

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on March 23, 2004 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, Revisors of Statutes
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Representative Ed O'Malley
Representative Bruce Larkin
Laura McConwell, Mayor of Mission, KS
Mike Scanlon, City Administrator of Mission, KS
John Weber, Mission City Councilman
Kate Michaelis, Northeast Johnson County Chamber of Commerce
Richard Cram, Department of Revenue
Ace Rowley, Bank of America
Jack Ovel, Commerce Bank
Hal Hudson, NFIB
Marlee Carpenter, KCCI
Carl Peterjohn, Kansas Taxpayers Network

Others attending:

See Attached List

Chairman Edmonds opened the meeting for bill introductions. Hearing none, he opened the public hearing on **HB 2891** and recognized Representative O'Malley who brought testimony in support of **HB 2891**. Representative O'Malley thanked the Chairman and the committee for hearing this bill as it is very important to the City of Mission which is in his district. They found out they have quite a significant amount of commercial property that is now in commercial flood plain. (No written testimony)

Laura McConwell, Mayor of Mission, Kansas came before the committee in support of **HB 2891** stating that this bill was written to help the City of Mission. This bill would create a new section in the Kansas TIF law that would allow the City of Mission and other cities with large areas of commercial property in a 100-year flood plain to create TIF districts using a 100-year flood plain as the determining factor. (Attachment 1)

City Administrator of Mission, Kansas, Mr. Mike Scanlon offered testimony in support of **HB 2891**. He stated that the bill is not a want, but a need. Without a change in the TIF law their only options in financing the very large stormwater project would be a very drastic and likely devastating increase in property tax. (Attachment 2)

John Weber, Council member from the City of Mission, came before the committee to give support for **HB 2891**. In his testimony he asked for support of the bill which will create another way that the City of Mission might be able to finance the very large and expensive flood plain project in their community of 10,000. (Attachment 3)

Director of Economic Development for the Northeast Johnson County Chamber of Commerce, Kate Michaelis, offered testimony in support of **HB 2891**. Ms. Michaelis showed a board with the names of 69 businesses that are directly impacted by the 100-year flood plain. Most of the business are family-owned businesses. Her testimony also reflected that this issue isn't simply a city government that's being adversely affected. It is about the 69 businesses, their employees, and their families that will be adversely impacted if the City of Mission doesn't mitigate this flood plain area. (Attachment 4)

The various representatives of the City of Mission also submitted an article from the Kansas City Star which

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related the need for the flood plain project. (Attachment 5)

There were no other conferees on **HB 2891** and the Chairman closed the hearing.

Chairman Edmonds then opened the public hearing on **HB 2923** and recognized Representative Bruce Larkin who provided testimony in support of the bill. Representative Larkin related that while the bill is neutral, it does shift the burden of paying income taxes from moderate income to high income taxpayers. It also closes a loophole in our law regarding the resident trust and uses the revenue to reduce income taxes for middle income taxpayers. (Attachment 6) Representative Larkin also submitted material from the Kansas Department of Revenue which showed changes in new tax rates, increased standard deduction, increased personal exemption (Attachment 7) as well as an article entitled "*Kansas Taxes Hit Poor & Middle Class Much Harder than the Wealthy*" from ITEP (Institute on Taxation and Economic Policy). (Attachment 8) Representative Larkin also submitted material for committee review regarding the 50 State State and Local Tax Burden Ranking for Kansas and Surrounding States (Attachment 9) and an article on policy justifications for tax

simulation 005 (Attachment 10) In his final statement, Representative Larkin stated that he felt that we should seriously start the dialogue about Kansas tax structure and take a look at what we could do to make it more fair.

Richard Cram, Department of Revenue. Mr. Cram says he really has no comments other than what was submitted in the fiscal note. The bill takes Missouri definition of resident trust and adds the current Kansas definition to those provisions. The Department supports **HB 2923**. (No written testimony)

With no other proponents to address the bill, Chairman Edmonds recognized Ace Rowley, Regional Trust Executive Bank of America as an opponent of **HB 2923**. Mr. Rowley's testimony focused on three areas.

1. The strengths of the present statute
2. Compliance and enforcement difficulties
3. The unintended consequences.

Mr. Rowley related that the cost of the unintended consequences may far outweigh any marginal increase in revenue that might be generated. The costs translate into a decline in revenue from income, sales and property taxes that might otherwise be earned from such individuals, a potential reduction in growth from lost investments in Kansas and a direct increase in tax enforcement and litigation expenses. (Attachment 11)

Jack Ovel, Executive Vice President of Commerce Bank, gave testimony in opposition to **HB 2923**. He is responsible for the trust services which his bank provides in the West Region which includes the State of Kansas. He also related that it is their opinion that even if the State of Kansas substantially increases, as this bill would, the number of trusts deemed to be resident trusts, the additional tax to be derived would not be significant. He further discussed the unintended consequences of the bill as did Mr. Rowley before him. They do not believe that additional tax revenue gained from the passage of this bill would be meaningful. (Attachment 12)

Marlee Carpenter representing KCCI (Kansas Chamber of Commerce and Industry) opposes **HB 2923** relating that it creates two new upper individual income tax brackets. This change would increase the cost of doing business in Kansas. She further stated that we need to reduce costs for all businesses so that they can grow and expand. (Attachment 13)

NFIB (National Federation of Independent Business) was represented by Hal Hudson, Kansas State Director, also in opposition to **HB 2923** stating that the bill would increase tax rate in each of the brackets for individual income taxes, and would add new brackets on the upper end. Small businesses are already being stressed by high property taxes, the burden of destination sourcing for collection and payment of sales taxes. (Attachment 14)

Karl Peterjohn, Kansas Taxpayers Network, stated in opposition to **HB 2923** that the bill is unlikely to generate the additional trust income that would allow the increase in personal income tax deductions and exemptions. The bill will provide an additional incentive for affluent folks to move their legal residence out of Kansas. (Attachment 15)

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With no other conferees to address the bill, Chairman Edmonds closed the hearing on **HB 2923**.

Attention was directed to written testimony from Lenexa Chamber of Commerce (Attachment 16), Overland Park Chamber of Commerce (Attachment 17), Greater Topeka Chamber of Commerce (Attachment 18) and the Wichita Independent Business Association (Attachment 19).

Chairman Edmonds addressed **HB 2662** which was heard some time ago dealing with certain State contracts and asked the pleasure of the committee.

*Representative Tafanelli moved that the committee recommend **HB 2662** favorable for passage. The motions was seconded by Representative Owens.*

Representative Larkin addressed the Chairman requesting a briefing on **HB 2662**.

Chris Courtwright, of the Legislative Research Department explained that this bill would provide a grandfather clause for contractors to enter into written contract prior to the effective date of the statewide local use tax, entering the contract with contemplation that on material they ordered out of state, they are not going to have to pay the new use tax. This grandfather clause would relieve them of that liability.

Representative Larkin stated that he supports the bill.

Vote was taken. Motion passed.

The Chairman then directed the committee's attention to **HB 2540** a bill by Representative Beggs which had been heard previously.

Chris Courtwright of the Legislative Research Department explained that in this bill the rulings of BOTA (Board of Tax Appeal) are made in favor of the taxpayer. It would provide that attorney fees and costs incurred by the taxpayers could be recovered.

*Representative Goico made a motion to move **HB 2540** favorable for passage. Representative Goering made a second to the motion.*

Representative Larking wished to stand in opposition to this bill.

Representative Huff disagreed with the ranking member and supports the bill.

Representative Thull asked if he sued someone now and lost, would he have to pay the court costs.

Representative Jack, an attorney on the committee, advised that normally the prevailing party is awarded court costs. Attorney fees are different from court costs. The general rule is that each side pays their own attorney fees. However, there are exceptions such as automobile liability cases and civil rights fees.

Following discussion, the Chairman called for a vote on **HB 2540**.

Vote was taken. Motion adopted.

With no further business before the committee, the meeting was adjourned at 10:30 a.m.

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