

Thank you, madam Chairwoman and fellow committee members for the opportunity to testify as a proponent for Senate Bill 87. 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 members.

My testimony today is to use our county as an example of how and what can happen to the sovereign county voter under the state's current law governing the distribution of a county general use sales tax when there is no local agreement.. I will not belabor you with all the intricacies and injustices that have occurred during the last 15 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 of sales taxes. Nor should it bother any general use taxes that have local agreements where all sides are bound by agreement. Those would stay legal and binding. What it does address is the disenfranchisement that is occurring for a county to use a county-wide general use sales tax to adjust their tax mix by the vote of the sovereign county voter.

In 1993, the sovereign voters of Atchison County passed a ballot initiative to enact a general use tax to support two new services, of solid waste and joint communications. This 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 one and two in your folder (exhibits 1&2) . You will note in the resolution enacting the ballot initiative the use of the term "that property tax increases should be avoided if possible" to affirm that the intent was a general use tax to alter the tax mix per the decision of the voter.

After the ballot initiative passed a lawyer became mayor of Atchison, he convinced the City Commission that they could control the money by removing the ordinance to pass the monies onto the county. Soon after that our 3rd class municipalities followed Atchison and in turn did the same, except for one, which has always honored the wishes of the county voters.

For at least 10 years agreements have been tried, but to no avail. Since municipalities can whimsically decide how much of the county's money, if any, they want to give back to the county.

This creates two classes of sales tax payers. Those from municipalities that are keeping the county sales tax for themselves and those who live outside a municipality that pay 100% of the tax to the county. There is none for townships. This has put sales tax payers outside of a municipality into a position of "Taxation without Representation" since part of a county-wide sales tax goes to a municipality for which they have no representation. If my history is correct that is why the tea went into the Boston harbor.

I am sure you are going to hear a lot excuses from the opponents of this bill as to why you should not let county voters receive the outcome of their election.

First, and foremost is the use of fear. They will argue that everything is fine so let's not disrupt what is in place because of the changes it might bring. Everybody is happy just the way it is and any discontent is a local problem. As stated earlier if indeed everyone is happy then any local agreements that exist now should not be a problem. What they don't want you to consider, is when a county wants to tax itself for the purposes of lowering or keeping their property taxes from going up, they can't do it. They do not want you to, for one second, consider the disenfranchisement of sovereign voters. To preserve the principle of one-man...

one-vote is old school. Take note, I doubt they will offer up one reason why it's better to let a municipality, a portion of the county itself, to decide the wishes of the entire county. They will only try to sell you fear in hopes you will quiver at the disruption. Imagine how our courts would rule if the fear of disruption prevailed over the conscience of a constitution and its statutes.

The city of Atchison might want you to think this is just a personal problem we should just work it out. Sort of comes from the Rodney Denning school of philosophy "can't we all just get along". Would someone tell me how you negotiate with someone who is in a position that has everything to lose and nothing to gain. All of which hopes to take your eye off that constitutional question; "Does a sovereign voter have a right to receive what the majority voted for?"

To illustrate how dictatorial this can be I refer you to a resolution dated Dec 14th, 2014 signed by then Mayor Dave Butler. REFER TO LETTER: (exhibit 3)

This single document is a decision that was made unilaterally by the City of Atchison, where they dictate how much the county will receive, and also dictate the terms for which they will receive it (note sections 3 &4). Before this document there was no need to charge a tipping fee but now the city says there will be one. And also when they will/ will not pay it. Who's is running the county now, the county's elected commissioners or the city of Atchison. What a novel way to leave more county sales tax money available for them to keep. Holding the county commissioners accountable at the next election for the tipping fees that the county voter thought they had paid for when they approved a 1% sales tax. Now because of state law we are

not only not receiving the county monies, but have been leveraged into being told how to operate a county service.

Also, in section 6 they refer to this as an agreement. I was always taught an agreement required two signatures.

The consequences of the city's actions are those people, like Benedictine students, who pay for the passed on the tipping fees get to pay twice...once at the point of sale and again in tipping fees. This is how the states distribution system has created two classes of sales tax payers for the same services. In effect municipalities can influence the governing of a county by leveraging of the sales tax distribution

So there you have it....two classes of sales tax payers, one that has no representation. This is not in the least what the sovereign county voter thought they were voting for.

In school I was taught civics.....one-man-one vote, that elections matter, that accountability was the test to one's oath as an elected official, current state law on the distribution of a general use sales tax that allows a county to alter their tax mix deprives those county commissioners and the county voters of those civic values. I hope you agree by rectifying this injustice in supporting this bill.

You all are elected to oversee the business of our state. What it taxes and what it spends among other things. How would it be for you to do your jobs if the municipalities of this state reserved the right to decide how much of the state sales tax was to be sent back to Topeka the way the law now allows them to do to counties?

Thank you, Madam Chairwoman and members of the committee, for allowing me to testify on behalf of this bill.

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.

Jessie Pickman
Chairman

Russell E. Egan
Member

Donald 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.

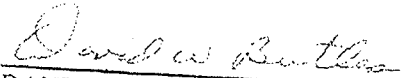
Item 3

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.

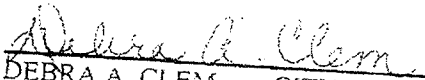
SECTION 7. This Resolution shall be effective from and after its adoption.

ADOPTED, this 15th day of December, 2014.



DAVID W. BUTLER, MAYOR

ATTEST:



DEBRA A. CLEM CITY CLERK