

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 16, 2007 in Room 519-S of the Capitol.

All members were present except:

Representative David Crum- E  
Representative Paul Davis- E  
Representative Nile Dillmore- E  
Representative Virgil Peck- E  
Representative Gene Rardin- E  
Representative Arlen Siegfried- E  
Representative Mark Treaster- E  
Representative Ron Worley- E

Committee staff present:

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

Conferees appearing before the committee:

Randall Allen - KS Assoc. Of Counties  
Chairman Annabeth Surbaugh - Board of Johnson County Commissioners  
Commissioner Tim Norton - Sedgwick County, Pres. Of KS County Commissioners Assoc.  
Larry Baer, KS League of Municipalities

#### **HB 2532 - Countywide Sales Tax Authority**

Martha Dorsey, Legislative Research Dept, briefed the Committee on **HB 2532** (Attachment 1). She reviewed the background on the county tax rates and explained a table that provided summary information regarding sales tax rates for all purposes - including general as well as special or dedicated purposes, such as health care - among the 85 Kansas counties that impose a tax. Twenty counties do not impose a sales tax. She explained how the tax is distributed and committee activities during the interim session. She concluded by stating that at the end of the interim meetings the Committee made no recommendations.

The Chairman opened the public hearing on **HB 2532**.

Randall Allen - Executive Director. KS Association of Counties, testified that the bill would allow Kansas counties to impose a countywide sales tax for general purposes in an amount not to exceed 2% and a special purpose countywide sales tax in an amount not to exceed 1%. **HB 2532** would grant a blanket authority to counties and, within the restrictions set out in statute, boards of county commissioners could request voter approval to impose countywide sales taxes. County government are the broadest general purpose local government in Kansas, since all Kansans, regardless if they live in or outside a city, live in a county. He urged the committee to carefully consider **HB 2532** and to recommend it favorably for passage (Attachment 2). At the request of a committee member, Mr. Allen agreed to provide a memorandum that pulls together data on the dollars raised as they relate to population numbers, (data available from KDOR).

Chairman Annabeth Surbaugh - Board of Johnson County Commissioners, said that last year, major legislation was adopted which revamped the sales tax authority for cities. That legislation was not viewed as a tax increase, but as a means to provide adequate and standard sales tax authority to cities. **HB 2532** will extend similar sales tax authority to counties for the same essential reasons. Financing an infrastructure program and the associated operational costs is a significant challenge and this bill provides the means to incorporate use of the sales tax in our future financial planning without the need to return repeatedly to this body requesting additional authority (Attachment 3).

Commissioner Tim Norton - Sedgwick County, Pres. Of KS County Commissioners Assoc., testified that counties have a heavy reliance on a single funding source. This creates budget problems, as they are subject to the business cycle associated with that tax source. Today, sales taxes are more acceptable forms

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 16, 2007 in Room 519-S of the Capitol.

of taxation, when compared with property taxes, as it shares the burden among all residents and visitors to the community. Giving counties greater access to sales tax allows County Commissioners to fund county services in ways that satisfy taxpayers (Attachment 4).

Larry Baer, KS League of Municipalities, said that the League takes no position on the local option sales tax authority of the counties. Currently, as written, **HB 2532** does not change the distribution formula. If that were to change, the League would oppose the bill or any change or changes that would alter the existing statutory distribution formula for all sales taxes between the county and the cities located within the county (Attachment 5).

The Chairman advised that due to time constraints, the hearing on **HB 2548** will be moved to next Tuesday, March 20, 2007. The meeting was adjourned at 10:00 a.m. The next meeting is March 20, 2007.

# Special Committee on Assessment and Taxation

## COUNTY LOCAL SALES TAX

### CONCLUSIONS AND RECOMMENDATIONS

The Committee makes no recommendation at this time.

**Proposed Legislation:** None.

### BACKGROUND

#### County Tax Rates

In 1970, the Legislature granted local sales tax authority to cities and counties. Since that time, and prior to 1996, cities and counties maintained the same general level of taxing authority. Cities and counties were authorized to levy a tax up to a normal maximum of 2.0 percent, subject to several exceptions. Sales taxes of up to 1.0 percent were to be used for general purposes, but the additional special taxing authority (up to 1.0 percent) normally was required to be used only for the financing of "health care services." A city could impose a special tax earmarked for health care only if the county had no such tax. Moreover, any such special city tax expired immediately upon the imposition of a county health care sales tax. In addition to the special health care tax, some counties were authorized individually to impose a special sales tax for roads or jails or other county facilities or specific purposes such as economic development.

The change in 1996 was not a statutory one. During that year, the Kansas Court of Appeals ruled, in *Home Builders Association v. City of Overland Park*,<sup>1</sup> that the local retailers' sales tax (KSA 12-187 *et seq.*) was a nonuniform enactment. In so doing, the

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<sup>1</sup> *Home Builders Association of Greater Kansas City, et al., v. City of Overland Park, Kansas*, 22 Kan. App. 2d 649, 921 P.2d 234.

Court rendered the Entire Local Sales Tax Act nonuniform for cities. Since cities' constitutional home rule authority allows them to opt out of statutory requirements that are not uniform,<sup>2</sup> several cities chose to impose additional sales taxes. Counties do not possess the same constitutional home rule authority; therefore, they remained subject to existing statutory requirements.

Because of the 1996 Court of Appeals ruling and the subsequent decisions of several cities to opt out of statutory sales tax limits, the 2006 Legislature passed SB 55. The 2006 bill was designed to restore uniformity to local sales tax provisions relating to cities by reducing the number of classes of cities to one. In response to the cities that had enacted sales tax provisions in excess of those allowed statutorily, city sales tax limitations also were increased and made applicable to all cities. All cities in the new, single class were granted authority to levy sales taxes of up to 2 percent for general purposes and up to 1 percent for special purposes (for a maximum rate of 3 percent).

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<sup>2</sup> A constitutional amendment adopted in 1960 (Article 12, Section 5) explicitly granted the Legislature the power to uniformly limit or prohibit taxation by cities and to establish up to four classes of cities for that purpose. As indicated in the text, local sales taxes subsequently were not authorized by the Legislature until the early 1970s.

Any special purpose taxes levied would be required to sunset after 10 years.

During the SB 55 debate and discussion, the issue of county local sales taxes was raised. Ultimately, however, the county sales taxes were not addressed in the bill. The Special Committee on Assessment and Taxation has been charged to review the role local sales taxes play in financing county governments and make any recommendations deemed appropriate.

The following table provides summary information regarding sales tax rates for all purposes—including general as well as special or dedicated purposes, such as health care—among the 85 Kansas counties that impose a tax. Twenty counties do not impose a sales tax.

Total County Rate	Number of Counties
2.25	1*
2.00	6
1.75	1
1.50	3
1.40	1
1.25	5
1.15	3
1.10	1
1.0	54
.75	1
.50	7
.25	1
.15	1**

\* Sherman County has the highest tax rate.

\*\* Hodgeman County has the lowest rate. The county's tax is imposed countywide, but all revenues are dedicated to the Horsethief Reservoir project.

## Tax Distribution

As part of its general charge to review county local sales taxes, the Special Committee on Assessment and Taxation has the option to consider the issue of tax distribution.

KSA 12-192 provides for the distribution of countywide retailers' sales tax. The statute generally requires counties to share countywide sales tax revenues with the cities located within their boundaries, if these revenues derive from a general countywide tax.

The regular distribution formula for general sales tax is proportional, based on population and actual tax dollars levied. Several exceptions to this formula exist within the same statute, including one that authorizes specific counties to retain all the revenues (and not share with cities) when the tax is a special one earmarked for the construction of county roads or jails or other county facilities or for specific programs or services. A countywide health care tax may be used for city health care facilities as well as county ones.

The issue of distribution can generate controversy. In 2006, the Legislature considered HB 2983, which would have allowed Johnson County to impose an additional one-half-cent special countywide tax for public infrastructure. As a special tax, all revenues would have stayed with the county. The proposed tax would have been permanent. The bill passed the House Committee on Taxation with technical amendments but was stricken from the House Calendar, thus receiving no further action. A separate public hearing on the matter in the Senate Assessment and Taxation Committee resulted in no resolution of continuing differences of opinion with respect to how an alternative distribution formula might be crafted.

## COMMITTEE ACTIVITIES

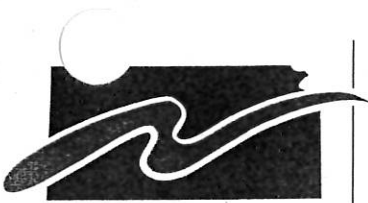
At the September meeting, staff briefed the Committee on the history of county and city local sales tax authority and distribution in Kansas. Randall Allen, Executive Director of the Kansas Association of Counties, asked the Committee to consider recommending legislation to raise the total cap on countywide sales tax authority to a higher level, such as 3.0 percent for both general and special purposes. He further recommended this legislation address the allocation of revenue generated by any new countywide sales tax by requiring the board

of county commissioners to make this determination and notify voters of its decision in the authorizing resolution containing the ballot question.

At the November meeting, the Committee reviewed policy options.

## CONCLUSIONS AND RECOMMENDATIONS

The Committee has no recommendations at this time.



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

**TESTIMONY ON HB 2532**

Re. Countywide Sales Tax Authority

House Taxation Committee

Presented by Randall Allen, Executive Director

Kansas Association of Counties

Friday, March 16, 2007

Chairman Wilk and members of the Committee, I am Randall Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to testify in support of HB 2532, a bill requested by the Association on behalf of our 99 member counties which would allow Kansas counties to impose a countywide sales tax for general purposes in an amount not to exceed 2% and a special purpose countywide sales tax in an amount not to exceed 1%. The practical impact if this legislation is adopted will be to stop the flow of county officials from coming to this committee during each and every legislative session requesting authorization to submit countywide sales tax measures to voters. Instead, HB 2532 would grant a blanket authority to counties and, within the restrictions set out in statute, boards of county commissioners could request voter approval to impose countywide sales taxes. The language of this legislation, which pertains to Kansas counties, mirrors legislation approved by the Kansas Legislature last year in behalf of Kansas cities, except that with respect to counties, the Legislature does not have to deal with uniformity concerns that historically surrounded city-imposed sales taxes. In fact, K.S.A. 19-101 (7) explicitly states that counties are "subject to the limitations and prohibitions under K.S.A. 12-187 to K.S.A. 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties."

Currently, counties may levy a countywide sales tax up to a normal maximum of 1.0% for general purposes, with additional authority of 1.0%, or 2.0% total, authorized by the Legislature for certain counties to finance more specific programs and services, or what we refer to as "dedicated purposes." Except for residential utility services (which are subject to local sales taxes but exempt from the state sales tax), countywide sales taxes are identical in their application and exemptions to the state sales tax. With this limited exception, if an item or service is subject to the state retail sales tax, it is subject to the countywide sales tax; if it is exempt from the state tax, it is exempt from the county-wide tax. The state, through the Kansas Department of Revenue, administers the program at no cost to counties.

Countywide revenue sales taxes imposed for general purposes are distributed to the levying county and the cities therein by the Department

**HS TAXATION COMMITTEE**

**3-16-2007**

**ATTACHMENT 2**

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of Revenue. Revenue from a countywide sales tax not earmarked for a special dedicated purpose (e.g. health care, detention facility construction, solid waste, economic development) is apportioned among the county government and the cities within the county, with 50% in proportion to the total unit wide property tax levies and 50% in proportion to the urban and non-urban population, with the county government receiving the share for the non-urban population. There are some exceptions to the general distribution formula in statute.

As of January 1, 2007, 85 of the state's 105 counties impose countywide sales taxes, ranging from 0.50% to 2.25%, as shown in the attachment. Of the 85 counties imposing countywide sales taxes,

- 1 county has a countywide sales tax rate of 0.25%
- 6 counties have a countywide sales tax rate of 0.50%
- 1 county has a countywide sales tax rate of 0.75%
- 56 counties have a countywide sales tax rate of 1.00%
- 1 county has a countywide sales tax rate of 1.10%
- 1 county has a countywide sales tax rate of 1.15%
- 6 counties have a countywide sales tax rate of 1.25%
- 1 county has a countywide sales tax rate of 1.40%
- 5 counties have a countywide sales tax rate of 1.50%
- 1 county has a countywide sales tax rate of 1.75%
- 5 counties have a countywide sales tax rate of 2.00%
- 1 county has a countywide sales tax rate of 2.25%

As the data show, many Kansas counties impose both *general countywide sales taxes*, which are used to finance county services or infrastructure but are also distributed to cities within these counties, as well as *dedicated countywide sales taxes*, which are retained by the county for a specific county purpose and not shared with cities in the county. HB 2532 expands the general purpose authority from 1.00% to 2.0% and codifies the statutes in regard to specific, dedicated countywide sales taxes, establishing a 1.0% limitation for the latter.

The county sales tax laws are a patchwork quilt, the product of many, many amendments over the years, providing special authority for counties to respond to a myriad of local needs and purposes. From a policy perspective, we suggest that *since county sales taxes require voter approval in all cases*, the statutes should establish a restriction which gives some daylight for counties which want to diversify their revenues by increasing the percentage of local budgets financed with county sales taxes. With respect to the division of duties among local governments in Kansas, it is *county governments* which finance adult jails and juvenile detention facilities, as well as the facilities in which the district courts operate. It is county governments which increasingly shoulder the burden

for our most vulnerable citizens – the elderly through programs for elders, the mentally ill, and the developmentally disabled. It is *county governments* that often subsidize county hospitals which would otherwise close their doors. *County governments* are the broadest general purpose local governments in Kansas, since all Kansans, regardless if they live in or outside a city, live in a county. As such, we urge the committee to carefully consider HB 2532 and to recommend it favorably for passage. Minimally, we ask you to continue to be mindful of the significant roles and responsibilities of county governments and to work with us as we all consider ways to better serve the citizens of Kansas, and do so in ways that make the best use of the public's resources.

Thank you, Mr. Chairman, for this opportunity to present testimony on this important legislation. I will be happy to answer questions as you deem appropriate.



<u>County</u>	<u>Current County Sales Tax Rate</u>
Allen	1.00%
Anderson	1.50%
Atchison	1.00%
Barber	1.00%
Barton	1.25%
Bourbon	1.00%
Brown	1.00%
<i>Butler</i>	
Chase	1.00%
Chautauqua	1.00%
Cherokee	1.50%
Cheyenne	2.00%
<i>Clark</i>	
Clay	1.00%
Cloud	1.00%
<i>Coffey</i>	
<i>Comanche</i>	
Cowley	0.50%
Crawford	1.00%
Decatur	1.00%
Dickinson	1.00%
Doniphan	1.00%
Douglas	1.00%
Edwards	1.00%
Elk	1.00%
<i>Ellis</i>	
Ellsworth	1.00%
Finney	1.00%
Ford	1.00%
Franklin	1.50%
Geary	1.25%
Gove	1.75%
Graham	0.25%
<i>Grant</i>	
Gray	1.00%
Greeley	1.00%
Greenwood	1.00%
Hamilton	0.50%
<i>Harper</i>	
Harvey	2.00%
Haskell	0.50%
<i>Hodgeman</i>	
Jackson	1.40%
Jefferson	1.00%
Jewell	1.00%
Johnson	1.10%
<i>Kearny</i>	
<i>Kingman</i>	
Kiowa	1.00%

<u>County</u>	<u>Current County Sales Tax Rate</u>
Labette	1.25%
<i>Lane</i>	
Leavenworth	1.00%
Lincoln	1.00%
<i>Linn</i>	
Logan	1.00%
Lyon	0.50%
Marion	1.00%
<i>Marshall</i>	
McPherson	1.00%
Meade	1.00%
Miami	1.25%
Mitchell	1.00%
<i>Montgomery</i>	
Morris	1.00%
<i>Morton</i>	
Nemaha	1.00%
Neosho	1.00%
<i>Ness</i>	
Norton	0.75%
Osage	1.00%
Osborne	1.50%
Ottawa	1.00%
Pawnee	1.00%
Phillips	0.50%
Pottawatomie	1.00%
Pratt	1.00%
Rawlins	1.00%
Reno	1.00%
Republic	2.00%
Rice	1.00%
Riley	1.00%
<i>Rooks</i>	
<i>Rush</i>	
Russell	1.50%
Saline	1.00%
Scott	1.00%
Sedgwick	2.00%
Seward	1.25%
Shawnee	1.15%
Sheridan	1.00%
Sherman	2.25%
<i>Smith</i>	
Stafford	1.00%
Stanton	1.00%
<i>Stevens</i>	
Sumner	1.00%
Thomas	1.00%

<u>County</u>	<u>Current County Sales Tax Rate</u>
Trego	0.50%
Wabaunsee	1.00%
<i>Wallace</i>	
Washington	1.00%
Wichita	2.00%
Wilson	1.00%
Woodson	1.00%
Wyandotte	1.00%



**BOARD OF COUNTY COMMISSIONERS**  
**JOHNSON COUNTY, KANSAS**

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Testimony in support of House Bill 2532

presented to the  
House Committee on Taxation

by  
Annabeth Surbaugh  
Chairman, Johnson County Board of County Commissioners

March 16, 2007

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Chairman Wilk and Members of the House Taxation Committee:

Thank you for this opportunity to testify in support of House Bill 2532, which is a measure proposed and supported by the Kansas Association of Counties. On behalf of Johnson County, I am proud to support the efforts of the KAC and urge you to act favorably on this legislation. Last year, major legislation was adopted which revamped the sales tax authority for cities. Under that legislation, cities were granted additional sales tax authority up to an additional one percent for general purposes and up to an additional one percent for special, dedicated purposes. That legislation was not viewed as a tax increase, but as a means to provide adequate and standard sales tax authority to cities. House Bill 2532 will extend similar sales tax authority to counties for the same essential reasons.

The Board of County Commissioners of Johnson County supports this legislation as an important building block for the future of our community. It provides adequate authority that can be utilized as and when approved by the voters to meet needs now and well into the future. It enables the county and the voters to be responsive to increasing space requirements for jails, courts, and other public improvements needed to maintain the quality of life our residents have come to expect and to determine the most prudent financing tool to meet those needs.

Johnson County continues to attract over 10,000 new residents each year, which places an ever-increasing demand on the county for services. The Board of County Commissioners has anticipated those needs and has developed a Strategic Facilities Master Plan outlining millions of dollars in building improvements needed over the next two decades. Those services and facilities must be financed in a way that is affordable for our taxpayers.

Financing an infrastructure program and the associated operational costs is a significant challenge, even for growing communities like Johnson County. We will need to utilize all of the resources available to us, including the growth and increased assessed valuations on residential and commercial properties, and property taxes may have to increase. We currently have strong financial reserves which have enabled us to attain a AAA bond rating from both Standard and Poor's and Moody's rating services. We need both the prudent reserves and the favorable bond rating to meet our future costs. Quite frankly, a future financing package is not complete without a strong sales tax component. A dedicated sales tax provides diversity to the tax base and a good alternative for and balance to the continued use of property taxes. House Bill 2532 provides the means to incorporate use of the sales tax in our future financial planning without the need to return repeatedly to this body requesting additional authority. It provides an adequate authority to not only respond to present day needs but also to address planning well into the future. It does that not just for one or a few requesting counties, but for all counties. And, finally it will create a sense of fairness and equality between the sales tax authority of cities and counties and further the simplification of Kansas sales tax law.

We appreciate your careful consideration and urge you to support passage of HB 2532. We believe this is a prudent step to enable counties to plan their own future funding for the needs of their communities.

Thank you.



**TIM R. NORTON**  
**Commissioner - Second District**

**BOARD OF COUNTY COMMISSIONERS**  
**SEDGWICK COUNTY, KANSAS**

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March 16, 2007

**Testimony HB 2532**  
**House Taxation**

Chairman Wilk and members of the committee, I am Sedgwick County Commissioner Tim Norton, and thank you for the opportunity to testify in support of HB 2532. Property owners carry a lot of burden to support the needed services of local government. I believe Sedgwick County and the counties of this state need more funding sources to choose to relieve some of that burden. As an urban county, we provide a full range of municipal services in addition to traditional county services, including district court, detention, and social services. But, as a county, we don't have municipal abilities to generate revenue from a variety of sources. And, because we've levied sales tax at the allowed 1% rate, any significant growth in budget needs to provide services must be funded with property tax (absent special legislative approval, as with the 30-month arena tax).

Counties have a heavy reliance on a single funding source. This can create budget problems, as we're subject to the business cycle associated with that tax source. Today, sales taxes are more acceptable forms of taxation, when compared with property taxes, as it shares the burden among all residents and visitors to the community. Giving counties greater access to sales tax allows County Commissioners to fund county services in ways that satisfy taxpayers.

Let me talk about one of the problems we are facing in Sedgwick County. Jail overcrowding has become a huge issue in Sedgwick County. In 1958, we had a need for 148 beds; by 1989, we had increased our bed space to 418 beds. That is an increase of about 9 beds a year over the 31 years. Today, we have a need for over 1600 beds. That is about 70 beds a year for that 17 year period. Clearly, I understand the need to be tough on crime and the lack of prison beds. But the policies to be tough have resulted in an undue burden on county governments.

The end of the demand transfers in the Governor's 2003/2004 budget has had a significant impact, reducing our revenues by \$6.9 million beginning in our 2004 fiscal year. In 2006, Sedgwick County had to raise the mil levy to pay for alternative programs and housing for the jail growth. The bond payments for this project are estimated to be \$4.5 million a year for 20 years. Sedgwick County is expanding jail bed capacity in part because of tougher sentencing

**HS TAXATION COMMITTEE**  
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**ATTACHMENT 4**

Testimony HB 2532  
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passed by the State legislature. These tougher sentences have come without the needed revenue to pay for the increased jail bed needs. Increased sales tax authority could help with the loss of LAVTR monies and the unfunded mandates we are facing in the state corrections system.



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League of Kansas Municipalities

Date: March 16, 2007  
To: House Taxation Committee  
From: Larry R. Baer  
Assistant General Counsel  
Re: HB 2532  
Neutral Testimony

Thank you for allowing me to appear before you today and present our comments on HB 2532 on behalf of the League of Kansas Municipalities and its 627 member cities.

HB 2532 would authorize counties to impose a general purpose local option sales tax of not more than 2% and a special purpose local option sales tax of not more than 1%. This would be consistent with the sales tax authority granted to the cities last year.

The League takes no position on the local option sales tax authority of the counties. However, the League does oppose any change or changes that would alter the existing statutory distribution formula for all sales taxes between the county and the cities located within the county.

A division of sales tax imposed countywide dates back to the beginning of local sales tax in Kansas. There are at least three reasons for a division of the countywide tax with the cities:

- It represents a form of local revenue sharing that helps hold down city tax levies.
- When a city levies a sales tax it is only within its jurisdiction, while a countywide sales tax overlaps all cities in the county.
- Most retail sales tax place within an incorporated city.

The League of Kansas Municipalities stands silent as to whether or not the local sales tax authority for counties should be changed. However, the League of Kansas Municipalities does object to any change in the current statutory disposition formula for dividing countywide sales tax between the county and the various cities within the county.

Again, thank you for allowing me to appear before you today.