

Approved March 25, 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.~~ on March 24, 1988 in room 519-S of the Capitol.

All members were present except:

Senator Mulich

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:

Chairman Kerr called the meeting to order and said the agenda for the day was to work property tax bills.

HOUSE BILL 2702

Chairman Kerr reminded the committee that upon the adjournment the previous day there was a motion pending made by Sen. Karr and seconded by Senator Burke to adopt the amendments suggested in the package, Att's 3 & 4 (with noted changes) of March 23, 1988 meeting. Motion carried.

Sen. Karr moved that H.B. 2702 be reported favorably as amended. Sen Hayden seconded. Motion carried.

HOUSE BILL 2651

Chairman Kerr distributed Att. 1 which is proposed amendments to H.B. 2651. He explained the amendments.

Chairman Kerr stated that the "humanitarian service" issue in Section Nine is the area of serious concern in the bill.

There was extensive committee discussion concerning the addition of the word "youth" and the effective date change from December 31, 1985 to December 31, 1987.

Senator Hayden moved to adopt the amendments on Att. 1. Senator Thiessen seconded.

Senator Parrish offered a substitute motion by moving to adopt amendments on the first page of attachment one only. (including everything up to sub (f)) Sen. Salisbury seconded. The motion lost.

The primary motion then carried. Senators Parrish, Frey, and Salisbury asked to be recorded as voting "no". Senator Karr moved to adopt the minutes of the March 23 meeting. Senator Thiessen seconded. Motion carried.

The meeting was recessed until after Senate adjournment in the afternoon.

The meeting resumed at 3:15 p.m.

In response to concern regarding if groups such as Boy Scouts and Girl Scouts would be exempt under the previously proposed amendments, (Att. 1) Keith Farrar of the Board of Tax Appeals stated that he feels that the law including the amendments would be interpreted to mean that these groups would be able to enjoy continued tax exemption.

Senator Burke moved that the committee adopt the amendment that pertains to the thirteen HUD housing projects only for the period of time that they are restricted in the saleability of the projects. (Att. 2)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION,
room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on March 24, 1988

Senator Parrish seconded. Motion carried.

Senator Allen moved that language be added to line 100 of the bill which would exempt university president homes from property taxation. Senator Montgomery seconded. Motion carried.

Senator Hayden moved to amend by adding "health related services" to line 156 of the bill. Senator Parrish seconded. Motion carried.

Senator Burke moved that the parsonage section, line 146 be made applicable after Dec. 31, 1984. Senator Hayden seconded. Motion carried.

HOUSE BILL 2651

Senator Parrish moved to delete the definition of "humanitarian services" in the amendment on Att. 1. Sen. Salisbury seconded. Motion was lost. Senator Parrish moved to strike the word "exclusive" from sub section (d) of the amendment (attach 1). Senator Burke seconded. Motion carried. Senator Burke moved to recommend the bill favorably for passage as amended. Senator Thiessen seconded. Motion carried. Senators Parrish and Salisbury recorded a "no" vote.

HOUSE BILL 3074

Senator Karr moved to clarify that lines 44 & 52 be clarified to mean "hand" tool boxes. Senator Montgomery seconded. Motion carried.

Senator Karr moved that lines 108 through 152 of the bill be stricken. This would have the effect of not changing current law. Senator Burke seconded. Motion carried.

Senator Parrish moved to recommend H.B. 3074 favorably for passage as amended. Senator Allen seconded. Motion carried.

HOUSE BILL 2002

Senator Burke moved to strike the language "and necessary to the furtherance of the" on lines 47 and 48 of the bill. Senator Parrish seconded. Motion carried.

Senator Burke moved to recommend H.B. 2002 favorably for passage as amended. Senator Montgomery seconded. Motion carried.

HOUSE BILL 2651 -- Am.

Ninth. All real property and tangible personal property actually and regularly used by a community service organization for the purpose of providing humanitarian services, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign not-for-profit corporation if: (a) The directors of such corporation serve without pay for such services; (b) the corporation is operated in a manner which does not result in the accrual of distributable profits, realization of private gain resulting from the payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered or the realization of any other form of private gain; (c) no officer, director or member of such corporation has any pecuniary interest in the property for which exemption is claimed; (d) ~~the corporation is organized for the purpose of providing humanitarian services with respect to the use of property for which an exemption is claimed, except that, the use of such property for a nonexempt purpose which is minimal in scope and insubstantial in nature shall not result in the loss of exemption if such use is incidental to the purpose of providing humanitarian services by the corporation;~~ (d) the corporation is organized for the exclusive purpose of providing humanitarian services; (e) the use of property for which an exemption is claimed must be substantially related to the purpose of providing humanitarian services, except that, the use of such property for a nonexempt purpose which is minimal in scope and insubstantial in nature shall not result in the loss of exemption if such use is incidental to the

purpose of providing humanitarian services by the corporation; (f) the corporation is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986 and (g) contributions to the corporation are deductible under the Kansas income tax act. As used in this clause, "humanitarian services" means the conduct of activities dedicated to the improvement of the physical, mental, ~~social, cultural~~ or spiritual welfare of, ~~others~~ youth or needy, or the relief, comfort or assistance of persons in distress or any combination thereof ~~including but not limited to health and recreation services, childcare, individual and family counseling, employment and training programs for handicapped persons and meals or feeding programs.~~

The provisions of this paragraph shall apply to all taxable years commencing after December 31, ~~1985.~~ 1987.

TESTIMONY TO THE
SENATE ASSESSMENT & TAXATION COMMITTEE
BY RONALD R. HEIN
March 16, 1988

Mr. Chairman and members of the Committee:

My name is Ron Hein, and Rebecca Rice and I are legislative counsel for Complete Property Management and Heritage Management Corporation, on behalf of several cooperative townhouse projects for restricted income families. There are 13 cooperative projects in the State of Kansas, which were initially established pursuant to Housing and Urban Development law, having been set up as not-for-profit corporations to house those with restricted incomes. There is no direct cash subsidy going to these projects, although at the time that the projects were commenced, they were permitted to obtain a discount on mortgage interest rates.

Pursuant to federal law, these projects are not able to be sold, or at least are not able to be sold for the purpose of making a profit during the 20 year period of time during which the projects are restricted for low income purposes. Many of these projects were commenced in the early 1970s. To the best of my knowledge, none of the projects have been sold in an arms-length transaction, although one project was foreclosed upon due to the inability to meet its financial obligations.

In evaluating property for property tax purposes, there are three general rules: cost, market value, and income capitalization. The Board of Tax Appeals has ruled on two separate occasions that since these projects are restricted from being sold, and since there have been no sales, that no market data exists to evaluate these property for tax purposes. The Board of Tax Appeals has also ruled on two separate occasions that income capitalization is not an appropriate technique for valuing these properties since they are prohibited from deriving any income for the owners. Although we disagree with the conclusion with regard to income capitalization, nonetheless, this is the way the Board of Tax Appeals has ruled. Thus, the Board of Tax Appeals has been left with the cost approach as the only means to value these properties. Although the cost of these properties would be comparable to the cost of any other property which is not so restricted by federal law, nonetheless, a willing buyer would not pay as much for a piece of property that he would have to wait 20 years to derive an income from as he would from a piece of property that he could begin deriving income from immediately. Therefore, some counties throughout the State have given a tax reduction to these projects in an effort to truly value their market value, despite the fact that they cannot be sold.

However, in some instances, there has been no reduction in market value despite these restrictions on the saleability of the projects, and they are being assessed the full value based upon the original cost of the project, which is obviously misleading of its true market value.

The Board of Tax Appeals several years ago made an effort to provide for a uniform method of valuing these properties throughout the State, but due to the disparities of mill levies, etc., and appraisal among the varying counties, they were unable to do so. In addition, the Board of Tax Appeals has ruled, as a matter of law, that the assessed valuations utilized in other counties cannot be utilized for purposes of demonstrating the value of these projects.

Under the property tax law, there is already an exemption for HUD projects, so long as they set up by a not-for-profit corporation, and are financed pursuant to the National Housing Act, and are restricted in income, but current provisions limit those exemptions only to exclusively elderly housing projects. The municipal housing projects are also exempt from property taxation by statute. However, these projects fall within the cracks, and are not currently exempt from taxation, because they are not limited to elderly only. There are, of course, elderly low income people living in these housing projects, but they are not limited to the elderly.

Therefore, we are requesting that an amendment be made to HB 2651 to provide for an exemption for these 13 housing projects only for the period of time that they are restricted in the saleability of the projects and are restricted to low income residents. A copy of our proposed amendment is attached to this testimony. I have also attached a copy of the existing statutes which contain the existing exemptions for municipal housing projects and the elderly projects under the National Housing Act.

We have drafted this language with the assistance of the Kansas City office of HUD to insure that no other projects will come within the provisions of this amendment, other than the 13 projects described, which are found in Johnson County, Shawnee County, Riley County, Douglas County, Montgomery County, Sedgwick County, and Wyandotte County.

On behalf of the residents of those housing projects, I would appreciate your adopting the proposed amendment and attaching it to HB 2651.

Thank you very much for your consideration, and I will yield to any questions.