

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairperson David Corbin at 10:50 a.m. on March 18, 2003, in Room 519-S of the Capitol.

All members were present except: Senator Donovan

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Don Seifert, City of Olathe
Chris Wilson, Kansas Building Industry Association
Mark Beck, Director, Property Valuation Division
Rod Broberg, Saline County Appraiser
Paul Welcome, Johnson County Appraiser

Others attending: See attached list.

Senator Corbin called the Committee's attention to the minutes of the March 13 meeting. Senator Taddiken moved to approve the minutes of the March 13, 2003, meeting, seconded by Senator Buhler. The motion carried.

HB 2205—Real estate transactions; disclosures relating to special assessments and fees

Senator Corbin commented that the subject matter of **HB 2205** has been considered by the Committee during the past four or five years in several bills, and a bill finally passed both houses during the 2002 Legislative session. Due to a last minute veto by the Governor in 2002, the subject is being addressed once again.

Don Seifert, City of Olathe, testified in support of **HB 2205**, noting that the bill began as a relatively simple bill that required sellers of real property to provide buyers with a written disclosure of existing or proposed special assessments affecting a piece of real estate. The original language is now contained in new Sections 2 and 3 as passed by the House. He explained that the City of Olathe regularly uses the general improvement and assessment statute as a tool to facilitate development. Once the improvement is constructed, special assessments are levied against real estate parcels benefitting from the improvement. He noted that the system generally works well unless the landowner who petitioned for the original improvement has sold or subdivided property in the benefit district or if there is a substantial time lag between creation of the district and final assessment. Although the City of Olathe regularly provides special assessment information to anyone who asks, not all buyers know to ask in advance. **HB 2205** would ensure that pending special assessments are included with other disclosure statements before a contract is signed. In conclusion, Mr. Seifert emphasized that the bill is an important piece of a broad public education program about special assessments initiated by

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:50 a.m. on March 18, 2003, in Room 519-S of the Capitol.

the City of Olathe. (Attachment 1)

Senator Pugh pointed out that new Sections 2 and 3 are identical with the exception that Section 2 references K.S.A. 12-6a01 and Section 3 references K.S.A. 12-601. He suggested that the bill could be amended to include only one new section referencing “either K.S.A. 12-6a01 or K.S.A. 12-601.”

Senator Corbin called attention to written testimony in support of **HB 2205** submitted by Bill Yanek, Kansas Association of Realtors. The Association of Realtors supports Section 1 as is but recommends that new Section 2 be amended to provide that a seller’s failure to disclose special assessments or fees shall not make a contract for the sale of real property void. (Attachment 2)

Chris Wilson, Kansas Building Industry Association (KBIA), testified in support of Section 1 of **HB 2205**. She noted the similar legislation which passed last year, **HB 3023**, was vetoed by the Governor. Although the Governor and his staff philosophically agreed on the valuation of special assessments, they did not believe that the language in **HB 3023** accomplished the intended objective. Ms. Wilson recalled that the issue arose over a series of valuations of vacant lots wherein the value was determined by adding the cost of a special assessment debt to the selling price of the lot. Even though the Board of Tax Appeals repeatedly ruled in favor of the appealing taxpayer, the practice continued. Therefore, KBIA requested legislation to address the situation statutorily so that taxpayers would not have to take the time and expense to bring the issue before the Board. She went on to say that the Property Valuation Division issued a directive to address the issue in July 2002, and KBIA was hopeful that the directive would take care of the problem. However, in January, the Sedgwick County Appraiser valued vacant lots by adding the special assessment amount to the selling price, reasoning that it was necessary because the Governor vetoed **HB 3023**. Two bills were introduced in 2003 to address the Sedgwick County action (**SB 227** and **HB 2206**), both of which contained the vetoed language. However, KBIA and the Property Valuation Division developed the language in Section 1 of **HB 2205** (page 1, lines 40 through 43) to address the concerns expressed by Governor Graves and his staff in 2002. In conclusion, Ms. Wilson stated that KBIA is not opposed to New Sections 2 and 3. (Attachment 3)

Mark Beck, Director of Property Valuation, stood in support of **HB 2205**, confirming that Section 1 codifies pertinent provisions of Appraisal Directive #02-040 issued to all county appraisers in July 2002. He called attention to a copy of the directive, which states that it is improper for county appraisers to simply add the current special assessment balance to the cash sales price because this technique may not be indicative of fair market value. The directive also discusses appropriate appraisal methodology. Mr. Beck noted, should the bill become law, it will be helpful to have the directive as part of the record if questions concerning proper application arise. (Attachment 4)

Rod Broberg, Saline County Appraiser, testified in opposition to Section 1 of **HB 2205**. At the outset, he stated that he can work with the directive issued by the Property Valuation Division. For the Committee’s information, he distributed copies of a Journal Entry on a case in Johnson County regarding reconsideration of a decision by the Board of Tax Appeals. The District Court found that the market value of the property in question did, in fact, include the cost of special benefit district assessments. (Attachment 5) Mr. Broberg explained that he is concerned that, if he operates under the directive from the Property Valuation Division and his valuation turns out to be the same as it would be if he followed the language in Section 1, it is possible

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:50 a.m. on March 18, 2003, in Room 519-S of the Capitol.

that the Board of Tax Appeals will tell him later, “We don’t care how you got that value, you just can’t use it.” To address his concern, he requested that Section 1 be amended on page 1, line 42, by inserting “solely” before “determined.” In his opinion, his suggested amendment will provide a means to defend his valuation.

Senator Lee commented that Mr. Broberg’s suggested amendment changes the meaning of the sentence to almost the opposite of its intent. There being no further Committee questions or conferees, the hearing on **HB 2205** was closed.

SB 255–Amendment of tax rolls by county appraiser after final determination of reduction in real property valuation through appeals process in certain circumstances

Paul Welcome, Johnson County Appraiser, testified in support of **SB 255**. He explained that the amendment to K.S.A. 79-1460 (page 2, lines 29 through 37) is taxpayer friendly because it would allow appraisers to change the current tax roll after a second half payment under protest is made. Another amendment on page 2, lines 36 and 37, would allow the most expeditious remedy for proper changes to the tax roll if evidence would warrant a change in value. (Attachment 6)

There being no others wishing to testify, the hearing on **SB 255** was closed.

The meeting was adjourned at 11:30 a.m.

The next meeting is scheduled for March 19, 2003.