

Approved: Jan 23, 1996  
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 January 18, 1996 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: Chris McKenzie, League of Kansas Municipalities  
Senator Bob Vancrum  
John Federico, Villa St. Joseph  
Tim Kristl, Attorney, Villa St. Joseph  
John Grace, Kansas Association of Homes and Services for the Aging  
Gary Haulmark, Hermes Nurseries

Others attending: See attached list

### APPROVAL OF MINUTES

Senator Clark made a motion to approve the minutes of January 17, 1996. The motion was seconded by Senator Martin. The motion passed.

### INTRODUCTION OF BILLS

Chris McKenzie, representing the League of Kansas Municipalities, requested a bill to amend or repeal KSA 78-201 *Fifth* concerning housing for the elderly. (Attachment 1)

Senator Bond made a motion to introduce this bill. The motion was seconded by Senator Clark. The motion passed.

### SB 447--ADULT CARE HOME PROPERTY EXEMPTION

Senator Bob Vancrum said the legislature must clarify its original intent. (Attachment 2) The fact that a home leases from another 501c charitable organization should not be the reason for denial of an adult care home property exemption. He said it is very important that a tax exemption be granted for this facility. It meets all the necessary requirements.

John Federico of Pete McGill & Associates, representing Villa Saint Joseph, spoke in support of **SB 447**. (Attachment 3) He said the passage of this bill would clarify the original intent of KSA 79-201b and allow tax exempt status in situations where one charity assists in funding another for the purposes of operating a not-for-profit nursing home that is operated so as to meet all the guidelines for full tax exemption. A similar bill was proposed in 1993 and passed the Senate 40-0. Mr. Federico also said this would only effect about two facilities.

Senator Corbin asked if the reason the adult care home was not exempt was because of a ruling by the Board of Tax Appeals. Mr. Federico replied "Yes, they thought it was because they were leasing the facility and also because BOTTA questioned whether or not it was being operated at the lowest possible cost." Senator Corbin then asked if the entire facility was being used for nursing home care. Mr. Federico answered "yes".

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S  
Statehouse, at 11:00 a.m. on January 18, 1996.

John Grace, President, Kansas Association of Homes and Services for the Aging also spoke in support of **SB 447**. (Attachment 4) He urged passage of the bill and pointed out to the committee that there would be a savings to the medicaid program of about \$7,000 if this facility received a tax exemption.

Senator Bond questioned the stricken part of **SB 447**, page 2, lines 4 through 8. Mr. Frederico stated this was removed to comply with BOTA's ruling with their unique leasing operation.

Tim Kristl, attorney for Villa St. Joseph, also explained their reason for this stricken material. He said many Catholic hospitals have this arrangement but because they are operating under different statutes, this does not apply to Villa St. Joseph.

Senator Lee asked what the long term results would be and how what does the amendment in **SB 447** do to other long term care homes. Mr. Kristl said they hoped it would eliminate the problem with BOTA.

Staff said the stricken material provides some kind of limitations for the services provided. The intent has been explained.

Senator Lee asked if this would have ramifications in other cases. Staff said they thought this would make it available for use by other adult care homes.

Senator Bond asked why specific language could not be written which would address the objections of BOTA.

Senator Langworthy closed the hearing on **SB 447** asking Mr. Kristl to work with the Revisor on the language of the bill.

**SB 438--PROPERTY TAX EXEMPTION FOR NURSERY MACHINERY AND EQUIPMENT**

Gary Haulmark, representing Hermes Landscaping, stated that currently farm machinery and equipment, aquaculture machinery and equipment and Christmas tree machinery equipment are exempt from property taxes, but nursery machinery and equipment are not exempt. (Attachment 5) He said this is a matter of equity and he thought Legislators were under the impression that this exemption was already in place.

There were questions from the Committee and also discussion of the fiscal note. The cost of the exemption would be only for growers and should not be a large amount.

The hearing was closed on **SB 438**.

The meeting adjourned at 11:50 a.m.

The next meeting is scheduled for January 23, 1996.





**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** Senate Assessment and Taxation Committee

**FROM:** Chris McKenzie, Executive Director

**DATE:** January 17, 1996

**RE:** Request for Bill Introduction Concerning Property Tax Exemption for Housing for the Elderly

On behalf of the League of Kansas Municipalities, I respectfully request the introduction of a bill by the Committee providing for the amendment or repeal of K.S.A. 79-201 *Fifth*. This statute provides:

**K.S.A. 79-201b. Same; hospitals; adult care homes, children's homes and housing for elderly persons.** The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

\*\*\*\*\*

*Fifth*. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly persons, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not for profit corporation, in which charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefore, belonging exclusively to such corporation and used exclusively for the purpose of such housing.

If this measure is introduced, the League is prepared to present evidence justifying the repeal of this exemption, or a narrowing of the exemption at a minimum, based on recent exemptions for housing units in a number of Kansas cities owned by non-profit corporations that manage adult care homes which are exempt under K.S.A. 79-201b *Second*. These residences have been designed and constructed for occupancy by upper income elderly individuals of sound health and who are not receiving health care or nursing services while similarly situated persons in their communities are paying property taxes.

Thank you very much.

Sen. Assess & Tax  
Jan 18, 1996  
attach 1-1

**BOB VANCURUM**  
SENATOR, ELEVENTH DISTRICT  
OVERLAND PARK, LEAWOOD,  
STANLEY, STILWELL, IN  
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COUNCIL ON STATE GOVERNMENTS

TESTIMONY FOR ASSESSMENT AND TAXATION COMMITTEE IN SUPPORT OF  
SENATE BILL 447 FROM SENATOR BOB VANCURUM

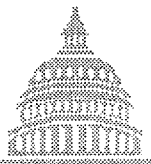
This bill was results from Board of Tax Appeals case in 1994 interpreting those sections of 79-2016 and related sections that denied a property tax exemption to the owner and operator of this facility, which is a federally tax exempt public charity to which donations are deductible under federal law, simply because it had help in financing the original construction--from another 501 (c) (3) Catholic charity which is also tax exempt and donations to which are deductible for federal tax purposes. Although either one of these entities would have been entitled to the exemption or a free standing owner there is a problem with what are otherwise arms' length payments.

Although the original language was intended to make certain that people do not evade the law by leasing the facilities to a "for profit" entity, it appears that the legislature must clarify its original intent.

There is a continuing shortage of nursing home space in southern Johnson County and in fact I will be having a lot to say about the proposed moratorium on nursing home space as it impacts areas such as mine that still have a chronic shortage of nursing home space. We certainly don't need further factors to discourage operators from building or expending nursing home facilities in my county and particularly do not need to punish any well meaning or publicly spirited-charity simply because it obtained start up funds from another charity to actually reduce operating costs.

I will be happy to answer any questions but we need action on this bill this session.

*Sen. Assess + Tax  
Jan 18, 1996  
attach 2-1*



Testimony In Support of SB 447

John J. Federico - Pete McGill & Associates

Senate Assessment and Taxation

January 18, 1996

My name is John Federico of Pete McGill & Associates and I stand before you today on behalf of our client, Villa Saint Joseph, in support of SB 447. With me today are several representatives from Villa Saint Joseph; Mike Abell, President of Saint Joseph's Health Center; Katharine Ensign, Administrator at Villa Saint Joseph; and Tim Kristl, an attorney whose firm represents Villa Saint Joseph.

Villa Saint Joseph is a 120-bed skilled nursing facility located at 11901 Rosewood, in Overland Park, Kansas, founded in 1988. Villa Saint Joseph is owned by the Carondelet Health Corporation and is operated by Carondelet Long Term Care Facilities, Inc. Both are sponsored institutions of the Sisters of St. Joseph of Carondelet. The Sisters of Saint Joseph of Carondelet is a Catholic charity that has sponsored health care institutions in the greater-Kansas City area since 1877 and continue to provide high quality care to the residents they serve.

Please make note of the fact that both the owner of Villa Saint Joseph, the Carondelet Health Corporation, and the operator, Carondelet Long Term Care Facilities, Inc, are not-for-profit corporations and meet all requirements as a corporate designate 501(c)-3. Nonetheless, because of a quirk in Kansas law which forced an unfavorable ruling from the Kansas Board of Tax Appeals, Villa Saint Joseph does not enjoy tax-exempt status as do essentially all other not-for-profit adult care homes in Kansas.

It is for that very reason that we stand before you today. It is our hope that the passage of SB 447 would clarify the original intent of K.S.A. 79-201b and allow tax exempt status in situations where one charity assists in funding another for the purposes of operating a not-for-profit nursing home that is otherwise operated so as to meet all the guidelines for full tax exemption.

Many of you may remember that in 1993 representatives from Villa Saint

*Sen. Assess + Tax  
Jan 18, 1996  
attach 3-1*

Joseph stood before this very Committee in support of a similar bill to the one you are considering today. It passed the Senate 40-0 but its use as a convenient "vehicle" in the House necessitated our reintroduction of the legislation.

The particulars are these;

1. Because of a serious shortage of skilled nursing home beds in the Overland Park area, the Sisters of Saint Joseph in 1988, decided to open a skilled nursing facility to care for the aged population.
2. Conventional financing was not possible so Carondelet Health Corporation, a 501(c)-3 corporation, paid for the land, construction and the contents, and leased it back to Carondelet Long Term Care Facilities, Inc., another 501(c)-3 corporation.
3. In 1992, the Kansas Board of Tax Appeals denied Villa Saint Joseph's application for ad valorem tax exemption. BOTA denied the application in part because of the structure of the loan between one charity and another.
4. It is our opinion that it is common financial practice in religiously-sponsored health care systems, that one not-for-profit would lend to another not-for-profit at the market rate or lower, as is the case of the Carondelet Health Corporation and Carondelet Long Term Care Facilities, Inc.
5. We suggest that it was not the intention of the Kansas legislature to deny tax exempt status to not-for-profit, 501(c)-3 corporations that operate exclusively as an adult care home and utilize this type of funding mechanism.
6. SB 447 merely seeks to clarify the language and correct the discrepancy in the law.

It is important to note that the changes that SB 447 makes to the statute will not have a widespread, detrimental effect on Kansas tax revenues as the language is so narrowly drawn that it will impact only a very few Kansas not-for-profit adult care homes that currently do not enjoy tax exempt status. (Our research suggests it may be as little as two facilities!)

In conclusion we respectfully ask that you support SB 447. We will be happy to respond to any questions you may have.



KANSAS ASSOCIATION OF HOMES AND SERVICES FOR THE AGING

TESTIMONY

TO: The Honorable Audrey Langworthy, Chair  
Senate Taxation and Assessment Committee

FROM: John R. Grace, President

DATE: January 17, 1996

=====  
Thank you, Madam Chairwoman, and members of the committee.

Kansas Association of Homes and Services for the Aging is a not-for-profit trade association representing over 150 not-for-profit retirement, nursing, and community service providers throughout Kansas.

We support Senate Bill 447.

Villa St. Joseph is a member of our association. The Villa has an excellent reputation for providing high quality care and services for older adults and their families in the greater Kansas City area.

Senate Bill 447 would clarify that an arrangement in which a not-for-profit adult care home that leases its facility from another not-for-profit corporation would not jeopardize the tax exempt status of the adult care home. The capital financing markets are extremely difficult for not-for-profit organizations to access and this type of leasing arrangement is a viable way to ensure that Villa St. Joseph can continue to meet the needs of the growing elderly population in the greater Kansas City community. It is our view that this would have extremely limited application. We would ask for the Committee's favorable endorsement of this bill.

I would be glad to answer any questions.

Thank you very much.

*Sen Assess + Tax  
Jan 18, 1996  
attach 4-1*





Madame Chair and members of the committee:

Thank you for the opportunity to appear and testify in favor of SB 438. I realize that this committee has dealt with this issue before, so I will be brief.

Currently farm machinery and equipment, aquaculture machinery and equipment and Christmas tree machinery and equipment are exempt from property taxes. But, nursery machinery and equipment are not. It is our opinion that this bill is only a matter of equity. For other forms of taxation nurseries are defined as a farm or ranch operation. The following are examples:

KSA 79-1545 Inheritance Tax  
KSA 79-23, 154 Income Tax  
KSA 79-3606 Sales Tax  
KSA 79-1476 Land Classification

I believe that many members of the legislature are suprised by the need for this legislation. In their minds this is already current law, but it is not. For example, a couple years ago SB 203 passed the legislature, giving aquaculture machinery and equipment the exemptions we are talking about today. At that time a supplemental note on SB 203 included the following language:

"Senate bill 203 would amend a number of different statutes by adding the term or definition of 'aquaculture' to recognize aquaculture as a field of endeavor similar to agriculture or horticulture and to allow such fields of endeavor to be accorded tax and employment treatment comparable to that of agriculture and horticulture."

It seems that many thought horticulture was being exempt from personal property tax, as well as, other taxes.

Thank you for your time and consideration!

Sincerely,

A handwritten signature in cursive script that reads "Gary".

Gary Haulmark

*Sen. Arsen + Jay  
Jan 18, 1996  
attach 5-1*

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