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To: House Taxation Committee

Date: March 16th, 2017

Subject: Opposition to HB 2376.

Honorable Chairman Johnson and members of the House Taxation Committee:

On behalf of the Kansas Association of REALTORS® (KAR), thank you for the opportunity to provide some written comments in opposition to HB 2376, which would take away Kansans' right to vote on property tax increases that exceed the rate of inflation and replace it with a burdensome petition process. Through our comments expressed herein, we hope to convey upon you how significant this change is for voter oversight of city and county budgets.

KAR represents over 8,500 members involved in both residential and commercial real estate and has advocated on behalf of the state's property owners for over 95 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities while protecting the rights of private property owners.

Guiding Policy

REALTORS® believe that the private ownership of real property is the foundation of our nation's free enterprise system and we adamantly oppose any governmental actions that discourage or diminish the ability and capacity of Kansas citizens to own private property. Further, we maintain that every citizen should have the right to acquire real property with the confidence and certainty that the value of such property will not be unreasonably diminished by governmental action, including excessive taxation. REALTORS® believe that real estate is burdened with an excessive share of the constantly increasing cost of state and local government. While we realize the importance of many programs funded through property tax revenues, we believe tax revenues should be equitably collected from a variety of sources and encourage taxing jurisdictions to consider the negative impact to the housing market associated with any potential increase in property tax rates.

Background on Public Vote Requirement

In 2015, the Legislature passed a law that gave voters the right to vote when cities and counties increase the property tax burden by more than the rate of inflation. As such, KAR was supportive when the public vote requirement was restored by the Legislature after not being in place since 1999. Unfortunately, the 2015 legislation had the effective date starting in 2018. Worried that this would give local governments an incentive to arbitrarily increase mill levies ahead of 2018, KAR began studying whether to pursue legislation to move up the implementation date. However, before moving forward, we wanted to determine the public's level of support.

In October of 2015, American Strategies, a bipartisan national polling firm, conducted a statewide poll of 600 likely 2016 general election voters on the property tax vote requirement. According to the findings of this poll, Kansas voters were strongly supportive of the property tax vote requirement. In fact, over 76 percent of likely Kansas voters supported the property tax vote requirement, with considerable intensity behind this support (50 percent strongly supported the new law against only seven percent that strongly opposed it).

Virtually all Republicans (84 percent) favored the new law as did most independents (78 percent) and Democrats (61 percent). There was little demographic variance by age, education or gender – all groups provided a solid majority backing for the new law. Support for the property tax vote requirement cut across the entire political spectrum.

It was with the backing of the public, that KAR put its support behind moving up the effective date of the law during the 2016 Session.

During the 2016 Session, proponents and opponents were encouraged by legislators to reach a compromise. During those discussions, the proposal of a petition, similar to HB 2367, was brought forth by the opponents of the public vote requirement and was rejected. Regardless, significant concessions were made to accommodate legitimate concerns of local government. Attached is a document that provides a summary of the 2016 changes to the property tax vote law that was agreed to by the parties. Based upon this agreement, the bill moved forward and 2016 Substitute for HB 2088 was passed with significant bipartisan support. In the House, the vote was 112 in favor and only 5 opposed. In the Senate, the vote was 37 in favor and only 3 against.

The law went into effect on January 1, 2017.

HB 2376

HB 2376 seeks to dismantle the bipartisan agreement of 2016. Do not be confused with what the intent of HB 2376 is. Replacing the election with a protest petition is a substantial change in the law and is intended to make it all but impossible for voters to override property tax increases. HB 2376 is tantamount to a repeal of the entire law and, if successful, will be judged as a repeal of the public vote requirement.

We feel that your constituents deserve an opportunity to approve property tax increase imposed by a city or county through a majority vote at a public election as provided in the law. Protest petitions in our law are simply a guise of voter involvement. Because of their difficulty in organizing, the short time period to gather signatures, and the overwhelming signature thresholds, protest petitions are rarely successful.

In our opinion, the protest petition wrongly places the burden on taxpayers. Instead of taxpayers being forced to organize, petition and defend against property tax increases, the burden should be on the taxing authority to simply explain why additional revenues are needed and let that explanation stand against a public vote.

Furthermore, the discussion on the property tax vote requirement the banner of “local control” has been raised in opposing the requirement. Proponents of HB 2376 would have you believe that local control only extends to the city council or county commission. However, we feel that, in certain instances, local control should extend to the public at large with a public election. The law as it stands now, allows cities and counties to check in with their constituents on budgetary policy if budgets exceed the rate of inflation.

In our opinion, the ultimate “local control” should reside in the hands of voters. There are other instances under Kansas law where voters have the ability to override the decisions of local elected officials through a majority public vote. Giving voters the right to vote on property tax increases by cities and counties is akin to cities and counties increasing local sales taxes; when public school districts increase property taxes through the local option budget (LOB); or the issuance of bonds for school construction projects.

Voters are intelligent enough to make informed choices on these issues and the Kansas Legislature should not frustrate this capability by stripping the vote requirement and imposing a burdensome petition process.

Conclusion

In closing, KAR would respectfully request that the House Taxation Committee reject the provisions contained in HB 2376. Thank you for the opportunity to provide the committee with written comments regarding the proposals set out in HB 2376. I am happy to stand for questions at the appropriate time.

Respectfully submitted,

Patrick Vogelsberg, JD
Vice President of Governmental Affairs
Kansas Association of REALTORS®

Property Tax Vote Requirement – Summary of Changes under the Agreement Between the Parties

IMPLEMENTATION DATE OF THE PROPERTY TAX VOTE REQUIREMENT

- Under prior law, the property tax vote requirement was scheduled to go into effect on January 1, 2018. **2016 SB 316** had proposed to move the implementation date up to July 1, 2016. As a compromise, the agreement between the parties moved the implementation date up to January 1, 2017.

CHANGES TO HOW INFLATION IS USED TO CONTROL THE GROWTH OF PROPERTY TAX REVENUES

- Under prior law, property tax revenues could only increase by the rate of inflation as measured by the Consumer Price Index (CPI) over the previous year. Cities and counties argued that this measurement is very volatile and could result in wide swings of property tax revenues. As a result, the parties agreed that the law would use a five-year rolling average of CPI as the measure of inflation to control the growth of property tax revenues. This will smooth out the volatility of the inflation index and provide more consistency and predictability to cities and counties.

CHANGES TO CITY AND COUNTY BUDGET APPROVAL PROCESS

- In order to gives cities and counties more time to evaluate changes in assessed valuations, the agreement moved up the deadline on when county or district appraisers must provide real and personal property appraisals to the county clerk from June 15 to June 1 of each year, which will give the county clerk more time to compile information on assessed valuations for cities and counties.
- The agreement also moved up the deadline on when county clerks must provide information on assessed valuations to cities and counties from July 1 to June 15 of each year, which will give cities and counties more time to prepare their budgets and plan for an election on proposed property tax increases.
- If a city or county is required to have an election to approve a property tax increase that exceeds the formula, the agreement moved the deadline back on when the city or county is required to certify its budget to the county clerk from August 25 to October 1, which again will give cities and counties more time to prepare their budgets and conduct an election on a proposed property tax increase.

CHANGES TO ELECTION PROCESS FOR REQUIRED VOTES ON PROPERTY TAX INCREASES

- Under the agreement, a city or county could choose to conduct the required election on a property tax increase that exceeds the formula through either a regularly held election in August or November, an in-person special election or a mail ballot election.
- If a city or county chooses to conduct the election through a mail ballot election, then the agreement requires the city or county to certify to the county clerk and the county election officer by July 1 that a mail ballot election will be necessary. The mail ballot election would be set for September 15 (or the next business day if September 15 is a Sunday) and the county board of canvassers would canvass the election no later than five days following the date of the election.

REMOVAL OF EXISTING LOOPHOLES CIRCUMVENTING THE PROPERTY TAX VOTE REQUIREMENT

- The agreement removed three existing loopholes that would allow cities and counties to increase property taxes by more than the rate of inflation without the consent of voters. The following loopholes from the property tax vote requirement were eliminated:
  (1) Costs for new infrastructure or improvements to existing infrastructure to support new improvements to property exempt from property taxation, which takes away the right to vote from property owners who pay taxes to pay for improvements for tax exempt properties; and
  (2) increases in road construction costs when such construction has been once approved by a resolution of the governing body of the city or county, which means that some road construction costs would be included in the formula that calculates if property tax revenues have increased and some would not.

CLARIFICATION AND CHANGES TO EXISTING EXEMPTIONS TO THE PROPERTY TAX VOTE REQUIREMENT

- The agreement clarified the application of the property tax vote requirement and make changes to four, then existing, exemptions to the property tax vote requirement. These modified exemptions are as follows:
  (1) Clarified that increased property tax revenues that are produced from both new construction and the remodeling or renovation of any existing structures on real property are exempt from the calculation of whether property tax revenues have increased over the previous year;
  (2) tightened the "legal judgments" exemption to clarify that increased property tax revenues that will be spent on court judgments or settlements against the city or county and legal costs directly related to such judgments or settlements are exempt from the formula, but not the day-to-day legal expenses of a city or county;
  (3) tightened the "federal or state mandate" exemption to clarify that increased property tax revenues that will be spent on expenditures of city or county funds that are specifically mandated by federal or state law will only apply to mandates that became effective after July 1, 2015 (when the property tax vote requirement was adopted by the Kansas Legislature);
  (4) clarified that the "federal or state mandate" exemption includes the loss of funds from federal sources after January 1, 2017 where the city or county is contractually obligated to provide a service; and
  (5) clarified that increased property tax revenues that are produced by a subordinate political subdivision (such as a library board) when the city or county has no authority to modify or reduce the amount of the property taxes levied by the subordinate political subdivision do not count towards the total property tax revenues collected by the city or county for the purposes of the property tax vote requirement.

ADDITIONS OF NEW EXEMPTIONS TO THE PROPERTY TAX VOTE REQUIREMENT

- The agreement added four new exemptions to the property vote requirement. The new 2016 exemptions to the property tax vote requirement are as follows:
  (1) Increased property tax revenues that are produced from the expiration of a tax increment financing district, rural housing incentive district, neighborhood revitalization area or any other similar property tax rebate or redirection program;
  (2) increased property tax revenues that will be spent on expenses relating to a federal, state or local disaster or emergency, including a financial emergency, declared by a federal or state official;
  (3) increased property tax revenues that are spent on expenses related to law enforcement, fire protection or emergency medical services; and
  (4) increased property tax revenues that are spent on principal and interest payments on state infrastructure loans, bonds, temporary notes, no-fund warrants or payments made to a public building commission or lease payments. However, the exemption is limited with respect to payments made to a public building commission or lease payments to only those obligations that existed prior to July 1, 2016.