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MEMORANDUM

To: Madam Chair and Members of the Committee on Assessment and Taxation

From: The Office of Revisor of Statutes

Date: March 10, 2020

Subject: Senate Bill No. 360

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tax

Summary

Senate Bill No. 360 relates to retailers' sales tax and authorizes the Sherwood Improvement District to impose a sales tax.

Section 1 would allow the board of directors of the Sherwood Improvement District, incorporated under K.S.A. 19-2753 et seq., and amendments thereto, to adopt a resolution imposing a retailers' sales tax within the boundaries of the district for the purpose of paying the costs of road and drainage improvements and maintenance within the boundaries of the district. The rate of such tax shall not exceed 1%.

The bill includes provisions for a public hearing prior to adoption of such resolution and notice of the public hearing to be published at least once a week for at least three consecutive weeks in a newspaper of general circulation in the district and for at least three weeks on the district's website. Notice shall be published at least seven days prior to the hearing date. The notices shall contain the time and place of the hearing, the nature of the projects, the estimated costs or expenses, the proposed method of financing, if any, and the proposed rate of the retailers' sales tax. Upon conclusion of the public hearing, the board may adopt the resolution as proposed or as modified at such hearing. The bill would require publications of the resolution in the newspaper and on the district's website.

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The bill would also require the board to submit the resolution to impose a retailers' sales tax for approval by the qualified electors within the district. Additional notices are required prior to the election. The notices shall set forth the time and place of the election, the rate of tax to be imposed, and the purpose or purposes for which the tax revenue would be used. The bill includes additional provisions relating to the election.

If an election is held and the resolution is approved by a majority of the qualified electors within the district voting at such election, the board may impose the tax as provided in the section and for the purposes specified in the resolution. If a majority fails to approve the resolution, such resolution or such resolution as modified by the board upon public notice and a hearing may be resubmitted to the electors.

Any increase in the rate of the tax would be accomplished under the conditions and in the manner provided in the section for adoption and approval of such tax. The reduction or repeal of such tax would be accomplished by the adoption of a resolution of the board and would not require approval by electors.

All revenue received by the district from the tax shall be used solely for the purpose or purposes specified in the resolution. If the tax imposed pursuant to this section or a portion thereof has been pledged for a specific project or projects, such tax or such portion thereof shall expire when sales tax sufficient to pay all of the costs incurred in the financing of such project or projects has been collected by retailers as determined by the secretary of revenue.

The Kansas Department of Revenue would administer, enforce and collect the tax. The secretary of revenue would be authorized to adopt rules and regulations necessary for the efficient and effective administration, enforcement and collection. The director of taxation would cause such taxes to be collected in the same manner as provided for the collection of the state retailers' sales tax. Moneys collected would be deposited in the state treasury to the credit of the Sherwood improvement district retailers' sales tax fund. Moneys collected would be remitted at least quarterly by the state treasurer to the district and as requested by the board.

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Any retailers' sales tax imposed by the district would terminate if the improvement district were to be abolished pursuant to K.S.A. 19-2786d, and amendments thereto, and the annexing or incorporating city would assume any debts, liabilities or obligations financed by such tax.

Section 2 provides that no suit to set aside the authorization of the tax pursuant to section 1 shall be brought after the expiration of 30 days from the date of certification of canvass of the votes that authorizes such tax.

Section 3 would require the secretary of revenue to provide reports to the bond trustee, escrow agent or paying agent relating to the district's retailers' sales tax when revenues of the tax are pledged or otherwise intended to be used for the payment of bonds issued to finance project costs. The bond trustee, escrow agent or paying agent shall keep the information confidential, and except as otherwise provided, the returns shall be subject to the confidentiality requirements of K.S.A. 79-3614, and amendments thereto.

Section 4 amends K.S.A. 19-2765 relating to powers of improvement districts incorporated under K.S.A. 19-2753 et seq., and amendments thereto. The bill would add subsection (u) to allow the Sherwood Improvement District to impose a retailers' sales tax within the borders of the district as permitted by and pursuant to the provisions of section 1 and to allow the board by resolution to issue bonds for the purposes permitted by section 1 to be paid, in whole or in part, by such district retailers' sales tax revenues. The bill provides notice, public hearing and election approval requirements for such bonds if such bonds were not proposed in the board's resolution imposing the district retailers' sales tax.

The bill would take effect from and after its publication in the statute book.