

Approved: March 17, 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 March 9, 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: Ben Neill

Others attending: See attached list

HB 2086--CRAWFORD COUNTY JAIL FACILITY SALES TAX AUTHORIZED

Senator Langworthy stated it is getting close to the end of the Session. **HB 2086** is the Crawford County Jail facility sales tax issue and she said you are all aware this issue has passed both the House and Senate and has been signed by the Governor. It is appropriate at this time, realizing the fact the Session is rapidly coming to a close, we should revisit some issues that were first and foremost on the Senate's mind during the very first and second week of the Session. Senator Langworthy passed to the committee some suggested amendments to this bill.

These amendments would remove the contents of **HB 2086**, and insert **SB 14**, which would repeal the sales tax on utilities used in production of property and provision of services, including a technical amendment by Senator Vancrum put in by the House Taxation Committee, and the repeal of sales tax on original construction in the Senate version of **SB 150**, the Governor's motor vehicle tax reduction.

Senator Langworthy announced it is the purpose of this amendment to promote, stimulate and develop the economic prosperity of the state of Kansas through the promotion and advancement of industrial and commercial development in the state; to encourage and assist in the location of new business and industry in this state and the expansion, relocation or retention of existing business and industry; and to promote the economic stability of the state by providing greater employment opportunities and by establishing a tax climate consistent with the aforementioned purposes thus promoting the general welfare of the citizens of this state.

Senator Lee asked if this includes the exemption of sales tax on remodeling? Senator Langworthy said it does not, but that bill, **SB 28**, has been "blessed" and is still alive in the committee.

Senator Bond said the issue of utilities used in production and the repeal of sales tax on original construction has passed the Senate 5 times. The Senate has expressed its view at least that many times. The Senate has expressed its view on the car tax reduction; it is still preserved in the Governor's budget in order to insure adequate funding for school finance, higher education, SRS and other important items. He said he would hope this bill can be amended today and not passed out but we would have it available if there is no progress made in the Conference Committee on **SB 14** and **SB 150**. He said he was not giving up on negotiations on these two issues but there is a need to have a vehicle available, drafted appropriately, that can be used to give the House another opportunity to see the position on these three issues on which the Senate has so clearly expressed its view. Other issues have not had that kind of a review. He said he was ready to amend this bill and then let it rest for now.

Senator Bond made a motion to amend **HB 2086** with the three issues discussed. The motion was seconded by Senator Corbin.

Senator Langworthy said it was not her intent to move this bill today. However, she said we are moving toward the waning days of the Session. These are issues the Senate feels very strongly about and she thinks they need to be ready.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S Statehouse, at 11:00 a.m. on March 9, 1995.

As it relates to these issues, Senator Langworthy announced a Conference Committee meeting will be held today, March 9, 1995, at 4:30 in Room 514-S on **SB 14** and **SB 150**. At that time they will try to begin working through the negotiations on these bills.

Senator Feleciano said hearings were held on removing the sales tax on remodeling and there is a tremendous need to do something for a sizeable group of the population. These neighborhoods are aging and if you are truly interested in economic development across the state of Kansas, the removal of the 4.9% tax would go along way.

Senator Feleciano made a substitute motion to include the removal of the 4.9% tax on remodeling of residential in **HB 2086**. The motion was seconded by Senator Lee.

Senator Langworthy said she would reiterate some of the comments made by Senator Bond. This bill, as amended, has passed the Senate, part of it numerous times, the other part passed quite handily a couple of weeks ago. She said she has kept the issue of remodeling alive so it can be taken up separately. What this bill does is to pass something that has already been passed by the Senate. She said she was open to discussion at some point on the remodeling.

Senator Ranson said she supports the expansion to remove the sales tax on remodeling but she said she would not support it at this time. She would like to expand the bill to include remodeling but she said she thought it was irresponsible if spending is not cut. She thinks they are overfunding K-12, Higher Education and SRS and she would hope we could give some of the money back to the taxpayer. She would like to see some spending cuts.

Senator Lee said a number of members would like to vote on **SB 28**. From her area of the state, for economic development, you get more results from removing the tax on residential remodeling than you do removing the tax on original construction. A national research paper has said this. She said she was afraid **SB 28** would never come out of committee. If it is put in a bill the Governor wants, there is a much better chance it will pass. She said she supports this amendment.

Senator Bond said he thinks everyone wants to cut taxes but the issue of remodeling is more of symbolism because it is usually the contractor who receives the cuts, not the people who are doing the remodeling. If this is done in the inner city, it is the big contractors who are going to gain the most and also the owners of the buildings. The other people who are going to realize a savings are those who own rental properties. Poor people hire their brother-in-law--they do not hire contractors. He said if you want to do something to really help poor people, the sales tax on materials should be removed.

Senator Sallee said the removal of the sales tax on remodeling would be more important to his district than the removal of the sales tax on original construction. However, there is a provision in the budget for the original amendment. He said he would like to see something done on the remodeling in the future.

Senator Feleciano said in his district, the housing is at least 50 years old and the people who live there are hard working citizens. There should be some due justice for these people in his district and rural America in the removal of the sales tax on remodeling. He said he would like to remove the tax on materials but the fiscal impact is too high. He said if he could get some assurance that **SB 28** would pass out of this committee and to the floor of the Senate where it could be debated, he would back off from his substitute motion.

Senator Langworthy responded by saying **SB 14** does have remodeling in it so it is not a dead issue.

Senator Lee said when remodeling is done in her area, the people do not get loans, they save the money until they have enough to do the remodeling. They do not hire contractors.

Senator Wisdom said in his county, the remodeling issue is a viable issue. He would support the substitute amendment.

Senator Langworthy called for a vote on the substitute motion. The motion was defeated.

Senator Langworthy called for a vote on the original motion. The motion carried.

Senator Feleciano asked Senator Langworthy if she would take up **SB 28** so it could be moved out of committee. She said she could not guarantee the votes but she would be happy to take it up again.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 9, 1995.

SB 40--ESTABLISHMENT OF KANSAS TAX COURT AND PROPERTY TAX APPEALS BOARD

Senator Langworthy asked the committee to turn their attention to **SB 40**.

Senator Bond made a motion to amend **SB 40** to replace the Supreme Court Nominating Committee appointment of the Tax Court with a direct appointment by the Governor subject to confirmation by the Senate. The motion was seconded by Senator Corbin.

Senator Feleciano asked why this was being done.

Senator Bond said he was concerned about getting 21 votes for **SB 40** and objections have been expressed about the method of nominating the Tax Court. He said he would like to see this bill passed.

Senator Sallee said he still did not like the make-up of the Court. He thinks it will be more expensive and he would prefer **SB 269**.

Senator Langworthy called for the vote on the motion to amend **SB 40**. The motion carried.

Senator Ranson said she was not prepared to vote on this bill even as it has been amended. She said she thinks it is too drastic and it goes too far. She would rather take the Board of Tax Appeals and change it.

Senator Martin said he has received a letter from Bob O'Connor recommending some changes in the bill. This was a slip and not done intentionally. He asked Ben Neill to address these changes and explain them.

Mr. Neill said in going from the current system of appeals to the District Court, it was proposed to go directly to the Court of Appeals. In Section 19, page 8, line 37, strike in line 37 all after the word "to" and insert "any final action by the Tax Court".

Senator Martin made a motion to make that amendment. The motion was seconded by Senator Bond. The motion carried.

Senator Ranson referred again to the letter from Bob O'Connor and asked why in the tax appeals they could not be represented by someone other than an attorney? Mr. Neill said at the lower level it specifically allows that. Pro se is always appropriate.

Senator Martin said in reviewing the letter from Mr. O'Connor he agreed with the change in the amendment he just made but the other suggestions he did not see as being a burden to the administrative process.

Senator Ranson asked also about de novo. Why would information that was gathered in the informal setting not be allowed to be used in a formal setting? Technically no record was made during the informal hearing and Mr. Neill said the case must be docketed. In the appeals process, there should be only one record made.

Senator Ranson said the small claims court cases are not appealable and she thinks that is wrong.

Mr. Neill said that does not apply to any property tax case. It is the same process as the federal government has in their tax court system. They have addressed some structural changes so the appeals process can be streamlined and the cases heard more expeditiously.

Senator Feleciano made a motion to change the 8 year term of the Tax Court to a 4 year term. The motion was seconded by Senator Sallee.

Senator Martin said he wanted to speak to Senator Feleciano's motion. He said when you want to get a good qualified person who is in the private sector it is difficult for them to give up their work and put in only 4 years in the term.

Mr. Neill responded to Senator Feleciano's comments and said if we are going to upgrade the qualifications, the term of 8 years would be more attractive.

Senator Martin said the people who have worked on this proposed system crossed the political spectrum and it has had a lot of people involved. The people who practice before the Board all the time have taken a chance how they are going to be received before the Board of Tax Appeals.

CONTINUATION SHEET

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Senator Bond said we are establishing a state board to serve the entire state. The Court of Appeals has no term limit and the Supreme Court has no term limit. This is not a district court in a county--the issue is whether we want to get the very best we can. He said we are attempting to upgrade this court in a professional way. People stepped out here on the line and are risking their careers to make these suggestions. He said it is an opportunity to bring some professionalism to one of the important judicial functions in the state.

Senator Feleciano said he could not see how these people who have worked so diligently on this are risking their careers. He asked if Senator Bond was telling him there is going to be a vindictiveness on the part of the members of the Board of Tax Appeals as they appear before them and that they are going to rule against them because they were courageous enough to create a new system. If that is the case, and there is vindictiveness by the members of the Board of Tax Appeals, he said he will be the first to ask for a post audit investigation. He asked that the record reflect that he challenges the remarks of Senator Bond that the Board of Tax Appeals would be retaliatory as it relates to SB 40.

Senator Martin said there are a large number of people who appear before the Board who are supporting this measure. People who have never been there don't know how it is taken there.

Senator Langworthy asked for the vote on the motion to change the terms of the Tax Court from 8 years to 4 years. The motion was defeated.

Senator Langworthy said discussion would be continued next week. She also suggested if there are members who still have questions, please meet with people who are knowledgeable on this bill and try to get some answers. Time is running out.

The meeting adjourned at 12:10 p.m.

The next meeting is scheduled for Monday, March 13, 1995.

