

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 19, 1997, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Lee, Senator Bond, Senator Goodwin, Senator Hardenburger, Senator Harris, Senator Karr, Senator Praeger, Senator Steffes and Senator Steineger.

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

Conferees appearing before the committee: Joyce Coker, Johnson County
Mark Beck, Director, Property Valuation Division (PVD)

Others attending: See attached list

The minutes of the February 17, 1997, meeting were approved.

SB 206--Relating to property valuation; concerning the remediation of clerical errors.

Joyce Coker, Johnson County, testified in support of **SB 206**. She explained that the bill would provide an option for five-commissioner counties to adopt a resolution that would enable the board to approve the return of three-year-old property tax refunds to taxpayers by a unanimous vote of those commissioners present and participating in a regularly scheduled meeting of the board. This procedure would enable Johnson County and others to provide faster and more efficient service to residents. Currently, the statute requires all members to be present at once to obtain an unanimous vote, but it is sometimes difficult to have all members present. (Attachment 1)

Senator Langworthy clarified that not all counties have five-member commissions, in fact, only a few counties do. Most counties have three-member commissions.

Ms. Coker explained that the votes by the county commissioners merely confirm a Board of Tax Appeals (BOTA) decision; therefore, the commission's vote is routine in nature. Mark Beck, Director of PVD, clarified that county commissions do not make the decision on the validity of the claim. That decision is made by BOTA. The commissioners vote on whether to grant the refund or not. As far as the majority vote issue, Mr. Beck was in agreement that it was not logical to delay justifiable refunds to taxpayers because a member of a commissioner happens to be sick or on vacation at the time of the meeting of the board.

Senator Lee suggested that the bill be changed to apply to all counties rather than only to those with five commissioners on their board. Ms. Coker was in agreement with the suggestion as she felt the situation could possibly be a problem for all county commission boards. Senator Karr suggested that the committee delay voting on the bill until it could hear testimony from the Kansas Association of Counties. Ms. Coker noted that the Association of Counties provided information on **SB 206** in a newsletter sent to all counties.

Senator Hardenburger moved to amend **SB 206** to make it applicable to all county commissions and to change "unanimous vote" to "a majority vote" if there is a resolution so passed, seconded by Senator Corbin. The motion carried.

Senator Steineger moved to recommend **SB 206** favorable for passage as amended, seconded by Senator Hardenburger. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on February 19, 1997.

Senator Langworthy announced that the hearing scheduled for this meeting on **SB 249** was cancelled indefinitely due to some complications.

Senator Langworthy called on Tom Severn, Legislative Research Department, for a review of **SB 183**, concerning property tax exemption of business machinery and equipment. During the introduction request for the bill, the committee requested a staff memo on current court cases involving the concept of "retail cost when new." The decision on a case which was recently argued at the Kansas Supreme Court on this issue has been delayed until perhaps March. (Attachment 2)

Senator Bond moved to table **SB 183** until the Supreme Court renders a decision on the issue, seconded by Senator Lee. The motion carried.

Senator Langworthy announced that a subcommittee meeting on **SB 224**, concerning biennial utilization of property valuations, would be scheduled in the near future. Senator Corbin will chair the subcommittee, and Senators Langworthy and Lee will serve as members.

The committee turned its attention to another previously heard bill, **SB 142**, concerning qualifications for county appraisers. Senator Langworthy distributed copies of a balloon of the bill, and staff explained the proposed amendments. As amended, all county appraisers must be qualified pursuant to one of the options in the bill at the end of two years. (Attachment 3) Senator Langworthy clarified that the bill does not preclude appraisers covering more than one county after the two year period.

Senator Hardenburger moved to adopt the proposed amendments to **SB 142**, seconded by Senator Lee. The motion carried.

Senator Lee moved to recommend **SB 142** favorable for passage as amended, seconded by Senator Hardenburger. The motion carried.

Attention was turned to **SB 161**, a previously heard bill concerning the hearing officer procedure for taxation appeals on appraised property valuation. Tom Severn, Legislative Research, briefed the committee on the procedures for appeal of value or assessment under current law and the procedures for appeal of value under **SB 161**. (Attachment 4)

Committee discussion followed. Senator Bond expressed concern that the effect of the bill could result in an overload of cases to be heard by BOTA. Mark Beck, Director of PVD, responded that, typically, the very large appeals are not handled at the county level but go directly to BOTA. The concept in the bill takes all the small, residential appeals away from BOTA which allows BOTA to concentrate on the more complicated cases.

Joyce Coker, commented that it was likely that this year counties would be paying interest rates on protested property taxation. She was concerned that **SB 161** contained no time frame as to how fast BOTA must act on protests. Counties would feel more comfortable if they knew that they would not be required to pay interest on taxes, perhaps for years, until the appeal was resolved.

Senator Langworthy suggested that the committee discuss **SB 161** further at the February 21 meeting at which time the Director of BOTA, Gus Bogina, could be present to answer questions. At that time, others would also have an opportunity to comment on the bill.

The committee began consideration of another previously heard bill, **SB 162**, concerning the exemption of lease-purchase farm machinery and equipment from property taxation.

Senator Lee moved to amend **SB 162** by inserting "being leased or" after "which is", seconded by Senator Hardenburger.

Senator Langworthy reminded the committee that there are three bills dealing with "exclusive use", including **SB 162**, which will be recommended for an interim study. Senator Bond began a discussion of the lease-purchase issue and the rationale of the proposed amendment to broaden the lease-purchase language beyond what was originally requested. Senator Langworthy explained that the rationale of BOTA's decision was that lease-purchases did not qualify as an exclusive use because two people benefit from it. There being no further time, further discussion and a vote on Senator Lee's motion was continued until the February 21 meeting.

The meeting was adjourned at 12:01 p.m.

The next meeting is scheduled for February 20, 1997.

SENATE ASSESSMENT & TAXATION COMMITTEE
GUEST LIST

DATE: February 19, 1997

NAME	REPRESENTING
S. Sicilian	KDOR
MARIL BECK	KDOR
Judy Keller	American Lung Assn/KS.
Jim May	KBA
Tom Bruno	Allen + Assoc.
Rich McKee	KLA
Rick Stuart	Jefferson County
Mary Cech	Thomas County
Rod Broberg	Saline County



February 19, 1997

TESTIMONY FOR THE SENATE ASSESSMENT AND TAXATION COMMITTEE

Regarding SB 206

An amendment requested by the Johnson County Board of Commissioners

Presented by Joyce Coker, Johnson County Intergovernmental/ Community Relations Coordinator

Madam Chairwoman, members of the committee, my name is Joyce Coker, Intergovernmental and Community Relations coordinator for the Johnson County Board of Commissioners. I am appearing today on behalf of the board to request that you pass SB 206, an amendment to K.S.A.79-1702, that would provide an option for counties to streamline their procedure to return three-year-old property tax refunds to taxpayers. This provision would enable Johnson County and others to provide faster and more efficient service to residents.

Under the current state statute, the Board of Tax Appeals will consider a tax grievance filed after the three-year limitation period if the taxpayer can show excusable neglect or undue hardship. An example would be an elderly or disabled person who, for health or others reasons, was unable to review his or her tax appriaisal carefully enough to catch a clerical error that would have an impact on their taxes. To grant such a refund after three years, however, the Board of County Commissioners must recommend the refund by a unanimous vote in a regularly scheduled meeting and then file the vote with BOTA. In counties with a board of commissioners of five members or more, it is sometimes difficult to have all members present at once to obtain a unanimous vote. The taxpayer then faces a frustrating wait until all members of the commission can be present to approve the refund.

SB 206 would provide an option for five-commissioner counties to adopt a resolution that would enable the board to approve such tax refunds by a **unanimous vote of those commissioners present and participating at a regularly scheduled meeting of the board**. We believe that allowing this simple procedural change --which counties could choose to reject or adopt-- would show good faith to taxpayers in a time when we all seek to provide a friendlier, simpler tax environment.

We appreciate your consideration and would be happy to answer questions.

Senate Assessment & Taxation

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February 12, 1997

To: Senator Audrey Langworthy, Chair, Senate Committee
on Assessment and Taxation

Office No.: 143-N

From: Tom Severn, Principal Analyst



Re: Cases on "Retail Cost When New"

The Committee requested information on current court cases involving the concept of "retail cost when new." I called Bill Waters, Chief Attorney of the Division of Property Valuation.

He reported that a case was recently argued at the Kansas Supreme Court on this issue. (*Board of County Commissioners of Leavenworth Co. v. McGraw Fertilizer Service, Inc., and Geiger Ready-Mix, Inc.*, 96-76097-A/S). A decision was due January 20, 1997, but it has been carried over; thus, a decision could be handed down at any time.

The case involves a valuation issue concerning whether sales tax and installation should be considered part of retail cost when new for the purpose of valuing commercial and industrial machinery and equipment. The Board of Tax Appeals ruled that they should not be included, and their decision was upheld by the Leavenworth District Court. The case was appealed and the Supreme Court agreed to hear the case. Oral arguments were in early December and as stated above a decision could be handed down at any time.

Another case out of Sedgwick County is at the appellate level (*Board of County Commissioners of Sedgwick County v. Dillon's et al.*, case 96-76548-A and 96-76764-A). The issues of this case include what constitutes "retail cost when new," but the case involves many other issues as well. According to the Sedgwick County attorney who is handling this case, it was this case in which the Board of Tax Appeals first ruled that sales tax, delivery, and installation were not included in "retail cost when new."

0019592.01(2/12/97(9:00AM))

Senate Assessment & Taxation
2-19-97
Attachment 2

praiser pursuant to guidelines established and administered jointly by the Kansas real estate appraisal board and the Kansas department of revenue;

3 or (3) holding a valid residential evaluation specialist or certified assess-
4 ment evaluation designation from the International Association of As-
5 sessing Officers. Notwithstanding the foregoing provision, any person who
6 holds the office of county or district appraiser upon the expiration of the
7 term of such office on the effective date of this act and who is not eligible
8 for reappointment pursuant to this section shall be eligible for reappoint-
9 ment to such office regardless of whether such person is so certified or
10 licensed for a term expiring on July 1, 1999, and if any such person
11 qualifies for an original appointment or reappointment prior to July 1,
12 1999, such person may be reappointed for a full term.

Rules and regulations adopted

secretary

or appointment as a district appraiser in any other
county or county

rules and regulations prior to October 1, 1997,

13 New Sec. 2. The secretary of revenue in conjunction with the Kansas
14 real estate appraisal board shall develop and adopt guidelines necessary
15 to establish qualifications for the designation of a registered mass ap-
16 praiser.

17 Sec. 3. K.S.A. 19-430 is hereby repealed.

18 Sec. 4. This act shall take effect and be in force from and after its
19 publication in the statute book.

Senate Assessment & Taxation 2-19-97 Attachment 3

Explanation of Senate Bill 161

Large-Caliber Bullets

- ▶ Local Hearing Officers or Panels (HOPs) are abolished in favor of Hearing Officers appointed by the State Board of Tax Appeals (BOTA) *36 counties*
- ▶ Access to Hearing Officer process is restricted to single-family residences and "smaller" cases (see next bullet, below).
- ▶ All cases involving multi-family residential, use-valued ag land, or with appraised values greater than \$500,000 (except single-family residential) would go directly from the Appraiser's final decision to BOTA, bypassing the Hearing Officer process.
- ▶ The orders of the Hearing Officers will not be reviewed by the Director of Property Valuation, as are the orders of HOPs under current law.

Small-Caliber Bullets

- ▶ Deadlines for Hearing Officers are modified by removing dates certain (July 1 for hearings and July 5 for mailing notice of decisions) and by allowing 10 days for mailing of notices versus 5 days for the current HOPs.
- ▶ All appeals from the Appraiser's final decision are directed to BOTA within 18 days. Under current law, appeals to HOPs must be made within 18 days, but appeals directly to BOTA may be made within 30 days.
- ▶ Appeals from orders of BOTA relating to exemptions under the *Kansas Constitution* as well as statute will be to Shawnee County District Court.

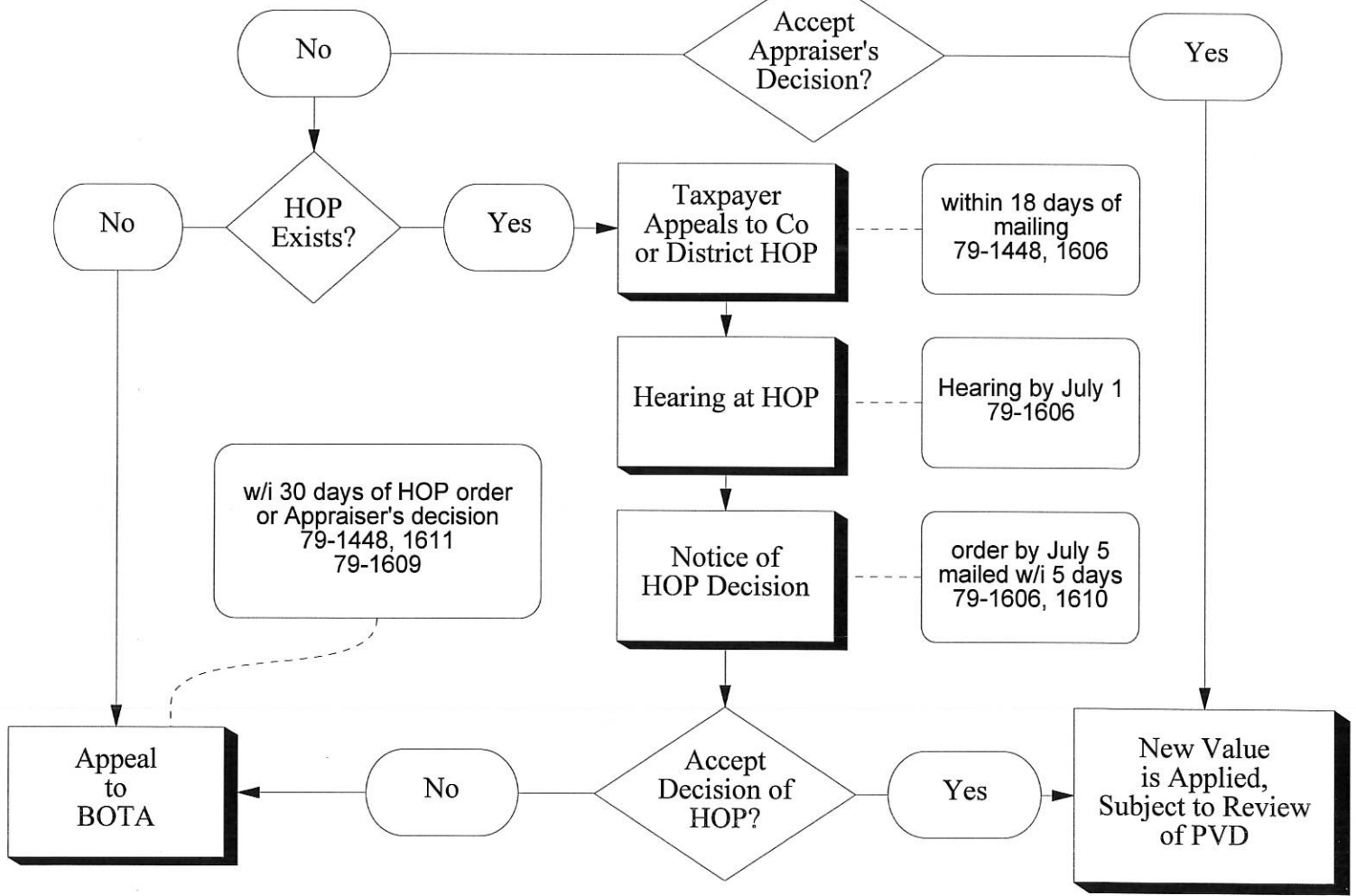
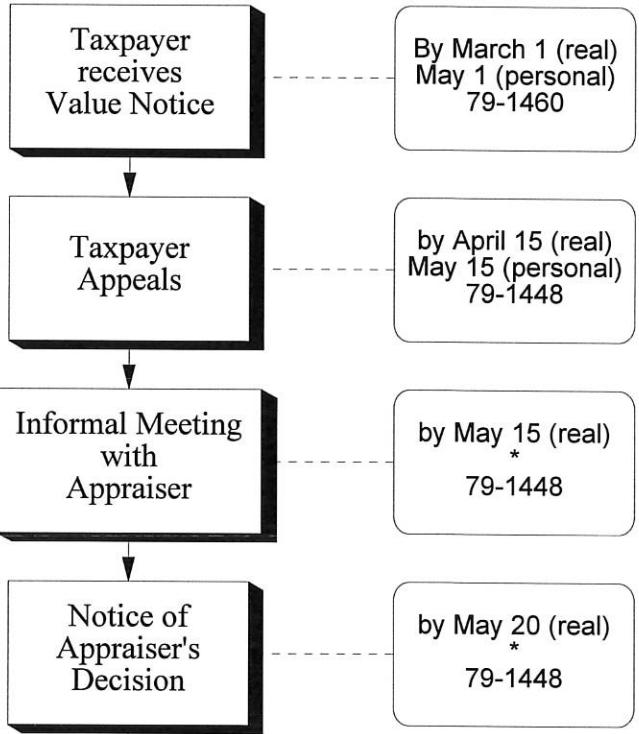
Birdshot

- ▶ Most of the changes in the bill are technical, to change nomenclature or otherwise to conform with the changes above.
- ▶ Most details of the operation of the hearing officers cannot be known since they will be established by BOTA, i.e., number of hearing officers, when and where they will hold hearings, etc.

*Senate Assessment & Taxation
2-19-97
Attachment 4*

**Procedures for
Appeal of Value
or Assessment
Current Law**

* The personal property roll is transferred by June 15. 79-1467



Procedures for Appeal of Value
Senate Bill 161

