

Approved 2-12-87 Ivan Sand
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at
Chairperson

1:30 ~~am~~/p.m. on February 11, 1987 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Mike Heim, Legislative Research Dept.
Bill Edds, Revisor of Statutes' Office
Sharon Green, Committee Secretary

Conferees appearing before the committee:

Representative Ken Francisco
Jerry Marlatt, Kansas State Council of Fire Fighters
Don Moler, League of Kansas Municipalities
Representative Elizabeth Baker
Jerry McCoy, Sedgwick County Treasurer
Mark Butterfield, City Councilman, Derby, KS
Ward Clements, City Manager, Derby, KS
Nancy Welsh, Douglas County Treasurer
Nancy Weeks, Haskell County Treasurer
Richard Cobb, McPherson County Treasurer
Betty McBride, Cherokee County Treasurer
Bill O'Brien, Johnson County Treasurer
Marla Howard, Public Affairs Officer, City of Wichita
Kevin Davis, League of Kansas Municipalities

Chairman Sand called the meeting to order.

Motion was made by Representative Acheson and seconded by Representative Patrick to favorably pass HB 2115. The motion carried.

Motion was made by Representative Francisco and seconded by Representative Patrick to amend HB 2116 in line 79, by striking "contiguous" and inserting "existing property presently being served". The motion carried.

Motion was made by Representative Acheson and seconded by Representative Patrick to pass HB 2116 as amended. The motion carried.

Representative Francisco spoke in favor of HB 2172, stating that this bill would grandfather in those employees who presently live outside the municipality territory. These employees have a residency requirement for employment with a municipality.

Jerry Marlatt testified in support of HB 2172, citing a situation in Kansas City, dealing with a firefighter living outside the city limits. Mr. Marlatt stated that the firefighter went to court and lost the case.

Questions arose regarding the definition of municipality. Staff said that municipality includes any political subdivision.

Don Moler testified in opposition of HB 2172, stating that this matter should be absolutely a local determination, not a state decision. He also said that if a person resides in the city where he is employed, he will take a greater interest in the city. (Attachment 1)

Chairman Sand closed the hearing on HB 2172.

Mike Heim briefed the committee on HB 2178, stating that the bill requires county treasurers to provide a list of delinquent taxes to any requesting party and defines procedures.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government,

room 521-S, Statehouse, at 1:30 ~~XX~~/p.m. on February 11, 1987

Representative Baker testified in favor of HB 2178, stating that the bill evolved from a request that was made and not honored. (Attachment 2)

Jerry McCoy testified in opposition to HB 2178, stating that the bill does nothing new and is unnecessary legislation, because current open records act requires that most public records be made available upon written request. (Attachment 3)

Mark Butterfield testified in favor of HB 2178, stating that it would be beneficial to have access to delinquent tax information three or four times a year.

Ward Clements testified in support of HB 2178, stating that last year the delinquent taxes were 16%, and with the help of the list, the delinquent taxes were mostly taken care of now. He said that it would be helpful to have a list after the second half of the year.

Nancy Welsh testified in opposition to HB 2178, stating that the open records law already provides for delinquent tax information access. She also said that to comply with the provisions in this bill would be costly and time consuming. (Attachment 4)

Nancy Weeks testified in opposition to HB 2178, stating that this bill would require additional cost to the counties, and that some counties might not be able to comply in a timely manner due to lack of personnel. (Attachment 5)

Richard Cobb testified in opposition to HB 2178, stating that delinquent property or special assessments taxes would be time consuming to put together. (Attachment 6) (Paragraph 1)

Bev Bradley testified in opposition to HB 2178, stating that the Association of Counties backs up the testimony of the County Treasurers.

Chairman Sand closed the hearings on HB 2178.

Representative Baker testified in support of HB 2179, stating that the bill relates to the distribution of any ad valorem property taxes, local gross earning taxes, special assessments and all other taxes and fees that are delinquent on the date that they are collected. These delinquent taxes shall be distributed in the manner prescribed by existing law. She said that the intent of the bill is to speed the distribution of delinquent specials from county treasurer to municipalities. (Attachment 7)

Jerry McCoy testified in opposition to HB 2179, stating that the current statute provides that alternate distribution dates can be agreed upon by the County Commissioners and the governing body of any taxing subdivision. (Attachment 8)

Ward Clements testified in support of HB 2179, stating that there is a thirteen month time lapse before the delinquent tax money is distributed to the city, and that it is a burden on the city to not have the money sooner so they can pay on their bond payments.

Mark Butterfield testified in support of HB 2179, stating that the county draws 18% on the money collected for delinquent taxes which the city never sees. He said that special assessment dollars received sooner would really help Derby.

Betty McBride testified in opposition to HB 2179, stating that six distributions on delinquent taxes would not be worthwhile because of the small amount of money collected, and that it would not be cost effective. (Attachment 9)

Bill O'Brien testified in opposition of HB 2179, stating that this would be an unnecessary burden on bookkeeping and require insignificant distributions. (Attachment 10)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government

room 521-S, Statehouse, at 1:30 ~~XX~~/p.m. on February 11, 1987

Richard Cobb testified in opposition to HB 2179, stating that a manual distribution is very time consuming and in the smaller counties, the amounts distributed do not justify the expense involved. (Attachment 11)

Marla Howard testified in support of HB 2179, stating that the city's loss of the use of tax and special assessment payments when delinquent is further compounded by the loss of any possible interest earnings through the date the collected delinquencies are actually distributed to the city. She also stated that it is virtually impossible to budget these funds when they are not distributed consistently. (Attachment 12)

Kevin Davis testified in support of HB 2179, stating that this bill is an apparent clarification of what the law already provides, and that prompt distribution of special assessments collections is important to cities and special districts which must make payment on special assessment bonds, usually on a semi-annual basis. (Attachment 13)

Questions arose regarding the definition of the word "fees" in line 28. Staff said that it meant gross earnings on intangible assets.

Chairman Sand closed the hearings on HB 2179.

The Minutes of February 10 were approved as presented.

Meeting adjourned.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Members of House Local Government Committee
FROM: Don Moler, Research Attorney
DATE: February 11, 1987
RE: HB 2172; Residency Requirements for Municipal Employees

The League opposes HB 2172 as a matter of principle, in that it amounts to the State's encroachment upon the authority of local governments by legislating on a matter of purely local concern. HB 2172 is also directly at odds with the League's convention-adopted "Statement of Municipal Policy" which provides: "The governing bodies of cities should have full authority to establish comprehensive personnel programs, including authority to determine hours of work, compensation, overtime, leave policy, residency requirements, insurance, promotion, firing and all other terms, conditions and qualifications of city employment." Accordingly the League asks this committee to oppose the bill.

While there are some practical problems with HB 2172 (and those specific issues will be addressed later in this memo) the League's primary concern with the bill is the fact that it is contrary to the above-stated principle of local decision making on matters of local concern. Before dealing in some detail with the subject of residency requirements for municipal employees, it should be noted that if there are in fact problems in communities in this state arising from municipal employee residency ordinances, the proper recourse for those citizens who oppose residency requirements is to act to change the local law. Such has been done, and can be done, through petitioning the local government, participating in local elections, and so on. From our standpoint, such local activity is a much more desirable course of action than running to the state legislature seeking a state-mandated prohibition against any municipality imposing any residency requirement upon any municipal employees.

Residency requirements fall generally into two categories, durational and continuous. A **durational residency requirement** states that before a person may be hired he or she must have been a resident of the area for a certain period of time. Durational residency requirements are frequently struck down by the courts as violating constitutional equal protection rights and the right to travel. These requirements are judged by the "strict scrutiny" equal protection constitutional standard, and such a requirement will be upheld only if there is a compelling governmental interest which justifies the requirement. Shapiro v. Thompson, 394 U.S. 618 (1969). The League is not aware of the existence of any durational residency requirements at the municipal level anywhere in Kansas. **Continuous residency requirements** require that an employee maintain his or her residence in the appropriate area while employed by the governmental entity. The U.S. Supreme Court has upheld a continuous residency requirement as recently as 1976. McCarthy v. Philadelphia Civil Service Commissioner, 425 U.S. 645. The U.S. Supreme Court found no constitutional right to be employed by a city while the employee is living elsewhere. Cases handed down since the McCarthy decision indicate that a continuous residency requirement is to be judged by the more relaxed "minimum scrutiny" equal protection constitutional standard--that there be a rational relationship between the end sought to be accomplished and the means used to achieve that end--that is, the restriction must have a rational basis and be

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reasonably related to the goals which it is intends to accomplish. The Kansas Supreme Court, in the 1978 case of Lines v. City of Topeka, 223 Kan. 772, upheld a continuous residency requirement and thereby adopted the "minimum scrutiny" analysis.

Some of the goals or reasons for residency requirements which have been recognized by the courts as a legitimate basis for imposing a continuous residency requirement are as follows:

- (1) Enhancement of the quality of employee performance by greater personal knowledge of the city's conditions and by a feeling of greater personal stake in the city's progress.
- (2) Reducing absenteeism and tardiness among municipal employees.
- (3) Ready availability of trained personnel in emergency situations (this is particularly important in the instances of firefighters, law enforcement officers and emergency medical personnel).
- (4) General economic benefits flowing from local expenditure of employee salaries.
- (5) An incentive to halt or reverse the flight from central cities.

The 1978 Kansas Supreme Court case referred to above concerned a Topeka residency requirement that only applied to specified managerial employees (city attorney, city clerk, city treasurer, public works director, fire chief and police chief). The Kansas Supreme Court held that if the "emergency availability" and "salary expenditure" criteria (items 3 and 4 above) were all that the city of Topeka was relying upon as the basis for the residency ordinance, the city's failure to extend the requirement to all municipal employees might deny equal protection to those falling under the requirement, since the goals would cover all employees, not just those affected. However, the court felt that the city "was justified in requiring major officeholders to have a commitment and involvement with the city, its taxpayers and its activities in order to hold such an office." 233 Kan. 779.

While the League believes that the policy issue of local control over matters of local concern is the prevailing, and winning, argument against HB 2172, there are some additional, more practical, problems with the wording of the bill. A few of those problems are set out below:

- (1) What is a "municipality" under HB 2172? Does it simply refer to "cities" or does it intend to have a wider scope and be defined as it is in the Tort Claims Act? "Municipality" is defined in the Tort Claims Act (K.S.A. 75-6102) as "any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof."
- (2) The bill is drafted for prospective application only. That is, municipalities would not be allowed to subject current employees to the requirement of residency, but could require such of employees hired after adoption of the requirement. What this creates is a two-tiered system within each city government with employees who are working side-by-side being subjected to completely different rules and regulations concerning their residency. This would seem to invite employee unrest and could cause resentment between employees.

- (3) Does the term "persons employed" (line 25) cover all categories of persons in an employment relationship with a municipality? If so this would include not only part-time and full-time employees, but may also apply to contractors and agents for the municipality.
- (4) The Legislature should recognize that the passage of HB 2172 could raise questions as to implicit amendments to statutes such as K.S.A. 15-209 which mandate that appointive officers be residents of the city at the time of their appointment and during their tenure of office. The question which arises is who is an employee and who is an officer?
- (5) A difficult question is raised by the term "residency" in HB 2171. In the absence of local ordinances which establish what constitutes "residency," the rules of statutory construction found at K.S.A. Supp. 77-201 will be applicable. K.S.A. Supp. 77-201 (23) states that the term "residence" shall be construed to mean "the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be deemed the person's residence." In the Lines case referred to above, the Kansas Supreme Court noted that "although the term domicile and residence may have different legal meanings, residence is defined in the statute as substantially the equivalent of domicile--the adoption of a place of habitation with the intent to return thereto." Neither residence nor domicile has one fixed definition, although residence is a looser term, and basically means having a fixed place of abode in a particular area and requiring mere physical presence. Domicile basically means a residence which is intended to be permanent rather than temporary--the place where a person is most intimately connected. It is a question of fact and the intent of the person may be shown from a number of factors.
- (6) The bill may cause a special problem for those cities which have employee unions. Labor law commentators indicate when a residency requirement is the subject of mandatory collective bargaining: ". . .when its enforcement will or could result in termination or other adverse treatment of any incumbent bargaining unit employee. This is so because the action prompted by the rule's enforcement would adversely effect the job security of a bargaining unit of an employee." (29 Labor Law Journal 353 (1978)). What this means, in effect, is that the subject of residency may be an already-negotiated point in the bargaining process between a city's management and its employee unions. The opportunity for such a negotiated settlement would be essentially wiped out by passage of this law.

In summary, the League raises policy arguments and questions of application to this Committee on the subject of HB 2172 and urges Committee members to defeat this bill.

STATE OF KANSAS

ELIZABETH BAKER
REPRESENTATIVE, EIGHTY-SECOND DISTRICT
SEDGWICK COUNTY
1025 REDWOOD RD.
DERBY, KANSAS 67037



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: ELECTIONS
MEMBER: ECONOMIC DEVELOPMENT
JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT
LOCAL GOVERNMENT

February 11, 1987

TO: House Committee on Local Government
FROM: Representative Elizabeth Baker
RE: HB 2178

HB 2178 simply requires county treasurers to supply information concerning delinquent property taxes upon request. Expenses for producing the list shall be borne by the person making the request.

The Data Processing Department of Sedgwick County was contacted and provided the following information. Charges made to the County Treasurer for last year's run was \$93.57 for all townships in Sedgwick County and \$101.00 for the city of Wichita. It was also stated it would not be very difficult to program the system to pull townships or cities individually.

This bill evolved from a request that was made and not honored. Because our city is growing rapidly it is in our communities best interest to be ever watchful of delinquent taxes.

Attorney General's opinion was requested and a copy of that opinion is attached.

EB/bs

Attachment 2

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STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

September 25, 1986

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

The Honorable Elizabeth Baker
Representative, 82nd District
1025 Redwood Road
Derby, Kansas 67037-2428

Dear Representative Baker:

I am writing in response to your letter dated September 16, 1986, inquiring as to whether the county treasurer is required to provide listings of delinquent real and personal property taxes and special assessments upon request.

The Kansas statutes relating to county treasurers contain no provisions which would require a treasurer to provide such listings upon request. K.S.A. 19-547 states:

"[E]ach county treasurer shall, within 10 days after October 1 of each year, cause a statement to be published with respect to unpaid or partially unpaid delinquent personal property tax returns made by the sheriff as of October 1. Such statement shall be published once each week for three consecutive weeks in the official county newspaper."

The statute goes on to provide:

"The statement shall show the name of each delinquent or partially delinquent taxpayer, listed alphabetically, appearing on such returns, followed by the taxpayer's last known address and by the total amount of unpaid taxes, penalties and costs." (Emphasis added.)

Thus, the county treasurer is required by statute to publish a list in the county newspaper of all taxpayers who are delinquent or partially delinquent in paying their personal property taxes. Such list must contain both the name and address of the taxpayer, as well as the amount he or she owes to the county. In addition, under K.S.A. 19-548, a county treasurer who neglects or refuses to make and publish such statement is liable for a fine of twenty-five dollars (\$25) for each day he or she neglects or refuses to make such publication.

My research revealed no statutes which would require a similar publication by the county treasurer with respect to unpaid or partially unpaid delinquent real property taxes or special assessments. Further, I see no statutory basis for requiring the county treasurer to provide individual listings upon request of delinquent real or personal property taxes, or special assessments.

In regard to your question concerning costs, I refer once again to K.S.A. 19-547, which provides that the cost of publishing the list of unpaid or partially unpaid delinquent personal property tax returns shall be paid from the general fund of the county, and \$5 shall be added to the tax due as part of the costs of collection.

I appreciate your inquiry, and the opportunity to assist you in this important matter. If I can offer further information or advice in the future, please feel free to call.

Very truly yours,


ROBERT T. STEPHAN
Attorney General

RTS:crw



SEDGWICK COUNTY, KANSAS

TREASURER

Jerry McCoy

SUITE 107

COUNTY COURTHOUSE, WICHITA, KANSAS 67203-3703

PERSONAL PROPERTY TAXES/VEHICLE REFUNDS
REAL ESTATE TAXES

268-7651
268-7414

DISTRIBUTION AND BONDS
CASHIER

268-7561
268-7345

SUBJECT: H.B. 2178 Testimony before House Local Government
Committee on Wednesday February 11, 1987.

Mr. Chairman and Members of the Committee.

Thank you for the opportunity today to speak in opposition to
H. B. 2178.

- 1) K.S.A. 79-2302 currently provides that the County Treasurer publish in the official County Paper a list of all delinquent real estate taxes in early August. This list is available from the newspaper for a quarter.
- 2) The current open records act requires that most public records be made available upon written request. County Treasurer's certainly abide by this law.
- 3) In Sedgwick County, arrangements have been made to better accommodate the needs of local officials by providing delinquent special information as indicated in the attached letter.
- 4) Individual taxpayer records are always open for inspection by the public during the normal business hours of the County Treasurer.

In summary, H.B. 2178 offers nothing new that existing open records statutes do not already cover, nor does it solve any existing problems. It appears to be redundant and unnecessary legislation.

Thank you for allowing me to speak before you today and I would be happy to answer any questions.

Attachment

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SEDGWICK COUNTY, KANSAS

TREASURER

Jerry McCoy

SUITE 107

COUNTY COURTHOUSE, WICHITA, KANSAS 67203-3703

PERSONAL PROPERTY TAXES/VEHICLE REFUNDS 268-7651
REAL ESTATE TAXES 268-7414

DISTRIBUTION AND BONDS
CASHIER

268-7561
268-7345

February 9, 1987

Ms. Barbara Mehl, Mayor
City of Goddard
Goddard, KS 67052

Dear Barbara:

Thank you for the opportunity to respond to Representative Baker's proposals (H.B. 2178 and 2179) at last Saturday's A.L.A.R.M. meeting.

This morning, I have coordinated with Yvonne Coon concerning the best dates a delinquent specials list could be provided. At my request, Ms. Coon polled members of A.L.A.R.M. and the consensus of those contacted seems to be to have a delinquent special print-out on or before March 1st and July 15th each year.

I have agreed to provide this service at no direct cost to the cities/townships and I will mail the print-outs directly to each respective city/township clerk as soon as they are available.

In addition, I will maintain a duplicate master copy of the delinquent specials for all taxing districts in Sedgwick County in the Treasurer's office which will be open for public inspection during regular office hours.

Thank you for allowing me to respond to the needs of your Association.

Sincerely,

Jerry McCoy
Sedgwick County Treasurer

JMcC:na

cc: Representative Ken Francisco
Yvonne Coon, City Administrator, Clearwater

Douglas County Treasurer

DOUGLAS COUNTY COURTHOUSE

Eleventh & Massachusetts
Lawrence, Kansas 66044

February 11, 1987

TO: Local Government Committee
FROM: Nancy Welsh, Douglas County Treasurer
RE: House Bill 2178

Mr. Chairman and members of the committee. My name is Nancy Welsh, Douglas County Treasurer. I am here on behalf of the County Treasurers Association in reference to House Bill 2178. It appears to me that we are using valuable time to act on legislation that already exists. The open records law already provides for the following (which includes delinquent tax information):

- 45-219 "Any person may make abstracts or obtain copies of any public record to which such person has access under this act.
- 45-218d "Each request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third business day following the date the request is received.
- 45-220b "A public agency may require a written request for inspection of public records but shall not otherwise require a request to be made in any particular form."
- 45-219c "Each public agency may prescribe reasonable fees for providing access to or furnishing copies of public records..... not to exceed the actual cost of furnishing copies, including the cost of staff time required to make the inspection available."

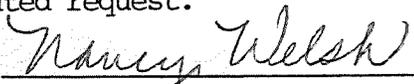
The County Treasurers extend themselves to the fullest in making services available to the public; however, depending on the amount and timing of such requests, only so much can be done in a days time.

Douglas County is computerized and a delinquent list could be prepared with at least three days programming change to meet the individuals request. Not so in a county that operates on a manual system. It could take days to compile such lists. Because we are allowed by law to charge for this service and due to the number of delinquent records, we are talking about 50 pages and a minimum cost of:

\$25.00 processing
\$50.00 set up
\$75.00

This dollar amount reflects the computer and staff time to develop these lists. I find it difficult to believe that very many individuals would request this list knowing that it can change daily due to payments being received. It would be far cheaper to retain the publication listing of delinquent taxes that we are required by law to run in August.

In closing, I ask that in fairness to your valuable time and ours, this bill should NOT be given consideration. We County Treasurers oppose House Bill 2178 as the open records law already provides for such requests and this particular bill is only singling out one isolated request.


Nancy Welsh, Douglas County Treasurer

Nancy L. Welsh, County Treasurer
Courthouse

Eleventh & Massachusetts / Lawrence, Kansas 66044 / (913) 841-7700

Attachment 4
2-11-87

Office of the
HASKELL COUNTY TREASURER
Sublette, Kansas 67877

Chairman Sand and Members of the Committee;

Good afternoon. My name is Nancy Weeks, Haskell County Treasurer. I am representing the smaller counties of Kansas. I appreciate the time to express my views in opposition to H. B. 2178.

The tax records would have to be searched, a list compiled and the list kept current on a daily basis. This would have to be done manually at an additional cost to the counties. Depending on the time of year the list is requested, some counties might not be able to comply in a timely manner due to the lack of personnel.

As our records are open to the public I do not feel we can justify the cost or the time involved.

Thank you for your time and consideration. On behalf of all the counties of Kansas, I request you not pass H. B. 2178 out of committee.

Gratefully,

Nancy Weeks
Nancy Weeks
Haskell County Treasurer

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Testimony - House Local Government Committee

Richard R. Cobb
McPherson County Treasurer
11 February, 1987

House Bill 2178: Delinquent Property or Special Assessments Taxes

Due to the computerization, such information is not impossible to get but would still be time consuming to put together. A county should charge a fee for this report. Currently in McPherson County when a person requests such a list, we ask for their name and address and assure them that they will receive such a list prior to any delinquent real estate property tax sale.

House Bill 2179: Distribution of Delinquent Taxes

In McPherson and smaller counties distribution of delinquent taxes has to be figured by hand because it represents taxes that can cover several different years. A manual distribution is very time consuming and in the smaller counties, the amounts to be distributed do not justify the expense involved. For example, in McPherson County, the amount distributed for 1984 Redemptions was \$143,769.60. In 1986 the distribution for 1985 redemptions was \$141,436.03. Delinquent personal property (which had not been distributed for 2 years) was \$265,685.53. We currently distribute delinquent taxes twice a year--usually in March and October. Currently on the books for county redemptions the total is \$99,124.51 and for delinquent personal property tax \$56,684.01. These monies are distributed to every taxing entity in the county. Some receive as much as \$13,818.54 (U.S.D. 418) others as little as .03. Therefore, I feel that the twice yearly distribution of delinquent taxes in McPherson County is adequate.

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STATE OF KANSAS

ELIZABETH BAKER
REPRESENTATIVE, EIGHTY-SECOND DISTRICT
SEDGWICK COUNTY
1025 REDWOOD RD.
DERBY, KANSAS 67037



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: ELECTIONS
MEMBER: ECONOMIC DEVELOPMENT
JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT
LOCAL GOVERNMENT

February 11, 1987

TO: House Committee on Local Government
FROM: Representative Elizabeth Baker
RE: HB 2179

HB 2179 relates to the distribution of any ad valorem property taxes, local gross earning taxes, special assessments and all other taxes and fees that are delinquent on the date that they are collected. These delinquent taxes shall be distributed in the manner prescribed by existing law.

The intent of this bill is to speed the distribution of delinquent specials from county treasurer to municipalities. This bill was informally unanimously endorsed by ALARM (Association for Legislative Action of Rural Mayors) on February 7, 1986. This is an organization of 20 cities of the 2nd & 3rd class in Sedgwick County.

EB/bs

Attachment 7
2-11-87



SEDGWICK COUNTY, KANSAS

TREASURER

Jerry McCoy

SUITE 107

COUNTY COURTHOUSE, WICHITA, KANSAS 67203-3703

PERSONAL PROPERTY TAXES/VEHICLE REFUNDS
REAL ESTATE TAXES

268-7651
268-7414

DISTRIBUTION AND BONDS
CASHIER

268-7561
268-7345

Members of the House Local Government Committee:

Thank you for the opportunity to speak in opposition to H.B. 2179.

Almost 5 years ago the legislature increased ad valorem tax distribution dates from 4 to 6 times per year. This resulted in an increase in the County Treasurer's work load in this area by 50%.

We are currently so busy and so hard pressed during the first half of the year to meet the existing statutory distribution dates, due to the year-end closing, complete the annual audit, send and collect on delinquent tax notices, second half collections, etc. that I do not see any cost-effective way to comply with these new provisions. HB 2179 would require that at least 1 more person be hired in the Treasurer's office and would dilute available resources to the extent that it could adversely affect maintaining the previous rate of current tax distributions.

In Sedgwick County, all prior years taxes are not on the computer. They must be manually balanced, correction of errors made, refunding warrants worked and other adjustments made for each taxing district and for each year up to 20 years back. It is a time consuming, complicated process. Traditionally, these worksheets have been worked during our slowest time of the year, August & September, and then distributed. In Sedgwick County Delinquent Taxes used to be distributed around the end of October. In 1986 it was done on July 18th and September 5th.

An important point to remember is that County Treasurers did not create delinquent payments. They are the result of a failure to pay by taxpayers, and especially some developers. Perhaps a better approach would be for the taxing districts to demand a performance bond in case a developer defaults to provide payment for specials in the event he is unable to perform.

As County Treasurer, I believe it is my responsibility to manage my office to provide experienced and trained clerks with a reasonable workload throughout the year. It is the only way you can

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keep highly qualified employees and provide full taxpayer service at the lowest possible cost.

Additionally, I would much prefer to put any additional efforts into collecting delinquent taxes rather than paying for an increased administrative burden.

The current statute provides that alternate distribution dates can be agreed upon by the County Commissioners and the governing body of any taxing subdivision. This currently allows for local agreements to be made which won't negatively impact all other 104 counties unnecessarily.

In Sedgwick County I am certainly willing to re-evaluate our existing procedures to see if we could advance the distribution date, but I ask you please do not require us to distribute delinquencies as we do current taxes. It is not a cost-effective way of conducting business.

Thank you.

Betty McBride, Treasurer

CHEROKEE COUNTY, KANSAS



COLUMBUS, KANSAS 66725

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM BETTY MCBRIDE, CHEROKEE COUNTY TREASURER, APPEARING TODAY ON BEHALF OF THE KANSAS COUNTY TREASURERS ASSOCIATION. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU IN OPPOSITION TO HOUSE BILL #2179.

PASSAGE OF HOUSE BILL #2179 WOULD MANDATE THAT COUNTY TREASURERS DISTRIBUTE DELINQUENT TAXES AND FEES ON THE SAME DATES AS OTHER AD VALOREM TAX DISTRIBUTIONS ARE MADE. WE REALIZE THE NECESSITY FOR SIX AD VALOREM TAX DISTRIBUTIONS BECAUSE OF THE LARGE AMOUNTS OF MONEY INVOLVED IN EACH DISTRIBUTION. HOWEVER SIX DISTRIBUTIONS ON DELINQUENT TAXES WOULD NOT BE WORTHWHILE BECAUSE OF THE SMALL AMOUNT OF MONEY COLLECTED. FOR EXAMPLE CHEROKEE COUNTY HAS A POPULATION OF 23,000. WE COLLECTED \$87,928.00 IN DELINQUENT TAXES LAST YEAR, DIVIDED INTO SIX DISTRIBUTIONS, EACH DISTRIBUTION WOULD HAVE ONLY BEEN \$14,654.00. HASKELL COUNTY WHICH HAS A POPULATION OF 3,800 COLLECTED \$26,000.00 IN DELINQUENT TAXES, DIVIDED INTO SIX DISTRIBUTIONS EACH DISTRIBUTION WOULD ONLY BE \$4,333.00. WHEN THESE AMOUNTS ARE BROKEN DOWN INTO EACH TAX ENTITY THE TAX DISTRIBUTED WOULD BE SMALL AND INSIGNIFICANT. SOME ENTITIES MIGHT ONLY RECEIVE AS LITTLE AS FOUR CENTS.

ALL DELINQUENT REAL ESTATE COLLECTED MUST BE PROOFED AS TO DESCRIPTION, AMOUNTS, AND LOCATION OF EACH TRACT. THIS PROCEDURE REQUIRES A GREAT DEAL OF TIME. WORK LOADS AT DIFFERENT TIMES OF THE YEAR VARY IN COUNTY TREASURERS OFFICES AND THEIR WOULD BE TIME WHEN STAFF AVAILABILITY TO DO THIS AT THE SIX DISTRIBUTIONS PERIODS WOULD NOT BE POSSIBLE. AS YOU CAN SEE IT CERTAINLY WOULD NOT BE COST EFFECTIVE TO DISTRIBUTE THIS TAX. NOT ONLY WOULD THEIR BE ADDITIONAL ADMINSTRATIVE COST TO THE COUNTY, BUT THE ENTITY RECEIVING THE TAX WOULD ALSO HAVE ADDITIONAL PAPER WORK IN RECORDING THE TAX RECEIVED. THIS AT A TIME WHEN MANY COUNTIES AND TAXING DISTRICTS ARE HAVING TO MAKE GREAT ECONOMICAL

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CUTS WOULD ONLY ADD TO THE HARDSHIPS THEY ARE INCURRING.

MOST COUNTIES MAKE ONE OR TWO DISTRIBUTIONS OF DELINQUENT TAXES PER YEAR WHICH MORE THAN COMPENSATE FOR THE AMOUNT COLLECTED.

WE ASK YOUR SERIOUS CONSIDERATION TO KEEP A SYSTEM THAT HAS BEEN PROVEN AND IS WORKING WELL IN LIEU OF PASSING HOUSE BILL #2179.

I WILL BE HAPPY TO STAND FOR QUESTIONS AT THIS TIME.

RESPECTFULLY,

A handwritten signature in cursive script, appearing to read "Betty McBride".

BETTY MCBRIDE,
CHEROKEE COUNTY TREASURER

TESTIMONY BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE
WEDNESDAY, FEBRUARY 11, 1987

Mr. Chairman, Ladies and Gentlemen of the Committee.

My name is Wm. E. "Bill" O'Brien, Treasurer of Johnson County, and President of the County Treasurers' Association of the State of Kansas.

Thank you for this opportunity to express concern of House Bill 2179 which would require the distribution of collected delinquent taxes, assessments or fees on the same six dates provided for the distribution of the current ad valorem property taxes, local earnings taxes, and special assessments.

As a large county, population-wise, and a county containing many, many taxing authorities, the addition of this requirement (to distribute delinquent taxes on the same dates as now provided for current taxes) would be an unnecessary burden on bookkeeping and require insignificant distributions. Johnson County has 21 cities, 9 townships, 8 fire districts, 6 school districts, 6 cemeteries, 3 drainage districts, as well as Junior College, library, and park and recreation districts, plus special assessments for cities, townships, wastewater, etc. Each have their own levy and each one of their levy would need to be broken down into the component parts for accounting purposes, a possible 356 entries for each tax distribution. In addition, each year has different mill levies which complicates the calculation. The amounts involved, i.e., the increased amount that would be received by the taxing subdivision would be insignificant, percentage-wise.

All the districts would realize only a fraction of a percent of their total tax in a delinquent tax distribution on the six dates now set for current tax distributions.

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Our largest school district which receives the largest amount of delinquent taxes receives approximately 1.5% of their total tax each year. Assuming that amount was evenly divided six times, the percent would be only 1/4 of 1% in each disbursement.

The requirement that "delinquent taxes" be distributed at the same time is easy enough to say, but the practicality and work load at the particular times specified is quite a different matter. While the current tax year distribution amounts are computer generated in Johnson County, delinquent tax years distributions are calculated manually.

Presently, most counties are disbursing delinquent taxes once or twice a year. This provides for the orderly calculation, breakdown and bookkeeping in a cost efficient and personnel-wise manner, as it is done in off peak periods. It also gives a disbursement of meaningful amount instead of fractions of a percent amounts which would also create additional bookkeeping and record keeping for the recipients.

There has been no requests for such a splintered disbursement of delinquent taxes from any taxing authority in Johnson County.

Please carefully consider this bill as to its effects on the County Treasurers, their staff and budget.

Testimony - House Local Government Committee

Richard R. Cobb
McPherson County Treasurer
11 February, 1987

House Bill 2178: Delinquent Property or Special Assessments Taxes

Due to the computerization, such information is not impossible to get but would still be time consuming to put together. A county should charge a fee for this report. Currently in McPherson County when a person requests such a list, we ask for their name and address and assure them that they will receive such a list prior to any delinquent real estate property tax sale.

House Bill 2179: Distribution of Delinquent Taxes

In McPherson and smaller counties distribution of delinquent taxes has to be figured by hand because it represents taxes that can cover several different years. A manual distribution is very time consuming and in the smaller counties, the amounts to be distributed do not justify the expense involved. For example, in McPherson County, the amount distributed for 1984 Redemptions was \$143,769.60. In 1986 the distribution for 1985 redemptions was \$141,436.03. Delinquent personal property (which had not been distributed for 2 years) was \$265,685.53. We currently distribute delinquent taxes twice a year--usually in March and October. Currently on the books for county redemptions the total is \$99,124.51 and for delinquent personal property tax \$56,684.01. These monies are distributed to every taxing entity in the county. Some receive as much as \$13,818.54 (U.S.D. 418) others as little as .03. Therefore, I feel that the twice yearly distribution of delinquent taxes in McPherson County is adequate.

*Attachment 11
2-11-87*

THE CITY OF WICHITA

PUBLIC AFFAIRS OFFICE
CITY HALL — THIRTEENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4351

TO: Chairman and Members of the House Local Government
Committee

FROM: Marla J. Howard, Public Affairs Officer

DATE: February 11, 1987

RE: HB 2179, Relating to the Distribution of Taxes

Mr. Chairman and Members of the Committee:

The City of Wichita wishes to express it's support of HB 2179 to include delinquent taxes, assessments and fees under the provisions of K.S.A. 12-1678a.

The City's loss of the use of tax and special assessment payments when delinquent is further compounded by the loss of any possible interest earnings through the date the collected delinquencies are actually distributed to the City. In addition, while any budgeting of these funds must be based on the average percentage of delinquencies usually paid, it is virtually impossible to budget these funds when they are not distributed consistently.

In 1986, the City received four special assessment payments between September and December. General taxes were distributed four times between April and November. Previous years' distributions of collected delinquencies have ranged from between one and four payments on specials and two to four payments on general taxes, all on varying monthly dates at different times of the year. Attached is a computer listing of delinquency distributions to the City of Wichita from 1983 through 1986.

The City of Wichita asks for your consideration and support of HB 2179. Thank you.

*Attachment 12
2-11-87*

DISTRIBUTION OF DELINQUENT TAXES AND SPECIALS
TO THE CITY OF WICHITA

<u>1983</u>		<u>1984</u>	
DATE RECEIVED	AMOUNT	DATE RECEIVED	AMOUNT
4/12	\$ 413,395.34 (SPECIALS)	5/18	\$ 97,094.33
4/21	102,671.78	6/18	775,612.75 (SPECIALS)
7/20	165,114.05	8/3	302,003.03 (SPECIALS)
9/22	580,339.39	10/3	358,613.71 (SPECIALS)
		10/10	773,229.74
TOTALS:	\$1,261,520.56		\$2,306,553.56

<u>1985</u>		<u>1986</u>	
DATE RECEIVED	AMOUNT	DATE RECEIVED	AMOUNT
1/4	\$ 433,591.00 (SPECIALS)	4/8	\$ 96,902.79
1/11	402,201.50	7/18	200,597.27
4/16	70,847.00	9/5	730,703.54
4/24	257,756.58 (SPECIALS)	9/5	178,453.35 (SPECIALS)
5/2	33,006.00	9/17	442,421.92 (SPECIALS)
7/19	148,368.00 (SPECIALS)	10/8	143,500.37 (SPECIALS)
10/3	598,976.65	10/24	132.32
10/3	251,850.65 (SPECIALS)	11/24	171,987.00 (SPECIALS)
TOTALS:	\$2,196,597.38		\$1,964,698.56



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Local Government
RE: HB 2179--Distribution of Delinquent Taxes
FROM: E.A. Mosher, Executive Director *By Kevin Davis*
DATE: February 11, 1987

We would like to support HB 2179, since it is an apparent needed clarification of what we think the law already provides. We think the terms taxes and special assessments means taxes and special assessments, whether paid in advance, on the due date, or later and therefore delinquent. Interest and penalties are something else, but we think the principal--the actual amount of the taxes or special assessments or fees, are taxes under the existing law, as defined for the purpose of this distribution statute.

Some members of this Committee, and particularly Chairman Sand, will recall the extended discussions of the past in developing the tax distribution schedule now found in the statutes this bill would amend. We believe it was the intent at that time to develop a general statute relating to the distribution of taxes by county treasurers, which are collected at the same time as ad valorem taxes. There are other statutes which provide for county retention of the interest penalty for handling delinquent property taxes under the judicial foreclosure law.

We are not aware of any other statute which governs the distribution of taxes and special assessments paid after the due date, except for delinquent collections through the judicial foreclosure process. If such taxes and special assessments are not subject to the general distribution statute, under what statute are they covered?.

We would also note that the prompt distribution of special assessments collections is very important to cities and special districts which must make payment on special assessments bonds, usually on a semi-annual basis.

Finally, we would note that the League does not have a position on HB 2178, relating to the obtaining of listings of delinquent property taxes and special assessments. We have been under the understanding that the Kansas Open Records Act now requires this information to be available and that this can be obtained by payment of a reasonable fee.

*Attachment 13
2-11-87*

President: John L. Carder, Mayor, Iola • Vice Presidents: Carl Dean Holmes, Mayor, Plains • Past President: Ed Eilert, Mayor, Overland Park • Directors: Robert C. Brown, Commissioner, Wichita • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Frances J. Garcia, Commissioner, Hutchinson • Donald L. Hamilton, City Clerk/Administrator, Mankato • Paula McCreight, Mayor, Ness City • Jay P. Newton, Jr., City Manager, Newton • John E. Reardon, Mayor, Kansas City • David E. Retter, City Attorney, Concordia • Arthur E. Treece, Commissioner, Coffeyville • Deane P. Wiley, City Manager, Garden City • Douglas S. Wright, Mayor, Topeka • Executive Director: E.A. Mosher