

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 17, 2005 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  
Richard Cram, Department of Revenue  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Melissa Wangeman, Legal Counsel, Secretary of State  
Secretary Wagon, Department of Revenue  
Larry Baer, League of Kansas Municipalities  
T.C. Anderson, Kansas Society of CPA's

Others attending:

See attached list.

**SB 37- Franchise fee law modifications relating to fee name, extensions and information required.**

Mr. Courtwright distributed copies of the interim report from the 2004 Special Committee on Assessment and Taxation (Attachment 1). He stated that the bill as amended, would make a number of changes to provisions relating to the franchise fee collected by the Secretary of State, effective January 1, 2006. The bill would rename the annual \$40 fee from "franchise fee" to "report fee"; would eliminate extensions of time for entities to file their annual reports with the Secretary of State; and would repeal requirements that annual reports need to reflect the financial condition of the entities.

Melissa Wangeman, Legal Counsel, Secretary of State, appeared to answer questions regarding **SB 37**, a bill proposed by the Secretary of State (Attachment 2). She stated the bill appears to contain several new provisions, however, the bill was a reconciliation bill intended to reconcile **SB 29** and **SB 147**, two bills passed in 2004. The balance of the bill contained cleanup provisions recommended by the Secretary of State during the interim committee.

Key points of the bill follow:

- Elimination of Extensions - Because calculating the entity's net worth is no longer necessary, the need for an extension is unnecessary.
- Financial Condition Reported on Annual Reports - **SB 37** deletes an obsolete provisions saying that an entity files an annual report "showing its financial condition."
- Change name from Franchise Fee to Annual Report Fee. **SB 37** also replaces references to the franchise fee with the term "annual report fee."
- Elimination of Balance Sheets. **SB 37** also eliminates balance sheets from the annual reports filed by business trusts and cooperatives.

The Senate Committee adopted several technical amendments, and eliminated the reporting of authorized shares of stock and the stocks' par value, because the committee believed this language revealed too much private financial information.

Secretary Wagon, Department of Revenue, requested that **SB 37** be amended in order to address a franchise tax interpretation issue that had arisen since enactment of 2004 House Substitute for **SB 147** (Attachment 3). She explained the time frame for franchise tax returns, payments and formulas used for franchise tax calculation purposes. The terms "preceding taxable year", "preceding" and "next preceding" had generate

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many questions both within the Department and from tax practitioners, and to clarify the intent of the statute the Department recommended the deletion of those terms.

T.C. Anderson, Kansas Society of CPA's, rose in support of **SB 37**. He stated that their practitioners had been confronted with two major items in the switch to the franchise tax, (a) change from authorized shares to issued shares and (b) the term "preceding year". He stated that both of those problems have been addressed in the bill (No written testimony).

The Vice Chairman closed the hearing on **SB 37**.

### **SB 209 - Transportation Development District Act, district sales tax**

Mr. Self explained the bill would eliminate protest petition provisions that currently authorize property owners to force an election on the proposed imposition of a transportation development district sales tax; and would clarify that the public hearing on the advisability of creating the district also would be expanded to include the intention of the district to levy the tax. There were additional amendments regarding language pertaining to the cost of the projects.

Larry Baer, League of Kansas Municipalities, appeared in support of **SB 209**. The original intent of the bill was to provide clean up and clarification of two sections of the Transportation Development District Act. (TDD) and the bill removed the reference to a protest petition.

The League, however, wished to express its concern about the Senate's change from "estimated cost" to "maximum cost". They understand the rationale of the change, but believe that there can be unintended consequences. No matter how carefully estimates are prepared, unforeseen events can occur that result in cost overruns. They asked the Committee give consideration to their stated concerns.

There being no other conferees the Vice Chairman closed the hearing on **SB 209**.

### **SB 256 - Income tax exemption for amounts received for recruitment and student loan repayments by members of military.**

The Chairman opened the hearing on **SB 256**.

Representative Owens made the motion to move out **SB 256** favorably for passage. Representative Goico seconded the motion. The motion carried..

### **HB 2406 - Providing for public improvement districts.**

Mr. Courtwright stated the bill authorizes the establishment of public improvement districts where three or more counties may come together and form a public improvement districts and have the authority to levy a sales and/or property tax.

The Chairman opened the hearing on **HB 2406**.

Representative O'Malley made the motion to adopt an amendment to **HB 2406** to remove the 1 mill cap. Representative Menghini seconded the motion. The motion carried.

Representative Owens made a motion to adopt a technical amendment to Section 2, line27, that would insert the word "taxable" before real and tangible personal property. Representative Menghini seconded the amendment. The motion carried.

Representative Owens made the motion that the House Taxation Committee move **HB 2406**, as amended, favorably for passage. Representative Treaster seconded the motion. The motion carried.

### **SB 138 - Income tax credit for business firms employing certain teachers when school is not in session.**

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The Chairman opened the floor for discussion on **SB 138**.

The Department of Revenue offered a balloon for consideration (Attachment 4). Secretary Wagnon stated language had been added that in the event in which a teacher entering into a partnership voluntarily leaves the employment of the school district, during the term of the agreement or within one year after the agreement, the business firm shall repay, to the state, credits claimed under the section.

Language regarding the issue of commensurate employment was added by stating that under the partnership agreement that such agreement shall contain a description of the duties of the position the teacher will be performing, sufficient to establish that such position satisfies the criteria set forth in section (f).

The Chairman requested that the following three points be added to **SB 138**; (1) a Congressional distribution clause, ensuring the credits are spread out over the four districts, (2) a three year sunset clause, (3) an annual evaluation and report to be submitted to the Legislative Education Planning Committee (LAPC) for review, at which time the issue would return to the Legislature, in its entirety, for a total evaluation.

The Chairman requested that the Department of Revenue prepare a revised balloon with the additional language and return for further discussion.

The Chairman closed the hearing on **SB 138**.

The meeting was adjourned at 10:30 a.m. The next meeting is March 18, 2005.