Approved: March 8, 2005
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:30 A.M. on January 20, 2005 in Room 519-S of the Capitol.

Committee members absent:

Committee staff present: Chris Courtwright, Kansas Legislative Research Department (KLRD)
Martha Dorsey, Kansas Legislative Research Department (KLRD)
Gordon Self, Revisor of Statutes Office
Nancy Kirkwood, Secretary

Conferees appearing before the committee: Joan Wagnon, Secretary, Kansas Department of Revenue (KDOR)
Jeff Scott, Compliance Manager KDOR
Cindy Lash, Legislative Post Audit
T. C. Anderson, Kansas Society of CPA's
Ron Waln, Exec. Board Member, Wichita Independent Business Association

Others attending: See attached list.

SB 15 - Delinquent taxes and returns; professional license issuance and renewal

Chairperson Allen recognized Martha Dorsey, Legislative Research, to give a review of the Interim Committee Report to Committee. **SB 15** is essentially the result of Interim Committee work this past fall. There were two Interim Committee reports that related to **SB 15**. The topics were divided into delinquent taxes-- liquor license renewal, and professional license renewal. Recommendation of the Interim Committee was legislation requiring a tax clearance process.

With respect to the liquor license conferees who testified before the Interim Committee, the questions and comments were as follows:

1) Whether to include or exclude liquor licensees in the tax clearance legislation
2) Which taxes to include in the legislation, ensuring the licensure actions apply only to nonpayment of business taxes and not to personal taxes.
3) Situations regarding minority stockholders or spouses.
4) Some conferees indicated opposition to legislation that would authorize the Department to reject or not renew licenses.

With respect to professional license conferees, the following comments were made:

Citing the lack of Due Process and other protection for licensees, some conferees indicated legislation proposed in the 2004 session did not allow input from licensees to defend themselves, for example, when KDOR makes an error regarding taxes owed. Some conferees noted that the penalty, loss of license, is out of proportion to the alleged offense. Perhaps the biggest issue during this Interim study was the issue of Separation of Powers for the attorneys.

KDOR testified it had conducted a voluntary study during the interim, during which several professional licensing agencies agreed to analyze how many of their licensees were either delinquent in taxes or had not filed taxes. Overall, among the 52,000 licensees who were examined, almost 28% or 14,500 had been delinquent in filing or paying their taxes. The Department noted a significant effect of taxpayer delinquency is an increased burden on those who are paying their taxes. These concerns were mentioned by the conferees during the Interim Committee process.

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on January 20, 2005 in Room 519-S of the Capitol.

The Committee recommended introduction of a single bill that would require a Tax Clearance process for business and professional licensees.(Attachment 1) In response to testimony received, the Interim Committee recommended the legislation be modeled after KDOR's proposed revised language that came out of the Interim. It would contain those professional business licensees that were in the expanded list KDOR officials provided. The Committee also specified liquor licensees and attorneys be included among the professions and businesses that would be affected by the legislation (Attachment 2).

Secretary Wagnon, KDOR, presented a summary of **SB 15**. The Secretary stated **SB 15** proposes a tax clearance process for the issuance or renewal of various types of business licenses, certificates and permits listed in subsection 1(c) and issued by the licensing bodies listed in subsection 1(b). The proposal gives KDOR the flexibility to work with the various licensing agencies to develop tax clearance implementation procedures that will integrate smoothly within the agencies' current license issuance or renewal processes (Attachment 3).

Secretary Wagnon, KDOR, passed out to the Committee copies of the Tax Clearance Research Results as of December 20, 2004, for informational purposes (Attachment 4). She introduced Jeff Scott, Compliance Manager, KDOR, Bev Ries and Andrew Kapp, Compliance staff. Bev and Andrew had compiled the information from the agencies that voluntarily submitted their information for the study. KDOR's proposal last year was run past the regulatory agencies and professional associations that represent these groups of licensees. KDOR has modified the proposal to fit within what the regulatory agencies and professional associations do. KDOR has multiple ways that people can obtain Tax Clearance. Nurses renew online as they need an instant clearance. Beauty operators submit their list on excel spreadsheet, and that works. Some may need to come to the Department to get a Tax Clearance. The goal is to make sure people pay their taxes.

When KDOR started researching this, it was discovered there are a number of people that simply do not pay their taxes. The compliance rates go up dramatically in those states that have instituted this kind of process. KDOR stated it has continuously listened to every group affected by this bill.

The following states currently have a Tax Clearance procedure: California, Delaware, Hawaii, Illinois, Indiana, Maryland, Minnesota, Missouri and Vermont. KDOR has spoken to the Minnesota Revenue Department, who states Tax Clearance continues to be a valuable tool in collecting state revenues. People who are delinquent in sales, income, liquor taxes, etc., would not be able to renew their license until their tax liabilities are cleared up or some type of payment plan is entered into.

Senator Apple requested KDOR furnish the Committee a fiscal note on targeted trust taxes. Chairperson Allen requested the Department furnish the committee with a "Compliance Rates" chart of states before and after their Tax Clearance Program was implemented.

Cindy Lash, Legislative Post Audit, addressed the Interim Committee last October and released an audit that included the KDOR's collection of delinquent trust taxes. The Post Audit's conclusions and recommendations speak directly to the need to expand Tax Clearance as a tool for the Department to use to enhance its revenue collections. Ms. Lash stated Post Audit does not have a position on the mechanics that are in the bill. As noted in the report, businesses and individuals that don't pay the taxes they owe increase the tax burden on everyone else. One interesting item struck the Post Audit. When one looks at the non-remittance of trust taxes businesses collect from their customers, and withholding taxes businesses collect from their employees, they are in essence stealing money from both the state and its citizens. Expanding the use of Tax Clearance to virtually everybody and every business that is licensed, by passing **SB 15,** gives the KDOR a very efficient front-end tool for collecting delinquent taxes. This should result in greater fairness for taxpayers and also more revenue for the state. In the audit, Post Audit looked at accounts that were very much delinquent and concluded that the longer taxes are delinquent, the less ability KDOR has to collect the taxes (Attachment 5).

There being no others to testify before the Committee as a proponent to **SB 15**, the Chair called for neutral conferees.

T. C. Anderson, Executive Director, Kansas Society of Certified Public Accountants, presented testimony with concerns on **SB 15** (Attachment 6)

Ron Waln appeared before the Committee as a board member of the WIBA. Mr. Waln's testimony stated there is great amount of concern that **SB 15** targets only a select segment of Kansas' taxpayers, those who are required to seek a professional license in the State of Kansas (Attachment 7).

The Chair asked for any opponents to **SB 15.** There being none, the Chair closed the public hearing.

Introduction of Bills

Chairperson Allen called for bill introductions, there were none.

The meeting adjourned at 11:55 a.m. The next meeting is scheduled for January 24, 2005