

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE

The meeting was called to order by Chairman Lana Gordon at 3:30 p.m. on March 18, 2009, in Room 711 of the Docking State Office Building.

All members were present except:

Representative Joe Seiwert- excused

Representative Valdenia Winn- excused

Committee staff present:

Jason Long, Office of the Revisor of Statutes

Doug Taylor, Office of the Revisor of Statutes

Reed Holwegner, Kansas Legislative Research Department

Ann Deitcher, Committee Assistant

SB 108 - authorizing bonds for certain economic development projects; wind energy.

Jason Long spoke to the Committee in explanation of **SB 108**.

Questions and answers followed.

A motion was made by Representative George and seconded by Representative Worley that SB 108 be passed favorably out of committee. The motion passed on a voice vote.

HB 2358 - Creating the investment in Kansas employment act and amending the Kansas Enterprise Zone Act.

Reed Holwegner explained **HB 2358** to the Committee.

Representative Myers offered the Committee the conclusions and recommendations of the Subcommittee which he chaired, on **HB 2358**. (Attachment 1).

Saying the Subcommittee identified several concerns that were not addressed in the bill, he said they believed that these concerns could not be adequately addressed during a period of economic recession. They therefore recommended that **HB 2358** be tabled at this time and then be referred to an interim committee.

A motion was made by Representative Myers and seconded by Representative Schwartz to accept the recommendation of the Subcommittee regarding HB 2358. The motion passed on a voice vote.

SB 119 - an act enacting the community improvement district act.

Jason Long explained **SB 119** and pointed out the proposed amendments to the bill. (Attachment 2).

Questions and answers followed.

Representative Donahoe made the motion that was seconded by Representative George that the Subcommittee report on SB 119 be adopted as amended.

Representative Gordon offered an additional amendment to **SB 119**. (Attachment 3).

In explaining this proposed amendment, Jason Long said that it would not change **SB 119** but would simply clarify it's intent.

CONTINUATION SHEET

Minutes of the House Economic Development and Tourism Committee at 3:30 p.m. on March 18, 2009, in Room 711 of the Docking State Office Building.

A copy of the Subcommittee findings to **SB 119** was distributed. (Attachment 4).

Suggested wording to the amendment as a substitute motion` was, "this act shall be considered to be *similar financing* as contained in **74-8753**".

A motion was made by Representative Gordon and seconded by Representative Myers that these additional amendments be made to **SB 119**. The motion failed..

The motion to amend **SB 119** that was previously offered by Representative Donahoe and seconded by Representative George was passed on a voice vote.

Representative Slattery moved and Representative Donohoe seconded the motion that **SB 119** be passed favorably as amended out of Committee. The motion passed on a voice vote.

To carry **SB 119 and 108** to the floor, the Chair appointed Representatives Donohoe and George.

The meeting was adjourned at 4:25 p.m. No more meetings are scheduled at this time.

Report of the
Subcommittee on HB 2358
to the
House Committee on Economic
Development and Tourism

CHAIRPERSON: Representative Don Myers

OTHER MEMBERS: Representatives Dolores Furtado, Don Hill, Joe Seiwert, and Mike Slattery.

STUDY TOPIC

- HB 2358 - Enacting the Investment in Kansas Employment Act and amending the Kansas Enterprise Zone Act.

Economic Development & Tourism

Date: 3-18-09

Attachment # 1-1

REPORT OF THE SUBCOMMITTEE ON HB 2358 TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Conclusions and Recommendations: The Subcommittee believes that the concerns identified below cannot be adequately addressed during a period of economic recession. Therefore, the Subcommittee recommends that HB 2358 be tabled.

The Subcommittee further recommends that the issue of "cash-equivalent" incentives be further studied during the 2009 Legislative Interim.

Proposed Legislation: None.

BACKGROUND

The Subcommittee was created at the initiative of Representative Lana Gordon, Chairperson of the House Committee on Economic Development and Tourism, on March 12, 2009. The Subcommittee met on March 16 to further consider the testimony on HB 2358 that was provided at the meeting of the full House Committee on March 9. HB 2358 would create the Investment in Kansas Employment (IKE) Act.

In addition to considering the information provided at the bill's hearing, the Subcommittee heard additional testimony from the Kansas Chamber of Commerce, the Lenexa Chamber of Commerce, and the Kansas Economic Development Alliance.

CONCLUSIONS AND RECOMMENDATIONS

The proponent testimony suggests that HB 2358 could help to position the Kansas economy to become more competitive when the current recession ends. However, the Subcommittee identified several concerns that were not addressed in the bill, including:

- The broad definition of employees to include seasonal employees;
- No ceiling on benefits received by an eligible business;
- The potential to "recycle employees" so that it appears that new jobs are being created when, in fact, they are not;
- The potential to cause an unfair playing field between employers in less populated communities; and
- A significant negative impact to the revenues of the state and local governments, estimated by the bill's fiscal note to be a total of \$21.8 million in FY 2010.

The Subcommittee believes that these concerns cannot be adequately addressed during a period of economic recession. Therefore, the Subcommittee recommends that HB 2358 be tabled.

The Subcommittee further recommends that the issue of "cash-equivalent" incentives be further studied during the 2009 Legislative Interim.

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SENATE BILL No. 119

By Committee on Commerce

1-27

10 AN ACT enacting the community improvement district act.

11

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

13 Section 1. (a) The provisions of sections 1 through 11, and amend-
14 ments thereto, shall be known and may be cited as the community im-
15 provement district act.

16 (b) The powers conferred by this act are for economic development
17 purposes and any other purpose for which public money may be
18 expended.

19 Sec. 2. As used in this act, and amendments thereto, the following
20 words and phrases shall have the following meanings unless a different
21 meaning clearly appears from the context:

22 (a) "Act" means the provisions of sections 1 through 11, and amend-
23 ments thereto.

24 (b) "Assessments" means special assessments imposed and levied
25 pursuant to the provisions of this act.

26 (c) "Bonds" means special obligation bonds, special obligation notes,
27 full faith and credit bonds or full faith and credit notes payable solely
28 from the sources described in section 8, and amendments thereto, issued
29 by a municipality in accordance with the provisions of this act.

30 (d) "Community improvement district sales tax" means the tax au-
31 thorized by section 6, and amendments thereto.

32 (e) "Consultant" means engineers, architects, planners, attorneys, fi-
33 nancial advisors and other persons deemed competent to advise and assist
34 in the planning, making and financing of projects.

35 (f) "Cost" means: (1) All costs necessarily incurred for the preparation
36 of preliminary reports, the preparation of plans and specifications, the
37 preparation and publication of notices of hearings, resolutions, ordinances
38 and other proceedings relating to the creation or administration of the
39 district or the issuance of bonds therefore, necessary fees and expenses
40 of consultants, interest accrued on borrowed money during the period of
41 construction and the amount of a reserve fund for the bonds, together
42 with the cost of land, materials, labor, and other lawful expenses incurred
43 in planning and doing any project and may include a charge of not to

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1 (c) Upon filing of the petition pursuant to this section, the governing
 2 body may proceed without notice or a hearing to make findings by res-
 3 olution or ordinance as to the nature, advisability and estimated cost of
 4 the project, the boundaries of the district and the amount and method of
 5 assessment. Upon making such findings, the governing body by majority
 6 vote may authorize the project in accordance with such findings as to the
 7 advisability of the project. The resolution or ordinance shall be effective
 8 upon publication once in the newspaper.

9 (d) The district boundaries and the method of financing for the pro-
 10 ject shall not require that all property that is benefited by the project,
 11 whether the benefited property is within or without the district, be in-
 12 cluded in the district or be subject to an assessment.

13 (e) Following authorization of the project, the ordinance or resolution
 14 establishing the district shall be submitted for recording in the office of
 15 the register of deeds of the county in which the district is located.

16 Sec. 4. (a) In addition to any other power provided by law and as a
 17 complete alternative to all other methods provided by law, the governing
 18 body of any municipality may create a district as provided by this act for
 19 the purpose of financing projects. As an alternative to the requirements
 20 and procedures described in section 3, and amendments thereto, under
 21 this section, a municipality may create a district, or may modify a district
 22 previously created under this section, upon receipt of a petition that is
 23 signed by the owners of more than 50% of the land area within the pro-
 24 posed district, and signed by owners collectively owning more than 50%
 25 by assessed value of the land area within the proposed district. Under this
 26 section, the petition may be seeking financing in whole or in part by a
 27 proposed community improvement district sales tax authorized by section
 28 6, and amendments thereto, or seeking the issuance of full faith and credit
 29 bonds authorized by section 11, and amendments thereto, or both. The
 30 petition shall contain:

55%

- 31 (1) The general nature of the proposed project;
- 32 (2) the estimated cost of the project;
- 33 (3) the proposed method of financing the project including, if appli-
 34 cable, the issuance of full faith and credit bonds;
- 35 (4) the proposed amount and method of assessment, if any;
- 36 (5) the proposed amount of community improvement district sales
 37 tax, if any;
- 38 (6) a map of the proposed district; and
- 39 (7) a legal description of the proposed district.

40 (b) Names may not be withdrawn from the petitions by the signers
 41 thereof after the governing body commences consideration of the peti-
 42 tions or later than seven days after the filing of such petition with the
 43 clerk of the municipality, whichever occurs first. The petition shall contain

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1 expire 22 years from the date the state director of taxation begins col-
 2 lecting such tax **[or when the project bonds or pay-as-you-go costs**
 3 **have been paid]**. Except as otherwise provided by the provisions of sec-
 4 tion 2 et seq., and amendments thereto, the tax authorized by this section
 5 shall be administered, collected and subject to the provisions of K.S.A.
 6 12-187 through 12-197, inclusive, and amendments thereto.

7 (b) Upon receipt of a certified copy of the resolution or ordinance
 8 authorizing the levy of the community improvement district sales tax pur-
 9 suant to this section, the state director of taxation shall cause such tax to
 10 be collected in the district at the same time and in the same manner
 11 provided for the collection of the state retailers' sales tax. All of the taxes
 12 collected under the provisions of this act shall be remitted by the secretary
 13 of revenue to the state treasurer in accordance with the provisions of
 14 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
 15 remittance, the state treasurer shall deposit the entire amount in the state
 16 treasury ~~to the credit of the~~ community improvement district sales tax
 17 fund, which fund is hereby established in the state treasury. All moneys
 18 in the community improvement district sales tax fund shall be remitted
 19 at least quarterly by the state treasurer, on instruction from the secretary
 20 of revenue, to the treasurers of those municipalities which are qualified
 21 to receive disbursements from such fund for the amount collected within
 22 such municipality. Any refund due on any community improvement dis-
 23 trict sales tax collected pursuant to this section shall be paid out of the
 24 community improvement district sales tax refund fund which is hereby
 25 established in the state treasury and reimbursed by the director of taxation
 26 from collections of the community improvement district sales tax author-
 27 ized by this section. Community improvement district sales tax received
 28 by a municipality pursuant to this section shall be deposited in the com-
 29 munity improvement district sales tax fund created pursuant to section 9,
 30 and amendments thereto.

31 (c) Notwithstanding any other provisions of law to the contrary, cop-
 32 ies of all retailers' sales and use tax returns filed with the secretary of
 33 revenue in connection with a district for which sales or use tax revenues,
 34 or both, are pledged or otherwise intended to be used in whole or in part
 35 for the payment of bonds issued to finance costs of a project, shall be
 36 provided by the secretary of revenue to the bond trustee, escrow agent
 37 or paying agent for such bonds upon a written request of the municipality
 38 within 15 days of receipt by the secretary of revenue. The bond trustee,
 39 escrow agent or paying agent shall keep such retailers' sales and use tax
 40 returns and the information contained therein confidential, but may use
 41 such information for purposes of allocating and depositing such sales and
 42 use tax revenues in connection with the bonds used to finance costs of a
 43 project. Except as otherwise provided herein, the sales and use tax returns

, and the state treasurer shall credit 2% of all taxes so collected to the community improvement district sales tax administration fund, which fund is hereby established in the state treasury, to defray the expenses of the department of revenue in administration and enforcement of the collection thereof. The aggregate amount of moneys credited to the community improvement district sales tax administration fund shall not exceed \$60,000 in any state fiscal year. The remainder of such taxes shall be credited to the

SENATE BILL No. 119

By Committee on Commerce

1-27

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14 ments thereto, shall be known and may be cited as the community im-
15 provement district act.

16 (b) The powers conferred by this act are for economic development
17 purposes and any other purpose for which public money may be
18 expended.

19 Sec. 2. As used in this act, and amendments thereto, the following
20 words and phrases shall have the following meanings unless a different
21 meaning clearly appears from the context:

22 (a) "Act" means the provisions of sections 1 through 11, and amend-
23 ments thereto.

24 (b) "Assessments" means special assessments imposed and levied
25 pursuant to the provisions of this act.

26 (c) "Bonds" means special obligation bonds, special obligation notes,
27 full faith and credit bonds or full faith and credit notes payable solely
28 from the sources described in section 8, and amendments thereto, issued
29 by a municipality in accordance with the provisions of this act.

30 (d) "Community improvement district sales tax" means the tax au-
31 thorized by section 6, and amendments thereto.

32 (e) "Consultant" means engineers, architects, planners, attorneys, fi-
33 nancial advisors and other persons deemed competent to advise and assist
34 in the planning, making and financing of projects.

35 (f) "Cost" means: (1) All costs necessarily incurred for the preparation
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37 preparation and publication of notices of hearings, resolutions, ordinances
38 and other proceedings relating to the creation or administration of the
39 district or the issuance of bonds therefore, necessary fees and expenses
40 of consultants, interest accrued on borrowed money during the period of
41 construction and the amount of a reserve fund for the bonds, together
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43 in planning and doing any project and may include a charge of not to

House Economic Development and Tourism

SB 119 - Prohibition on use for construction
of casinos and racetrack gaming facilities

Economic Development & Tourism
Date: 3-18-09
Attachment # 3-1

1 one or more series to finance any project in accordance with the provi-
 2 sions of this act and to refinance or refund any notes or bonds issued
 3 pursuant to this act. Bonds issued pursuant to this section shall be general
 4 obligations of the municipality and give rise to a charge against its general
 5 credit and taxing powers, and such bonds shall so state on their face. Such
 6 bonds shall be made payable, both as to principal and interest solely from
 7 a pledge of the sources of funds described in section 5, and amendments
 8 thereto, including a pledge of a municipality's full faith and credit to use
 9 its ad valorem taxing authority for the repayment thereof in the event all
 10 other authorized sources of revenue are not sufficient. The municipality
 11 may pledge such revenue to the repayment of such bonds prior to, si-
 12 multaneously with or subsequent to the issuance of such bonds.

13 (b) Bonds issued pursuant to this section shall be general obligations
 14 of the municipality and are declared to be negotiable instruments. Such
 15 bonds shall be executed by the authorized representatives of the munic-
 16 ipality and sealed with the corporate seal of the municipality. All details
 17 pertaining to the issuance of the bonds and terms and conditions thereof
 18 shall be determined by ordinance or resolution of the municipality. The
 19 provisions of K.S.A. 10-106, and amendments thereto, requiring a public
 20 sale of bonds shall not apply to bonds issued under this section. All bonds
 21 issued pursuant to this section and all income or interest therefrom shall
 22 be exempt from all state taxes except inheritance taxes. Such bonds shall
 23 contain the recitals set forth in K.S.A. 10-112, and amendments thereto.
 24 Such bonds shall mature in no more than 22 years. Any municipality
 25 issuing bonds under the provisions of this section may refund all or part
 26 of such bonds pursuant to the provisions of K.S.A. 10-427, and amend-
 27 ments thereto.

28 (c) The amount of the full faith and credit bonds issued and outstand-
 29 ing under this act which exceeds 3% of the assessed valuation of the
 30 municipality shall be within the bonded debt limit applicable to such
 31 municipality.

32 (d) If, within 60 days following the date of the public hearing de-
 33 scribed in section 4, and amendments thereto, a protest petition signed
 34 by 5% of the qualified voters of the municipality is filed with the munic-
 35 ipality's clerk in accordance with the provisions of K.S.A. 25-3601 et seq.,
 36 and amendments thereto, no full faith and credit bonds shall be issued
 37 until the issuance of the full faith and credit bonds is approved by a
 38 majority of the voters voting at an election thereon. The failure of the
 39 voters to approve the issuance of full faith and credit bonds shall not
 40 prevent a municipality from issuing special obligation bonds.

41 Sec. 12. This act shall take effect and be in force from and after its
 42 publication in the statute book.

Sec. 12. No revenues from any assessments, taxes, bonds or any other revenue source authorized pursuant to this act shall be used to finance any part of any lottery gaming facility, ancillary lottery gaming facility operation or racetrack gaming facility, as those terms are defined in K.S.A. 2008 Supp. 74-8702, and amendments thereto.

Renumber the remaining section accordingly

Report of the
Subcommittee on SB 119
to the
House Committee on Economic
Development and Tourism

CHAIRPERSON: Representative Owen Donohoe

OTHER MEMBERS: Representatives Lisa Benlon, Geraldine Flaharty, Pat George, Sharon Schwartz, Mike Slattery, and Ron Worley.

STUDY TOPIC

- SB 119 - Enacting the Community Improvement District Act

REPORT OF THE SUBCOMMITTEE ON SB 119 TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

Conclusions and Recommendations: The Subcommittee believes that SB 119, as further amended, would allow businesses to become more entrepreneurial. The bill would provide communities with another means to improve their local economies. The decision to collect additional tax revenue would be made locally. This would allow people to address the needs of their individual communities. A community improvement district (CID) would be unlike other economic development districts, such as a TIF or STAR bond district, in that taxes collected would not affect the revenue currently received by local or state governments. The Subcommittee recommends that the Senate Committee of the Whole engrossed version of SB 119 be passed favorably with the following amendments:

- In subsection 4(a), increase the percentage from 50.0 to 55.0 percent as the minimum requirement necessary for both the number of landowners that are required to sign a petition and for the aggregate assessed value of the landowners' land found within the proposed boundaries of the CID.
- In subsection 4(b), add new language to the bill that would authorize the Department of Revenue to retain 2.0 percent of the sales tax revenue collected within all CIDs, up to a maximum of \$60,000, to be used for the administrative of this new economic development program.

The Subcommittee recommends the increase in petitioners and assessed land value to help assure that the creation of a community improvement district will benefit the economic well-being of the larger community rather than benefitting only a few persons or businesses.

The Subcommittee further recommends that new language be added to the bill which would authorize the Department of Revenue to retain sales tax collected, up to \$60,000 per state fiscal year, to cover the administrative costs incurred in administering the new program.

Proposed Legislation: Two amendments.

BACKGROUND

The Subcommittee was created at the initiative of Representative Lana Gordon, Chairperson of the House Committee on Economic Development and Tourism, on March 12, 2009. The Subcommittee met on March 13 to further the consider the testimony on SB 119 that was provided at the meeting of the full House Committee on March 2. SB 119, as amended, would create the Community Investment District (CID) Act.

Those persons and groups who testified in favor of the bill at the March 2 meeting, along with legislative staff, were present to answer questions of the subcommittee members.

CONCLUSIONS AND RECOMMENDATIONS

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means to improve their local economies. The decision to collect additional tax revenue would be made locally. This would allow people to address the needs of their individual communities. A community improvement district (CID) would be unlike other economic development districts, such as a TIF or STAR bond district, in that taxes collected would not affect the revenue currently received by local or state governments. The Subcommittee recommends that the Senate Committee of the Whole engrossed version of SB 119 be passed favorably with the following amendments:

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The Subcommittee further recommends that language be added to the bill which would authorize the Department of Revenue to retain sales tax collected, up to \$60,000 per state fiscal year, to cover the administrative costs incurred in administering the new program.