

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 13, 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, and Senator Sallee

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: Bob Corkins, KCCI
Mark Carduillo, Department of Revenue

Others attending: See attached list

APPROVAL OF MINUTES

Senator Bond made a motion to approve the minutes of February 17, February 21, and March 7, 1995. The motion was seconded by Senator Martin. The motion carried.

SB 294--SALES TAX EXEMPTION CERTIFICATES

The bill deals with the sales tax exemption certificate for contractors involved with public works concerning the length of the process in order to get an exemption certificate formally approved by the Department of Revenue. This bill establishes a \$10,000 threshold under which they do not have to go through the formal appeals process. It would also offer a blanket exemption certificate. The second part of the bill would allow the retailers to rely on the validity of the sales tax exemption certificate. The Department of Revenue, instead of going after the retailer, would be required to go after the purchaser.

Senator Hardenburger offered two amendments to **SB 294**. (Attachment 1) Bob Corkins, KCCI explained the amendments. The amendments to the bill were requested in his testimony at the hearing on **SB 294**. He said page 11, line 20 would be amended to include the words "sales tax exemption pursuant any provision of the KSA 79-3601 et seq. He said it occurred to him there were other statutes which referred to the sales tax exemption and this would include them all. The purpose of the second amendment is to define what is meant by a blanket exemption certificate. This amendment was taken out of **HB 2500** 1995. Blanket exemption certificate is alluded to in the state regulations but it is not defined.

Staff suggested instead of using KSA 79-3601 et seq, use the Kansas Retailers Sales Tax Act. Mr. Corkins said he would have no problem with that.

Senator Feleciano asked a question of the Department of Revenue. In the present bill, the burden of proof would be for the Department to the go after the purchaser, how far back in time can you go? Mark Carduillo said they can go back 3 years. How would you verify that each of the individuals are eligible for these certificates? Mr. Carduillo said there were certain requirements and they would still be following similar steps to see that the consumer is truly eligible. The burden of proof is on the Department. Are you going to the individual who holds that certificate? Mr. Carduillo replied he thought they would be required to do that.

Senator Martin said if this burden of proof is done by Rules and Regulations, how long ago was that done? Mr. Carduillo said it was at least 12 years ago.

Senator Bond asked if \$10,000 was too high? Mr. Carduillo said he did not remember the Department questioning the amount.

Senator Bond said **HB 2114** is an example of a property tax bill and if the committee is interested in **SB 294** it could be amended into **HB 2114**.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 13, 1995.

Senator Hardenburger made a motion to amend **SB 294** with the two amendments as proposed by Mr. Corkins. The motion was seconded by Senator Martin. The motion carried.

Senator Hardenburger made a motion to amend **SB 294** into **HB 2114**. The motion was seconded by Senator Clark. The motion carried.

Senator Langworthy brought up the issue that **SB 96** is the clarification of two statutes relating to nurseries personal and property tax and the operation of a nursery within the revenue producing enterprise for the purpose of the Job Investment Credit Act.

Senator Langworthy said this bill is necessary to clarify that nurseries fall under agriculture.

Senator Martin made a motion to amend **SB 96** into **HB 2114**. The motion was seconded by Senator Corbin. The motion carried.

Senator Martin also made a motion to amend Senator Karr's amendment from the floor of the Senate to **SB 14** regarding farm machinery as it relates to nursery production into **HB 2114**. The motion was seconded by Senator Feleciano. The motion carried.

Senator Hardenburger made a motion to pass **HB 2114** favorably as amended. The motion was seconded by Senator Bond. The motion carried.

SB 354--EXCLUDING PRIVILEGE TAX FROM ADDITIONS TO ADJUSTED GROSS INCOME

This issue was brought to the committee by the Kansas Bankers Association as a result of a 14 year interpretation by the Department of Revenue and then changed it in 1994 to another way.

Senator Martin made a motion to pass favorably **SB 354**. The motion was seconded by Senator Sallee. The motion carried.

SB 340--PROPERTY SUBJECT TO DELINQUENT PROPERTY TAXES; PUBLICATION OF NOTICE

This bill deals with the publishing of delinquent tax roles changing the number of times of publications of the names of taxpayers who are delinquent in their property taxes from 3 weeks publications to 2 weeks publications.

Senator Martin asked about a proposed amendment by David Furnas, Kansas Associated Publishers, regarding removing the names from the list if they have paid their taxes. The remark was made that some papers would have a problem doing that. Because of the lack of time between publishing, it would be difficult to get the names from the county clerk to the newspapers.

Senator Bond made a motion to pass **SB 340** favorably. The motion was seconded by Senator Corbin.

Senator Hardenburger said she had contacted the very small newspapers in her district and they had no problem with removing the names.

Senator Martin made a substitute motion to amend **SB 340** to remove the names from the list of taxpayers when the taxes have been paid. The motion was seconded by Senator Feleciano.

It was discussed the county clerks cannot get the names to the weekly newspapers in time. There would only be a lag time of 2 days. The person has only 2 days to pay his taxes but he has known he was delinquent all this time. The testimony given was that 1 or 2 times was sufficient to publish the names. Senator Martin says he has had complaints from constituents when their names have been published after they have paid their delinquent taxes.

Senator Feleciano said if the amendment only included 2 weeks, he asked his name be removed from the motion.

Senator Hardenburger seconded the substitute motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 13, 1995.

Senator Corbin made a motion to pass favorably **SB 340** as amended. The motion was seconded by Senator Bond. The motion carried.

HB 2113--ESCAPED PERSONAL PROPERTY

Staff said this bill would reduce the penalty and the number of years for which back taxes are due on taxable tangible personal property which has been under-reported or has not been listed and has escaped taxation.

Senator Martin made a motion to pass **HB 2113** favorably. The motion was seconded by Senator Lee. The motion carried.

HB 2115--LATE FILING PENALTY FOR PROPERTY ASSESSMENT STATEMENT

This bill would reduce the penalties for oil and gas and other personal property tax renditions filed less than one year late. The bill would require penalties ranging from 5% for renditions filed up to one month late to 25% of assessed valuation for renditions filed from 5 months to 1 year late. The bill would also reduce from 100% to 50% the penalty for oil and gas renditions filed more than one year late.

Senator Martin made a motion to pass favorably **HB 2115**. The motion was seconded by Senator Corbin. The motion carried.

Senator Langworthy announced the Conference Committee on **SB 14 and SB 150** will meet again on Tuesday, March 14 in Room 514-S.

The meeting was adjourned at 11:45 a.m.

The next meeting is scheduled for Tuesday, March 14, 1995.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: March 13, 1995

NAME	REPRESENTING
BEV BRADLEY	KS ASSOCIATION of Counties
Harold Pitts	KCOU
Marsha Upton	KMHA
Trudy Perkins	CPA/K
Rich McKee	KS Livestock Assoc.
Jim Mann	KPA
Kathy Jones	"
Al Tommich	KNOCS /
Christy Bailey	Service 3044
Carolyn Johnson	BOTA
JOHN LAFAYER	KDOR
MATTHEW MARTIN	KATZ
KAREN FRANCE	KAR
Chuck Stones	KBA
Paula Milchrist	intern - Sen Phil Martin
Ben Tamm	BOEING
Bob Corkins	KCCI
MARK CIARDULLO	KDOR

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: March 13, 1995

NAME	REPRESENTING
Bud Smoot	KCCC
Shelby Smith	RKTA
Bob Toffin	K Contractors Association

1 unless the director in writing previously authorizes their disposal. Any
 2 person selling tangible personal property or furnishing taxable services
 3 shall be prohibited from asserting that any sales are exempt from taxation
 4 unless the retailer has in the retailer's possession a properly executed
 5 exemption certificate provided by the consumer claiming the exemption.
 6 Any retailer asserting a claim that certain sales are exempt who does not
 7 have the required exemption certificates in possession shall acquire such
 8 certificates within 60 days after receiving notice from the director that
 9 such certificates are required. If such certificates are not obtained within
 10 the period set forth herein, the sales shall be deemed to be taxable sales
 11 under this act.

12 *A retailer shall be presumed to have taken an exemption certificate in*
 13 *good faith in the absence of evidence to the contrary. The only evidence*
 14 *that would overcome the presumption would be the repeated failure of*
 15 *the retailer to obtain exemption certificates when warranted, an active*
 16 *solicitation of exemption certificates which are improper, and the hon-*
 17 *oring of exemption certificates that do not contain a Kansas sales or com-*
 18 *pensating retail registration number. A retailer is entitled to rely on the*
 19 *validity of a presented exemption certificate claiming the applicability of*
 20 *any provision of K.S.A. 79-3606, and amendments thereto, to the trans-*
 21 *action in question and no retailer shall be responsible for ascertaining the*
 22 *validity of the contents of an exemption certificate other than the identity*
 23 *of the person or entity who presents it.*

24 The amount of tax imposed by this act is to be assessed within three
 25 years after the return is filed, and no proceedings in court for the collec-
 26 tion of such taxes shall be begun after the expiration of such period. In
 27 the case of a false or fraudulent return with intent to evade tax, the tax
 28 may be assessed or a proceeding in court for collection of such tax may
 29 be begun at any time, within two years from the discovery of such fraud.
 30 No assessment shall be made for any period preceding the date of reg-
 31 istration of the retailer by more than three years except in cases of fraud.
 32 No refund or credit shall be allowed by the director after three years from
 33 the date of payment of the tax as provided in this act unless before the
 34 expiration of such period a claim therefor is filed by the taxpayer, and no
 35 suit or action to recover on any claim for refund shall be commenced
 36 until after the expiration of six months from the date of filing a claim
 37 therefor with the director.

38 Before the expiration of time prescribed in this section for the assess-
 39 ment of additional tax or the filing of a claim for refund, the director is
 40 hereby authorized to enter into an agreement in writing with the taxpayer
 41 consenting to the extension of the periods of limitations for the assess-
 42 ment of tax or for the filing of a claim for refund, at any time prior to the
 43 expiration of the period of limitations. The period so agreed upon may

KS ~~SA~~ Retailers Sales
 sales tax exemption pursuant any provision of K.S.A. 79-3601 et seq
 Tax

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1 be extended by subsequent agreements in writing made before the ex-
2 piration of the period previously agreed upon. In consideration of such
3 agreement or agreements, interest due in excess of 48 months on any
4 additional tax shall be waived.

5 Sec. ~~2.4~~ K.S.A. 1994 Supp. 79-3606 and 79-3609 are hereby repealed.

6 Sec. ~~4.5~~ This act shall take effect and be in force from and after its
7 publication in the statute book.

1-2

HB 2501

New Sec. 3. (a) Upon application therefor, the director of taxation shall issue a blanket sales tax exemption certificate to a political subdivision of the state. Any contractor, subcontractor or repair person may purchase material or service, or any combination thereof, for use in a qualifying contract the total cost of which is \$10,000 or less and may use such blanket certificate number when making purchases from suppliers under such contract.

(b) The political subdivision shall attach a suffix number to the blanket certificate number for each project of \$10,000 or less as such projects are authorized. Such suffix number shall be reported to the director of taxation by the political subdivision.