

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 13, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Melissa Doeblin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Dorothea Riley, KUTAK ROCK LLP
Mike Taylor, Unified Government Wyandotte County
Larry Baer, League of Kansas Municipalities
Don Moler, League of Kansas Municipalities
Matt Shatto, City of Lenexa
Mike Taylor, Unified Government Wyandotte County
Philip Bradley, Kansas Licensed Beverage Association

Others attending:

See attached list.

Senator Reitz requested a bill introduction concerning criminal procedure; relating to the consolidation of community corrections and court services in certain judicial districts.

Senator Reitz moved that this request should be introduced as a committee bill. Senator Vratil seconded the motion. The motion carried.

SB 647 - Special assessments in transportation development districts

Chairman Brungardt opened the hearing on **SB 647**

Dorothea Riley, KUTAK ROCK LLP, appeared in favor of the bill. (Attachment 1) The bill will accomplish:

1. Permit the transportation development district sales tax ("TDD Sales Tax") to be used to offset assessments against property in a transportation development district
2. To permit the use of TDD Sales Tax to pay the cost of projects authorized under the transportation development district act, without the necessity of issuing bonds.

Mike Taylor, Public Relations Director, Unified Government Wyandotte County, Kansas City, Kansas, spoke in favor of the bill. (Attachment 2) The bill will help taxpayers by allowing their local governments efficient and effective options in implementing Transportation Development Districts (TDD) and 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.

Larry Baer, Assistant General Counsel, League of Kansas Municipalities, appeared in favor of the bill. (Attachment 3) The bill would allow cities the flexibility to annually adjust the special assessment amount to take into account actual TDD sales tax collections and add flexibility and practicality (stop collecting when adequate funds are on hand to service the deptmart) to the TDD Act. The league supports the bill and encourages the support of the bill and that it be passed out favorably.

Erik Sartorius, The City of Overland Park, provided written testimony in favor of the bill. (Attachment 4)

Ashley Sherard, Vice-President, Lenexa Chamber of Commerce, provided written testimony in support of the bill. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 13, 2008 in Room 526-S of the Capitol.

Chairman Brungardt closed the hearing on **SB 647**

SB 675 - Cities; fee authorized for credit card use

Chairman Brungardt opened the hearing on **SB 675**

Don Moler, Executive Director, League of Kansas Municipalities, appeared in support of the bill. (Attachment 6) The need for the bill became apparent after a number of legal inquiries that cities received regarding the use of credit cards to collect fees, taxes, and utility bills. The State of Kansas has authorized the State government and county governments to pass on a surcharge when someone wants to use a credit card for purposes of paying taxes and other fees in KSA 79-2973. Cities are 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 to clarify the law so that it may be consistently applied.

Matt Shatto, Assistant City Administrator, The City of Lenexa, spoke in favor of the bill. (Attachment 7) The 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. Each year the City pays approximately \$33,000 in service fees for accepting credit and debit card payments. The City supports this legislation which will allow fees to be charged directly to the consumer, eliminating the need for general taxpayers to subsidize utilization of electronic payment options.

Mike Taylor, Public Relations Director, Unified Government Wyandotte County, Kansas City, Kansas, spoke in support of the bill. (Attachment 8) The bill allows cities the same flexibility 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.

Erik Sartorius, The City of Overland Park, provided written testimony in favor of the bill. (Attachment 9)

Philip Bradley, Kansas Licensed Beverage Association, stated that private businesses are not allowed to pass on the fees due to the contract with credit card companies, but that businesses could raise their prices to include the cost.

Chairman Brungardt closed the hearing on **SB 675**

Final Action:

SB 647 - Special assessments in transportation development districts

Senator Vratil moved to pass SB 647 out favorably. Senator Reitz seconded the motion. The motion carried.

SB 675 - Cities; fee authorized for credit card use

Senator Barnett moved to adopt the amendment conceptually to modify the amount and notify the consumer of the transaction if paid by credit card. Senator Reitz seconded the motion. The motion carried.

Senator Barnett moved to pass SB 675 out favorably as amended. Senator Brownlee seconded the motion.

The committee discussed the amended language and will wait for the printed version.

The motion to pass the bill as amended and the second was withdrawn.

The meeting was adjourned at 11:15 am. The next scheduled meeting is March 18, 2008.

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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


KUTAK ROCK LLP

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

Delivered March 13, 2008
Senate Federal and State Affairs 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.



League of Kansas Municipalities

Date: March 13, 2008
To: Senate Committee on Federal and State Affairs
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.

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 Federal & State Affairs Committee
Regarding
Senate Bill 647
By Erik Sartorius

March 13, 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. We ask that you report SB 647 favorably for passage.



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TO: Senator Brungardt, Chairperson
Members, Senate Federal & State Affairs Committee

FROM: Ashley Sherard, Vice-President
Lenexa Chamber of Commerce

DATE: March 13, 2008

RE: **Support for SB 647—TDD Flexibility**

The Lenexa Chamber of Commerce would like to express its support for Senate Bill (SB) 647, which would provide additional flexibility in the use of Transportation Development Districts (TDD).

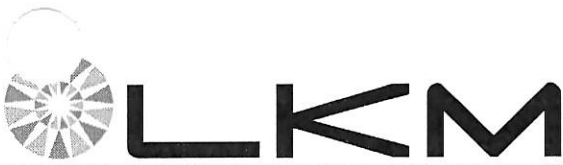
TDDs have been a welcome addition to the local government toolbox, providing another potential means of financing infrastructure improvements that enable economic growth and high quality of life. As a relatively new tool in practice, however, certain limitations that impede its most effective use have become clear.

We believe the amendments contained in SB 647, which would allow special assessments to be reduced if sufficient TDD sales tax has been collected to pay any required debt service and would permit local governments the option to fund projects directly with TDD proceeds without utilizing bonds, will assist municipalities in better utilizing this financing tool to encourage economic development and help reduce the costs of projects authorized under the TDD Act.

For these reasons, the Lenexa Chamber of Commerce urges the committee to recommend SB 647 favorable for passage. Thank you for your time and attention to this important issue.

Sen Fed & State

Attachment 5
3-13-08



League of Kansas Municipalities

To: Senate Federal and State Affairs Committee
From: Don Moler, Executive Director
Date: March 12, 2008
Re: Support for SB 675

On behalf of the member cities of the League of Kansas Municipalities (LKM), thank you for introducing this legislation and holding a hearing on it. 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 these days. 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 a 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 are authorized to collect a credit card surcharge pursuant to K.S.A. 75-30,100 and local boards of education can do so pursuant to K.S.A. 72-8245.

In addition, there is some confusion as to the application of this law. 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 also subject to K.S.A. 16a-2-403 and that when they are collecting on behalf of a 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 or debit 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 to clarify the law so that it may be consistently applied. For these reasons, we respectfully request your favorable consideration of SB 675. I will be happy to stand for questions at the appropriate time.



TESTIMONY IN SUPPORT OF SB 675

To: Chairman Brungardt
Members of the Federal and State Affairs Committee

From: Matt Shatto, Assistant City Administrator

Date: March ¹³~~7~~, 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.



Testimony

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Senate Bill 675 Use of Credit Cards and Credit Card Fees

Delivered March 13, 2008
Senate Federal and State Affairs 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 4% 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.

Senate Bill 675 is a positive piece of legislation for city governments and the taxpayers they are working to serve.



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Testimony Before The
House Federal & State Affairs Committee
Regarding
Senate Bill 675
By Erik Sartorius

March 13, 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 City of Overland Park respectfully asks for your support of this legislation.