

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:00 a.m. on March 12, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Office of the Revisor of Statutes  
Scott Wells, Office of the Revisor of Statutes  
Chris Courtwright, Kansas Legislative Research Department  
Kathy Beavers, Committee Assistant

Conferees appearing before the Committee:

Dotty Riley, Kutak Rock, Bond Counsel, City of Lenexa  
Larry Baer, League of Kansas Municipalities  
Robert Bezek, City Attorney, Ottawa, Kansas

Written only:

Mike Taylor, Public Relations Director, Unified Government Public Relations,  
Wyandotte County, Kansas  
Erik Sartorius, City of Overland Park, Kansas  
Ashley Sherard, Vice-President, Lenexa Chamber of Commerce

Others attending:

See attached list.

Bill introductions:

Representative Hayzlett made a motion to introduce a bill relating to strategic transportation plan. Representative King seconded the motion. The motion carried.

Representative Goyle made a motion to introduce a bill relating to civil expungement. Representative Menghini seconded the motion. The motion carried.

**SB 78 - Special assessments in transportation districts.**

The Chairman opened the hearing on **SB 78**.

Scott Wells, Office of the Revisor of Statutes, briefed the committee on **SB 78**. Mr. Wells and Chris Courtwright, Kansas Legislative Research Department stood for questions.

Dotty Riley, Kutak Rock, Bond Counsel, City of Lenexa, testified in support of **SB 78** (Attachment 1). Ms. Riley stated in her testimony that **SB 78** would permit the transportation development district sales tax (TDD Sales Tax) to be used to offset assessments against property in a transportation development district. The bill would also permit the use of transportation development district sales tax to pay the cost of projects authorized under the TDD act without the necessity of issuing bonds. She stood for questions.

Larry Baer, League of Kansas Municipalities, testified in support of **SB 78** (Attachment 2). Mr. Baer stated that SB78, if passed, would permit cities flexibility to undertake small projects without incurring the costs associated with bond issuances and thereby reducing the overall cost of the project.

Robert Bezek, City Attorney, Ottawa, Kansas, testified in support of **SB 78** (Attachment 3). Mr. Bezek stated that the transportation development district sales tax (TDD's) are used primarily for infrastructure. He stated that the current statute allows funding only through bonds and obstructs development. Mr. Bezek also stated that the transaction costs of issuing bonds can become prohibitive. He stated that the amendments in **SB 78** will allow the City of Ottawa an option to fit its current financing needs. He stood for questions.

The Chairman called attention to the written testimony in support of **SB 78**:

Mike Taylor, Public Relations Director, Unified Government Public Relations, Wyandotte County, Kansas (Attachment 4)

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on March 12, 2009, in Room 535-N of the Capitol.

Erik Sartorius, City of Overland Park, Kansas (Attachment 5)

Ashley Sherard, Vice-President, Lenexa Chamber of Commerce (Attachment 6)

The Chairman closed the hearing on **SB 78**.

**SB 138 - STAR bond financing.**

The Chairman opened the hearing on **SB 138**.

Scott Wells, Office of the Revisor of Statutes, briefed the committee on **SB 138**. Chris Courtwright and Mr. Wells stood for questions.

Larry Baer, League of Kansas Municipalities, testified in opposition of **SB 138** (Attachment 7). The League supports the original bill but does not support the amended version of the bill. He stood for questions.

The Chairman closed the hearing on **SB 138**.

The Chairman stated that the committee would work **SB 97**.

**SB 97 - Prescribing penalties for violations of liquor enforcement tax act by retailers.**

Chris Courtwright, Kansas Legislative Research Department, briefed the committee on **SB 97** and stood for questions. He stated that specific definitions would be written into the bill.

Representative Menghini made a motion to move SB 97 favorably for passage. Representative Benlon seconded the motion. Discussion continued.

Representative Menghini made a motion to amend the SB 97 to clarify conceptual language that all licensees would come under the Liquor Enforcement Tax Act. Representative Frownfelter seconded the motion. Discussion followed. Representative Menghini closed on the amended motion. The motion carried.

Representative Menghini closed on the original motion to move SB 97 favorably as amended. The motion carried.

The next meeting is scheduled for March 16, 2009.

The meeting was adjourned at 10:20 a.m.



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March 9, 2009

The Honorable Richard D. Carlson, Chairperson,  
Honorable Jeff King, Vice Chairperson  
and Members of the House Taxation Committee  
Statehouse, Room 535-N  
Topeka, KS 66612

Re: Senate Bill No. 78

Ladies and Gentlemen:

As bond counsel to the city of Lenexa, we are recommending, on its behalf, amendments to K.S.A. 2008 Supp. 12-17,140, 12-17,141, 12-17,143, 12-17,145 and 12-17,148 referenced in Senate Bill No. 78 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. We note that Senate Bill 78 also contains revisions to the TDD Act drafted by the Revisor's Office to improve the form and clarity of the legislation.

***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 typically 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 authorizes municipalities to pledge the TDD Sales Tax only for the payment of bonds. Permitting the TDD

House Taxation Committee

3-12-09

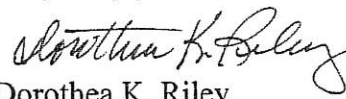
Attachment 1

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 reduce the overall costs of projects financed under the TDD Act by allowing municipalities to eliminate bond financing costs for projects to be paid from TDD Sales Tax.

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



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League of Kansas Municipalities

Date: March 12, 2009  
To: House Committee on Taxation  
From: Larry R. Baer  
Assistant General Counsel  
Re: SB 78  
Testimony in Support

Thank you for allowing me to appear before you today and present testimony in support of SB 78 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 78 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 78 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 78 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.

We believe that this legislation to be very positive because it adds additional flexibility and practicality to the TDD Act by allowing cities to reduce the tax levy within a TDD and to also end the TDD sales tax early if sufficient transportation development sales taxes have been received to pay for the project. We see this as a winning proposition for all involved parties. For these reasons, the League supports SB 78 and encourages your support of the bill and that it be passed out favorably.

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

**BEZEK, LOWRY & HENDRIX**  
Attorneys at Law

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Robert L. Bezek, Jr.  
Forrest A. Lowry  
Joyce Hendrix-Kuchar

March 11, 2009

The Honorable Richard Carlson, Chairperson,  
The Honorable Jeff King, Vice Chairperson  
and Members of the House Taxation Committee  
Statehouse, Room 545-N  
Topeka, Kansas 66612

Re: Senate Bill No. 78

Ladies and Gentlemen of the House Committee on Taxation:

As the City Attorney for the City of Ottawa, Kansas, I am recommending on behalf of the City of Ottawa the substance of the amendments to K.S.A. 2008 Supp. 12-17, 143, K.S.A. Supp. 12-17, 145 and K.S.A. 2008 Supp 12-17, 148, referenced in Senate Bill 78 (2009). The City of Ottawa supports Senate Bill No. 78 for the following reasons. First, the Bill permits the Transportation Development Districts (TDD) sales tax to be used as an offset on assessments against property in a transportation development district. Secondly, the legislation would permit the use of TDD sales tax to pay the costs of projects authorized under the TDD Act (K.S.A. 12-17, 140 et seq; the "TDD Act") without the necessity of issuing bonds. It is the latter provision of the legislation that is of the utmost importance to the City of Ottawa, although we support both changes to the TDD Act.

The City of Ottawa currently has two (2) Tax Increment Finance (TIF) Districts with development projects in each. With respect to both projects and their respective TIF Districts, the City has to deal with the current TDD Act, and its legislative restrictions. As the TDD projects in Ottawa generate relatively modest sources of revenue, in the three hundred thousand dollar (\$300,000.00) to seven hundred thousand dollar (\$700,000.00) range over twenty years, the current legislative scheme of allowing funding only through bonds creates an impediment to development. Currently the TDD Act authorizes municipalities to pledge the TDD sales tax revenues only for the payment of bonds. As the level of revenues in the City of Ottawa's instance is relatively modest, the transaction costs of issuing bonds become prohibitive. Even assuming relatively modest transaction

House Taxation Committee

3-12-09

Attachment 3

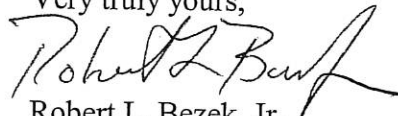
costs to issue bonds, the City has learned through hard experience that finding purchasers for relatively small bond amounts is difficult if not impossible. As a practical matter, only the developer or the business that will be generating the revenues are in a position to purchase the bonds, as they are the only ones with the detailed knowledge of the inherent risks associated with the revenue stream. Since the revenue source for the bonds are subject to many variables, chief among them the unpredictability of the TDD sales tax revenue stream and the instability of markets, it is either impractical or impossible to issue bonds to any other purchasers without a significant discount for the associated risk, in addition to the costs of the transaction. The result is a significant, and in our experience, needless decrease in TDD funds available to the City or the developer for appropriate projects in the TDD district.

The legislation before you in Senate Bill No. 78 would allow TDD projects to be funded without bonds and on a 'pay as you go' manner, a far preferable method from the City of Ottawa's perspective. Indeed, the one completed TIF District in Ottawa is financed on a "pay as you go" basis, and the ability to fund the TDD portion of the project through "pay as you go" funding would enhance the City's ability to encourage commercial development. The City believes that the amendments contained in the Senate Bill 78 will assist the City of Ottawa to better utilize this financing tool and encourage economic development. At the very least, the legislation provides an option that the City could choose to fit its current needs.

In addition to the other benefits, the legislation before you will allow assessments to be reduced for yearly collected TDD sales tax revenues. As this particular aspect of the legislation does not directly affect the City of Ottawa in its current situation, the City will merely state that it supports the recommendation of Dorothea K. Riley of Kutak Rock LLP in its pre-filed testimony.

If I can be of any further assistance to the committee on this matter, please let me know.

Very truly yours,



Robert L. Bezek, Jr.

City Attorney for the City of Ottawa





# Testimony

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

Mike Taylor, Public Relations Director  
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## Senate Bill 78 Transportation Development District Assessments

Delivered March 12, 2009  
House Tax Committee

The Unified Government supports Senate Bill 78 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 78 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 78 makes that positive measure even more effective and beneficial for taxpayers.

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Testimony before the House Taxation Committee  
Regarding Senate Bill 78  
By Erik Sartorius

March 12, 2009

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in support of Senate Bill 78. 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. It is impractical under the current structure however, to utilize both TDD assessment and sales tax because the statute requires that any assessment be levied in equal installments. As sales tax revenue can vary from year to year, and the installment must remain static, the installment must be set high enough to cover the debt service making the combination of the two funding options impossible. Part of Senate Bill 78 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 78 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 78 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 respectfully ask for the House's support in this effort, and that the legislation is given serious consideration.



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TO: Rep. Carlson, Chairperson  
Members, House Taxation Committee

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

DATE: March 12, 2009

RE: **Support for SB 78—TDD Flexibility**

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The Lenexa Chamber of Commerce would like to express its support for Senate Bill 78, 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 78, 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 strongly urges the committee to recommend SB 78 favorable for passage. Thank you for your time and attention to this important issue.



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League of Kansas Municipalities

Date: March 12, 2009  
To: House Committee on Taxation  
From: Larry R. Baer  
Assistant General Counsel  
Re: SB 138  
Testimony in Opposition

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and its member cities to present testimony regarding Senate Bill 138, as amended by the Senate Commerce Committee.

As introduced in the Senate Commerce Committee, SB 138 would have amended K.S.A. 2008 Supp. 12-1770a to expand the definition of "redevelopment project costs" to include infrastructure improvements located outside of the tax increment financing (TIF) district; would have amended K.S.A. 2008 Supp. 12-1774 to allow principal and interest on special obligation bonds to have been paid off by a portion of the transient guest and local sales taxes attributed to a redevelopment district; and, would have made technical corrections and clarifications regarding the use of Sales Tax and Revenue (STAR) bonds. In this form, the League supported SB 138. However, the Senate Commerce Committee deleted the amendments to 12-1770a (Section 1) and 12-1774 (Section 2). It is this current form of SB 138 that LKM opposes.

The amendments to K.S.A. 2008 Supp. 12-1770a (Section 1) were proposed to address situations where there is need for additional infrastructure outside of the development district to support the development district. This could arise, for example, when upgraded access roads are needed, additional storm or sanitary sewers or other utility needs arise, or an immediately adjacent intersection needs improvement. Under current law this could be accomplished by including the area where an upgrade or improvement was needed within the redevelopment project. While possible, it may not be practical if such an area is removed from the development area or extends well beyond the border of the development district, i.e. an access road or utility extension. The change proposed in Section 1 of the original bill would simplify the designation of a development district without having potential "islands" or "tails" to describe and deal with.

The changes proposed in Section 2 (K.S.A. 2008 Supp. 12-1774) of the original bill were intended to create consistency in the application of the various funding vehicles available to a city. Currently, a city may pledge a portion or all of the property tax increment or of the franchise fee increment in a redevelopment area for payment of principal and interest on special obligation bonds, but is required to pledge all revenue received from any local sales and use or transient guest taxes collected within the redevelopment district. The proposed changes would have brought consistency to current law and permitted cities to further exercise local control in determining the form, nature and extent of the method or repayment of bonded

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SB 138  
Testimony in Opposition

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indebtedness incurred in a redevelopment district.

The League of Kansas Municipalities opposes SB 138, as amended by the Senate Commerce Committee and asks, if the Committee works SB 138, that the original provisions of the bill be reinstated and that the original bill be passed out favorably.

Thank you for allowing me to appear on this matter.