

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on April 2, 1986 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Lowther

Committee staff present:

Tom Severn, Legislative Research
Melinda Hanson, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

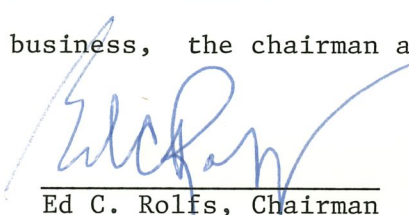
Representative Burt DeBaun discussed HB-3130, an act relating to property taxation; concerning the appraisal of exempt property. Vic Miller, representing Kansas Department of Revenue, said PVD neither opposes nor supports this bill, but he urged the committee to consider six facts before passing such a measure. (Attachment 1) He believes it is less costly and more efficient to list data for exempt property during a reappraisal program. Mr. Fred Weaver, representing the Board of Tax Appeals, then outlined his department's views concerning this bill. Mr. Miller and Mr. Weaver then answered questions from committee members.

Mr. Weaver then discussed HB-3123, an act relating to property taxation; providing for appeals from proposed change in personal property valuation guides. He said that unless the current appeals procedure is modified or repealed, it would be possible to have a case running under two separate statutes. He also said the language in lines 25, 26, and 31 would cause problems in implementing this bill. (Attachment 2) Mr. Vic Miller then discussed the bill and pointed out that K.S.A. 74-328 already provides for appeals to the Board of Tax Appeals from decision or other final action on any case of the director of property valuation by any person aggrieved thereby. He said the committee may want to consider whether K.S.A. 74-2438 provides adequate appeal procedure under existing law. (Attachment 3) Mr. Allan Alderson said he believes any aggrieved taxpayer would have standing before the Board of Tax Appeals and, since there is no cut-off point, would have precedence over any other action which would be unfair.

Representative Leach moved, second by Representative Wagon, that HB-3121 be amended so that sales tax exemptions will be effective as of January 1, 1986 and all other provisions of the bill be effective for the current tax year. The motion carried. Representative Leach moved, second by Representative Wagon, that HB-3121 as amended be passed favorably. The motion carried.

Representative Leach moved, second by Representative Fry, that HB-3130 be reported favorably for passage. The motion passed.

There being no further business, the chairman adjourned the meeting.



Ed C. Rolfs, Chairman



KANSAS DEPARTMENT OF REVENUE
Division of Property Valuation
State Office Building · Topeka, Kansas 66612-1585

April 2, 1986

Mr. Chairman and members of the Committee, my name is Vic Miller, Director of the Division of Property Valuation. PVD neither opposes nor supports the passage of HB 3130 but I would urge the Committee to consider the following prior to passing such a measure:

1. Exempt property can lose its eligibility if it is sold to a party who will change the use. It is much easier for the county appraiser to value the parcel if the building characteristics are already on file. The most accurate data is obtained at the time of new construction and reviewed on a regular basis.
2. Many properties may erroneously enjoy an exempt status due to non-compliance with statutory requirements. Most counties do not have a formal program in place to make a regular on site physical inspection of properties on the exempt roll. A reappraisal project provides an excellent opportunity to conduct this investigation.
3. It is much more efficient to confirm or list data for exempt property during a reappraisal program. The management framework, staff and procedures are already in place. Certain expenses, such as mapping costs, will be incurred regardless of the taxable status of the property.
4. The review and valuation of exempt properties is often the most cost beneficial component of a reappraisal program. The discovery of and subsequent placement of unqualified properties back on the tax rolls in one reported jurisdiction provided an \$18 increase of tax revenue for each dollar of appraisal cost. (See Assessment Digest, January 1982 published by the International Association of Assessing Officers)
5. Without an accurate valuation and listing of exempt property it is almost impossible to determine the extent or financial impact of current exemptions on a taxing jurisdiction. There is no other source of valuation information for exempt properties other than the county appraisers' files. Citizens,

legislators and researchers frequently request information useful for planning, zoning and emergency preparedness agencies. The recent discussion of exemption bills in this year's legislative session highlights this point.

6. The net worth of exempt properties is considered in some bond applications.

0010 AN ACT relating to property valuation, providing for appeals from
0017 proposed changes in personal property valuation guides.

0018 Be it enacted by the Legislature of the State of Kansas:

0019 Section 1. (a) After notice given in the state register pursuant

0020 to K.S.A. 1985 Supp. 79-1412a, and amendments thereto, of any

79-1412a. Powers and duties of county and district appraisers; notice of changes in property appraisal guides required. [See Revisor's Note] (a) County appraisers and district appraisers shall perform the following duties:

First. Install and maintain such records and data relating to all property in the county, taxable and exempt, as may be required by the director of property valuation.

Second. Annually, as of January 1, supervise the listing and assessment of all real estate and personal property in the county subject to taxation except state-assessed property.

Third. Notify each taxpayer on or before April 1 by mail directed to such taxpayer's last known address as to the assessed value placed on each parcel of such taxpayer's real property whenever the assessed value of any parcel has been changed from the assessment shown for the preceding year. Failure to receive such notice shall in nowise invalidate the assessment.

Fourth. Attend meetings of the county board of equalization for the purpose of aiding such board in the proper discharge of

its duties, making all records available to the county board of equalization.

Fifth. Prepare the assessment roll and certify such rolls to the county clerk.

Sixth. Supervise the township trustees, assistants, appraisers and other employees appointed by the appraiser in the performance of their duties.

Seventh. The county appraiser or district appraiser in setting values for various types of personal property, shall conform to the values for such property as shown in the personal property assessment guides devised or prescribed by the director of property valuation.

Eighth. Carry on continuously throughout the year the process of appraising real property.

Ninth. If the county appraiser or district appraiser deems it advisable, such appraiser may appoint one or more advisory committees of not less than five persons representative of the various economic interests and geographic areas of the county to assist the appraiser in establishing unit land values, unit values for structures, productivity, classifications for agricultural lands, adjustments for location factors, and generally to advise on assessment procedures and methods.

Tenth. Perform such other duties as may be required by law.

0021 proposed change in any personal property valuation guide pre

0022 scribed pursuant to K.S.A. 78-5105a, any taxpayer affected by any

HOUSE BILL No. 3123

Unless the current appeals procedure is modified or repealed, and the bill makes no mention of repealing, it would be possible to have a case running under two separate statutes.

Sec. 1 (a) of House Bill No. 3123, is already covered in K.S.A. 74-2438.

With the exception of the last sentence in Sec. 1 (a), "Any such action shall have precedence over any other action which may be commenced before the board."

Routinely, there are individuals who, having no other grievance, protest the guide.

HB #3123, assumes that this type of challenge to the guide happens only once a year.

The statement as to the priority of appeals, at lines 0025, 0026, will cause serious rescheduling of the docket.

4/2/86
Hs. A&T

75-5105a. Same; powers and duties

The director of property valuation shall:

(a) Devise and prescribe uniform assessment forms and records, property-identification maps, land-classification maps, land-value maps, permanent record cards and other essential assessment tools, and to assist each county with the installation and maintenance of the same.

(b) Devise and/or prescribe guides showing fair market value in money of personal property. The director of property valuation shall furnish to each county one copy of each guide so prescribed and a copy or copies, at said director's discretion, of each guide so devised. In the preparation of such guides, the director of property valuation shall confer with representatives of the county appraisers and district appraisers, and shall seek counsel from official representatives of organized groups interested in and familiar with the value of classes of property with which they are concerned.

(c) Render all assistance possible toward uniform assessments within the counties and throughout the state.

(d) Assist county appraisers and district appraisers to determine the fair market value in money of nonstate assessed properties, the valuation of which requires specialized technical knowledge.

(e) Compile assessment ratio data as provided by K.S.A. 79-1435 to 79-1438, inclusive, and acts amendatory thereof or supplemental thereto, and to analyze such assessment data.

(f) Perform such other duties as may be prescribed by law.

History: L. 1957, ch. 429, § 8; L. 1972, ch. 342, § 82; L. 1977, ch. 328, § 1; July 1.

Cross References to Related Sections:

Appeals to board of tax appeals, see 74-2438.

Proof of vehicle registration, duties, see 8-176.

Additional duties of director, see 74-2441a, 2441b, 74-2442.

0023 such change may initiate before the state board of tax appeals an

0024 action to determine the validity and factual basis for such

0025 change (Any such action shall have precedence over any other

0026 action which may be commenced before the board.

74-2438. Appeals to state board; notice and hearing. An appeal may be taken to the state board of tax appeals from any finding, ruling, order, decision, or other final action on any case of the director of taxation or director of property valuation by any person

aggrieved thereby. Notice of such appeal shall be filed with the secretary of the board within thirty (30) days after such finding, ruling, order, decision, or other action on a case, and a copy served upon the director concerned. The board shall fix a time and a place for hearing said appeal, and shall notify the appellant or his attorney of record at least five (5) days prior to the date of said hearing.

0027 (b) Whenever the state board of tax appeals renders its deci-
0028 sion regarding an action pursuant to subsection (a), it shall
0029 an order containing its written findings of fact upon which
0030 determination is based, and shall mail such order to all parties to
0031 the action within 10 days following its issuance.

Sec. 1 (b) of House Bill 3123,
is already covered by the statutes
governing the BOTA.

Also, there are other time limita-
tions (such as those in SB 164)
that must be taken into consider-
ation; HB #3123 does not address
these.

New Sec. 4. (a) On or before January 15, 1986, and quarter
thereafter, the county or district appraiser shall submit to the
director of property valuation a progress report indicating action
taken during the preceding quarter calendar year to implement
reappraisal of real property in the county or district. Whenever
the director of property valuation shall determine that a
county has failed, neglected or refused to properly provide for
the reappraisal of property or the updating of the appraisals on
an annual basis in substantial compliance with the provisions of this
act and the guidelines and timetables prescribed by the director
pursuant to section 1, the director shall file with the state board
of tax appeals a complaint stating the facts upon which the
director has made the determination of noncompliance. Within
15 days after receipt of any such complaint, the state board of tax
appeals shall hold a summary proceeding on such complaint.

New Sec. 6. No county board of equalization shall issue
an order applicable uniformly to all property in any class in any
area or areas of the county, which order changes the assessment of
such class of property in such area or areas, without the approval
of the state board of tax appeals. Whenever any county board of
equalization proposes to issue any such order, it shall make a
written application to the state board of tax appeals for a hearing
on such matter. The state board of tax appeals shall set a time and
place for a hearing thereon within five days of receipt of such
application. The time set for hearing such matter shall in no
event be more than 30 days following the date of receipt of such
application. The state board of tax appeals shall notify the county
board, the county or district appraiser and the director of property

0032 (c) Appeals from any order issued pursuant to this section
0033 shall be taken to the Kansas court of appeals by filing with the
0034 clerk of such court within 30 days of the receipt of an order
0035 issued pursuant to this section a written notice stating that the
0036 party appeals to the court and alleging the pertinent facts upon
0037 which the appeal is grounded.

74-2426. Final orders of board; re-
hearings; appeals to district and appellate
courts; procedure and jurisdiction. (a)
Whenever the board of tax appeals enters a
final order on any appeal, in any proceeding
under the tax protest, tax grievance or tax
exemption statutes or in any other original
proceeding before the board, the board
shall make written findings of fact forming
the basis of its determination and final order
and the findings shall be made a part of the
final order. The board shall mail a copy of
its final order to all parties to the proceeding
within 10 days following the certification of
the order. The appellant or applicant and
the county appraiser shall be served by re-
stricted mail.

Sec. 1 (c) of House Bill 3123,
makes no reference to rehearing.
Currently, under K.S.A. 74-2426(b) (2),
before an appeal can be taken to a
higher court, there must a motion
for rehearing of the order filed,
with the board.

This bill, HB 3123 is in conflict
with existing statutes, by not stating
that a rehearing is necessary before
filing with the court of appeals.

Sec.1 (c) The Peanut

This bill mandates that the appellant must go directly to the court of appeals.

(see, K.S.A. 74-2426 (b) (2) (A) & (B))

(b) (1) No appeal shall be taken from a final order of the board unless the party first files a motion for rehearing with the board and the board has granted or denied the motion. If 30 days have lapsed from the date the motion was filed with the board, it shall be presumed that the board has denied the motion. Any order issued by the board following a rehearing shall become the final order of the board.

(2) Within 30 days following a denial of a motion for rehearing or following the certification of any final order of the board upon a decision on rehearing, any aggrieved party to the appeal or proceeding may appeal to: (A) The court of appeals, in cases pertaining to property appraised and assessed by the director of property valuation or excise, income or inheritance taxes assessed by the director of taxation and (B) the district court of the proper county, in all other cases.

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

(4) This statute shall be exclusive in determining appeals taken from all decisions of the board of tax appeals after the effective date of this act and shall exclusively govern the procedure to be followed in taking any appeal from the board of tax appeals from and after that date.

(c) (1) Appeals shall be taken by filing with the clerk of the appropriate court, within 30 days of the certification of the board's order to the party, a written notice stating that the party appeals to the court and alleging the pertinent facts upon which the appeal is grounded. The appellant shall also, within 10 days of the filing of the

notice of appeal, request in writing that the board of tax appeals certify the record of the proceedings before the board to the court. If a hearing was held before the board, the appellant shall also request, at the same time, that a transcript of that hearing be prepared and shall advance the costs of the transcript. Upon completion of the transcript, the board of tax appeals shall certify the record and transcript of proceedings before the board to the court in which the appeal has been filed.

77-609. Jurisdiction; venue. (a) The district court shall conduct judicial review except when:

(1) A statute specifically provides for review of an agency action by appeal directly to the court of appeals; or

(2) otherwise provided by law.

(b) Except as otherwise specifically prescribed by law, venue is in the county in which the order is entered or the rule and regulation is promulgated.

History: L. 1984, ch. 338, § 9; July 1.

The appellant shall also, within
0038 10 days of the filing of the notice of appeal, request in writing
0039 that the board of tax appeals certify the record and transcript of
0040 such proceedings before the board to the court, and the board
0041 shall so certify the same to the court. An appeal taken pursuant to
0042 this subsection shall not be heard as a trial *de novo* but shall be
0043 limited to the transcript of the board and any other public records
0044 of which the board may be held to have taken notice. The

Sec. 1 (c) ". . . request in writing that the board of tax appeals certify the record and transcript of such proceedings before the board to the court, and the board shall so certify the same to the court."

There is no reference to who pays, yet under the Kansas Judicial Review Act, K.S.A. 77-620, which the BOTA is under, there is a provision stating who pays for copies of the record. This must be clarified.

If, the BOTA must pick up the charges for such record, then an addition to the BOTA of at least \$2,000 must be made. This is a very conservative estimate.

77-620. Agency record; contents, preparation, transmittal, cost. (a) Within 30 days after service of the petition for judicial review, or within further time allowed by the court or by other provision of law, the agency shall transmit to the court the original or a certified copy of the agency record for judicial review of the agency action, consisting of any agency documents expressing the agency action, other documents identified by the agency as having been considered by it before its action and used as a basis for its action and any other material required by law as the agency record for the type of agency action at issue, subject to the provisions of this section.

(b) If part of the record has been preserved without a transcript, the agency shall prepare a transcript for inclusion in the record transmitted to the court, except for portions that the parties stipulate to omit in

accordance with subsection (c). Unless otherwise ordered by the court, the cost of the preparation of the transcript shall be paid by the appellant.

0045 director of property valuation shall not be required to give bond
0046 on appeal.
0047 Sec. 2. This act shall take effect and be in force from and
0048 after its publication in the statute book.



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April 2, 1986

Mr. Chairman and members of the Committee, I am Vic Miller, Director of the Division of Property Valuation. The Division neither supports nor opposes House Bill No. 3123. I would point out, however, that K.S.A. 74-2438 already provides for appeals to the Board of Tax Appeals "from any finding, ruling, order, decision, or other final action on any case of the director of property valuation by any person aggrieved thereby".

K.S.A. 74-2438 provides that appeals shall be filed with the secretary of the board within thirty (30) days of such finding, ruling, order, decision, or other action. No such provision is contained in House Bill No. 3123. Thus, it opens the possibility of appeals being filed with the Board of Tax Appeals long after any promulgated changes in personal property valuation guides. Any appeals which are not timely filed could impact adversely on local units of government attempting to complete assessment responsibilities.

K.S.A. 74-2438 is at the present time being utilized in an appeal to the State Board of Tax Appeals from a duly promulgated change in a personal property valuation guide prescribed pursuant to K.S.A. 75-5105a and amended pursuant to K.S.A. 1985 Supp. 79-1412a. (In The Matter of the Appeal of Graves Drilling Company, Inc. From the Order of the Director of Property

Valuation Dated March 3, 1986 Concerning the 1986 Crude Oil Price Schedule, Docket No. 1386-86-PV). The Committee may want to consider whether K.S.A. 74-2438 provides an adequate appeal procedure under existing law.

A positive aspect of House Bill No. 3123 is that it would accord appeals of any proposed change in any personal property valuation guide precedence over any other action which may be commenced before the Board. In addition, appeals from any order issued pursuant to House Bill No. 3123 would be taken directly to the Kansas Court of Appeals, thus presumably shortening the appellate process.