

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 3, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Lana Gordon- excused

Representative Bruce Larkin- excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Martha Dorsey, Legislative Research Department

Gordon Self, Revisor of Statutes

Richard Cram, Department of Revenue

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Randall Allen, Executive Director, Kansas Association of Counties

Erik Sartorius, The City of Overland Park

Don Moler, Executive Director, League of Kansas Municipalities

Douglas J. Patterson, Property Law Firm, P.C.

Christina M. Wilson, Executive Director, Kansas Building Industry

Dave Holtwick, Home Builders Association of Greater Kansas City

Gabe Brown, Brown Midwest, Kansas City (no written testimony)

Others attending:

See attached list.

The Chairman explained the committee rules for introduction of bills for an exempt committee. If a member of the Taxation Committee wished to introduce a tax bill, that would be allowed. If a committee member wished to introduce a non-tax bill, the Chairman requested that they submit the bill to him first for perusal by leadership. If it appeared to be a bill that would not come back to the Taxation Committee, the representative would be obligated to speak with the Chairman of the appropriate committee and obtain a commitment that they would hear the bill. If they did not plan to hear the bill, he respectfully requested that the bill not be introduced due to time constraints and work load of the legislature.

The Chairman opened the floor for bill introductions.

Chairman Wilk made the motion to introduce a bill concerning the Plainville Rural Hospital District #1. Representative Owens seconded the motion. The motion carried.

HB 2023- Classes of cities for sales tax purposes; uniformity

Mr. Courtwright briefed the committee on the background of an Interim Special Committee on Assessment and Taxation (Attachment 1). The conclusion of two interim committees is that in 1960 a constitutional amendment was adopted that explicitly granted the legislature power to uniformly limit or prohibit taxation by cities and to establish up to four classes of cities for that purpose. The committee also found that the Legislature in the early 1990's had inadvertently exceeded the permissible number of four classes of cities, that resulted in a 1996 court decision that effectively granted cities the power to charter out of many of the provisions and requirements in the local sales tax law. The intent of the bill was to consolidate all the cities into two classes and grant some cities and counties additional taxing authority that they do not have currently. It deals with local sales taxes only.

The Chairman opened the public hearing on **HB 2023**.

Randy Allen, Executive Director, Kansas Association of Counties, appeared on behalf of the Board of Atchison County Commissioners to request an amendment to add an additional purpose in the delineation of eligible uses for countywide sales tax revenues. That additional purpose would be "*the costs of constructing or operating an emergency communications center*" (Attachment 2).

Erik Sartorius, The City of Overland Park, appeared in support of **HB 2023** but with a desire to add language that would satisfy the Legislature's and the Department of Revenue's desire to ensure that the local sales tax

CONTINUATION SHEET

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laws are returned to uniformity. The concern of Overland Park is that any taxing authority lawfully created under home rule authority must be retained by cities, they must “remain whole” ([Attachment 3](#)). A balloon is currently being crafted to that end.

Don Moler, Executive Director, League of Kansas Municipalities, appeared in support of **HB 2023**, with amendments for the purpose of achieving uniformity in the local sales tax act, while at the same time retaining the local sales and excise tax authority currently vested in cities across Kansas ([Attachment 4](#)). The three amendments are: (1) page 8, line 37, which provides that a local sales tax can also be levied in the amount of .25%, .5%, .75%.1% with additional amounts of *1.125%, 1.25% 1.5% or 1.75%*, (2) page 11, line 41, subsection (b) existing language would be struck and the following would be inserted *All alternative apportionment formulas between any county and each city located therein and in place prior to July 1, 2005 shall remain in effect*, (3) a new section 6 would be placed on page 15 that would remove the statutory prohibition against the levying of excise taxes by cities.

In response to a question Mr. Moler stated that the maximum effective sales tax rate that could be assessed would be 3.75% for city/county and 5.3% for the state. Every local sales tax must be voted in by the citizens.

Gabe Brown, Brown Midwest, Kansas City, appeared before the Committee as a real estate land developer in Johnson County (no written testimony). He expressed concern over the amount of excise taxes collected by cities with no accountability for those funds. He requested that some kind of accountability be required by law to enable citizens and businesses to find out how those funds are spent.

Douglas J. Patterson, Property Law Firm, P.C. appeared in support of **HB 2023** and offered an amendment ([Attachment 5](#)). The new language would be inserted as a new section and would amend that portion of the Kansas Retail Sales Tax Act relative to excise tax and would be complementary with the other efforts being made by the building and development industry within the State of Kansas to pay its own way in the development process but not be a revenue source for independent expenditures not connected in any way with the development sought to be taxed.

Christina M. Wilson, Executive Director, Kansas Building Industry, stated that the passage of **HB 2023** would restore uniformity and clarify state law ([Attachment 6](#)). She suggested that if municipalities choose to impose fees on development as some do now, they could continue to do so more appropriately as an impact fee rather than an excise tax.

Dave Holtwick, Home Builders Association of Greater Kansas City, appeared in support of uniform and consistent rules and regulations and stated that passage of **HB 2023** would help remove inconsistencies they now see ([Attachment 7](#)). He suggested forming a working group made up of representatives of the Taxation Committee, League of Municipalities and members of the residential construction industry in order to explore the use of impact fees and excise taxes and accountability for those funds.

When a question was raised concerning the scope of bill, Secretary Wagnon stated that **HB 2023** would solve the uniformity problem. If amendments are added, and if certain kinds of things such as the Johnson County distribution formula are grand fathered in, it is the Department’s opinion that they will not know until they get to the Court of Appeals if they are back to the position of being out of uniformity.

The Chairman requested that members of the League of Municipalities, Homebuilders and all interested parties meet in order to arrive at consensus of the differing issues in **HB 2023**. This group would be responsible to work out details and provide language that can be offered and addressed to a sub-committee that will be appointed tomorrow. Representative Owens requested that staff prepare a fact sheet that delineates exactly with cities and counties would gain or lose if **HB 2023** would pass, to include any amendments presented.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for February 4, 2005, upon adjournment of the House.