

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on March 16, 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:

Joan Wagnon, Secretary of Revenue
David Allison, CPA

Others attending:

See Attached List

Chairman Edmonds opened the meeting for bill introductions. Hearing none, he opened a public hearing on **HB 2924**. With no one wishing to testify as a proponent on the bill, the Chairman recognized Richard Cram from the Department of Revenue as an opponent. Under **HB 2924**, contractors would be allowed to claim the resale exemption when they buy the materials they will use in completing the project. Also under this bill when the labor is exempt, the contractor must break out the materials price on the billing and would need to collect sales tax on the full amount billed to the customer for the materials, including any mark-up. The Department suggests an amendment to the bill and have submitted a balloon as part of their testimony. **HB 2924** would eliminate the project exemption certificate requirement, since all contractors would be treated as retailers, and their purchases will be regarded as for resale and thus exempt from sales tax until used in a project. This raises several concerns for the Department. It is their estimate that this proposal would require an additional 5,000 contractors/subcontractors/repairpersons to register as retailers and begin filing sales tax returns. (Attachment 1)

Next to submit testimony to the committee was David Allison, CPA, Director CBIZ Accounting, Tax & Advisory Services who also is an opponent to **HB 2924**. It is their belief that our modern-day, multi-faceted construction businesses already have a flexible sales and use tax system from which to select the correct taxing method to match the transaction. **HB 2924** will take away that flexibility, affect the allocation of tax revenues between state and local taxing jurisdictions, and require most contractors to spend significant amounts of dollars and time to develop and implement sophisticated systems to comply with the law at a time when their businesses are suffering. (Attachment 2)

There was no other person wishing to testify on **HB 2924** and the Chairman closed the hearing.

Chairman Edmonds recognized Representative Jack to address the committee.

He stated that on March 15th he made a motion on **HB 2842** which was ruled out of order and he requested that the Chair reconsider the ruling.

The Chairman explained that we had three hearings on that date that looked as if they were going to consume the entire meeting and there would not be adequate time for the hearings and hear his motion as well, however, he has withheld filing the committee report so his motion will be considered. He also explained that the rules of the House do not require a second to the motion, therefore he will not require a second in the committee. The rules of the House do provide for time limits which he also will not enforce.

Representative Jack thought there was good debate on **HB 2842** on March 12th. He felt it was pretty clear that he was in favor of rolling the franchise tax back to where it was two years ago and there was an amendment made to that effect which failed. We finally ended up with what currently is **HB 2842**. *Representative Jack made a motion that the committee reconsider the motion to roll the franchise tax back*

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to where it was two years ago.

Representative Powers offered the comment that this motion was probably going to keep the bill.

Representative Jack countered saying that he understood that all kinds things can happen. There is the possibility that it would kill the bill.

Representative Powers said he would have to vote no to reconsider **HB 2842**.

Representative Larkin also stands in opposition to reconsider. The bill that was passed out last week was a fair decision. This bill as it stands no will reduce or limit taxes for 94% of the corporations in the State of Kansas. That is the back bone of Kansas economy.

The Chair wished to express some points of view to the committee.

If this motion succeeds, the result will be to return **HB 2842** to that point where the motion recommending it for passage would be the next logical step.

If this motion succeeds, the bill will be removed from consideration. There will not be another discussion on franchise tax in this committee this year.

Facts to consider:

Last year in Kansas there were 79,747 businesses exactly that paid franchise tax.

Of those, 75,261 of the had equities less than \$1 million and, therefore, paid no tax under the current terms of **HB 2842**

Further, 3,306 had between \$1 million and \$6 million and therefore would pay a tax, but a smaller one than they currently pay.

The remaining 1,180 businesses with equities above \$6 million would, in fact, pay more tax than they paid, although they still would not pay there full proportional share.

HB 2842 benefits 78,567 companies and costs money for 1,180 companies. The benefits 98-1/2%.

Consider that if you vote for the motion, make a few phone calls to people and explain yourself to them. The Chairman listed businesses that could be contacted and it could be explained to them why they should pay a higher percentage on his equity than Boeing.

This vote is a vote to continue the unfair practice of requiring disproportionately higher rates from small businesses than from large businesses. It is a vote to continue status quo. The Chairman further advised the committee that if they are so beholden to the big firms that they can turn their back on 98-1/2% of the businesses in the state of Kansas then so be it.

Representative Jack countered that he did not feel it was a vote to continue status quo. This is a vote to reconsider because he believes there is another alternative that has not been reconsidered. He states that he is not beholden or influenced by the larger companies as he has no large companies in his district. He stated again that he did not like the franchise tax and felt that it was a double tax. The amendment that will be made if the bill is brought back for reconsideration is to put the State back where they were two years ago before the cap was doubled, put the State back to 1% and reduce the cap down to \$2500 and make this effective a year from now so that it doesn't affect the current years' budget and the Governor and the Legislature will have a year to find additional money. He would prefer and be willing to support corporate income tax or some other more "honest" tax.

Representative Jack closed and moved his amendment.

*Vote was taken to reconsider **HB 2842**. Motion failed with a vote of 11 to 10.*

With no further business before the committee, the meeting was adjourned at 10:25 a.m.