

MINUTES

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

October 14-15, 2004
Room 519-S – Statehouse

Members Present

Senator David Corbin, Vice-Chairman
Representative Tom Sawyer, R.M.
Senator Les Donovan
Senator Greta Goodwin
Senator Lana Oleen
Representative Steve Huebert
Representative David Huff
Representative Bill McCreary
Representative Jim Miller
Representative Arlen Siegfried
Representative Tom Thull

Staff Present

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Office of the Revisor
Carol Doel, Committee Secretary

Conferees

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Joan Wagon, Secretary of Revenue
Ron Hein, Kansas Restaurant and Hospitality Association
Christina Collins, Kansas Medical Society
James Clark, Kansas Bar Association
Phillip Bradley, Kansas Licensed Beverage Association
Sherry Diel, Kansas Real Estate Commission
Pam Scott, Kansas Funeral Directors and Embalmers Association
Amy Campbell, Kansas Association of Beverage Retailers
Kathy Porter, Office of Judicial Administration
L. J. Leatherman, Kansas Trial Lawyers Association
Rebecca Rice, Legislative Counsel for Kansas Clubs and Assn.
Natalie Bright, Wichita Independent Business Association

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Joan Wagon, Secretary of Revenue
Chris Wilson, Kansas Building Industry Association

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Vice Chair Corbin opened the meeting and recognized Chris Courtwright, Principal Economist, Legislative Research Department, who informed the Committee that the Legislative Coordinating Council (LCC) did approve the Chairman's request for an additional meeting day and the Committee will meet on November 15 and 16. The additional day was requested so that the Committee could hold a more complete public hearing on Topic 9, the Motor Vehicle Tax issue.

Mr. Courtwright also presented a copy of a press clipping from the *Kansas City Star* indicating the November 15 meeting would start at 9:00 a.m. (Attachment 1).

Also, attention was called to information from the Legislative Division of Post Audit regarding Taxes on Motor Vehicle Sales which had been requested by Committee members at a previous meeting (Attachment 2).

Mr. Courtwright called attention to the booklet, *Kansas Tax Facts 2004 Supplement to the Seventh Edition*, which he had put together and presented to each member of the Committee. This booklet gives the combined state and local tax revenue as well as covering many other Kansas tax facts, such as a summary of 2004 tax legislation. (This booklet is available from the Legislative Research Department, 300 SW 10th Avenue - Room 545-N.)

Lisa Hoopes from the Legislative Division of Post Audit, reported on an audit to review the Department of Revenue's procedures for collecting trust taxes. The trust taxes reviewed included retail sales, withholding, retailer's compensating use, liquor drink excise tax, and transient guest taxes. The two questions covered in the audit were:

1. Does the Department of Revenue Have Effective Procedures in Place to Identify When Businesses Aren't Paying the Taxes They Owe? and
2. Are the Department's Efforts to Collect Unpaid Taxes Effective? (See Blue Book - Performance Audit Report available from the Legislative Division of Post Audit - 800 SW Jackson - Suite 1200.)

Secretary of Revenue Joan Wagon addressed the Committee with a response to the audit report presented by Ms. Hoopes. Secretary Wagon stated the Department had found the information which was presented in the audit report to be very helpful. The Secretary called the Committee's attention to a formal response to the audit in the form of a letter written to Barbara Hinton, Legislative Post Auditor, on October 4, 2004. (A copy of this letter is in the Blue Book - Performance Audit Report available from the Legislative Division of Post Audit - 800 SW Jackson - Suite 1200.)

Martha Dorsey, Legislative Research Department, gave a staff briefing on Topics 1 and 2, Delinquent Taxes and Professional/Liquor License Renewal. In her briefing, Mrs. Dorsey presented information on the issue of tax clearance programs proposed in HB 2680 and SB 414 relating to Topic 1 or professional license renewal, and HB 2776 and SB 468 relating to Topic 2 or liquor license issuance and renewal (Attachment 3).

Secretary Wagon addressed the Committee regarding the tax clearance issue and provided information for Committee review. This information revealed the compliance enforcement and current tax clearance statistics. Secretary Wagon also presented information regarding statistics on individual licensing (Attachment 4).

Afternoon Session

Vice-Chair Corbin opened the meeting for public hearing on Topics 1 and 2, Delinquent Taxes and Professional /Liquor License Renewal and recognized Ron Hein, representing the Kansas Restaurant and Hospitality Association. Mr. Hein related that the Association has no objection to the action being taken on the liquor licensee's license if the language is limited to the payment of the taxes on the business only and is not applicable to any personal taxes ([Attachment 5](#)).

Next to address the Committee regarding Delinquent Taxes and Professional Licensure Renewal was Kevin Robertson, Executive Director of the Kansas Dental Association (KDA). In his testimony, Mr. Robertson stated that the KDA opposed the process of tax recovery from delinquent professionals as proposed in SB 468 and HB 2776, as it grants exclusive authority to the Department of Revenue over licensees with regard to taxes and allows no input from licensees to defend themselves in the process. The KDA would suggest that the proper way to deal with this issue in regard to dentists and dental hygienists is to amend KSA 65-1436 by adding: *(21) failed to pay state taxes or file all tax returns due with the state* ([Attachment 6](#)).

Representing Wichita Independent Business Association was Natalie Bright, stating Association members do not oppose implementation of measures to assist the State in collecting taxes that are rightfully owed; however, the proposed measures require licensing agencies to deny renewal licenses if the Department of Revenue reports the licensee is not current in the payment of taxes owed to the State or if one has failed to file a tax return with the State, but nowhere in the proposed legislation is there protection for the taxpayer if the State makes an error ([Attachment 7](#)).

Christina Collins addressed the Committee on behalf of the Kansas Medical Society on the subject of revocation of professional licenses for nonpayment of taxes. Ms. Collins stated that they have no problem with the underlying principle involved and that individuals should pay taxes that are owed the State of Kansas. However, Society members feel that as this legislation is proposed, it seems that the penalty, loss of license, is out of proportion to the alleged offense, and Ms. Collins urged the Committee to explore options ([Attachment 8](#)).

Rebecca Rice, Legislative Counsel for Kansas Clubs and Associates, came before the Committee in opposition to both SB 414 and HB 2680. They asked for consideration on whether there is a valid reason for separating liquor licenses from other state-issued licenses ([Attachment 9](#)).

Presenting testimony on behalf of the Kansas Bar Association (KBA) was James W. Clark, Legislative Counsel. The KBA is in opposition to HB 2776 and SB 468 as written and made recommendations for a change in language that would meet their approval ([Attachment 10](#)).

The Executive Director of the Kansas Licensed Beverage Association, Philip Bradley, addressed the Committee with three major concerns:

- The delinquent taxes in question must be those that apply directly to the business that holds this license or permit;
- That this condition for renewal of licenses and permits, controlled by the state, should apply to all of the businesses and individuals to which the state issues licenses/permits, and further, that these should be treated equally; and
- Concern was raised that if one stockholder in a corporation operating this license, was delinquent as an individual or in a separate business, that stockholder should not penalize the entire business.

Mr. Bradley made proposals for changes in language ([Attachment 11](#)).

Sherry Diel, Executive Director of Kansas Real Estate Commission, expressed the concern that this bill would have an impact on small agencies. The Commission is asking that, as the process is pursued, it be made as flexible as possible on the agency so the burden goes on the licensee as far as making sure they have the tax clearance ([Attachment 12](#)).

Amy Campbell appeared before the Committee, representing both The Kansas Association of Beverage Retailers and Kansas State Ophthalmological Society. Ms. Campbell presented a letter from Mike Reynolds, MD, President of the Society, with a summary of their concerns ([Attachment 13](#)). On behalf of the beverage retailers, Ms. Campbell stated that the liquor dealers are very proud of their record of compliance with state laws and regulations that rule their particular industry. They did submit several requests, which are listed in her written testimony ([Attachment 14](#)).

Ms. Campbell also submitted written testimony from John Davis, past-President of the Kansas Association of Beverage Retailers ([Attachment 15](#)).

Kathy Porter, representing the State of Kansas Office of Judicial Administration, appeared before the Committee with concerns that people might get on the delinquent list who should not be on it and described this situation in her testimony. They would like to see careful implementation of the bill ([Attachment 16](#)).

Kansas Trial Lawyers was represented by L.J. Leatherman, who presented testimony in opposition to HB 2776. It is their concern that the application of the bill will result in punishment of professional licensees where a corporation or individual would not be so punished. They urged that the Legislature seek other ways to promote the collection of overdue taxes ([Attachment 17](#)).

Written testimony was supplied for Committee review by the Kansas Funeral Directors and Embalmers Association ([Attachment 18](#)) and by Marlee Carpenter of the Kansas Chamber of Commerce and Industry ([Attachment 19](#)).

There was no other person wishing to address the Committee and the public hearing was closed.

Laurie McKinnon, General Counsel, Kansas Public Employees Retirement System, submitted testimony before the subcommittee regarding language changes in K.S.A. 79-3234 and this information was given to each member of the Committee for review ([Attachment 20](#)).

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Vice-Chairman Corbin called the meeting to order and recognized Secretary of Revenue Joan Wagon, who gave an update on the Streamlined Sales Tax. Secretary Wagon reported that this project represents a four-year effort by state and local governments and members of the business community to create a more uniform and simplified sales tax system that levels the playing field between local and remote businesses and eases the administrative burden of collection. She added that things are progressing to begin the implementation. There is a meeting in November in Chicago to continue consideration of uniformity issues not yet included in the agreement ([Attachment 21](#)).

Secretary Wagon addressed the Committee on the Analysis of Corporate Income Tax 2000-2002 and presented two documents for Committee review. The first document was the executive summary, which covered the purpose of the study as well as the recent history of corporate income tax receipts, corporate income tax credits, corporate income tax burden, the Kansas economy - retail

sector as compared to manufacturing sector, and employment data on top 20 business and job development credit claimants ([Attachment 22](#)).

The second document was the analysis of Kansas Corporate Income Tax 2000-2002 with charts and graphs of data collected, which focused on the impact of the four largest business income tax credit incentive programs on corporate income tax receipts. It also examined employment data concerning the largest employment performance and tax credits in comparison to employment data for the Kansas economy as a whole during the period from 2000 to 2003 ([Attachment 23](#)).

Next to address the Committee was Chris Courtwright, Legislative Research Department, with a briefing on Topic 4 - Attorney's Fees and SBOTA (State Board of Tax Appeals) Orders. HB 2540 was introduced during the 2004 Session. This legislation would have amended KSA 74-2426 to provide that, for certain appeals of State Board of Tax Appeals orders by counties to district courts, such courts would have been required to award taxpayers reasonable attorneys' fees and costs for those cases wherein taxpayers prevail at the district court level ([Attachment 24](#)).

Chris Wilson, representing the Kansas Building Industry Association, spoke to the Committee with comments on Topic 4. Ms. Wilson stated that the Saline County Appraiser has added the cost of the special assessments on a vacant lot to the price of the lot. The statute says that the appraisal should be based on the fair market value. In the view of the Industry, the county has continued to appraise the vacant lot property in the same way they had prior to the passage of the law in 2003 (no written testimony was provided).

Vice-Chairman Corbin closed the hearing on Topic 4 - Attorney's Fees and SBOTA Orders.

Written testimony was submitted to the Committee from Barry Porter, Republic and Cloud County Appraiser, regarding HB 2540 ([Attachment 25](#)), as well as from Judy Moler, General Counsel for the Kansas Association of Counties ([Attachment 26](#)).

Secretary of Revenue Joan Wagon submitted information from the Department of Revenue regarding SB 414 ([Attachment 27](#)), for Committee review.

Vice Chairman Corbin advised the Committee that the LCC had allotted an extra day to the Committee in November. The next meeting will begin at 9:00 a.m. in Room 313-S on November 15, 2004.

With no further business before the Committee, the meeting was adjourned.

Prepared by Carol Doel
Edited by Martha Dorsey

Approved by Committee on:

November 15, 2004
(date)