

MINUTES OF THE HOUSE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Representative Jim Braden at  
Chairperson

9:00 a.m./~~p.m.~~ on February 24, 1983 in room 519-S of the Capitol.

All members were present except:

Representative Lowther, who was excused

Committee staff present:

Wayne Morris, Research Department  
Tom Severn, Research Department  
Don Hayward, Revisor of Statutes' Office  
Nancy Wolff, Secretary to the Committee

Conferees appearing before the committee:

Bob West, Kansas Chapter of National Electrical Contractors Association  
Tom Puckett, Kansas Chapter of National Electrical Contractors Association  
Glen Coulter, Manager of Kansas Contractors Association  
Charles Carey, Mechanical Contractors Association  
Alan Alderson, Department of Revenue

The Chairman called the meeting to order. The minutes of the meetings held on February 9, 10, 11 and 14 were approved as written.

Bob West, Kansas Chapter of National Electrical Contractors Association, appeared as a proponent of House Bill 2471 and stated that the reason his Association has requested this bill is to allow a retailer the option of a one-time irrevocable election to choose whether one wishes to be taxed at the site of his office or at his job site. (Attachment I)

Tom Puckett, Legal Counsel for N.E.C.A., and also one of the attorneys for Capitol Electric in the Supreme Court case on tax situs, appeared as a proponent of House Bill 2471. He stated that House Bill 2471 would apply to any retailer and would allow a one-time, irrevocable declaration as to where a retailer declares his tax situs for the sales tax on services. Several Committee members expressed a concern as to whether a company would possibly elect to be taxed at his business location at the present time should there be no local option sales tax at that location, and then, at a future date, reorganize the company to receive the option of being taxed at the situs of a job. Mr. Puckett stated that it would really not be to the businesses advantage to reorganize merely to change tax situs.

Glen Coulter, Manager of Kansas Contractors Association, appeared in support of House Bill 2471 and stated that his association would prefer that the sales tax be collected at the city where the services are performed.

Charles Carey, Mechanical Contractors Association, appeared in support of House Bill 2471 because it appears to resolve a problem for the Mechanical Contractors in the equity of bidding, and in the current economy there will be more remodeling work and could become more important in a competitive situation for the Contractors.

Dan Morgan, Associated General Contractors, appeared as a proponent of House Bill 2471 because it does allow for an election to treat sales situs as the point of service and would hope that his members would choose to be taxed at the location of situs.

Alan Alderson, Department of Revenue, appeared to state that the Department did not have a lot to add to what had previously been stated. He did state that a time frame needs to be built into the legislation to limit the amount of time that may elapse before a retailer is forced to make a decision. If a decision is not made within the specified period of time, then his office address would be used as his situs.

The Committee then held discussion on House Bill 2338 which would exempt vehicles from city and county sales taxes allowing a compensating tax to be collected in its place and the tax jurisdiction where the vehicle is used or stored would determine the tax situs, and House Bill 2339 which would allow all state sales taxes on vehicles to be collected at the County Treasurers office rather than at the office of the retailer.

The meeting was adjourned.





ATTACHMENT I

KANSAS (TOPEKA) CHAPTER  
 NATIONAL ELECTRICAL  
 CONTRACTORS ASSOCIATION, INC.

ROBERT A. WEST  
 Manager

TO: Members, House Assesement and Taxation Committee

FROM: Robert A. West, Kansas Chapter, National Electrical Contractors Association, Inc.

RE: House Bill 2471 "Situs of Taxation"

PURPOSE OF  
 THE BILL

To have the option as a retailer, of a one-time irrevocable election to choose whether one wishes to be taxed at the site of ones office or at the jobsite.

HISTORI-  
 CALLY:

Retailers, which includes construction contractors, have historically been taxed in accord with the location of their business office. If they were located in the city or county which levied a local tax, the contractor would add that local tax to his services regardless of the fact that he might be performing his services in an area which does not levy a local tax. Likewise, if a contractor was from a locality that did not levy a local tax, and he did work in Topeka, Topeka would not derive its taxes from his work in Topeka.

CURRENTLY: Because of a recent supreme court decision, retailers, including construction contractors are taxed at the site of their work.

IMPACT OF  
 HB 2471:

To partially continue the decision of the supreme court and allow for an option for the taxation to be based on the site of the retailer's job.

This action would modify the current HB 2154 which totally reverses the recent decision of the Supreme Court.

JUSTIFI-  
 CATION FOR  
 THE BILL:

1. Equality in the market place
  - A. As the law now stands contractors whose offices are located in a city with a local sales tax, those contractors will pay the extra levy no matter where they work.

- B. Those who locate their offices in a city without local sales tax never pay local taxes as the situation now exists.

Thus, anytime the two are pitted against one another in competitive bidding an edge is created for one contractor over the other.

If contractors base their tax situs on the situs of the job, which we feel that the majority of our members will do, we will have equality in the market place.

2. Equality in bidding against out of state contractors

Under current law and procedure out of state contractors are taxed at the situs where the work is performed. Since the Kansas contractor is taxed where the office is located an inequality develops.

3. Supreme Court notes current exception on law.

The Supreme Court, in their decision noted that K.S.A. 1981 Supp. 12-191, provides for retail sales involving gas, water, electricity, heat and telephone services to be considered as having been consummated at the situs of the subscriber and accordingly taxed at the place the service is delivered.

COMPARI-  
SON:

Missouri	job site
Oklahoma	job site
Nebraska	no sales tax on labor
Colorado	no sales tax on labor