

Testimony as proponent for House Bill 2738 Atchison County Farm Bureau

Thank you, Mr. Chairman and fellow committee members for the opportunity to testify as a proponent for House Bill 2738. My name is Jay Armstrong and I serve on the Atchison County Farm Bureau Board for whom I am representing here today. Our county Farm Bureau represents over 1200 farm members.

My testimony today is to use our county as an example of what can happen to a sovereign county voter under the state's current law governing the distribution of a county general use sales tax. I will not belabor you with all the intricacies and injustices that have occurred during the last 20 or so years, only to suffice it to say that the civics I was taught in our Kansas school system have long been abandoned. This bill has no effect on the distribution of dedicated sales taxes. This bill has no effect on general use taxes that have local agreements. Those will stay legal and binding so there will be no disruptions. What it does address is the disenfranchisement of the sovereign county voter(s) to enact a general use sales tax to adjust their tax mix for their county going forward.

In 1993, the voters of Atchison County passed a ballot initiative to enact a general use sales tax to support two new services; solid waste and joint communications. This choice was put to the voters in an effort to keep property taxes from going up any higher. A copy of that resolution explaining their intent, along with the ballot is enclosed as *Exhibit 1 and 2* in your electronic folder. The ballot initiative passed by a wide majority in every single precinct & township in our county. What no one imagined at the time was that not all of the monies from this tax would all go to the county. Ordinances, after the vote, then had to be passed by the municipalities to get the counties monies to the county. Everything worked fine until a lawyer moved to Atchison, became mayor and convinced the Atchison city council, they could keep the monies for themselves by removing the ordinance, which they did.... strife began. Numerous attempts have been made over the years to come to some kind of agreement only to have the football pulled away by the city just when we thought things were going to work out. It's hard to negotiate when state law gives one side a seat at the table with nothing to gain and everything to lose.

This has created two classes of sales tax voters. Those from municipalities that are keeping the apportioned county sales tax for themselves and those who live outside a municipality that pay 100% of the tax to the county. There is nothing for townships that also have businesses that collect sales taxes. This has put sales tax payers outside of a municipality into a position of "Taxation without Representation". If my history is correct that is why the tea went into the Boston harbor.

The straw that broke the camel's back was when the city in 2014 went a step further. *Exhibit 3* in your folder shows a Resolution that refers to itself as an agreement. Where the city unilaterally told the county if you want any money at all you will put a tipping fee onto solid waste making more income for the county thus leaving the city a larger portion of the apportioned sales tax to keep for themselves. Now we have a smaller unit of government extorting a larger unit of government on how to manage their services. All because current state law gives county monies to the smaller units first.

I've heard the arguments opponents will give against this bill;

1.) It is a local problem. REALLY? A state law that allows a smaller unit of government to leverage bigger units to change the way they manage a service so that the smaller unit cannot be held accountable at the ballot box is a local problem?

2.) Should have made an agreement before the ballot was voted on. REALLY? Why should the sovereignty of a voter have to be negotiated away before they decide to tax themselves? Do cities have to negotiate before they decide to enact a city sales tax? Does the state negotiate before it enacts a sales tax? The answers are a rhetorical NO to both questions.

3.) It is their money because point of sales was made within their geo-political boundary. REALLY? I challenge any of you as you campaign this fall to tell your voters that that the money they send to Topeka is really not their money. It's really about what government allows you to keep.

4.) Small municipalities won't get any money. For the record in the nearly 30 years this tax has been enacted one of our 3rd class towns has always honored the wishes of the county voter by returning the entire amount. The other three only changed after they learned what Atchison did and said they were going to do the same percentage as Atchison because they didn't like seeing Atchison getting away with something that other towns were honoring.

At the end of the day the operative question for all of this opposition goes back to query, just what do opponents have against that time honored phrase, "The people have spoken."

As I have worked to change this law. I have listened to both taxation committees... two words that keep popping up are "optional" & "transparency" keep popping up. Current law provides no option for the county voter to receive what they voted for. The fact is, over the last three years, in talking with legislators and commissioners many didn't even know the law was written this way. This bill corrects all that. Counties can decide whether or not to use the apportionment formula by stating on their ballot how the tax will be distributed. That makes it **optional**. **And when voters vote with that on the ballot that makes it transparent**. This bill passes the tests and rectifies the lack of sovereignty in Kansas. I hope the county voter can count on your support. I like all of you take pride in my state and where I live because I think we get it right more than we get it wrong. But it is when we get it wrong we demonstrate the courage to rectify it. It is my prayer you all will feel the same way.

Item 1

RESOLUTION NO. 1105

WHEREAS, K.S.A. 12-187 et seq., as amended authorized the Board of County Commissioners of the county to submit to the electors of the county the question of levying a retailers' sales tax, such tax to be collected by the State Department of Revenue with the revenue therefrom returned and distributed as provided by law within this county, and

WHEREAS, the Board of County Commissioners has determined that additional revenue is needed by the County and the City to provide for Joint Law enforcement communications and Solid Waste Disposal; that property tax increases should be avoided if possible, and that the voters should be given a choice as to the method used to finance said projects.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ATCHISON COUNTY, KANSAS:

A special question election shall be held in the manner prescribed by law on the 3rd day of August, 1993, for the purpose of submitting to the qualified electors of Atchison County, Kansas, the question of levying a countywide retailers' sales tax in Atchison County, Kansas, in the amount of one percent (1%), such tax to take effect on the 1st day of October, 1993, if approved by a majority of the electors voting thereon.

This resolution shall take effect on publication in the official county newspaper.

Adopted this 25th day of June, 1993, by the Board of County Commissioners of Atchison County, Kansas.

Lucie Pickman
Chairman

Russell Ekins
Member

Castille Wilson
Member

Attest: Pauline M. Lee
County Clerk
county/ressaltx



STATE OF KANSAS
QUESTION SUBMITTED
COUNTY OF ATCHISON
SPECIAL ELECTION - AUGUST 3, 1993

NOTICE

If you tear, deface or make a mistake and wrongfully mark any ballot, you must return it to the election board and receive a new ballot or set of ballots.

TO VOTE, DARKEN THE OVAL TO THE LEFT OF YOUR CHOICE, LIKE THIS:

QUESTION SUBMITTED

To vote in favor of the question on this ballot, darken the oval to the left of the word "YES"; to vote against the question, darken the oval to the left of the word "NO".

SHALL THE FOLLOWING BE ADOPTED?

Shall a countywide retailers' sales tax in the amount of one percent (1%) be levied for Joint Law Enforcement Communications and Solid Waste Disposal in Atchison County, to take effect October 1, 1993?

YES

NO

Item 2

RESOLUTION NO. 2972

A RESOLUTION AUTHORIZING THE PURCHASE OF A JOINT COMMUNICATIONS RADIO SYSTEM AND AUTHORIZING FUNDS FOR SOLID WASTE OPERATIONS AND JOINT COMMUNICATIONS OPERATIONS

WHEREAS, on August 3, 1993 the electors of Atchison County approved the levy of a one percent (1%) retailers' sales tax under the provisions of K.S.A. 12-187 *et seq.*; and

WHEREAS, said tax is collected by the Kansas Department of Revenue and distributed as provided by law to Atchison County and the cities of Atchison, Mascoutah, Lancaster, and Huron; and

WHEREAS, the Joint Communications Radio System in Atchison County needs to be upgraded; and

WHEREAS, the City of Atchison wishes to pledge funding toward the Joint Communications and Solid Waste System to assist with the funding of the replacement radio system, and the operations and maintenance of the solid waste and joint communications system.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ATCHISON, KANSAS:

SECTION 1. The City of Atchison shall dedicate \$412,278 for the operations and maintenance of the solid waste and joint communications system in 2015, and shall increase funding each year for 10 years in an amount not to exceed the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items. The contribution adjustment rate will be determined by comparing the percentage difference between the CPI in effect for 2015 and each year thereafter. The percentage difference between the two CPI issues will be the adjustment rate.

SECTION 2. The City will make semi-annual payments to the County.

SECTION 3. The City of Atchison also agrees to pay a uniform tipping fee of \$35 per ton and shall increase the amount of the tipping fee each year for 10 years not to exceed the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items. The contribution adjustment rate will be determined by comparing the percentage difference between the CPI in effect for 2015 and each year thereafter. The percentage difference between the two CPI issues will be the adjustment rate.

SECTION 4. Atchison County shall not charge the City the tipping fee for disposition of construction and demolition waste, provided such waste was generated by the demolition of a dilapidated structure by the City, under its police powers.

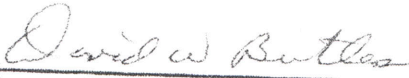
Item 3

SECTION 5. Upon a substantial change in the operation costs of the County's solid waste operations and/or Joint Communications operations, whether by increase in regulatory responsibilities or due to changes in circumstances, the parties agree to discuss changes to this agreement to account for such changes in operation costs.

SECTION 6. The City of Atchison may withdraw from this Agreement by giving notice of its intent to withdraw from participation in this Agreement to the County. The notice shall be given in writing by July 31 of the year prior to the year the City intends to terminate this Agreement.


SECTION 7. This Resolution shall be effective from and after its adoption.

ADOPTED, this 15th day of December, 2014.



DAVID W. BUTLER, MAYOR

ATTEST:



DEBRA A. CLEM CITY CLERK