

Date: March 15, 2016

To: Senate Commerce Committee

From: Larry R. Baer
General Counsel

Re: SB 493 – Testimony in Opposition

Thank you for allowing me to appear before the Committee and present testimony in opposition to Senate Bill 493 on behalf of the League of Kansas Municipalities and our member cities.

As written, SB 493 would amend current law regarding various economic development programs overseen by the Kansas Department of Commerce and establish fees to be charged to cities and others by KDOC to oversee and administer such programs. The fees include an application fee of \$750 for some programs, a fee of 1% of the amount of the special obligation bonds issued, and a fee of up to 5% on the amount of a bond issuance under a private activity bond issuance. The provision for the 1% fee on STAR bonds also applies to any re-financing bonds that are issued.

The imposition of a 1% fee on all special obligation bonds creates a significant financial impact upon the financing of STAR bond projects. On a \$50 million dollar project this is a fee of \$500,000. And, if the project is refinanced at some later date, a similar fee would be imposed. In either event, money is either diverted from the project to pay the fees or the cost of the project is adjusted to account for the payment of fees.

Secondly, and most importantly, the general rule in Kansas is that a fee must bear a reasonable relation to the costs of services provided.¹ We do not have adequate information available to us to determine what services are provided by the Department of Commerce to cities. Further, we have no way of knowing if a 1% fee on all bond issuances, regardless of size, is proportionally correct. In other words, does it cost the Department of Commerce the same corresponding percentage to administer a \$10 million project as a \$100 million dollar project. Also, we do not have a method to value such services. Thus, the blanket assessment of a 1% fee is questionable.

For the reasons state above, we do not support SB 493 and ask that you vote against it.

Thank you.

¹See *Kansas Building Industry Workers Compensation Fund, et al. v. State of Kansas and Kent Olson, Director of Division of Accounts and Reports, Department of Administration*, 302 Kan. 656; 359 P.3d 33 (2015)