

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:45 A.M. on March 10, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

**HB 2023 - Classes of cities for sales tax purposes; uniformity**

The Chairman reviewed previous actions on the bill which consisted of Representative Owens' motion to remove the excise tax from the sales tax uniformity. Currently **Substitute HB 2023** is simply \$.02 tax for the general fund and \$.01 for the special fund, restoring uniformity with sales tax, and creates one class of cities for all cities in the state. All excise issue have been removed from the bill. The Chairman opened the floor for continued discussion.

Representative Siegfroid said, that in his opinion, anything they do in the Legislature should be done based on facts, decided after intellectual arguments. After considerable thought, he said that he has decided to air his position on this matter. He commended the Committee for their hard work on the issue at hand and believed that they had dealt with each other with integrity.

**HB 2023** was based on an agreement that was formulated in a meeting in November 2005, in Lenexa, KS. Some members, who were in agreement, withdrew from that agreement last week, to the surprise of everyone concerned. Representative Siegfroid compared what recently transpired to little more than using a "bait and switch" tactic. He said components of the bill that pleased everyone, were seriously damaged by the interests of other parties. To that end, he said he cannot vote for **HB 2023**, as it is a bill that is based on a lie. He cannot support a bill that does not provide equal benefit for all parties that were part of the agreement.

This bill was trying to solve a public policy problem in Kansas, and remove the courts from controlling tax policy in Kansas, and now fails to do so, and in his opinion, directs them back to another lawsuit.

The Chairman asked for comments from the other members of the sub-committee, Representative Owens and Thull.

Representative Owen said that by the time this matter came to the sub-committee, it was their impression that there was an agreement among all parties. They took action, based on that fact, as reflected in the sub-committee report. Subsequently they discovered that there wasn't an agreement, which clearly showed that someone was not telling the truth. Therefore, there was a disagreement over what the parties believed was in the agreement in November 2005, and the agreement understood by the sub-committee members.

Having said that, Representative Owens still believes that **HB 2023** is an appropriate bill. It deals with the basic issue of sales tax uniformity. The remainder of the issue on the excise taxes is a different subject and can be dealt with separately. He said in his opinion, it is important for the state of Kansas to pass out the bill to make sure they have taken care of the sales tax uniformity question. He said there needs to be more debate and discussion regarding the impact of the excise tax. The real issue is the fact that the developing community does not want to pay more than what they think they should to help cities develop infrastructure. These issues should be split out to allow all parties the opportunity to be heard, however this should not stop the Committees action

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on the sales tax uniformity issue, currently in **HB 2023**, as amended.

Representative Thull said he was very disappointed that the agreement fell apart and he concurred with the statements made by Representatives Siegfried and Owens. There are two issues to address, and he said that he didn't want to delay action on the sales tax uniformity issue, therefore he would support HB 2023, as amended. He trusts the committee process, that allows for open dialogue between all parties involved to achieve a resolution to the excise tax issue.

Chairman Wilk talked about the importance of the integrity of sub-committee work that formulates resolutions for consideration by the Committee. He commended Representative Siegfried for his leadership, and Representatives Owens and Thull for the work they did on **HB 2023**. He thanked Secretary Wagon and her staff for their investment of time and effort, as well as the participants who were invited to join in that sub-committee work.

On behalf of the Institution, Chairman Wilk expressed concern over the process that had occurred. He said, "Whenever any Committee Chairman appoints a sub-committee and invites interested parties to participate, it should be taken seriously. If an agreement cannot be reached, make that clear, but do not participate in the sub-committee discussion, strike an agreement, have the agreement brought forth by the members and have the agreement unravel. When an agreement is struck, an agreement should be held." He said that he, nor any of the Committee members, appreciated the actions of certain parties who undermined the work that had been done over the past few months.

He said that this is not a partisan issue, but an important, very complex issue and that this Committee will work through this legislation. If there are questions the Committee needs to have explained, he will allow those questions. He opened the floor for discussion on **HB 2023**.

There was extensive conversation regarding the merits of passing out **HB 2023**.

Representative Thull made a motion to pass out **HB 2023**, as amended, favorable for passage. Representative Huff seconded the motion.

Representative Brown made a substitute motion to table **HB 2023**. Representative Siegfried seconded the motion. The motion failed.

Representative Thull closed his motion to move out **HB 2023**, as amended. The motion passed 13-8. The following members requested that their **NO** vote be recorded: Representatives Brown, Brunk, Carlson, George, Gordon, Kelley, Kinzer, Peck and Siegfried.

**HB 2476 - Imposition of a transient guest tax on Department of Wildlife and Parks in certain circumstances.**

The Chairman called the Committee's attention to **HB 2476** and reviewed the contents of the original bill, which will be used for a substitute bill. A document (rs1548) was distributed, which is the excise tax provision (Attachment 1).

Representative Siegfried made a motion that they take language from **rs1548** and create a substitute bill for **HB 2476** by placing that language therein. Representative Goico seconded the motion. He explained that this adds back the language, removed from **HB 2023** by Representative Owens' motion. It allows any city to levy an excise tax on tickets, or other developmental fees. It guarantees uniformity by expanding K.S.A. 2005 Supp. 12-194 for these purposes statewide. There is no cap on the excise tax or ticket tax in the bill. The motion carried.

Representative Siegfried made a motion to strike the language on page two, the third paragraph. Representative Treaster seconded the motion. The motion carried.

Representative Siegfried said that the rest of the bill was dedicated to placing in law, given this right, cities would have to vote on additional or increased rates of taxes.

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There was extensive conversation regarding questions on the definitions of "excise tax" and "development excise tax".

Representative Kinzer made a motion to insert language in K.S.A. 12-194 that would prohibit an excise tax on the privilege of engaging in the business of platting real property. Representative Kelley seconded the motion.

Representative Kinzer closed his motion. The motion failed 8-14.

In response to a Committee request for a statutory explanation of "development excise tax," Secretary Wagnon agreed to provide that information.

Announcements of sub-committee meetings were made.

The meeting adjourned at 12:30. The next meeting is March 13, 2006.



## HOUSE BILL NO. \_\_\_\_\_

By

AN ACT concerning taxation; relating to excise taxes; limitations; election approval required prior to imposition; amending K.S.A. 2005 Supp. 12-194 and repealing the existing section.

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

Section 1. K.S.A. 2005 Supp. 12-194 is hereby amended to read as follows: 12-194. (a) Subject to the provisions of subsection (b), no city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, upon the sale or transfer of personal or real property, or the use thereof, or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from ~~(a):~~ (1) Contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility; ~~(b)~~ (2) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; ~~or-(c)~~ (3) levying any occupation tax or license fee imposed by such city prior to the effective date of this act; (4) retaining any development excise tax as levied or imposed by such city in existence on January 1, 2006; or (5) levying an excise tax on tickets for admissions to concerts, theatrical performances, sports contests or other similar performances which take place on property owned by a city.

(b) No license fee described in subsection ~~(b)-of-this section (a)(2)~~ shall be imposed upon any utility contracting with and subject to a charge, described in subsection ~~(a)--of--this section (a)(1),~~ by such city.

(c) (1) On or after July 1, 2006, no city shall impose a development excise tax or excise tax on tickets as described in

subsection (a)(5) without the governing body of such city having first submitted a proposition to impose such development excise tax or excise tax on tickets or increase the rate of such development excise tax or excise tax on tickets to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. Any development excise tax or excise tax on tickets which was imposed by a city prior to January 1, 2006, shall not be subject to the provisions of this subsection, except that the provisions of this subsection shall be applicable to any city which imposed a development excise tax or excise tax on tickets prior to January 1, 2006, and which proposes to increase the rate of any such development excise tax or excise tax on tickets.

(2) Any city proposing to adopt such a development excise tax or excise tax on tickets or increase the rate of a development excise tax or excise tax on tickets shall give notice of its intention to submit such proposition for approval by the electors by publishing notice of such election in a newspaper of general circulation in the city, once each week for two consecutive weeks. The first publication shall be not less than 21 days prior to the election. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the governing body of any such city shall provide by ordinance for the levy of the tax.

(3) The sufficiency of the number of signers of any petition filed under this section shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer.

(4) The governing body of the city proposing to levy such a development excise tax or excise tax on tickets shall specify the

purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

Sec. 2. K.S.A. 2005 Supp. 12-194 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.