

Approved On: 4/9/87

Minutes of the House Committee on Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on April 2, 1987 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Lowther, Aylward, Fox, Francisco, Spaniol

Committee staff present:

Tom Severn, Legislative Research
Chris Courtright, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

Representative Shore moved, second by Rolfs that House Bills 2003, 2088, 2089, 2146, 2148, 2553, and 2579 be reported adversely. Motion carried.

Majority Leader Joe Knopp spoke as a proponent for HB-2437 - AN ACT relating to the state's moneys; allowing savings banks and savings and loan associations to bid on certain active accounts. He said this bill would allow banks and savings and loan associations to bid on state active accounts. (Attach.1) Mr. Jim Maag, representing Kansas Bankers Association wanted to be officially recorded in opposition to the bill because it would result in a large loss of funds for banks not only in university towns but throughout Kansas.

Alan Alderson, attorney representing Kansas Bar Association, spoke as a proponent for SB-166 - AN ACT relating to taxation; concerning interest on assessments of tax appealed to the director of taxation and the state board of tax appeals. The passage of this bill would provide that a taxpayer should be required to pay interest for only four months during the pendency of an appeal. If the taxpayer pursues an appeal into the Courts, interest would continue to accrue until four months after the issuance of an order by the Board of Tax Appeals. (Attachment 2) Secretary Duncan said he could support SB-166 as amended.

Representative Nancy Brown spoke on SB-167 - AN ACT concerning townships; relating to the limitation on certain tax levies. (Attachment 3) She requested an additional amendment -- to eliminate the aggregate tax levy all together. (Attachment 4) There was considerable discussion about the responsibility of townships and counties to provide certain services. This concluded the public hearing on SB--167.

There was committee discussion on HB-2210 - AN ACT relating to inheritance tax; concerning fees for the administration thereof. Representative Leach moved, second by Representative Wunsch, fees be changed to \$2.00 for consent to transfer forms and \$5.00 for closing letters. The motion carried. Representative Wunsch moved, second by Representative Adam, that HB-2210 be amended to provide for some administrative clean up to the inheritance tax act and the bill be passed favorably. The motion carried.

Representative Smith moved, second by Representative Crowell, that SB-167 be passed favorably. Representative Wunsch made a substitute motion, second by Representative Wagnon, that the attached amendment be adopted. Representative Adam protested as she said many townships are very efficient and do a better job than some counties. Motion carried 7-6. Representative Leach moved, second by Representative Adam, to strike the aggregate mill level for counties. The motion failed. Representative Leach moved, second by Representative Adam, to table SB-167. The motion lost. Representative Leach moved, second by Representative Smith, to pass SB-167 favorably. The motion lost.

Representative Smith moved, second by Representative Fry, that SB-166 be reported favorably. The motion carried.

Discussion on SB-284 - AN ACT relating to property taxation; prescribing limitations upon the authority of any city or county to grant exemptions therefrom for economic development purposes. Representative Lowther moved, second by Representative Adam, that SB-284 be passed favorably. The motion lost. Representatives Wagnon and Smith gave their reasons for opposing the bill.

Representative Fry moved favorable for passage HB-2249. The Chairman declared the motion out of order as it was not a pending item of business.

The minutes of the previous meeting were approved. There being no further business, the chairman adjourned the meeting.


Ed C. Rolfs, Chairman

JOE KNOPP
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TOPEKA

HOUSE OF
REPRESENTATIVES

Mr. Chairman...members of the House Taxation Committee.

I am here today to testify in favor of HB 2437. HB 2437 would give savings banks and savings and loans the opportunity to bid on active state revenue accounts that are located in the community with the savings bank or savings and loan. This is currently prohibited by state law. Statute allows only commercial banks to bid on the right to service these active state accounts.

Traditionally, savings banks and savings and loans were prohibited from servicing such state accounts because the commercial banks were much more able to return the state money to the local community thus benefitting local economic development. With the many recent changes in the state banking laws, I believe it is now possible for savings banks and savings and loans to offer the same services as the commercial banks while returning the local money to the local community.

I also feel strongly this bill should be passed because it could save the state money. With savings banks and savings and loans allowed to bid on the active state accounts, the state should benefit from greater competition. Higher rates of return will most likely be offered on the state money with more financial institutions bidding on the right to service the accounts.

I hope you'll give serious consideration to the proposal and pass it out favorable for passage. Thank you for your time.

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TO: MEMBERS OF HOUSE TAXATION COMMITTEE
FROM: ALAN F. ALDERSON, ATTORNEY REPRESENTING THE KANSAS BAR ASSOCIATION
RE: SENATE BILL NO. 166 (AS AMENDED BY SENATE COMMITTEE OF THE WHOLE)
DATE: APRIL 1, 1987

I am Alan Alderson, a Topeka attorney and member of the Kansas Bar Association. I have been asked to appear on behalf of SB 166 because it was my proposal which has been endorsed by the Kansas Bar Association. I also feel qualified to speak to the merits of SB 166 as a former General Counsel for the Department of Revenue and a member of the Kansas Judicial Council Advisory Committee on Administrative Procedure.

Currently, there is no statutory or other requirement imposed upon the Director of Taxation with regard to the issuance of orders following the hearing on an assessment appeal. When I first started with the Department of Revenue, statutory interest on deficiency assessments was at 6%. Few taxpayers were concerned with an expeditious hearing process, for obvious reasons. When the Legislature adopted an 18% interest rate, the speed with which orders could be issued began to be a critical factor to taxpayers.

Although there are several current proposals to reduce the interest rate, most propose to keep the rate above that at which a taxpayer could invest, and the accrual of interest will continue to be a significant factor during the appeal process. Some incentive should exist, as a matter of legislative policy, to expedite the processing of appeals.

The provisions of the new Kansas Administrative Procedures Act address this timeliness issue, but KAPA does not yet apply to appeals before the Director of Taxation. Implementing legislation introduced this session to bring the Department of Revenue and all other major State agencies under KAPA (SB 344), will not become effective prior to July 1, 1988.

KAPA will not solve the interest accrual problem in any event. Although K.S.A. 1986 Supp. 77-511 provides that orders shall be processed by State agencies within thirty (30) days, it is generally conceded by the members of the Judicial Council Advisory Committee that this requirement would be interpreted as directory only, and not as mandatory. In other words, failure to comply would not invalidate the order. Furthermore, KAPA has now been amended to conform to the 120-day requirement in SB 166 for the Director of Taxation and Board of Tax Appeals.

I believe the provisions of SB 166 would provide an equitable solution. The amendments represent a compromise between the Bar Association, the Director of Taxation and the Board of Tax Appeals. As it stands, after a matter is fully submitted to hearing before either the Director of Taxation or the Board of Tax Appeals, interest would accrue at the statutorily-prescribed rate for four months, and if no order has been issued by that time, interest would quit running until an order was issued. If an order is issued earlier, interest would again begin to accrue.

I have termed this proposal equitable and I think that characterization applies both with respect to the taxpayer and the State. There is nothing in this proposal which would invalidate an assessment

because the time limit is not met. In that regard, it recognizes that the issues involved in complex income and sales tax cases may not be resolvable in 30 or 60 days. I am also well aware of the tremendous volume of appeals which go to hearing, and this same situation existed when I was with the Department.

The passage of this bill would merely provide that a taxpayer should only be required to bear the burden of an additional four months of interest following a hearing and briefing. If the taxpayer pursues an appeal into the Courts, interest would continue to accrue after issuance of a Director's Order and until four months after the issuance of an order by the Board of Tax Appeals. Interest accruing on five and six figure assessments can be substantial and principles of equity dictate that a taxpayer with a legitimate basis for appeal should not be afraid to litigate because of substantial interest penalties for doing so.

Finally, it should be made clear that this bill creates no loss of revenue to the State Treasury. Revenue loss should not be an issue.

For all of the reasons cited herein, I urge you, on behalf of the Kansas Bar Association, to report Senate Bill 166, as amended, favorably for passage. I would be glad to answer any questions you may have.



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: GOVERNMENTAL ORGANIZATION
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Testimony on SB 167

An Act Concerning Townships; relating to the limitation on certain tax levies

Mr. Chairman and Members of the Taxation Committee:

Thank you for the opportunity to appear before you today on Senate Bill 167, regarding tax levies. I appear before you in support of the bill, particularly since I made the request in the Senate for Section 2 which provides for a mill levy increase so a township in Johnson County can continue providing ambulance service (The Board of County Commissioners supported this amendment.)

I would now make a request to you to consider an additional amendment.

The request is to eliminate the aggregate tax levy limit altogether (see the attached draft amendment). Before you raise your eyebrows too suspiciously, let me explain why.

Aggregate tax levy limits legislation for local governments (including townships) was enacted in 1933. It was part of a package of legislation designed to regulate the financial dealings of local governments as a result of abuses brought into focus by the hard economic times of the Great Depression era. Other legislation enacted at the same time was the cash basis law and the budget law. The three-prong legislation package regulated the amount of taxes that could be levied, required business be conducted on a cash basis, and required the establishment of a budget and prohibited all expenditures not budgeted.

The aggregate mill levy limit for townships is archaic, confusing, and realistically does little to limit township levies. Let me make my case by referring to Senate Bill 167.

If you are familiar with township statutes, you will note that K.S.A. 79-1962 contains a list of the taxes that may be levied by townships which are as follows:

- 1) Ambulance
- 2) General Fund
- 3) Free band concerts
- 4) Land acquisition
- 5) Maintenance
- 6) Fire protection
- 7) Garbage and Trash
- 8) Halls and buildings
- 9) Noxious Weeds
- 10) Police
- 11) Roads

However, there are numerous restrictions on the above levies, depending on a variety of things, i.e., geography, size, whether you are a township or county unit road system, etc. To my knowledge, there is not a single township in the entire state that levies taxes for all or even most of the above. In fact, most townships levy for only one or two things. Why then do we have an aggregate mill levy limit that causes burdensome budgeting problems, confusion, and numerous statute revisions every time we amend a township statute?

In statutes dealing with townships, there are numerous protective clauses for the taxpayers against huge mill levies in addition to the levy limit such as notices, protest petitions, elections, etc. Perhaps the greatest protection, for those who may be concerned about the elimination of the aggregate, is the individual fund limit which would continue to limit the levying authority. Again, let me remind you that we are talking about very few accounts for townships.

To further point out the ridiculous, read lines 0104 to 117 of SB 167 and you will note that most of the above listed items for which townships can levy are eliminated from the aggregate mill levy of 2.50 mills for townships under the township unit road system, and .50 mills for the townships with the county unit road system. (Actually the bill is incorrect. Aggregate mill levies do not apply to fire protection and ambulances in the townships with the township road systems, and to halls and buildings and ambulances in townships with the county road system.)

My point is: WHAT GOOD IS AN AGGREGATE MILL LEVY LIMIT WHEN EVERYTHING IS EXEMPTED FROM THE LIMIT?

Other questions are raised: Why should the aggregate limit be different for townships with or without the township unit road system? The only difference between the two is the road and bridge work, and that mill levy is exempt from the limit anyhow.

I am not requesting this amendment just to clean up the statutes. I am requesting your consideration at this time because it would help tremendously in the budget preparation process. The request for the elimination of the aggregate mill levy was first made to me several years ago by townships but most recently by the Department of Administration who is involved with aiding the townships in budget preparations. (Several county clerks involved with township budgets have also made this request.) Unfortunately I neglected to notify the Department of Administration of this meeting or they would be here testifying in support of the elimination of the mill levy limit as they did in the Senate.

In closing, I thank you for your time and ask that you favorably consider the amendment to the bill at this time.

April 2, 1987

Proposed Amendment to SB 167
As Amended by Senate Committee

On page 1, in line 37, by striking all after "levy" where it appears for the first time; in line 38, by striking all before "is";

On page 2, in line 107, by striking all after "(b)"; by striking all of lines 108 to 120, inclusive; in line 121, by striking "Notwithstanding the foregoing,";

On page 4, in line 161, by striking "and"; by striking all of line 162; in line 163, by striking all before the period;