

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 252

As Amended by Senate Committee of the Whole

Brief*

SB 252, as amended, would create property and sales tax exemptions for certain businesses located in cities where a facility owned or operated by a governmental entity competes against the business.

Businesses qualifying for the exemptions would be limited to child care centers, entertainment businesses, exercise businesses, health clubs, recreation businesses, or restaurants.

In order to qualify for the exemptions, the competing activity of the government would be required to have begun after the business started using the real property for qualifying purposes.

“Competing against the business” would be defined to mean offering the same or substantially the same goods or services to the public and receiving payment for the goods or services. It would be defined to exclude:

- The provision of goods and services without receiving payment;
- The provision of goods or services only to employees or students of the governmental entity; and

*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 provision of goods or services at a facility that was financed as a result of an election providing for the imposition of a tax or the sale of bonds.

Applicable governmental entities would include the State of Kansas or any county, city, township, school district, community college, municipal or public university, and any other taxing district or political subdivision of the State that is supported with tax funds.

The sales tax exemption provided by the bill would apply to all otherwise taxable purchases and sales of tangible personal property and services made by the business.

The property tax exemption provided by the bill would take effect in tax year 2024.

Background

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Peck.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, **proponent** testimony was provided by Senator Masterson and a representative of the Kansas Chamber of Commerce. The proponents generally stated the bill would discourage government entities from engaging in conduct in competition with private sector business enterprises.

Written-only proponent testimony was provided by a representative of Americans for Prosperity-Kansas.

Opponent testimony was provided by representatives of the Kansas Association of Counties, Kansas County Commissioners Association, Kansas Emergency Medical Services Association, and League of Kansas Municipalities.

The opponents generally stated the bill would shift the tax burden to residential property owners and would not clearly define what constitutes government competition against private businesses.

Written-only opponent testimony was provided by representatives of the cities of Concordia, Manhattan, McLouth, Merriam, Mission, Overland Park, Prairie Village, Topeka, and Westwood Hills; Ford and Miami counties; Johnson County Board of County Commissioners; Kansas Legislative Policy Group; and Sedgwick County Board of County Commissioners.

The Senate Committee amended the bill to:

- Eliminate ambulance services as businesses qualifying for the exemptions;
- Limit the geographic qualification for the exemptions from counties to cities;
- Eliminate facilities receiving funds from property taxes levied by a taxing subdivision as triggering eligibility for the exemptions; and
- Require that the competing activity began after the business was active in order to qualify for the exemptions.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to exclude sales of goods and services at facilities financed as a result of an election providing for the imposition of a tax or the sale of bonds from the definition of “competing against the business.”

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue indicates enactment of the bill would reduce state and local property and sales tax receipts by an indeterminate amount.

The Kansas Association of Counties and League of Kansas Municipalities indicate enactment of the bill would reduce local property and sales tax revenue. The League estimates that more than 20.0 percent of its property tax revenue is associated with businesses that may qualify for the exemption. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Taxation; property tax; sales tax; exemptions; government competition