

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Fred A. Kerr at
Chairperson

11:00 a.m./~~pm~~ on Tuesday, March 19, 1985 in room 519-S of the Capitol.

All members were present except:
Senator Leroy Hayden (Excused)

Committee staff present:
Tom Severn, Research Department
Melinda Hanson, Research Department
Don Hayward, Revisor's Office
LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee:
Harley Duncan, Department of Revenue
Ernie Mosher, League of Kansas Municipalities
Bill Edds, Department of Revenue

H.B. 2196 - Effective date for implementation of local retailers' sales taxes

Harley Duncan read his statement (Attachment 1). He explained some of the problems that occur when locally enacted sales tax increases occur in the middle of a calendar quarter. H.B. 2196 would have the effect that such tax increases would be effective on the first day of a calendar quarter.

Ernie Mosher testified that he is neither for nor against the bill, but indicated his organization is supportive of bills that simplify the local sales tax.

H.B. 2152 - Proof of property tax payment for motor vehicle registration purposes

Bill Edds read his written testimony (Attachment 2). H.B. 2152 relates to payment of personal property taxes and would broaden the statute to provide that application for registration of a vehicle shall not be accepted regardless of to whom the application is made. The bill would also delete certain language in the existing statute.

Senator Montgomery moved that H.B. 2196 be recommended favorably for passage. Senator Mulich seconded the motion, and the motion carried.

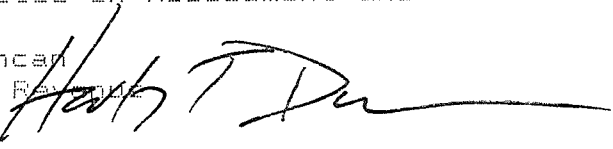
Senator Frey moved that H.B. 2152 be recommended favorably for passage. Senator Karr seconded the motion, and the motion carried.

Senator Thiessen moved that the minutes of the March 8, 1985 meeting be approved. Senator Mulich seconded the motion, and the motion carried.

Meeting adjourned.

MEMORANDUM

TO: The Honorable Fred A. Kerr, Chairman
Senate Committee on Assessment and Taxation

FROM: Harley T. Duncan
Secretary of Revenue 

RE: HB 2196

DATE: March 19, 1985

Thank you for the opportunity to appear before you on HB 2196. This measure amends the dates upon which a locally enacted sales tax or sales tax rate increase may become effective. The Department of Revenue supports enactment of HB 2196.

Under current law, a local sales tax may become effective on the first day of the month next following the 60th day after the election authorizing the levy of the tax. The effect of this is to cause many local taxes (or increases in tax rates) to become effective in the middle of a calendar quarter. For example, those approved at November elections become effective on February 1, and those ratified in August are effective on November 1.

When local taxes become effective in the middle of the calendar quarter, however, problems are created for both taxpayers and the Department. Those taxpayers on a quarterly remittance cycle often fail to record and calculate their liability correctly because of the two different local tax rates. As a result, adjustments and corrections must be made, and the retailer is often required to remit additional tax. In addition, the Department's processing and edit systems are set such that gross local sales and gross state sales must be equal. (This feature was incorporated in our system to provide an audit tool to protect local revenues.) Therefore, when a tax becomes effective in the middle of a calendar quarter, all quarterly returns from the affected jurisdiction must be manually adjusted for processing. The effect of both taxpayer errors and the cumbersome processing is to slow the eventual repayment of the tax to the local governmental unit.

HB 2196 amends K.S.A. 12-191 to provide that any local tax (or tax rate increase) approved at a city primary or general election or at a county primary or general election would become effective on the first day of the calendar quarter next following the 30th day after the authorizing election. Taxes (or rate increases) approved at any other election would commence on the first day of the calendar quarter next following the 60th day after the authorizing election.

The result of HB 2196 is to provide that all local sales taxes will begin on the first day of the calendar quarter. It will also mean that local taxes approved at the August primary and November general elections will become effective 30 days earlier than they would under current law. The Department feels that it can accomplish its required preparatory tasks within this timeframe. Taxes approved at the April elections will become effective in July as they would under current law. Taxes approved at other special elections can be timed such that they meet the requirements of this bill and become effective at the same point they would under current law.

Schedule of Effective Dates

Election Date	Current Law	Proposed Law
April	July 1	July 1
August	November 1	October 1
November	February 1	January 1

I hope this information is helpful. I would be glad to answer any questions.

M E M O R A N D U M

To: Senate Committee on
Assessment and Taxation

Date: March 19, 1985

From: Kansas Department of Revenue Re: Proof of payment of personal
property taxes

K.S.A. 8-173 provides that a county treasurer shall not accept an application for registration of a vehicle unless the person making such application shall exhibit to such county treasurer either: (1) a receipt showing that all personal property taxes levied against such person for the preceding year, including taxes upon the vehicle, have been paid (1/2 of such taxes if application is made before June 21); or (2) evidence that the vehicle was assessed for taxation purposes by a state agency, or was assessed as stock in trade of a merchant or manufacturer, or was otherwise assessed and taxed, or was exempt from taxation under the laws of this state.

H.B. 2152 amends this statute in two respects. First, the statute is broadened to provide that application shall not be accepted regardless of to whom the same is made. The Department has taken the position that registration shall not issue unless the previous year's taxes are paid. Some companies have taken issue where registration is handled by the division of vehicles that K.S.A. 8-173 precludes the division from refusing registration by its specific reference to county treasurers.

The second amendment concerns the language underscored in the first paragraph of this memorandum. In the case of State of Kansas and City of Oberlin v. Russell Raulston, the Kansas Court of Appeals was faced with facts where the defendant refused to pay his previous year's taxes on his personal property and received several tickets for operating an unregistered vehicle. In attempting to defend himself, the defendant challenged the constitutionality of K.S.A. 8-173. The court sustained the constitutionality of the statute, but Judge Rees in dissent examined the statute in more detail than the majority. It was his conclusion that the wording "or was otherwise assessed and taxed" contemplates the tax and tag law's method of assessment and taxation and that the defendant should probably have been relieved of the burden of presenting evidence of payment of property taxes on his other property.

It is my opinion that the Legislature did not intend this result arrived at in the dissent. The Department has consistently advised that K.S.A. 8-173 is applicable to the registration of tax and tag vehicles. The procedure is a good enforcement tool for the counties in collecting delinquent property taxes. Certainly, the quoted wording existed in the law prior to the time of enactment of the tax and tag law. I must admit that I have no idea what was contemplated by the Legislature when it originally included this language in the statute, but I do not conceive of any serious problem should it be eliminated. Therefore, the wording "or was otherwise assessed and taxed" is deleted from the statute.