

SENATE BILL No. 462

By Senator O'Connor

1-29

AN ACT enacting the bi-state sales tax priority act; concerning the Kansas and Missouri metropolitan culture district compact; relating to the imposition of the retailers' sales tax; amending K.S.A. 12-2536 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. this act shall be known and may be cited as the bi-state sales tax priority act.

Sec. 2. K.S.A. 12-2536 is hereby amended to read as follows: 12-2536. The Kansas and Missouri metropolitan culture district compact is hereby enacted into law and entered into by the state of Kansas with the state of Missouri legally joining therein, in the form substantially as follows:

Kansas and Missouri Metropolitan Culture District Compact

Article I.—Agreement and Pledge

The states of Kansas and Missouri agree to and pledge, each to the other, faithful cooperation in the future planning and development of the metropolitan culture district, holding in high trust for the benefit of its people and of the nation, the special blessings and natural advantages thereof.

Article II.—Policy and Purpose

The party states, desiring by common action to fully utilize and improve their cultural facilities, coordinate the services of their cultural organizations, enhance the cultural activities of their citizens, and achieve solid financial support for such cultural facilities, organizations and activities, declare that it is the policy of each state to realize such desires on a basis of cooperation with one another, thereby serving the best interests of their citizenry and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the creation of a metropolitan culture district as the means to implementation of the policy herein declared with the most beneficial and economical use of human and material resources.

Article III.—Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "Metropolitan culture district" means a political subdivision of the

1 states of Kansas and Missouri which is created under and pursuant to the
2 provisions of this compact and which is composed of the counties in the
3 states of Kansas and Missouri which act to create or to become a part of
4 the district in accordance with the provisions of Article IV.

5 (b) “Commission” means the governing body of the metropolitan cul-
6 ture district.

7 (c) “Cultural activities” means sports or activities which contribute to
8 or enhance the aesthetic, artistic, historical, intellectual or social devel-
9 opment or appreciation of members of the general public.

10 (d) “Cultural organizations” means nonprofit and tax exempt social,
11 civic or community organizations and associations which are dedicated to
12 the development, provision, operation, supervision, promotion or support
13 of cultural activities in which members of the general public may engage
14 or participate.

15 (e) “Cultural facilities” means facilities operated or used for sports or
16 participation or engagement in cultural activities by members of the gen-
17 eral public.

18 Article IV.—The District

19 (a) The counties in Kansas and Missouri eligible to create and initially
20 compose the metropolitan culture district shall be those counties which
21 meet one or more of the following criteria: (1) The county has a popu-
22 lation in excess of 300,000, and is adjacent to the state line; (2) the county
23 contains a part of a city with a population according to the most recent
24 federal census of at least 400,000; or (3) the county is contiguous to any
25 county described in provisions (1) or (2) of this subpart (a). The counties
26 of Johnson in Kansas and Jackson in Missouri shall be *sine qua non* to
27 the creation and initial composition of the district. Additional counties in
28 Kansas and Missouri shall be eligible to become a part of the metropolitan
29 culture district if such counties are contiguous to any one or more of the
30 counties which compose the district and within 60 miles of the counties
31 required by this article to establish the district.

32 (b) (1) Whenever the governing body of any county which is eligible
33 to create or become a part of the metropolitan culture district shall de-
34 termine that creation of or participation in the district is in the best in-
35 terests of the citizens of the county and that the levy of a tax to provide
36 on a cooperative basis with another county or other counties for financial
37 support of the district would be economically practical and cost beneficial
38 to the citizens of the county, the governing body may adopt by majority
39 vote a resolution authorizing the same.

40 (2) Whenever a petition, signed by not less than the number of qual-
41 ified electors of an eligible county equal to 5% of the number of ballots
42 cast and counted at the last preceding gubernatorial election held in the
43 county and requesting adoption of a resolution authorizing creation of or

1 participation in the metropolitan culture district and the levy of a tax for
 2 the purpose of contributing to the financial support of the district, is filed
 3 with the governing body of the county, the governing body shall adopt
 4 such a resolution.

5 (3) Implementation of a resolution adopted under this subpart (b)
 6 shall be conditioned upon approval of the resolution by a majority of the
 7 qualified electors of the county voting at an election conducted for such
 8 purpose.

9 (c) (1) Upon adoption of a resolution pursuant to subpart (b)(1) or
 10 subpart (b)(2), the governing body of the county shall request, within 36
 11 months after adoption of the resolution, the county election officer to
 12 submit to the qualified electors of the county the question of whether
 13 the governing body shall be authorized to implement the resolution. The
 14 resolution shall be printed on the ballot and in the notice of election. The
 15 question shall be submitted to the electors of the county at the primary
 16 or general election next following the date of the request filed with the
 17 county election officer. If a majority of the qualified electors are opposed
 18 to implementation of the resolution authorizing creation of or participa-
 19 tion in the district and the levy of a tax for financial support thereof, the
 20 same shall not be implemented. The governing body of the county may
 21 renew procedures for authorization to create or become a part of the
 22 district and to levy a tax for financial support thereof at any time following
 23 rejection of the question.

24 (2) The ballot for the proposition in any county shall be substantially
 25 the following form:

26 “Shall a retail sales tax of _____ Yes
 27 (insert amount, not to exceed ¼ cent)
 28 be levied and collected in Kansas and Missouri metropolitan cultural dis- No
 29 trict consisting of the county(ies) of _____
 30 (insert name of counties)
 31 for the support of cultural facilities and organizations within the district?”

32 The governing body of the county may place additional language on
 33 the ballot to describe the use or allocation of the funds.

34 (d) (1) *All sales of food for human consumption and all sales of non-*
 35 *prescription drugs shall be exempt from the tax levied and collected pur-*
 36 *suant to this compact.*

37 (2) *When used in this subsection:*

38 (A) *“Food for human consumption” shall not mean any meal pre-*
 39 *pared for immediate consumption on or off the premises of a retailer or*
 40 *food sold through vending machines.*

41 (B) *“Nonprescription drugs” mean drugs which are not already ex-*
 42 *empt pursuant to K.S.A. 79-3606, and amendments thereto.*

43 ~~(d)~~ (e) (1) The metropolitan culture district shall be created when

1 implementation of a resolution authorizing the creation of the district and
2 the levy of a tax for contribution to the financial support thereof is ap-
3 proved by respective majorities of the qualified electors of at least Johnson
4 county, Kansas, and Jackson county, Missouri.

5 (2) When implementation of a resolution authorizing participation in
6 the metropolitan culture district and the levy of a tax for contribution to
7 the financial support thereof is approved by a majority of the qualified
8 electors of any county eligible to become a part of the district, the gov-
9 erning body of the county shall proceed with the performance of all things
10 necessary and incidental to participation in the district.

11 (3) Any question for the levy of a tax submitted after July 1, 2000,
12 may be submitted to the electors of the county at the primary or general
13 election next following the date of the request filed with the county elec-
14 tion officer; at a special election called and held as otherwise provided by
15 law; at an election called and held on the first Tuesday after the first
16 Monday in February, except in presidential election years; at an election
17 called and held on the first Tuesday after the first Monday in March,
18 June, August or November; or at an election called and held on the first
19 Tuesday in April, except that no question for a tax levy may be submitted
20 to the electors prior to January 1, 2002.

21 (4) No question shall be submitted to the electors authorizing the
22 levy of a tax the proceeds of which will be exclusively dedicated to sports
23 or sports facilities.

24 ~~(e)~~ (f) Any of the counties composing the metropolitan culture district
25 may withdraw from the district by adoption of a resolution and approval
26 of the resolution by a majority of the qualified electors of the county, all
27 in the same manner provided in this Article IV for creating or becoming
28 a part of the metropolitan culture district. The governing body of a with-
29 drawing county shall provide for the sending of formal written notice of
30 withdrawal from the district to the governing body of the other county
31 or each of the other counties comprising the district. Actual withdrawal
32 shall not take effect until 90 days after notice has been sent. A withdraw-
33 ing county shall not be relieved from any obligation which such county
34 may have assumed or incurred by reason of being a part of the district,
35 including, but not limited to, the retirement of any outstanding bonded
36 indebtedness of the district.

37 Article V.—The Commission

38 (a) The metropolitan culture district shall be governed by the met-
39 ropolitan culture commission which shall be a body corporate and politic
40 and which shall be composed of resident electors of the states of Kansas
41 and Missouri, respectively, as follows: (1) A member of the governing
42 body of each county which is a part of the district, who shall be appointed
43 by majority vote of such governing body; (2) a member of the governing

1 body of each city, with a population according to the most recent federal
2 census of at least 50,000, located in whole or in part within each county
3 which is a part of the district, who shall be appointed by majority vote of
4 such governing body; (3) two members of the governing body of a county
5 with a consolidated or unified county government and city of the first
6 class which is a part of the district, who shall be appointed by majority
7 vote of such governing body; (4) a member of the arts commission of
8 Kansas or the Kansas commission for the humanities, who shall be ap-
9 pointed by the governor of Kansas; and (5) a member of the arts com-
10 mission of Missouri or the Missouri humanities council, who shall be
11 appointed by the governor of Missouri. To the extent possible, the gu-
12 bernatorial appointees to the commission shall be residents of the district.
13 The term of each commissioner initially appointed by a county governing
14 body shall expire concurrently with such commissioner's tenure as a
15 county officer or three years after the date of appointment as a commis-
16 sioner, whichever occurs sooner. The term of each commissioner suc-
17 ceeding a commissioner initially appointed by a county governing body
18 shall expire concurrently with such successor commissioner's tenure as a
19 county officer or four years after the date of appointment as a commis-
20 sioner, whichever occurs sooner. The term of each commissioner initially
21 appointed by a city governing body shall expire concurrently with such
22 commissioner's tenure as a city officer or two years after the date of
23 appointment as a commissioner, whichever occurs sooner. The term of
24 each commissioner succeeding a commissioner initially appointed by a
25 city governing body shall expire concurrently with such successor com-
26 missioner's tenure as a city officer or four years after the date of appoint-
27 ment as a commissioner, whichever occurs sooner. The term of each
28 commissioner appointed by the governor of Kansas or the governor of
29 Missouri shall expire concurrently with the term of the appointing gov-
30 ernor, the commissioner's tenure as a state officer, or four years after the
31 date of appointment as a commissioner of the district, whichever occurs
32 sooner. Any vacancy occurring in a commissioner position for reasons
33 other than expiration of terms of office shall be filled for the unexpired
34 term by appointment in the same manner that the original appointment
35 was made. Any commissioner may be removed for cause by the appoint-
36 ing authority of the commissioner.

37 (b) The commission shall select annually, from its membership, a
38 chairperson, a vice-chairperson, and a treasurer. The treasurer shall be
39 bonded in such amounts as the commission may require.

40 (c) The commission may appoint such officers, agents and employees
41 as it may require for the performance of its duties, and shall determine
42 the qualifications and duties and fix the compensation of such officers,
43 agents and employees.

1 (d) The commission shall fix the time and place at which its meetings
2 shall be held. Meetings shall be held within the district and shall be open
3 to the public. Public notice shall be given of all meetings.

4 (e) A majority of the commissioners from each state shall constitute,
5 in the aggregate, a quorum for the transaction of business. No action of
6 the commission shall be binding unless taken at a meeting at which at
7 least a quorum is present, and unless a majority of the commissioners
8 from each state, present at such meeting, shall vote in favor thereof. No
9 action of the commission taken at a meeting thereof shall be binding
10 unless the subject of such action is included in a written agenda for such
11 meeting, the agenda and notice of meeting having been mailed to each
12 commissioner by postage paid first-class mail at least 14 calendar days
13 prior to the meeting.

14 (f) The commissioners from each state shall be subject to the provi-
15 sions of the laws of the states of Kansas and Missouri, respectively, which
16 relate to conflicts of interest of public officers and employees. If any
17 commissioner has a direct or indirect financial interest in any cultural
18 facility, organization or activity supported by the district or commission
19 or in any other business transaction of the district or commission, the
20 commissioner shall disclose such interest in writing to the other commis-
21 sioners and shall abstain from voting on any matter relating to such fa-
22 cility, organization or activity or to such business transaction.

23 (g) If any action at law or equity, or other legal proceeding, shall be
24 brought against any commissioner for any act or omission arising out of
25 the performance of duties as a commissioner, the commissioner shall be
26 indemnified in whole and held harmless by the commission for any judg-
27 ment or decree entered against the commissioner and, further, shall be
28 defended at the cost and expense of the commission in any such pro-
29 ceeding.

30 Article VI.—Powers and Duties of the Commission

31 (a) The commission shall adopt a seal and suitable bylaws governing
32 its management and procedure.

33 (b) The commission has the power to contract and to be contracted
34 with, and to sue and to be sued.

35 (c) The commission may receive for any of its purposes and functions
36 any contributions or moneys appropriated by counties or cities and may
37 solicit and receive any and all donations, and grants of money, equipment,
38 supplies, materials and services from any state or the United States or
39 any agency thereof, or from any institution, foundation, organization, per-
40 son, firm or corporation, and may utilize and dispose of the same.

41 (d) Upon receipt of recommendations from the advisory committee
42 provided in subsection (g), the commission may provide donations, con-
43 tributions and grants or other support, financial or otherwise, for or in

1 aid of cultural organizations, facilities or activities in counties which are
2 part of the district. In determining whether to provide any such support
3 the commission shall consider the following factors:

- 4 (1) Economic impact upon the district;
- 5 (2) cultural benefit to citizens of the district and to the general public;
- 6 (3) contribution to the quality of life and popular image of the district;
- 7 (4) contribution to the geographical balance of cultural facilities and
8 activities within and outside the district;
- 9 (5) the breadth of popular appeal within and outside the district;
- 10 (6) the needs of the community as identified in an objective cultural
11 needs assessment study of the metropolitan area; and
- 12 (7) any other factor deemed appropriate by the commission.

13 (e) The commission may own and acquire by gift, purchase, lease or
14 devise cultural facilities within the territory of the district. The commis-
15 sion may plan, construct, operate and maintain and contract for the op-
16 eration and maintenance of cultural facilities within the territory of the
17 district. The commission may sell, lease or otherwise dispose of cultural
18 facilities within the territory of the district.

19 (f) At any time following five years from and after the creation of the
20 metropolitan cultural district as provided in paragraph (1) of subsection
21 (d) of article IV, the commission, may borrow moneys for the planning,
22 construction, equipping, operation, maintenance, repair, extension, ex-
23 pansion, or improvement of any cultural facility and, in that regard, the
24 commission at such time may:

25 (1) Issue notes, bonds or other instruments in writing of the com-
26 mission in evidence of the sum or sums to be borrowed. No notes, bonds
27 or other instruments in writing shall be issued pursuant to this subsection
28 until the issuance of such notes, bonds or instruments has been submitted
29 to and approved by a majority of the qualified electors of the district
30 voting at an election called and held thereon. Such election shall be called
31 and held in the manner provided by the general bond law;

32 (2) issue refunding notes, bonds or other instruments in writing for
33 the purpose of refunding, extending or unifying the whole or any part of
34 its outstanding indebtedness from time to time, whether evidenced by
35 notes, bonds or other instruments in writing. Such refunding notes, bonds
36 or other instruments in writing shall not exceed in amount the principal
37 of the outstanding indebtedness to be refunded and the accrued interest
38 thereon to the date of such refunding;

39 (3) provide that all notes, bonds and other instruments in writing
40 issued hereunder shall or may be payable, both as to principal and inter-
41 est, from sales tax revenues authorized under this compact and disbursed
42 to the district by counties comprising the district, admissions and other
43 revenues collected from the use of any cultural facility or facilities con-

1 structured hereunder, or from any other resources of the commission, and
2 further may be secured by a mortgage or deed of trust upon any property
3 interest of the commission; and

4 (4) prescribe the details of all notes, bonds or other instruments in
5 writing, and of the issuance and sale thereof. The commission shall have
6 the power to enter into covenants with the holders of such notes, bonds
7 or other instruments in writing, not inconsistent with the powers granted
8 herein, without further legislative authority.

9 (g) The commission shall appoint an advisory committee composed
10 of members of the general public consisting of an equal number of per-
11 sons from both the states of Kansas and Missouri who have demonstrated
12 interest, expertise, knowledge or experience in cultural organizations or
13 activities. The advisory committee shall make recommendations annually
14 to the commission regarding donations, contributions and grants or other
15 support, financial or otherwise, for or in aid of cultural organizations,
16 facilities and activities in counties which are part of the district.

17 (h) The commission may provide for actual and necessary expenses
18 of commissioners and advisory committee members incurred in the per-
19 formance of their official duties.

20 (i) The commission shall cause to be prepared annually a report on
21 the operations and transactions conducted by the commission during the
22 preceding year. The report shall be submitted to the legislatures and
23 governors of the compacting states, to the governing bodies of the coun-
24 ties comprising the district, and to the governing body of each city that
25 appoints a commissioner. The commission shall publish the annual report
26 in the official county newspaper of each of the counties comprising the
27 district.

28 (j) The commission has the power to apply to the congress of the
29 United States for its consent and approval of the compact. In the absence
30 of the consent of congress and until consent is secured, the compact is
31 binding upon the states of Kansas and Missouri in all respects permitted
32 by law for the two states, without the consent of congress, for the purposes
33 enumerated and in the manner provided in the compact.

34 (k) The commission has the power to perform all other necessary and
35 incidental functions and duties and to exercise all other necessary and
36 appropriate powers not inconsistent with the constitution or laws of the
37 United States or of either of the states of Kansas or Missouri to effectuate
38 the same.

39 Article VII.—Finance

40 (a) The moneys necessary to finance the operation of the metropol-
41 itan culture district and the execution of the powers, duties and respon-
42 sibilities of the commission shall be appropriated to the commission by
43 the counties comprising the district. The moneys to be appropriated to

1 the commission shall be raised by the governing bodies of the respective
2 counties by the levy of taxes as authorized by the legislatures of the re-
3 spective party states.

4 (b) The commission shall not incur any indebtedness or obligation of
5 any kind; nor shall the commission pledge the credit of either or any of
6 the counties comprising the district or either of the states party to this
7 compact, except as authorized by article VI. The budget of the district
8 shall be prepared, adopted and published as provided by law for other
9 political subdivisions of the party states. No budget shall be adopted by
10 the commission until it has been submitted to and reviewed by the gov-
11 erning bodies of the counties comprising the district and the governing
12 body of each city represented on the commission.

13 (c) The commission shall keep accurate accounts of all receipts and
14 disbursements. The receipts and disbursements of the commission shall
15 be audited yearly by a certified or licensed public accountant and the
16 report of the audit shall be included in and become part of the annual
17 report of the commission.

18 (d) The accounts of the commission shall be open at any reasonable
19 time for inspection by duly authorized representatives of the compacting
20 states, the counties comprising the district, the cities that appoint a com-
21 missioner, and other persons authorized by the commission.

22 Article VIII.—Entry into Force

23 (a) This compact shall enter into force and become effective and
24 binding upon the states of Kansas and Missouri when it has been enacted
25 into law by the legislatures of the respective states.

26 (b) Amendments to the compact shall become effective upon enact-
27 ment by the legislatures of the respective states.

28 Article IX.—Termination

29 This compact shall continue in force and remain binding upon a party
30 state until its legislature shall have enacted a statute repealing the same
31 and providing for the sending of formal written notice of enactment of
32 such statute to the legislature of the other party state. Upon enactment
33 of such a statute by the legislature of either party state, the sending of
34 notice thereof to the other party state, and payment of any obligations
35 which the metropolitan culture district commission may have incurred
36 prior to the effective date of such statute, including, but not limited to,
37 the retirement of any outstanding bonded indebtedness of the district,
38 the agreement of the party states embodied in the compact shall be
39 deemed fully executed, the compact shall be null and void and of no
40 further force or effect, the metropolitan culture district shall be dissolved,
41 and the metropolitan culture district commission shall be abolished.

42 Article X.—Construction and Severability

43 The provisions of this compact shall be liberally construed and shall be

1 severable. If any phrase, clause, sentence or provision of this compact is
2 declared to be contrary to the constitution of either of the party states or
3 of the United States or the applicability thereof to any government,
4 agency, person or circumstance is held invalid, the validity of the remain-
5 der of this compact and the applicability thereof to any government,
6 agency, person or circumstance shall not be affected thereby. If this com-
7 pact shall be held contrary to the constitution of either of the states party
8 thereto, the compact shall thereby be nullified and voided and of no
9 further force or effect.

10 Sec. 3. K.S.A. 12-2536 is hereby repealed.

11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43