

Approved: Feb 14, 1995
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on February 10, 1995 in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Martin, Senator Bond, Senator Clark, Senator Feleciano, Jr., Senator Hardenburger, Senator Lee, Senator Ranson, Senator Sallee and Senator Wisdom.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Secretary to the Committee

Conferees appearing before the committee: Whitney Damron, Flint Oak Ranch

Others attending: See attached list

REQUESTS FOR BILLS TO BE INTRODUCED

Senator Hardenburger made a motion to introduce a bill which would provide an exemption for certificates pertaining to sales tax. The motion was seconded by Senator Wisdom. The motion carried.

SB 197--LAND DEVOTED TO AGRICULTURAL USE INCLUSIVE OF LAND DESIGNATED AS CONTROLLED SHOOTING AREA

Whitney Damron, Flint Oak Ranch, spoke as a proponent of **SB 197**. (Attachment 1) He said the issue in this bill centers upon the property tax classification for property licensed as a controlled shooting area. He asked the committee and the Legislature to clarify that land established as a controlled shooting area shall be deemed to be land devoted to agriculture use and assessed accordingly. In this case, the county appraiser has classified the land of Flint Oak Ranch as "other" and assessed it at the classification rate of 30%. He said they have found no other such facilities classified in this manner. Without legislative clarification, farmers and ranchers and other landowners who lease out their property to hunting clubs or hunters may be exposing themselves to a similar classification. For these reasons, he requested the Committee give favorable consideration to **SB 197**

There were questions from the committee if the rate of assessment was 30% and if this included all of the land and the buildings. Mr. Damron said it did. He was questioned about the buildings on the property and he said there is a lodge. In **SB 197**, the building would still be assessed at 30% but they are asking for the land to be appraised at 12%. Another question was if the land is used solely for hunting or if it is also used for agricultural products. He said it is used for grains and feed and also for wildlife. Senator Lee asked why, if motels are assessed at 25%, why would the lodge be assessed at 30% and he said because it is a private club.

Senator Corbin made a motion to pass **SB 197** favorably. The motion was seconded by Senator Martin. The motion carried.

SB 41--INTEREST ON REFUNDS UNDER PROTESTED PROPERTY TAX

Senator Sallee proposed an amendment to **SB 41** on page 3, striking line 16 after the word "final," through line 18 to the word "refund," striking the words "within 30 days, such protested taxes," and in line 21, striking the words "shall be refunded" and added at the end of line 23, after the word "taxes," the words "except that, with respect to that portion of any such refund attributable to interest, the county treasurer shall charge the county general fund." (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on February 10, 1995.

Senator Sallee said this would provide interest payment on taxes when the taxpayers are successful in their protest. It would be for the same length of time for which the county would charge interest. The amendments were made to clear up where the money would come from. Senator Langworthy asked if the county has agreed to this, and Senator Sallee said they were not resisting it as they had before. The only problem is the Board of Tax Appeals and their slowness. The question was asked if the new Tax Court, proposed in **SB 40** would help and he said whatever can be done so there is not such a backlog of cases would help. The county will have to absorb the interest if the case is at the Board of Tax Appeals. It was asked if this problem happens often, and Senator Sallee said it probably did not, but there may be a complex or controversial case at some time which would take a long time. He said the chairman of the Kansas County Appraisers Association did not feel it happened often. Senator Sallee felt this payment of interest would be an incentive to settle these cases more promptly. At the present time there is no incentive to settle.

Senator Sallee made a motion to approve the amendment. The motion was seconded by Senator Hardenburger. The motion carried.

Senator Sallee made a motion to pass **SB 41** favorably. The motion was seconded by Senator Clark. The motion carried.

The meeting was adjourned at 11:40 a.m.

The next meeting is scheduled for February 13, 1995.

Good morning Madam Chair Langworthy and members of the Senate Committee on Assessment & Taxation:

I am Whitney Damron of Pete McGill & Associates appearing before you today on behalf of our client, Flint Oak Ranch, in support of SB 197.

Flint Oak Ranch is comprised of approximately 5,000 acres of land located in Elk County, Kansas. Approximately half of the land is owned and the other half rented. Flint Oak is considered to be one of the finest hunting preserves in the United States and is also home to one of the finest sporting clays courses in the country as well.

The issue presented to this Committee in SB 197 centers upon the property tax classification for property licensed as a controlled shooting area. Specifically, we are asking this Committee and the Legislature to clarify that land established as a controlled shooting area pursuant to K.S.A. 32-943, and amendments thereto, shall be deemed to be land devoted to agriculture use and assessed accordingly.

In the case of Flint Oak, the county appraiser has classified their land as "Other" and assessed it at the classification rate of 30 percent. In our discussions with other such operations located in Kansas we can find no other such facility classified in such a manner.

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attach 1-1*

We would note this is not the first time this issue has come before the Kansas Legislature. In 1990 a similar issue was raised regarding a controlled shooting preserve located in Kearny County, Kansas. The county appraiser sought to assess the property in that case as "Commercial." Senator Leroy Hayden introduced SB 551 during the 1990 legislative session to clarify this issue. SB 551 passed the Senate on a vote of 39-1 that session but died in the House Taxation Committee after the issue was resolved by a directive from the Division of Property Valuation Director. However, several years ago the former PVD director repealed all previous directives and gave cause for this issue to arise again.

In the case of Flint Oak, they have sought administrative and judicial remedies but have yet to obtain relief. They are presently appealing a 3-2 decision from the Kansas Board of Tax Appeals to the Kansas State Court of Appeals.

We would respectfully suggest it is appropriate for this Committee and the Kansas Legislature to clarify this matter for all counties. If our client is ultimately successful on appeal this problem may go away. However, if they are not, the door is open for all controlled shooting areas to be assessed in a similar manner. An adverse decision may even require such assessment by a county appraiser based upon an adverse opinion of the court.

In addition, without legislative clarification, farmers and ranchers and other landowners who lease out their property to hunting clubs or hunters for a few dollars per acre per year may be exposing themselves to the risk of similar treatment at the hands of their local appraisers.

For these reasons we would respectfully request this Committee to give favorable consideration to SB 197 and clarify that land utilized for controlled shooting purposes shall be deemed to be land devoted to agriculture use.

On behalf of Flint Oak Ranch I thank you for the opportunity to appear before your Committee today in support of SB 197.

I would be pleased to stand for any questions you might have.

1 representation of the county by its attorney or counselor at such hearing,
2 the county shall be represented by its county attorney or counselor.

3 (j) When a determination is made as to the merits of the tax protest,
4 the board shall render and serve its order thereon. The county treasurer
5 shall notify all affected taxing districts of the amount by which tax reve-
6 nues will be reduced as a result of a refund.

7 (k) If a protesting taxpayer fails to file a copy of the written statement
8 of protest and a copy, when applicable, of the written notification of the
9 results of the informal meeting with the county appraiser with the board
10 within the time limit prescribed, such protest shall become null and void
11 and of no effect whatsoever.

12 (l) In the event the board or a court of competent jurisdiction orders
13 that a refund be made and no appeal is taken from such order, or in the
14 event of a change in valuation which results in a refund pursuant to
15 subsection (a), the county treasurer shall, as soon thereafter as reasonably
16 practicable within 30 days after such order or change becomes final, re-
17 fund to the taxpayer such protested taxes from tax moneys collected but
18 not distributed. If the county treasurer fails to refund such protested taxes
19 within 30 days, such protested taxes plus interest at the rate of 12% per
20 annum from the date such taxes were paid or required to be paid, which-
21 ever is later, shall be refunded to the taxpayer from tax moneys collected
22 but not distributed. Upon making any such refund, the county treasurer
23 shall charge the fund or funds having received such protested taxes.

24 (m) Whenever, by reason of the refund of taxes previously received
25 or the reduction of taxes levied but not received as a result of decreases
26 in assessed valuation, it will be impossible to pay for imperative functions
27 for the current budget year, the governing body of the taxing district
28 affected may issue no-fund warrants in the amount necessary. Such war-
29 rants shall conform to the requirements prescribed by K.S.A. 79-2940,
30 and amendments thereto, except they shall not bear the notation required
31 by such section and may be issued without the approval of the state board
32 of tax appeals. The governing body of such taxing district shall make a tax
33 levy at the time fixed for the certification of tax levies to the county clerk
34 next following the issuance of such warrants sufficient to pay such war-
35 rants and the interest thereon. All such tax levies shall be in addition to
36 all other levies authorized by law.

37 (n) The county treasurer shall disburse to the proper funds all por-
38 tions of taxes paid under protest and shall maintain a record of all portions
39 of such taxes which are so protested and shall notify the governing body
40 of the taxing district levying such taxes thereof and the director of ac-
41 counts and reports if any tax protested was levied by the state.

42 (o) This statute shall not apply to the valuation and assessment of
43 property assessed by the director of property valuation and it shall not be

except that, with respect to that portion of any such refund attributable to interest, the county treasurer shall charge the county general fund

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