

Approved March 24, 1988  
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION

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

11:00 a.m./p.m. ~~xxx~~ March 23, 1988 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Tom Severn, Research  
Chris Courtwright, Research  
Don Hayward, Revisor's Office  
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

Senator Karr  
John Torbert, Ks. Assoc. of Counties  
Ernie Mosher, Ks. League of Municipalities  
Gerry Ray, Johnson County  
Bill Ervin, Accounts & Reports

Chairman Kerr called the meeting to order and said the first item on the agenda is a hearing on S.B. 606. Attachment 1 is information provided by the BOTTA that was requested by the committee on March 22. It is regarding partial exemptions for real estate and improvements.

SENATE BILL 606

Senator Karr testified, explaining that S.B. 606 would make the property tax lid applicable to only cities and counties. He stated that he had some concern regarding the subdivisions that are within the small counties.

John Torbert testified. (att. 2) He said that he understood that S.B. 606 would make the property tax lid applicable only to cities and counties, but it does not help in dealing with many problems and questions relating to the property tax lid enacted with the reappraisal law.

He stated that H.B. 2904, currently under consideration by the House Taxation Committee and S.B. 606 are basically conflicting. H.B. 2904 does address many of the problems with the reappraisal tax lid provisions. He said that he understood the tax lid to be a one year limit to prohibit taxing subdivisions from getting a windfall from what is expected to be higher property values resulting from reappraisal. Putting this into effect is difficult because of the manner in which the lid is applied. He felt that what started out as legislation to limit taxes levied may actually have the opposite impact.

Ernie Mosher testified saying that the League of Municipalities has no position on the bill. He stated that it affects cities in no way, but does more than effect property tax rates. He stated that he had no objection regarding the tax rates.

Gerry Ray stated that she opposed the bill. In response to a question, it was stated that this bill could allow other taxing units that are exempt to reap a windfall from reappraisal.

Bill Ervin of Accounts and Reports stated in response to a question that H.B. 2904 is fairly complicated and would, among other things, harmonize previous tax lid exemptions along with the 1985 reappraisal law.

Chairman Kerr noted that this bill had been previously worked by this committee this year. It then had been kept alive by routing it through the Ways and Means Committee.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION,  
room 519-Statehouse, at 11:00 a.m./~~p.m.~~ on March 23, 1988

SENATE BILL 554

Senator Burke moved that S.B. 554 be recommended favorably for passage as amended. Senator Allen seconded. Motion carried.

HOUSE BILL 2724

Senator Allen moved that H. B. 2724 be recommended favorably for passage. Senator Burke seconded. Motion carried.

HOUSE BILL 2702

Secretary Harley Duncan briefly explained the appeals procedure as described in H.B. 2702 as follows with the taxpayer appealing to:

1. County Appraiser
2. Hearing Panel
3. Board of Equalization
4. Board of Tax Appeals

After committee discussion, Senator Parrish suggested an amendment that would make the 15 day time limit be from "receipt" of the valuation notice, making line 33 and line 318 the same.

Senator Karr moved to adopt all amendments including the change suggested by Senator Parrish and "or taxpayers agent". Change suggested in two places (see attachments 3 & 4). Senator Burke seconded.

Because of lack of time, Chairman Kerr said the consideration would continue tomorrow on H.B. 2702.

Senator Thiessen moved to adopt the minutes of the March 22 meeting. Senator Montgomery seconded. Meeting adjourned.

ASSESSMENT AND TAXATION

OBSERVERS  
(PLEASE PRINT)

| DATE    | NAME              | ADDRESS       | REPRESENTING                        |
|---------|-------------------|---------------|-------------------------------------|
| 5/23/88 | KEITH FARRAR      | Topeka        | BOTA                                |
|         | Barbara Burt      | "             | Dept of Admin                       |
|         | Bill Ervin        | ✓             | ✓ -                                 |
|         | Kim Mahan         | ✓             | PVD                                 |
|         | Bill Waters       | ✓             | PVD                                 |
|         | BERHARD METZ      | "             | KCCI                                |
|         | Kevin Kelly       | Overland Park | SUN<br>CATHOLIC HEALTH<br>ASSN.     |
|         | JOHN H HOLMGREN   | Topeka        | KS GRAIN & FEED<br>ASSN             |
|         | Tom Tunnell       | Topeka        |                                     |
|         | Sherry Ray        | Delaware      | J. C. Conn<br>KS Grain & Feed Ass'n |
|         | Chris Wilson      | Topeka        |                                     |
|         | <del>Alison</del> | Topeka        | Assoc. of M...                      |
|         | W. Martin         | Mehita        | Seely Co.                           |

THE STATE OF KANSAS



BOARD OF TAX APPEALS

Docking State Office Building, -10th Floor
Topeka, Kansas 66612-1582
AC-913 296-2388

Keith Farrar, Chairman

Robert C. Henry, Member
Fred L. Weaver, Member
Victor M. Elliott, Member
Conrad Miller, Jr., Member

MEMORANDUM

TO: Senator Fred Kerr, Chairman Senate Assessment and Taxation
FROM: Keith Farrar, Chairman Board of Tax Appeals
RE: Partial exemption for real estate and improvements
DATE: March 22, 1988

Attached is a copy of a Board of Tax Appeals order exempting part of a building. You requested information concerning whether a portion of a building could be taxed while another portion was exempt. This decision granted one floor and taxed another.

This is the only order of this type issued to date. The Board simply has not received applications with similar facts.

Property tax exemptions are currently granted based on the property's use. Since it is constitutionally impermissible to discriminate based on ownership, the Board could grant one portion and deny others even if owned by the same organization. As always, the decision is dependent on the facts as well as the applicant's argument for exemption.



BEFORE THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE APPLICATION  
OF OSAGE CO. HISTORICAL SOCIETY  
FOR EXEMPTION FROM AD VALOREM  
TAXATION IN OSAGE COUNTY, KANSAS

Docket No. 3969-86-TX

O R D E R

Now, on this 28th day of October, 1987 the above captioned matter comes on for consideration and decision by the Board of Tax Appeals of the State of Kansas.

The Board, being fully advised in the premises, finds and concludes as follows:

1. The Board has jurisdiction over the parties and the subject matter of this proceeding, pursuant to K.S.A. 79-213.
2. The subject matter of this tax exemption application is described as follows:

Tax on real property described as: All that part of the building now located on Lot 21, except the E 50' thereof, and the N 2.5' of Lot 20, except the E 50' thereof, in Block 22 in the Original plat of Lyndon, Osage County, Kansas, lying and situated above the bottom of the floor joists of the second story of said building, together with all the rights of ingress to and egress from said second story and all other rights and privileges as reserved in Deed recorded in Vol. 158, page 115 of the records of the office of the Register of Deeds of Osage County, Kansas and subject to all the conditions mentioned in said deed.

3. This Board has reviewed and granted previous applications for exemption of applicant's other property. See Docket No. 1803-85-TX. Applicant is engaged in the preservation and display of historic artifacts and sites in Osage County. The artifacts are displayed at no charge and accessible by the general public. The Board recognizes that preserving the history of our country, state or region has educational value and is exempt pursuant to K.S.A. 1986 Supp. 79-201 Second. This society is organized solely for that purpose. We have little difficulty in affirming the society's general use of its property is an exempt use.

4. The property is used as a meeting place and for storage of historical records. It is used only by the Society or its members. Administrative offices or meeting places are exemptible if used exclusively for exempt purposes. National Collegiate Realty Corp. v. Board of Johnson County Comm'rs, 236 K. 394, 690 P.2d 1366 (1984).
5. The property at issue could be described as the second floor of a two-story structure together with rights of ingress and egress. The first floor is occupied by a taxable entity. This is not a case of first impression, but is the first exemption request for an "air-lot" property since Defenders of the Christian Faith v. the Board of County Commissioner, 219 Kan. 181, 574 P.2d 706 (1976) was decided. That decision specifically held that one floor of a single building could not be held exempt if another floor was used for a taxable purposes.
6. The Board re-examined Defenders and concludes it is distinguishable from the case at bar. In the Defenders case, the property was owned entirely by the Defenders and rented to various tenants. One floor was devoted to purely commercial use, i.e. retail sales for profit. Rentals generated several thousand dollars each year for the Defenders. The Court struggled with the practical problems associated with exempting some, but not all, of a building owned by a single entity. How could the tax collector foreclose against the taxable portion without abrogating the exempt user's right to quiet enjoyment?
7. The Court itself limited Defenders to those cases wherein a single owner sought partial exemption for portions of the same building used for allegedly exempt purposes. The Court acknowledged that the buildings or tracts could be legally severed, but those facts were not present in Defenders. The Court states at page 187:

Our tax statutes deal with tracts which have been partitioned (K.S.A. 79-419) or divided (K.S.A. 75-425) and with mineral rights which have been severed (K.S.A. 79-420). They also deal with condominiums, or "apartments" in one building under separate ownerships (K.S.A. 58-3122). But nowhere do they deal with the assessment of separate parts of a single building under



one ownership. our conclusion is not that such an assessment is impossible or even fraught with "insurmountable difficulty" but simply that our statutes do not contemplate it, and that our legislature did not intend it.

We wish to emphasize that we are dealing here with a single building, under a single ownership which has not been severed in any legally recognized manner. Property which has been or is readily capable of severance, either physically or as to ownership, is in an entirely different category.

8. Here we have the clearest case for distinguishing Defenders. The property is separately and properly deeded, to a distinct entity, for an independent use. The Court cited Seventh Day Adventist v. Board of County Commissioners, 211 Kan. 683, 508 P.2d 911 (1973) for the proposition that separate property contained in abutting tracts should be considered independent of one another for exemption. We see no legal difference in considering abutting properties vertically as well as horizontally.
9. The Board concludes the request for exemption should be granted.

IT IS, THEREFORE, BY THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS, CONSIDERED AND ORDERED that the above described property be exempted from August 12, 1986 and so long as it is owned by the applicant herein and used exclusively for exemptible purposes.

If any party to this appeal feels aggrieved by this decision, they may file a written request for a rehearing with this Board. The written request for rehearing shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Board's Order is unlawful, unreasonable, capricious, improper or unfair. The written request must be received within thirty (30) days of the certificate date of this Order. If, at the end of thirty days the Board has not received a written request for a hearing, this Order will become a final Order from which no further appeal is available.

IT IS SO ORDERED COPY:



|                    |                                |
|--------------------|--------------------------------|
| APPLICANT          | <u>Keith Farrar</u>            |
| APPLICANT'S ATTY   | <u>Keith Farrar</u>            |
| CO. CLERK          | <u>Keith Farrar, CHAIRMAN</u>  |
| CO. ASSESSOR       | <u>Robert C. Henry</u>         |
| CO. ATTY/COUNSELOR | <u>Robert C. Henry, MEMBER</u> |
| CO. COMR.          |                                |
| CO. TREAS.         | <u>Fred L. Weaver</u>          |
| DATE               | <u>11-2-87</u>                 |
|                    | <u>Fred L. Weaver, MEMBER</u>  |

David C. Cunningham  
DAVID C. CUNNINGHAM, SECRETARY

Victor Elliott  
VICTOR ELLIOTT, MEMBER

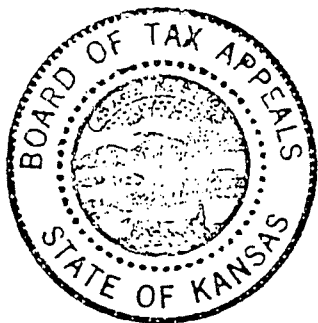
James P. Davidson  
JAMES P. DAVIDSON, ATTORNEY

Conrad Miller, Jr.  
CONRAD MILLER, JR., MEMBER

OFFICE OF THE BOARD OF TAX APPEALS OF THE STATE OF KANSAS

I, David C. Cunningham, Secretary of the Board of Tax Appeals of the State of Kansas, do hereby certify that the above and foregoing is a true and correct copy of Order No. 3969-86-TX made by said Board, as the same appears and is a matter of record in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the official seal of the Board of Tax Appeals at Topeka, Kansas, this 2nd day of November, 1987.



David C. Cunningham  
SECRETARY



# Kansas Association of Counties

*Serving Kansas Counties*

212 S.W. Seventh Street, Topeka, Kansas 66603      Phone (913) 233-2271  
March 23, 1988

Testimony

SB 606

To - Senate Assessment and Taxation Committee

From - John T. Torbert, Executive Director  
Kansas Association of Counties

SB 606, if I understand the stated intent of the legislation, would make the property tax lid applicable to only cities and counties. That may be well and good for the other taxing subdivisions but doesn't really help us at all in dealing with a substantial number of problems and questions all relating to the property tax lid enacted with the reappraisal law. So, consider my testimony in that view. Our office spoke with Senator Kerr yesterday and asked how this bill would be reconciled with HB 2904 currently under consideration by the House Taxation Committee. It is our view that the two bills are potentially in conflict. Our very strong preference is the approach taken in HB 2904 which does address many of the problems and concerns with the reappraisal tax lid provisions.

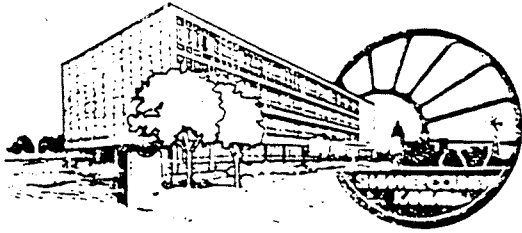
As I have stated before this committee on other issues, well intentioned legislation sometimes has unintended consequences. I think the reappraisal tax lid is an excellent example of such a situation. The tax lid, as I understand it, was meant to be a one year limit to prohibit taxing subdivisions from getting a windfall from what is expected to be higher property values resulting from reappraisal. We don't have any problems with that concept. But, putting that concept into effect and making it workable has been difficult to say the least. Because of the manner in which the lid is applied, what started out as legislation to limit taxes levied may actually have the opposite impact.

I've enclosed a copy of a letter written by Shawnee County Clerk Pat McDonald to Senator Kerr and Representative Rolfs last October. That letter I think does an excellent job of explaining our concerns with the reappraisal tax lid. HB 2904 was started into the process as a result of the issues raised in that correspondence. The House Taxation Committee has that bill slated for action tomorrow. I did want to take this opportunity to make you aware of our problems and concerns and hope that I'm able to be back before you soon to speak favorably on behalf of that legislation.

A & T

3/23/88

Att. 2



Shawnee County  
Office of County Clerk

PATSY A. "PAT" McDONALD

295-4155 Main  
295-4159 Accounting

Courthouse - Room 107  
Topeka, Kansas 66603-3963

October 29, 1987

Representative Ed Rolfs, Chairman  
Senator Fred Kerr, Vice-Chairman  
Special Committee on Assessments and  
Taxation  
State Capitol Building, Room 155-F  
Topeka, Kansas 66612

Dear Representative Rolfs, Senator Kerr & Committee Members:

Thank you for the opportunity today, to meet with you and to tell you what some of us see as potential problems. A small group of Clerks, Appraisers and Treasurers have been meeting to discuss reappraisal and what happens after reappraisal when we actually use the new values and put the new laws into effect.

We have also brought this to the attention of Municipal Accounting, who has written some opinions as attached to this letter for your review. Also attached are copies of K.S.A. 1986 Supp. 79-5022, 79-5028 and 79-5035.

If we were to list what we see as the major problem, it is that K.S.A. 1986 Supp. 79-5022 is unclear and inconsistent.

Listed below are some of the concerns:

1. The first sentence of K.S.A. 79-5022 suspends all existing statutory fund and aggregate levy limitations--then;

The first part of the second sentence provides that in "such year (1989) and in each year thereafter, any taxing subdivision is authorized to levy taxes upon tangible property which in the aggregate produces an amount not in excess of the amount which was authorized to be levied by such taxing subdivisions in the next preceding year (1988).

However, the last part of the second sentence states, "but no taxing subdivision shall certify to the County Clerk any tax levies...which in the aggregate will produce an amount in excess of the amount which was levied by such taxing subdivision in the next preceding year."

The confusion and question is--may we levy what we were "authorized to levy" or what actually was levied? Also, was it

your intent to make this applicable one year--or as it states--"each year thereafter"?

If indeed, we can only levy in 1989 what dollar amount was levied the year before in 1988, budget makers next year would point this out and taxing subdivisions may levy their limit to insure having a high enough "lid" for the next year and years thereafter--which could create more taxes and higher levies than needed across the state.

2. We may end up penalizing those taxing subdivisions who levy for their needs in 1988, rather than inflating their budgets by levying the maximum amount in 1988, just to insure a higher dollar figure. Example--A township that levied 5 mills in previous years might levy the full eight (8) mills in 1988, just to protect themselves in the years thereafter.
3. Another example, what about a small cemetery who only levies once every two or three years? Now they will undoubtedly levy in 1988 to insure a "dollar" amount. If people think they must levy, or lose it--it's very likely levies of drainages, townships and others will be much higher across the State in 1988.
4. Currently, the Topeka Library is authorized under K.S.A. 12-1215 to increase levies up to one-fourth mill each year up to six mills--if the current levy is not sufficient: under K.S.A. 79-5022, will they always be held to the dollar amount levied in 1988 for the 1990 budgets?
5. Currently Shawnee County does not levy for the Special Road every year, however, the temptation to levy in 1988 would certainly be there--just to insure a higher dollar amount for the 1989 levies (1990 budgets).
6. What happens when there is an election authorizing an additional levy such as a "special road" levy? Pursuant to K.S.A. 80-1413, townships often put on the November ballot the above questions. If this happens in November of 1988--say five mills for five years effective in 1990, will this increase the dollar limit as budgeted in 1988 for 1989? Does the election take precedence?



7. K.S.A. 1985 Supp. 79-5023 does not exempt the same levies from the tax lid as under present law. Specifically, district court operations, ambulance, industrial development, mental health, out district tuition and many others. For those counties under the tax lid, this poses a problem as to what constitutes the base for the new tax lid.
8. K.S.A. 1986 Supp. 79-5036 provides for the first time that all taxing subdivisions, cemeteries, drainages, etc. will be subject to the tax lid. They will ALL have home rule powers and will be able to exercise their option and charter out.

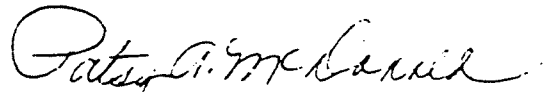
Currently, only cities and counties are affected by the tax lid as the legislators removed the partial tax lid from townships in 1985. While it may be easy for some taxing subdivisions to charter out, others may not get out due to a referendum.

Finally, while I wish we could offer an easy solution, the only one we can come up with is to compute the tax lid on what was authorized to be levied in 1988, rather than what was actually levied--then the problem of people raising taxes in 1988 to insure a higher dollar amount would be eliminated.

However, how would this affect cities and counties like Shawnee that have already chartered out from the tax lid and fund limits?

We thank you very much for your time and your consideration of these concerns. We hope you will address them, at least to the extent that the statutes need to be made more clear.

Respectfully submitted,



Patsy A. McDonald  
Shawnee County Clerk &  
Clerks' Legislative Chairman

PAM/llh

Attachments

HOUSE BILL 2702 CHANGES

Underlined wording is to be inserted.  
{Bracketed wording} is to be deleted.

\*K.S.A. 79-1448

Line 33 . . .to the county appraiser within 15 days of receipt of valuation notice.

The change is necessary to specify the exact time a property owner has to file the initial appeal to the county appraiser. Without this change, the informal hearing process will not work.

Line 37 . . . property in question. The county appraiser may extend the time in which the taxpayer may informally appeal from the classification or appraisal of the taxpayer's property for just and adequate reasons.

This language will provide for those taxpayers who are unable to comply within the 15 day timeframe and it will preserve the intent of House Bill 2702.

Lines 37 & 38 In no event shall an informal meeting regarding real property be scheduled to take place after April 1 nor a final determination be given by the property appraiser after April 15 in the year in which valuations . . . . .

Amended to exclude personal property appeals from the April 1 deadline in the year of reappraisal and requires the county appraiser to notify all property owners of his determination by April 15. This change also allows informal personal property hearings to go until May 1, which is the current deadline.

Lines 55 & 56 {All such appeals shall be heard by the board de novo.} Each step in the county's established informal and formal appeal process must be completed before the taxpayer may appeal to the next level except as prescribed in K.S.A. 79-1609.

Deletion: All formal hearings should be on the record; the statutes clearly provide for this. However, to have a de novo hearing at each county level causes duplication of time and effort. In addition, it creates an atmosphere in which the county can never be adequately prepared to present its case because the property owner has no restriction on the evidence which may be presented.

Insert: Added to insure that property owners follow all of the steps in the counties' established informal and formal appeals process. K.S.A. 79-1609 addresses the procedure to be followed upon payment under protest.

Line 201 . . . equalization {and all appeals shall be heard de novo}.

See Line 55-56 deletion for explanation.

\*K.S.A. 79-1606

Line 318 . . . within 15 days of the date that a notice of change in value or final determination was mailed by the county appraiser, hearing officer or panel or board of equalization . .

Amended to stipulate that the property owner or county appraiser has 15 days from notice of change in value or notice of final determination to appeal to the next level. By inserting county appraiser, clarification is given to the timeframe the property owner has to file an appeal at all levels.

Line 345 Disposition of the appeal shall be mailed by the county clerk to the taxpayer and county appraiser within five days after the determination.

"County appraiser" was added so that the appraiser has the same appeal rights as the property owner if there is a disagreement with a determination of the hearing panel or BOE. Adding "county clerk" clarifies the duty of who is to notify the parties involved.

\*K.S.A. 79-1610

Line 450 . . . mailed to the taxpayer and county appraiser within five days after the date . . .

This provides that the county appraiser also be notified of the BOE decision so that, in the event of a disagreement over a value or classification, a timely appeal may be filed with the State Board of Tax Appeals.



00001 Sec. \_\_\_\_\_ K.S.A. 1987 Supp. 79-2005 is amended as follows:

00002

00003 (a) Any taxpayer, before protesting the payment of such taxpayer's taxes,  
00004 shall be required, either at the time of paying such taxes, or, if the whole  
00005 or part of the taxes are paid prior to December 20, no later than December  
00006 20, to file a written statement with the county treasurer, on forms approved  
00007 by the director of property valuation and provided by the county treasurer,  
00008 clearly stating the grounds on which the whole or any part of such taxes are  
00009 protested and citing any law, statute or facts on which such taxpayer relies  
00010 in protesting the whole or any part of such taxes. *The county treasurer*  
00011 *shall forward a copy of the written statement of protest to the county*  
00012 *appraiser who shall within 15 days of the receipt thereof, schedule an*  
00013 *informal meeting with the taxpayer with reference to the property in*  
00014 *question. The county appraiser shall review the appraisal of the taxpayer's*  
00015 *property with the taxpayer and shall within 5 days thereof, notify the*  
00016 *taxpayer of the results of the informal meeting.*

00017 (b) If the grounds of such protest shall be that the valuation or  
00018 assessment of the property upon which the taxes so protested are levied is  
00019 illegal or void, such statement shall further state the exact amount of  
00020 valuation or assessment which the taxpayer admits to be valid and the exact  
00021 portion of such taxes which is being protested.

00022 (c) If the grounds of such protest shall be that any tax levy, or any  
00023 part thereof, is illegal, such statement shall further state the exact  
00024 portion of such tax which is being protested.

00025 (d) Upon the filing of a written statement of protest, the grounds of  
00026 which shall be that any tax levied, or any part thereof, is illegal, the  
00027 county treasurer shall mail a copy of such protest to the governing body of  
00028 the taxing district making the levy being protested.

00029 (e) ~~Within 30 days after filing the written statement of protest,~~  
00030 *Within 30 days after notification of the results of the informal meeting,*  
00031 the protesting taxpayer must file an application for refund with the state  
00032 board of tax appeals and provided by the county treasurer, together with a  
00033 copy of the written statement of protest.

00034 (f) Upon receipt of the application for refund, the board shall docket  
00035 the same and notify the taxpayer and the county treasurer of such fact. In  
00036 addition thereto if the grounds of such protest is that the valuation or  
00037 assessment of the property is illegal or void the board shall notify the  
00038 county appraiser thereof.

00039 (g) After examination of the application for refund, the board shall fix  
00040 a time and place for hearing, unless waived by the interested parties in  
00041 writing, and shall notify the taxpayer and the county treasurer of the time  
00042 and place so fixed. The county treasurer shall then notify the clerk,  
00043 secretary or presiding officer of the governing body of any taxing district  
00044 affected by such application for refund, of the time and place for hearing.  
00045 In addition thereto if the grounds of such protest is that the valuation or  
00046 assessment of the property is illegal or void the board shall notify the  
00047 county appraiser thereof.

00048 (h) In the event of a hearing, the same shall be originally set not later  
00049 than 90 days after the filing of the application with the board. In all  
00050 instances where the board sets a request for hearing and requires the  
00051 representation of the county by its attorney or counselor at such hearing,  
00052 the county shall be represented by its county attorney or counselor.

00053 (i) When a determination is made as to the merits of an application for  
00054 refund, the board shall enter its order thereon and give notice of the same  
00055 to the taxpayer, county treasurer, county appraiser and county attorney or  
00056 county counselor by mailing to each a certified copy of its order. The  
00057 county treasurer shall notify all affected taxing districts of the amount by  
00058 which tax revenues will be reduced as a result of a refund. The date of an

00059 order, for purposes of filing an appeal to the district court, shall be the,  
00060 date of the certification.

00061 (j) If a protesting taxpayer fails to file such application for refund  
00062 with the board within the time limit prescribed, such protest shall become  
00063 null and void and of no effect whatsoever.

00064 (k) In the event the board orders that a refund by made and no appeal is  
00065 taken from such order, the county treasurer shall, as soon thereafter as  
00066 reasonably practicable, refund to the taxpayer such protested taxes from tax  
00067 moneys collected but not distributed. Upon making such refund, the county  
00068 treasurer shall charge the fund or funds having received such protested  
00069 taxes.

00070 (l) Whenever, by reason of the refund of taxes from any fund, it will be  
00071 impossible to pay for the imperative functions of such fund for the current  
00072 budget year, the governing body of the taxing district affected shall issue  
00073 no-fund warrants in an amount necessary to pay such refund. Such warrants  
00074 shall conform to the requirements prescribed by K.S.A. 79-2940, and  
00075 amendments thereto, except they shall not bear the notation required by such  
00076 section and may be issued without the approval of the state board of tax  
00077 appeals. The governing body of such taxing district shall make a tax levy  
00078 at the time fixed for the certification of tax levies to the county clerk  
00079 next following the issuance of such warrants sufficient to pay such warrants  
00080 and the interest thereon. all such tax levies shall be in addition to all  
00081 other levies authorized or limited by law and the tax levy limitations  
00082 imposed by article 19 of chapter 79 of the Kansas Statutes Annotated, and  
00083 amendments thereto, and K.S.A. 79-5001 to 79-5016, inclusive, and amendments  
00084 thereto, shall not apply to such levies.

00085 (m) The county treasurer shall disburse to the proper funds all portions  
00086 of taxes paid under protest and shall maintain a record of all portions of  
00087 such taxes which are so protested and shall notify the governing body of the  
00088 taxing district levying such taxes thereof and the director of accounts and  
00089 reports if any tax protested was levied by the state.

00090 (n) This statute shall not apply to the valuation and assessment of  
00091 property assessed by the director of property valuation and it shall not be  
00092 necessary for any owner of state assessed property, who has an appeal  
00093 pending before the board of tax appeals, to protest the payment of taxes  
00094 under this statute solely for the purpose of protecting the right of refund  
00095 of taxes paid under protest should that owner be successful in that appeal.

00096

00097 Delete Sec. 11 from HB2702 {As Amended by House Committee of the whole}.