

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 1:10 P.M. on April 3, 2008 in Room 519-S of the Capitol.

All members were present except:

Anthony Hensley- excused
Nick Jordan - excused
Roger Pine - excused

Committee staff present:

Gordon Self, Office of Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Ryan Hoffman, Kansas Legislative Research Department
Judy Swanson, Committee Assistant

Conferees appearing before the committee:

Erik Sartorius, City of Overland Park
Mike Taylor, Unified Government of Wyandotte
Matt Shatto, City of Lenexa
Larry Baer, League of Kansas Municipalities

Others attending:

See attached list.

Chairman Allen called the meeting to order and gave a brief update on recent Tax Conference Committee actions.

Hearing on **HB 2440--Enacting the Kansas film production investor tax credit act and the Kansas film production tax credit act** was opened. Conferees testified on the contents of **SB 675--Cities; fee authorized for credit card use.**

Matt Shatto, City of Lenexa testified in support of **SB 675.** (Attachment 1) Each year the city of Lenexa pays approximately \$33,000 in services fees for accepting credit and debit card payments. Unlike laws applying to counties and the state, it is currently unclear whether state law allows cities to pass these fees through to the consumer. Thus the fees are being paid by the city's General Fund.

Larry Baer, Kansas League of Kansas Municipalities, testified the League supports **SB 675.** (Attachment 2) There is a statute in place which prohibits a city from passing on the credit card company surcharge to the customer. Cities are simply asking for the same consideration that has already been granted to the state, counties, community colleges, and local school boards. During discussion Senator Donovan noted this would be a significant savings to cities.

Erik Sartorius testified the City of Overland Park supports **SB 675.** (Attachment 3)

Mike Taylor, Unified Government of Wyandotte County, testified **SB 675** would allow cities the same flexibility given to other governmental entities. (Attachment 4)

Senator Schmidt moved to amend HB 2440 by striking the contents of the bill and replacing with the contents of SB 675 and making it a substitute bill. Senator Lee seconded the motion, and the motion passed.

Senator Schmidt moved to recommend Senate Substitute for HB 2440 favorable for passage. Senator Lee seconded the motion, and the motion passed.

Hearing was opened on **HB 2422--Income tax credit for certain contributions to community colleges, technical schools or state educational institutions for capital improvements.** Conferees testified on the contents of **SB 647-- Special assessments in transportation development districts.**

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 1:10 P.M. on April 3, 2008 in Room 519-S of the Capitol.

Matt Shatto, City of Lenexa, provided written testimony from Dottie Riley, Bond Counsel to the City of Lenexa. (Attachment 5) Mr. Shatto explained the bill and how it would apply to the City of Lenexa.

Mike Taylor, Unified Government of Wyandotte County, said **SB 647** would offer local governments more flexibility in paying for improvements in their communities. (Attachment 6)

Larry Baer, League of Kansas Municipalities, testified in support of **SB 647**. (Attachment 7) He said it would allow cities the flexibility to annually adjust the special assessment amount to take into account actual TDD sales tax collections. It would also permit cities to eliminate the special assessments where TDD sales tax collections or other funds are lawfully available to the city to service the debt on the TDD bonds.

Senator Julia Lynn testified many of the projects are small in nature and **SB 647** would give more flexibility and allow projects to be completed in a more expedient manner.

Erik Sartorius, City of Overland Park, testified in support of **SB 647**. (Attachment 8)

Senator Schmidt moved to amend **HB 2422** by striking the contents of the bill and inserting the contents of **SB 647** into it. Senator Lee seconded the motion, and the motion passed.

Senator Schmidt moved to report **HB 2422** as amended favorable for passage. Senator Donovan seconded the motion, and the motion passed.

Hearing was opened on **HB 2519--Authorizing statewide retailers' sales tax for Wabaunsee county.**

Richard Cram, Kansas Department of Revenue (KDOR), presented a balloon amendment to **HB 2519** for the grant portion of the county business restoration assistance program extending the effective date from 2008 to 2009. (Attachment 9) Mr. Cram also gave a report on the status of the Kiowa County Business Restoration Assistance Program and the Southeast Kansas Business Restoration Assistance Program. (Attachment 10) The fiscal note for the program would be smaller this year and extended into next year, to be paid out in total by 2009, if the date extension is adopted.

Senator Schmidt moved to amend **HB 2519** by removing the contents of the bill, creating a substitute bill, and inserting the contents of Mr. Cram's balloon amendment extending the assistance payment deadline. Senator Lee seconded the motion, and the motion passed.

Senator Schmidt moved to report Senate Substitute for **HB 2519** favorable for passage. Senator Lee seconded the motion, and the motion passed.

Chairman Allen said she did not anticipate calling another Tax Committee meeting this session.

Being no further business, the meeting adjourned at 1:30 P.M.



TESTIMONY IN SUPPORT OF SB 675

To: Chairman Allen and Schmidt
Members of the Senate Assessment and Taxation Committee

From: Matt Shatto, Assistant City Administrator

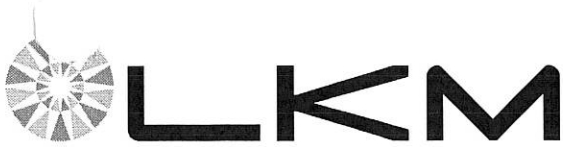
Date: April 2, 2008

Thank you for the opportunity to present testimony regarding SB 675. The City of Lenexa understands that this bill was introduced in an effort to allow cities the same flexibility granted to counties and the State to pass service fees for credit and debit card payments through to the consumer. The City of Lenexa supports this legislation.

Each year the City pays approximately \$33,000 in service fees for accepting credit and debit card payments. Unlike counties and the State, legislation is currently unclear on whether or not cities are allowed to pass those fees through to the consumer, thus the fees are being paid by the City's general fund. The City supports legislation which will allow fees to be charged directly to the consumer, therefore eliminating the need for general taxpayers to subsidize utilization of electronic payment options.

The City of Lenexa is in support of SB 675. I appreciate the opportunity to speak to this matter and would be happy to answer any questions of the Committee. Thank you for your consideration.

Assessment & Taxation
Date 4-3-08
Attachment # 1



League of Kansas Municipalities

300 SW 8th Avenue- Suite 100
Topeka, Kansas 66603-3951
Phone: (785) 354-9565
Fax: (785) 354-4186

Date: April 3, 2008
To: Senate Committee on Assessment and Taxation
From: Larry R. Baer
Assistant General Counsel
Re: SB 675

Thank you for allowing me to appear before you today and present testimony in support of SB 675 on behalf of the League of Kansas Municipalities and its member cities. The need for this bill became apparent after a number of legal inquiries that we received from cities regarding the use of credit cards to collect fees, taxes and utility bills.

It has become common practice for individuals to be able to use a credit card or a debit card to pay for almost anything. Over the past few years, cities have been working to become more efficient and customer friendly by providing a variety of different methods of payment for citizens. In particular, this includes the option of paying such fees online. However, the law in this area is not clear with regard to cities.

K.S.A. 16a-2-403 prohibits a city from passing on the credit card company surcharge to the customer. However, the State of Kansas has authorized the State government and county governments to pass on the surcharge when someone wants to use a credit card for purposes of paying taxes and other fees in K.S.A. 79-2973. In addition, state agencies, community colleges, and other entities authorized to collect a credit card surcharge pursuant to K.S.A. 75-30,100 and local school boards can do so pursuant to K.S.A. 72-8245.

In addition, there is some confusion as to the application of 16a-2-403. Some companies have been approaching cities with the argument that if the city enters into an agreement with a private company to serve as a third-party collector for such fees, that the surcharge can be passed on. However, the argument can also be made that the third-party collector is an agent of the city and, therefore, is subject to K.S.A. 16a-2-403 and that when they are collecting on behalf of the city, the same rules apply. We believe that this bill is necessary to help clarify this situation as well.

Clearly it is appropriate in the context of payments to governments that the individual that wants to use this method of payment should pay the surcharge. That way, other citizens that choose to pay their bills or taxes with another form of payment do not have to absorb the cost of those that choose to pay with a credit card.

Cities are simply asking for the same consideration that has already been granted to the State, counties, community colleges, and local school boards. In addition, this bill will help clarify the law so that it may be consistently applied. For these reasons, we respectfully request your favorable consideration of SB 675. Thank you and I will be happy to stand for questions at the appropriate time.

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Testimony Before The
Senate Assessment & Taxation Committee
Regarding
Senate Bill 675
By Erik Sartorius

April 3, 2008

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in support of Senate Bill 675.

The legislation would allow cities to pass on to the consumer credit and debit card fees charged on payments they make to the city. SB 675 would simply extend to cities the same provisions allowed counties and the state. The City believes these charges should be borne by the individuals choosing to make payments via credit or debit cards, rather than the taxpayers at large.

Several years ago, the City of Overland Park began offering the option of paying by credit or debit card for some fees, viewing this as a means of providing good customer service. The desire of citizens to use credit and debit cards has only increased, and we continue to add transactions that can be completed in this manner as more web-based applications are made available.

As with commerce in general, the option of credit and debit cards has become something that is expected. In 2006, the City of Overland Park processed \$4.7 million in credit card transactions, paying \$150,000 in fees on those transactions. This option was most commonly used for golf course greens fees, municipal court fines, recreation programs, and permit fees.

Senate Bill 675 is legislation that would allow cities to be treated in the same manner as counties and the state. The Senate voted 40-0 in favor of this legislation on March 26. The City of Overland Park respectfully asks for the Senate's continued support.

Assessment & Taxation
Date 4-3-08
Attachment # 3



Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director
913.573.5565 mtaylor@wycokck.org

Senate Bill 675 Use of Credit Cards and Card Fees

Delivered April 3, 2008
Senate Assessment and Tax Committee

The Unified Government supports Senate Bill 675. It is short and simple: it allows cities the same flexibilities as the state, counties, community colleges and schools to pass service fees for credit card and debit card payments on to the consumer instead of having taxpayers at large pick up the tab.

Our citizens are conducting more and more of their business over the internet or in person with credit and debit cards. The times you see people writing checks are becoming less and less. The Unified Government is actively working to improve and streamline the ability of our citizens to conduct business, from paying taxes, to buying a garage sale permit. The more of those services that can be offered online, the better for the citizen and the government. It improves efficiency and saves everyone involved time and money.

The negative that exists for city governments is the inability to have the credit card user pay the use fee imposed by the credit card company. As noted, the state, counties, schools and community colleges already have this ability.

When a customer charges something at a business, the business absorbs, or builds into the prices of its products or services the 3% or so usually charged by credit card firms. But cities don't have that option. When a city can't reclaim the cost of the credit card fee from the customer, it has to be paid out of general fund tax dollars. In a large government such as the Unified Government, that becomes a line item in the annual budget. A line item totaling hundreds of thousands of dollars a year.

This measure is a positive piece of legislation for city governments and the taxpayers they are working to serve.

Assessment & Taxation
Date 4-3-08
Attachment # 4

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March 13, 2008

The Honorable Pete Brungardt, Chairperson
and Members of the Senate Federal and
State Affairs Committee
Statehouse, Room 522-S
Topeka, KS 66612

Re: Senate Bill No. 647

Ladies and Gentlemen:

As bond counsel to the city of Lenexa, we are recommending, on its behalf, amendments to K.S.A. 2007 Supp. 12-17,143 and K.S.A. 2007 Supp. 12-17,148 referenced in Senate Bill No. 647 to (1) permit the transportation development district sales tax ("TDD Sales Tax") to be used to offset assessments against property in a transportation development district, and (2) to permit the use of TDD Sales Tax to pay the cost of projects authorized under the transportation development district act (K.S.A. 12-17,140 *et seq.*; the "TDD Act"), without the necessity of issuing bonds.

Allowing assessments to be reduced for TDD Sales Tax. Under current law, the TDD Act permits the cost of projects authorized under the TDD Act to be paid from bond proceeds and authorizes the debt service on the bonds to be paid from special assessments levied against property in the transportation development district *and/or* from a TDD Sales Tax. Although both special assessments and TDD Sales Tax may be used to pay debt service on the bonds, it is frequently impractical to use both sources of revenue because the TDD Act also *requires the assessments to be levied in fixed equal annual installments*. Because the TDD Sales Tax may fluctuate from year to year and the assessments must remain constant, the two revenue sources cannot be combined effectively, making the authorization in the current law unusable. This bill will permit a municipality to reduce special assessments annually if sufficient TDD Sales Tax has been collected to pay any required debt service on bonds, thereby allowing municipalities to utilize both funding mechanisms authorized under current law.

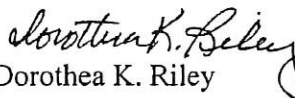
Permitting Project Funding Without Bonds. The current TDD Act authorized municipalities to pledge the TDD Sales Tax only for the payment of bonds. Permitting the TDD Sales Tax to be pledged to pay for a project without the necessity of issuing bonds will give municipalities the ability to finance projects with the TDD Sales Tax when it is impractical or

impossible to issue bonds because of the small size of the project, unpredictability of the TDD Sales Tax, instability of market conditions or other factors. It will also give municipalities the ability to dedicate all TDD Sales Tax to direct project costs, rather than using a portion of the TDD Sales Tax for financing costs.

We believe the amendments contained in this bill will assist Lenexa and other municipalities to better utilize this financing tool to encourage economic development and will help reduce the cost of financing for numerous projects authorized under the TDD Act.

If we may be of any assistance to the committee on this matter, please let me know.

Very truly yours,


Dorothea K. Riley



Testimony

Unified Government Public Relations
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Kansas City, Kansas 66101

Mike Taylor, Public Relations Director
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Senate Bill 647 Transportation Development District Assessments

Delivered April 3, 2008
Senate Assessment and Tax Committee

The Unified Government supports Senate Bill 647 which offers local governments beneficial flexibility in paying for improvements in their communities.

Transportation Development Districts have been very useful in Wyandotte County. TDD's have been used to pay for needed road and traffic improvements connected with several new developments. They allow the development, not taxpayers at large, to pay for intersections or other traffic improvements connected with specific economic development projects.

The changes proposed in Senate Bill 647 will help taxpayers by allowing their local governments efficient and effective options in implementing Transportation Development Districts. One real advantage the Unified Government sees is that it will allow the use of special assessments to finance the TDD until retailers coming into the new development are actually up and running and generating sales tax pledged to pay off the improvements.

The Transportation Development District law passed a few years ago was a positive step in assisting local communities with turning dreams of economic development projects into reality. Senate Bill 647 makes that positive measure even more effective and beneficial for taxpayers.

Assessment & Taxation
Date 4-3-08
Attachment # 6



League of Kansas Municipalities

Date: April 3, 2008
To: Senate Committee on Assessment and Taxation
From: Larry R. Baer
Assistant General Counsel
Re: SB 647
Testimony in support

Thank you for allowing me to appear before you today and present testimony in support of SB 647 on behalf of the League of Kansas Municipalities and its member cities. The League has long supported legislation establishing Transportation Development Districts (TDD) and the flexibility in their use and financing. We see SB 647 as one more piece in the continuing evolution of TDD use and financing.

Current law permits a city to issue bonds to fund TDD improvements. The debt service on the bonds can be financed by either, or both, special assessments levied upon the property located in the TDD or special sales tax levied and collected in the TDD. Assessment of these taxes continue until the bonds issued for payment of the project mature without regard to the revenues that may be generated by the fixed annual special assessments and the TDD sales tax. This can result in either over funding or under funding the debt service account in any given year.

SB 647 would allow cities the flexibility to annually adjust the special assessment amount to take into account actual TDD sales tax collections. It would also permit cities to eliminate the special assessments where TDD sales tax collections or other funds are lawfully available to the city to service the debt on the TDD bonds.

In addition, SB 647 would also permit cities to go forward with a TDD project where costs would be paid directly from TDD sales tax revenue and not by bond proceeds. This change would permit cities the flexibility to undertake small projects without incurring the costs associated with bond issuances. This would reduce the overall cost of the project and either reduce the TDD sales tax rate or the length of time that the sales tax was levied and collected.

These changes, although very substantive in nature, add flexibility and practicality (stop collecting when adequate funds are on hand to service the debt) to the Transportation Development District Act. For these reasons, the League supports SB 647 and encourages the your support of the bill and that it be passed out favorably.

Again, I thank you for allowing me to appear before you today.

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Testimony Before The
Senate Assessment & Taxation Committee
Regarding
Senate Bill 647
By Erik Sartorius

April 3, 2008

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in support of Senate Bill 647. This legislation would provide cities with flexibility necessary to effectively utilize of transportation development districts.

Current law allows the costs of a project in a transportation development district to be paid from bond proceeds, and then authorizes the bonds to be paid from special assessments levied against property in the TDD or from a TDD sales tax. However, the statute also requires that any assessment be levied in equal installments. As sales tax revenue can vary from year to year, the installment must be set high enough to cover the debt service. Part of Senate Bill 647 allows the flexibility of reducing the annual assessment on property if sales tax revenue for the TDD is high enough to offset such reduction.

The bill also adds flexibility by allowing cities to construct projects within the transportation development district without issuing bonds. The law currently authorizes TDD sales tax proceeds to be used for the payment of bonds. In some TDD projects, it is quite difficult to issue bonds, and the practicality or possibility of doing so creates a challenge in making the project a reality. By providing the option of not having to issue bonds, SB 647 would allow some projects to proceed that may otherwise not move forward. Additionally, more of the sales tax proceeds could then be dedicated to actual construction, rather than debt service.

The City of Overland Park believes Senate Bill 647 would provide cities with additional tools for the economic development tool box. The increased flexibility in structuring transportation development districts will allow cities to partner with private interests and ensure that necessary infrastructure improvements are completed in a timely manner.

Again, the City appreciates the opportunity to offer testimony before this committee. The Senate voted 39-0 in favor of SB 647 on March 19. We respectfully ask for the Senate's continued support, and that the legislation be given serious consideration for inclusion in a conference committee report.

Assessment & Taxation
Date 4-3-08
Attachment # 8

Kansas Legislature

KDOR Balloon

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75-3713e

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 37.--DEPARTMENT OF ADMINISTRATION

75-3713e. County business restoration program; assistance payments for May 4, 2007, tornado-damaged businesses; purposes; implementation and administration by secretary of revenue. (a) There is hereby established the county business restoration assistance program which shall be implemented and administered by the secretary of revenue in accordance with this section. The program is established for the purpose of assisting businesses that were in operation in a county which was struck by the tornado and other severe weather in Kansas on May 4, 2007, which had damage and destruction to governmental buildings and facilities to the extent that there was a complete interruption of all governmental services provided by a major town and the county government, and which suffered a major loss of the property tax base for the county of 25% or more, and that were damaged by such tornado and other severe storms on May 4, 2007, to rebuild business facilities, to acquire business machinery and equipment, and to reestablish jobs in such county for such businesses.

(b) The assistance payments under the program shall be available only for qualifying businesses as defined by this section. The program shall provide investment assistance payments and job restoration assistance payments that are applied for during the period commencing on the effective date of this act through June 30, ~~2008~~, 2009.

(c) Each investment assistance payment shall be an amount of not more than 10% of a qualifying investment made to rebuild or replace the building or structure or to replace the business machinery and equipment in the county. In accordance with policies adopted by the secretary of revenue, the investment assistance payment shall be for the purpose of assisting the business recover from the damage sustained from the storm on May 4, 2007. To be a qualifying investment under this program, the investment must be made between May 4, 2007, and June 30, ~~2008~~, 2009.

(d) Each job restoration assistance payment shall be an amount of not more than \$3,500 per full-time-equivalent job for an employee the applicant business hires back in the county. In accordance with policies adopted by the secretary of revenue, the job restoration assistance payment shall be for the purpose of assisting the business recover from the damages sustained from the storm on May 4, 2007.

(e) As used in this section:

(1) "Business facility" means a building or structure used in business operations located within the county;

(2) "business machinery and equipment" means the real and tangible personal property permanently and physically located at a business facility and used in the business operations and shall not include (A) mobile equipment, such as motor vehicles, or (B) any items held for sale, such as business inventory;

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04/03/2008

(3) "qualifying business" means a business that was in existence and in operation providing goods or services within a county, which was struck by the tornado and other severe weather in Kansas on May 4, 2007, which had damage and destruction to governmental buildings and facilities to the extent that there was a complete interruption of all governmental services provided by a major town and the county government, and which suffered a major loss of the property tax base for the county of 25% or more, and that was damaged by the tornado and other severe storms that struck Kansas on May 4, 2007; and

(4) "qualifying job" means a job with a qualifying business that was lost as a result of damage sustained by the tornado and other severe storms that struck Kansas on May 4, 2007, that is restored and filled by an employee hired back in the county between May 4, 2007, and June 30, ~~2008~~, and shall not include any part-time job that provides the employee with less than 20 hours per week of paid employment. 2009

(f) In accordance with the provisions of this section, the secretary of revenue shall adopt policies and procedures for the implementation and administration of the county business restoration assistance program and shall present such information to the state finance council requesting approval to make expenditures from the state emergency fund for assistance payments under the program in accordance with the proposed implementation and administration of the program. Upon approval of the state finance council by the affirmative vote of the governor and by a majority vote of the legislative members of the state finance council, acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, and subject to the limitation that not more than \$5,000,000 may be approved by the state finance council to be expended from the state emergency fund for such payments, the director of the budget shall certify to the director of accounts and reports the amount approved by the state finance council for expenditure by the department of revenue for such assistance payments from the state emergency fund.

History: L. 2007, ch. 202, § 1; May 31.

To: Senate Committee on Assessment and Taxation

From: Kansas Department of Revenue

Date: April 3, 2008

Re: Status of Kiowa County Business Restoration Assistance Program and Southeast Kansas Business Restoration Assistance Program

Kiowa County Business Restoration Assistance Program

70 applications pre-approved for assistance

Pre-approved assistance total-\$4,171,607

Investment assistance-\$2,691,107

Job restoration assistance-\$1,480,500 (423 jobs)

18 requests for payments received

Total assistance given to businesses-\$718,623

Investment assistance-\$99,123

Job restoration assistance-\$619,500 (177 jobs)

Southeast Kansas Business Restoration Assistance Program

70 applications pre-approved for assistance

Pre-approved assistance total-\$3,614,016

Investment assistance-\$1,665,516

Job restoration assistance-\$1,935,500 (553 jobs)

Rental assistance-\$13,000

35 requests for payments received

Total assistance given to businesses-\$1,137,811

Investment assistance-\$250,541

Job restoration assistance-\$882,000 (252 jobs)

Rental assistance-\$5,270