

**Testimony of the City of Garden City, Kansas
Before the House Taxation Committee
In Opposition to Senate Bill No. 146
May 10, 2017**

Chairman Johnson and Members of the House Taxation Committee:

On behalf of the City of Garden City I appreciate the opportunity to present testimony in opposition to section one of amended Senate Bill No. 146.

As originally drafted, SB 146, would reauthorize the 20-mill statewide levy to fund General State Aid payments in the school finance formula. The Senate included an amendment in the Senate Assessment and Taxation Committee and a clarifying amendment was added on the floor during debate to prohibit cities and counties from granting abatement of the 20-mill levy, along with other taxes, using the constitutional economic development tax abatement tool or through issuing industrial revenue bonds.

The prohibition would not apply to tax abatement if, before May 1, 2017, a city has:

- 1 Passed a Resolution of Intent to issue bonds and grant an abatement; or,
- 2 Held the required public hearing as prescribed in K. S. A. 79-251.

The City of Garden City is concerned the amendment as currently drafted may be interpreted to retroactively affect projects currently under development and construction where the city has agreed to tax abatement in a resolution of intent but has not yet taken official action necessary to grant the abatement. Simply as a point of information, the Senate amendments were not discussed during the hearing and the amendment was subsequently added when the Senate Committee worked the bill. This amendment is a significant shift in long standing public policy and it is important for the topic to be thoroughly vetted and impacted parties need to have an opportunity to present testimony before a legislative Committee.

The City is currently working on two significant development projects in the city, including with Dairy Farmers of America in construction of a \$235 million dairy plant that will be the largest milk drying plant in North America and on the construction of a much-needed full scale senior living facility with an anticipated total cost of \$38 million. Construction of the DFA facility began in October 2015 and the facility will become operational this summer. The city anticipates issuing bonds for the DFA project in the fall of 2017. In both cases, the City has adopted a resolution of intent to issue industrial revenue bonds and grant tax abatement. The City has also entered into Development Agreements stating its intent to grant agreed upon tax abatements, upon taking final action required by law to approve the tax abatements. The City has not conducted a public hearing on either agreed tax abatement and plans to do so after the projects are complete, all costs are known, and the formal bond issuance process is underway.

The Department of Commerce played a significant role in recruiting the DFA facility to Kansas and a great deal of work, both at the state and local levels, made this project a reality. It was necessary to utilize many economic development tools including granting a tax abatement through issuing Industrial Revenue Bonds to

attract the DFA plant to western Kansas. The additional jobs and supporting dairies generated by this project will benefit the region and State. The senior living facility will fill a long-standing need in city and the region and will create jobs. The City has performed costs benefit analysis on both tax abatements.

As you know, the granting of an IRB property tax exemption is solely vested with Board of Tax Appeals (BOTA) and is subject to the submission of evidence by the applicant demonstrating compliance with the statutory requirements notice and public hearing conducted by the City and issuance of bonds.

The City's concern is that the language of the amendments to SB 148 create ambiguity and could be argued to have a retroactive impact on the two projects underway in the City and the agreements regarding tax abatements the City has reached with the developers of the project. To be certain the language the amendments to SB 146 could not be interpreted to impact the City's agreements with the developers of these two project, the City would have needed to conduct an expedited public hearing before the end of April 2017, which wasn't statutorily required at the time. Doing so would have created unique challenges because the necessary financial information needed to conduct a public hearing was not be available. Customarily, all project costs are known, assessed valuations are established to provide full disclosure of what taxes may be abated before public comment is sought. In this instance, without complete financial information it would be premature to conduct a public hearing.

The potential loss of a portion of the tax abatement the City and the project developers have agreed to in a Development Agreement may impact the financing structure of the project.

Because of the significant implications of the amendments and specifically the City cannot run the risk of negative impact to its existing development agreements with DFA and others, I respectfully request the House Committee on Taxation not to support the Senate amendments in section one of Senate Bill No. 146, which may be argued to have a retroactive effect.

We support the original intent of the bill to reauthorize the 20-mill statewide levy for schools and could support language that restricts the abatement of the levy in the future, with a later start date, such as January 1, 2018. A later effective date would give the City and other cities and counties in Kansas the opportunity to ensure that tax abatements they have agreed to may be fully implemented, as agreed.

I am pleased to answer any questions you might have on this very important matter.

For the City of Garden City
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