

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:40 a.m. on March 8, 2001, in Room 519-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Senator Dwayne Umbarger
Leroy Alsup, City Manager, Coffeyville
Jim Tatman, Acme Foundry, Inc
Steve Cornell, Coffeyville SEKTAM, Inc.
Dr. Rod Allen, Superintendent, USD 445
Don Moler, League of Kansas Municipalities
Shirley Sicilian, Kansas Department of Revenue

Others attending: See attached list.

The minutes of the March 7, 2001, meeting were approved.

SB 311—Relating to city retailers' sales tax rates.

Senator Dwayne Umbarger informed the Committee that community business leaders and educators from the City of Coffeyville support **SB 311** as a means to advance economic development and address funding for public education. He introduced Leroy Alsup, City Manager of Coffeyville.

Mr. Alsup began a power point visual presentation in support of the passage of **SB 311**. A print out of the presentation was previously distributed to the Committee. (Attachment 1) Mr. Alsup noted that supporters of the bill include USD 445, the Coffeyville Regional Medial Center, and several local business and industry leaders. He introduced Jim Tatman, Executive Vice President of Acme Foundry, Inc., the largest employer in Coffeyville. Mr. Tatman explained that the Coffeyville school system has made attempts to pass a bond issue to build a new grade school. He feels the bill would help gain taxpayer support because, rather than an increase in property tax, it allows sales tax to be used to help buy down the bond over the period of years of the bond issue.

Mr. Alsup introduced Steve Cornell, President of Coffeyville SEKTAM, Inc., a small manufacturer in the Coffeyville community. Mr. Cornell testified in support of **SB 311**, noting that his small community is struggling with a tax base which makes support of the changes needed for school structures difficult. He urged the Committee to support the bill as it would help Coffeyville keep its education system viable.

Mr. Alsup pointed out that the last pages of his handout include letters of support from Mr. Tatman and Mr. Cornell as well as other Coffeyville businessmen. He went on to discuss the existing retailers' sales tax in Montgomery County and the City of Coffeyville. He explained that the proposed sales tax for hospital and school improvements would not become effective until the current county retailers' sales tax expires on September 30, 2002. He noted that the City of Coffeyville is considering calling a special election in the fall of 2001 to submit two city retailers' sales tax questions to the voters. He explained that the total sales tax levy in Coffeyville would not increase; the new city sales tax would just replace the current 1.0 percent county sales tax.

Mr. Alsup introduced Dr. Rod Allen, School Superintendent for USD 445. Dr. Allen discussed the two questions to be put on the ballot as outlined in the handout. One question concerns a one-half cent retailer's sales tax to pay

a portion of the costs of the Coffeyville Regional Medical Center improvements, and the other

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question concerns a one-half cent retailers' sales tax to pay a portion of the bond and interest of a USD 445 general obligation bond issue not to exceed \$24.8 million. Dr. Allen believes that taxpayers would be more supportive of a retailers' sales tax than increased property taxes to help improve the community.

At this point, Mr. Alsup informed the Committee that the last two sales tax questions voted upon in Coffeyville were approved by over 65 percent of the voters. He went on to describe the proposed improvements to the Coffeyville Regional Medical Center as outlined in his handout. Dr. Allen followed with a description of the planned improvements outlined with regard to USD 445 schools. In addition, he discussed how the school improvements will assist in the ongoing partnership effort with the city boys and girls club computer labs.

The last portion of Mr. Alsup's presentation included information on other community enhancement projects which the City of Coffeyville has successfully accomplished and the economic development projects which have brought jobs to the community. Mr. Alsup also outlined the proposed amendments to K.S.A. 12-187 and 12-189, giving reasons for the requested amendments. In conclusion, he noted that improvements to the school district are critical to the long-term viability of the community, and the time frame needs to be extended to accommodate the use of a typical bond issue format. He noted that his group is not "tied" to the proposed language of the bill. If there are any amendments necessary to make it more palatable to others, he would not object as long as Coffeyville can accomplish hospital and school improvements with the use of sales tax revenue.

Don Moler, League of Kansas Municipalities, testified in support of the overall goal of the bill, but expressed concern about the fundamental changes made in Section 1 of K.S.A. Supp. 12-187 as he believes the changes have a much wider impact than anticipated and requested by the City of Coffeyville. Mr. Moler called the Committee's attention to a balloon of the bill showing amendments which would remove the concerns of the League and further the purposes of the City of Coffeyville. He explained the League's proposed changes and noted that the changes would merely create a caveat which would provide that, as long as the city maintained a sales tax for the purpose of an outstanding bond issue under K.S.A. Supp. 12-187(a)(2), a county levy would not eliminate the city levy. (Attachment 2)

Shirley Sicilian, General Counsel for Kansas Department of Revenue, agreed with Mr. Molar that the language proposed by the City of Coffeyville involves an issue much larger than it would appear on the surface. She noted that the Department is interested in the provisions because they deal with uniformity of the local retailers sales tax act. She provided background information on the uniformity issue, beginning with a reference to Article 12, Section 5(b) of the Kansas Constitution, which sets out home rule powers for cities. She informed the Committee that, in 1996, the Kansas Court of Appeals reviewed K.S.A. 1995 Supp. 12-187(a)(2) of the local retailers' sales tax act for uniformity and concluded that it "has the effect of treating cities within the four classes non-uniformly depending on whether the county in which a particular city sits has enacted the retailers' sales tax....Thus, it appears the legislature...is treating cities of the same class within the local retailers' sales tax enactment non-uniformly. By treating cities within the same class non-uniformly, the legislature has opened up the retailers' sales tax enactment to home rule authority." That finding was consistent with a 1992 Attorney General's opinion. In 1998, the Legislature amended K.S.A. 12-188 and 12-187 with the intent of curing the perceived non-uniformity; however, there is a cogent argument that these changes did not fully address the court's concern. In fact, the Wyandotte County District Court recently rendered a decision finding the current statute non-uniform. Ms. Sicilian stated that the Department supports amendments to ensure the local retailers' sales tax act is uniform; however, if non-uniformity is not remedied, the Department is concerned that many other jurisdictions could follow suit. In that case, the Department would not be able to efficiently accommodate administration of non-uniform tax rates and preparation of interlocal agreements on a larger scale. Of greater concern is the potential for non-uniform tax bases and exemptions. In conclusion, Ms. Sicilian recommended changes to the language on page 5, lines 38 to 42, of **SB 311**. (Attachment 3)

There being no others wishing to testify, the hearing on **SB 311** was closed.

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

The next meeting is scheduled for March 12, 2001.