

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:10 a.m. on February 2, 2000, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Senator John Vratil
Bob Vancrum, Blue Valley U.S.D. #229
Tom Trigg, Blue Valley U.S.D. #229
Robert J. Watson, City Attorney, Overland Park
Janet Stubbs, Kansas Building Industry Association, Inc.
Representative Don Myers
M.S. Mitchell, Kansas Building Industry Association, Inc.
Richard Standrich, Mayor of Derby

Others attending: See attached list.

The minutes of the February 1, 2000, meeting were approved.

Senator Langworthy told the Committee that she has attended task force meetings on state and local taxation of telecommunication and electronic commerce through the NCSL Executive Committee. That Committee drafted model legislation to authorize the appropriate state authority to participate in discussions with other states to develop the specifics of a voluntary, streamlined multi-state system for sales and use tax collection and administration. She requested that the model legislation be introduced as a means to allow more time to review it.

Senator Bond moved to introduce the proposed bill, seconded by Senator Stephens. The motion carried.

SB 435—An act exempting unified school districts from city or county imposed platting taxes

As sponsor of **SB 435**, Senator John Vratil testified in support. He explained that **SB 435** simply exempts public school districts from a tax levied by a city or county upon the act of platting real property. The purpose of the bill is to ensure that public tax dollars intended for education are actually used for education of children, not for building or repairing infrastructure. In his opinion, infrastructure is the responsibility of a city or county, not the responsibility of a school district. He also pointed out that the excise tax revenue currently collected by cities in Johnson County when land is platted lacks accountability. (Attachment 1)

With regard to cities with more than one school district, Senator Bond commented that, according to the provisions in the bill, an entire city would bear the burden for building a new school in a district in which many of the residents do not live and, therefore, were not part of the ballot process to determine whether or not money is spent for infrastructure related to school expansion. He asked how taxing residents for infrastructure which is not within their own school district can be justified. Senator Vratil responded that the new school is located in the city, and the people who live in the city should bear the burden of providing infrastructure because the infrastructure benefits them as residents of that city. Senator Vratil went on to note that, historically, the policy of the state has been to look to cities and counties to provide infrastructure. Before the excise tax was implemented in 1994, the “special benefits district” system was used. That system ensured that the land upon which the assessment was levied would benefit from the assessment. The excise

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tax changed that completely. Now, the land which is platted pays the excise tax, but there is no assurance whatsoever that the land will ever benefit from the excise tax that is paid. Senator Vratil contended that school districts should not be in the business of providing money to build infrastructure. He reiterated that all citizens who live in the city benefit from infrastructure associated with a new school, not just those citizens who bring their children to that school.

Bob Vancrum and Tom Trigg, both representing Blue Valley U.S.D. #229, jointly testified in support of **SB 435**. Mr. Vancrum explained that the Blue Valley school district is located in Johnson County and incorporates parts of the cities of Leawood, Overland Park and Olathe. Several municipalities in Johnson County have begun levying an excise tax for all ground platted in the city's incorporated area and have not exempted their governmental units. The Blue Valley school district has paid approximately \$600,000 in excise taxes to one of the local jurisdictions. **SB 435** would bar any city or county from imposing a general tax on a unified school district. Mr. Trigg explained further that school districts have a statutory ceiling on the amount of revenue that can be expended to operate schools, but cities and municipalities do not have such a statutory ceiling. Mr. Trigg contended that it is fundamentally wrong for one local taxing jurisdiction to impose a general tax on another local taxing jurisdiction, particularly when the imposed upon jurisdiction is limited in its ability to pay the tax. (Attachment 2)

Robert Watson, City Attorney for Overland Park, testified in opposition to **SB 435**. He said the bill appears to be a blatant attempt to limit the home rule power of cities to enact excise taxes. He explained why the City of Overland Park's excise tax is not a new imposition upon school districts. He noted that the City of Overland Park spends all of its excise tax money on thoroughfare improvements. He further noted, of the three school districts in Overland Park, the Blue Valley school district is the only district that is growing and building new schools. With passage of the bill, Overland Park residents who are patrons of the other two school districts would be subsidizing the growth of the Blue Valley district. (Attachment 3)

Written testimony in opposition to **SB 435** was submitted by Rebecca Swanwick, Assistant City Attorney for the City of Lenexa. She notes that exempting schools from the application of this tax would reduce the amount of excise tax funds available to fund several public improvements in Lenexa, including those that benefit schools. (Attachment 4)

SB 474—Enacting the city and county development activity excise tax act

Janet Stubbs, representing the Kansas Building Industry, Inc., testified in support of **SB 474**. She stated that the bill is not an attempt to prohibit implementation of an excise tax by local units of government or to repeal those currently in effect. The intent of the bill is to establish guidelines which government must follow to enact a fair and equitable excise tax on one segment of the business community, which has the effect of increasing the cost of housing and making it less affordable. The process is complex and should be calculated individually per city. Ms. Stubbs outlined each provision in the bill. (Attachment 5)

Representative Don Myers testified in support of **SB 474**. He noted that his home is in Derby where a very contentious balloting process to repeal an excise tax was just completed. He believes the painful balloting process to repeal the tax could have been avoided had the approach outlined in the bill been available and followed by the city. (Attachment 6)

M.S. Mitchell, Legislative Chair for the Kansas Building Industry, Inc., testified in support of **SB 474**. He noted that the issue of whether or not new development pays its way has been under discussion for a long period of time. In the late 1980s and early 1990s, the Wichita Area Builders Association attempted to form an agreement with the City of Wichita whereby a study would be done regarding this issue, but the negotiation was unsuccessful. Therefore, the homebuilders paid the Real Estate Division of Wichita State University to conduct a study. Dr. Mark Dotzour, then with Wichita State, conducted the study and did a marginal cost and revenue analysis of six subdivisions picked at random with the assistance of the metropolitan area planning staff. He determined that each subdivision paid more than the cost to the local government for services in the first ten years. Dr. Dotzour conducted a number of studies across the United States after he conducted the study in Wichita. He now resides in Texas. In a letter to the Kansas Building Industry Association dated January 28, 2000, Dr. Dotzour expresses his disappointment that the excise tax issue has come up and asks

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support for legislation which will require the accountability for excise taxes similar or equal to what would be required for an impact fee. Mr. Mitchell distributed copies of the letter from Dr. Dotzour (Attachment 7). He then introduced the Mayor of Derby, Richard Standrich.

Mayor Standrich gave further testimony in support of **SB 474**. He noted that the voters of Derby voted down the imposition of an excise tax on the privilege of developing or building in the city by a vote of 58 percent to 42 percent. He felt that perhaps the basis for this tax and the manner in which it was imposed by the previously seated city council is the best argument that can be made in support of the bill. He followed with an account of the contention which arose in Derby. In conclusion, Mayor Standrich stated that local units of government ought to be held to a higher standard than they are currently. (Attachment 8)

There being no further time, Senator Langworthy continued the hearing on **SB 474** to February 3.

The meeting was adjourned at 12:05 p.m.

The next meeting is scheduled for February 3, 2000.