

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Urban Affairs Committee  
January 19, 2010

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[LB781]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 19, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB781. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Tanya Cook; Bob Krist; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None.

SENATOR MCGILL: (Recorder malfunction)...sure Senator Coash will be joining us soon but, with our big agenda of one bill today (laugh), let's go ahead and kick things off. Welcome to the first hearing for the Urban Affairs Committee this session. With me we have Senator Rogert; Senator Lathrop; Senator Cook. I am, of course, Senator McGill. This is my research analyst, she is new to the committee, Laurie Holman. Senator Coash will be joining us, but we also have Senator Krist and Senator Tom White. We ask that everybody put their cell phones on vibrate or silent, if possible. Oh, here's Senator Coash. Put those in vibrate. When you come up, please fill out one of the forms so we can keep track of who you are. Say and spell your names for us, if possible. Otherwise, I'll interrupt you and ask you to do that. It's for our transcribers. Otherwise, we can go ahead and get started with Senator Lathrop and LB781. []

SENATOR LATHROP: Good afternoon, Madam Chair, members of the committee. My name is Steve Lathrop. I'm the state senator from District 12 and I'm here today to put in LB85... [LB781]

SENATOR MCGILL: No. [LB781]

SENATOR LATHROP: ...pardon me, LB781. [LB781]

SENATOR MCGILL: (Laugh) Right, that was my bill. (Laugh) [LB781]

SENATOR LATHROP: LB85 was the old bill, you're right. Is it going to be like this every day? (Laughter) Last session, the Unicameral passed LB85, Senator McGill's bill, a law that allows municipalities to establish urban growth districts to finance bonds associated with infrastructure costs. The urban growth districts are able to leverage sales and use tax revenues associated with district to finance urban growth bonds, which can then be used to pay for infrastructure needs within the municipality. As introduced, LB85 had language that stated the urban growth districts could only be created in areas of the city that have developed since 1988. An amendment was passed during floor debate to limit it to areas developed in the last 20 years so that, as the city grew, their ability to establish urban growth districts would not be limited to the 1988 boundaries of the city. This bill, LB781, simply eliminates this language. By doing so, it will allow for urban growth districts to be created throughout the corporate limits of the municipality. This bill was introduced at the request of Councilman Pete Festersen from Omaha, who thought

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it would be a useful tool, as amended, to help with some redevelopment efforts in neighborhoods like Dundee and Florence and Benson, places like that. I'm told that the language is not perfect, that it needs some work, but I think, and Councilman Festersen is here and I think he's going to address the committee, I think he'll be able to answer questions about what his intent is and we can take his intent and my bill and put an amendment together that accomplishes that for cities like Omaha and Lincoln. Thank you. [LB781]

SENATOR MCGILL: All right. Thank you. Any questions for Senator Lathrop? [LB781]

SENATOR ROBERT: I have one. [LB781]

SENATOR MCGILL: Senator Robert. [LB781]

SENATOR ROBERT: You mentioned there was an amendment put on during Senator McGill's bill last year. It was exactly this language? [LB781]

SENATOR LATHROP: It was exactly what language? [LB781]

SENATOR ROBERT: Which is what we're striking out of your bill? [LB781]

SENATOR LATHROP: I think that's right. [LB781]

SENATOR MCGILL: Yeah. I think the amendment struck...it struck that date and then put in this language instead. [LB781]

SENATOR ROBERT: Okay. [LB781]

SENATOR LATHROP: Yeah, that's my recollection as well. [LB781]

SENATOR MCGILL: Any other questions? Thank you, Senator Lathrop. [LB781]

SENATOR LATHROP: Thank you. Okay. [LB781]

SENATOR MCGILL: And we'll move on to those who are here to testify in support of the bill. [LB781]

PETE FESTERSEN: Good afternoon, Madam Chair and members. My name is Pete Festersen. I'm an Omaha City Councilman. [LB781]

SENATOR MCGILL: Can you spell it for us? Thank you. [LB781]

PETE FESTERSEN: (Exhibit 1) Sure. It's F-e-s-t-e-r-s-e-n. I represent the city of Omaha

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but then also representing the League of Municipalities as proponents of today's bill, and I have a letter I'll submit on their behalf. Thanks for scheduling an entire day to this bill. This is clearly the most important bill you'll hear all session long, so I'm glad we're starting off early. (Laugh) No, I do appreciate the chance to speak with you and have some time to just have an informal exchange about what Senator Lathrop introduced and I appreciate him doing that and I appreciate Senator McGill's bill from last year, which I think is also and currently is a tool for cities that are having issues with infrastructure to use even now. I support this and I view it as a minor change to do what Senator Lathrop in fact said, which is to have it apply to older parts of a city, not just new parts of a city, our suburban growth. And as Senator Lathrop said, there's two requirements currently in the bill that would allow a growth area only to be determined if it's within a city boundary but had not been within that city within 20 years. So it does simply just seek to move the 20-year requirement. And as he said, my interest personally is some things that are happening in my district that I'm working actively on, some redevelopment efforts in the immediate Dundee business district, the Florence business district, and the Benson business district whereby those plans are in the city's master plan and we're currently going through with implementation right now to update those streetscapes and that infrastructure to create jobs and reinvest in those communities. But certainly this change could apply to areas in Millard in Omaha, Sarpy County I know has some interest in doing this, and I'm sure other cities throughout the state, as evidenced by the League's letter as well. So we see it as an infrastructure tool and as something that can help with main street development and job creation. Two questions I've been asked about the bill so far, just the simple words that are struck there that I'd also address up front, and then we can just have some exchange or answer some questions are is why is this change needed? Is it needed at all? Doesn't the bill already allow for this? And from my perspective, I would say, no, it doesn't, and I'll give you two reasons why. Currently, you could designate an urban growth district in a suburban area and say, okay, we're going to capture that local option sales tax and use that for an older part of the city. You can do that right now. But for me, there's two practical problems with doing such, and I'll just use Omaha as an example. To me, it makes much more sense to say, okay, Florence, we want to update your streetscape, you're a business district, we're going to capture the sales tax you produce and turn that back to your business district to reinvest in you and allow you to create jobs and develop your neighborhood. Right now, you can't do that. You'd be saying, in Omaha's case, really the only area that applies substantially in Omaha right now would be Elkhorn, so imagine trying to say, Elkhorn, we're going to call you an urban growth district, capture your sales tax that you produce but use that in Florence. Not only is that a bit illogical to me and probably shouldn't be done, but politically that would never happen anyway because, as you know, this bill requires a supermajority of council members to approve a district and then go through this process and, you know, that would simply never happen when you're using the example of Elkhorn to Florence. So it's a practical situation I'd like to fix however we do that. And then the other question I've been asked is, well, if you simply strike the 20-year requirement, isn't that opening it

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up too broadly? Does that mean a city can use this, you know, theoretically use their entire tax base to do this? And I guess my answer to that is maybe. I think from Omaha's perspective that would never happen. I mean our sales tax is over half our General Fund budget so imagine trying to make that argument, and nobody would and certainly nobody would in fact cause a tax increase, including myself. But I say maybe because it could apply. Some other city or some other locality might try and do that, and so that's something we can work on if, in fact, that's of concern to the committee or of concern to the greater body. And in fact, two suggestions I'd offer up, if that, in fact, is the direction you want to go, we could just say...specifically say that a city can't do that. They can't use their entire sales tax base to do that, only in limited areas. Or you could even say something as simple as, rather than strike the 20-year language out altogether, you could just say it could apply to an area that hasn't received bonded infrastructure in 20 years. That would certainly still do...get at what I'm trying to accomplish without, you know, opening up an entire city boundary to eligibility. So in doing so, in making this simple change, I think it does then allow older parts of the city who also have needs to benefit from what Senator McGill did, but also maintains...doesn't change anything else. It maintains local control, can only be done through a local body, a supermajority vote. There is no fiscal note. There would be no tax increase. And so all these things together I think would make for good policy and certainly help us accomplish some job creation efforts we have going on in Omaha and other places. So with that, I appreciate you listening and I'd be happy to answer any questions. [LB781]

SENATOR MCGILL: Questions from the committee? Senator Coash. [LB781]

SENATOR COASH: Thank you. I know this is early. We just enacted this last year. But has the Omaha City Council taken a look at this and even without the changes that Senator Lathrop is proposing, and said we've earmarked a plan, we know where we would want to use this mechanism? [LB781]

PETE FESTERSEN: We have not. The city council did unanimously endorse this change, though realizing that it really didn't apply to most of Omaha. It might only apply right now to a couple of SIDs or my example of Elkhorn. [LB781]

SENATOR COASH: Okay. [LB781]

SENATOR MCGILL: Other questions before I start asking? Senator Cook. [LB781]

SENATOR COOK: Thank you, Madam Chairman...Chairwoman. Thanks for coming, Pete, and I do see a lot of opportunity for Florence but I have a question about an example of a use tax as you visualize the Florence business district. I can understand where sales tax might be generated from, but what would provide the use tax? Or maybe you just give me a definition or an example of a use tax or somebody could.

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[LB781]

PETE FESTERSEN: Okay. Let me clarify your question, too, because this bill would not establish a new tax. It would capture... [LB781]

SENATOR COOK: No. [LB781]

PETE FESTERSEN: Okay. [LB781]

SENATOR COOK: Right, but it's asking to apply sales and use, and I just want, for my own understanding, to have a ready example of what a use tax might look like in the Florence business district. [LB781]

PETE FESTERSEN: I think, from my perspective, all we're talking about is sales tax, as you would typically think of sales tax in a locality. So if you said that the downtown Florence area was going to be an urban growth district, that would be the sales tax produced by those businesses in that area. [LB781]

SENATOR COOK: Okay. And that is not... [LB781]

SENATOR MCGILL: Yeah, it's basically the sales tax. Yeah. [LB781]

SENATOR COOK: All right. [LB781]

SENATOR MCGILL: It basically is. [LB781]

SENATOR COOK: Thank you. [LB781]

SENATOR MCGILL: Thank you, Senator Cook. You know, I know I've shared my concerns with you already and you addressed them, which I appreciate. And I liked your last suggestion about, you know, maybe an area that hasn't been bonded in the last 20 years. I think that's something that we can look at. [LB781]

PETE FESTERSEN: Okay. [LB781]

SENATOR MCGILL: You know, I firmly believe what you want to do can be done and that it, you know...the urban growth district is just the part of a formula to determine the proportion of the sales tax that can be used to bond, and that bonding, you know, it's very clear on page 3 of the bill, says that the bonding can be used in any other area of the municipality. So, you know, changing it so you're designating that, you know, other part of town, it doesn't really matter physically where that growth district is. Money can be spent anywhere. It's just a percentage and a formula. So to me, it does seem like the change is about politically how to pitch using one of these bonding projects. I mean is

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that what's happening here? [LB781]

PETE FESTERSEN: I think it's two things. I think that's an accurate assessment, from a city councilman's perspective, in that I don't think you'd have support to designate a suburban area as one of these but then use that money presumably from that area to go somewhere else. To me... [LB781]

SENATOR MCGILL: Uh-huh, and that is a tough sell. [LB781]

PETE FESTERSEN: I think it would be a tough sell, and then just the logical progression for me is it makes a lot more sense to be saying, wherever it is, Millard, Elkhorn, Florence, hey, your business district we want to help, we want to improve; we're going to capture the sales tax you produce to help you do that. And to me, that makes a lot more logical sense. [LB781]

SENATOR MCGILL: Uh-huh. The money doesn't, just to be clear, the money doesn't actually come from the Florence area. [LB781]

PETE FESTERSEN: Right. [LB781]

SENATOR MCGILL: It's just used to calculate a percentage of the entire city's money. [LB781]

PETE FESTERSEN: That's right. [LB781]

SENATOR MCGILL: You know, I don't support just striking all of the language because I'm not comfortable and I don't think the body would be comfortable with just saying a city can use all their sales tax revenue to bond. But I do like thinking of creative ideas like you have in terms of, you know, maybe an area that hasn't seen bonding use there recently. [LB781]

PETE FESTERSEN: Yeah. [LB781]

SENATOR MCGILL: So I'm interested in pursuing that personally. [LB781]

PETE FESTERSEN: Good. Yeah, I'm totally flexible on...totally flexible on your suggestions and with Senator Lathrop's help. [LB781]

SENATOR MCGILL: Senator Krist. [LB781]

SENATOR KRIST: You gave us an example of...you gave us several examples. If you could, give me a real positive example, use Florence as the target. What do you envision happening with the change in the language that you can't do now? [LB781]

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PETE FESTERSEN: Okay. We currently have, as part of the city's master plan, we adopted a streetscape and redevelopment area in Florence, basically all of 30th Street, which is their downtown business district historically. And so that's part of the city's master plan, to pursue those changes and updates which would, you know, have some streetscape improvements, landscaping, new sidewalks, a lot of beautification but also making reinvestment in that infrastructure, which hasn't been touched in over 20 years. And so to do that we're embarking now upon several different funds to try and accomplish that. The entire streetscape is probably a \$8 million or \$9 million improvement as proposed. Right now we do have some city bond money that we amended into the city budget to help get it started. We're also seeking philanthropy to help be a part of this mix. But something like this could also be another tool to help us get there and hopefully fund those improvements all at once, or certainly in a more uniform fashion than just bit by bit, which might be the case now starting in 2011. [LB781]

SENATOR KRIST: And one follow on. [LB781]

SENATOR MCGILL: Uh-huh. [LB781]

SENATOR KRIST: Based upon what you just described and the legislation that was passed during the last session, why haven't you moved forward using that language? Is it because Florence doesn't fall into that parameter? [LB781]

PETE FESTERSEN: Right. It wouldn't currently qualify to be designated itself as a growth district. [LB781]

SENATOR KRIST: What parts of Omaha do under the current language? [LB781]

PETE FESTERSEN: Not much. So the current language says anywhere that hadn't been within the city in 20 years but is currently within the city. So in Omaha's case, although we've had annexations, a lot of those have been SIDs, which wouldn't be producing sales tax anyway. Some of them have been commercial areas, like big box stores that you might probably could designate smaller areas, but the only main area really is Elkhorn, hence, my example. [LB781]

SENATOR KRIST: Right. Okay. Thank you. [LB781]

SENATOR MCGILL: And, yeah, and I'll just reiterate, a lot of it is just the language and how you can pitch it to your colleagues,... [LB781]

PETE FESTERSEN: Yeah. [LB781]

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SENATOR MCGILL: ...you know, I think is kind of at the heart of this. And, you know, I'm happy to take a look at this. It was an uphill battle last year just to get this passed and, you know, there was a lot of backlash from our rural colleagues, you know, about giving our cities the opportunity to do this. So I know we'll, even if it were to get out of this committee, there's a big battle ahead there I think. [LB781]

PETE FESTERSEN: Yeah. And it passed I think with 33 votes or something in the end... [LB781]

SENATOR MCGILL: Yes. Yeah. [LB781]

PETE FESTERSEN: ...but I remember the discussion about... [LB781]

SENATOR MCGILL: Yeah. [LB781]

PETE FESTERSEN: ...making sure it was limited in some fashion and... [LB781]

SENATOR MCGILL: Yeah, that certainly helped. [LB781]

PETE FESTERSEN: And that's fine. [LB781]

SENATOR MCGILL: Uh-huh. All right, any other questions? No. Thank you, City Councilman, [LB781]

PETE FESTERSEN: Okay. Thank you. [LB781]

SENATOR MCGILL: There any...is there anybody else here to testify in support? Got a couple of letters in support I'll read into the record real quick from the Greater Omaha Chamber of Commerce and from the League of Nebraska Municipalities. (Exhibits 1 and 2) Is there anyone here to testify in opposition to the bill? Anyone here in a neutral capacity? All right. Seeing none, Senator Lathrop is going to waive closing, and that is it for our hearing. (Laugh) We'll now go into Executive Session. [LB781]