

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by Senator Audrey Langworthy at  
Vice Chairperson

11:00 a.m./p.m. on Monday, April 1, 1991 in room 519-S of the Capitol.

All members were present except:

Senator Dan Thiessen, Chairman (Excused)

Committee staff present:

Don Hayward, Assistant Revisor

Tom Severn, Research Department

Chris Courtwright, Research Department

Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Neil Shortlidge, Roeland Park City Attorney

Ernie Mosher, Executive Director, League of KS Municipalities

Charles Miller, KS Development Company, representing Roeland Park

Mayor Judy Katz, Mayor of Roeland Park, KS

Bob Windall, a member of the Roeland Park City Council

Madam Chairman, Audrey Langworthy called the meeting to order at 11:08 a.m. and made an announcement that Chairman Dan Thiessen is not here today because of serious illness within the family. She said, there will be no hearing today on SB414 as printed on the calendar and she turned attention to SB416, recognizing Neil R. Shortlidge, Roeland Park City Attorney.

Neil Shortlidge said appearing with him today regarding SB414 is Mayor Judy Katz and Councilman Bob Windall. He said SB414 was introduced at the request of Roeland Park, KS and he said it is a very important bill to the city as witnessed by the attendance of two members of the governing body from Roeland Park.

He said the central business district of Roeland Park consists of a shopping center which was constructed in the 1950's, and because of deteriorated conditions, he said the City has been attempting to facilitate re-development of the area.

He said a study has been done which found the area to be blighted within the meaning of several Kansas statutes. He stated, the area has been designated an enterprise zone. Unsuccessful attempts have been made to re-develop the business district. Late last fall the City learned that a contract had been executed for the sale of the property to a Development Company. He said, the proposed re-development project includes approximately 108,000 square feet for the anchor tenant and is expected to generate an increase in the City sales tax due to re-development of approximately \$600,000 per year. He said this is a significant benefit to the City of Roeland Park, which has an adopted 1991 operating budget totalling less than \$1.M.

He said as part of a re-development agreement the City has committed to expend up to \$986,000 for certain public improvements associated with the re-development of the central business district. Conceptually, the City intends to meet its obligations using the proceeds of half of the increased sales tax revenue over the first four years following the opening of the new shopping center. Because the Governing Body had committed that the property taxpayers would not be required to pay any portion of the \$986,00 committed to the project, it was necessary to find a mechanism by which those costs could be passed on to the developer in the event of such a shortfall. He said, the only legal and feasible method of doing so, was the creation of a self-supported municipal improvement district authorized by KS statutes, K.S.A. 1990 Supp. 12-1795 et seq.

He said, the section to be amended by SB416 authorizes the district to issue bonds for the costs of the improvements authorized by the act.

He said, the City is further advised by bond counsel that given the present language of the statute, bonds issued by a municipal improvement district are of quite limited marketability and do not allow the City the opportunity to pledge a portion of its sales tax revenues to pay off the bonds which could substantially increase the marketability of the bonds and result in a lower interest rate.

He said, they are asking the legislature to provide them with the mechanism by which the City can fulfill its economic commitment to the project in a manner which will render the bonds marketable and cost-efficient. (ATTACHMENT 1)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-s, Statehouse, at 11:00 a.m./~~pm~~ on Monday, April 1, 1991

Ernie Mosher, League of Municipalities said he was appearing in support of SB416 with amendments. He said the amendments amend (1) line 21 "cities which receive revenue from" a local option sales tax Ernie Mosher said to permit a city to pledge revenue received from a countywide as well as a city sales tax. (2) line 22 "from a pledge of some or all the receipts" he said, to make certain that the city may pledge less than all of the sales tax receipts. (3) He said, said this is designed to make it consistent with HB2188, and he said, there is a statute now, K.S.A. 12-195 that a city or county may not pledge sales tax except pursuant to this statute, so he said proposed amendment (3) "notwithstanding the provision of K.S.A. 12-195 and amendments thereto" would follow that procedure.

He said, the revisor's may be able to reconcile HB2188 plus SB416 because as written it does amend by implication another statute, and he said the revisor's think its advisable to make it clear that the legislature is aware that this is an exception to another statute. (ATTACHMENT 2)

Charles Miller representing a Roeland Park, KS Development Company said they are fully aware of all the negatives and positives of this arrangement and wholeheartedly consent. (NO WRITTEN TESTIMONY)

Mayor Judy Katz, Mayor of Roeland Park, KS said the problems they have faced trying to invite re-development into their city have been shared by most of the older cities in KS. She said they are a very small city and the problems they have faced trying to get developers in have been exacerbated by some of the problems they have without appropriate financing to get them in. She said, because their city is small they have no desire to put the burden of re-development on their taxpayers, so they have to find a means by which they can go into partnership with the developers and still be able to find the funds to do it. (NO WRITTEN TESTIMONY)

Bob Windall, a member of the Roeland Park City Council said Roeland Park was used as a model at one time for percentage of sales tax, that went to fund a community center and he said, Roeland Park is very small with 32 miles of running streets but would like to offer itself for economic development and create a model city, not only with the Legislature but with the League of Municipalities, so they can create a business arrangement that will generate approximately \$600,000. for the City of Roeland Park.

He said, they felt this would help to keep money in the State of KS rather than going over the line to MO. (NO WRITTEN TESTIMONY)

After committee discussion.

Senator Montgomery moved to adopt the 3 amendments proposed by the Ernie Mosher, League of Municipalities with the help of staff re-working (No.3)(12-195)(Attachment 2), 2nd by Senator Petty. The motion carried.

Senator Montgomery moved the above bill favorably, 2nd by Senator Fred Kerr. The motion carried.

Madam Chairman turned attention to SB8 and recognized Senator Martin.

Senator Martin offered a proposed amendment to SB8 explaining that the amendment would give the Department of Revenue the authority to stop the 100% of sending of notices out to the general public. He said, the statute now read that they have to mail out 100% notices and provide certain information in those notices, even if the property is not changed from the value. He said, this amendment will give the Department of Revenue the ability to send only those notices which there has been a change of value, and if there is not a change of value they will not have to send notices out. Senator Martin said, if we don't adopt this amendment then they will have to send notices to those individuals that have not had changes in their property values from last year.

Don Hayward said this eliminates the process of having to send out a \$7.00 or \$8.00 notice when there has been a change of valuation which only effects the taxes by maybe a \$1.00.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Monday, April 1, 1991

After committee discussion Madam Chairman said we could return to this tomorrow and she turned attention to SB305 concerning coin-operated devices and recognized Ernie Mosher.

Ernie Mosher said KS League of Municipalities could be supportive of the provisions which changes the method of taxing coin-operated vending devices if, several amendments could be made. He said they assume what the bill does with the proposed 135% of net invoice cost is intended to adjust the amount of the tax base to reflect the difference between wholesale price and retail price. He said they object as they think coin operated vending, music, video etc. should be subject to state and local sales taxes. He said, secondly in Section 8 of page 4 the provision which permits cities and counties to levy a local fee of 20% of the total state fee.

He said they would suggest section 8 be stricken, and put vending machines that dispense music and entertainment back on the state and local sales tax, and the \$50. fee be cut to \$2. or \$3. (ATTACHMENT 3)

After committee discussion Madam Chairperson said the committee should re-visit this issue a bit more and she adjourned the meeting at 12:02 p.m.

THE CITY OF  
ROELAND PARK, KANSAS

4600 WEST FIFTY-FIRST STREET  
ROELAND PARK, KANSAS 66205

TELEPHONE  
(913) 722-2600

MEMORANDUM

TO: Assessment and Taxation Committee,  
Kansas Senate

FROM: Neil R. Shortlidge, Roeland Park City Attorney

DATE: April 1, 1991

RE: Senate Bill 416

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Senate Bill 416 was introduced at the request of the City of Roeland Park. In order to fully understand the reasons for the City's requesting the legislation, some background information is in order.

At present, the central business district of Roeland Park consists of a shopping center which was initially constructed in the early 1950's. Over the years, some of the buildings within the shopping center have deteriorated. Some of the buildings are vacant and boarded up. Because of the deteriorating conditions, for several years the City has been attempting to facilitate redevelopment of the area. A study was done which found the area to be blighted within the meaning of several Kansas statutes. The area has been designated an enterprise zone. The City solicited requests for proposals from developers in an attempt to identify a responsible development company which would be interested in redeveloping the business district. Those previous attempts were unsuccessful, in part due to the meddling of the then shopping center owner, who had been resistant to the City's attempts to revitalize and redevelop the area. Late last fall, however, the City was encouraged to find that there might be light at the end of the tunnel, when it learned that a contract had been executed for the sale of the property to a development company.

We won't bore you with the details of the proposed redevelopment project, other than to tell you that it is an exciting plan which includes a PACE Wholesale Club store of approximately 108,000 square feet as the anchor tenant, and is expected to generate an increase in the City sales tax due to redevelopment of approximately \$600,000 per year. This is clearly a significant benefit to the City of Roeland Park, which has an adopted 1991 operating budget totalling less than \$1 million (out of a total budget of less than \$2.5 million). Obviously, the redevelopment project not only has a vital effect on economic development activities within the central business district, but

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AT.1

perhaps more significantly will ultimately provide the opportunity for significant property tax relief for the citizens of Roeland Park.

As part of a redevelopment agreement which the City entered into with the redeveloper, legally known as the Roeland Park Development Company, the City has committed to expend up to \$986,000 for certain public improvements associated with the redevelopment of the central business district. Conceptually, the City intends to meet its obligations using the proceeds of half of the increased sales tax revenue over the first four years following the opening of the new shopping center. Although the City is optimistic that the sales tax revenues will match the projections, the Governing Body was concerned that there might be a shortfall. Because the Governing Body had committed that the property taxpayers would not be required to pay any portion of the \$986,000 committed to the project, it was necessary to find a mechanism by which those costs could be passed on to the developer in the event of such a shortfall. The only legal and feasible method of doing so identified by attorneys for the City and the developer was the creation of a self-supported municipal improvement district authorized by Kansas statutes, K.S.A. 1990 Supp. 12-1795 et seq.

Simply stated, the municipal improvement district legislation authorizes the creation of a special district within the boundaries of the central business district of a city which is authorized to undertake certain improvements within the district. One section of the statute -- the section to be amended by Senate Bill 416 -- authorizes the district to issue bonds for the costs of the improvements authorized by the act. As presently written, the only revenue sources which may be committed to the repayment of the principal and interest on the bonds are ad valorem taxes to be levied on property within the district and the income and receipts from revenue producing improvements. While we are advised by bond counsel that other sources of revenue, such as a city retailers' sales tax, may be used to make payments on the principal and interest of the bonds, such other sources of revenue cannot be legally committed to such purpose. The City is further advised by bond counsel that given the present language of the statute, bonds issued by a municipal improvement district are of quite limited marketability. Allowing the City the opportunity to pledge a portion of its sales tax revenues to pay off the bonds could substantially increase the marketability of the bonds and result in a lower interest rate.

The City's interest in requesting legislation amending K.S.A. 1990 Supp. 12-17,103 is intended to promote fulfillment of its

commitment to use portions of the increase in sales tax revenues resulting from the redevelopment to fund its share of the improvements, and to do so in a manner which will make the bonds more marketable, resulting in a lower interest rate, which will in turn reduce the cost to the taxpayers of the City. Initially, we thought the least threatening way of doing this would be to have special legislation introduced which would relate only to Roeland Park. However, legislation of that nature would make the entire statutory scheme non-uniform and subject to charter ordinance, a result which might not be desirable in the eyes of some legislators. Consequently, we opted to request legislation which would be uniformly applicable to all cities.

You should know, however, that as a practical matter, this bill will have a very limited effect statewide and, in fact, may only affect Roeland Park. To date, no other city has created a municipal improvement district, notwithstanding the fact that the legislation has been on the books for ten years. From my conversations with municipal officials who have explored the municipal improvement district as an option for their city, I have discovered that the reasons the statute has not been utilized previously are two-fold: 1) the statute is procedurally cumbersome, involving a drawn out process of jumping through a number of hoops in order to create the district; and 2) as a practical matter, a municipal improvement district cannot be created without the willing support of the property owners within the proposed district. Due to these circumstances, it is clear that a municipal improvement district will result only where there is a public/private partnership between a city and a property owner which has assembled a significant amount of property within the central business district (or a group of property owners owning a sufficient amount of land within the central business district), which have come to terms concerning their mutual obligations in an effort to redevelop the central business district, including the willingness of the property owner or owners to be subject to taxation to that end.

We believe those circumstances are present in Roeland Park. This very evening, we will be holding a public hearing concerning the creation of the self-supported municipal improvement district. The Roeland Park Development Company, which ultimately will be the only owner of property within the district, has committed its support to the creation of the district. We are asking the legislature to provide us with the mechanism by which the City can fulfill its economic commitment to the project in a manner which will render the bonds marketable and cost-efficient.

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ATT. 2

SENATE BILL No. 416

By Committee on Ways and Means

3-25

8 AN ACT concerning self-supported municipal improvement districts;  
9 relating to municipal improvement district bonds; amending  
10 K.S.A. 1990 Supp. 12-17,103 and repealing the existing section.  
11

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

13 Section 1. K.S.A. 1990 Supp. 12-17,103 is hereby amended to  
14 read as follows: 12-17,103. (a) The governing body of the city, acting  
15 on and in behalf of the district, may issue municipal improvement  
16 district bonds for the cost of improvements authorized by this act.  
17 The principal of and interest on the bonds shall be payable: (1) From  
18 a levy of ad valorem taxes on all of the taxable tangible property  
19 within the district; (2) *in cases of revenue producing improvements,*  
20 *from a pledge of the income and receipts derived therefrom;* (3) *in*  
21 *cities which have adopted a local option sales tax pursuant to K.S.A.*  
22 *12-187 et seq., and amendments thereto, from a pledge of receipts*  
23 *derived from the tax; or (4) from any combination of these methods.*  
24 *In cases of revenue producing improvements, the income and*  
25 *receipts derived also may be pledged to pay the principal and*  
26 *interest on the bonds.* The bonds shall be issued in accordance  
27 with the general bond law but shall not be general obligations of  
28 the city. The bonds shall bear interest at a rate not to exceed the  
29 maximum rate of interest prescribed by K.S.A. 10-1009, and amend-  
30 ments thereto. In the event the district is dissolved as an operating  
31 agency, the property in the district shall remain liable for any taxes  
32 levied to pay any principal and interest on any bonds authorized,  
33 issued and still outstanding. No bonds shall be issued until a public  
34 hearing is held thereon in the manner provided by K.S.A. 1990  
35 Supp. 12-17,101a of this act, and amendments thereto.

36 (b) *In the event the governing body of a city proposes to issue*  
37 *such bonds, the principal and interest for which are payable in*  
38 *whole or in part from a pledge of local option sales tax revenues,*  
39 *and the question of pledging the revenues received from the sales*  
40 *tax has not previously been submitted to and approved by the voters*  
41 *of the city, such proposition shall be published once each week for*  
42 *two consecutive weeks in the official city newspaper. If, within 30*  
43 *days after the last publication of the proposition, a petition is filed*

- (1) To permit a city to pledge revenue received from a countywide as well as a city sales tax.
- (2) To make certain that the city may pledge less than all of sales tax receipts.
- (3) To prevent a possible conflict with K.S.A. 1990 Supp. 12-195 relating to use of sales tax moneys as a guarantee for the payment of bonds.

receive revenue from (1)  
some or all the (2)  
notwithstanding the provisions of K.S.A. 12-195 and  
amendments thereto; (3)



**League  
of Kansas  
Municipalities**

**MUNICIPAL  
LEGISLATIVE  
TESTIMONY**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

**TO:** Senate Committee on Assessment and Taxation  
**FROM:** E.A. Mosher, Executive Director, League of Kansas Municipalities  
**RE:** SB 305--Tax on Coin-Operated Devices  
**DATE:** March 27, 1991

On behalf of the League and its member cities, I appear in general opposition to SB 305. A section of our convention-adopted Statement of Municipal Policy provides: "We generally oppose any further exemptions to the base of state and local sales taxes, including sales from coin-operated machines."

We want to be fair about this matter, and acknowledge there may be sufficient evasion of existing state and local sales taxes on coin machine operations to merit a new approach. However, we are worried that local governments may be the losers under the proposed new system, even though state government may be a winner.

We assume that the proposed 135% of net invoice cost (line 26, page 3) is intended to adjust the amount of the tax base to reflect the difference between wholesale price and retail price. In other words, a tax of 4.25% on 135% of net invoice cost may be equivalent to a tax of 4.25% on retail price. If this is true, the revenue from state and local sales taxes on coin-operated vending of products should be as much or more as presently collected.

However, we call to your attention that the state and local sales tax base now includes the sale of amusements or other services through coin-operated devices, as shown by the stricken language in lines 23:25, page 5. Further, see lines 4:6 on page 18.

Thus, there would be no state or local sales taxes on juke boxes, pinball machines and video games--or any other coin machine supplying services.

Perhaps the \$50 state fee in Section 2 is sufficient to off-set the future loss of state sales tax revenue. Even if this is true, we question the policy of further narrowing the sales tax base. Furthermore, local governments would not receive a share of the \$50 fee.

We are not impressed with the provisions of Section 8, on page 4. While the second sentence in that section may be intended by the sponsors as the granting of power to local units, we consider it to be a limitation. Cities and counties do not need statutory authority to levy taxes or license fees on coin-operated devices, because of their home rule powers. To authorize cities and counties to levy a fee or tax of not to exceed \$10 (20% of \$50) on music and amusement devices, and 60¢ (20% of \$3) on vending devices, is not doing local governments a great favor, considering their existing powers. We suggest Section 8 simply be deleted.

**President: Frances J. Garcia**, Commissioner, Hutchinson \* **Vice President: Robert G. Knight**, Mayor, Wichita \* **Past President: Irene B. French**, Mayor, Merriam \* **Directors: Michael A. Conduff**, City Manager, Manhattan \* **Ed Ellert**, Mayor, Overland Park \* **Harry L. Felker**, Mayor, Topeka \* **Greg Ferris**, Councilmember, Wichita \* **Idella Frickey**, Mayor, Oberlin \* **William J. Goering**, City Clerk/Administrator, McPherson \* **Judith C. Hollinsworth**, Mayor, Humboldt \* **Jesse Jackson**, Commissioner, Chanute \* **Stan Martin**, City Attorney, Abilene \* **Mark Mingenback**, Councilmember, Great Bend \* **Joseph E. Steineger, Jr.**, Mayor, Kansas City \* **Bonnie Talley**, Commissioner, Garden City \* **Executive Director: E. A. Mosher**

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ATT: 3



In conclusion, we again acknowledge that we really don't know much about the coin-operated machine business. But if the bill is to pass, we would propose that (1) the bill be amended to continue the inclusion of the gross receipts of vending machines dispensing services within the state and local sales tax base, and (2) that Section 8 be removed from the bill. If the first amendment is adopted, a reduction of the \$50 fee on music and amusement devices seems fair. At the same time, if the annual privilege fee is set at a nominal amount, one can question whether the proration schedule on page 2 is necessary.