

To: Senate Committee on Taxation
From: Spencer Duncan, Government Affairs Director
Date: February 21, 2023
RE: SB 252 – Competition Property Tax Exemption
In Opposition – Verbal Testimony

Thank you to the Chair and Committee for the opportunity to provide this testimony today.

SB 252 opens pandora’s box to a myriad of businesses making requests for property tax exemptions, while providing the Department of Revenue with no clear definitions, qualifications, or parameters. The list of businesses asking for, and receiving, exemptions upon passage of SB 252 is far beyond a rational approach to providing tax relief.

The League of Kansas Municipalities opposes policies that erode the overall tax base. Too many exemptions create a system that puts the tax burden on too few citizens instead of a more equitable system which leads to overall tax reductions for everyone. SB 252 is another exemption program with a massive negative economic impact on cities and Kansans. **The program will push more of the property tax burden to the average homeowner.**

Without clear definitions or scope of what constitutes “competes against the business” there is no limit to who can qualify for an exemption. A “bare minimum” approach will have to be taken by the Department of Revenue and a countless number of for-profit entities will request, and receive, exemptions.

- If there is a municipal golf course in a county – recreation - does this mean all for-profit golf courses in a county, including country clubs, qualify for property tax exemptions?
- Many school districts operate concession stands at sporting facilities, as do city and county owned facilities. These are entertainment venues. Are these in competition with concessions at movie theaters or for-profit entertainment venues? Do those venues now qualify for a property tax exemption?
- Some high schools allow students to go off campus for lunch, yet also offer lunch on campus for a fee. By letting students have the option to leave while also offering a lunch that can be purchased on campus, are high schools competing with restaurants? Do all local restaurants in the County now qualify for a property tax exemption?
- Many public buildings, particularly community centers, offer low-cost childcare programs to particularly low-income citizens. Are they in direct competition with for-profit childcare venues? Do all for-profit childcare facilities qualify for a property tax exemption?
- Some cities and counties operate television channel where they provide information on city resources. Many local governments have websites. If they sell advertising on these channels or sites, is that in direct competition with media companies? Do media companies now qualify for a property tax exemption?

- Some counties have agreements with for-profit ambulance companies that provide a subsidy to that service. Without the subsidy, the ambulance service will not operate in a County. Are you telling counties they must make a choice: lose their ambulance service because it won't subsidize anymore so as to not lose tax revenue OR subsidize and open the door to losing property tax revenue from businesses who claim it competes with them?

For-profit entities will look for exemptions in the smallest examples of what they perceive as competing against their business, even if there is no legitimate crossover between the people they serve. It will be in the hands of the Department of Revenue to determine the exemption, with ZERO guidance in SB 252 except the words "competes against the business." The examples above are situations the Department of Revenue will be faced with, and based on language in SB 252, have no choice but to rule in favor of the for-profit entity.

This bill attempts to provide exemptions for concerns it has heard regarding non-profit and public organizations. But it is not a catch all, and focuses on specific exemptions for specific organizations, leaving out hundreds of organizations across Kansas who provide similar services and receive public funds. It is an attempt to appear it is solving these concerns but does little to address the actual issues.

SB 252 creates a troubling new definition of what constitutes a Government Entity. In Section 1 (A)(b) the bill defines a "Facility owned or operated by a governmental entity" as: ... *any other facility that receives any funds from property or ad valorem taxes levied by a taxing subdivision.*

Property taxes are part of a larger collection of levies that go into a general fund. Not every dollar spent is parsed between what is a fee, sales tax levy or property tax collection. When cities make budget allocations, they are made from the overall general fund, not a "property tax" budget.

There are cities that provide monies to local programs that provide childcare to domestic abuse survivors and human trafficking victims. Those programs also receive payments from outside sources to help pay for this care. Under Section 1 (A)(b), if a city provides dollars to the program, that program is now operating a "facility owned or operated by a governmental entity." As it is a childcare program, it can be construed as competing against for-profit childcare programs. Do all for-profit childcare centers now qualify for a property tax exemption simply because local government is supporting victims of domestic abuse and human trafficking?

This definition can also extend to any for-profit entity that receives funds as part of an economic incentive program. How does SB 252 ask the Department of Revenue to view a Tax Increment Financing District (TIF)? Under that program, utilized by many cities which some of the proponents of this bill enjoy the benefits of, an entire area is designated, and property tax dollars are used to directly improve all businesses in that district. Under Section 1 (A)(b), it appears these businesses could now be classified as a "facility owned or operated by a governmental entity." Does this mean any type of business in that district under these categories (restaurant, movie theater, etc.) is in direct competition, and all similar businesses in a county with real property now qualify for a property tax exemption?

This bill allows local governments to suffer through actions it cannot control by the State of Kansas. For example, the state sells hunting and fishing licenses, which are required when using public lands. There are private hunting lands throughout Kansas. Under SB 252, it would appear

any landowner who has private hunting land they charge a fee to use would qualify for a property tax exemption. This harms municipalities despite the competition being directly with the State.

Government entities are not taxed as they provide public goods and programming which anyone can access. This allows the government to provide affordable programming and services to those who otherwise could not afford it and to serve disadvantaged communities. Tax exemptions are to be utilized to encourage public benefit. Providing these tax breaks to for-profit entities that do not provide additional services to benefit the public good is not an appropriate application of tax exemptions.

A large use of property tax dollars collected is to protect properties paying the levy by providing public safety: fire and police services. The massive loss of property tax levies SB 252 creates will devastate funding for these services. **The Legislature cannot pass this kind of legislation without offsets, such as lifting state restrictions on PILOT fee programs.**

SB 252 would give a tax break to for-profit entities, while pushing more of the burden on those who can least afford it. This is amplified by recent changes in state tax law which have cities consider their revenue neutral rates each year. SB 252 allows for-profit companies to push more of the tax burden on average homeowners.

We ask you to vote NO on SB 252.

I am always available to provide more information and answer any questions.



Spencer Duncan

Government Affairs Director

League of Kansas Municipalities

785-383-8825 sduncan@lkm.org