

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Vice-Chairperson Julia Lynn at 8:30 a.m. on February 4, 2009, in Room 545-N of the Capitol.

All members were present except:
Senator David Wysong excused

Committee staff present:
Ms. Margaret Cianciarulo, Committee Assistant
Mr. Norm Furse, Office of the Revisor of Statutes
Mr. Ken Wilke, Office of the Revisor of Statutes
Mr. Reed Holwegner, Kansas Legislative Research Department

Conferees appearing before the Committee:
Ms. Dorthea Riley, Bond Counsel, KUTAK ROCK LLP, on behalf of the City of Lenexa
Mr. Don Moler, Executive Director, League of Kansas Municipalities

Others attending:
Please see attached list.

Hearing on SB78 - An act concerning transportation development districts

Upon calling the meeting Vice-Chairperson Lynn called upon Ms. Dorthea Riley, Bond Council, KUTAK ROCK LLP, on behalf of the City of Lenexa who stated that the bill:

- Permits the transportation development district sales tax ("TDD Sales Tax") to be used to offset assessments against property in a transportation development district.
- Permits the use of TDD Sales Tax to pay for the cost of projects authorised under the transportation development district act without the necessity of issuing bonds.
- Contains revisions to the TDD Act drafted by the Revisor's Office to improve the form and clarity of the legislation.

She included a substantive change of the bill which would allow assessments to be reduced for TDD Sales Tax and the bill would be another means of financing by permitting project funding without bonds.

A copy of her testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

Vice-Chairperson Lynn thanked Ms. Riley and asked for questions or comments from the Committee which came from Senators Reitz, Holland and Mr. Norm Furse including her comment that the people will still have to pay in regular increments and there was a difference in your program you are talking about that allows you to use assessments or support taxes to make it happen, but the payments would still be on an a rhythmical quarterly basis, is that not correct? The language in the bill talks about the prepayment of assessment, how does that work currently? Regarding the second part of the bill, is there any risk issues there regarding the municipalities perspective? When you now have the relationship between the developer and the city, is there any additional risk, an example being, if the revenue funds were to dry up, what exposures are there?

As there was no further discussion, the Vice-Chairperson called on Mr. Don Moler, Executive Director of League of Kansas Municipalities (LKM), who feels this legislation to be very positive in that it allows for additional flexibility in the TDD law while at the same time allows cities to reduce the tax levy within the TDD and also to end the TDD sales tax early if sufficient transportation development sales taxes have been received to pay for the project.

A copy of his testimony is (Attachment 2) attached and incorporated into the Minutes as referenced.

CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on February 4, 2009, in Room 545-N of the Capitol.

Vice-Chairperson Lynn thanked Mr. Moler and as there were no questions or comments from the Committee, she referred them to written testimony before them including:

- Mr. Gary Anderson, Bond Counsel, Gilmore & Bell.
- Mr. Mike Taylor, Public Relations Director, Unified Government Public Relations.
- Ms. Ashley Sherard, Vice President, Lenexa Chamber of Commerce.
- Mr. Erik Sartorius, Assistant City Manager, City of Overland Park

Copies of the above proponent written testimonies are (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

Action on the bill

The Vice-Chair then asked Committee if there was discussion. A motion was made by Senator Kelsey and seconded by Senator Schodorf to work the bill and pass favorably. The motion carried.

Adjournment

As there was no further business, Vice-Chair Lynn adjourned the meeting. The time was 8:55 a.m.

The next meeting is scheduled for Thursday, February 5, 2009.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Thursday, February 4, 2009

NAME	REPRESENTING
Pat Eaker	KCOE
MARK BOZANYAK	CAPITOL STRATEGIES
Robert Bezote	Ottawa, Kansas.
Nick Jordan	Capitol Strategies.
Wigh Keck	Main law firm
Denny Koch	POLINSKY LAW
Dave Holtwick	Overland Park Chamber
Erik Sartorius	City of Overland Park
Dan Karber	Kansas, Inc.
Robin Jeanison	Southwest Kansas Coalition
Ashley Sheard	Lenexa Chamber
Scott Heidner	ACEC of Kansas
ANDY HUCKABA	LENEXA City Council
Matt Shatto	City of Lenexa
Dotty Riley	Fortak Rock.
Don Moler	LKM
Kim Wynn	LICM

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SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Wednesday, February 4, 2009

NAME	REPRESENTING
Karyn Page	Kansas World Trade Center
Stuart Little	Sedgewick County
LARRY CHANDS	KS. DEPT. OF COMMERCE
Jim Maag	Spirit Aero Systems
Dan Kerber	Kansas, Inc.
John PILLA	Spirit Aero Systems
Stan Ahlerich	Kansas, Inc.

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WASHINGTON
WICHITA

February 2, 2009

The Honorable David Wysong, Chairperson,
Honorable Julia Lynn, Vice Chairperson
and Members of the Senate Commerce Committee
Statehouse, Room 545-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

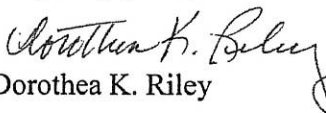
KUTAK ROCK LLP

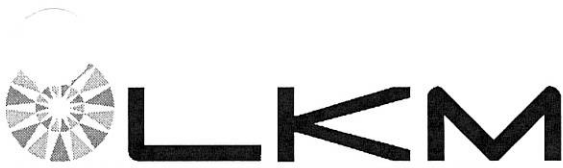
Sales Tax to be pledged to pay for a project, without the necessity of issuing bonds, will give municipalities the ability to finance projects with the TDD Sales Tax when it is impractical or impossible to issue bonds because of the small size of the project, unpredictability of the TDD Sales Tax, instability 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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Phone: (785) 354-9565
Fax: (785) 354-4186

League of Kansas Municipalities

To: Senate Commerce Committee
From: Don Moler, Executive Director
Re: Support for SB 78
Date: February 4, 2009

First I would like to thank the Committee for allowing the League to testify today in support of SB 78 concerning the transportation development district act (TDD). We believe this legislation to be very positive in that it allows for additional flexibility in the TDD law while at the same time allowing cities to reduce the tax levy within the 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, and would urge the committee to favorably report it. I will be happy to answer any questions the committee may have concerning SB 78.

Senate Commerce Committee

Date: February 4, 2009

Attachment 2

GILMORE & BELL

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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ST. LOUIS, MISSOURI
WICHITA, KANSAS
LINCOLN, NEBRASKA

January 28, 2009

The Honorable David Wysong, Chairperson
Honorable Julia Lynn, Vice Chairperson
And Members of the Senate Commerce Committee
Statehouse, Room 545-N
Topeka, Kansas

Re: SB 78

Ladies and Gentlemen:

The Transportation Development Act was adopted by the Legislature in 2002 (K.S.A. 12-14,140 - 12-17,151). Gilmore & Bell, P.C. assisted the City of Manhattan as bond counsel in connection with the issuance of the first ever series of TDD bonds in Kansas in 2003 and since that time has assisted the City of Olathe with several TDDs, as well as the Unified Government, Roeland Park and others with TDD's. Under the TDD Act cities and counties may, upon a petition of 100% of the property owners within the district, create a special district that is funded by a special TDD sales tax imposed only within the special district and/or special assessments levied solely within the special district.

As bond counsel to many cities and counties in the State, we are recommending approval of SB 78.

This bill would generally provide for 2 important clarifications to the Transportation Development Act. First, Section 1 of the bill would make it clear that "pay-as-you-go" financing of transportation projects under the TDD Act is allowed. The bill would also clarify that a city or county could offset special assessments in any year when the city or county had TDD sales taxes or other funds to pay debt service on any bonds.

Pay-as-you-Go Financing

The bill would clarify that communities could you use "pay-as-you-go" financing. This would allow communities to use the TDD revenues to pay for transportation costs without issuing TDD bonds. This approach might be needed as a result of (1) a community not wanting to issue TDD bonds, (2) it not being cost effective to issue TDD bonds, or (3) it being more cost effective not to issue bonds.

Senate Commerce Committee

Date: February 4, 2009

Attachment 3

Special Assessments

Since special assessments act as lien on the property, they are more "secure" than a pledge of TDD sales taxes. TDD sales taxes are affected by the economy, the success of the sales tax producers and the overall economy. If special assessments secure TDD bonds, the bondholders in effect have a lien on the real property, which is generally viewed as better security/collateral for the bonds. The ability to impose special assessments, but not to levy them in any year will be a benefit to usage of TDD bonds. The special assessments will act as "backstop" to make sure that sufficient revenues are available from TDD sales taxes or other funds, but would not be required to be paid.

In this economic environment it makes great sense to clarify and enhance the economic development tools that communities have at their disposal, like the TDD Act.

I would be happy to assist or answer questions.

Sincerely,

A handwritten signature in black ink, appearing to read "GA Anderson", written in a cursive style.

Gary A. Anderson



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 78 Transportation Development District Assessments

**Delivered February 4, 2009
Senate Commerce 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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TO: Senator Wysong, Chairperson
Senator Lynn, Vice-Chairperson
Members, Senate Commerce Committee

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

DATE: February 4, 2009

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

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 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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Testimony before the Senate Commerce Committee
Regarding Senate Bill 78
By Erik Sartorius

February 4, 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 Senate's support in this effort, and that the legislation is given serious consideration.