

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 20, 2007 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Wagnon, KDOR
David Corbin, KDOR
Jay Befort, KDOR
Mary Feighny, Assistant Attorney General
Jeff Scott, KDOR
Sky Westerlund, KS Chapter National Association of Social Workers

The Chairman called for bill introductions.

At the request of Representative Jeff Colyer, Representative Wilk moved that a bill be introduced regarding "Business Individual Earned Income Health Tax Credits". Representative Owens seconded the motion. The motion carried.

It was noted that minutes from the February 6, 14, 15 and March 6, 9, 12 Taxation Committee Meetings, were sent electronically on March 12, and by consensus were approved on March 19, 2007.

HB 2548 - Social security number or tax identification number required for licensure, certification or registration with state authorities.

The Chairman opened the public hearing and invited David Corbin, KDOR, to the podium to explain the bill.

Mr. Corbin reviewed the history of the bill, and stated that in 1988, KDOR attempted unsuccessfully to convince the Legislature to require all licensees to provide their social security numbers (SSN's) in a move to "enhance taxpayers compliance." The original bill required disclosure of SSN's but this mandatory language was removed during conference committee negotiations (no written testimony).

Jay Befort, KDOR, explained that currently the Department obtains SSN's from different agencies that license people throughout the state, and cross checks them to see if people are paying their income taxes. To date, they have matched 336,567 of the 423, 556, which is 79% of the licensee's in Kansas and collected \$8,305,419. **HB 2548** proposes to amend K.S.A. 74-139 to require applicants for various state licenses to include their social security or tax identification numbers on the applications submitted to the state licensing agency. Passage of **HB 2548** is essential to the effectiveness of and continued viability of the Department's state agency license matching program, and he urged its enactment (Attachment 1).

Mary Feighny, Assistant Attorney General, called attention to a letter, from the Office of the Attorney General, dated August 28, 2006 which addressed the subject of requiring SSN's from licensure applicants and licensees (letter included in Attachment 1). The Attorney General's office had reviewed KDOR's request for the SSN's of Board Licensees and reiterated the guidelines of the Privacy Act of 1974. They found that a Board cannot deny a license because the applicant refuses to provide his/her SSN (No written testimony).

Secretary Wagnon, and Jeff Scott, KDOR spoke from the floor to clarify current processes and procedures used by the Department to verify and cross check licensees to income tax filers. They spoke of major professional licensing groups and stated that the percentage of those that do not file income tax is significant. The Chairman requested a breakdown of those licensing groups and the percent that do not file income taxes and Jeff Scott agreed to provide that tomorrow (No written testimony).

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 20, 2007 in Room 519-S of the Capitol.

Sky Westerlund, KS Chapter National Association of Social Workers, appeared in support of stricter language compelling licensees to submit their SSN's when applying for or renewing their social work license. She cautioned the committee that with the increase of online renewal processes there must always be the option for social workers, as licensees, to submit their paperwork through means other than over the internet, due to concerns of many to put sensitive information on the web (Attachment 2).

Discussion followed on alternative methods to avoid the necessity of placing a Social Security Numbers on actual applications. Copies of those original applications are kept on file by various licensing boards, thus subject to identity theft through those records.

Representative Siegfried recommended that a balloon be drafted that would require an applicant to submit to the Department of Revenue their SSN's, before state authorities could issue or renew licenses. All Social Security information is kept at KDOR. There was also a suggestion that they also be required to verify their current address, whether it is a business or home and license numbers. This information could be submitted electronically, by mail or telephone.

The Chairman closed the hearing on HB 2548.

HB 2549 - Time for notice of acquisition or sale of vessels to county appraiser for computation of value for property tax purposes.

Chris Courtwright said this bill would change the pro-rated valuation system for personal property taxes in use since 2002. Under this bill, people would be required to notify the county appraiser right away, with tax payment due on a yet to be determined date.

The Chairman advised they would return to the bill tomorrow. He reviewed the bills he planned to work at tomorrow's meeting and suggested they leave Friday open for additional work on Senate bills.

The meeting was adjourned at 10:25 a.m. The next meeting is March 21, 2007.

Testimony to the House Committee on Taxation

Richard Cram
Bruce Larkin
Jay Befort

March 16, 2007

House Bill 2548

Representative Wilk, Chair, and Members of the Committee:

House Bill 2548 proposes to amend K.S.A. 74-139 to require applicants for various state licenses to include their social security or tax identification numbers on the applications submitted to the state licensing agency. That statute currently requires state agencies issuing licenses to provide applicant social security numbers and tax identification numbers to the Director of Taxation in the Department of Revenue, but only authorizes those state agencies to request from the applicant the social security number or tax identification number. Federal law authorizes states to require individuals to furnish their social security numbers to facilitate the administration of the state's tax laws. 42 U.S.C. Section 405(c)(2)(C)(i). Any social security number provided to the Department is kept strictly confidential, along with other taxpayer information.

Our state agency license matching program has been an excellent compliance tool. We have requested memberships lists for discovery matching from 20 of the 29 licensing agencies to date. All have provided complete information including SSN's except the Kansas State Board of Technical Professions and their 14,494 licenses. The Board of Technical Professions recently obtained an Attorney General's opinion that they were not required to provide the Department the social security numbers of their licensees, due to the fact that K.S.A. 74-139 only authorizes state agencies to request a licensee's social security number, and the Board had not advised its licensees that disclosure of the social security number was voluntary. House Bill 2548 would make clear that the licensing agency has the authority to require the license applicant to make that disclosure and in turn provide that information to the Department, in conformity with federal law.

To date, we have matched 336,567 of the 423,556 licensee's which is 79% of the licensee's in Kansas. Without the SSN, we cannot complete the match.

Debts discovered/set up:	\$9,252,658
Refunds:	\$ 947,239
Net Tax:	\$8,305,419
Cash in Bank at this time:	\$5,977,385

Kansas returns filed:	3,444
Non-Kansas returns filed:	444

The department does not have the authority to withhold the license if a delinquency exists. However, we are using our authority to collect the debt. It is a little slower perhaps than if the license was contingent on being current, but we believe the recovery from this project will continue to increase due to taxpayers continuing to pay on payment plans, pending Petitions for Abatement, etc.

Boards matched to date: Behavioral Sciences Regulatory Board, Board of Accountancy, Board of Emergency Medical Services, Board of Nursing, Board of Optometry Examiners, Department of Health & Environment, Insurance Department, Judicial Branch, Kansas Bureau of Investigation, Kansas Dental Board, Kansas Department of Revenue, Kansas Securities Commission, Kansas State Board of Cosmetology, Kansas State Board of Mortuary Arts, Kansas State Board of Pharmacy, Kansas State Department of Education, Real Estate Appraisal Board, Real Estate Commission, State Bank Commissioner, State Board of Healing Arts.

Attached is a memo from the Attorney General's Office addressing the existing authority to require the applicants to provide SSN's. The conclusion of the memo is that the existing language in the statute does not require the SSN's, although federal legislation mandates that the state of Kansas enact a statute requiring license applicants to disclose their SSN's.

We have recently received all the Kansas Restaurant Licenses from KDHE and will be matching them also for all tax and filing types. Passage of House Bill 2548 is essential to the effectiveness of and continued viability of the Department's state agency license matching program, and we urge its enactment.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.KSAG.ORG

August 28, 2006

Memo

I

To: Betty Rose
From: Mary Feighny

Subject: Requiring Social Security Numbers from Licensure Applicants and Licensees; Disclosure to the Division of Taxation

This memo addresses the Department of Revenue/Division of Taxation's (KDOR) request for the social security numbers (SSNs) of Board licensees. Before answering this question, it is necessary to examine what authority the Board has, in the first place, to require licensees or license applicants to provide their SSNs.

In requesting a licensee/applicant's SSN, it is incumbent upon the Board to comply with the Privacy Act of 1974,¹ which provides, as follows:

"(a)(1) It shall be unlawful for any . . . state . . . agency to deny to any individual any right, benefit, or privilege . . . because of such individual's refusal to disclose his social security number.

(2) the provisions of paragraph (1) . . . shall not apply with respect to-
(A) any disclosure which is required by federal statute, or
(B) the disclosure of a social security number to any . . . state agency maintaining a system of records in existence . . . before January 1, 1975 if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any . . . state . . . agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

¹Public Law No. 93-579, § 7, 88 Stat. 1896, 1909 (1974), *reprinted in* 5 U.S.C. § 552a note (2003).

I. Can the Board deny a license because the applicant refuses to provide his/her SSN? Answer: No.

Subsection (a) of the Privacy Act prohibits the Board from denying a license because the applicant refuses to provide his/her SSN. The Board can deny a license only if a federal statute requires disclosure of a SSN.²

The only federal statutes that address providing a SSN in this instance are 42 USCS § 666(a)(13) and 42 USCS § 405(c)(2)(C)(i). 42 USCS § 666(a)(13) provides, in part, as follows:

"In order to [enhance child support enforcement], each State must have in effect laws *requiring the use of the following procedures . . .* to increase the effectiveness of the program which the State administers . . ."

"(13) Recording of social security numbers in certain family matters. *Procedures requiring that the social security number of: . . . (A) any applicant for a professional license . . . be recorded on the application;*"

The Kansas Department of Social and Rehabilitation Services (SRS) attempted to comply with this federal law by trying to get legislation passed (K.S.A. 74-148) that would require professional license applicants to provide their SSNs. The original bill made it mandatory to provide SSNs on professional license applications.³ However, by the time the House took final action on the bill, the mandatory language had been removed. The result is that the statute provides only that "the social security number of [applicants] for a professional license . . . *shall be requested, if available,* on the application for such license."

Thus, while 42 USCS § 666(a)(13) mandates that the state of Kansas enact a statute requiring license applicants to disclose their SSNs, the Kansas Legislature did not comply with this federal mandate and, thus, there is no state statute requiring disclosure.

The other federal law, 42 USCS § 405(c)(2)(C)(i) provides, in part, as follows:

"It is the policy of the United States that *any State . . . may, in the administration of any tax law. . .* utilize the social security account numbers

²The Board can also deny if the agency had a records system prior to 1975 and there existed a state law enacted prior to 1975 requiring disclosure of a SSN for purposes of identification. This provision doesn't apply to the Board.

³1997 Senate Bill 140. Supplemental Note/Legislative Research.

. . . for the purpose of establishing the identification of individuals affected by such law, and may *require any individual who is or appears to be so affected to furnish to such State . . . or any agency . . . having administrative responsibility for the law involved, the social security number . . . issued to him. . .*"

This federal law appears to authorize a state to require individuals to furnish their SSNs to facilitate the administration of the state's tax laws.

In 1988, KDOR attempted unsuccessfully to convince the Legislature to require all licensees to provide their SSNs in a move to "enhance taxpayer compliance."⁴ The original bill required disclosure of SSNs but this mandatory language was removed during conference committee negotiations.⁵

The result is K.S.A. 74-139 which provides that "an applicant for original licensure . . . or a renewal thereof . . . shall be *requested* to provide the social security number of such applicant. Upon request of the director of taxation, each [state agency] shall provide to the director of taxation a listing of all such applicants, along with such applicant's social security number and address."

While 42 USCS § 405(c)(2)(C)(i) allows a state to require individuals to disclose their SSNs in the administration of the state's tax laws, again, the Kansas Legislature did not so choose, and thus, there is no state law that makes disclosure a requirement for professional licensees.

After reviewing these two federal laws, it is my opinion that because neither Kansas law requires disclosure of a SSN, the Board cannot deny a license application for failure to provide a SSN.

⁴ *Minutes*, House Committee on Taxation, March 29, 1988; Attachment 2.

⁵ Senate Journal at 1905 (April 30, 1988).

2. Is the Board required to provide licensees' SSNs to KDOR and/or SRS?

Answer: Yes, but only if the Board has complied with the Privacy Act by advising licensees that: (1) disclosure is voluntary; and (2) if provided, the SSN can be disclosed to KDOR pursuant to K.S.A. 74-139 and SRS pursuant to K.S.A. 74-148 and 39-758.⁶

The Board currently notifies licensees via its web page that social security numbers are required for the Board's database. This information should be changed to reflect that it is voluntary.

The KDOR Request for Licensees' SSNs. As far as responding to KDOR's request, K.S.A. 74-139 requires the Board to provide licensees' SSNs. However, that same statute does not require applicants to provide SSNs. The statute only requires state agencies to "request" SSNs.

Section (b) of the Privacy Act requires that any individual who is requested to provide his/her SSN be advised whether disclosure is mandatory or voluntary, the statutory authority for the request, and how the SSN will be used. The purpose is to give the person the opportunity to make a choice whether to disclose or not.⁷ To make the choice meaningful, the person must be advised before the Board can disclose the SSNs.

While the Board's notice on its web page advises licensees that their SSNs may be given to KDOR pursuant to K.S.A. 74-139, it does not advise that providing the SSN is voluntary. Thus, licensees did not have the opportunity to make a meaningful choice to provide or not provide their SSNs. Since it's a crime to disclose SSNs in violation of federal law,⁸ it is my opinion that the Board cannot accede to KDOR's request until the Board complies with section (b) of the Privacy Act.

After you've reviewed this memo, we can discuss this matter further.

⁶K.S.A. 39-758 provides, in part: "[The] State . . . their officers and employees, shall cooperate with [SRS] in locating absent parents or their assets and shall on request supply [SRS] with available information about an absent parent or the absent parent's assets including . . . the social security number of the absent parent. . ."

⁷*Doyle v. Wilson*, 529 F.Supp. 1343 (D. Delaware) 1982; *Doe v. Sharp*, 491 F.Supp. 346 (D. Mass) 1980; *Greater Cleveland Welfare Rights Organization v. Bauer*, 462 F.Supp. 1313 (N.D. Ohio) 1978.

⁸42 USC § 408(a)(8).

Taxation**March 20, 2007****House Bill 2548****Concerning licensure relating to social security numbers***Sky Westerlund, LMSW**Executive Director, Kansas Chapter, National Association of Social Workers (KNASW)*

KNASW is the professional association working on behalf of the profession and practice of social work in Kansas. Social workers have been licensed to practice at three levels of expertise since 1976. These are the baccalaureate (LBSW), the master (LMSW), and the clinical social worker (LCSW). There are over 5500 social workers practicing and serving thousands of persons in Kansas every day. Social work is a broad and inclusive profession which allows social workers to provide services and care in a wide variety of settings, such as child welfare, juvenile justice, private practice, military bases, hospitals, hospices, disaster events, domestic violence, aged care, substance abuse, community mental health centers, schools, public health organizations, community programs and many more.

As licensees, social workers are held to a higher standard of conduct than non-licensed persons. Paying owed taxes is a personal responsibility that contributes to earning the public trust, which is part of social work licensure. KNASW supports the more strict language compelling licensees to submit their social security number when applying for or renewing their social work license for purposes of cross referencing with the taxing authority.

KNASW would like to express one caution. There must be a definite process in place at the site of the licensing agency to secure and protect the social security number. For example, the Behavioral Sciences Regulatory Board. In addition, with the increase of online renewal processes, there must always be the option for social workers, as licensees, to submit their paperwork through means other than online. No matter how secure online systems are or may become, there will likely be licensees who simply are not comfortable submitting their social security number via online.

Thank you for your consideration.

HS TAXATION COMMITTEE**3-20-2007****ATTACHMENT 2**