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Testimony Before the
House Taxation Committee
on
HB 2609 Tax Limits

by
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Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify on HB 2609.

For 34 years I have worked as an Investment Banker in the field of public finance. My areas of expertise include long term planning for capital improvements, budgeting, debt issuance, municipal credit analysis and rating agency presentations and bond issuance and marketing. I am here presenting my own views on this legislation. I do not represent any other city, county, association or company.

CPI to Municipal Cost Index
When tax limit legislation was passed last year my initial reaction was that the escalating costs affecting Kansas municipalities can't be properly addressed by a single "one size fit's all" index or measure of inflation. While tax revenues have begun to improve from the great recession they have been more than offset by increases in service costs, deferred infrastructure needs, employee wages, and pension and healthcare obligations, along with decreased levels of state and federal aid. All of these forces continue to constrain municipal budgets. While I don't know whether the municipal cost index will do a better job than CPI, I'm fairly certain CPI does not reflect the cost pressures Kansas municipalities currently face.

Proposed Exemptions from Index
Several debt items were simply left out of the original legislation. Most professionals that I've spoken with believe this was unintentional. While payments from a bond and interest fund were initially excluded, that exemption led to questions and needed clarification. The new language delineating state infrastructure loans, bonds, temporary notes, no fund warrants, public building commission payments and lease payments provides needed clarity and will be easier for attorneys and other practitioners to work with.

Local governments use economic development tools such as TIF, STAR, RHID and Industrial Revenue Bonds to redirect or abate property taxes as economic development tools. The primary objective of economic development is to provide an initial subsidy in order to create a broader tax base. As new development occurs these projects are entitled to public services and local governments need a way to pay for the provision of those services. When revenues begin to be realized from these important investments, cities should be allowed access to those revenues to further improve their communities. For this reason I believe the provisions in HB 2609 relating to TIF, RHID and other programs are helpful and consistent with the goal of building a stronger economies and stronger tax bases.

One of the biggest challenges local governments face is that they are placed in the role of first responders to disasters and emergencies of all kinds. These events put enormous pressure on local government budgets. Emergency funds and contingency reserves are drawn down to pay overtime, fund the cost of immediate response and begin repairs. Local governments must be given an opportunity to rebuild those contingency reserves so they can be prepared for the next emergency.

One of the more esoteric portions of this proposal deals with political suddivisons. These subordinate entities exist all over our state. They can be Airport Authorities, Park or Recreation Districts, or Public Building Commissions just to name a few. Each is formed for a specific purpose which is permitted under statute. These entities may or may not have taxing powers but accounting standards often require their audits and budgets to be approved by and incorporated into the City or County audit and budget. This changes provides and important clarification which was not addressed in the original legislation.

Finally a comment about Tax and Expenditure Legislation (TEL) generally.
Conservative think tanks whose members have helped sponsor Tax and Expenditure Limit (TEL) legislation around the country have done followup studies which have concluded that such measures do not work. A 2011 study by the American Enterprise Institute performed empirical analysis on spending patterns from 49 states over a 40 year period from 1970 to 2010 to measure the effectiveness of TELS legislation. This study concluded the following……..”Since 1978, 30 states have enacted formal limitations on taxes, budgets, or outlay as tools with which to strengthen fiscal discipline. These tax and expenditure limits (TELs) vary substantially in terms of their details, definitions, and underlying structures, but the empirical finding here is simple and powerful: TELS are not effective.” It is likely to be the case that such mechanical tools as TELs will be unable to substitute for the hard work of long-term public education and persuasion about the central benefits of reduced government spending. At a fundamental level, in the long run under democratic institutions, popular will is likely to impose sharp constraints on the behavior of government; this means that attitudes must be changed through the longer and more difficult process of debate and enlightenment.”

These sentences reinforce something that I already knew from experience. Even in states with the strongest TELs legislation, at the local level public will dictates the behavior of municipal government. My company has offices in California and our neighboring states of Missouri and Colorado. I have seen the long term effects Prop 13, and the Hancock and TABOR amendments. The demand for schools, police and fire protection and the protection of public health and the environment does not change. Caps on revenue do not eliminate demand for local government services. The caps have unintended consequences. They create deferred maintenance which further exacerbates the cost of repair. They also cause structural imbalances in budgets which lead to expensive workarounds, reduced credit ratings and increased debt. Muncipalities are forced to consider financing strategies which would be unsound in a normal environment in order to address immediate needs without raising taxes. Debt financing is considered for projects which would and should have been funded on a pay as you go basis.

Bond rating agencies assess credit quality according to several clear variables. Among these are the general economy, management effectiveness, budgetary flexibility, liquidity and debt burden. When we look at these criteria we realize the general economy (the size of our cities and their tax bases) is something we can only indirectly influence. The other categories can be influenced. Budgetary flexibility reflects a municipality’s ability and willingness to raise the revenues needed to operate soundly, liquidity reflects fund balances which are helpful when unexpected events occur. Debt burden is what it sounds like……TELS legislation is credit neutral on economy and credit negative in every other criteria.

While I would prefer that this legislation did not exist, I do believe the changes contained in HB 2609 will address some of the more obvious problems which have been identified in the initial legislation. Thank you for allowing me this time and I hope you will act on the changes proposed in HB 2609.