnee*  
0101 *county. At the time the appeal involving excise taxes or the*  
0102 *legacies and successions taxes is filed; the party appealing; ex-*  
0103 *cluding excise, income or inheritance taxes, the appellant, other*  
0104 *than the director of taxation, shall give bond for costs at the time*  
0105 *the appeal is filed. The bond shall be in the amount of one*  
0106 *hundred twenty-five percent 125% of the amount of taxes as-*  
0107 *essed; or such a lesser amount that shall be approved by the*  
0108 *district court; conditioned that appellant shall prosecute ~~court of~~*  
0109 *~~appeals and shall be conditioned on the appellant's prosecution of~~*  
0110 *the appeal without delay and pay payment of all costs assessed*  
0111 *against the appellant.*

filed with the board and shall be

board

0112 (2) Appeals from orders made by the board of tax appeals  
0113 relating to the valuation or assessment of property for ad valorem  
0114 tax purposes or relating to the tax protest; shall be to the district  
0115 court of the county in which the property is located; or, if located  
0116 in more than one county, then to the district court of any county  
0117 in which any portion of the property is located. Orders pertaining  
0118 to state assessed property, appraised and assessed by the director

0119 of property valuation; shall be appealed to the district court of  
 0120 Shawnee county. In Appeals from orders relating to tax exemp-  
 0121 tion under K.S.A. 79-201et seq. the appeal and amendments  
 0122 thereto shall be filed in the district court of Shawnee county. In  
 0123 the event If the appeal is by a party other than the director of  
 0124 property valuation or any a taxing subdivision; and is from an  
 0125 order determining, approving, modifying; or equalizing the  
 0126 amount of valuation which is assessable; and of for which the tax  
 0127 has not been paid, a bond shall be given in the amount of one  
 0128 hundred twenty-five percent 125% of the amount of the taxes  
 0129 assessed; or such a lesser amount as shall be approved by the  
 0130 district court; conditioned that appellant shall prosecute court to  
 0131 which the appeal is taken. The bond shall be conditioned on the  
 0132 appellant's prosecution of the appeal without delay and pay  
 0133 payment of all costs assessed against the appellant.

0134 (e) No appeal may be taken to the district court from any order  
 0135 determining; approving; modifying; or equalizing pertaining to  
 0136 the assessment of property for ad valorem tax purposes or the  
 0137 assessment of excise taxes unless such the order is unreasonable,  
 0138 arbitrary or capricious. Such actions appeals shall be heard by the  
 0139 court at the earliest possible date and shall be entitled to prefer-  
 0140 ence upon the calendar of the court over all other actions except  
 0141 cases of a like the same character, and criminal cases.

the grounds for the appeal are that

those having statutory priority.

0142 (f) The district courts of this state and its appellate courts  
 0143 shall have jurisdiction to hear and determine any appeals; or  
 0144 purported appeals; which may have been dismissed after January  
 0145 1, 1980; but before the effective date of this act; from final orders  
 0146 of the board of tax appeals concerning tax protests; tax grievances;  
 0147 tax exemption statutes or original proceedings before the board  
 0148 under the provisions of K.S.A. 1980 Supp. 60-2101; subsections  
 0149 (a); (b) and (d); or any of their statutory predecessors; under the  
 0150 provisions of K.S.A. 74-2426; or any of its statutory predecessors;  
 0151 or under the provisions of K.S.A. 1980 Supp. 70-2005; or any of its  
 0152 statutory predecessors. Such jurisdiction shall be exercised by the  
 0153 courts in all cases where such appeals; or purported appeals; have  
 0154 not been finally disposed of either (1) upon the merits thereof or;  
 0155 (2) for lack of substantial compliance with the requirements for

0154 appeal under the statutes mentioned above or (3) upon some  
6 grounds other than the dismissal thereof on the basis of the  
0158 purported lack of any appellate jurisdiction over such appeal.  
0159 Any appeal or purported appeal from such final order of the  
0160 board under any of the statutes mentioned above which may have  
0161 been dismissed, or which may hereafter be dismissed, by a  
0162 district court or appellate court on the basis that the statutes  
0163 mentioned above, or any of them, did not apply to such appeal,  
0164 shall be reinstated before such court immediately upon the re-  
0165 quest of any party to such appeal, and the courts shall thereafter  
0166 exercise further appellate jurisdiction over such appeal in the  
0167 same manner and to the same extent as if such appeal had not  
0168 been dismissed.

0169 Sec. 2. K.S.A. 74-2426 is hereby repealed.

0170 Sec. 3. This act shall take effect and be in force from and after  
0171 its publication in the statute book.