

Approved: 4-7-00  
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:08 a.m. on March 27, 2000, in Room 519-S of the Capitol.

All members were present except: Senators Lee and Steineger—Excused

Committee staff present: Chris Courtwright, Legislative Research Department  
Don Hayward, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Ron Hein, Kansas Restaurant and Hospitality Association  
Don Siefert, City of Olathe  
Don Moler, League of Kansas Municipalities  
Shirley Sicilian, Kansas Department of Revenue

Others attending: See attached list.

The minutes of the March 22 and 23, 2000, meetings were approved.

**HB 2678—Sales taxation; exempting certain sales therefrom**

Senator Langworthy informed the Committee that a hearing on **HB 2678** was scheduled as a courtesy to the interim committee which recommended the underlying bill, which regarded a sales tax exemption for the rental of hotel rooms by federal and state employees in the performance of official duties. As amended in the House Committee on Taxation, the bill would also provide sales tax exemptions for the Kansas Academy of Science and for animal-cruelty prevention organizations. She stated that, although she had no plan to work the bill at this time, she felt that the Committee should be educated on the issue.

Ron Hein, representing the Kansas Restaurant and Hospitality Association, testified in support of the provision in **HB 2678** which deals with the sales tax exemption for state and federal government employees. The Association has no position on the amendments made by the House committee. Mr. Hein explained that originally, the bill was requested to eliminate confusion in the hotel industry in determining who is exempt under current law. He further explained that current law provides that a direct payment from the government agency to the hotel must be made in order to qualify for the exemption. If employees use their own credit card and then get reimbursed by the governmental entity, the transaction is not exempt. With the passage of the bill, the law would be easier to understand and enforce. In addition, a competitive disadvantage regarding securing conventions of government employees in Kansas would be eliminated. He noted that **HB 2678** still leaves some confusion regarding how hotel personnel are to deal with city, county, and school district employees, and it will put Kansas at a competitive disadvantage in this regard, especially along the Missouri border. However, Mr. Hein supports its passage as a step in the right direction to solving the problems faced by hotel employees. He noted that this portion of the bill has a fiscal note of \$280,000. (Attachment 1)

Senator Langworthy clarified that any bill which has a fiscal note is a problem in light of several other bills in Committee with just as large or larger fiscal notes. There being no others wishing to testify, the hearing on **HB 2678** was closed.

**HB 3007—Reporting requirements of the Department of Revenue concerning local excise taxes**

Don Seifert, representing the City of Olathe, testified in support of **HB 3007**, noting that the bill was unanimously approved by the House. He explained that **HB 3007** was requested by the City of Olathe to help improve monitoring of local sales tax revenues. The bill amends current law dealing with sales and guest tax reports provided by the Kansas Department of Revenue to make the reports a more productive financial analysis tool at the local level. He noted that, currently, the value of local sales tax reports is limited because they lack sufficient information for the city to adequately verify sales tax revenues. In addition,

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

Room 519-S, Statehouse, at 11:08 a.m. on March 27, 2000.

confidentiality requirements make it difficult for the Department of Revenue to communicate effectively with local units of government to resolve potential sales tax discrepancies. To address these limitations, the Department of Revenue cooperated with the City of Olathe in drafting **HB 3007**. Mr. Siefert believes the bill will help the Department provide better service to its local government customers. (Attachment 2) Mr. Siefert also noted that **HB 3007** has no fiscal impact.

Don Moler, League of Kansas Municipalities, echoed Mr. Siefert's testimony in support of **HB 3007** as a mutual benefit for the Department of Revenue and local governments. In addition, he noted that, over the past few years, cities and counties have periodically noticed inexplicable spikes in their sales tax receipts. Therefore, he requested that **HB 3007** be amended to direct the Legislative Division of Post Audit to examine how local sales taxes are computed and distributed to cities and counties. Mr. Moler believes the audit could help improve the accuracy of distributions and increase the confidence that municipalities have in the Department of Revenue. (Attachment 3)

Shirley Sicilian, Kansas Department of Revenue, informed the Committee that, in working with the City of Olathe, the Department determined what additional information can be provided in reports under the new sales tax system. The Department recommends the statutory change in **HB 3007** to allow the Department to provide that information. She explained that, currently, the Department can only provide the amount of sales tax remitted by an entity. The bill expands confidentiality provisions to allow the Department to discuss the report in more detail. With regard to Mr. Moler's suggestion that the Department be examined by the Legislative Division of Post Audit, she informed the Committee that an audit was conducted two years ago. With this, the hearing on **HB 3007** was closed.

The meeting was adjourned at 11:35 a.m.

The date of the next meeting is to be announced.



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## **Testimony re: HB 2678**

**Senate Assessment and Taxation Committee**

**Presented by Ronald R. Hein**

**on behalf of**

**Kansas Restaurant and Hospitality Association**

**March 27, 2000**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the trade association for restaurant, hotel, lodging and hospitality businesses in Kansas.

HB 2678 provides that the renting of hotel rooms by federal or state agencies, officers, or employees operating in association with the performance of their official government duties are not subject to sales tax. HB 2678 was introduced by the House Taxation Committee. Previously, SB 82 was introduced during the 1999 Session. The interim Assessment and Taxation Committee reviewed that bill, and introduced HB 2587, which provides an exemption for federal, state, city, county, and school district employees or agencies renting hotel rooms.

There are basically two problems that will be solved by the passage of HB 2587, and that will be partially solved by the passage of HB 2678. One of these problems is that hotels along Kansas borders, especially the border with Missouri, have been at a competitive disadvantage regarding securing conventions of government employees.

Under Kansas law, when payment is made "directly by the government agency", the hotel stay by the employee is exempt from sales tax. However, if the government employee uses their own credit card or other payment methodology, and then gets reimbursed by the governmental entity, the transaction is not exempt. The key is that there must be direct payment from the government to the hotel to qualify for the exemption.

It is my understanding that Kansas has already lost one major convention in the KC metro area to a competitor in Missouri because of this law. I am sure there have been others.

The second problem relates to the difficulty of explaining the current law and its complexities to desk clerks and other personnel who are on the front line of hotel operations. It is even more difficult for the desk clerk to explain the procedures to the governmental employees. Many government employees attempt to argue with the desk clerks or hotel management because they are there on official government business, and they believe that they should not be subject to the

*Senate Assessment & Taxation  
3-27-00  
Attachment 1*

sales tax because they are going to be reimbursed by the government. This can happen with federal, state, county, city or school district employees.

The law is so complex to understand that hotels have, while attempting to follow the law, misinterpreted the law, only to have audits reveal that they should have collected a sales tax which they did not collect. As a result of those audits, the hotel has been required to pay the tax that they should have collected from the government employee in the first place.

The law should be as simple and clear as possible so that the hotels can enforce it properly. What can also happen given the confusion under current law is that some hotels will collect the tax, others will not, and the ones that do not are at a competitive advantage. This is being done not because the hotels are attempting to cheat the state out of money, but because of the difficulty of knowing exactly when the government employee is exempt and when they are not exempt, and documenting the proper information so as not to be found liable for non-collection of the tax upon audit.

HB 2587, introduced by the interim tax committee, would have solved the problem for all layers of government employees, by eliminating the need to have direct payment. Therefore, when a government employee came to the hotel, whether they paid by a personal credit card, a personal check, a government check, or a government credit card (such as utilized by the federal government) which authorizes direct payment from the government to the hotel, the transaction would be exempt. The hotel would have to document who the government employee is, and have the government employee execute an exemption certificate or other documentation to establish that they are indeed a government employee and that they are on official government business. However, HB 2587 has a \$1.2 million fiscal note. As the members of this committee are well aware, such a bill is not going to pass this year.

HB 2678, which provides for an exemption for federal and state employees, has a fiscal note of approximately \$280,000. Although HB 2587 would have solved both of the problems listed above for all government employees, HB 2678 will at least solve both of the problems listed above for federal and state employees. The law will be clearer to understand, clearer to enforce, and will eliminate the competitive disadvantage that Kansas currently faces, at least regarding conventions or other business of federal or state employees.

However, HB 2678 will still leave some confusion regarding how hotel personnel are to deal with city, county, and school district employees, and will still put Kansas at a competitive disadvantage with regards to those employees, especially along the Missouri border.

One of the keys, of course, will be for the Department of Revenue to promulgate regulations and/or forms that are clear to understand and easy to explain to appropriate desk personnel and government employees seeking to rent a hotel room. The KRHA offers its expertise and services in working with the Department of Revenue to make sure that, when the bill is passed, the rules, policies, forms, and guidelines issued by the Department are clear and simple. Dennis Carpenter, CEO of the KRHA, and I have met with Shirley Sicilian and Tom Hattan of the Department of Revenue to discuss these issues as well. We feel confident that the agency will work with us on

this legislation. We are hopeful that the committee, likewise, will feel that one of the goals and intent of this legislation will be to clarify and simplify what has been, to date, a complex law to implement and enforce, especially given the fact that the hotels have to enforce it. We hope to make the process as simple as is currently used by entities utilizing exemption certificates in order to make purchases, at least for the federal and state employees this year, and hopefully for the other government employees next year.

The KRHA strongly supports the passage of HB 2678, even though it is not a full and complete solution to the problem, because it is a step in the right direction to solving the problems. We still would like to see the legislature add exemptions for the other government agencies and employees as soon as state revenues permit.

HB 2678 was amended in committee to add other sales tax exemptions, and we have no position on those amendments.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

MEMORANDUM

**TO:** Members of the Senate Assessment and Taxation Committee

**FROM:** Donald R. Seifert, Management Services Director *MS*

**SUBJECT:** **HB 3007**; KDOR Local Sales Tax Reports

**DATE:** March 27, 2000

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of HB 3007. This bill, unanimously approved by the House, was requested by the city of Olathe to help improve monitoring of local sales tax revenues. The bill amends current law dealing with sales and guest tax reports provided by the Kansas Department of Revenue (KDOR) to units of local government. Such reports were first authorized by the 1991 legislature with strict confidentiality provisions. The bill is the result of discussion between the city and the department on making these reports a more accurate and productive financial analysis tool at the local level.

Local sales taxes have become an increasingly important revenue source to finance local government operations, and Olathe is no exception. In this budget year, general sales tax revenues are estimated at \$24.7 million, or 57% of estimated general fund revenues. The local sales tax is by far the largest of the city's general fund revenue sources. Next week, an additional 1/8% local sales tax dedicated to park and recreation improvements approved by Olathe voters will begin for a five year period.

Local sales taxes are collected by KDOR along with the state sales tax, and remitted monthly to local jurisdictions. On a regular basis, many cities request and receive local sales tax reports from the department. City staff use these reports to monitor local trends in the retail sector, forecast budgets, monitor tax increment financing (TIF) district and tax abatement project performance, and review sales tax disbursements from the state. For Olathe, the reports will also be critical to insure that the new park sales tax revenue supports implementation of the park improvement plan approved by the voters.

Currently, the value of local sales tax reports is limited because they lack sufficient information for the city to adequately verify sales tax revenues. For example, retailers with multiple business locations file consolidated sales tax returns. Interpreting consolidated reports can be especially confusing in urban areas, and has led to occasions where sales tax payments were mistakenly credited to the wrong city. The reports themselves can be confusing because the state database may contain unfamiliar legal

*Senate Assessment & Taxation  
3-27-00  
Attachment 2*

corporate names and non-local mailing addresses not easily matched with known retailers and their local addresses. In addition, confidentiality requirements make it difficult for KDOR to always communicate effectively or quickly with local units of government to resolve potential sales tax discrepancies. It is therefore difficult to evaluate the results of local monitoring efforts. We believe KDOR would like to be more helpful in answering local sales tax questions, but is prevented under current law from doing so. Simply stated, there is a sense among some local governments that they do not always receive the correct share of this vital revenue source.

To address these limitations, the city greatly appreciates the cooperation of KDOR staff in drafting **HB 3007**. The bill will allow the department to identify on the report each business location maintained by a particular retailer. The bill also authorizes inclusion of the sales tax liability, in addition to the remitted amount under current law. This will help resolve questions about tax amounts that may simply be explained by the filing date and processing time of the return. Section 4 of the bill also amends current confidentiality requirements to allow the department to discuss potential sales tax report discrepancies with authorized local government staff more effectively. We believe the bill will help the department provide better service to its local government customers.

I would like to thank the committee for scheduling this hearing and for your favorable support of **HB 3007**.





League of Kansas Municipalities

To: Senate Committee on Taxation  
From: Don Moler, Executive Director  
Date: March 27, 2000  
Re: League Support of HB 3007

Thank you for the opportunity to appear today on behalf of the League's 530 member cities in support of HB 3007.

The League supports the City of Olathe's efforts to enhance the information cities receive about their sales and transient guest taxes. Currently the Kansas Department of Revenue (KDOR) collects these taxes in over 240 different taxing subdivisions – approximately 75 counties and 168 cities. Cities in Kansas today receive local sales tax revenues roughly equivalent to their property tax collections. Clearly, this is a critical source of funding for local budgets -- just as it is for the state budget. No matter how much revenue they produce, though, it is always important to have information that is both useful and accurate. The bill before you now would help to ensure just that.

HB 3007 would be mutually beneficial to both KDOR and local governments. The local entities would serve as a kind of double check upon information KDOR obtains about local retailers. Errors (such as a retailer being taxed in the wrong jurisdiction) could be more easily identified by local officials (as compared to state officials in Topeka) and efficiently corrected by KDOR. Inclusion of retailers' addresses in tax collection reports would remove confusion that can result as to the actual source of tax revenues. (Sometimes, the names of umbrella corporations are unrelated to the sign on the storefront.) In addition, strategic planning of cities and counties would be vastly improved -- local economic models would be more precise, budget forecasts would be more accurate, etc.

The League would also request that an amendment be made to HB 3007. Over the past few years, cities and counties have periodically noticed inexplicable spikes in their sales tax receipts. A week ago, leaders of both the League and the Kansas Association of Counties met with Secretary of Revenue Karla Pierce to discuss this issue, but unfortunately did not find satisfactory answers. Because sales tax revenues are such an important part of local government revenues, the League would respectfully request an amendment be added to HB 3007 directing the Legislative Division of Post Audit to examine how local sales taxes are computed and distributed to cities and counties. Such an audit could help improve the accuracy of such distributions and increase the confidence that municipalities have in the Department of Revenue.

Because it appears to be a win-win situation for local governments as well as the state, the League urges favorable support of HB 3007 with the addition of the amendment suggested above. Thanks for your consideration and I'd be happy to answer any questions.

*Senate Assessment & Taxation*