

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on January 26, 1993 in Room 531-N of the Capitol.

All members were present except: Sen. Ramirez - Excused
Sen. Feleciano

Committee staff present: Michael Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Don Siefert, City of Olathe
Don Moler, League of Kansas Municipalities

* Others attending: See attached list

The Chairman reminded the committee that the meeting had been scheduled for requests for the introduction of committee bills.

Theresa Kiernan, Revisor of Statutes, began with requests for the introduction of two clean-up bills left from last year's session. The first would merge two statutes regarding limitations of county home rule power.

Sen. Langworthy made a motion to introduce the bill, Sen. Reynolds seconded and the motion carried.

Ms. Kiernan explained that the second bill regards changing the name of the Municipal Judge Training Fund.

Sen. Reynolds made a motion to introduce this bill, Sen. Ranson seconded and the motion carried.

The Chairman called attention to a bill request by Sen. Sheila Frahm which would raise the permit fee for moving a building from \$1.00 to \$10.00 as the County Clerks have said the increase is needed to cover costs.

Sen. Gooch made a motion to introduce the bill, Sen. Langworthy seconded and the motion carried.

Don Siefert, City of Olathe, requested the introduction of bills involving a package of five amendments dealing with the collection of delinquent assessments levied for costs of public improvements. (See Attachment 1)

The Chairman asked staff if all five amendments would require separate bills or could they be grouped together. Staff felt the first three could be put together, however, the last two should stand alone.

Sen. Langworthy stated that number four of Mr. Siefert's requests had already been addressed. Mr. Siefert responded that it has been addressed with regard to taxes but not to special assessments.

The committee had more questions regarding the proposed amendments, but the Chairman reminded them that the merit of the proposed amendments will be addressed when the bills are heard.

Sen. Reynolds made a motion to introduce the first three proposed bills by Mr. Siefert, Sen. Langworthy seconded and the motion carried.

Sen. Tillotson made a motion to introduce the last two proposed bills, Sen. Gooch seconded and the motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on January 26, 1993.

Don Moler, League of Kansas Municipalities, requested the introduction of a bill which would prohibit city councils in third class Mayor-Council cities from making appointments to fill vacancies on the council in the temporary absence of the mayor. (See Attachment 2).

Sen. Reynolds made a motion to introduce the bill, Sen. Ranson seconded and the motion carried.

The Chairman announced that there would be no more meetings this week. The committee will meet next Tuesday, February 2, and Thursday, February 4, to take action on bills.

The minutes of January 12, 13, 14 and 20 were approved.

The meeting was adjourned at 9:30 a.m.

The next meeting is scheduled for February 2, 1993.

Date: 1-26-93

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

[illegible]

CITY OF OLATHE, KANSAS

LEGISLATIVE POSITION PAPER ON DELINQUENT SPECIAL ASSESSMENTS

In the last several years, the city has experienced an increased delinquency rate in collection of special assessments levied for the costs of public improvements under K.S.A. 12-6a01 *et seq.*, the general improvement and assessment law. Since bonds issued under this statute are general obligations of the city, special assessment delinquencies can cause cash flow problems and budget shortfalls in the debt service fund used to make payments on the city's debt. Delinquent special assessments are a symptom of a larger problem facing local units of government in Kansas: delinquent property taxes.

The city of Olathe is particularly concerned about delinquent special assessments arising from benefit districts created by petition of land developers. For many years, the city has favorably acted on such petitions to build and finance public improvements in business and industrial parks. When used responsibly and assessments are repaid in a timely manner, benefit district financing has been a powerful economic development tool. Lately, however, rising special assessment delinquency rates have prompted the city to rethink its position on use of this tool.

Recognizing that the delinquency problem begins with its own benefit district practices, in late 1991 the Olathe City Council adopted a comprehensive benefit district policy. The policy requires greater city scrutiny of property owner initiated districts, while continuing to balance the importance of benefit district financing as an economic development tool with the risk to the city of potential default. In addition to administrative procedures on the front end, the city is also working with Johnson County to more closely monitor special assessment payments, and to assist the county where possible in its delinquent tax collection efforts.

However, to attack this issue on all fronts, the city believes that legislative "fine tuning" of benefit district and related statutes would strengthen its ability to better manage the delinquency problem. The city believes the following amendments would benefit all Kansas cities that regularly finance infrastructure through benefit districts. Specifically, Olathe's legislative recommendations include the following:

1. Amend the bond statutes (K.S.A. Chapter 10) to provide cities with the authority to levy special assessments at a slightly higher interest rate than the rate on the general obligation bonds issued to finance an improvement. The higher interest rate on assessments would provide protection against negative cash flows resulting from delinquencies and/or defaults.

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Attachment 1

2. Amend the general improvement law to provide cities with the authority to create a special assessment reserve account. This account would be funded with bond proceeds, and property owner's assessments increased accordingly to repay the debt. This would also provide protection against negative cash flow.
3. Amend the general improvement law to provide for the public hearing on proposed assessments for an improvement to occur before, rather than after construction. This represents a more logical sequence of events in the public improvement process.
4. Amend K.S.A. 19-1207 to specifically prohibit registers of deeds from recording any transfer, sale, or platting of land on which there are delinquent special assessments.
5. Amend K.S.A. 75-6201 et seq. to include debts to municipalities (including special assessments) in the state setoff program administered by the Secretary of Revenue. The setoff program establishes a procedure whereby the state can withhold or garnish funds owed to a debtor of the state. 1992 House Bill 3188, which passed the House but died in the Senate, would have allowed municipalities and other states to participate in this program.



League of Kansas Municipalities

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

TO: Senate Committee on Local Government
FROM: Don Moler, Senior Legal Counsel, League of Kansas Municipalities
RE: Introduction of Bill to Amend K.S.A. 15-311
DATE: 1/26/93

League Policy Position. Section L-10 of the League's Statement of Municipal Policy, 1992-1993 states, "We support legislation to amend K.S.A. 15-311 to provide that in mayor-council cities of the third class the council president may not make appointments to fill vacancies on the council, to reconcile this section with K.S.A. 15-201."

General Explanation. K.S.A. 15-311 controls the powers of the President of the Council in the absence of the Mayor. This statute now allows for the President of the Council, in the temporary absence of the Mayor, to "... exercise the office of mayor, with all the rights, privileges and jurisdiction of the mayor, other than the appointment of officers pursuant to K.S.A. 15-204 and amendments thereto...". The language prohibiting appointment of officers appeared in 1988 and only solved half the problem. Specifically, the President of the Council may still make appointments to the Governing Body if a vacancy exists during the temporary absence of the Mayor. This operates to defeat the intent of the statutory scheme provided in K.S.A. 15-201, in which the **Mayor** makes appointments to fill vacancies on the governing body and the council confirms or rejects those appointments.

Specific Changes. Please find attached a copy of a bill introduced during the 1991 legislative session which addresses the concerns mentioned above. The modifications suggested in this legislation would remove the conflict present in K.S.A. 15-311 and K.S.A. 15-201 and allow only the Mayor to make appointments to fill council vacancies.

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Attachment 2*

HOUSE BILL No. 2119

By Committee on Local Government

2-4

8 AN ACT concerning vacancies in the office of mayor in cities of the
9 third class; amending K.S.A. ~~1990 Supp.~~ 15-311 and repealing
10 the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. ~~1990 Supp.~~ 15-311 is hereby amended to read
14 as follows: 15-311. When any vacancy ~~shall happen~~ occurs in the
15 office of mayor, by death, resignation, removal from the city, removal
16 from office, refusal to qualify, or otherwise, *the vacancy shall be*
17 *filled as provided by K.S.A. 15-201, and amendments thereto. In*
18 *the case of the temporary absence of the mayor, the president of*
19 *the council for the time being shall exercise the office of mayor,*
20 *with all the rights, privileges and jurisdiction of the mayor, other*
21 *than the appointment of councilmembers or officers pursuant to*
22 *K.S.A. 15-201 and 15-204, and amendments thereto, until such*
23 *vacancy be filled, or such disability be removed, or in case of*
24 *temporary absence, until the mayor shall return.*

25 Sec. 2. K.S.A. ~~1990 Supp.~~ 15-311 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after
27 its publication in the statute book.