

Date: February 7, 2017

To: Senate Committee on Commerce

From: Larry R. Baer
General Counsel

Re: Senate Bill 55
Testimony in Opposition

Thank you for the opportunity to appear before you today to present testimony in opposition to SB 55 on behalf of the League of Kansas Municipalities and our member cities.

SB 55 would require that before a city could enter into a public-private agreement, as defined in the bill, the contractor would have to furnish a performance bond in an amount equal to the full contract price, if not required to under other provisions of law, and a payment bond in an amount equal to the full amount of the contract. These provisions would apply to any contract in an amount of \$25,000 or more.

We see this requirement as infringing upon cities' Constitutional home rule right of local control and their ability to ensure that local issues and problems are handled at the level of government closest to the citizens that they represent. Cities should be free to review their needs, assess the situation and decide what, if any protections are needed. Further, it appears that the bonding requirements stated in HB 55 do not allow a city to utilize "alternate security" forms as permitted in the Public Construction Contract Act.¹

Also, the triggering amount of \$25,000 is quite problematic. This is a very low threshold amount. Public-private partnership projects can involve public buildings, transportation facilities, utility operations or commercial operations. All of these are easily multi-million dollar projects. Thus, it would seem logical and reasonable to set the threshold limit at a much more realistic amount. The \$25,000 threshold simply increases the costs of very small projects without any real benefits.

For these reasons, the League and its member cities do oppose SB 55. We ask that our concerns be considered when the bill is worked and that it not be passed out favorably.

¹ K.S.A. 16-1901, et seq.