

## MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:55 a.m. on March 20, 2001, 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: Mike Taylor, City of Wichita  
Elmer Ronnebaum, Kansas Rural Water Association  
Gerald Bennett, Miami County Rural Water District No. 2  
Ron Appletoft, Water District No. 1 of Johnson County

Others attending: See attached list.

**Sub HB 2006—Exempting certain gross receipts and certain sales from sales tax.**

Mike Taylor, representing the City of Wichita, testified in support of **Sub HB 2006**, which concerns proposed changes in the way sales tax is applied to municipal water utilities. He explained that the City of Wichita's concern was prompted by a Department of Revenue audit which demanded sales tax be paid on all kinds of purchases and operations of the water utility, purchases and operations which had never before been taxed. He pointed out that, traditionally, city governments do not pay sales taxes to the state for providing municipal services, and he believes that providing water is a basic function of city government. The only opposition ever expressed to treating municipal water utilities like all other municipal services is that it carries a fiscal impact to the state. He noted that the House deleted changes made in the bill, and those changes returned the bill to its original purpose, which was to treat municipal utilities the same as all other municipal services. Due to the fiscal impact, implementation was delayed until the 2004 budget year. Mr. Taylor believes this was a reasonable approach and urged the Committee to support **SB HB 2006** in its current form. (Attachment 1)

Elmer Ronnebaum, Kansas Rural Water Association, testified in support of **Sub HB 2006**. He commented that the bill clarifies the issue of state sales tax application on public water systems and provides for exemption of sales taxes on connection and reconnection fees and benefit units fees charged by rural water districts. He noted that application of state sales on public water systems presents one of the most difficult administrative tasks by cities and water districts. He asked the Committee's support for the section of the bill which clarifies that connection and reconnection fees and sales of benefit units by rural water districts are not subject to sales tax. In addition, he said, if it is essential to reduce the fiscal note associated with the bill, the Association will support a payment of a reasonable fee based on retail water sales. He noted that the cities of Concordia, Coffeyville, and Holton support this position. (Attachment 2) Mr. Ronnebaum submitted written testimony in support of **Sub HB 2006** from Larry Remmenga with the City of Concordia (Attachment 3), Chuck Shively with the City of Coffeyville (Attachment 4), and Bradley J. Mears with the City of Holton (Attachment 5).

Gerald Bennett, Miami County rural Water District No. 2, testified in support of **Sub HB 2006**. He believes that the current system of applying sales tax to water districts is confusing and vague. His specific concern regards the application of sales tax on electricity used in production and distribution of water to customers. He explained that electricity used in production is exempt from sales tax; however, when used in the distribution system, it is taxable. Other areas about which he is concerned are the application of sales tax on new construction versus repair or replacement of system infrastructure and the necessity to eliminate the tax on benefit unit charges and connection fees. Mr. Bennett believes the bill will eliminate administrative burdens, not only for water districts but also for the

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Department of Revenue. (Attachment 6)

Ron Appletoft, Water District No. 1 of Johnson County, testified in support of **Sub HB 2006**. He stated that, in recent decades, providing water to the public has increasingly become a governmental function and should be exempt from sales tax similar to other governmental services. He noted that, if the District was exempt from an approximate annual sales tax of \$500,000, its operational costs could be reduced, which would have a beneficial impact on water rates. He explained that the District has filed several appeals challenging the Department of Revenue's application of the sales tax laws to the District, and a recent court decision confirmed the District's position that electricity used to pressurize water mains should be exempt from sales tax. Mr. Appletoft noted that many other publically owned water utilities have also challenged the Department's interpretations. In conclusion, he said lowering operating costs and simplifying administration of publically owned water utilities would benefit the public statewide. (Attachment 7)

There being not others wishing to testify, the hearing on **Sub HB 2006** was closed.

Chairman Corbin turned the Committee's attention to a previously heard bill, **HB 2007**, concerning the provision of information on local sales and transient guest taxation to local governments by the Director of Taxation. He noted that a House amendment on page 3, lines 27-31, allows any committee member of an appropriate governing body to view the sales tax information furnished by the Department. He recalled that, during the hearing on the bill, committee members felt the sales tax information should be available only to the financial officers of a city or county governing body.

Senator Lee moved to amend the language on page 3, line 30, by inserting after "to any financial officer" "designated by a city or county to receive such information" and to amend the same language in appropriate places on pages 5 and 7, seconded by Senator Jenkins. The motion carried.

Senator Jenkins distributed copies of a proposed new section for **HB 2007** to be inserted on page 7 after line 20. (Attachment 8) She explained that it recently came to her attention that the City of Topeka filed a claim for a refund of tax similar to the Johnson County District No. 1 claim addressed in the integrated plant bill in the 2000 Session. The City of Topeka filed a claim on June 25, 1998, for \$88,904, and the claim has never been paid or denied. The proposed language would draw the line to July 1, 1998, so that any city which filed a claim prior to that day could be paid. She explained that, with this language, only the City of Topeka would qualify for payment; therefore, the fiscal note on the bill would be limited to the amount of Topeka's claim.

Senator Jenkins moved to amend **HB 2007** by inserting the proposed new section on page 7 after line 20, seconded by Senator Haley.

Senator Goodwin asked if any other cities filed claims prior to July 1, 1998. In response, Senator Jenkins said the Department of Revenue informed her that only one other city had filed. However, due to a confidentiality requirement, the Department could not reveal what city filed or the date the claim was filed, but was able to share that the amount of that claim is \$12,000. Senator Jenkins explained that she chose July 1, 1998, because it would apply to the city (Topeka) which she knows filed early enough to qualify and that she would have been willing to include the other city in the bill if the Department of Revenue had been able to reveal the date that city filed a claim. Committee discussion followed regarding the possibility that the amendment would open an opportunity for payment of claims made by other cities.

On a call for a vote on Senator Jenkins' motion to amend **HB 2007**, the motion failed.

Senator Taddiken called attention to subsection (e) on page five of **HB 2007**, which deals with crediting county and city transient guest tax funds to the tourism and convention promotion fund of counties or cities. He pointed out that conventions do not occur in all cities and counties. For this reason, he felt subsection (e) should be amended to change the provision that no more than 20 percent of the moneys shall be expended for tourism promotion. Senator Taddiken moved to strike "except that not more than 20% of the moneys credited to such fund shall be expended for tourism promotion" beginning on page 5, line 26 and ending on line 28, seconded by Senator Haley. The motion

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carried.

Senator Lee moved to recommend **HB 2007** favorably for passage as amended, seconded by Senator Clark. The motion carried.

The meeting was adjourned at 11:50 a.m.

The next meeting date is to be announced.