

SESSION OF 2006

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2023**

As Amended by House Committee of the Whole

Brief*

Sub. for HB 2023 would restore uniformity to local sales tax provisions relating to cities by reducing the number of classes of cities to one. All cities in that class would be 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). Any special purpose taxes levied would be required to sunset after 10 years.

Additional language would provide a grandfather clause clarifying that sales taxes imposed by cities as of July 1, 2006 pursuant to the exercise of home rule authority would remain in effect.

Cities not levying development excise taxes as of January 1, 2006, would be prohibited from doing so. Moreover, cities already levying such taxes on that date would be prohibited from increasing the tax rates.

Finally, all cities would be granted authority to levy excise taxes on tickets for admissions to concerts, theatrical performances, sports contests, or other similar performances which occur on property owned by the cities.

Background

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. (Local sales taxes subsequently were not authorized by the Legislature until the early 1970s.)

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The Special Committee on Assessment and Taxation conducted interim studies in 2003 and 2004 that found that the Legislature in the early 1990s had inadvertently exceeded the permissible four classes of cities, an oversight which resulted in a 1996 court decision (*Home Builders Ass'n v. City of Overland Park*, 22 Kan. App. 2d 649, 921 P.2d 234) that effectively granted cities the power to charter out of many of the provisions in the local sales tax law. In recent years, a number of cities have in fact relied upon the *Home Builders* finding of nonuniformity, as well as guidance from the Attorney General, to approve charter ordinances and raise their local sales tax rates above the maximum authorized by state law.

The 2004 Special Committee noted in its report:

“The lack of state control over city sales...tax authority, control which had been granted to the Legislature by the people of Kansas in 1960 before being removed in the 1990s when the permissible number of classes of cities was inadvertently exceeded statutorily, represents a serious level of uncertainty for taxpayers, businesses, and the Department of Revenue.”

The report also observed that because of the current nonuniform status of the local sales tax provisions, cities could theoretically opt out of the mandatory election requirement prior to the imposition of taxes. The substitute bill was designed to restore uniformity by reducing to one the number of classes of cities.

The current maximum sales tax levied by any city is 2.75 percent (Caney).

The House Committee of the Whole added the provisions relating to development excise taxes and ticket taxes.