

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 10:37 a.m. on February 17, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Brandon Riffel, Kansas Legislative Research Department
Mary Jane Brueck, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Chairman Donovan reminded the committee that we had not completed the hearing on **SB 445 - Property tax exemption, property held by secretary of transportation** last week, February 9, due to lack of quorum. He reopened that hearing and asked Vicky Johnson, Chief Council, Kansas Department of Transportation, to bring the committee up to date. She put together a policy to deal with taxes that could be lost or collected by counties which have advance acquired right of ways within their boundaries. She presented the committee with copies of the proposed policy. This will not be retroactive. (Attachment 1) Sen Donovan asked the committee what they wished to do with this bill. It was suggested the committee pass the bill out favorably, knowing it will be blessed and it will sit below the line until we get answers from the Department of Transportation. Sen. Marshall moved the bill be passed out of committee favorably; Sen. Brownlee seconded the motion. The motion passed.

Chairman Donovan opened discussion on **SB 477 - Property tax exemption for certain newly constructed buildings and structures on residential property**. Sen D. Schmidt asked if there are other states which have taken different approaches that might alleviate some of the Constitutional concerns. Mr Phil Perry, Staff VP Government Affairs for Home Builders Association of Greater Kansas City said he knows North Carolina has a law for tax abatement for two years, but that is not what the Home Builders Association is requesting.

Chairman Donovan asked the committee if they want to take action on this bill. No response. He suggested the committee get this bill blessed so it does not die in committee, and look at other options that might be used to do what the home builders want to achieve with this bill.

The meeting was adjourned.

The next meeting is on Call of the Chair

The meeting was adjourned at 11:20 a.m.

Policy on Collection of Taxes on Advance Acquired Right of Way

This policy is to memorialize the procedures agreed to during legislative debate on 2010 SB 445 which clarified the exemption from property tax which was in existing law for highway right of way to include advance acquired right of way, even when its interim use is private. The Department acknowledged the concerns of municipalities with respect to loss of real estate tax revenue resulting from acquisitions for highway purposes. In an effort to address that concern in situations where private persons or businesses are allowed to use the property until it is needed for construction, this policy was framed. The policy attempts to take into account the desire of the municipalities to continue receiving the tax revenue on these tracts while also recognizing that some tracts would have such a small tax associated with them that it is not cost effective to collect. The successful implementation of this policy and procedure will require communication and cooperation between the Department and County Appraisers. The process for implementation is as follows:

1. Upon receipt by the KDOT Bureau of Right of Way of the right of way plans and written legal descriptions for property to be acquired for a project that is not programmed for letting, that information will be forwarded to the County Appraiser for the county where right of way will be acquired. It will be accompanied by a letter explaining that this is advance acquired right of way and that the department may enter into joint use agreements allowing private use of the property until the project is programmed for letting in exchange for the private maintenance of the right of way during that time.
2. If the County desires that any tracts that are the subject of such a joint use agreement be assessed a "rent" during the term of the agreement in the amount of property tax that would have applied had the land remained in private ownership; then the appraiser will be asked to provide the department with the amount of tax that would have been assessed on the portion of the tract being acquired within 90 days of receiving the information from KDOT. In order for this to be a cost efficient process, tracts on which that amount would be less than \$100 per year would not be eligible for this process. (KDOT is open to suggestions from the counties or the legislature on the dollar amount of this provision but it would seem ill advised to go through the appraisal process, the collection and remittance process if the cost of those actions exceed the revenue to be generated.)
3. If KDOT ultimately enters into a joint use agreement with respect to the tracts that the county has indicated that it wants a rent collected upon, the agreement will contain a provision requiring payment of the amount specified by the county to represent the tax that would have been collected. These agreements will be set up with triennial renewals at which time the county will be asked to update the appraisal information if they desire to do so to reflect appreciation in value or increase in mill levy.
4. The rents collected under these agreements will be remitted annually to the appropriate county treasurers by KDOT.

It would be KDOT's intention to implement this process with respect to any projects on which right of way acquisition commences after passage of SB 445.

Notes for Committee Consideration:

1. The reason for not implementing this policy on projects where right of way acquisition has already occurred such as Kingman and Pratt county projects on US 54 is that so many agreements have already been entered into (88) that if we attempted to incorporate this provision in the remaining few that have yet to be negotiated, we would all have to answer a million questions along the lines of "why do I have to pay this when my neighbor didn't have to?"

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Attachment # 1

2. This process allows the county appraisers to decide whether they want to go to the trouble of assessing these parcels for participation in this plan or not. They may determine that the revenue generated would not cover their cost of providing the appraisal information even with the dollar thresholds we have proposed.