

Approved 4-29-84
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Paul "Bud" Burke at
Chairperson

11:00 a.m./p.m. on March 22, 1984 in room 526-S of the Capitol.

All members were present except: Senator Ehrlich (excused)

Committee staff present:
Wayne Morris, Research Dept.
Tom Severn, Research Dept.
Don Hayward, Revisor's Office

Conferees appearing before the committee:

Ren Shultz, Farmers Home Administration
Gary Smith, Farmers Home Administration
Kim Dewey, Sedgwick County Commissioners
Ernie Mosher, League of Municipalities
Representative Polson
Ralph Skoog, Attorney

The committee held a hearing on HB 2742 which exempts all purchases by political subdivisions from the sales tax except when such purchases are to be used by the subdivision for the business of furnishing gas, water, electricity, or heat to others.

The chairman recognized Ren Shultz, Director of the Farmers Home Administration. He introduced Gary Smith, Chief of Community and Business Programs with FmHA, who spoke in support of HB 2742. (See Attachment #1) They are asking that the cost of treatment, storage and distribution facilities for rural water districts and public wholesale water supply districts also be exempted from the sales tax.

Kim Dewey, representing the Sedgwick County Commissioners, told the committee they had requested the introduction of this bill. (Attachment #2)

Ernie Mosher said the League of Municipalities supports this legislation as passed by the House but if the proposed amendment on rural water districts is done, it should also be done for municipal water systems. One serves the city and one the rural, and it doesn't seem reasonable for them to receive different tax treatment.

The committee held a hearing on HB 2973 which provides that cable television services are subject to local sales taxes at the situs of the subscriber where the service is provided.

Ernie Mosher said this legislation treats the providing of cable television services as utility services such as electric, gas and telephone services. It is a clarification and consistency of treatment for this strictly local tax.

Ralph Skoog, speaking on behalf of the Kansas Cable Television Association, said they didn't ask this bill to be introduced but think it is most appropriate and is proper public policy.

Representative Polson, sponsor, said that with this bill he was keeping the local sales tax from being transported and he wanted to treat the providing of cable television services the same way utilities are treated. (Attachment #3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 526-S, Statehouse, at 11:00 a.m./~~p.m.~~ on March 22, 1984.

The chairman called attention to HCR 5009 and said the committee will be considering it next week. He asked if staff would provide information on: the tax base changes that will occur if HCR 5009 is passed; the policy options that we should be looking at; and whether it would be possible to determine what the shifts would be if we do other kinds of options, for instance, farmland and residences at 8% and 10% and everything else at 30%.

Tom Severn said staff could provide members with information on HCR 5009 as it comes out of the House, including the home counties; however, this information does not include school districts and they could make a list of options within classification or alternatives such as homestead exemption. He also said that we can tell on a statewide basis the effect of any given ratio within the limitations of the data we have. It will not be possible on a short time frame to get the information by county.

Senator Angell asked if it would be possible to break down within the classes farmland, dry land, irrigated land, etc., and Tom responded it would not.

Senator Allen commented that school information is one of the most important items and asked if information will be available as to what the shift is going to do, urban and rural.

The chairman suggested checking with Dale Dennis to see if our information can be put into their modules.

Tom Severn reported that he had looked into school finance and while it is possible the data could have been developed, data are not presently accessible; they would have to be read into the computer and read back, etc. A lot of reprogramming would have to be done, and it would take weeks to do--a major undertaking.

The chairman indicated he would meet with Richard Ryan and Dale Dennis to see if it will be possible to get the information requested.

The conclusion was that school finance would have to be addressed because changes in the formula would produce district shifts.

The chairman adjourned the meeting at 11:45 a.m. The committee will meet at 11:00 a.m. March 23.

TO: Assessment & Taxation Committee
March 22, 1984

Mr. Chairman:
Members of the Committee:

I am Gary Smith, Chief of Community and Business Programs with the Farmers Home Administration. I am here to address House Bill No. 2742. We are asking that the cost of treatment, storage and distribution facilities for rural water districts and Public Wholesale Water Supply Districts be exempt from sales tax.

The cost that a sales tax imposes directly increases the total cost of construction for these entities. The individual user will directly bear the burden of this cost increase through their water bill as revenues are the only source of repayment for the debt obligation, assuming the entity must borrow to construct the facility.

In assessing the situation across Kansas, we note that most of the more densely populated areas are currently being served with a rural water district, Public Wholesale Water Supply District, or some other type of central water system. The areas we are attempting to help provide an acceptable quality and quantity of water are those which are more sparsely populated. Because the population in these areas are not conveniently concentrated in a small area, the cost of construction per user is significantly high. Thus, project feasibility is much more difficult to achieve. Adding the additional cost of a sales tax for construction further impacts upon feasibility and makes it increasingly difficult to develop a project which will result in a user cost which a rural resident can reasonably be expected to pay. In many cases, any slight increase in cost significantly impacts the system as user rates are further increased and this can discourage participation on a rural water system by those families which may need it the most.

In further discussing the impact on the cost of a rural water system we wish to cite an example. Our example is the Postrock Rural Water District, also known as Ellsworth County RWD #1. The District is located in central Kansas and will serve users in 7 counties, Ellsworth, Lincoln, Ottawa, Russell, Osborne, Saline, Barton. In Phase I there will be approximately 670 meters. The total project cost of Phase I is \$7,371,000 with construction cost estimated at \$6,189,000.

$\$6,189,000 \times 3\% = \$185,670$. Additional cost due to tax.

This increases the average monthly user cost. The rates as proposed without allowing for the cost of the tax already are very high and this increase further compounds the issue.

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In closing, I want to point out that the cost per user on most rural water systems has increased significantly in the last few years. This is attributed, in part, to inflation and increase in interest rates. In addition, projects currently under consideration appear to be more sparsely populated resulting in more capital cost per user. We in FmHA have experienced an increase in interest rates over this time as well as other regulation changes which restricts our ability to help reduce the debt service cost through grant or low interest rate loans.

We request your consideration of our proposal and thank you for the opportunity to be heard.

Gary L. Smith



SEDGWICK COUNTY, KANSAS

Attachment #2
BOARD OF COUNTY COMMISSIONERS

JACK SPRATT
CHAIRMAN
COMMISSIONER THIRD DISTRICT

DONALD E. GRAGG
CHAIRMAN PRO-TEM
COMMISSIONER FIRST DISTRICT

TOM SCOTT
COMMISSIONER
SECOND DISTRICT

COUNTY COURTHOUSE • SUITE 320 • WICHITA, KANSAS 67203-3759 • TELEPHONE (316) 268-7411

TESTIMONY OF KIM C. DEWEY
SENATE ASSESSMENT AND TAXATION COMMITTEE
HOUSE BILL 2742

MARCH 22, 1984

Sedgwick County recently applied to the Department of Revenue for a project exemption certificate for a paving project at the Livestock Pavilion of the Kansas Coliseum. The request was denied on the grounds that the County was involved in the sale of admissions (a taxable activity) and was therefore not eligible for an exemption per K.S.A. 79-3606, sec. (b). A copy of the letter of denial is attached.

This denial was at best surprising to County officials due to the fact that the County had received numerous project exemptions for work on the Kansas Coliseum in the past. An example is attached, which is a project exemption for the original construction of the Livestock Pavilion, dated November 1, 1977.

It was apparent that the Department of Revenue had taken a new interpretation of language in K.S.A. 79-3606, prompting their denial of the project exemption on the paving project. In testimony a few weeks ago before the House Committee on Assessment & Taxation, the Department acknowledged the conclusion that the County was involved in the sales of admissions was based on the fact that the County collected the sales tax and remitted it to the State. This is indeed the case, but the irony of this situation lies in the fact that the County began this practice due to the concern of the Department of Revenue that much of the sales tax was going uncollected on the sales of admissions. The involvement of the County insured the State would receive the sales tax on the sales of admissions.

Although this situation developed with the Kansas Coliseum, it was felt that other public facilities might also be denied exemptions on this basis. The Board of Sedgwick County Commissioners requested the introduction of House Bill 2742. In its original form, it simply eliminated the language in K.S.A. 79-3606 (b) referring to engagement in taxable activities. This raised considerable concern, because it was felt that municipally-owned utilities would then be exempt from paying sales tax. This carried a revenue loss to the State of \$7,000,000.

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The Department of Revenue suggested the language which was subsequently amended into the bill by the House Committee. The effect of the bill now is to maintain the status quo pertaining to the exemption of public facilities which existed prior to the new policy of interpretation of the Department of Revenue. However, it will be clear that municipally-owned utilities will still be subject to sales tax, thus eliminating the fiscal concern to the State. We respectfully request your favorable consideration of House Bill 2742.



Kansas
DEPARTMENT OF REVENUE

State Office Building
TOPEKA, KANSAS 66625

September 20, 1983

Claud S. Shelor, P.E.
Director of Public Works
1250 So. Seneca
Wichita, KS 67213

Dear Mr. Shelor:

We acknowledge receipt of your request for a Project Exemption Certificate for your "Concrete Paving (Livestock Facility) Kansas Coliseum" project.

K.S.A. 79-3606(b), which provides exemption to political subdivisions from the sales tax, also states "except when such state, political subdivision, or hospital is engaged or proposes to engage in a business specifically taxable under the provisions proposed to be used in such business..."

K.S.A. 79-3606(d), which authorizes Project Exemption Certificates, limits the issuance only when such purchases "would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision."

Since the county is involved in the sale of admissions and property at the Kansas Coliseum which are specifically taxable under the Retailers' Sales Tax Act, purchases for this building by the county or its contractors would be subject to the tax. Therefore, we must respectfully deny your request for a Project Exemption Certificate.

If we may be of further service to you in this or any other matter, please advise.

Very truly yours,

SALES AND EXCISE TAX BUREAU

A handwritten signature in cursive script, appearing to read "Roy W. Haines".

BY: Roy W. Haines, Assistant Chief

FOR THE DIRECTOR OF TAXATION

RWH:mig

CC: Bill Anderson, Purchasing Director
Sedgwick County
Room 343, Courthouse
Wichita, KS 67203

REQUEST FOR PROJECT EXEMPTION CERTIFICATE

Kansas Department of Revenue
Division of Taxation
Sales and Excise Tax Bureau
Topeka, Kansas 66625

Date September 21, 1983


It is requested that a Certificate of Exemption be issued to the Petitioning Authority for the following described project if it is determined by the Department of Revenue that the proposed project qualifies for exemption from sales tax under the provisions of Section 79-3606 of the Kansas Retailer's Sales Tax Act:

- (A) Type of Project: Concrete Paving
- (B) Project Location: Kansas Coliseum (Livestock facility), Sedgwick County
- (C) Yes No Is this project being constructed as part of a business enterprise whose sales are subject to retail sales tax, i.e., Municipal Water, Electric and Gas Companies or Swimming Pools where admissions are charged?
- (D) Yes No Is this project financed by a Mill Levy or Industrial Revenue Bonds?
- (E) Name of Claimant Owner: Sedgwick County
- (F) Estimated Project Cost: \$85,701.00 (G) Contract Date: 9/21/83
- (H) Contract No. N/A (I) Project No. Concrete Paving- Alpha Files
- (J) List Names and Addresses of Prime Contractors Below:

<u>NAME</u>	<u>MAILING ADDRESS</u>
1. Mid-Kansas Construction Co., Inc.	1245 South Santa Fe Wichita, KS 67211
2.	
3.	
4.	

*The Petitioning Authority must be a Political Subdivision of the State of Kansas, Agency or Instrumentality of the United States Government, Elementary or Secondary School, or a Nonprofit Hospital or Educational Institution.

Sedgwick County Department of Public Works
Petitioning Authority*


Signature Claud S. Shelor, P.E.,

Director of Public Works/County Engineer
Title



Kansas
DEPARTMENT OF REVENUE

State Office Building
TOPEKA, KANSAS 66625

November 1, 1977

Sedgwick County
Room 343 Courthouse
Wichita, Kansas 67203

Re: Exemption Certificate #13382
Livestock Pavilion
C-7774 *Dondtinger*

Gentlemen:

Your request for a sales and compensating tax exemption certificate number for the above captioned contract has been approved.

The number assigned to you for the above captioned contract is for the contractor's, subcontractor's, or repairman's use in purchasing tangible personal property tax exempt as set out in K.S.A. 79-3606 (d) and (e). The sales or compensating tax exemption number must be available to the supplier at the time the invoice is rendered or the exemption for sales or compensating tax cannot be claimed.

You will find enclosed a sample exemption certificate (STD 74) which you will furnish to the contractor, subcontractor, or repairman. The contractor, subcontractor, or repairman may reproduce as many copies of this form as they might need for their suppliers.

You will also find enclosed two (2) copies of STD 77 which must be completed by the contractor and returned to the agency or instrumentality of the United States Government, political subdivision of the state, educational institution, or non-profit hospital upon completion of contract or project. The petitioning authority must send one copy of the completion certificate to this division. Copies of STD 77 may be reproduced if more are needed for extra contractors.

Very truly yours,

SALES AND EXCISE TAX BUREAU

George G. Glick
By: George G. Glick, Chief

FOR THE DIRECTOR OF TAXATION

GGG:MW:bs12/2/7454/05
Enclosure

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PETITION FOR PROJECT EXEMPTION CERTIFICATE

Kansas Department of Revenue
Division of Taxation
Sales and Excise Tax Bureau
Topeka, Kansas 66625

Date October 20, 1977

It is requested that a Certificate of Exemption be issued to the Petitioning Authority for the following described project if it is determined by the Department of Revenue that the proposed project qualifies for exemption from sales tax under the provisions of Section 79-3606 of the Kansas Retailer's Sales Tax Act:

- (A) Type of Project: Livestock Pavilion on the Kansas Coliseum Site
- (B) Project Location: (Coliseum) Wichita, Kansas
- (C) Yes No Is this project being constructed as part of a business enterprise whose sales are subject to retail sales tax, i.e., Municipal Water, Electric and Gas Companies or Swimming Pools where admissions are charged?
- (D) Yes No ^{EDA} Is this project financed by a Mill Levy or Industrial Revenue Bonds?
- (E) Name of Claimant Owner: Sedgwick County
- (F) Estimated Project Cost: \$1,291,406.52 (G) Contract Date: Oct. 14, 1977
- (H) Contract No. C-7774 (I) Project No. _____
- (J) List Names and Addresses of Prime Contractors Below:

	<u>NAME</u>	<u>MAILING ADDRESS</u>
1.	Dondlinger & Sons Construction Co.	----1206 E. Lincoln Wichita, Kansas
2.		
3.		
4.		

*The Petitioning Authority must be a Political Subdivision of the State of Kansas, Agency or Instrumentality of the United States Government, Elementary or Secondary School, or a Nonprofit Hospital or Educational Institution.

Sedgwick County
Petitioning Authority*

Bill Anderson - DLA
Signature

Purchasing Officer
Title Bill Anderson

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N - Statehouse

Phone 296-3181

Date February 16, 1984TO: REPRESENTATIVE LLOYD POLSON Office No. 170-WRE: SALES TAX STATUS OF CABLE TELEVISION SERVICES

This memorandum is in response to your request for information on the sales tax status of cable television services.

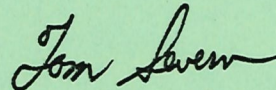
State sales tax at the rate of 3 percent is imposed on cable television services by K.S.A. 1983 Supp. 79-3603(k). K.S.A. 1983 Supp. 12-189 further provides that local sales taxes (except for new farm machinery and residential and agricultural utilities) are to be identical in application to the state sales tax. Thus, cable television services are subject to local sales taxes.

In 1983, the Legislature enacted H.B. 2154 which made the situs of taxable services the place of business of the retailer. Thus, services performed by a retailer located in a city or county imposing a local sales tax are subject to the tax even if they are performed in a county which has no tax. This is the rule that would apply to cable television services.

However, utility services such as the providing of water, gas, or electricity have a situs where performed; thus, utility services performed by a company headquartered in a city with a city sales tax are not subject to the tax if the customer is located outside the city. Certain repair services can acquire a situs other than the place of business of the provider under K.S.A. 1983 Supp. 12-191a, when the sale contract exceeds \$10,000.

H.B. 2973 amends K.S.A. 1983 Supp. 12-191 to treat the providing of cable television services as utility services. Thus, if H.B. 2973 were enacted such sales would have their situs at the residence of the subscriber rather than the main office of the provider.

I hope this information is helpful to you. Please contact me if I may be of further service to you.



Tom Severn
Principal Analyst

TS/pb

Atch. 3
3/22/84