

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:40 a.m. on January 27, 2004, in Room 519-S of the Capitol.

All members were present except:
Senator David Haley- excused

Committee staff present:
Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:
Don Molar, League of Kansas Municipalities
Richard Cram, Kansas Department of Revenue
Larry Baer, League of Kansas Municipalities
Karl Peterjohn, Kansas Taxpayers Network

Others attending:
See Attached List.

Senator James Barnett requested the introduction of a bill relating to long-term care insurance as recommended by an interim committee which studied health insurance issues and costs. The bill would allow a tax deduction beginning fiscal year 2006 and increasing over a period of five years.

Senator Lee moved to introduce the bill, seconded by Senator Donovan. The motion carried.

Senator Lee moved to introduce a bill dealing with the appraisal of residential property owned by a nearby property owner, seconded by Senator Buhler. The motion carried.

Chris Courtwright, Legislative Research Department, discussed two bills recommended for introduction by the Special Committee on Assessment and Taxation which met during the interim.

The first bill would allow retailers a maximum tax credit of \$500.00 for costs to implement the Streamlined Sales Tax destination-based sourcing sales tax rule.

Senator Buhler moved to introduce the bill, seconded by Goodwin seconded. The motion carried.

The second bill relates to the computation of taxes on isolated or occasional sales of motor vehicles.

Senator Donovan moved to introduce the bill, seconded by Senator Buhler. The motion carried.

SCR 1615–Constitutional amendment providing for up to ten classes of cities for local sales tax law

Mr. Courtwright explained that **SCR 1615** and **SB 308** came from the interim tax committee in conjunction with a study on a topic concerning local sales tax uniformity. The committee recommended a two-fold approach to providing additional “breathing room” in order to assure that uniformity is restored to the local sales tax law on a permanent basis. Mr. Courtwright followed with an overview of the interim committee report, which includes background information relating to the uniformity and simplification requirements set forth in the multi-state Streamlined Sales and Use Tax Agreement and a summary of the committee’s activities and recommendations. (Attachment 1) In conclusion, Mr. Courtwright noted that the interim committee felt that this is a very important issue because, as a matter of policy, the Legislature has always maintained control over city and county sales tax. He went on to say that city sales taxes did not exist until

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the early 1970s, and for many years there was a one cent cap in the law. In the early 1990s, legislation passed allowing an extra one cent for health care, and a number of other exceptions to the rules have been made. He pointed out that cities have the power to charter out of the election requirement and out of any statutory rate cap requirements. He noted that, regardless of the Streamlined Sales Tax environment, both **SCR 1615** and **SB 308** are necessary in restoring uniformity to city sales taxes.

Senator Corbin commented that the problem developed before the Streamlined Sales Tax issue came to the forefront. He recalled that concern about sales tax uniformity was discussed five or six years ago. With the event of Streamlined Sales Tax Project, the issue became magnified and more serious discussions began.

Don Moler, League of Kansas Municipalities, testified in strong opposition to **SCR 1615**. He contended that the bill represents an assault on the constitutional home rule powers of cities, and its passage would endanger the local control and power of cities statewide. In his opinion, a constitutional amendment is not the way to go about correcting nonuniformity in the state sales tax act. He suggested that, if the Legislature wishes to ensure that no city can charter out of the sales tax provisions as required by the Streamlined Sales Tax Project, the existing number of city classifications could be reduced to a number less than five. While he does not support this modification, he argued that it is more appropriate than a constitutional amendment adversely impacting the powers of Kansas citizens. (Attachment 2)

In conclusion, Mr. Moler commented, although the intentions behind **SCR 1615** were good, in another situation he would view the bill as a Trojan horse in a effort to take away local control and constitutional home rule for cities in the future. He emphasized that no city in the state has attempted to change the base, the election requirements, or anything else having to do with the sales tax. He noted that he would bring the weight of the League to bear on a city which attempted to do such a thing because the League is very supportive of the Streamlined Sales Tax. However, the Legislature would have the ability to respond through litigation putting a freeze on the implementation long before the state would be thrown out of the Streamlined Sales Tax compact.

Senator Corbin called the Committee's attention to written testimony in opposition to **SCR 1615** submitted by Erik Satorius, City of Overland Park. (Attachment 3) There being no others wishing to testify, Senator Corbin closed the hearing on **SCR 1615**.

SB 308—Two classes of cities for purposes of city retailers' sales tax law

Richard Cram, Kansas Department of Revenue, commented that, in a nut shell, **SB 308** eliminates all distinctions currently in local sales tax law with the intent of resolving any argument that there is a lack of uniformity in the local sales tax law. He noted that if local sales tax laws are deemed nonuniform so that cities are able to exercise home rule authority to opt out of them, action taken by only one city could potentially throw Kansas out of compliance with the Streamlined Sales and Use Tax Agreement. He called the Committee's attention to memorandums on the uniformity issue presented to the interim tax committee in September 2003. He went on to discuss the proposed statutory amendments in Sections 1 through 5 concerning classes of cities and counties for sales tax purposes (Attachment 4)

Larry Baer, Assistant General Counsel for the League of Kansas Municipalities, testified in opposition to **SB 308** on the grounds that it is premature, it removes powers previously granted to cities and counties, and it would result in inequities between cities. He noted that the League will strive to impress upon cities and counties the importance of not taking any action that could jeopardize compliance with the Streamlined Sales Tax Agreement. He pointed out that a charter ordinance does not become effective until the sixty-first day after its publication. Thus, there is time for the State to take steps to nullify such action. If it is determined that uniformity in the retailers' sales tax act is needed, he suggested the implementation of four factors to keep cities and counties whole. (Attachment 5)

Senator Corbin called the Committee's attention to written testimony submitted by Erik Satorius, City of Overland Park, in support of the League of Municipalities' position on **SB 308**. (Attachment 6)

Karl Peterjohn, Kansas Taxpayers Network, testified in opposition to **SB 308**. He stated, "It moves us even further away from the original K.S.A.12-187." He noted that when the law was passed in the 1970s, there

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was a two-threshold test necessary for the creation of a local sales tax: a two-thirds vote of the governing body and a petition. He is concerned that **SB 308** basically expands the taxing authority. He noted that the purpose of the bill was to address problems created by a bill passed last year, **HB 2005** concerning destination sourcing rules. In his opinion, **HB 308** will not solve that problem, and it will aggravate a situation that already exists. He argued that a more level playing field is needed. He contended that voter approval for tax increases should not only be extended to sales taxes but also to property taxes. Mr. Peterjohn agreed to submit written testimony at a later date.

There being no others wishing to testify, Senator Corbin closed the hearing on **SB 308**.

Senator Corbin called the Committee's attention to the minutes of the January 21 meeting.

Senator Donovan moved to approve the minutes of the January 21, 2004, meeting, seconded by Senator Buhler. The motion carried.

The meeting was adjourned at 11:45 a.m.

The next meeting is scheduled for January 29, 2004.