

Approved March 28, 1991  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE M. J. JOHNSON at  
Chairperson

1:35 a~~XX~~p.m. on MARCH 25, 1991 in room 521-S of the Capitol.

All members were present except:  
Representative Darlene Cornfield, excused

Committee staff present:  
Mike Heim, Legislative Research Dept.  
Theresa Kiernan, Revisor of Statutes  
Connie Smith, Committee Secretary

Conferees appearing before the committee:  
Don Seifert, City of Olathe  
Robert Watson, City Attorney for Overland Park  
Gerry Ray, Johnson County  
Del Dollis, City of Gardner

Chairman Johnson stated she had appointed a subcommittee to study recommendations for SB 23, planning and zoning. Members are Representatives George Gomez, chairman; Nancy Brown, Richard Lahti, Gary Hayzlett and Jack Wempe.

Chairman Johnson opened a hearing on SB 24.

SB 24 - Fire districts; detachment of land following annexation. Re Proposal No. 23.

Staff explained each section of SB 24 and stated it is applicable only to Johnson Co.

Donald R. Seifert, City of Olathe, testified as a proponent to SB 24. (Attachment 1) Mr. Seifert responded to questions from committee.

Robert Watson, city attorney for Overland Park, testified in support of SB 24. (Attachment 2)

Mr. Watson introduced Kristy Cannon, assistant city manager, and Alan Sims, assistant to the city manager. Mr. Watson stated he would defer to these people if he couldn't answer questions from committee.

Mr. Watson responded to questions from committee.

Gerry Ray, representing Johnson Co., testified in support of SB 24. (Attachment 3) No questions from committee.

Del Dollis, city of Gardner, testified as a proponent to SB 24. Mr. Dollis believes the city of Gardner is the most affected and feels the citizens should have a voice in how their fire protection is obtained and urged the committee to support SB 24. (No written testimony) Mr. Dollis responded to questions from committee.

Mr. Dollis responded to questions from committee.

Representative Brown wanted a response to a question whether all of the citizens of Overland Park would be required to pay the outstanding bonded indebtedness if the city of Overland Park annexed land within which a fire station owned by a fire district was located, and thereby took title to the fire station and its equipment. (Attachment 3-A)

Mr. Watson stated he would respond later when he had a chance to look at the statutes.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S, Statehouse, at 1:35 ~~XX~~/p.m. on MARCH 25, 1991

There were no opponents to SB 24 and the Chairman closed the hearing on SB 24.

Chairman Johnson opened a hearing on SB 258.

SB 258 - Act relating to the powers and duties of certain township fire departments.

There were no proponents or opponents to SB 258.

Staff explained that SB 258 permits townships in Sumner County to validate their fire departments, which have been in existence for not less than 15 years, as regularly organized by the adoption of a resolution. Townships in 12 other counties now have this ability. It allows them to qualify for a share of state collected insurance premium tax moneys through their firemen's relief associations.

Chairman closed the hearing on SB. 258.

Chairman asked for discussion or motion on SB 150, City retailers' sales tax; class B City.

SB 150 changes the population bracket.

A motion was made by Vice-Chairman Gomez to place SB 150 on the consent calendar. Seconded by Representative Harder. The motion carried.

Chairman called for discussion or motion on SB 56, employee benefits contribution fund. SB 56 corrects a conflict in statutes.

A motion was by Representative Harder to place SB 56 on the consent calendar. The motion was seconded by Representative Sluiter. The motion carried.

Chairman asked for discussion or motion on HB 2314, relating to contracts concerning property tax payments & payments in lieu of taxes.

Chairman called the committee's attention to a handout by Dr. Steve McClure, Shawnee Heights USD 450. (Attachment 4)

Vice-Chairman Gomez had staff prepare a proposed amendment. (Attachment 5)

Vice-Chairman Gomez moved to localize HB 2314 to Shawnee County. The motion was seconded by Representative Welshimer. The motion carried.

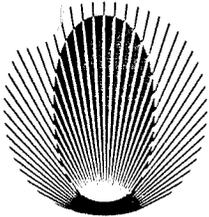
Vice-Chairman Gomez moved to limit it to the Board of Education. The motion was seconded by Representative Harder. The motion carried.

Vice-Chairman Gomez moved to pass HB 2314 favorably as amended. Seconded by Representative Bradford. The motion carried. Representative Sluiter wanted to be recorded as voting "no".

A motion was made by Representative Macy to approve the minutes of March 19 and March 20, 1991. Seconded by Representative Harder. The motion carried.

Meeting was adjourned at 2:45 p.m.





City of Olathe

**TO:** Members of the House Committee on Local Government  
**FROM:** Donald R. Seifert, Asst. Director, Adm. Services  
**SUBJECT:** Senate Bill No. 24 - Fire Districts; Detachment  
Following Annexation  
**DATE:** March 25, 1991

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of Senate Bill No. 24. This bill provides a procedure for fire districts and cities in Johnson County to consider detachment of fire district territory that may be annexed. It is the product of a 1990 interim study chaired by Nancy Brown dealing with issues involved in annexation of territory within Johnson County fire districts. Several of you served on the interim committee, and we greatly appreciate the attention the Legislature has given this subject. The interim committee bill was developed with a great deal of input from Johnson County, three fire districts, Olathe, and our neighboring cities of Gardner, Spring Hill, and DeSoto, that are also located next to fire districts.

I would like to begin with a brief word about Olathe's historical annexation practices and the reasons for our interest in this legislation. Like many cities in Johnson County, Olathe is fairly active in annexation. The city rarely initiates annexation, but regularly has expanded its boundaries to accommodate property owners' annexation requests. In the last four years, 96% of our annexations have been accomplished through voluntary landowner petition. We believe Olathe has used the tool of annexation in a responsible matter. A map depicting these annexations by year is attached as Exhibit A.

*LP*  
*3-25-91*  
*Attack 1*

Exhibit B illustrates how Olathe's boundaries have expanded through annexation into three Johnson County fire districts created pursuant to K.S.A. 19-3613 et seq. This particular statute is applicable only to fire districts in Johnson County. These volunteer districts all do an excellent job in meeting the fire protection needs of their respective portions of unincorporated Johnson County. A summary sheet with basic information about each district is attached as Exhibit C.

The city of Olathe has a full service fire department consisting of 66 full time staff, 11 pieces of apparatus, and 4 fire stations. A fifth station is scheduled for completion in early 1992. Fire protection in Olathe includes plan reviews, regular inspections, and other fire prevention activities in addition to emergency response. Upon annexation, property owners expect the city to provide fire protection and the city does provide this service.

Our problem following an annexation is a procedural one. Under present law, the city cannot levy taxes for fire protection on newly annexed property unless and until it has been formally detached and excluded from a fire district by its governing body. Existing law is silent on the procedure for making a detachment decision and the time frame for its consideration. For example, there is some territory in the heart of our city annexed in 1983, now fully developed with several hundred homes and apartments, that has yet to be formally detached. Thus, the city frequently provides fire protection to newly annexed areas without receiving the corresponding financial resources for its support.

This situation hurts on two fronts. Exhibit D shows the fiscal impact of undetached fire district territory within our city limits. Olathe annually loses approximately \$100,000 in property tax and county sales tax revenue because of this quirk in the law. Our city needs every dollar of available revenue to provide fire protection and other basic services. Opening the fifth fire station alone will increase our 1992 operating budget by approximately \$300,000.

To put things in perspective, one of our neighboring fire districts has only \$44,000 in assessed valuation within Olathe. If this area were detached, the property tax loss to the district would be a mere \$170. However, the presence of any fire district territory triggers the loss of nearly \$85,000 in sales tax revenue to Olathe.

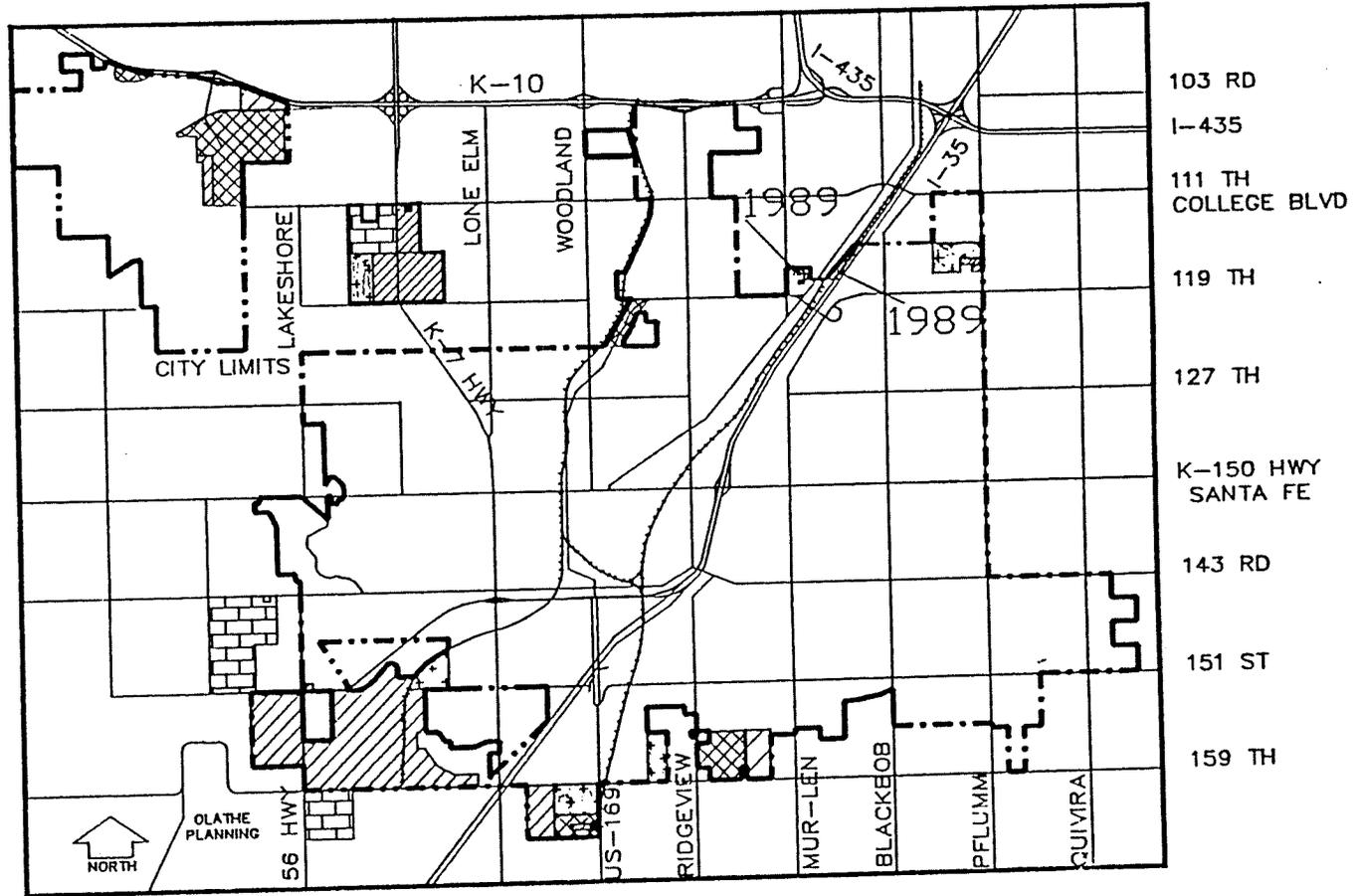
Senate Bill No. 24, applicable only to Johnson County, offers an approach for solving these technical problems. First, it provides a reasonable deadline for a city and fire district to negotiate a detachment agreement following an annexation. If the city and district are unable to reach an agreement, the Johnson County Board of County Commissioners would conduct a hearing and make the final decision. We believe this responsibility logically rests with the Board since it already reviews many city annexations and also appoints the governing bodies of the various fire districts. Second, Section 3 of the bill addresses the county sales tax distribution problem. It amends the distribution formula so that during this transition and negotiation process, the formula does not penalize a city for the presence of fire district territory within its boundaries.

We believe this bill fairly represents the interests of all affected parties: cities, fire districts, county government, and residents of annexed areas. In supporting this bill, Olathe is in no way implying that fire districts have no place in providing service to county residents. Protecting the lives and property of persons living in unincorporated areas is equally important as it is within a city. Our concern is merely with the procedure for financing this service following an annexation. We do believe that urban services are best provided by cities once annexation has occurred. We view this bill as providing for an orderly transfer of jurisdiction as our fringe areas make a rural to urban transition.

We appreciate this Committee's interest in this issue, and urge you to concur with the Senate and favorably report this bill.

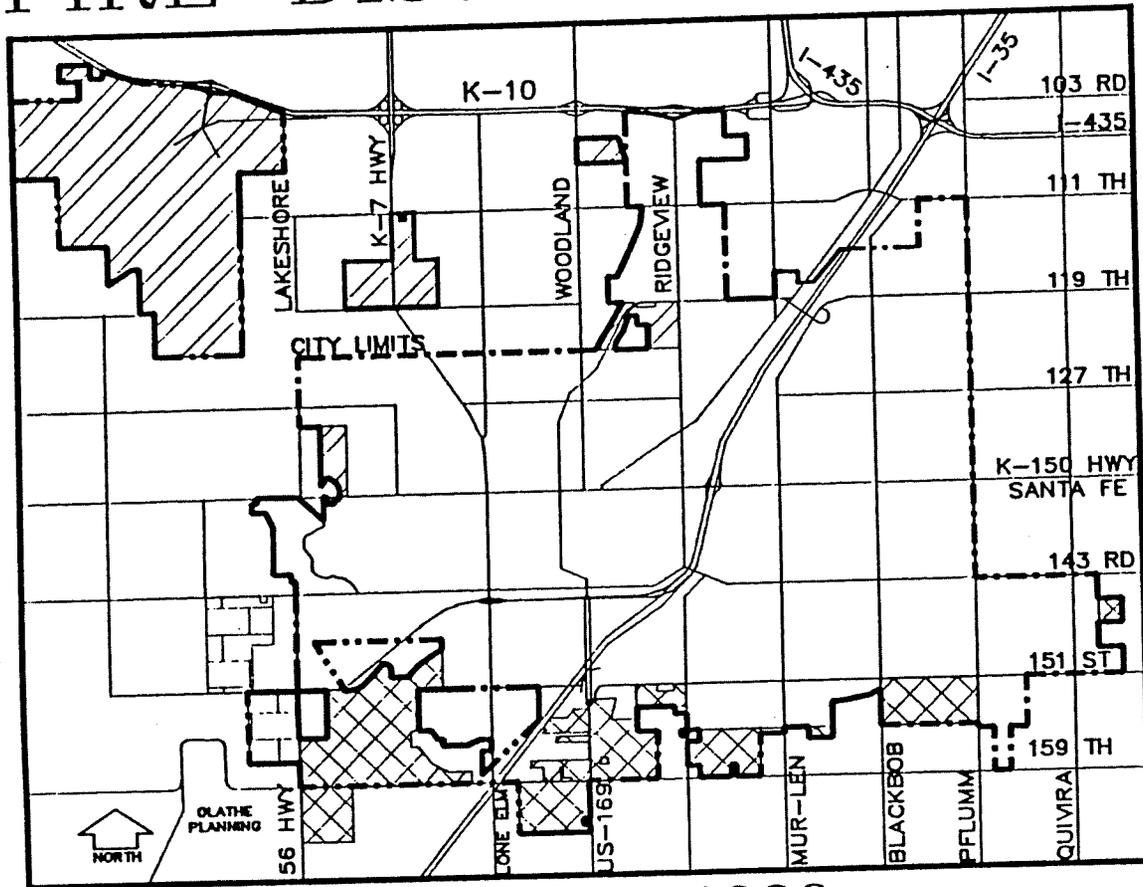
# ANNEXATIONS

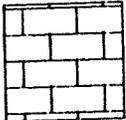
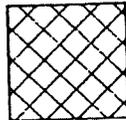
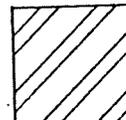
-  1987
-  1988
-  1989
-  1990



4-1

# ANNEXATIONS IN RURAL FIRE DISTRICT AREAS



-  JOHNSON COUNTY  
RURAL FIRE  
DISTRICT No. 1
-  JOHNSON COUNTY  
RURAL FIRE  
DISTRICT No. 2
-  JOHNSON COUNTY  
RURAL FIRE  
DISTRICT No. 3

1983 - 1990

CITY OF OLATHE, KANSAS

5-1

# Olathe Area Fire Departments

Name	Stations	Staff	Apparatus	Assessed Valuation	1991 Budget	Est. Tax Rate For 1991 (Mills)
Olathe Fire Dept.	#1 - Old 56 Hwy. & Harrison #2 - 119th & Renner Road #3 - 143rd & Blackbob Road #4 - 13301 S. Murlen Road #5 - Scheduled for 1991 construction near K-7 Hwy and Spruce	66 full time	6 - pumpers/tankers 1 - aerial ladder truck 1 - snorkel unit 1 - pumper 2 - pickup units	\$300,053,123	\$3,323,865	2.298
Johnson Co. Fire District No. 1	234 E. Park - Gardner	Volunteer	2 - pumpers 1 - tanker 2 - grass rigs	\$58,777,569	\$277,303	4.006
Johnson Co. Fire District No. 2	100 W. Nichols - Spring Hill 19495 Metcalf - Aubry	Volunteer	3 - pumpers 1 - tanker 3 - grass rigs 1 - pickup unit	\$55,188,867	\$543,167	8.188
Johnson Co. Fire District No. 3	#1 - 9745 Kill Creek Rd - Desoto #2 - 127th & Gardner Road	Volunteer	2 - pumpers 3 - pumpers/tankers 1 - grass rig 2 - pickup units	\$26,481,590	\$140,050	5.697

9-1

## FISCAL NOTE

ANNUAL REVENUE LOSS AS A RESULT OF BOUNDARY  
OVERLAP WITH RURAL FIRE DISTRICTS

## CITY OF OLATHE, KANSAS

The city of Olathe currently loses significant revenue from two sources due to the presence of rural fire district territory within the corporate limits of Olathe.

Lost Property Tax

K.S.A. 19-3622 does not allow a city to levy taxes for fire protection in annexed areas still technically within the boundaries of a rural fire district. However, the city does provide fire protection to these areas. For Olathe, the County Clerk is required to calculate two levies: the general levy and a separate levy for "no fire areas" which excludes the cost of Olathe fire protection.

For 1991, the general city mill levy is 30.273, and the "no fire" levy is 27.979. Multiplying \$6,266,227 (the estimated assessed value of areas in the "no city fire" area) times 2.294 (the difference between the city levy and the "no fire" levy) yields a projected loss in 1991 property tax receipts of \$14,400.

Lost County Sales Tax

For distribution of the .5% Johnson County sales tax, K.S.A. 12-192 states that only the property tax levy applicable to the entire city is used to compute the "relative taxes levied" portion of the distribution formula. Since the "no fire" levy described above is applied to every property while the regular city levy is not, the lower "no fire" levy is used in the computation. The impact on 1991 receipts is an estimated loss of \$83,700.

Lost 1991 Revenue

Lost Property Tax	\$ 14,400
Lost Sales Tax	<u>83,700</u>
Total Lost Revenue	\$ 98,100

City Hall • 8500 Santa Fe Drive  
Overland Park, Kansas 66212  
913/381-5252 • FAX 913/381-9387

TESTIMONY IN SUPPORT OF SENATE BILL NO. 24  
AS AMENDED BY THE SENATE COMMITTEE OF THE WHOLE

TO: The Honorable Mary Jane Johnson, Chairman, and  
Members of the House Local Government Committee  
Kansas Legislature  
Room 521 S  
State Capitol  
Topeka, Kansas 66612

DATE: March 25, 1991

RE: Senate Bill No. 24 -- Fire District Detachments

Overland Park supports Senate Bill No. 24 as it has been amended by the Senate Committee of the Whole and passed by the Senate. The city's concern that the original bill jeopardized its share of the countywide local sales tax and that it altered the status quo on authority of the city to require detachment of annexed land from a fire district have been eliminated by the actions of the Senate.

History of Overland Park's Involvement in SB 24

During the 1990 Session of the Kansas Legislature, SB 738 was introduced which would have required detachment of newly annexed land from fire districts in Johnson County within 120 days of its annexation by cities other than the City of Overland Park. It is our understanding that various cities in Johnson County, other than the City of Overland park, had sought the bill because of their inability to detach newly annexed land from the fire districts because they were unable to secure the concurrence of the fire districts to the detachments. The bill died in the Senate Local Government Committee, but the topic the bill dealt with was referred to a Special Interim Committee on Local Government. Neither the bill nor the topic referred to the interim committee dealt with the statutes prescribing Overland Park's method of detaching land from fire districts; therefore, the City of Overland Park did not appear before the interim committee. It is our further understanding that in November a meeting was held in Johnson County among two members of the interim committee, another member of the Johnson county delegation, representatives from Johnson County Rural Fire

*LL*  
3-25-91  
Attach. 2

District Nos. 1, 2 and 3, representatives from the cities of Olathe, Spring Hill, DeSoto and Gardner, and representatives of Johnson County. The City of Overland Park was not invited to participate. In the wake of that meeting the interim committee generated SB 24 and included in it a repealer of the Overland Park statutes governing detachment, all without Overland Park's knowledge, and, indeed, without the knowledge of some of the cities which had participated in the process. When the bill was taken up by the Senate Local Government Committee Overland Park appeared before the committee to voice general support for the bill as it affected the participating cities, but opposed the inclusion in the bill of the repealer of the Overland Park statutes. The bill was recommended out of the Senate Committee as originally drafted but the Committee of the Whole of the Senate deleted the repealer of the Overland Park statutes and cured the countywide sales tax problem. The bill as amended passed the Senate.

#### Overland Park's Position on SB 24

We concur and support wholeheartedly Senate Bill No. 24, as amended by the Senate Committee of the Whole, as a means of resolving conflicts among the fire districts, Olathe, Gardner, Spring Hill and whatever other jurisdictions participated in the original meetings and conferred with the Interim Committee, and as a means of eliminating the county-wide local sales tax jeopardy problem faced by all Johnson County cities. However, we do not agree that repeal of K.S.A. 1990 Supp. 13-796 et seq., which pertains only to Overland Park and governs how detachments from fire districts occur in areas annexed by Overland Park, is either warranted or necessary.

K.S.A. 1990 Supp. 13-797, states that the Board of County Commissioners "shall order such...detachment" upon receipt of a City of Overland Park resolution which expresses the city's intention to provide fire protection to the newly annexed area either itself or through contractual arrangements with another fire protection agency. (Emphasis added.)

Since its enactment in 1985, K.S.A. 1990 Supp. 13-796 et seq. has worked well for both the City of Overland Park and for Fire District No. 2 to its south from which land annexed by Overland Park since 1985 has been detached. There is no reason to change or to repeal it. Overland Park has taken great care to ensure that Fire District No. 2 remain whole in the wake of the detachments that have taken place since 1985. The City has done so by compensating the fire district by contract in amounts equal to the revenues the fire district would have generated had it continued to be the taxing entity in the annexed areas. In exchange for those payments from the City, the fire district has continued to provide fire service to the same area it served before the detachments. It is true that in the last two years

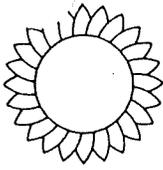
the arrangement between the City and the fire district has changed, but the changes were made only after amicable negotiations between the City and the fire district and after an agreement was reached between the two entities. For example, the fire district agreed to convey an equipped fire station located beyond the city limits to the city and to enhance the fire service offered in the detached areas from fully volunteer service to paid, professional 24 hour service; in return the City agreed to pay for that enhanced service and to provide free fire service in certain agreed upon portions of the fire district outside the City of Overland Park. The concern of the City for the welfare of the fire district and the spirit of cooperation that has existed between the City and the fire district since 1985 is well documented.

On the more philosophical question of which entity should decide if detachment shall occur, the position of the City of Overland Park is this: When the City of Overland Park annexes land pursuant to the various statutory tools in its toolbox it does so because the land annexed, by definition, is becoming more urban and less rural. Upon annexation, the city provides urban-level services to the newly annexed land, including, among others, police protection, improvement of and maintenance of streets and storm sewers, planning, zoning, code enforcement, park and recreation services -- the types of service and the levels of service cities are in the business of providing. The provision of fire service should be treated no differently. If the annexed land met the statutory definitions that enabled the city, in its discretion, to annex it either unilaterally or by consent of the owners; or if the Board of County Commissioners approved the annexation; and if the city is in the business of providing urban-level fire service and determines that urban-level fire service should be provided to lands now within its own borders, the city should be given the discretion to make that determination. When K.S.A. 12-796 et seq. was passed in 1985 the Kansas Legislature and the Governor saw fit to give the City of Overland Park this discretion; and nothing has happened in the meantime to warrant taking it away. The vesting of such discretion in cities is not unprecedented. For example, when cities annex land in certain township fire districts, such land is automatically excluded from the fire district. See, K.S.A. 80-1541. The City of Overland Park realizes that detachments impact the fire districts; that is why the city has fairly negotiated with the fire districts on issues of concern to them in the wake of each annexation since 1985.

Robert J. Watson  
City Attorney

/rjw

cc. Mayor Ed Eilert  
City Council  
City Manager



Johnson County  
Kansas

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MARCH 25, 1991

HOUSE LOCAL GOVERNMENT COMMITTEE

HEARING ON SENATE BILL 24

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR  
JOHNSON COUNTY COMMISSION

Madam Chairman members of the committee, my name is Gerry Ray, representing the Johnson County Board of Commissioners. I am appearing today in support of Senate Bill 24.

The need for an appropriate process for detachment of fire district territory after annexation takes place, has been a problem for some time in Johnson County. During the Interim Study of the subject this past summer, the County Commission was asked to become involved to bring about an acceptable solution.

A member of the County Commission and county staff met with Senator Burke and Representative Nancy Brown to discuss the exact nature of the problem and possible solutions. Separate meetings were then held with representatives of the cities and the fire districts involved, to ascertain their views and incorporate them into a plan. After a plan was developed all interested parties were invited to a meeting to review it. At that meeting there was an exchange of ideas and an excellent discussion of the plan that was to become Senate Bill 24.

As one that was involved in the meetings and the development of Senate Bill 24, I can verify that it is the result of many hours of work on the part of many people. I am also pleased to tell you that it was the general consensus of all parties that it is a means to provide a process that will achieve the necessary detachment of fire district territory in a reasonable manner.

The County, the Cities and the Fire Districts have done all they can to resolve this problem. We now need your help to make it work. We ask that Senate Bill 24 be recommended for passage.

Thank you.

*LR*  
3-25-91  
Attach. 3

City Hall • 8500 Santa Fe Drive  
Overland Park, Kansas 66212  
913/381-5252 • FAX 913/381-9387

March 26, 1991

The Honorable Mary Jane Johnson, Chairperson  
Members of the House Local Government Committee  
Kansas Legislature  
Room 521 South  
State Capitol  
Topeka, Kansas 66612

RE: Senate Bill No. 24 -- Fire District Detachments.

Ladies and Gentlemen:

During Monday afternoon's testimony on Senate Bill No. 24, Representative Tom Thompson asked what happens when other cities, such as Wichita, annex land that is within a fire district. The Wichita situation was the subject of Kansas Attorney General Opinion No. 81-213. That opinion stated that, unlike the situation in Johnson County, when Wichita annexes land that is within the Sedgwick County Fire District, K.S.A. 12-503a comes into play and requires that after the current budget year the annexed land no longer is included in the tax base of the fire district and becomes subject to the city's fire levy, and that thereafter the city is required to furnish fire service to the annexed land. In other words, when Wichita annexes land that is within the Sedgwick County Fire District the annexed land is automatically detached from the fire district after the current budget year.

In addition to Representative Thompson's question, Representative Nancy Brown posed two questions to us.

1. First, she asked us who had paid for the fire station at 15935 Metcalf. At the outset we should say that the fire station at 15935 Metcalf is not in the City of Overland Park. The site has not been annexed. Therefore SB 24 will not affect this property in any respect. SB 24 affects only annexed property. But for the record, to the best of our knowledge the fire station was built by Fire District No. 2 in 1979 and capital costs such as site acquisition and construction costs were financed by the proceeds of general obligation bonds issued by the fire district. The lands in the fire district, as the fire district existed at the time of the bond issuance, were and are obligated by statute and by the bond indenture to retire the debt and to have levied

24  
3-25-91  
Attach. 3-A

against them each year an amount to meet annual principle and interest payments. To our knowledge, the residents of Oxford Township are paying no more toward the retirement of the debt than do the residents of the balance of the fire district. The fire district includes land in three townships. Those lands in the original fire district that have been annexed into the city of Overland Park and have been detached from the fire district since the issuance of the bonds, as well as the rest of the lands in the fire district, have been and will continue to be subject to an annual levy for principle and interest payments until the outstanding debt is retired. This is expressly required by K.S.A. 19-3616. Of course, annual operating costs of the fire station are assumed by the city.

During 1990, the city of Overland Park determined that it needed a new fire station to serve the south part of the city. Rather than build a new station in the south part of the city the city thought it would make more economic sense for everyone and would avoid duplication of buildings if the city purchased the existing fire station outside the city at 15935 Metcalf and used it to serve not only south Overland Park but also to serve the area outside the city that the station had always served. (It should be pointed out here that residents of the City of Overland Park who own land in areas that were formerly in the fire district also helped pay for the fire station, and those residents continue to pay an annual levy to retire the debt of the district at the same time as they are paying the city's fire levy.) The City approached the fire district and asked if it would be willing to sell the fire station and its equipment to the city. The fire district was not required to sell it to the city, but it said it would do so. Then the city, in an arms length transaction, negotiated the purchase of the fire station (it did not "take" the fire station) and in consideration for it agreed to provide fire protection to the land outside the city that the station had always served and to not require from the fire district a payment for such service for a period of 3 years. Thereafter, the fire district and the city agreed to negotiate a payment from the fire district to the city for continued provision of fire service to the fire district. (It also should be pointed out here that the City of Overland Park recently undertook \$350,000.00 worth of improvements to the fire station, which will inure to the benefit of the residents of the fire district without their having to participate in the payment of the costs.) In our opinion, this transaction has no relevance to SB 24. Any city in the State of Kansas can purchase a fire station from a fire district, just as Overland Park did, under existing statutory authority.

2. Second, Representative Brown asked a hypothetical question: whether all of the citizens of Overland Park would be required to pay the principle and interest owed by a fire district on its outstanding bonded indebtedness if the city of

Overland Park annexed land within which a fire station owned by a fire district was located, and thereby took title to the fire station and its equipment. Upon annexation, and upon detachment of the annexed land from the fire district, title to the fire station and its equipment would vest in the city. See K.S.A. 1990 Supp. 13-798. As stated above, the fire district would continue to be liable for payment of the principal and interest owed on any outstanding general obligation bonds used to acquire and build the station. There is no statutory requirement that the City obligate itself to pay off the bonded indebtedness, but the city would take title to the property subject to that outstanding bonded indebtedness. Of course, if this scenario were to occur, the city would be willing to negotiate with the fire district.

Finally, if uniformity of treatment is a concern of the committee, Overland Park's position is that SB 24 has been drawn to address a unique situation faced by several other cities in Johnson County. That unique situation should not dictate what happens in Overland Park.

Thank you for your attention to our concerns.

Yours very truly,



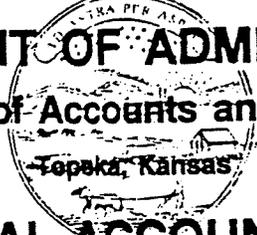
Robert J. Watson  
City Attorney

/rjw

cc. Mayor Ed Eilert  
City Council  
City Manager

## DEPARTMENT OF ADMINISTRATION

Division of Accounts and Reports

**KANSAS MUNICIPAL ACCOUNTANTS' BULLETIN**

A monthly summary of comments and rulings concerning municipal accounting, auditing, and budgeting

Vol. LI, No. 9

March 1991

Taxation -- Correction of Irregularities  
-- Unlawful Release, Discharge, Remission or  
Commutation of Taxes; Interests and Penalties Owed by City

Taxation -- Property Exempt from Taxation -- Claim to be Filed Each Year

The synopsis of Attorney General's Opinion No. 91-6 dated January 29, 1991 follows:

A board of county commissioners is without authority to forgive interest and penalties lawfully owed as a result of unpaid taxes. Moreover, county officials and school district officials cannot decline receipt of tax moneys which should be received by operation of law. Tax moneys must be collected and distributed in the manner and to the entities prescribed by law. Once such collection and distribution has occurred and a county or school district receives tax moneys, such moneys may only be spent according to the procedures applicable to all expenditures by those entities. Unless statutorily exempted for a specified number of years, property need not be exempted on a yearly basis. Rather, K.S.A. 79-214 requires a property owner to notify taxing officials if the exempt use ceases. Cited herein: K.S.A. 79-201; 79-201a; K.S.A. 1990 Supp. 79-210; 79-213; K.S.A. 79-214; 79-301; 79-306; 79-1703; 79-1704; 79-2934; Kan. Const., art. 11, § 13.

LY  
3-25-91  
Attach. 4

**NEW ISSUE**

**MOODY'S RATING: Aa 1**

*In the opinion of NICHOLS AND WOLFE CHARTERED, Bond Counsel, the interest on the Bonds will be included in gross income of the owners thereof for federal income tax purposes. The Bonds are exempt from intangible personal property taxes levied by Kansas counties, cities and interest on the Bonds will be excluded from computation of Kansas adjusted gross income for taxable years commencing after December 31, 1987.*

**\$7,500,000  
CITY OF TOPEKA, KANSAS  
General Obligation Bonds  
(Taxable)  
Series 1988-A**

**Dated: July 1, 1988**

**Due: August 1  
as shown below**

Interest on the General Obligation Bonds (Taxable), Series 1988-A, (the "Bonds") will be payable on February 1, 1989 and semiannually thereafter on August 1 and February 1 of each year until maturity. The Bonds will be issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof not exceeding the principal amount of bonds maturing on any maturity date of the Bonds. Principal of and interest on the Bonds will be payable by check or draft of Bank IV Topeka, N.A., Topeka, Kansas (the "Paying Agent" and "Bond Registrar").

The Bonds maturing August 1, 1994, and thereafter, will be subject to redemption prior to maturity at redemption prices as more fully set forth herein on August 1, 1993 or on any interest payment date thereafter.

The Bonds will constitute general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property located within the territorial limits of the City.

**\$2,200,000 Serial Bonds**

<u>Amount</u>	<u>Maturity</u>	<u>Interest Rate</u>	<u>Yield or Price</u>	<u>Amount</u>	<u>Maturity</u>	<u>Interest Rate</u>	<u>Yield or Price</u>
\$150,000 .....	8/1/91	10.90%	8.70%	\$250,000 .....	8/1/96	9.35%	9.35%
150,000 .....	8/1/92	10.90	8.90	300,000 .....	8/1/97	9.40	9.40
200,000 .....	8/1/93	10.90	9.00	350,000 .....	8/1/98	9.45	9.45
200,000 .....	8/1/94	10.90	9.10	350,000 .....	8/1/99	9.50	9.50
250,000 .....	8/1/95	9.50	9.30				

**\$3,050,000 Term Bonds 9.60% Due August 1, 2005 Price 100%**

**\$2,250,000 Term Bonds 9.60% Due August 1, 2008 Price 100%**

**(All plus accrued interest, if any)**

The Bonds are offered when, as and if issued and accepted by the Underwriters, subject to the approval of legality of Nichols and Wolfe Chartered, Topeka, Kansas, Bond Counsel. It is expected that the Bonds will be available for delivery on July 19, 1988 in Kansas City, Missouri.

**George K. Baum & Company**

July 19, 1988

4-1

## Proposed Amendment to House Bill No. 2314

On page 1, by striking all in lines 12 to 20, inclusive, and inserting:

"Section 1. (a) Whenever the governing body of Shawnee county or any city located in Shawnee county enters into a voluntary agreement under which ad valorem property taxes or payments in lieu of taxes will be paid to such city or county, such agreement shall not be voided, amended or otherwise renegotiated without the consent of the board of education of the school district in which the property subject to the agreement is located as provided in subsection (b).

(b) Any such city or county proposing to void, amend or renegotiate such an agreement shall adopt a resolution stating that the city or county is considering voiding, amending or renegotiating such agreement. The resolution shall give notice of a public hearing to be held to consider such agreement and fix the date, hour and place of the hearing. The resolution shall be published at least once each week for two consecutive weeks in the appropriate official city or county newspaper. A copy of the resolution also shall be mailed to the board of education of the school district in which the property is located. Within 30 days of the conclusion of such hearing or hearings, the board of education shall make written findings by adoption of a resolution whether or not the voidance, amendment or renegotiation of the agreement has an adverse effect on the school district. Based upon such findings, the school district shall approve or disapprove the proposed voidance, amendment or renegotiation.

*LY*  
3-25-91  
Attach. 5