

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on March 24, 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:

Harriet Lang, Kansas Association of Broadcasters

Terry Atherton, General Manager of KSGI Radio

Robert O'Connor, Stinson, Morrison & Hecker, LLP

Kathy Damron, PIXIUS

Others attending:

See Attached List

Chairman Edmonds called the meeting together asking if there were any bill introductions. Hearing none, he opened the meeting for public hearing on **SB 478**.

Harriet Lange with the Kansas Association of Broadcasters was recognized in support of **SB 478** stating that their member radio and television stations in Wichita have been impacted by the Sedgwick County Appraiser's unilateral decision to appraise all towers as "real" property rather than "personal" property. Her argument is that radio and television broadcast towers are not "permanent" fixtures, but rather movable or "removable". ([Attachment 1](#))

Agape Communication in Wichita was represented by Terry Atherton, General Manager who presented testimony in favor of **SB 478**. Mr. Atherton related that they were notified last year by the appraiser's office that the classification of their towers would be changed from personal property to real property. Since they own seven towers the classification change would result in a dramatic change in their evaluation and consequently in their tax bill. He further stated that this change in classification has placed them in a serious position and could mean the difference in whether they stay in business or not. ([Attachment 2](#))

Next to bring testimony in support of **SB 478** was Robert O'Connor of Stinson, Morrison and Hecker, Wichita, Kansas. Mr. O'Connor is counsel for and represents Brad Murray Rentals, M&P Rentals, Verizon Wireless and American Tower Corporation. They now have a case pending before BOTA (Board of Tax Appeals) regarding the classification of cell towers from personal property to real property. It is their opinion that cell towers are properly classified as personal property under the "three prong" test of In re Equalization Appeals of Total Petroleum, Inc., 28 Kan. App. 2d, 16P.3d981 (2000). ([Attachment 3](#))

Kathy Damron appeared before the committee to testify in support of **SB 478** representing Pixius Communications, LLC. Ms. Damron submitted the testimony which they had submitted before the Senate Committee Assessment and Taxation Committee on February 19, 2004. This testimony related that the classification of wireless communication towers, antennas and relay sites have a critical role in the cost structure of Pixius' business. Any tax increase to the landowner or tower owner would be passed through to the tenants of the towers. This increase would have a negative financial impact on Pixius' ability to provide broadband data communications services to underserved areas in Kansas. ([Attachment 4](#))

Written testimony was submitted on behalf of the Office of the County Counselor Sedgwick County, Kansas in support of **SB 478**. ([Attachment 5](#))

The Chairman closed the public hearing on **SB 478** and asked the revisor to prepare a balloon to be labeled substitute for **SB 478** which would make it clear that such towers as enumerated, regardless of use, are real property.

Chairman Edmonds directed the committee's attention to **HB 2897** relating that this bill deals with gas storage issues as they have arisen in Meade County and elsewhere.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 24, 2004 in Room 519-S of the Capitol.

*Representative Powers made a motion to move **HB 2897** out favorable for passage. The motion was seconded by Representative Faber.*

Representative Kirk had a note that this bill might need clarifying language having to do with trucks and railroads.

Gordon Self from the Revisor's Office explained that the language that is stricken on Page 1, Lines 18 and 19 was because there was a conferee or two who was concerned about that. Bill was drafted according to what was requested.

Representative Goering will be opposing this bill because he thinks the practical effect will be that those companies who simply store natural gas in Kansas are going to be classified as utilities whether they simply store their gas here or whether they have gas moving through pipelines here. He stated that he didn't think that was what they wanted to do. He thinks that is a bad move.

Representative Brunk concurs with Representative Goering.

Representative Siegfried also opposes the bill. However, if the bill passes out, he wonders if it would be possible to add language to the bill as applying to interstate trucks, railroads or aircraft commerce. The Chairman answered with a positive response.

Representative Schwas concurs with Representative Goering.

Vote was taken. Division was requested with a count of 11 to 10. Motion was adopted.

Representative Goico wished to be recorded as voting no.

Chairman Edmonds turned the committee's attention to **SB 390** which has not been heard by the committee.

*Representative Larkin made a motion to put language into **SB 390** which would add the definition of resident trust and close the loop hole in the law.*

It was explained that this carries a positive \$5.9 million fiscal note.

Vote taken. Division requested. Bill amended with a count of 12 to 11.

Representative Faber wished to be recorded as voting yes.

*Representative Kirk made a motion to changing Page 1 of **SB 390** from \$3,000 to \$6,000 annual income amount. Representative Sawyer made a second to the motion.*

Vote taken. Bill amended.

*Representative Larkin made a motion that **SB 390** be moved out as amended favorable for passage. Representative Davis made a second to the motion. Vote was taken. Motion adopted.*

The Chairman turned attention to **HB 2891** and asked the pleasure of the committee.

*Representative O'Malley made a motion that **HB 2891** be moved out favorable for passage. Representative Owens made a second to the motion. Vote was taken. Motion adopted.*

Chairman Edmonds directed committee attention to **HB 2591**, however, with the lack of time he withdrew and announced that the committee would reconvene after session.

Meeting adjourned at 10:30 a.m.

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 24, 2004 in Room 519-S of the Capitol.