



KANSAS
ASSOCIATION OF
COUNTIES

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Senate Judiciary Committee
May 3, 2021
Senate Bill 286

Kansas Association of Counties
Neutral Testimony

Chairwoman Warren and members of the Committee:

Thank you for allowing the Kansas Association of Counties to offer neutral testimony on SB 286. While proposed amendments may remove the burden on the general fund, KAC still believes that SB 286 is duplicative, imposes on local control, and infringes on the ability of local officials to apply reasonable restrictions. These are concerns that persist despite the proposed amendment. It should be noted that without the proposed amendment, KAC would be opposed to this bill.

KAC is also concerned that SB 286 is administered entirely by the Attorney General, and that the proposed procedure cuts local officials out of the process, granting tax credits over which local officials have no input or control.

Finally, there is a question as to whether American Rescue Plan funds can be used for this purpose. As of the time of writing this testimony, the US Treasury Department has not issued guidance on the American Rescue Plan funds.

SB 286 is duplicative

Subsection (e) of Section 2 of SB 286 states that this bill “shall provide an alternative remedy for settling a claim of governmental commandeering or use under K.S.A. 48-933. There are already civil claims under the Kansas Emergency Management Act (KEMA) that potentially address this issue (as the bill clearly admits), therefore, SB 286 is duplicative.

SB 286 imposes on local control

When Special Session 2020 HB 2016 passed last summer, the legislation moved forward with the promise of local control to avoid a “one-size-fits-all” approach in response to COVID-19. SB 286 is diametrically opposed to this position. Further, SB 286 vests the power to make these determinations with the Attorney General, rather than with local officials, effectively cutting local commissioners out of the process.

SB 286 infringes on the ability of local officials to apply reasonable restrictions

Local officials are tasked with acting as the board of public health. This bill would penalize local officials for taking action consistent with those responsibilities as they deem necessary, dependent upon the information available to them at that time. SB 286 essentially punishes local officials for taking any steps. This discourages local officials from upholding their statutory duties in the way they deem appropriate. It

also usurps the power of local residents, as the Attorney General is not answerable to the residents of any one county or county commission district.

SB 286 cuts local officials out of the process

Over and over during the COVID-19 pandemic, we have heard the words “local control.” SB 286 cuts local officials out of the process of determining these tax credits within their jurisdiction. As observed above, this also takes the authority away from local residents, to whom the Attorney General is not directly answerable.

Counties do not yet have guidance on use of American Rescue Plan funds

As with all federal aid, there are rules and restrictions on its use. Counties are waiting on this guidance from the US Treasury Department, which has not yet been issued. As such, counties are not in a position to commit to specific disbursements. Any unauthorized disbursements would require the county to refund the unauthorized funds to the Treasury. That would be a poor outcome for all involved.

Thank you for the opportunity to present these issues to the committee, and for your consideration on these matters.

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