

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 22, 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:

**Proponents:**

Douglas J. Patterson, Property Law Firm, P.C.  
Dave Holtwick, Home Builders Association of Greater Kansas City  
Chris Wilson, Kansas Building Industry Association

**Opponents:**

Michael Boehm, Mayor - City of Lenexa  
Bob Watson, City of Overland Park  
Tim Dannenburg, City of Olathe  
Marvin Rainey, City of Shawnee  
Mark Tomb, League of Kansas Municipalities  
Patrick Reavey, City of DeSota

Others attending:

See attached list.

Chairman Wilk requested a bill introduction related to the 20 mill/20,000 exemption reauthorization. Representative Huff seconded the motion. The motion carried.

**HB 2467 - Requirements of municipalities related to imposition and modification of development excise taxes**

Mr. Self explained that **HB 2467** is a development excise tax and amends two statutes and provides a new statute. This bill attempts to define, clarify, convert and limit development excise tax and requires cities to require specifics on such taxes related to city development plans. There is a healthy debate in general on the difference or myriad of various opinions of development excise taxes verses impact fees.

The Chairman opened the public hearing on **HB 2467**.

**PROPONENTS:**

Douglas J. Patterson, Property Law Firm, P.C. offered to submit written testimony after the hearing to address any questions raised at the hearing.

Dave Holtwick, Home Builders Association of Greater Kansas City, stated that their association opposes excise taxes being used for development and suggested that there are more appropriate financial tools for this purpose that are used in many areas around the country (Attachment 1). If excise taxes are to be allowed, accountability contained in this legislation is needed therefore he urged the Committee to support **HB 2467**.

Chris Wilson, Kansas Building Industry Association appeared in support of **HB 2467**. He stated that the bill simply defines a development excise tax; requires that the municipality include policies and procedures regarding the excise tax in its comprehensive plan; and provide accountability to the public by documenting the method of calculating the tax imposed and costs to be paid for; and provided an annual report of funds

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generated and expended (Attachment 2). He requested that the Committee consider an amendment the bill to include that nothing in this bill may be construed to grant authority to municipalities to impose an excise tax on development not otherwise provided by law.

Discussions followed regarding pros and cons of excise tax verses impact fees and the role of the city's accountability to developers.

OPPONENTS:

Michael Boehm, Mayor, City of Lenexa, stood in opposition to **HB 2467** stating that it is not consistent with the City's Home Rule authority, and it may impact the City's ultimate authority to collect excise taxes (Attachment 3). He stated that the city had made several attempts with HBA leadership to discuss their excise tax concerns. On February 10, 2005, the City of Lenexa obtained a list of seven HBA potential questions regarding the City's use of excise taxes. City staff prepared a 16 page written response, that was provided to the House Taxation Subcommittee and the Kansas City HBA.

Bob Watson, City of Overland Park, opposed enactment of **HB 2467** for the following four reasons (Attachment 4).

1. Home Rule is sacred to cities and that Home Rule prerogatives of cities should be honored.
2. The bill has the detrimental effect of converting Overland Park's excise tax into an impact fee
3. The City has no objection to being required to provide information about its generation and expenditure of excise tax revenues.
4. An impact fee would reduce the City's flexibility and would have to be accompanied by some form of growth control.

Tim Dannenburg, City of Olathe, appeared in opposition to **HB 2467** (Attachment 5). He stated that approving the bill would result in the following:

1. Delays in road construction supporting new development
2. Higher costs for improvements due to several years of inflation , or
3. Increasing cities' mill rates to pay for the improvements until the excise tax revenue is collected
4. Or, dramatically slowing down development to allow revenues to accrue.

Marvin Rainey, City of Shawnee, stated that they were opposed to **HB 2467** or any legislation that may limit or restrict the City's continued imposition and collection of an excise tax on the platting real property (Attachment 6). Although the City appreciated the efforts of the legislature to achieve a streamlined and uniform sales tax, they urged the Committee not to do anything that would restrict the current authority of the cities or make it more difficult for the cities to meet the financing needs of local government.

Mark Tomb, League of Kansas Municipalities, stood opposed to **HB 2467** (Attachment 7). The legislation would increase the administrative costs of local government to facilitate development and impose a "one size fits all" process that would dramatically impact the ability of 627 local governments to impose development excise taxes.

Patrick Reavey, City of DeSota, stated that **HB 2467** had the very real possibility of seriously eroding the City's ability to effectively collect and use excise taxes (Attachment 8). DeSota's excise tax has enabled the City to implement a ten-year Capital Improvements' Plan for much needed upgrades to collector and arterial streets throughout the City. There would be untold burdens placed on smaller communities that do not have a full time engineer or attorney on staff who could administer the additional duties that **HB 2467** would impose, and retaining outside consultants to do the same no doubt will be cost prohibitive.

Discussions followed regarding concern over accountability of local government to developers, definition of terms and the importance of flexibility in the use of excise tax at the local government level and the impact of infrastructure development needs for new developments.

The Chairman closed the hearing on **HB 2467**.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for March 2, 2005.

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