

Approved: _____

Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on February 1, 1995 in Room 519-S of the Capitol.

All members were present except: Rep. Pottoroff - excused

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Proponents - Larry Clark, CAE, Kansas County Appraisers Association
Bob Corkins, Kansas Association of Commerce & Industry
Don Moler, League of Kansas Municipalities

Opponents - Don Schnacke, EVP, Kansas Independent Oil & Gas Assn.

Others attending: See attached list

Chair entertained introduction of committee bills.

Moved by Kline, seconded by Hayzlett, introduce as a committee bill, a bill that repeals the Department of Revenue's authority to privatize collections as relates to delinquent income taxes (called Program Kansas Tax 2000). Motion carried.

Chair opened hearings on:

HB 2112 - Compensation of county appraisers

Proponents- Larry Clark (Attachment 1)

Questions and comments from the committee were directed to Mr. Clark. Chair closed hearing.

HB 2113 - Escaped personal property time limitations

Proponents -- Larry Clark (Attachment 2)
Bob Corkins (Attachment 3)

Considerable discussion by committee members and questions to the proponents. Chair closed hearing.

HB 2114 - Governmental vehicle property tax exemption request not required

Proponents- Larry Clark (Attachment 4)
Don Moler (Attachment 5)

Discussion and questions directed to the proponents. Chair closed hearing.

HB 2115 - Late filing penalty for property assessment statements

Proponents - Larry Clark (Attachment 6)
Bob Corkins

Opponents - Don Schnacke (Attachment 7)

Question was asked of Clark if his association would support an amendment to reduce the penalty from 100% to 25%. Clark answered affirmatively. Suggestion made to set the penalty scale the same as used for federal income tax penalties. Corkins noted conditional support of this bill by his group. Chair closed hearing.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, Room 519-S Statehouse, at 9:00 a.m. on February 1, 1995.

HB 2116 - Property tax appraisal cycle timing

Proponents - Larry Clark (Attachment 8)

Discussion of the bill and questions to Clark. Chair closed hearing.

Adjournment.

The next meeting is scheduled for February 2, 1995.

TAXATION COMMITTEE GUEST LIST

DATE: FEBRUARY 1

NAME	REPRESENTING
Mary Jane Stattelmaier	KS Farm Bureau
Orin Jordan	Dept. of Man / OPM
Greg Cappel	Ks Co Appraisers
Paul Swisher	PVD
Walter Gou	KCMHA
Karl Peterjohn	Kansas Taxpayers Network
Don Miller	League of Ks Municipalities
Bob Corkins	KCCI
Boyer Truesdale	Ks gov. Consultants
Don Schumaker	KTOGA
Judy Roove	KDOT
Gerry Ray	Johnson Co Comm City of Overland Park
Hal Hudson	NFIB/Kansas
Arne Spiess	Ks. Assoc. of Counties
Kelli Martin	Sedgewick Co.

KANSAS COUNTY APPRAISERS ASSOCIATION

P.O. Box 1714

Topeka, Kansas 66601

HOUSE BILL 2112

To: House Taxation Committee

From: Larry Clark, CAE, Chair Legislative Committee

Date: February 1, 1995

An increasingly serious problem facing every county in the state of Kansas is the loss of trained and experienced personnel. One reason for this is that there is little incentive to stay in mass appraisal and even less to work toward greater professional achievement. Often the only way an individual appraiser may move up in the profession is to move on to another, often larger, jurisdiction. That deprives smaller jurisdictions of the trained and experienced personnel they need.

A similar proposal was introduced during the 1994 session but was never voted upon. This proposal provides benefits only to county appraisal personnel who are seeking advancement specifically in the field of mass appraisal. This proposal allows the director of property valuation to provide additional compensation to mass appraisal personnel at the county level who have a state license or a designation from the International Association of Assessing Officers (IAAO). The latter is the only professional appraisal organization dealing exclusively with the education and training of mass appraisers.

KANSAS COUNTY APPRAISERS ASSOCIATION

P.O. Box 1714

Topeka, Kansas 66601

HOUSE BILL 2113

To: House Taxation Committee

From: Larry Clark, CAE, Chair Legislative Committee

Date: February 1, 1995

This bill proposes two separate, but quite similar, amendments to existing legislation. These amendments will limit the reach of the local appraisal office in the taxation of escaped personnel and/or real property.

Currently K.S.A. 79-1427a requires the county appraiser who discovers that personnel property has not been listed by its owner, to place the property on the appraisal roll for the time it was not listed, up to four years prior to the current tax year and to double the assessment for each of those years. This bill proposes to limit that time to two years.

There are two reasons for this change: (1) property owners do not understand our complicated property tax system and (2) appraisers are currently reluctant to apply this statute consistently across the state. Because of the complexity of the system taxpayers do not know what to report or how. Frankly, the emphasis since 1986 has shifted to real estate, resulting in very little communication with local appraisal offices on personal property matters. As we move into the maintenance of annual appraisal of real estate, there is a natural return to closer scrutiny of personal property listings. Taxpayers will be punished by this shift in emphasis unless there is a change in the law.

Appraisers realize the complexity of this system and apply its penalty provisions according to some standard other than strict enforcement of the law. The enforcement of this provision varies across the state depending upon the circumstances of the local office. Some offices have had sufficient staff to devote to personal property during

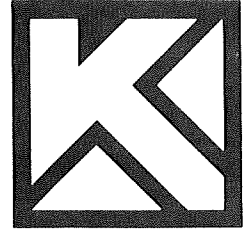
the reappraisal push and therefore feel justified in applying the full sanctions of the law. Most, however, feel the taxpayers have not been given property notice of the filing requirements and may not apply any penalty.

Following the last legislative session, the appraisers' association discussed this issue and decided it would be much easier to enforce a two year period and the results would be less dramatic for the taxpayer. There is little doubt that a self-reporting system must contain some penalties for failure to report, once everyone knows the requirements. The current penalty is seen as too severe.

The situation with real estate has changed since K.S.A. 79-1475 was enacted due to the cycle of reinspection required. County appraisers feel that they share some responsibility for discovering real estate and therefore, some blame when it escapes assessment. Therefore, it seems reasonable to also limit the penalties here.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732
HB 2113 & 2115

February 1, 1995

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Taxation Committee

by
Bob Corkins
Director of Taxation

Honorable Chairman and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry, and I appreciate the opportunity to speak today. KCCI supports HB 2113 with its move to a two year statute of limitation for the discovery of escaped personal property tax liability while we also extend our conditional support for the modified penalty structure proposed in HB 2115.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

At the outset, I'd like to acknowledge KCCI's participation and membership in the Personal Property Tax Coalition. We and the National Federation of Independent Business are among the groups most active in the coalition's efforts. Many of you have already become familiar with the business problem of personal property taxes over the last couple of years. Our coalition continues

House Taxation
2-1-95
Attachment 3-1

to pursue relief measures on the heels of last year's reforms to overly aggressive audit practices.

KCCI expresses its gratitude for the steps you took in 1994 to address the situation. In our view, the most substantial reform was the legislature's enactment of a prohibition against counties hiring private auditors on a contingency fee basis. Unfortunately, the state Property Valuation Division (PVD) still persists with an "educational" program which encourages counties to adopt crackdown techniques in ferreting out new tax revenue. KCCI has good reason to believe that the Department of Revenue in the new administration will be at least as severe as the past administration in their enforcement tactics on this and other tax matters.

The two bills I address today are not the only legislative responses we seek, but they would be important improvements. The first one, HB 2113 would (in a manner of speaking) lower the water level of the ponds in which county appraisers conduct their fishing expeditions.

I use this metaphor because PVD is instructing counties to use a very big net. PVD has distributed form letters to the counties for their use in demanding production of business documents that may reveal escaped personal property. One such form letter calls for the recipient business to supply their fiscal year end, chart of accounts, audited financial statements, trial balance, fixed asset and depreciation schedule, federal income tax return, schedule reconciling accounting records to their tax rendition (if available), general ledger, subsidiary ledgers, supporting journals, year-end adjusting entries, and equipment leases.

By limiting the discovery period to two years, counties could not plumb as deeply in these waters. The record-keeping obligations on business would be more reasonable, but local appraisers could still pursue legitimate tax liabilities while the paper trail is still fresh. In fact, initial compliance by businesses would probably increase as the "red tape" becomes less daunting. To complete the metaphor, a set number of fish would be easier to hook in a small pond as opposed to a lake which is twice its size.

KCCI's support for HB 2115 is contingent upon two factors: 1) the enactment of a two-year discovery limitation; and, 2) the incorporation of this proposed penalty structure into KSA 79-1429a. The present maximum penalty of 100% per year on delinquencies over a year old is excessively harsh on its face, but is particularly onerous when you consider delinquencies are often the result of simple neglect, mistake, or even good faith reliance in some instances. Presently, taxpayers must appeal their argument all the way through the state board of tax appeals before they can have a penalty waived due to "excusable neglect".

However, a 100% penalty is much more reasonable if the discovery window is just two years. A key factor in evaluating this policy is the concept of notice. Commonly, a business lacking property tax management expertise is unaware of escaped appraisal until its county appraiser informs it of the delinquent liability. A business could therefore be faced with a 400% (4 years) penalty upon its first notice of liability. If the discovery window is just two years, and if the penalties proposed in HB 2115 are applied, that penalty exposure would be 125% upon first notice -- a more appropriate punishment for excusable neglect without the added time and expense of appealing to BOTA. KCCI does not suggest any change in the penalties applied to fraudulent tax statements.

Our second reservation about HB 2115 is its failure to address "escaped appraisals". The two statutory sections which would be amended by this bill deal only with penalties for failure to file. They do not cover delinquencies attributed to underreporting, a violation with a mandatory 100% penalty for every year as required by KSA 79-1427a. KCCI contends that the penalty structure set forth in this bill should be uniform and therefore amended into KSA 79-1427a as well. In fact, it is quite possible that a person who underreports their taxable property is less culpable than someone who does not report it at all. Such a nebulous distinction between the degree of wrongfulness of these acts is a strong argument for applying the same penalties uniformly.

We thank you for your time and urge favorable action upon these two bills with the changes I have identified.

KANSAS COUNTY APPRAISERS ASSOCIATION

P.O. Box 1714

Topeka, Kansas 66601

HOUSE BILL 2114

To: House Taxation Committee

From: Larry Clark, CAE, Chair Legislative Committee

Date: February 1, 1995

One sign that a government is working is the shuffling of paper. Our constituents require accountability from their representatives. So we go to great pains to document every action we take. Some of that is necessary, some is a waste of time.

That is the case with requiring political subdivisions to apply for an exemption for a vehicle that is to be used in the normal course of public business by that subdivision. A local official files the application with the local county appraiser, who must verify that it accurately states the facts. He or she then mails it to the state board of tax appeals, where a clerk receives it and sends it to another clerk to be docketed. The board reviews the application and always approves it. They then send it back to the county appraiser, who takes the property off the tax roll.

The appraisers' association would request the legislature eliminate the unnecessary paper flow from the county to the state and back when the results are never in question.



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

LEGISLATIVE TESTIMONY

TO: House Taxation Committee

FROM: Don Moler, General Counsel

DATE: February 1, 1995

RE: Testimony on HB 2114, Concerning Property Tax Exemption Forms for Governmental Vehicles

Good morning. Thank you for the opportunity to testify today concerning HB 2114. I appear today on behalf of the 543 member cities of the League of Kansas Municipalities, the 85 year old local government agency which provides training, information, research and intergovernmental relations services to the cities of Kansas.

The League respectfully recommends that the Committee endorse HB 2114 for approval. There are literally thousands of vehicles owned by state and local government agencies in our state which are used for governmental purposes. By existing law the process for registering these vehicles under Chapter 8 of the Kansas Statutes Annotated requires the payment of a modest fee for the entire time of the vehicle's life with the agency. Exempting such vehicles from the formal exemption application process, as provided in HB 2114, makes sense for the taxpayer, the public agency, the county appraiser, and the Board of Tax Appeals.

RECOMMENDATION: We urge the Committee to approve HB 2114.

President: Harry L. Felker, Mayor, Topeka * **Vice President:** John Divine, Commissioner, Salina * **Past President:** Donald L. Anderson, Mayor, Lindsborg * **Directors:** * Chris Cherches, City Manager, Wichita * Yvonne Coon, City Administrator, Clearwater * Ed Eilert, Mayor, Overland Park * John Golden, Mayor, Goodland * Ralph T. Goodnight, Mayor, Lakin * Tom Martin, Commissioner, Dodge City * Larry Mathews, Commissioner, Newton * Nancy Maze, Commissioner, Fort Scott * Mary E. Reed, City Clerk/Director of Finance, Parsons * Neil Shortlidge, City Attorney, Roeland Park * Joseph E. Steineger, Jr., Mayor, Kansas City * Melvin Williams, Councilmember, Mission * **Executive Director:** Christopher K. McKenzie

House Taxation
2-1-95
Attachment 5

KANSAS COUNTY APPRAISERS ASSOCIATION

P.O. Box 1714

Topeka, Kansas 66601

HOUSE BILL 2115

To: House Taxation Committee

From: Larry Clark, CAE, Chair Legislative Committee

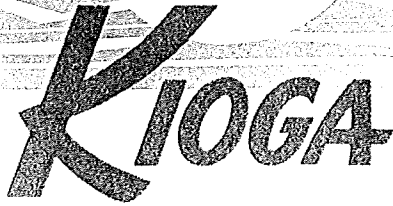
Date: February 1, 1995

The property tax code is complex and difficult for even professionals to understand totally. That is why it is easy to understand the frustration of average taxpayers trying to deal with it. For that reason the appraisers' association proposed a reduction in the penalty applied to property found to have escaped taxation in House Bill 2113. We propose to extend that to the penalty provisions contained in K.S.A. 79-332a and K.S.A. 79-1412.

The statutes currently require the appraiser to assess ever increasing penalties for the failure to file a personal property rendition on commercial personal or oil and gas property. Penalties start at 10% and increase in ten percentage point increments with the passage of an additional period of fifteen days to a maximum of 50%. Any taxpayer may request an extension of time to file. However, if such taxpayer does not file within the extended time, the penalty is assessed as if there were no extension. Finally, the board of tax appeals may remove all or any part of that penalty based on a finding of "excusable neglect." All of this works together to make the personal property system unduly complex.

The current system relies upon self reporting by the property owner and therefore, must impose some penalty for failure to properly exercise that responsibility. We think this system may be enhanced by applying one level of penalty for late filing. It is assessed the day after the due date for filing, is set at a reasonable amount, 25 percent (25%) of the assessed value of the property, and it is not subject to appeal. It is our hope that this will

make the system easier to understand and administer, while not imposing unreasonable penalties on those who, for whatever reason, are unable to meet the filing deadlines.



KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 S. BROADWAY • SUITE 500 • WICHITA, KANSAS 67202-4262

(316) 263-7297 • FAX (316) 263-3021

800 S.W. JACKSON • SUITE 1400 • TOPEKA, KANSAS 66612-1216

(913) 232-7772 • FAX (913) 232-0917

HOUSE COMMITTEE ON TAXATION WEDNESDAY, FEBRUARY 1, 1995

Testimony of Donald P. Schnacke, Executive Vice President Kansas Independent Oil & Gas Association

RE: HB 2115

My name is Donald P. Schnacke. I am Executive Vice President of the Kansas Independent Oil and Gas Association. I am appearing on behalf of the Association in opposition to HB 2115.

I would like to call your attention to page 1, line 15 and 16, which is the focus of the first part of the bill--oil and gas operators filing on or before April 1, 1994. KSA 1994 Supp. 79-332a was amended in the 1994 session with a bill that originated in this Committee last year (HB 2789), was finally inserted into SB 542, passed and signed by the Governor. All of that to be struck in this bill, appearing on page 1, was reviewed and approved by the legislature last year.

Now, under this bill, HB 2115, an oil and gas operator taxpayer who fails to file before April 1st of each year would be assessed 25% as a penalty for late filing within 15 days, up from 10%.

In Section 2, line 40, this same oil and gas operator taxpayer who files after one year would be assessed 100% as a penalty.

In this same bill, on page 3, line 16, any other taxpayer within one year is assessed a penalty of only 50%. There is no penalty for failure to file after one year. We object to this discriminatory plan to assess oil and gas operators who are taxpayers, who collectively paid \$117 million in ad valorem taxes to the counties in 1994, to be assessed a 100% penalty when all other taxpayers would be at 50% within one year and which fails to provide for a penalty for failure to file after one year for all other taxpayers.

We also object to taking away the right of an oil and gas operator taxpayer to appeal to the State Board of Tax Appeals as is proposed on page 2, section (d), beginning on line 12. This would leave the granting of any extension of time to file or the possible abatement a penalty solely with the Appraiser. We doubt the appraiser has authority to abate a penalty because of the mandatory word "*shall*" used on line 30 and line 39.

HOUSE COMMITTEE ON TAXATION

Statement of Donald P. Schnacke

RE: HB 2115

Page 2

February 1, 1995

There are many issues that can arise between a taxpayer and the county appraiser, who is working closely with his or her county commission. An aggrieved taxpayer should have the right to appeal to the Board of Tax Appeals as a possible avenue of recourse to judge the fairness and equity of action taken by the County.

We oppose HB 2115. We see nothing wrong with the statute as it is now written.

Donald P. Schnacke

DPS:pp

KANSAS COUNTY APPRAISERS ASSOCIATION

P.O. Box 1714

Topeka, Kansas 66601

HOUSE BILL 2116

To: House Taxation Committee

From: Larry Clark, CAE, Chair Legislative Committee

Date: February 1, 1995

Current law requires the reinspection of every parcel of real estate in each county during a four-year cycle and a review of each parcel's value every year. The appraisers' association continues to support an annual reappraisal cycle and a regular reinspection cycle as the best means of guaranteeing the fair and equal treatment of taxpayers. It is essential to monitor market activity through sales, rents and expenses and other information available to the appraiser to insure that appraised values are matching market trends. Changes in the characteristics of individual parcels must be noted for property market comparisons.

Our intent is not to weaken the original legislation but to recognize the reality within some jurisdictions. A county in which building permits are required has greater capacity for tracking property characteristic changes than those who do not. Having such a system in place alerts the appraiser to changes that would otherwise require more frequent field inspections if the property records are to be kept current. This legislative proposal attempts to recognize the ability of these jurisdictions to extend the reinspection cycle without sacrificing accuracy in appraisal records. At a time when the legislature is eliminating reappraisal reimbursement, it is appropriate to look for all reasonable means of reducing maintenance costs. The appraisers' association feels this is one way.