

Approved 3-21-90  
Date

MINUTES OF THE Senate COMMITTEE ON Economic Development

The meeting was called to order by Senator Dave Kerr at  
Chairperson

8:00 a.m./p.m. on March 14, 1990 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Bill Edds, Revisor of Statutes' Office  
Lynne Holt, Kansas Legislative Research Dept.  
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

Ernie Mosher, Ks. League of Municipalities

Chairman Kerr called the meeting to order and said the agenda was to have a hearing on S.B. 733.

Senator Francisco explained the amendments offered to the bill. (Att. 1) He stated that the bill amends law to prohibit a city from issuing revenue bonds to finance facilities located in unincorporated territory within three miles of the issuing city's limits.

He stated that he strongly supported the bill because he didn't agree with a city's giving tax abatements that don't affect them but greatly affect outlying communities.

Attachments 2, 3 & 4 are testimony presented by conferees unable to attend.

Ernie Mosher, Ks. League of Municipalities testified. (Att. 5) He stated that he opposed the bill. He said he was not aware of any "jurisdictional" problems that have occurred in the 29 years that cities have had power to issue IDB bonds within or without the city.

He stated that if S.B. 733 is recommended, he requested an amendment be added by inserting a new sentence in line 20 as follows:

"Approval of the county board of commissioners shall not be required to finance the construction of facilities located on real estate, the title to which is in the name of one or more cities issuing the revenue bonds."

After considerable committee discussion, Chairman Kerr stated that he was going to canvas the committee to determine if they would like to keep S.B. 733 in Economic Development Committee or refer it to another committee.

Meeting adjourned.

Date \_\_\_\_\_

VISITOR SHEET

(Please sign)

Name/Company

Name/Company

| <i>Albert [unclear] of Ks [unclear]</i> | <i>[unclear]</i>       |
|---|------------------------|
| Cathy Holdeman                          | City of Wichita        |
| Willie Martin                           | Sedgewick Co.          |
| Scott Kessell                           | Kansas Inc.            |
| Mike Germain                            | The Deery Company      |
| Bud Grant                               | KCCI                   |
| Anne Smith                              | Ks. Assoc. of Counties |
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SENATE BILL No. 733

By Committee on Economic Development

2-21

9 AN ACT concerning the issuance of revenue bonds for economic  
10 development purposes; amending K.S.A. 12-1741a and repealing  
11 the existing section.

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 12-1741a is hereby amended to read as follows:  
14 12-1741a. (a) No city shall issue revenue bonds authorized herein to  
15 finance facilities located in ~~unincorporated territory situated more~~  
16 ~~than three miles beyond the nearest point of outside~~ the issuing  
17 city's limits without such city having first received approval of the  
18 board of county commissioners of the county in which such facility  
19 is to be located. ~~No city shall issue revenue bonds authorized~~  
20 ~~herein to finance facilities located in unincorporated territory~~  
21 ~~lying within three miles of its corporate limits but within the~~  
22 ~~county or counties in which any portion of such city is located,~~  
23 ~~without such city having first notified the board of county com-~~  
24 ~~missioners of the county or counties of the proposed issuance.~~  
25 No city shall issue revenue bonds authorized herein to finance fa-  
26 cilities located within the corporate limits of another city without  
27 the issuing city first having received approval of the governing body  
28 of the city in which the facility is to be located.

29 (b) No city shall issue revenue bonds authorized herein to finance  
30 a facility located outside the county or counties in which any portion  
31 of such city is located without such city having first received approval  
32 for the issuance of such bonds from the board of county commis-  
33 sioners of the county in which the facility is to be located.

34 (c) No city or county shall issue revenue bonds for facilities to  
35 be located on property which is owned by another city or county  
36 without the issuing city or county first having received approval of  
37 the governing body of the city or county which owns the property.

38 Sec. 2. K.S.A. 12-1741a is hereby repealed.

39 Sec. 3. This act shall take effect and be in force from and after  
40 its publication in the Kansas register.  
41

and K.S.A. 1989 Supp. 12-1741b

sections

the issuance of a letter of intent to issue such bonds from

the issuance of a letter of intent to issue such bonds from

a letter of intent to issue such bonds

a letter of intent to issue such bonds from

(d) The issuance of a letter of intent shall be deemed to have received the approval of a city or county for purposes of this section unless such city or county provides the city or county proposing such issuance with a written notification specifically disapproving the issuance within seven business days after the next regular meeting of the governing body of the city or county having such approval authority that follows receipt of a request for approval.

(e) The provisions of this section requiring approval of a letter of intent as a condition to issuance of revenue bonds shall not be applicable with respect to the issuance of any revenue bonds for which a city or county has issued a letter of intent prior to the effective date of this act.

Insert Sec. 2.

and K.S.A. 1989 Supp. 12-1741b are

3

4

Sec. 2. K.S.A. 1989 Supp. 12-1741b is hereby amended to read as follows: 12-1741b. (a) Subject to the provisions of K.S.A. 12-1744a and 12-1744b, as amended, any county shall have power to issue revenue bonds, the proceeds of which shall be used for the purpose of paying all or part of the cost of purchasing, acquiring, constructing, reconstructing, improving, equipping, furnishing, repairing, enlarging or remodeling of facilities for agricultural, commercial, hospital, industrial, natural resources, recreational development and manufacturing purposes. Any county shall also have the power to enter into leases or lease-purchase agreements by resolution with any person, firm or corporation for the facilities. Except as otherwise provided in subsection (b) of this section, the facilities may be constructed within the county or its environs without limitation as to distance, providing the board of county commissioners declares that the facility, if in being, would promote the welfare of the county.

(b) No county shall issue revenue bonds authorized herein to finance facilities located within the corporate limits of a city or within three miles of the corporate limits of a city or within another county without the issuing county having first received approval of the issuance of a letter of intent to issue such bonds from the governing body of the city or county in which the facility is to be located. Approval of a city governing body shall not be required to finance the construction of facilities located on real estate, the title to which is in the county issuing the revenue bonds. The use of such real estate shall be subject to all zoning regulations, subdivision regulations and building code regulations of the city.

(c) The issuance of a letter of intent shall be deemed to have received the approval of a city or county for purposes of this section unless such city or county provides the county proposing such issuance with a written notification specifically disapproving the issuance within seven business days after the next regular meeting of the governing body of the city or county having such approval authority that follows receipt of a request for approval.

(d) The provisions of this section requiring approval of a letter of intent as a condition to issuance of revenue bonds shall not be applicable with respect to the issuance of any revenue bonds for which a county has issued a letter of intent prior to the effective date of this act.



March 13, 1990

The Honorable James Francisco  
State Senator  
Statehouse  
Topeka, KS 66612

Dear Senator Francisco: -

**BOEING**

We have discussed on several occasions the proposed change in policy contained in S.B. 733. The Boeing Company has no position on the proposed policy change. We neither support nor oppose S.B. 733. However, if the bill is reported by Committee, we would urge your consideration and support for the suggested amendments outlined below.

By way of background, you may recall that in 1977 The Boeing Company began the process of examining the feasibility of acquiring from the federal government certain manufacturing facilities built during World War II. The government-owned facilities under consideration for acquisition were adjacent to the manufacturing plant owned in Wichita by The Boeing Company.

Capital costs, depreciation costs, and operating costs, including tax costs, are considerations in siting, expanding, modernizing or closing a manufacturing facility. After careful analysis of these cost factors, a corporate decision was made in 1978 to acquire the government-owned property in Wichita and to expand and modernize the facilities. An important factor in that decision was the opportunity to finance the acquisition, and its expansion and modernization, with revenue bonds issued by the City of Wichita. (Sedgwick County did not have authority at that time to issue revenue bonds for economic development purposes.)

1979 was the first year that revenue bonds were issued by the City of Wichita to aid Boeing in acquiring, expanding and modernizing the government-owned facilities. The first bond issue was for \$1,000,000. The second bond issue was for \$112,000,000. The proceeds of both bond issues were used to acquire the government-owned facilities. The proceeds of subse-

quent bond issues have been used to expand and modernize the facilities. Modernization permits us to remain competitive and to provide continued employment opportunities for many Kansans.

With planning efforts ongoing to transition our business base at Boeing-Wichita, it is critically important that we can project, with reasonable certainty, our capital costs, depreciation costs and operating costs for 3-5 years into the future. Letters of intent to issue revenue bonds provide that certainty and provide an incentive to make technological upgrades at the Wichita facilities.

For the foregoing reasons I would urge the bill be amended to focus on letters of intent and not the actual issuance of revenue bonds. I also would urge that if the Committee recommends S.B. 733, that it amend the bill to exclude from its provisions any revenue bonds not yet issued but for which letters of intent have been approved by cities prior to the bill's effective date.

Sincerely,



Michael C. Germann  
Public Affairs Manager  
Boeing-Wichita

✓ cc The Honorable David Kerr, Chairman  
Senate Committee on Economic Development

# THE CITY OF WICHITA



## OFFICE OF THE CITY MANAGER

CITY HALL — THIRTEENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4351

March 14, 1990

Senator Dave Kerr  
Chairman, Economic Development  
Committee  
State Capitol, Room 120-S  
Topeka, KS 66612

Dear Chairman Kerr and Members of the Senate Economic Development Committee:

Thank you for the opportunity to address the Committee regarding Senate Bill 733. I am Cathy Holdeman representing the City of Wichita. Senate Bill 733 amends KSA 12-1741a to restrict cities from issuing revenue bonds outside the city limits without first having received approval of the board of county commissioners. The current statute allows cities to issue bonds to finance facilities located within the "three mile ring" without county approval.

As with other cities across Kansas, the City of Wichita has used, and will continue to use, industrial revenue bonds as a financing mechanism to promote, stimulate, and develop the economic welfare of our city and region. The City of Wichita has set forth certain policies and procedures for the issuance of IRBs which provide a good basis for determining the soundness of the issuance. Our policy is to also provide a forum for public review and comment as the issuance of industrial revenue bonds is a subject that is discussed in a regular council meeting, open to the public.

Our policy statement requires companies requesting industrial revenue bonds demonstrate their economic value to the community. Our governing body looks for substantial employment increases resulting from the improvements financed by the bonds, diversification to the area economy, economic growth potential and benefit to the community (for example, products or services exported from the Wichita area), and expansion of the type of job skills available to the Wichita job market or utilization of locally unemployed persons. Finally, it is our policy not to remove any existing property taxes from the tax roles.

Senator Dave Kerr  
March 14, 1990  
Page 2

The City of Wichita recognizes that the intent of this proposed legislation is to ensure the interests of counties are considered when tax exempt industrial revenue bonds are issued. Counties, just like cities, are units of local government dependent upon the property tax for financing public services. With this intent in mind, the City of Wichita would view SB 733 more favorably if certain amendments were forthcoming. These amendments are procedural, and relate to facilitating the issuance of the bonds.

First of all, we suggest county approval of industrial revenue bond financing be at the time the city announces and approves of the issuance, versus the actual issuance of the bonds. It is not uncommon for our governing body to approve a letter of intent for IRB financing which covers a company's expansion needs over a period of years. For example, our council may approve a letter of intent in 1990, but the actual issuance of the bonds may take place over the next five years. To facilitate and expedite the issuance of the bonds, it would be better if county approval was required only once at this initial stage.

A second suggested amendment also relates to expediting the process. The City of Wichita suggests that counties be required to act as soon as possible after receiving notice of the City's intent to issue industrial revenue bonds. It is further suggested that a county be deemed to have approved a city's IRB issue if the county fails to take action at the first county commission meeting that occurs no sooner than seven (7) days after such notice has been received. The purpose of this stipulation is to make sure the request for IRBs is acted upon quickly so the business can go forward with their expansion plans, and our community can more rapidly benefit from economic growth.

Finally, we request that language be included in this bill to ensure that all proposed issues approved by the City in the past, but not yet issued, are grandfathered and will not be made subject to the proposed statute.

Mr. Chairman, members of the Committee, thank you for the opportunity to share our thoughts on this bill. As previously stated, we feel the above amendments are necessary if we are to continue to use industrial revenue bonds as a viable economic development tool. We do not believe these amendments take away from the intent of the bill, which is to ensure both units of local government a voice in the exemption of future tax revenues.

Sincerely,



Catherine Holdeman  
Intergovernmental Relations Officer

CH/pd





SEDGWICK COUNTY, KANSAS

County Manager's Office

525 N. Main, Suite 343  
Wichita, KS 67203  
(316) 383-7575  
FAX (316) 383-7055

Kim C. Dewey  
County Manager

March 12, 1990

Senator Dave Kerr, Chairman  
Senate Economic Development Committee

RE: SB 733

Dear Senator Kerr:

I am writing in support of SB 733 introduced at the request of Senator Francisco. The bill provides for approval by the Board of County Commissioners of any Industrial Revenue Bonds issued by cities for the purpose of financing private development in unincorporated areas of the County. Current law provides for this approval only if the project is outside three miles from the boundary of the city.

The true purpose of utilizing IRB financing is to provide an abatement of property taxes on the new improvements for up to ten (10) years. If this is done outside the corporate limits of a City, the impact is felt only by the County, School District and Township.

The problem is that those political subdivisions and their taxpayers have no recourse should they object to the tax abatement for whatever reason. By providing for the Board of County Commissioners to control what happens in unincorporated areas of the County, recourse to a representative body is at least possible.

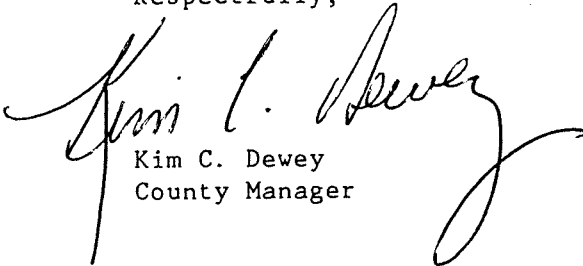
The current law grew out of the debate in 1982 over allowing counties to issue IRBs. Cities, through the League of Municipalities, generally opposed this move. The present law represents the compromise that was reached at the time, although the Counties of the State never agreed with the rationale that Cities should control the tax base in unincorporated areas.

It is my opinion that this bill should go even further, and provide that only the Board of County Commissioners be empowered to grant an abatement of taxes anywhere in the County, incorporated or not. After all, the Board of County Commissioners is also the local Board of Equalization and it is the County which is responsible for the administration of the property tax.

Senator Dave Kerr  
March 12, 1990  
Page Two

While I'm sure this legislation is not the most important issue you as legislators face this year, I hope you take the opportunity to correct this long standing curiosity in Kansas Law.

Respectfully,



Kim C. Dewey  
County Manager

KCD:ler



**League  
of Kansas  
Municipalities**

**Municipal  
Legislative  
Testimony**

An Instrumentality of its Member Cities. 112 West Seventh Street, Topeka, Kansas 66603 913-354-9565 Fax 354-4186

To: Senate Committee on Economic Development  
From: E.A. Mosher, Executive Director  
Re: SB 733--Issuance of IDB Bonds  
Date: March 14, 1990

I appear in opposition to SB 733, by action of the Governing Body of the League. We have no desire to become involved in the "Boeing affair", but oppose this restraint on city powers within the three-mile area as a matter of principle. We are not aware of any jurisdictional problems that have occurred in the 29 years that cities have had power to issue IDB bonds within or without the city, or within the last nine years (1981) when (1) counties were first authorized to issue IDB bonds, and (2) cities were prohibited from issuing such bonds for facilities outside the three-mile area without the approval of the county board. We are aware of no compelling public policy reasons to make the changes proposed in SB 733.

I have been around long enough to fairly observe that the majority of the Kansas legislature is very ambivalent about cities, as witnessed by our now restrictive annexation laws--we like jobs and growth, and the services and facilities and advantages provided by cities, but somehow don't think the fringe area should have to pay for them by being part of the city, unless they voluntarily agree to be annexed. One of the modest trade-offs that has been made is to provide cities with some extraterritorial three-mile jurisdictional powers. This includes planning and subdivision control, zoning in special situations, utility extension powers, and the issuance of IDBs. As these powers are restrained, we note the obvious response of a city concerned about its long-term future--annex the fringe area, if you legally can.

We call to your attention that SB 733, together with the provisions of subsection (b) of K.S.A. Supp. 12-1741b, would effectively require both the county and the city governing body to approve all IDB issues within the three-mile area.

Finally, if SB 733 is recommended, we respectfully request an amendment be added, by inserting a new sentence in line 20, as follows:

"Approval of the county board of commissioners shall not be required to finance the construction of facilities located on real estate, the title to which is in the name of one or more cities issuing the revenue bonds."

The language of this amendment is similar to subsection (b) of K.S.A. Supp. 12-1741b, which permits the county to issue IDB bonds within a city if the county owns the land. The proposed amendment would apply primarily to city-owned airports, often located outside the city. In at least one instance, there are joint-city airports, which explains the term "one or more cities" in the amendment.

4-3





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"Approval of the county board of commissioners shall not be required to finance the construction of facilities located on real estate, the title to which is in the name of one or more cities issuing the revenue bonds."

*Wants amendment*

The language of this amendment is similar to subsection (b) of K.S.A. Supp. 12-1741b, which permits the county to issue IDB bonds within a city if the county owns the land. The proposed amendment would apply primarily to city-owned airports, often located outside the city. In at least one instance, there are joint-city airports, which explains the term "one or more cities" in the amendment.