

Approved W.F.D. 5-6-92
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at
Chairperson

11:00 a.m./~~p.m.~~ on Monday, April 6, 1992 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Bill Edds, Revisor's Office
Don Hayward, Revisor's Office
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Chairman Dan Thiessen called the meeting to order at 11:08 a.m. and said minutes from March 23 and March 24th are in front of the members and he would ask for a motion at the end of the meeting. The Chairman turned attention to HB2779 and he said, the committee will have to reconsider their action taken on HB2779 last week, because he said he had a conversation with Representative Chronister and she said this committee put in, "the tax could be imposed by the County of Wilson, and she said this would not work, that it has to be the City of Neodesha, and The Chairman asked staff to comment on this.

HB2779: Authority to impose local sales taxes to fund local health care services.

Bill Edds said the city homerule provision stated in the Constitution, provides that the Legislature may create for classes of cities that proposes provisions of limitations on their ability to tax. He said, with what has been done in HB2779 adding the 4th class of city for the purpose of Independence to levy a $\frac{1}{2}\%$ sales tax for the purpose of economic development, has exhausted those 4 classes.

After committee discussion on different ways to correct the bill, it was stated that Rossville is not in a situation to where they are using the authority that was granted to them pursuant to the class that stated specifically, "under the flood control". Bill Edds said the classes still authorizes them to hold an election on that proposition up to, and through the year 1992. He said, it may be that, that is un-needed and you may be able to substitute a classification for Neodesha using that old class if, it is not intended to be used, and their authority would have to be repealed with their authority, and their authority would become Neodesha's authority in new legislation.

After more committee discussion HB2779 was passed over, to wait for addition information.

Chairman Thiessen turned attention to HB2303.

HB2303: Would amend K.S.A. to require that sales be considered in addition to cost and income factors, in determining fair market value.

Chairman Thiessen said a hand-out was passed to the members regarding the Attorney General's Opinion on HB2303 (ATTACHMENT 1) and he asked staff to review the Opinion.

Bill Edds said, this is on the provision authorizing the counties to limit the action that was authorized to properties with appraised values of \$300,000 or less. He said, it states a bit on class, as to whether or not its reasonable under the equal protection clause.

After committee discussion The Chairman turned attention to SCR1640.

SCR1640: Constitutional amendment classifying property for taxation purposes, aggregate limitations.

Chairman Thiessen said hand-outs have been passed, prepared by the Research Department on caps (ATTACHMENT 2) and Simulation 0165 on Fiscal Impacts (ATTACHMENT 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m./p.m. on Monday, April 6, 1992

After committee discussion on caps, revenue short falls, general obligation tax authority pledges, and how utilities are capped, on HCR5007, SCR1636, SCR1635 and SCR1640, a member suggested having the Budget Director, visit the committee regarding projected budgets.

Chairman Thiessen asked Karen France, KS Association of Realtors if she could get information for the committee, regarding a record of the meetings that have been held around the state, regarding caps, as their organization has been so active in this line, and also the projected budgets that may go 15 years down the line.

Karen France said that was not brought up because they did not have a lot of people at these meetings, and the local governments did not get into that, either.

Senator Fred Kerr, said if that is the case, and it was never brought up at their meetings, after a lot of people attended our meetings, and never brought it up at theirs, and if it is a big problem, Ms France' statement should be on record, as people should know that.

Senator Gerald Karr, moved to approve the minutes of March 23, and March 24, 1992, 2nd by Senator Sheila Frahm. The motion carried.

Chairman Thiessen adjourned the meeting at 11:57 a.m.



STATE OF KANSAS

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April 3, 1992

The Honorable Dan Thiessen
State Senator, Fifteenth District
State Capitol, Room 143-N
Topeka, Kansas 66612

Re: Taxation--Property Valuation, Equalizing Assessments,
Appraisers and Assessment of Property--House Bill
2303

Dear Senator Thiessen:

You inquire whether the provisions of 1992 House Bill No. 2303 which require counties to purchase properties appraised for \$300,000 or less in certain circumstances are constitutional.

Generally speaking, counties, as creatures of statute and subdivisions of the state, possess no constitutional rights (see Attorney General Opinion No. 89-145), and may be directed to perform any function which does not violate the rights of individuals. We therefore presume that you are concerned with the fact that House Bill No. 2303, as amended by the house committee of the whole, requires counties to treat owners of property appraised at \$300,000 or less differently than owners of property appraised for more than \$300,000. Our focus is thus on the equal protection clause of the United States constitution. If we have misconstrued your concerns, please feel free to resubmit your request.

You draw our attention to section 3 of the bill which permits a taxpayer to require the county to purchase his property at 90% of its appraised value if the taxpayer is dissatisfied with the final decision of the board of equalization rendered pursuant to the statutory appeals process. You point out that this provision applies only to parcels of real property having an appraised valuation of \$300,000 or less. H.B. 2303, as amended by HCW, § 3(a).

SENATE ASSES. & FAX

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Generally, statutory classifications which create specific burdened as well as benefited classes do not necessarily violate the equal protection clauses of the Kansas constitution and the United States constitution. Bair v. Peck, 248 Kan. 824, 830 (1991). The equal protection clause does not require the state to choose between attacking every aspect of the problem or not attacking the problem at all. Manzanares v. Bell, 214 Kan. 589, 615 (1974). The equal protection clause goes no further than to prohibit invidious discrimination. Zerr v. Tilton, 224 Kan. 394, 397 (1978). Unless there is a suspect class created, based on race for example, or a fundamental right impinged, the yardstick for measuring equal protection arguments is the reasonable basis test. Bair, supra at 831. It has been held that, while states are subject to the equal protection clause in exercising their taxing powers, flexibility and variety appropriate to reasonable taxation schemes are permitted, and it is the reasonable or rational basis test which applies. State ex rel. Tomasic v. Kansas City, 237 Kan. 572, 583 (1985). Further, the state enjoys a wide range of discretion in distinguishing, selecting and classifying and it is sufficient for equal protection purposes if a classification is practical and not palpably arbitrary. Zerr, supra at 397.

We are given no information regarding the legislature's basis for treating property owners differently depending on the value of their property. We are therefore not in a position to determine the reasonableness of the basis for distinction. We are reminded, however, that we are bound to presume the constitutionality of legislation unless it is clear that no rational basis exists for the distinction.

We note that we have not been asked to comment on other provisions of the bill in question and therefore this letter represents only an analysis of new section 3(a) in light of the equal protection clause.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas

RTS:JLM:jlm

<u>Property Class</u>	<u>HCR 5007 as Am by HCOW</u>	<u>SCR 1636</u>	<u>SCR1635</u>	<u>SCR 1640</u>
Residential Real	11% *	12%	11.5% *	11.5% *
Ag Land (use-valued)	30%	30%	30%	30%
Vacant Lots				
Commercial	20%	12%	25%	25%
Other	12%	12%	12%	12%
Commercial and Industrial	25%	30%	25%	25%
Ag Improvements	25%	30%	25%	25%
Fraternal Benefit Soc.	12% +	12%	30%	12%
Utility Real	33% \$	30%	33% \$	33% \$
Other Real	30%	30%	30%	30%
Mobile Homes used as Residences	11%	12%	11.5%	11.5%
Mineral Leaseholds	30%	30%	30%	20%
Utility Personal	33% \$	30%	33% \$	33% \$
Motor Vehicles	30%	30%	30%	30%
Comm'l & Industr Mach & Eq ♦	25%	20%	30%	30%
Inventory				
Merchants	Exempt	Exempt	Exempt	Exempt
Farm Implement Dealers	Exempt	Exempt	Exempt	Exempt
Manufacturers	Exempt	Exempt	Exempt	Exempt
Utility	33% \$	30%	33.0% \$	33.0% \$
Livestock	Exempt	Exempt	Exempt	Exempt
Other Personal	30%	30%	30%	30%
Other Features		County Option		Property Tax Caps
Tax Year Effective	1991	1993	1993	1993
Date of Election	Nov. 12, 1991	Nov. 3, 1992	Nov. 3, 1992	Nov. 3, 1992

NOTES:

- * -- Includes mobile home parks.
- + -- Includes any not-for-profit Section 501 organization included in this subclass by law.
- ♦ -- Valued by retail cost when new, depreciated.
- \$ -- Railroad property at average of commercial and industrial.

SENATE ASSES. STAFF
4-6-92 PATT-3-1

<u>House Plan</u>		<u>Senate A&T</u>		<u>Senate Final Action</u>	
0.75% sales tax*	\$174.9	0.50% sales tax*	\$116.6	1.00% sales tax*	\$233.2
ind inc tax (sim 0139)	138.0	ind inc tax (sim 0162)	120.5	ind inc tax (sim 0165)	73.8
corp inc tax	8.0	corp inc tax	5.2	corp inc tax	5.2
utils in prod	33.3	utils in prod (2.5%)	16.7	utils in prod (2.5%)	16.7
interstate tel	9.0				
orig construc	79.8	orig construc (2.5%)	39.9		
resd'l intrast tel	6.1	resd'l intrast tel (2.5%)	3.1	resd'l intrast tel (2.5%)	3.1
lottery ticks	3.6				
		film rentals (2.5%)	0.9		
		trade fixtures (2.5%)	0.5	trade fixtures (2.5%)	0.5
		hotel/motel (2.5%)	0.6	hotel/motel (2.5%)	0.6
		new mobile homes (2.5%)	0.3		
Total Revenue	\$452.7		\$304.3		\$333.1
(Non-Property Tax)					

* Sales and Use Tax fiscal notes updated to reflect new (April 3) Consensus estimate.

Proposed Tax Rates

Married:	\$0 - \$30	3.65%
	\$30 - \$60 + \$1,095	5.50%
	\$60 - Over + \$2,745	5.75%
Single:	\$0 - \$17.5	4.50%
	\$17.5 - \$30 + \$435	6.25%
	\$30 - Over + \$1,615	6.65%

Proposed Changes:
 Elimination of the Federal Deductibility Option
 New Rate Brackets

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**Kansas Department Of Revenue
 Individual Income Tax In Tax Year 1992**

Resident Taxpayers

Liability Dollars are in Millions

SIMULATION 0165

Married						Single					Total Residents				
K.A.G.I. Bracket	No. Of Returns	Percent Change	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Change	Dollar Change In Liability	Dollar Change Per Return	Effective Rate	No. Of Returns	Percent Change	Dollar Change In Liability	Dollar Change Per Return	Effective Rate
No K.A.G.I.	5,835	0.0%	\$0.0	\$0.00	0.0%	4,728	0.0%	\$0.0	\$0.00	0.0%	10,563	0.0%	\$0.0	\$0.00	0.0%
\$0 \$5	12,072	0.0%	\$0.0	\$0.00	0.0%	110,563	0.2%	\$0.0	\$0.02	0.3%	122,636	0.2%	\$0.0	\$0.02	0.3%
\$5 \$15	58,048	1.8%	\$0.0	\$0.72	0.4%	168,209	0.7%	\$0.2	\$1.23	1.8%	226,258	0.8%	\$0.2	\$1.10	1.4%
\$15 \$25	79,879	2.1%	\$0.5	\$6.48	1.5%	97,787	0.6%	\$0.3	\$3.40	2.7%	177,666	1.1%	\$0.9	\$4.79	2.2%
\$25 \$35	79,175	0.1%	\$0.1	\$0.95	2.0%	52,515	9.7%	\$4.8	\$91.79	3.4%	131,690	4.9%	\$4.9	\$37.17	2.5%
\$35 \$50	112,676	2.7%	\$3.1	\$27.47	2.4%	31,388	13.7%	\$6.3	\$199.69	3.9%	144,064	5.8%	\$9.4	\$64.99	2.7%
\$50 \$100	135,513	8.1%	\$21.1	\$155.85	3.0%	15,091	14.2%	\$5.3	\$351.67	4.3%	150,604	8.8%	\$26.4	\$175.47	3.1%
\$100 Over	23,742	12.5%	\$22.4	\$945.39	4.0%	2,414	14.3%	\$3.1	\$1,287.10	5.0%	26,157	12.7%	\$25.6	\$976.93	4.1%
Total	506,942	7.5%	\$47.3	\$93.29	2.8%	482,696	8.4%	\$20.0	\$41.53	3.1%	989,638	7.7%	\$67.3	\$68.04	2.9%

Current Law Tax Rates

Fiscal Impact:

All Taxpayers:	\$73.8
Residents Only:	\$67.3
Married Residents:	\$47.3
Single Residents:	\$20.0
-Residents:	\$6.4

	With Federal Deductibility		No Federal Deductibility	
Married:	\$0 - \$20	4.75%	\$0 - \$35	3.65%
	\$20 - \$35	5.00%	\$35 - Over	5.15%
	\$35 - \$45	8.50%		
	\$45 - Over	8.75%		
Single:	\$0 - \$2	4.75%	\$0 - \$27.5	4.50%
	\$2 - \$10	5.60%	\$27.5 - Over	5.95%
	\$10 - \$20	5.75%		
	\$20 - \$30	8.50%		
	\$30 - Over	8.75%		