

Approved May 7, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chair, at 9:10 a.m. on Wednesday, March 25, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. Bill Roy, excused.

Committee staff present:

Tom Severn & Chris Courtwright, Legislative Research; Bill Edds and Don Hayward, Revisors; Linda Frey, Committee Secretary; Douglas E. Johnston, Committee Assistant.

Conferees appearing before the committee:

The public hearing on SB 576, credit card payment of taxes, was opened.

Mark A. Burghart, General Counsel for the Department of Revenue, testified in favor of SB 576 (Attachment 1).

Rep. Bruce Larkin expressed his concern that high credit card interest rates would only worsen the burden on taxpayers.

In response to a question from Rep. Kent Glasscock, Burghart said there would be no cost to the state to implement the plan. He noted the taxpayer would pay any additional cost charged by the credit card company. Burghart said the credit card option will not be available for the payment of delinquent taxes.

Rep. Vince Snowbarger stated several concerns with the effect of high credit card interest rates on taxpayers, the proliferation of credit card use and payment delinquencies. He said citizens who file for bankruptcy after paying their taxes using a credit card may be able to discharge their tax liability along with their other consumer debts.

Burghart said use of a credit card to pay income taxes would be optional and that taxpayers would have to take interest rates into account. In cases of citizens filing for bankruptcy, he said, the state will get its money, but the credit card companies will not.

Rep. Snowbarger said credit card companies will pass on losses from bankruptcies to other credit card users.

In response to a question from Rep. Bob Vancrum, Burghart clarified that the state would not accept credit card payment of delinquent taxes.

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MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Wednesday, March 25, 1992.

Responding to a question from Rep. Steve Wiard, Burghart said the state of Minnesota charges a \$5 flat fee to taxpayers who choose to use a credit card to pay their taxes.

Rep. Betty Jo Charlton noted the policy of accepting credit card payments only on timely filed returns is not in the bill. Burghart had no objection to including such a provision in the bill, but indicated such a policy will be part of administrative agreements with credit card companies.

Rep. Snowbarger said a flat fee for the use of the credit card option would be inequitable since both large and small tax liabilities would pay the same fee.

In response to a question from Rep. Jim Lowther, Burghart said a fee was necessary as an incentive to the credit card companies.

Gary Watson, President of the Kansas County Treasurers Association, testified in regard to SB 567 (Attachment 2). He submitted an amendment to the committee (Attachment 3). Watson said his association originally wanted the Director of Taxation to negotiate with credit card companies for the counties, but the director said such a plan is not feasible. Therefore, Watson said, KCTA proposed the amendment so that individual counties would negotiate with credit card companies.

Mary P. Ladesic, Wyandotte County Treasurer, spoke in opposition to the amendment proposed by Watson. She said the amendment would be extremely difficult to implement and would only increase the financial burden on taxpayers.

The public hearing was closed on SB 567 and opened on HB 3080.

R. Eileen King, Riley County Treasurer, provided written testimony to the committee in favor of HB 3080 (Attachment 4).

Rita Cline, Shawnee County Treasurer, testified in favor of HB 3080 (Attachments 5). She said Shawnee County has \$57,000 budgeted this year for publishing of delinquent tax notices. She said it is prohibitively expensive to remove the names of those who have paid from the delinquent taxpayer list after publication and before another publication.

Rep. Bill Reardon asked Cline about the statutory \$15 fee charged to delinquent taxpayers to cover the cost of publication. Cline said the fees are not recovered because publishing the list does not bring in delinquent taxpayers. Cline said she does not allow citizens to register their cars

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Wednesday, March 25, 1992.

if they have delinquent taxes.

Rep. Reardon said publishing the list may be preventing more delinquencies than there might be if it were not published.

David Furnas, Executive Director of the Kansas Press Association, testified against HB 3080 (Attachment 6). In response to a question from Rep. Smith, Furnas said his association is against making publishing of the list discretionary. The county treasurer could decide not to publish the delinquent taxpayer list if their name, or someone they want to protect, is on the list.

Information was requested from Nancy Hempen, Douglas County Treasurer, and Cline regarding the amount of fees paid upon receipt of delinquent taxes in Douglas and Shawnee Counties.

The public hearing on HB 3080 was closed and the public hearing was opened on SB 657, which would permit property taxpayers to assign their Homestead refund to their County Treasurer for payment of taxes.

Senator Dan Thiessen testified in favor of SB 657. He said the bill would not cost the counties any money and could reduce expenditures.

Senator Thiessen said there were no objections from the Department of Revenue regarding the bill.

In response to a question from Rep. Charlton, Senator Thiessen said the bill will help inform more people about eligibility requirements for the Homestead Property Tax refund.

Mary P. Ladesic, Wyandotte County Treasurer, testified against SB 657 (Attachment 7).

William E. O'Brien, Johnson County Treasurer, testified against SB 657 (Attachment 8).

The public hearing on SB 657 was closed.

The meeting adjourned at 10:30 a.m. The next meeting will be a joint hearing with the House Economic Development Committee on March 25 at 12:00 noon.

GUEST LIST

COMMITTEE: House Delegation

DATE: 9:00 A.M. 3/25/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Alan Steppat	Topeka	Pete Mcbill & Associates
Gene Meyler	1 Kansas City	ICC Star
HAROLD PITTIS	TOPEKA	AAKP-CCTF
Darryl Sadosic	Wyandotte Co	Treasurer
WM. E. O'BRIEN	JOHNSON COUNTY	TREASURER
George Dugger	Topeka	Aging
John Kovacic	Crawford County	Treasurer
John Ensky	Topeka	Kansas Press Assoc.
David L. Furnas	TOPEKA	KANSAS PRESS ASSOCIATION
Anne Smith	Topeka	Ks. Assoc. of Counties
KAREN FRANCE	TOPEKA	KAR
VERDEN HARMS	MARION County	treasurer
MIKE BILLINGER	ELLIS CO.	TREASURER
DONNA L. WEST	LINCOLN COUNTY	TREASURER
JOANN HAMILTON	LYNDON / OSAGE CO	TREASURER
Nancy Hempen	Lawrence	Douglas Co. Treasurer
GARY WATSON	WAKEENAY	TREASURER
Catolyn Amundright	Marionville	Marshall Co. Treasurer
Steve Clark	Shawnee	Shawnee Co. Treasurer
Judy Smith Crawford	Topeka	" " Treasurer

STATE OF KANSAS

Mark A. Burghart, General Counsel
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1588



(913) 296-2381
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Department of Revenue
Legal Services Bureau

MEMORANDUM

To: The Honorable Joan Wagnon, Chairperson
House Committee on Taxation

From: Mark A. Burghart, General Counsel
Kansas Department of Revenue

Date: March 25, 1992

Subject: Senate Bill No. 576

Thank you for the opportunity to appear in support of S.B. 576. The bill would allow taxpayers to use credit cards to pay any of the taxes or fees administered by the Director of Taxation. The Director also would be authorized to establish a fee to be added to each credit card transaction.

The bill is not mandatory for taxpayers. It merely provides the opportunity for taxpayers to pay their tax liability by means of a credit card. The ability to charge a tax liability and spread payment over a number of months would entice some taxpayers, who would otherwise be delinquent, to file and pay promptly. Such taxpayers would avoid penalty and interest at 18% which is assessed for late payment under the current law. It is believed that the use of credit cards will reduce the number of bad checks received by the Department. It is also important to note that credit cards would only be accepted for timely filed returns. It is highly unlikely that a credit card company would want to assume the risks of collection associated with a delinquent taxpayer.

Under the system we envision, taxpayers would merely place their credit card number in a space designated on the tax return. Once the return is received by the Department, the account would be verified on terminals provided by the credit card company which would be located within the Department's fiscal section. The credit card company would then transfer the amount of the tax liability to the appropriate state account. Preliminary discussions with representatives of a local bank card company which processes bank card transactions for many area banks, indicate that the dollar volumes would be such that the authorization/validation equipment could be provided to the Department free of charge.

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The Honorable Joan Wagnon
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Fourteen states now authorize in varying degrees the use of credit cards to pay state taxes or fees. These include: Maryland, California, Wisconsin, Montana, Vermont, Ohio, Texas, Alaska, North Carolina, Missouri, Indiana, Alabama, Minnesota, and Arkansas.

I would be happy to respond to any questions you might have.



KANSAS COUNTY TREASURERS' ASSOCIATION

OFFICERS:

GARY WATSON
TREGO COUNTY
President

NANCY HEMPEN
DOUGLAS COUNTY
Vice-President

LOREN L. HIBBS
SUMNER COUNTY
Secretary

JOANN HAMILTON
OSAGE COUNTY
Treasurer

Dear Chairman and Committee Members:

My name is Gary Watson. I am president of the Kansas County Treasurers Association. I am here today to ask your support for the proposed amendment to include county treasurers in SB 567.

As president of our association, I have been approached by several county treasurers, supporting the concept of accepting credit cards for payment of taxes and for motor vehicle registration. We know that not all treasurers are interested in this concept, for various reasons. However, if the option is available, many treasurers will use it and it will provide another tool for serving the needs of the taxpayer.

Thank you for your time and if you have any questions, I would welcome them at this time.

Gary Watson, President
Kansas County Treasurers Association

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SENATE BILL No. 576

By Assessment and Taxation

2-5

8 AN ACT relating to ~~taxation, authorizing the payment of taxes~~ by the collection of taxes and certain fees
9 credit card.

10 or any county treasurer

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) The director of taxation and any authorized em- or county treasurer
13 ployee or agent of the director may accept credit cards in payment

14 of any of the taxes or fees administered by the director. The type or collected
15 of credit cards accepted shall be at the discretion of the director.

16 (b) The director may set a fee to be added to each credit card or county treasurer
17 transaction equal to the charge paid by the state or the taxpayer for

18 the use of the credit card by the taxpayer. Except for the fees or county treasurer
19 imposed under this section, no other fees may be imposed by the

20 director.

21 Sec. 2. This act shall take effect and be in force from and after (c) Any county treasurer may set a fee to be added to each credit
22 its publication in the statute book. card transaction, which fee shall not exceed the charge paid by
the county treasurer for accepting the credit card. No other fee
may be imposed by any county treasurer for accepting or allowing
the use of a credit card.

(d) Nothing in this act shall be deemed to require any county treasurer
to allow the use of credit cards for the payment of fees or taxes,
and the decision regarding the acceptance of credit cards shall be
at the complete discretion of each county treasurer.

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OFFICE OF COUNTY TREASURER

RILEY COUNTY
MANHATTAN, KANSAS 66502

TO: HOUSE TAXATION COMMITTEE MEMBERS
FROM: R. EILEEN KING
DATE: MARCH 20, 1992
RE: HOUSE BILL 3080 PUBLICATION OF DELINQUENT NOTICES

I am sorry that I am not able to appear in person, but I have a conflict with the date and time of this hearing. I appreciate your time and attention to House Bill 3080. We are all looking for ways to help the taxpayers of Kansas. I feel that this is one way of helping without hurting the effectiveness of the office. By reducing the number of publications required for the delinquent real estate tax notices, delinquent personal property tax notices and the mill levy rate, it would allow each county to reduce the cost of the publication by two-thirds. Most newspapers charge the same per inch charge for each publication, so by eliminating two out of the three publications, each county would realize a savings of two-thirds. As you will notice, the bill does state that these publications will be made at least once. That way those counties that feel there is a direct benefit in their county for the second and third publications can still do so. But in the counties where the additional publications are thought to be redundant, the additional costs could be eliminated. I have been the Riley County Treasurer for 7 years, and I feel that the first publication serves a definite purpose, but the additional ones are not necessary. The first one gives many taxpayers an incentive to pay the tax or get the matter cleared up before their name appears in the newspaper.

I have done a survey of the counties to see what the cost savings would be. Out of the 105 counties, 90 counties have responded with the cost of their publications. I have attached a copy of the cost per county. As you can see the costs range from \$241.20 in Hamilton County to \$57,024.66 in Sedgwick County. Some of the cost is based on the size of the county, but the number of delinquencies in a county also contribute to the difference in costs. Other factors that can influence the costs are the format

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used, the size of print and whether the copy is camera ready. In Riley County the cost of these publications is \$7,978.95. This figure could be reduced by \$2,659.65 by eliminating the two additional publications. This would be a savings of \$5,319.30. This cost savings isn't huge, but if we watch the small expenditures, they add up. I was always taught that "if you watch the pennies, the dollars will take care of themselves."

Statewide the cost of the 1991 publications in the 90 counties that responded to my survey was approximately \$465,120. If this cost could be reduced by two-thirds, it would be a statewide savings of approximately \$310,080. This would allow those counties to use those budgeted funds for other purposes.

My purpose in supporting this is bill is to allow the counties a way of saving a few dollars for the taxpayers without reducing services or effectiveness. I feel that this would be a positive step towards that goal. We are all looking for ways of cutting back and this would be a help. Thank you for the opportunity to present my view point.

COUNTY

COST OF DELINQUENT PUBLICATIONS
1991

COUNTY

AMOUNT
3367.
1735.77
2637.60
4349.25
2015.00

4403.28
6400.00
1121.74
2571.20
8697.78

910.12
1600.00
1323.24
1215.00
645.40
8709.00
9741.27
1857.00
2396.82
729.78
8654.58
3588.64
1519.74
1449.36
850.86
4223.16
12765.41

587.82
1103.55
770.97
1734.22
792.75
3014.85
241.20
3761.25

1297.00
506.61
2327.16
7242.48
1058.15
53995.56
938.28
2564.98

7856.06
4083.57
8466.28
811.74

Allen
Anderson
Atchison
Barber
Barton
Bourbon
Brown
Butler
Chase
Chautauqua
Cherokee
Cheyenne
Clark
Clay
Cloud
Coffey
Comanche
Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Edwards
Elk
Ellis
Ellsworth
Finney
Ford
Franklin
Geary
Gove
Graham
Grant
Gray
Greeley
Greenwood
Hamilton
Harper
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearney
Kingman
Kiowa
Labette
Lane
Leavenworth
Lincoln

AMOUNT
2843.00
1852.92
5603.76
1976.00
2465.20
2380.00
2164.38
4142.36
1029.48
19161.45

655.76

701.70
1065.60
2846.84
384.00
1250.00

960.00
1881.87
5444.66
728.70
17264.76
1121.91
3542.10
7978.95
1071.53
1899.24
7737.11
10400.00
818.82
57024.66
10721.70
55364.98
263.82
1893.12

651.00
1086.60
652.50
6262.96
2003.20
5338.37
4692.00
854.07

4305.00

Linn
Logan
Lyon
Marion
Marshall
McPherson
Meade
Miami
Mitchell
Montgomery
Morris
Morton
Nemaha
Neosho
Ness
Norton
Osage
Osborne
Ottawa
Pawnee
Phillips
Pottawatomie
Pratt
Rawlins
Reno
Republic
Rice
Riley
Rooks
Rush
Russell
Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Sherman
Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabaunsee
Wallace
Washington
Wichita
Wilson
Woodson
Wyandotte

TOTAL \$495,118.56



Shawnee County
Office of County Treasurer

Room 101, Courthouse, Topeka, Kansas 66603

Phone 291-4080

RITA CLINE
COUNTY TREASURER

March 25, 1992

Before the House of Representatives, Committee on
Taxation (State Capitol, Room 519-S)

Madam Chairman and Members of the Tax Committee:

I appreciate this opportunity to give you my thoughts about the need to change the statutes requiring County Treasurers to publish delinquent real estate and personal property taxes.

Since I am committed to policies of holding down unnecessary expenditures, I would like to submit a proposal to amend K.S.A. 19-547 and K.S.A. 79-2303. Both of these statutes require and state that each County Treasurer **shall** publish delinquent personal property taxes, (KSA 19-547) and delinquent real estate taxes, (KSA 79-2303).

Due to unexpected tax increases from reappraisal our citizens and businesses are over-burdened with taxes. I am convinced the only way to reduce taxes is to cut spending and costs. Furthermore, I am convinced that the cuts and costs should first be made from items that do not directly affect public services or human needs. I cannot think of one public service that would suffer because the County did not publish delinquent real estate or personal property taxes. However, I can think of many services that could be subsidized with the money it costs to publish those lists. An example, the same day the Shawnee County's '90 real estate tax list was published an article ran on an elderly program that needed \$8,000 for a van to transport needed meals to homebound people. Also, our young people need money spent on education; not on publishing their parents, grandparents, aunts and uncles names in the newspaper. Please let me assure you this is not an attack on newspapers, but rather it is an attack on high taxes.

Because I was reared in a small community, I know first hand that the publishing of delinquent taxpayer's names in the local newspapers in the small community is a deterrent to allowing the tax to go delinquent and unpaid. However, as Shawnee County Treasurer, in a rather large community, I can tell you first hand that the publication is not a deterrent as our office gets very little response from it. Therefore, I believe in order to do the best job possible, the decision and responsibility for publishing these delinquencies should be vested in each County Treasurer. This can be accomplished by changing **shall** to **may** in each of the above mentioned statutes. However, to fully satisfy this proposal, K.S.A. 19-548, which requires County Treasurer's to be liable for a fine of \$25.00 for each and every day he shall refuse or neglect to make such publication, would have to be repealed.

Please give this your consideration and support. Thank You.

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therewith, and when the same are returned, charge the treasurer with all moneys disbursed by the fiscal agent of the county, and credit such agent with the same.

History: L. 1876, ch. 78, § 7; May 1; R.S. 1923, 19-535.

Revisor's Note:

See "Note" under 19-531.

19-536.

History: L. 1876, ch. 78, § 8; R.S. 1923, 19-536; Repealed, L. 1968, ch. 376, § 3; July 1.

19-537. Penalty for violating 19-531 to 19-537. If any such treasurer or clerk shall willfully disregard any of the provisions of this act, he shall upon conviction thereof be adjudged guilty of a misdemeanor, and be fined in any sum not exceeding five hundred dollars, and removed from office.

History: L. 1876, ch. 78, § 9; May 1; R.S. 1923, 19-537.

Revisor's Note:

See "Note" under 19-531.

19-538.

History: L. 1879, ch. 93, § 1; R.S. 1923, 19-538; Repealed, L. 1965, ch. 162, § 2; June 30.

Revisor's Note:

Later act, see 79-2958.

CASE ANNOTATIONS

1. Section makes exception to provisions of article 11, § 5, of constitution. State, ex rel., v. Glenn, 144 K. 461, 464, 61 P.2d 1354.

19-539.

History: L. 1886, ch. 29, § 1; R.S. 1923, 19-539; L. 1937, ch. 359, § 1; Repealed, L. 1965, ch. 162, § 2; June 30.

Revisor's Note:

Later act, see 79-2958.

CASE ANNOTATIONS

1. This section is apparently in conflict with 79-2918. Kansas Gas & Elec. Co. v. Dalton, 142 K. 59, 63, 46 P.2d 27.

19-540.

History: L. 1911, ch. 288, § 1; R.S. 1923, 19-540; Repealed, L. 1963, ch. 163, § 1; June 30.

19-541.

History: L. 1929, ch. 153, § 1; Repealed, L. 1933, ch. 309, § 27; April 3.

19-542 to 19-546.

History: L. 1933, ch. 164, §§ 1 to 5; Repealed, L. 1953, ch. 141, § 1; June 30.

CASE ANNOTATIONS

1. Act retrospectively applied is unconstitutional, violates section 5, article 11, state constitution. State, ex rel., v. Crawford Township, 139 K. 553, 558, 32 P.2d 809.

19-547. Publication of delinquent personal property tax statements; costs, payment and collection. In addition to the duties required by K.S.A. 1980 Supp. 79-2101 and amendments thereto, each county treasurer shall, within 10 days after October 1 of each year, cause a statement to be published with respect to unpaid or partially unpaid delinquent personal property tax returns made by the sheriff as of October 1. Such statement shall be published once each week for three consecutive weeks in the official county newspaper. The statement shall show the name of each delinquent or partially delinquent taxpayer, listed alphabetically, appearing on such returns, followed by the taxpayer's last known address and by the total amount of unpaid taxes, penalties and costs. The cost of such publication shall be paid from the general fund of such county, and \$5 shall be added to the tax due as part of the costs of collection, to be collected in the same manner as provided by law for the collection of the delinquent tax.

History: L. 1957, ch. 500, § 1; L. 1981, ch. 173, § 55; July 1.

Research and Practice Aids:

Counties — 194.

C.J.S. Counties § 285.

Attorney General's Opinions:

Collection of taxes; notice of taxes "charged"; publication of fees. 82-4.

19-548. REPEAL Same; failure to publish statement; fine. Should any county treasurer neglect or refuse to make and publish the statement provided for in this act, he shall be liable to a fine of twenty-five dollars (\$25) for each and every day he shall refuse or neglect to make such publication, to be recovered by an action at law against said treasurer, said action to be brought in the name of the board of county commissioners of the proper county.

History: L. 1957, ch. 500, § 2; June 29.

Article 6.—COUNTY AUDITOR

COUNTIES OVER 40,000

19-601. County auditor; appointment in

viding for judicial foreclosure and sale of realty by county.

History: L. 1959, ch. 385, § 2; June 30.

79-2303. Publication of listing of real estate subject to sale; costs. (a) The county treasurer shall cause the notice and list prepared under K.S.A. 79-2302, and amendments thereto, to be published in the official county newspaper or in a newspaper of general circulation printed in the county in accordance with the provisions of K.S.A. 64-101, and amendments thereto. The notice and list shall be submitted to the newspaper on or before August 1 of each year and shall be published once each week for three consecutive weeks immediately prior to the week when the day of sale will occur. The county treasurer also shall cause a copy of the list and notice to be posted in some conspicuous place in the county treasurer's office. The cost of publication of the notice and list shall be paid from the general fund of the county, and a \$15 fee for each tract or lot shall be added to the tax due for the tract or lot as part of the costs of collection. The fee shall be collected in the manner provided for the collection of the unpaid taxes.

History: L. 1876, ch. 34, § 107; R.S. 1923, 79-2303; L. 1941, ch. 375, § 3; L. 1982, ch. 166, § 3; L. 1989, ch. 294, § 2; July 1.

Source or prior law:

L. 1866, ch. 118, § 67; C.S. 1868, ch. 107, § 82.

Attorney General's Opinions:

County commissioners; powers and duties; control of expenditures and printing. 85-57.

CASE ANNOTATIONS

1. Treasurer publishes tax list under order of county board. Wren & Clawson v. Comm'rs of Nemaha Co., 24 K. 301, 304, 305.

2. Loss or destruction of notice does not render sale void. Davis v. Harrington, 35 K. 196, 10 P. 532.

3. Publication of notice; time of first publication; notice held valid. Tidd v. Grimes, 66 K. 401, 71 P. 844.

79-2304. Same; affidavit of publication. Every printer who shall publish such list and notice shall immediately after the last publication thereof transmit to the treasurer of the proper county an affidavit of such publication, made by such person to whom the fact of publication shall be known. No printer shall be paid for such publication who shall fail to transmit such affidavit before the date of the sale. The county treasurer shall also make, or cause to be made, an affidavit or affidavits of the printing of such list and notice as above required; all of which shall be carefully preserved by him or her, and deposited as hereinafter specified.

History: L. 1876, ch. 34, § 108; R.S. 1923, 79-2304; L. 1941, ch. 375, § 4; Sept. 1.

Source or prior law:

L. 1866, ch. 118, § 68; C.S. 1868, ch. 107, § 83.

CASE ANNOTATIONS

1. Statement and affidavit of printer held substantial compliance with statute. Mims v. Comm'rs of Finney Co., 3 K.A. 622, 623, 44 P. 38.

2. Transmission of affidavit to treasurer; presumed transmitted to treasurer. Douglass v. Craig, 4 K.A. 99, 104, 46 P. 197. Reversed: Douglass v. Craig, 58 K. 814, 48 P. 917.

3. Curative act relating to Graham county held constitutional. (L. 1895, ch. 271.) Inlow v. Graham County, 6 K.A. 391, 51 P. 65.

4. Affidavit prima facie evidence of time and manner of publication. City Rly. Co. v. Chesney, 30 K. 199, 201, 1 P. 520.

5. Prima facie evidence furnished by deed overthrown by affidavit. City Rly. Co. v. Chesney, 30 K. 199, 201, 1 P. 520.

6. Omission of affidavit of county treasurer is mere irregularity. Stout v. Coates, Assignee, 35 K. 382, 384, 11 P. 151.

7. Charge for printing illegal when affidavit not transmitted as prescribed. Fox v. Cross, 39 K. 350, 355, 18 P. 300.

8. Tax sale vitiated by including illegal fee for printing notice. Blanchard v. Hatcher, 40 K. 350, 20 P. 15.

9. Printer cannot recover pay for printing when affidavit not transmitted. Moriarty v. Comm'rs of Morris Co., 52 K. 199, 200, 34 P. 781.

10. Deed voidable if fee included when affidavit not transmitted. Douglass v. Walker, 57 K. 328, 330, 46 P. 318.

11. Requirement concerning proof by printer not applicable to redemption notice. Morrow v. Inge, 89 K. 481, 483, 131 P. 1184.

12. Erroneous inclusion of printer's advertising fees; sufficiency of evidence. Lyle v. Reynolds, 112 K. 365, 368, 210 P. 1093.

13. Tax deeds held voidable for wrongful inclusion of advertising fees. Martin v. Cundell, 140 K. 635, 636, 38 P.2d 100.

14. Deed voidable if fee included when affidavit not transmitted. Percy v. Williams, 163 K. 439, 441, 442, 443, 447, 183 P.2d 243.

79-2305. Publication of lists during years 1909 and 1910. Laws 1913, chapter 221, section 1, included by reference. [Provides for payment for publication of tax-sale notice during the years 1909 and 1910 within five years after such publication. Validates all deeds issued based upon such tax-sale notice with relation to proof of publication.]

History: R.S. 1923, 79-2305.

79-2306. Time of sale; county treasurer to bid off in name of county. On the day designated in the notice of sale the county treasurer shall sell the real estate on which the taxes and legal charges have not been paid, and it shall be the duty of the county treasurer of such county, to bid off in the name of the

Kansas Press Association Testimony
before the
House Taxation Committee
on HB 3080
March 25, 1992

Madam Chairman and members of the committee: My name is David Furnas and I am the executive director of the Kansas Press Association. KPA represents the 250 daily and weekly newspapers in the state.

The newspapers in Kansas have a variety of concerns about House Bill 3080. Not all of the reservations about the bill are based upon the revenue that newspapers would lose if the publication of the delinquent tax lists were published once rather than three times.

Income from legal notices comprise less than two percent of the advertising revenue of newspapers, so the change in a once-a-year publication is not a major motivation to oppose HB 3080, but no newspaper publisher in Kansas, particularly in today's economy, wants to surrender advertising revenue. There are those who would oppose HB 3080 for that reason.

In discussions with the association's legislative committee members, the Board of Directors and numerous members, there is also a concern that this bill would reduce the timely payment of delinquent taxes to the county government.

At the same time, newspaper publishers are sensitive to the pressures to reduce government spending.

As such, rather than reduce the number of times the delinquent tax lists are published, the Kansas Press Association, as approved by its policy-making body, would suggest an alternative.

Several county treasurers have told publishers that an original notice is mailed to delinquent taxpayers, notifying the taxpayer that if the tax is not paid by a certain date, the notice will be published in the newspaper. That notice apparently motivates some delinquent taxpayers to make payment.

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Several county treasurers have told newspaper publishers that additional payments are received after the first notice and more payments after the second notice. Apparently the successive publication in the newspapers motivates taxpayers to pay their bills.

Unfortunately, under current Kansas law, the list cannot be changed from week-to-week even if a delinquent taxpayer pays after the first or second publication. Such a situation generates complaints to county treasurers and clerks. I would note, however, that in some cases apparently the deletion of names is being practiced, even though not allowed by law. In at least one newspaper, the publisher reported that about 25 percent of the first week's list is deleted and an additional five percent is deleted following the second run.

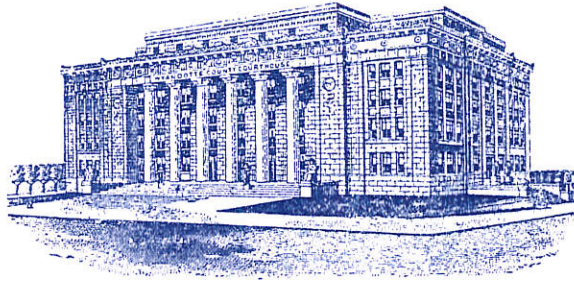
By amending current law to allow delinquent taxpayer's names to be removed from the second and third publication as payment is received, the costs of the publication could be reduced. Additionally, the publishers, treasurers and the Legislature would have some accurate data on the true impact of the publication of delinquent taxpayers' names as a motivation for timely payment.

The KPA's suggested amendment would also reduce the frustrations being directed at treasurers and clerks by those taxpayers who do pay their taxes.

KPA is not recommending at this time a reduction in the collection fee provided for in the statute even though cost of collection will probably be reduced by our amendment. Perhaps when the cost savings can be realized after a year or so of collecting information on diminishing publication of delinquent tax lists, then the Legislature may consider reducing the collection fee.

Certainly, as the bill has been introduced, this committee and the Legislature would want to at least reduce the \$15 collection fee because the costs of collection would be reduced.

In summary, most Kansas newspapers would simply oppose the bill and certainly would note the need to reduce the collection fee in the current draft. But as a method of meeting concerns, KPA has offered a fair approach to meet the needs of informing the public and saving tax dollars.



573-2823

OFFICE OF
MARY P. LADESIC
COUNTY TREASURER
WYANDOTTE COUNTY COURT HOUSE
KANSAS CITY, KANSAS 66101



TO: HOUSE TAXATION COMMITTEE
RE: SENATE BILL 657

CHAIRMAN WAGNON AND HONORABLE MEMBERS OF THE HOUSE TAXATION COMMITTEE:
I APPRECIATE THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY. MY NAME IS MARY LADESIC. I AM THE WYANDOTTE COUNTY TREASURER, AND I AM SPEAKING ON BEHALF OF JOHNSON, SEDGWICK, CRAWFORD AND WYANDOTTE COUNTIES.

I WISH TO OPPOSE S.B. 657 FOR THE FOLLOWING REASONS:

1. THE ELIGIBILITY PAPERS WOULD NEED TO BE FILLED OUT BY PERSONNEL IN THE TREASURER'S OFFICE AT A PEAK PERIOD OF COLLECTION OF TAXES, ACCOMPANIED BY THE FACT THAT OTHER THINGS COME INTO EFFECT BECAUSE THIS IS THE HIGH POINT OF COLLECTIONS. DUE TO THE ECONOMY, MORTGAGE COMPANIES THAT HAVE ESCROW ACCOUNTS, ARE CONSTANTLY BUYING AND SELLING LOANS. THEREFORE, THEY ARE NOT RECEIVING THE BILLS THAT THEY NEED. BECAUSE OF THE EVER-CHANGING VALUATIONS, PEOPLE ARE ALSO WISHING TO PROTEST THEIR TAXES. THESE PEOPLE NEED ASSISTANCE FILLING OUT THE PROTEST FORMS, AND OFFICE PERSONNEL ARE NEEDED TO MAKE THE NECESSARY COPIES. IT WOULD TAKE APPROXIMATELY FIFTEEN MINUTES

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TO FILL OUT THE ELIGIBILITY PAPERS, PLUS THE ADDED BURDEN OF DAILY REPORTS THAT MUST BE SENT TO THE STATE. THE TIME FACTOR IS A SERIOUS PROBLEM, AND ANOTHER DUTY IS ADDED TO AN OFFICE THAT IS ALREADY OVERBURDENED.

2. MY COLLEAGUES AND I FEEL THAT THIS CREATES UNDUE PRESSURE ON THE ELECTED OFFICIALS TO MAKE A DECISION AS TO AN INDIVIDUAL'S ELIGIBILITY. WE DO NOT HAVE ACCESS TO A PERSONS INCOME RECORDS AND OTHER STATE ACCESSIBLES THAT WOULD BE HELPFUL IN MAKING A DECISION. ALSO, WE HAVE NOT BEEN TRAINED TO DEAL AS A SOCIAL WORKER TYPE CLERK.

3. THE COST OF ADDITIONAL PERSONNEL AS WELL AS THE SOFTWARE CHANGES THAT WOULD BE NECESSARY TO ACCOMPLISH THE ACCEPTANCE OF PARTIAL PAYMENTS WOULD BE VERY EXPENSIVE TO COUNTIES, PARTICULARLY IN THE LARGER COUNTIES WHO WOULD HAVE MORE APPLICANTS.

BECAUSE THERE ARE OTHERS PRESENT TODAY THAT WILL BE TESTIFYING, I HAVE ATTEMPTED TO LIMIT SOME OF THE PROBLEMS THAT WOULD OCCUR. THE REMAINING PROBLEMS WILL BE COVERED BY BILL O'BRIEN OF JOHNSON COUNTY.

I BELIEVE YOU CAN SEE OUR DISPLEASURE WITH THE CONTENTS OF THIS BILL, AND WE WOULD ASK THAT YOU REPORT THIS BILL AS UNFAVORABLE.

I WOULD BE HAPPY TO STAND FOR QUESTIONS.

TESTIMONY OF WM. E. O'BRIEN, JOHNSON COUNTY TREASURER,
BEFORE THE HOUSE TAXATION COMMITTEE

WEDNESDAY, MARCH 25, 1992

Madam Chairperson, members of the Committee, good morning.

My name is Bill O'Brien, Treasurer of Johnson County.

Thank you for this time to appear before you today because of my concerns about S.B. 657. Let me mention a few of them.

This Bill delays the receipt of tax moneys from persons who claim Homestead refunds. As you know to be eligible to receive a homestead refund a person must meet one of three qualifications:

1. Age - 55 years or older.
2. Totally and permanently disabled or blind during entire year.
3. A residing dependent child under 18 years old for the entire year.

In addition, all of the following restrictions must be met:

1. Kansas resident entire year.
2. Household income not to exceed \$15,000.
- 3a. Owned or rented and occupied home or lived in nursing home on which property taxes were assessed.
 - b. No delinquent tax on home or rental property.
 - c. Property tax must not have been paid from public funds.

S.B. 657 provides that an application be made to the county treasurer for a certificate of eligibility in lieu of paying up to \$500.00 of the real estate taxes. Only one half of the amount in excess of \$500.00 would be due by December 20 regardless of the eventual refund amount.

Proof as to "eligibility" is to be presented the county treasurer, who, if satisfied, makes out a certificate of eligibility which is then assigned to the county.

That certificate of eligibility is then sent to the Kansas director of taxation and if the claim is valid, a warrant is then eventually drawn and directed to the county treasurer.

1. Disregarding for the moment the impossibility of a treasurer determining whether an applicant is eligible for a refund, I would like to

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call your attention to the fiscal impact on the counties due to loss of investment income and delinquent interest because of the delay in receiving the taxes due by statutorily specified dates. Counties, like the state, have severe budget problems, and this loss of income to them would be a substantial blow.

A copy of the Homestead and Food Sales Tax Claim Booklet is attached for your information. A look at pages 14 and 15 of that booklet will indicate the amount of refund which might eventually be received by the county after "10 to 12 weeks" processing time only after any missing information is received.

For example, if a warrant is received by the county for a homestead refund after 10 to 12 weeks for \$50.00 and the county has been prevented from collecting the \$500.00 specified in S.B. 657 (or 1/2 of that) by the first half tax due date of December 20 then the county has lost the investment income it could have earned and the delinquent interest because of the non receipt of the tax moneys.

2. The uncertainty of when and even if refunds would be received by the county from the state would make it necessary to withhold amounts from loan closings and property transfers to protect title companies, abstractors and buyers from the contingent liability if a refund is denied or delayed by the state. The amount of the homestead refund would not be timely known.

3. Many statutory changes would be required to address the time when tax liens attach, whether public funds can be used to pay an individuals taxes, tax sales, publication of delinquent taxes and so on.

4. Finally, but not least, would be the delay in the distribution of tax moneys to the state, county and other taxing authorities in the counties which would only further complicate their budget problems.

For the above reasons and the others you have heard I urge you to return S.B. 657 with a do not pass recommendation.