

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairperson Representative Kenny Wilk at 3:30 p.m. on February 18, 2003, in Room 522-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research
Debra Hollon, Legislative Research
Renae Jefferies, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative Doug Patterson, 28th District
Mr. Larry R. Baer, Assistant Legal Counsel, League of
Kansas Municipalities
Mr. Steven Weatherford, President, Kansas
Development Finance Authority (KDFA)

Others attending: See attached list

Chairman Wilk opened the meeting at 3:30 p.m. by welcoming Representative Doug Patterson to the Committee. He called the Committee's attention to fiscal notes for the following bills: **HB 2289**, **HB 2335**, and **HB 2365**. The minutes for the February 13, 2003, meeting were also distributed.

The Chair then opened the Public Hearing for:

HB 2365: Community improvement districts

Representative Patterson addressed the committee as a proponent of **HB 2365**. (Attachment 1) He essentially said this legislation was an assemblage of an economic development tool borrowed from the state of Missouri. He explained the infrastructure needs of developers with the passage of this bill would bring in additional tax money to help defray the cost of needed infrastructure improvements to the district. The primary purpose would allow real property owners to collectively organize and coordinate efforts to develop, redevelop, beautify and improve their community through the creation of a community improvement district (CID). Rep. Patterson stated that a community improvement district (CID) is actually an extension of a Transportation Development District (TDD).

In order to accommodate Representative Patterson's schedule, the Chairman closed the Public Hearing on **HB 2365**. He then opened the Public Hearing for:

HB 2335: TIF, economic development areas

The Chairman again recognized Representative Patterson who spoke as a proponent for **HB 2335**. He said **HB 2335** does change a substantive portion of TIF. (Attachment 2).

The Chair thanked Representative Patterson and asked if there was anyone else who wished to speak either as a proponent or opponent on **HB 2335**. Since there were no others wanting to speak, the Chair closed the Public Hearing on **HB 2335**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT at 3:30 p.m. on February 18, 2003 in Room 522-S of the Capitol.

Chairman Wilk asked the Committee to turn its attention back to **HB 2365**. He welcomed Mr. Larry Baer, Assistant Legal Counsel for the Kansas League of Municipalities, who appeared neither in support nor opposition to **HB 2365**. He appeared before the Committee to make some specific comments about the bill. He spoke about the following three concerns:

- The districts which could be established under **HB 2365** appear to be separate, stand alone entities that would be governed by a board of directors.
- The creation of another set of taxing entities within the state.
- Local economic activity tax on the sale of tangible personal property at retail or the rendering or furnishing of services, which is really a sales tax.

Mr. Baer suggested that there were probably some drafting problems and that legislators should proceed with caution since there were some significant departures from current state law. He suggested a possible interim study that could try to blend something to develop a plan to meet the needs expressed. (Attachment 3).

Seeing no other conferees, the Chair closed the Public Hearing on **HB 2365**.

The Chair directed the Committee's attention to:

HB 2289: KDFA financing out-of-state projects

He asked April Holman, Legislative Research Department, to brief the Committee. Ms. Holman pointed out and explained all the changes in the bill that are in italics.

Chairman Wilk opened the Public Hearing for **HB 2289**. He then introduced Mr. Steven R. Weatherford, President of KDFA, and asked him to share with the Committee a little about himself and his professional background. Mr. Weatherford then mentioned the following points in regard to the bill:

- **HB 2289** seeks to amend the KDFA Enabling Act to authorize the Authority to issue bonds for certain projects both within and outside the State of Kansas.
- Authorization is sought in part at the request of the Sisters of Charity, Health Services Corporation based in Leavenworth, Kansas.
- Surrounding states of Colorado, Missouri, and Nebraska all now have multi-state issuance authority to facilitate these kinds of financings. (Attachment 4).

The Chairman thanked Mr. Weatherford, and seeing no other conferees, closed the Public Hearing for **HB 2289**.

Chairman Wilk announced that the last item on the agenda, **ERO 30**, does not require any action by the legislature because the Governor can actually reorganize whenever he or she chooses. It must be done within 30 days, and the Legislature has 60 days to respond. It would go into effect on July 1, 2003. He asked Deb Hollon, Legislative Research Department, to brief the Committee on **ERO 30**. (Attachment 5).

The Chair opened the Public Hearing for:

ERO 30: Executive Reorganizaation Order No. 30

The Chair again welcomed Mr. Steve Weatherford who said that it was the intent of the Governor's vision for Housing to create a "One Stop Shop for Housing." His testimony included the Governor's Message that home ownership is part of the American Dream. Since Kansas is the only state in the union without a statewide home ownership program, the first step in this process will be accomplished through this Executive Reorganization Order which will transfer housing programs from the Department of Commerce and Housing to the Kansas Development Finance Authority. (Attachment 6).

HOUSE ECONOMIC DEVELOPMENT COMMITTEE

TUESDAY, FEBRUARY 18, 2003

NAME	REPRESENTING
Stephanie Buchanan	DOB
Norma Phillips	KDOC:H
NAGARAO, SUBRAMANIAN	Jencom - Judith Loggins
Rae Anne Davis	KDOC:H
D. KEITH MEYERS	DEPT. OF ADMINISTRATION
Matthew Goddard	Heartland Community Bankers Assoc.
Jaamy Dishman	KDFA
Nate Kott	
Larry R Baser	CKM
Susan Parsons	Capital Consulting Group
Martha Jean Smith	ICMHA
Mike Huttles	Wichita Economic Development
Troy Fuddy	Gov. Office

HOUSE OF
REPRESENTATIVESREPRESENTATIVE, 28TH DISTRICT
JOHNSON COUNTY
12712 EL MONTE
LEAWOOD, KANSAS 66209
(913) 897-6905DOUG PATTERSON
MAJORITY WHIPROOM 174-W
STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 291-3500VICE-CHAIR: JUDICIARY
MEMBER: COMMERCE AND LABOR
HEALTH AND HUMAN SERVICES
JT. COMMITTEE ON STATE
INDIAN AFFAIRS
HOUSE RULES COMMITTEE

February 21, 2003

Chairman Kenny Wilk and Members of the House Economic Development Committee

Re: Support of HB 2365

Thank you for allowing me to address HB 2365, a development and redevelopment tool which will accommodate financing of economic development and generate the debt service proceeds internally. The phrase, "build it and they will come" comes to mind. No municipal funds or accommodations are required.

Following the hearing earlier this week, I have taken the liberty to prepare a balloon for your and the Revisor's consideration, a copy of which is attached. The bill and the balloon address the following:

1. What is a community improvement district. A community improvement district (CID) is a property development and redevelopment tool intended to encourage property development when the developer or the sponsoring municipality can demonstrate that a "gap", i.e. a need for development assistance to make a project feasible exists.

2. What does it do? CID's, upon approval by the municipality following submission of a development project by the developer and public hearings on the submission, would authorize the following economic development tools:

- a. A special assessment to be levied only on the property within the CID..
- b. A local economic activity tax, i.e. an excise tax or sales tax of up to one percent of sales within the district. This local economic activity tax is essentially a sales tax which can be imposed only upon those types of sales of goods or services authorized under the general law of Kansas concerning the imposition of sales taxes by municipalities. No additional tax authorizations are contained in the bill.
- c. Adopt a Mini-TIF, whereupon the developer or sponsor must follow all of the rigorous procedures for the establishment of a TIF other than

House Economic Development
2-18-03
Attachment 1

allowing the county or affected school district to veto the plan. In this instance, only the local municipal taxes imposed upon property and sales could be diverted for project purposes.

3. What development activities could be funded using a CID. Any development activities or expenses.

4. What is the term limit for a CID? In this instance, the tail wags the dog. The maximum timeframe would be established by the amount of internally generated taxes necessary to service the debt, limited, however to a total of 20 years. The 20 year provision is new and was a result of the hearing.

5. The balloon. Following the hearing on HB 2365, the enclosed a balloon addressed the concerns of the committee members and the conferees:

a. 100 percent of property owners must approve the CID. The 50 percent provisions contained within this bill have been removed and replaced with 100 percent.

b. The CID can last only 20 years.

c. The cumbersome board selection process has been simplified. In the CID by a municipally, the municipalities selects the board members, a majority of which must be owners of property or businesses within the district. If the CID is a privately sponsored development, the directors will be chosen by the developer pursuant to the Kansas corporate code. The cumbersome election process has been removed.

d. Special assessments. The petition for special assessments must be signed by 100 % of the owners, not 50%.

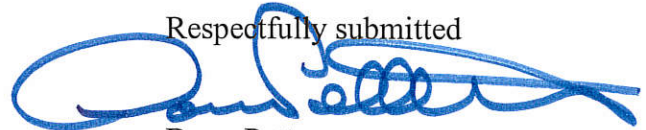
e. Other economic development tools. As we discussed, the creation of the CID cannot in and of itself authorize any additional economic development tools. However, property within the CID project area may otherwise qualify for other economic activity tools, such as tax credit programs, a full-blown tax increment financing plan, a transportation development district or other tools. The developer would be required to independently and separate from the creation of the CID, apply, pursue and obtain approval under those law for any additional economic activity tools. It seemed to be the concern of the committee that the creation of the CID it would automatically authorize a TIF or other tools. This would not be the case.

7. Debt. The balloon strengthens the point that the debt, either bonds or the debt created by a development agreement would not be the debt of the municipality but rather would be only the debt of the sponsoring developer.

8, Eminent domain. This balloon underlines the fact that the creation of a CID does not authorize eminent domain. That was never the intention.

Thank you very much for allowing me to address your committee and discuss an economic development tool which we used extensively in Missouri and which has sponsored many quality developments without any form of tax diversion or abatement program.

Respectfully submitted

A handwritten signature in blue ink, appearing to read "Doug Patterson", written in a cursive style.

Doug Patterson

HOUSE BILL No. 2365

By Representative Patterson

2-12

AN ACT relating to economic development; establishing community improvement districts.

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

Section 1. This act shall be known and cited as the community improvement districts act.

Sec. 2. The purpose of this act is to allow owners of real property to collectively organize and coordinate efforts to develop, redevelop, beautify and improve their community through the creation of a community improvement district. Such districts may provide innovative ways to generate moneys to fund enhanced services and capital improvements while spurring on economic development; promote, stimulate and develop the general and economic welfare of the state of Kansas and its communities; assist in the development and redevelopment of areas within and without a city thereby promoting the general welfare of the citizens of Kansas by authorizing the cities to acquire certain property, issue special obligation bonds or execute development agreements financing projects on a pay-as-you-go basis at interest for the financing of projects. It is further found and declared that the powers conferred by this act are for uses and purposes for which public moneys may be expended and the power of eminent domain exercised. The necessity in the public interest for the provisions of this act is hereby declared as a matter of legislative determination.

Sec. 3. (a) Any municipality or county may establish one or more community improvement districts (hereafter, districts) after receiving a petition signed by: (1) the owners of real property in the district, collectively owning real property representing ~~50%~~ 100% of the assessed value of the real property located within the proposed district; and (2) more than ~~50%~~ 100% per capita of all owners of the real property located within the district and filed with the municipal clerk.

(b) The petition shall:

- (1) Set forth the purpose of, duration of, and limitations of the district powers;
- (2) describe the proposed legal description and boundaries of the district in graphic form;

the district for purposes only of retiring project costs (net to excess 20 years)

- 1 (3) set forth an initial five-year plan specifying the type and estimated
2 costs of the improvements and services to be provided by the district;
- 3 (4) set forth the size, area, existing uses, proposed uses, duration and
4 type of district, including a preliminary plan that identifies all of the pro-
5 posed project improvements and, in a general manner, all of the buildings,
6 facilities and improvements in each district proposed to be constructed
7 or improved in each project as well as the proposed phasing of the project
8 improvements;
- 9 (5) set forth the project costs to be incurred in developing or rede-
10 veloping the district necessary to implement the district improvements,
11 including, but not limited to, costs incurred for: (A) Acquisition of prop-
12 erty within the project; (B) site preparation including grading and utility
13 relocations; (C) sanitary and storm sewers and related facilities; (D) drain-
14 age conduits, channels and water handling facilities; (E) street or parking
15 lot grading, paving, graveling, macadamizing, curbing, guttering and sur-
16 facing; (F) street light fixtures, connection and facilities; (G) gas, water,
17 heating, electrical and all other utility services and connections located
18 within or without public right-of-way, on or off the site of the district but
19 necessary for the development or redevelopment of the district; (H) side-
20 walks, drives and driveway approaches located within and without public
21 right-of-way; (I) parking facilities; (J) landscaping and plantings, fountains,
22 shelters, benches, sculptures, lighting, decorations and similar amenities;
23 (K) all related expenses to develop or redevelop, or both, and finance the
24 project improvements, such as design, engineering, professional services,
25 development fees, financing costs and fees, development-construction
26 and permanent financing interest; and (L) costs and capital expenditures
27 incurred in connection with the construction of public or private buildings
28 or other structures, including those to be owned by or leased by the
29 petitioner, its developer, their successors or assigns;
- 30 (6) set forth the maximum rates of ~~real property taxes and~~ special
31 assessments that may be imposed by the district; and
- 32 (7) set forth the district, ~~sales tax~~ proposed to be levied in the district.
- 33 (c) After the petition is filed with the municipal clerk, such clerk shall
34 verify whether the petition meets the requirements of this subsection, if
35 it does not meet the requirements of the act the municipal clerk shall
36 notify the party which filed the petition of its specific deficiencies. The
37 clerk must verify the petition within 90 days of its filing.
- 38 (d) Within 45 days after the petition is verified, the governing body
39 of the municipality by resolution, shall call and hold a public hearing
40 concerning the establishment of the district.
- 41 (e) Notice of the public hearing shall be given in a newspaper of
42 general circulation within the municipality once a week for two consec-
43 utive weeks prior to the week of the public hearing, and by certified mail

local economic activity tax

1 to all property owners of record within the proposed district. The second
2 published notice shall be published at least seven days prior to the date
3 of hearing and the certified mail notice shall be sent at least 15 days prior
4 to the hearing. Such notice shall contain:

- 5 (1) The time and place of hearing;
- 6 (2) the general nature of the proposed community improvement
7 district;
- 8 (3) the estimated cost of the project;
- 9 (4) the proposed method of financing of the project;
- 10 (5) the proposed amount of special assessments and the method of
11 assessment;

12 ~~(6) the proposed amount of real property taxes that may be imposed;~~

13 ~~(7) the proposed project sales tax to be imposed upon economic ac-~~
14 ~~tivity within the district; and~~

*local economic
activity tax*

15 ~~(7)~~ (8) a map or boundary description of the proposed district.

16 (f) Upon the conclusion of the public hearing, the governing body of
17 the municipality may pass an ordinance adopting the proposed petition
18 and establishing the district as set forth in the petition. Notice of such
19 ordinance shall be published at least once each week for two consecutive
20 weeks in a newspaper of general circulation. If within 30 days after the
21 last publication of the notice, a petition signed by at least 5% of the owners
22 of record within the community improvement district is submitted to the
23 clerk of the municipality requesting an election upon such question, an
24 election of the owners of record, whether resident or not, shall be called
25 and held thereon. Such election shall be called and held in the manner
26 provided by K.S.A. 25-431 et seq., and amendments thereto. If no protest
27 or no sufficient protest is filed or if an election is held and the proposition
28 carries by a majority of the owners of record within the district voting
29 thereon, the governing body of the community improvement district shall
30 commence implementation of the district plan. No suit to set aside the
31 community improvement district or otherwise question the validity of the
32 proceedings for the creation of the community improvement district or
33 the authorization of the project shall be brought after the expiration of
34 30 days from the adoption of the ordinance or resolution creating the
35 district.

36 (g) Amendments may be made to the petition without an additional
37 public hearing if the amendments do not change the boundaries of the
38 proposed district and are made prior to the adoption of an ordinance
39 approving the petition. If the amendments are made prior to the close of
40 the public hearing, notice of the amendments may be given at the public
41 hearing, otherwise notice must be given by mail and publication not less
42 than 10 days prior to the adoption of an ordinance establishing the pro-
43 posed district and approving the amended petition.

1 (h) After the adoption of an ordinance establishing the district and
2 approving the petition, the petition may be amended only after proper
3 notice is given regarding the proposed amendments and a public hearing
4 is held.

5 Sec. 4. ^{or} A community development district can be either a political
6 subdivision ~~with the power to impose special assessments and real prop-~~
7 ~~erty taxes or a nonprofit corporation with the power to impose special~~
8 ~~assessments. Both political subdivision districts and nonprofit districts are~~
9 governed by a board of directors.

*and local economic
activity times pursuant
to the act.*

10 (a) A district that is a political subdivision shall be governed by a board
11 of directors ~~elected by the district's qualified voters or~~ appointed by the
12 municipality. The petition must specify which method will be applicable.
13 The board must consist of at least ~~five~~ but not more than ~~30~~ directors,
14 each of whom must be at least 18 years of age, ~~and~~ either an owner of
15 real property or a business within the district, or a registered voter within
16 the district.

*3
10*

*a minority of the directors
appointed by the
municipality need not
own property or a business
nor be a registered
voter within the
district. A majority of
the directors shall be*

17 (N) ~~Election of Directors. If the petition provides that the directors
18 are to be elected, the directors shall be elected at large by the qualified
19 voters of the district pursuant to a mail-in ballot procedure, except that
20 the initial board of directors may be stated in the petition in lieu of holding
21 an election with subsequent members being elected.~~

22 (A) "Qualified voters" for the purpose of electing directors of a dis-
23 trict means the registered voters residing within the district who own real
24 property within the district.

25 (B) The election procedure shall be as follows:

26 (i) The municipal clerk shall specify the date on which the election
27 will occur. Such date shall be a Tuesday and shall not be earlier than the
28 10th Tuesday, nor later than the 15th Tuesday, after the effective date of
29 the ordinance establishing the district.

30 (ii) Candidates must file with the municipal clerk no later than the
31 second Tuesday after the effective date of the ordinance establishing the
32 district.

33 (iii) The municipal clerk shall publish notice of the election in a news-
34 paper of general circulation within the municipality two times. The first
35 publication date must be more than 60 days prior to the date of election
36 and the second publication date must not be more than 30 days nor less
37 than 10 days prior to the date of the election.

38 (C) The terms of the directors shall be equally divided between two
39 and four-year terms based on the number of votes received with the
40 directors receiving the highest number of votes serving the four-year
41 terms. If an odd number of directors is elected, the director receiving the
42 least number of votes shall serve a two-year term. Successor directors
43 shall serve four-year terms and be elected in the same manner as the

1 ~~initially elected board members. Alternatively, the initial directors may~~
 2 ~~be named in the petition so no election needs to be held until the initial~~
 3 ~~directors serving a two-year term need to be elected. The petitioner shall~~
 4 ~~set out the term of office for each of the named directors.~~

5 (1) ~~(a) Appointment of Directors. If the petition provides that the direc-~~ *by the municipality of directors*
 6 ~~tors are to be appointed by the municipality, the appointments shall be~~
 7 made by the chief elected official of the municipality with the consent of
 8 the governing body of the municipality and may be completed at the time
 9 the petition is approved. One-half of the directors appointed shall serve
 10 a four-year term and one-half will serve a two-year term. If there is an
 11 odd number of directors appointed, the last director appointed shall serve
 12 a two-year term. Successor directors serve four-year terms.

13 (b) A district that is a nonprofit corporation shall be governed by a
 14 board of directors selected in accordance with chapter 17 of the Kansas
 15 Statutes Annotated.

16 Sec. 5. The cost of any community improvement district project shall
 17 be paid from all or any of the following sources:

18 (a) *Special assessments.* The board of directors of any community
 19 improvement district may levy by resolution one or more special assess-
 20 ments against real property within the district's boundaries after a special
 21 assessment petition is submitted to the board requesting such assessment.
 22 More than one special assessment may be requested in such petition.

23 (1) The special assessment petition must be signed by:

24 (A) The owners of real property in the district, collectively own real *100%*
 25 property representing more than ~~50%~~ of the assessed value of the real
 26 property within the district; and

27 (B) more than ~~50%~~ per capita of the owners of all real property within *100*
 28 the district.

29 (2) The special assessment petition, for each special assessment re-
 30 quested, must also state the purpose, method of assessment, amount and
 31 expiration date of the special assessment, and the tracts of real property
 32 to be benefited by the service or improvements, or both, and to be paid
 33 within the special assessment.

34 (3) To assure that the rate of assessment reflects the various amounts
 35 of benefit level derived from the various improvements and services
 36 funded by the special assessment, the levy rate of the special assessment
 37 may vary for each class of real property established by the district based
 38 on the level of benefit derived by each class of real property.

39 (4) The community improvement districts may make multiple as-
 40 sessments based on appropriate petitions for proper purposes.

41 (5) Real property within the district that is tax exempt is also exempt
 42 from the district's special assessment unless the owners of such property
 43 elect to participate in the district. Such exempt property includes, but is

1 not limited to, property that is actually and regularly used exclusively for
2 religious worship, for schools and colleges, or for purposes purely chari-
3 table and not held for private or corporate profit.

4 (6) The funds received from each special assessment shall be placed
5 in separate accounts and not commingled.

6 ~~(b) Real property taxes. Only community improvements districts~~
7 ~~which are political subdivisions have the power to levy real property taxes.~~
8 ~~A district that is a political subdivision may levy such a tax by resolution.~~

9 (1) A resolution levying such a tax is not effective until it is approved
10 by a majority of the qualified voters by mail-in ballots. For purposes of
11 this subsection, "qualified voters" means:

- 12 (A) Registered voters residing in the district; or
- 13 (B) if there are no registered voters residing within the district, the
14 owners of real property within the district.

15 (2) Election procedure is as follows:
 16 (A) Upon receipt of written notice of a district's resolution, the elec-
 17 tion authority shall specify a date upon which the election shall occur.
 18 The election date shall be a tuesday. The date shall not be earlier than
 19 the 10th Tuesday nor later than the 15th Tuesday after the date of the
 20 board's passage of the resolution.

21 (B) The election authority shall publish notice of the election in a
22 newspaper of general circulation within the municipality two times. The
23 first publication shall be more than 60 days prior to the date of election
24 and the second publication date shall not be more than 30 days prior to
25 the election.

26 (3) Real property within the district that is tax exempt is also exempt
27 from the district's real property taxes. Such exempt property includes
28 property owned by a city, county or other political subdivision, as well as
29 that which is actually and regularly used exclusively for religious worship,
30 for schools and colleges or for purposes purely charitable and not held
31 for private or corporate profit.

32 ~~(b) (c) Local economic activity tax.~~ Any district plan may provide for and
33 impose a local economic activity tax on the selling of tangible personal
34 property at retail or rendering or furnishing services within the district
35 for purposes of financing a project in such district in any increment of
36 .10% not to exceed 1% and pledging the revenue received therefrom to
37 pay the bonds issued for the project or otherwise pay for project costs
38 pursuant to the district plan. Any local economic activity tax imposed
39 pursuant to this section shall expire no later than the date the bonds issued
40 to finance such project or refunding bonds issued therefore shall mature
41 or as otherwise provided in the district plan providing for the payment of
42 project costs.

43 (d) Coordination and use of other statutory economic development

*only to the extent that the municipality
is authorized by state
law to levy and impose
a sales tax on such
activities.*

*the project costs are paid
and retired pursuant to
a pay as you go arrangement
contained in a development
agreement with the
municipality or*

1 provisions. A tax increment financing plan pursuant to K.S.A. 12-1770 et
2 seq., and amendments thereto also may be implemented, in whole or in
3 part, to develop a community improvement district plan in conjunction
4 with other statutory provisions providing for the development or rede-
5 velopment of areas within municipalities or counties or any other eco-
6 nomic development provisions. However, the provisions of subsection (d)
7 of K.S.A. 12-1771, and amendments thereto, shall not apply if ~~any~~ tax
8 increment financing plan within a district captures any incremental taxes
9 imposed by the municipality.

10 (e) Other sources. A community improvement district may accept
11 grants, gifts, donation of property, labor, services and any other contri-
12 butions from any public or private source. It can also charge and collect
13 fees and rents for the use of its real and personal property, as well as
14 enter into agreements to provide services for a fee.

15 Sec. 6. (a) Any community improvement district may issue bonds in
16 one or more series to finance the undertaking of any project in accordance
17 with the provisions of this act. Such bonds or other form of obligations
18 or development agreements used to finance or provide for the financing
19 of project costs shall be made payable, both as to the principal and interest
20 solely from a pledge of the sources of funds described in section 5, and
21 amendments thereto. The district may pledge such revenue to the re-
22 payment of such bonds or obligations prior to, simultaneously with or
23 subsequent to the issuance.

24 (b) Any bonds issued pursuant to subsection (a) shall not be general
25 obligations of the municipality, give rise to a charge against its general
26 credit or taxing powers ~~or~~ be payable out of any funds or properties other
27 than any of those set forth in subsection (a), and such bonds shall so state
28 on their face. ~~any provisions of a development agreement allowing for~~

29 (c) Bonds or other obligations issued pursuant to subsection (a) shall
30 be special obligations of the district and are declared to be negotiable
31 instruments. Such bonds or obligations shall be executed by the author-
32 ized representatives of the district and sealed with the corporate seal of
33 the municipality. All details pertaining to the issuance of the bonds and
34 terms and conditions thereof shall be determined by ordinance or reso-
35 lution of the municipality. The provisions of K.S.A. 10-106, and amend-
36 ments thereto, requiring a public sale of bonds shall not apply to bonds
37 issued under this act. All bonds issued pursuant to this act and all income
38 or interest therefrom shall be exempt from all state taxes except inheri-
39 tance taxes. Such bonds shall contain none of the recitals set forth in
40 K.S.A. 10-112, and amendments thereto. Such bonds shall contain the
41 following recitals: The authority under which such bonds are issued; that
42 such bonds are in conformity with the provisions, restrictions and limi-
43 tations thereof; and that such bonds and the interest thereon are to be

with any ~~other~~ ^{incremental} taxes being ~~all~~ ^{to}
and paid ~~to~~ ^{to other} ~~respective~~ ^{respective} ~~taxing~~ ^{taxing} ~~submissions~~ ^{submissions}
in the same manner as such taxes ~~would~~ ^{are}
be paid ~~without~~ ^{without} ~~tax~~ ^{tax} ~~increment~~ ^{increment} ~~provisions~~ ^{provisions}, all
pursuant to K.S.A. 12-1771(2).

only
so long as the existing requirements
for establishing such
economic development
provisions are fully
complied with separately
and independent from
the creation of a
community improvement
district.

shall not
development agreement allowing for
the construction financing
of project costs shall
however be only to
obligation of the
developer, sponsor of
the project and shall
not constitute the
debt or obligation of
the municipality.

1 paid from the money and revenue received as provided in subsection (a).

2 (d) Any municipality issuing bonds under the provisions of this act
3 may refund all or part of such issue pursuant to the provisions of K.S.A.
4 10-116a, and amendments thereto.

5 (e) Bonds issued under the provisions of this act shall be in addition
6 to and not subject to any statutory limitation of bonded indebtedness
7 imposed on such municipality.

8 Sec. 7. A separately named fund shall be created for each district
9 with each project within each district within the fund identified by a
10 suitable name. The proceeds from the sale of bonds and any other moneys
11 appropriated for such purpose shall be credited to such fund. Such fund
12 shall be used solely to pay for the costs of the project.

13 Sec. 8. ~~The board of directors of the community improvement dis-~~
14 ~~trict have the power to:~~

15 (a) Make and enter into contracts with both public and private
16 entities;

17 (b) enter into agreements with the municipality to eliminate any pub-
18 lic nuisance within the district;

19 (c) acquire and sell real and personal property;

20 (d) borrow money;

21 (e) issue bonds and other obligations and loan money;

22 (f) employ or contract for services, including managerial, engineering,
23 legal, technical, clerical, accounting, security, cleaning, waste removal and
24 maintenance;

25 (g) provide assistance and funding to construct, reconstruct, install,
26 repair, maintain and equip numerous improvements as authorized by this
27 act;

28 (h) assist the growth and development of business within the district
29 by utilizing its power to contract for or conduct economic planning and
30 marketing studies as well as its power to provide advertising and market-
31 ing for the district;

32 (i) expend its revenues or loan funds as needed to correct conditions
33 on private property within the district, provided that the municipality has
34 determined that such expenditure will remediate such conditions and
35 serve a public purpose.

36 Sec. 9. Once a community improvement district is formed, it will
37 operate in accordance with its powers, purpose and limitations, if any, as
38 set forth in this act.

39 Sec. 10. This act shall take effect and be in force from and after its
40 publication in the statute book.

41
42
43

*shall not have the
power of eminent
domain, but shall*

HOUSE OF
REPRESENTATIVES

REPRESENTATIVE, 28TH DISTRICT
JOHNSON COUNTY
12712 EL MONTE
LEAWOOD, KANSAS 66209
(913) 897-6905

ROOM 174-W
STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 291-3500



DOUG PATTERSON

MAJORITY WHIP

VICE-CHAIR: JUDICIARY
MEMBER: COMMERCE AND LABOR
HEALTH AND HUMAN SERVICES
JT. COMMITTEE ON STATE
INDIAN AFFAIRS
HOUSE RULES COMMITTEE

February 21, 2003

Chairman Kenny Wilk and Members of the House Economic Development Committee

Re: HB 2335

Presently, tax increment financing has been a useful tool to developing and redevelopment areas constituting "blighted" and "conservation" areas within the State of Kansas. There have been, however, times when these definitions did not fit a development opportunity which would discourage businesses from leaving the State and which would increase employment and preserve the tax base of the municipality.

While it is true that the elimination of blighted conditions and the elimination of conditions which will soon cause a property to be blighted is a desirable and necessary tool to revitalize and enhance the tax base of cities and counties, an additional objective of economic development is to retain and create jobs in our state. Accordingly, the term "economic development area" is an additional tool to use in tax increment financing plans.

This additional authorization is used in a number of states, including Illinois and Missouri. In those instances, cities and counties have found that under certain circumstances, the necessary designation of an area as "blighted" or "conservation" has a negative connotation and causes public objection to the adoption of a plan. After all, who wants their property called "blighted".

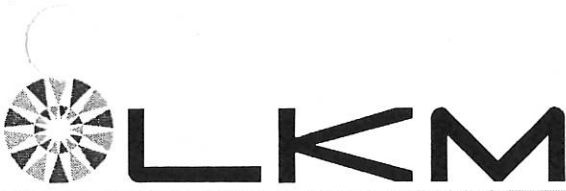
In addition, there are those instances where an existing business seeks to remain within a municipality and business opportunities desirous of locating within a new municipality in Kansas simply cannot make the deal work from a competitive point of view given opportunities outside the Kansas. In these instances, the availability of the designation of economic development area will allow cities and counties additional tools to retain jobs or attract new jobs.

This bill does not change in any way the rigorous requirements precedent to the establishment of a tax increment financing plan. After all, tax increment financing does divert tax revenues which would otherwise be available not only the city, counties and the schools. Accordingly, this bill does not change the law which allows school districts and the county to veto a tax increment financing plan. It only authorizes and legitimizes what cities have sought to do in the past, ie., avoid the negative connotation of a quote "blighted." or "conservation area" , and, in addition retain or attract jobs and to increase, in the long term, the tax base.

Respectfully submitted,

Doug Patterson

House Economic Development
2-18-03
Attachment 2



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

Date: February 18, 2003
To: House Economic Development Committee
From: Larry R. Baer
Assistant Legal Counsel
Re: HB 2365

Thank you for allowing me to appear before you this afternoon on behalf of the League of Kansas Municipalities and its member cities and comment upon HB 2365. The League appears neither in support nor opposition to HB 2365. Rather, we appear to comment upon the bill.

The districts which could be established under HB 2365 appear to be separate, stand alone entities. Entities that would be governed by a board of directors. The directors appear to have broad powers, most of which seem to be a delegation of the powers of the municipal governing body. The concern here is that the delegation of municipal powers to a committee or board appears to be without further oversight.

A second concern is the creation of another set of taxing entities within the state. Each district would have various abilities to create special assessments and a "local economic activity tax", in essence a sales tax. In this time when there are a variety of bills before this legislature regarding reducing the number of school districts in the state and creating efficiencies in local governments through city-county reorganization, establishing further small taxing districts does not seem to be the way to head.

A third concern is the local economic activity tax on the sale of tangible personal property at retail or the rendering or furnishing of services. Although under a different name, it is a sales tax. As such it may or may not be in conflict with the efforts to adopt legislation to bring Kansas into compliance with the Streamlined Sales Tax Initiative Agreement (tax on Internet and remote sales).

We ask the Committee to proceed with caution on HB 2365 and the many other similar type bills that have been introduced. The intent of these bills may be good. But in some cases the methodology may not be the best and, when interplayed with current provisions or pending bills, may result in some unintended consequences.

Again, we ask that the Committee proceed with caution and suggest that HB 2365 and others with similar purposes would be appropriate for an interim study.

**TESTIMONY OF KANSAS DEVELOPMENT FINANCE AUTHORITY
PRESENTED BY K DFA PRESIDENT, STEVEN R. WEATHERFORD
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
REGARDING HOUSE BILL 2289 OF THE 2003 LEGISLATIVE SESSION
FEBRUARY 18, 2003**

Mr. Chairman and Honorable Members of the Committee, Kansas Development Finance Authority ("K DFA") appreciates this opportunity to testify before you concerning proposed House Bill ("H.B.") 2289.

- House Bill 2289 seeks to amend the K DFA Enabling Act to authorize the Authority to issue bonds for certain projects both within and outside the State of Kansas.
- The authorization is sought in part at the request of the Sisters of Charity, Health Services Corporation, based in Leavenworth, Kansas. The Sisters maintain a triple "AAA" rated hospital system with facilities in a number of states.
- Large hospital systems with facilities in numerous states have increasingly determined it is most economically efficient to use a single issuer to access the tax-exempt markets for their long term capital needs.
- The Sisters of Charity/Health Services Corporation recently borrowed approximately \$200 million dollars to finance capital projects, and used the Colorado Health Facilities Finance Authority as their single issuer for these projects in many states, including Kansas.
- The surrounding states of Colorado, Missouri, and Nebraska all now have multi-state issuance authority to facilitate these kinds of financings. K DFA is now a rare state-wide issuer in this region who currently has no multi-state authority.
- K DFA has in the past issued bonds for the Sisters of Charity/Health Services Corporation for their facilities located in Kansas. The Sisters have requested that K DFA seek the multi-state authority so that they may use K DFA as their "Home Issuer" for future finance projects.
- While K DFA anticipates that health care financings will be the predominant use of the authority, it is possible the authority could also be used to, for example, finance a bridge or road that extends into another state's jurisdiction.
- The multistate authorization would only be used upon a finding of the K DFA board that the financing is of significant benefit to the State of Kansas.

House Economic Development
2-18-03
Attachment 4



**Sisters of Charity
of Leavenworth
Health System**

SCLHS Legal Division
Edward L. Barker
Vice President, General Counsel
Phone: (913) 895-2825 Fax: (913) 895-2992

May 10, 2002

Senator Lynn Jenkins
Kansas State Senator
Kansas State Capitol Building
300 S.W. 10TH Avenue, Room 460 East
Topeka, KS 66612

Re: Sisters of Charity of Leavenworth Health System, Inc.

Dear Senator Jenkins:

I am the Vice President, General Counsel of the Sisters of Charity of Leavenworth Health System, Inc. ("SCLHS"). The Sisters of Charity of Leavenworth and their health ministry have had their principal place of business in the state of Kansas since 1857. SCLHS has also been a multi-state healthcare provider for over 100 years with locations in Kansas, California, Colorado and Montana.

I am writing this letter on behalf of the Sisters of Charity of Leavenworth Health System in support of the proposed revision to K.S.A. 74-8905. This revision would allow the Kansas Development Authority to act as a multi-state issuer. This proposed revision would greatly enhance our ability to finance our healthcare ministry in the most efficient and cost effective manner.

Accordingly, we support the revision and would be happy to discuss this with you at your convenience.

Sincerely,

Edward L. Barker
Vice President, General Counsel

ELB:cld

c: William M. Murray, President/CEO, SCL Health System, Inc.

Executive Reorganization Order No. 30

- Transfers the Division of Housing from the Department of Commerce and Housing to the Kansas Development Finance Authority

- Transfers all duties and responsibilities of the Department of Commerce and Housing relating to housing programs

- Transfers the ending balances of all housing-related funds or accounts from KDOCH to KDFA

- Transfers all officers and employees of the Division of Housing in KDOCH to KDFA
 - Those classified remain so; KDFA may convert positions to unclassified when they become vacant
 - Retain all leave and retirement benefits

- Effective July 1, 2003, unless disapproved by either chamber of the Legislature

- FY 2004 Governor's Recommended Budget - KDOCH Division of Housing
 - 38.0 FTE positions (1.0 unclassified)

 - \$55,599,792 All Funds

Economic Development Initiatives Fund	\$	469,992
Special revenue funds		1,631,457
State Housing Trust Fund		2,353,050
Federal funds		51,145,293
TOTAL	\$	55,599,792

Testimony to the House Committee on Economic Development
Regarding Executive Reorganization Order No. 30
By Steve Weatherford, President, Kansas Development Finance Authority
February 18, 2003

Mr. Chairman and Honorable Members of the Committee, Kansas Development Finance Authority ("KDFA") appreciates the opportunity to testify before you regarding Executive Reorganization Order No. 30, issued February 10, 2003, by Governor Sebelius.

- The Governor's vision for housing in Kansas calls for the creation of a state housing finance agency with the intent of marshalling all our housing resources into one entity creating "One Stop Shop for Housing". The location of our "One Stop Shop for Housing" within KDFA will allow us to develop a continuum of housing programs from homelessness to homeownership.
- Executive Reorganization Order (ERO) No. 30 is the first step in the creation of a state housing finance agency.
- Specifically, the ERO moves the responsibility for all of the federal housing programs currently being administered in the Department Commerce and Housing to KDFA.
- These programs include: emergency shelter grants, housing rehabilitations programs, rental assistance programs, housing tax credit programs and the federal "Home" program.
- We are currently engaged in a transition and planning process, which after implementation will result in the creation of two divisions within KDFA, a finance division and a housing division.
- The reorganization plan will also address the physical merger of the finance division and the housing division into one location.
- The capstone in the creation of a state housing finance agency is House Bill ("H.B.") 2395.
- H.B. 2395 seeks to amend the KDFA Enabling Act to authorize the issuance of single family mortgage revenue bonds. This issuing authority will serve as the foundation to a comprehensive housing program affording homeownership opportunities to families throughout the entire State of Kansas.

House Economic Development
2-18-03
Attachment 6

Governor's Message
Executive Reorganization Order No. 30
By Governor Kathleen Sebelius
February 10, 2003

Homeownership has long been considered the centerpiece of the American Dream. Kansas families in both rural areas and urban centers share that dream. Today, however, Kansas is the only state in the union without a statewide homeownership program. Homeownership programs in Kansas are administered on the local level, primarily by two counties. The development of a "One Stop Shop for Housing" and a statewide homeownership program would send a strong message to Kansans of all income levels that the American Dream is still alive for them.

The primary mission of our "One Stop Shop for Housing" would be to ensure that Kansas families throughout the entire state have the financial tools for affordable homeownership. The first step in this process, which is accomplished through this Executive Reorganization Order, is the transfer of the housing programs from the Department of Commerce and Housing to the Kansas Development Finance Authority. This reorganization would abolish the housing functions performed by the Department of Commerce and Housing, as authorized by and assigned under K.S.A. 74-5002g, and reassign them to KDFA.

This reorganization would begin to consolidate the authority for making homeownership affordable into a "One Stop Shop for Housing." Communities throughout Kansas have different housing needs. From emergency shelter grants, rental assistance, rehabilitation of substandard housing to the construction of new affordable housing, our "One Stop Shop for Housing" would ensure that the resources are available and administered to meet the needs of our communities.

The ultimate goals of this process would be to (1) distribute housing resources equitably throughout the entire state; (2) increase homeownership for Kansas's families through continuous lending programs that deliver low cost mortgage financing and down payment assistance; (3) deliver programs that meet the basic shelter needs of our low and very low-income Kansas families; (4) deliver resources that assist local communities in the construction of new homes and the rehabilitation of substandard housing. I believe all Kansans support these goals.

Another essential step in this process is to give the Kansas Development Finance Authority the ability to administer a statewide homeownership program. I plan to follow up this ERO with legislation that would authorize KDFA to perform a variety of functions to make homeownership more affordable.

KDFA is an excellent organization, and I have confidence in its leadership and staff. It is well run and businesslike. It is known nationwide by investors in Kansas bonds and is well respected by the rating agencies. Placing this responsibility with KDFA will allow more Kansans to live the American Dream.

Executive Reorganization Order No. 30

By Governor Kathleen Sebelius

Transmitted February 10, 2003

Section 1. There is hereby established within the Kansas development finance authority, a division of housing to be organized and administered by the Kansas development finance authority. The head of the division shall be the director of housing, who shall be appointed by and serve at the pleasure of the president of the Kansas development finance authority. The director of housing shall administer the division of housing.

Sec. 2. (a) The division of housing within the department of commerce and housing and the undersecretary for housing within the department of commerce and housing created by K.S.A. 74-5002g, and amendments thereto, are hereby abolished. On the effective date of this order, the department of commerce and housing is hereby renamed the department of commerce, and the secretary of commerce and housing is hereby renamed the secretary of commerce.

(b) Except as otherwise provided by this order, all of the powers, duties and functions of the existing division of housing within the department of commerce and housing, and the existing undersecretary of housing within the department of commerce and housing, are hereby transferred to and imposed upon the division of housing within the Kansas development finance authority and the director of housing established by this order.

(c) Except as otherwise provided by this order, all of the powers, duties and functions of the department of commerce and housing and the secretary of commerce and housing that relate to housing and housing-related purposes are hereby transferred to and imposed upon the Kansas development finance authority and the president of the Kansas development finance authority.

Sec. 3. (a) The division of housing within the Kansas development finance authority established by this order shall be the successor in every way to the powers, duties, and functions of the division of housing within the department of commerce and housing in which the same were vested prior to the effective date of this order and that are transferred pursuant to section 2. Every act performed in the exercise of such powers, duties and functions by or under the authority of the Kansas development finance authority or the director of housing within the Kansas development finance authority established by this order shall be deemed to have the same force and effect as if performed by the department of commerce and housing or the undersecretary of housing within the department of commerce and housing in which such powers, duties and functions were vested prior to the effective date of this order. Contracts related to housing functions shall be transferred to the extent they may be legally transferred or assigned.

(b) Whenever the division of housing of the department of commerce and housing, or words of like effect, are referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the division of housing established by this order.

(c) Whenever the undersecretary for housing within the department of commerce and housing, or words of like effect, are referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the director of housing established by this order.

(d) Whenever the department of commerce and housing or the secretary of commerce and housing, or words of like effect, are referred to or designated by a statute, contract or other document and such reference is in regard to any of the powers, duties, or functions transferred to the Kansas development finance authority pursuant to this order, such reference or designation shall be deemed to apply to the Kansas development finance authority and the president of the Kansas development finance authority.

(e) All rules and regulations, orders and directives of the secretary of the department of commerce and housing or the undersecretary for housing which relate to the functions transferred by this order and which are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the Kansas development finance authority and the director of housing until revised, amended, revoked, or nullified pursuant to law.

Sec. 4. (a) On the effective date of this order, the balances of all funds or accounts thereof appropriated or reappropriated for the department of commerce and housing relating to the powers and duties and functions transferred by this order are hereby transferred within the state treasury to the division of housing within the Kansas development finance authority and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this order, liability for all accrued compensation or salaries of officers and employees who are transferred to the Kansas development finance authority under this order shall be assumed and paid by the division of housing within the Kansas development finance authority.

(c) The Kansas development finance authority shall keep separate records and accounts for the division of finance and the division of housing within the Kansas development finance authority. All expenses of the division of finance incurred in the performance of its duties and conducting its finance programs shall be payable from funds generated by or designated for the division of finance, and all expenses of the division of housing incurred in the performance of its duties and conducting its housing programs shall be payable from funds generated by or designated for the division of housing, including state appropriations. This system of separate records and accounts shall be in effect for such period as the Kansas development finance authority deems necessary and appropriate, and may also be subject to modification as the Kansas development finance authority deems necessary and appropriate.

Sec. 5. (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The Kansas development finance authority shall succeed to all property, property rights and records which were used for or pertain to the performance of powers, duties and functions transferred to the Kansas development finance authority. Any conflict as to the proper disposition of property, personnel or records arising under this order shall be determined by the governor, whose decision shall be final.

Sec. 6. (a) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this order, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected. The state shall remain the party in interest in any such action.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this order, and the state shall remain the party in interest in any such action.

Sec. 7. (a) Except with respect to the powers, duties, and functions that are transferred by this order to the Kansas development finance authority or to the division of housing within the Kansas development finance authority, the department of commerce established by this order shall be the successor in every way to the powers, duties, and functions of the department of commerce and housing in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such powers, duties and functions by or under the authority of the Kansas department of commerce or the secretary of commerce established by this order shall be deemed to have the same force and effect as if performed by the department of commerce and housing or the secretary of commerce and housing in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Whenever the department of commerce and housing, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power, or duty other than those powers, duties, and functions that are transferred to the Kansas development finance authority under this order, such reference or designation shall be deemed to apply to the department of commerce established by this order.

(c) Whenever the secretary of commerce and housing, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power, or duty other than those powers, duties, and functions that are transferred to the Kansas development finance authority under this order, such reference or designation shall be deemed to apply to the secretary of commerce established by this order.

(d) All rules and regulations, orders and directives of the secretary of the department of commerce and housing that relate to functions other than those functions transferred by this order and that are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the secretary of commerce until revised, amended, revoked, or nullified pursuant to law.

Sec. 8. (a) All officers and employees of the division of housing within the department of commerce and housing who, immediately prior to the effective date of this order, are engaged in the exercise and performance of the powers, duties and functions transferred by this order are hereby transferred to and become employees of the Kansas development finance authority. All classified employees so transferred shall retain their

status as classified employees. Thereafter, the Kansas development finance authority may convert vacant classified positions to positions that are not classified.

(b) Officers and employees of the division of housing of the department of commerce and housing transferred by this order shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs and abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed prior to the date of transfer by the division of housing within the department of commerce and housing.

Sec. 9. All of the provisions of this order shall take effect and have the force of general law on July 1, 2003, unless disapproved by either house of the Kansas legislature as provided by subsection (c) of section 6 of article 1 of the constitution of Kansas, and unless so disapproved, this order is to be published as and with the acts of the legislature and the statutes of this state.

DONE AT The Capitol in Topeka
Under the Great Seal of the
State of Kansas this 10th day
of February, 2003.

BY THE GOVERNOR
KATHLEEN SEBELIUS

RON E. THORNBURGH
Secretary of State

JANET A. CHUBB
Assistant Secretary of State