

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 3:30 p.m. on March 4, 2010, in Room 144-S of the Capitol.

All members were present except

Representative Mario Goico, Excused
Representative Michael Peterson, Absent
Representative Joe Seiwert, Excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Carol Bertram, Committee Assistant

Conferees appearing before the Committee:

Dorothea K. Riley, Bond Counsel to the City of Lenexa
Doug Mays, City of Olathe

Others attending:

See attached list.

Chair Schwartz opened the hearing on **SB 451 - Municipal bond sales.**

Martha Dorsey, Legislative Research Department, presented an overview of **SB 451**. She stated the bill would make a change to the municipal bond law by allowing municipalities the option of accepting the good faith deposit for a municipal bond in the form of cash, including cash deposited via electronic fund transfer.

Questions by the Committee followed and were answered by Ms. Dorsey.

The Chair recognized Dorothea K. Riley, Bond Counsel, City of Lenexa, who testified in support of **SB 451 (Attachment #1)**. She provided the Committee information concerning current law and its requirements. She stated the amendments contained in **SB 451** will assist Lenexa and other municipalities to make their municipal bonds more marketable while still requiring a good faith deposit to secure performance of the purchase of the bonds by the selected best bidder.

Questions by the Committee followed and were answered by Ms. Riley.

Chair Schwartz opened the floor to anyone else who would like to speak on **SB 451**. Doug Mays, City of Olathe, spoke in support of the bill. He stated the City of Olathe likes this bill and believes it is a very common-sense bill. No written testimony was provided.

There being no further proponents or opponents to testify before the Committee, Chair Schwartz drew the Committee's attention to two written-only testimonies which are in support of **SB 451**, from (1) Larry R. Baer, Assistant General Counsel, League of Kansas Municipalities (**Attachment #2**), and (2) Erik Sartorius, City of Overland Park (**Attachment #3**).

Chair Schwartz closed the hearing on **SB 451**.

It was moved by Representative Slattery that the Committee pass **SB 451** favorably for passage and that it be put on the Consent Calendar. The motion was seconded by Representative Gordon. The motion carried.

The next meeting is scheduled for March 9, 2010.

The meeting was adjourned at 3:45 PM.

S.S.

Representative Sharon Schwartz, Chair

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: *March 4, 2010*

NAME	REPRESENTING
<i>Lowther K. Riley</i>	<i>Lenexa, Kansas</i>
<i>Matt Shatto</i>	" "
<i>Dan Mays</i>	<i>Olathe</i>
ERIK SARTORIUS	City of Overland Park

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KUTAK ROCK LLP
SUITE 500
1010 GRAND BOULEVARD
KANSAS CITY, MISSOURI 64106-2220
816-960-0090
FACSIMILE 816-960-0041
www.kutakrock.com

ATLANTA
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WICHITA

DOROTHEA K. RILEY
dotty.riley@kutakrock.com
(816) 502-4665

February 26, 2010

The Honorable Sharon Schwartz, Chairperson,
Honorable Mitch Holmes, Vice Chairperson
and Members of the House Local
Government Committee
Statehouse, Room 144-S
Topeka, KS 66612

Re: Senate Bill 451

Ladies and Gentlemen:

As bond counsel to the City of Lenexa, Kansas, we are recommending, on its behalf, amendments to K.S.A. 10-106 referenced in Senate Bill 451 to (1) clarify that municipalities may accept cash in the form of a wire transfer of funds through the federal reserve system as a good faith deposit for the purchase of general obligation bonds sold at public sale and (2) to permit the receipt of a good faith deposit received by wire transfer anytime prior to the time the governing body accepts the bid from a purchaser of the bonds.

Current Law and Background. Under current law, K.S.A. 10-106 requires that for general obligation bonds to be sold at a competitive public sale, a municipality must receive a good faith deposit for such bonds, in the form of a certified or cashier's check or surety bond, in an amount equal to 2% of the par value of such bonds and that such good faith deposit must be furnished prior to the time of the sale. To avoid the administrative time required to obtain and deliver a cashier's or certified check and the loss of the use of the funds during the time the check is outstanding, most investment banking firms and some banks have historically utilized a surety bond service to provide a good faith deposit. An investment banking firm or bank interested in submitting a surety bond as the good faith deposit for municipal bonds could, for a small fee, arrange with Assured Guaranty Municipal Corp. (formerly, Financial Guaranty Assurance, Inc., the only company providing surety bonds for municipal bonds in Kansas and elsewhere in the United States) to qualify for a surety bond for a municipal bond issue. When the economy declined in the fall of 2008, this surety bond provider, without notice, discontinued the service, leaving both municipal bond issuers and bidders for municipal bonds without a timely, economical and efficient way to submit good faith deposits. In that cash in an issuer's bank account was a more secure manner of obtaining the good faith deposit than a check or

The Honorable Sharon Schwartz, Chairperson,
Honorable Mitch Holmes, Vice Chairperson
and Members of the Senate Local
Government Committee

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surety bond, most issuers in Kansas and elsewhere began accepting wire transfers of the good faith deposit. In 2009, the same surety bond provider resumed its surety bond service at an increased fee to bidders, and the Kansas Attorney General's office, which had approved bond transcripts in which bonds were sold with good faith deposits submitted by wire transfer during the time surety bonds were not available, indicated municipalities needed to return to utilization of the two specified forms of good faith identified in K.S.A. 10-106, *i.e.*, checks or surety bonds.

Senate Bill 451. The requested changes to K.S.A. 10-106 in Senate Bill 451 permit funding of the good faith deposit for municipal bonds with cash by electronic wire transfer which will give the municipality the security of cash immediately available as the good faith deposit and will provide a mechanism for bidders to submit good faith deposits that will be more efficient and cost effective for them. The bill also permits municipalities to accept the bid provided the good faith deposit is received by the bidder prior to the time the governing body accepts the bid, rather than prior to the time of the sale. This permits municipalities to determine the best bid and only require the best bidder to wire the good faith deposit, which eliminates the administrative work for the municipality of returning the good faith deposits for bidders that are not the best bid and makes the option of bidding on Kansas municipal bonds more attractive to bidders because their time and expense is reduced.

We believe the amendments contained in SB 451 will assist Lenexa and other municipalities to make their municipal bonds more marketable while still requiring a good faith deposit to secure performance of the purchase of the bonds by the selected best bidder.

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

Very truly yours,



Dorothea K. Riley



300 SW 8TH AVENUE, STE. 100
TOPEKA, KS 66603-3951
P: (785) 354-9565
F: (785) 354-4186
WWW.LKM.ORG

Date: March 4, 2010
To: House Committee on Local Government
From: Larry R. Baer
Assistant General Counsel
Re: SB 451
Testimony in Support

Thank you for allowing me to appear before you today and present testimony in support of SB 451 on behalf of the League of Kansas Municipalities and its member cities. This bill would amend current law (K.S.A. 10-106) to allow the form of "good faith deposits" that are required to accompany bids on public bond sales to include the use of cash, including cash deposited to an account designated by the city, via ACH or wire transfer.

K.S.A. 10-106, as now written, requires that a good faith deposit in the amount of two percent of the total par value of the bonds being sold be posted with the issuer by the bidder on public bond sales. The statute requires that the deposit "be in the form of a certified cashier's check or surety bond". This provision did not pose many problems until about 18 months ago when the only provider of such surety bonds suddenly stopped writing surety bonds for this purpose. In light of this, many municipalities begin accepting cash deposits for the good faith deposits. The Kansas Attorney General, who approves all new money general obligation bonds, accepted the use of cash because of the lack of a surety bond issuer. However, when the surety provider subsequently begin to issue surety bonds, the Attorney General would no longer approve the use of cash for the good faith deposit.

During the temporary allowance of cash deposits, cities found the process to work well and allowed the bond bidding process to be more accessible to bidders. This in turn resulted in more competitive bids and lower overall costs to the bond issuers.

The changes being proposed allow cities and other entities issuing bonds for public bond sale the flexibility to designate alternative methods of posting the good faith deposit. The proposed changes have in fact been used and found to be an acceptable substitute to the current statutorily required forms of deposit and, in some cases, have resulted in some saving to the bond issuers – savings to taxpayers.

For these reasons League of Kansas Municipalities supports SB 451 and asks for your support of this bill and requests that you pass it out favorably. Thank you.

Local Government

Date: 3-4-10

Attachment # 2



ABOVE AND BEYOND. BY DESIGN.

8500 Santa Fe Drive
Overland Park, Kansas 66212
913-895-6000 | www.opkansas.org

Testimony Before the House Local Government Committee
Regarding Senate Bill 451 Municipal Bond Legislation
Submitted by Erik Sartorius

March 3, 2010

The City of Overland Park appreciates the opportunity to share with the committee its support for Senate Bill 451. This legislation brought forward by the City of Lenexa institutes needed change to municipal bond law

Until the fall of 2008, entities bidding on municipal general obligation bonds had the ability to qualify for a surety bond for the municipal bond sale. When the only company in the United States quit providing this service, municipal bond investors and municipalities themselves were left in the lurch.

In response, several municipalities began accepting the required good faith deposits via wire transfer. One the company that had previously provided surety bond services restarted its operations in 2009, the Kansas Attorney General's office indicated municipalities needed end the practice of accepting wire transfers.

The legislation sought does two things. First, it allows municipalities to once again accept good faith deposits for municipal bonds via wire transfer. This practice worked well while no surety company was available.

Second, the bill will allow municipalities to determine the best bidder for the bonds, and only require the best bidder to wire the good faith deposit. This may make Kansas municipal bond sales more attractive to bidders, as their time and expense associated with entering a bid is reduced, and will also lower administrative work and expense for municipalities.

The City of Overland Park supports the goal of the proposed legislation, and asks that the committee report the bill favorably for passage.

Local Government

Date: 3-4-10

Attachment # 3