

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on March 19, 1993 in Room 531-N of the Capitol.

All members were present except: Sen. Feleciano - Excused

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

Conferees appearing before the committee:

Don Moler, League of Kansas Municipalities
Don Siefert, City of Olathe
David Corliss, City of Lawrence
Don Martin, Attorney for Cedar Bluff Irrigation District #6

Others attending: See attached list

HB 2433 -- Concerning cities; relating to the general assessment and improvement law.

Ms. Kiernan summarized the background and intent of the bill. (See Attachment 1).

Don Moler, League of Kansas Municipalities, testified in support of the bill. (See Attachment 2).

Don Siefert, City of Olathe, followed with further testimony in support of the bill. (See Attachment 3). He also called the committee's attention to the written statement of Tom Rendleman of Southview Business Association in support. (See Attachment 4).

Final testimony on HB 2433 was given by David Corliss, City of Lawrence, in support. (See Attachment 5). This concluded the hearing.

Sen. Reynolds made a motion to report HB 2433 favorable for passage, Sen. Gooch seconded, and the motion carried.

SB 419 -- Concerning irrigation districts; relating to the powers thereof; relating to the dissolution thereof.

Ms. Kiernan briefly explained the bill, noting that it applies only to Cedar Bluff Irrigation District #6 which desires to be dissolved.

Don Martin, attorney for Cedar Bluff Irrigation District #6, testified in support of the bill. (See Attachment 6).

The chairman had questions as to how much money the district has and how many landowners are involved (65). Sen. Ramirez asked why the landowners should get the money back. Mr. Martin replied that the state made this agreement with the Department of Interior in 1987. Sen. Gooch asked if any money is invested by other than farmers of the district. Mr. Martin confirmed that it involves farmers only, no public funds are involved.

Sen. Reynolds asked when the first payment was begun. Mr. Martin said it began in 1963, however, the water was shut off in 1978, but the district is still paying the bill. There is a conflict in the agreement between the district and the federal government. It is in conflict with state statute.

When the Chairman asked for committee action on SB 419, Sen. Ramirez stated that he feels there is not enough information on what is contained in the Memorandum of Understanding between the federal government and the State of Kansas regarding the Cedar Bluff Irrigation District referred to in Mr. Martin's

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on March 19, 1993.

testimony. Therefore, he felt the bill should be tabled. The Chairman noted that since the bill had been heard, this would not be proper procedure. He requested that the Mr. Martin get together with Sen. Ramirez and report to the committee members on the results of the meeting. When a majority of the committee wants to act on the bill, a meeting will be called. This could be next Monday or Tuesday.

Ms. Kiernan had a copy of the Memorandum of Understanding and agreed to distribute copies to all committee members. Also, Sen. Moran, who was involved in getting the bill introduced, will be contacted for further clarification.

The Chairman turned the committee's attention to HB 2405 concerning the sale of properties by counties, which had been heard March 18. Sen. Feleciano, who had expressed some concerns about the bill, is out of town. Other committee members have also expressed concern, therefore, consideration of the bill will be held until next week, perhaps Tuesday, March 23.

Attention was turned to HB 2419, previously heard, concerning the annexation of fire districts. The Chairman reminded the committee that on a motion to recommend the bill favorably, it lost on a tie vote. Since then, there have been discussions between The League of Kansas Municipalities, Rep. Nancy Brown and committee members. Sen. Ramirez asked if the amendment had taken care of the concerns. The Chairman reported that it had.

Sen. Ranson made a motion to recommend HB 2419 favorable for passage as amended, Sen. Downey seconded.

Sen. Ramirez explained that although he had previously voted "no" on favorable passage, he feels the full Senate should have the opportunity to address it and, therefore, would vote "yes".

Upon a call for a vote on Sen. Ranson's motion, the motion carried.

The Chairman announced that the committee will meet next Tuesday if it so desires to work HB 2405 and SB 419.

The minutes of March 17 and March 18 were approved.

The meeting was adjourned at 9:55 a.m.

The next meeting is scheduled for possibly March 23, 1993.

Date: March 19, 1993

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

[illegible]

MEMORANDUM

To: Senate Committee on Local Government

From: Theresa Kiernan

Date: March 18, 1993

Re: House Bill No. 2433

House Bill No. 2433 was requested by the city of Olathe to clarify the procedure for assessing owners of property not originally included within an improvement district, but who at a later time desire to be served by the improvement. The law concerns only water or sanitary sewer improvement districts initiated by petition.

Current law authorizes the assessment of a benefit fee against the owners who at a later time desire to be served by the improvement. Such fee cannot exceed the amount of the assessment which would have been assessed if the property was included in the original district. Such fee then must be reduced in an amount in proportion to the number of months which has passed from the date the first assessment was levied to the date such property begins being served by the improvement bears to the total number of months of assessments against property within the original district.*

The bill eliminates the requirement to reduce the benefit fee as described above. The bill clarifies that the benefit fee is applied only to the property which the owner petitions to be served by the improvement.

The bill provides that the benefit fee may be deposited in the general bond and interest fund if any of the cost of the improvement was paid by the city at large.

The bill also provides that any hookup or connection fee shall not exceed the actual cost of connecting the property to the improvement.

The bill amends K.S.A. 12-6a19 which is a part of the general improvement and assessment law. It applies statewide, but only to cities.

*Example. In a ten year assessment period, there would be 120 assessment months of assessments.

If owner X begins being served at the end of the eighth year after the first assessment against the original benefit district, owner X would be liable only for 24 months of assessments against his property.

Senate Local Gov't
3-19-93
Attachment 1



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: HB 2433
DATE: March 19, 1993

League Policy Position. The League supports the passage of HB 2433 to permit municipalities greater flexibility in the use and application of the general improvement and assessment law found at K.S.A. 12-6a19. The amendments to this statute allow for greater equity for the city at-large in certain special assessment situations involving water or sanitary sewer improvements by allowing for a recovery of moneys expended by the city towards the improvement project. Essentially this legislation recognizes that all benefited properties should pay an equal share for certain water and sanitary sewer projects. This general policy of broadening local authority is in complete agreement with League policy of many years which advocates maximum flexibility in the 6a special assessment law.

*Senate Local Govt
3-19-93
Attachment 2*



MEMORANDUM

TO: Members of the Senate Local Government Committee

FROM: Donald R. Seifert, Assistant Director, Administrative Services *DRS*

SUBJECT: HB No. 2433 - Benefit District Buy-In Procedure

DATE: March 19, 1993

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of HB 2433. The purpose of this bill is to clarify the buy-in procedure at K.S.A. 12-6a19 for a water or sewer benefit district when property not in the original district desires to be served later by the improvement.

As you know, benefit districts are financing tools whereby cities can issue bonds for construction of public improvements and assess the cost to properties that benefit. The bonds are then retired through special assessments paid by these benefitting properties. The current buy-in procedure found at K.S.A. 12-6a19 is confusing to administer, allows property owners that delay using the improvements to shift their fair share to others, and fails to recognize that a city's general taxpayers may have been a financial participant in the project. We believe this bill will assist any community that builds a utility improvement near a city boundary by providing a mechanism whereby future users of the improvement can buy-in at a later date.

Why does Olathe wish to use the procedure contained in HB 2433? After receiving a petition from property owners, our governing body recently created an approximately \$2.6 million sanitary sewer benefit district in southern Olathe known as the Upper Cedar Creek sewer. The project is important to our community from both a public health and economic development perspective. It will provide public sewers in one of the last watersheds in the community unserved by public sewers. The district is predominantly nonresidential, consisting generally of undeveloped land and warehouse and light manufacturing development. It includes an 850,000 sq. ft. industrial park employing nearly 1500 persons, the Olathe School District athletic complex, and a water theme park now under construction. Without sewers, all of this development currently uses either septic systems or holding tanks to handle wastewater.

*Senate Local Gov't
3-19-93
Attachment 3*

Senate Local Government Committee
March 19, 1993
Page 2

As shown on the attachment, part of the Upper Cedar Creek watershed lies outside the Olathe city limits. In the benefit district, the city at large will pay approximately 13.5%, or \$350,000 of the total project cost. This represents the sewer capacity for property outside the city and the original district, but which is expected to connect to the sewer in the future. HB 2433 would provide authority for the city to recover its investment as future "buy-ins" to the benefit district occur. The "buy-in" provision would only be triggered when a property owner petitioned to join the original district.

Why do we need this legislation? The authority for a city to establish its own local buy-in procedure under home rule was clouded by a 1991 Kansas Supreme Court decision arising from Douglas County, Blevins v. Hiebert. Our governing body strongly supports this sewer project, but wishes to recover its initial investment and protect the general Olathe taxpayer, which will pay the debt service on the project bonds during the interim period. Thus, the amending language in HB 2433 allows buy-in fees to be retained by the city at large, if it provided the funds on behalf of those properties that will use the improvement in the future.

Again, thank you for consideration of this issue. We urge the Committee to recommend this bill favorably.

rc

Attachment

SOUTHVIEW BUSINESS ASSOCIATION

OLATHE, KS 66062

"THE VOICE OF BUSINESS AND PROPERTY OWNERS IN SOUTHVIEW BUSINESS PARK"

March 18, 1993

Senate Local Government Committee
Topeka, KS

Re: House Bill 2433

Southview Business Park, located on So. Keeler within the city limits of Olathe, has presented a petition signed by 80% of the land owners to encourage you to consider a main sewer for our 120 acre area. Currently all 56 buildings within this area are either on holding tanks or holding tanks with lateral fields. This type of septic system slows our long term business decisions.

Southview Business Park's 854,193 square feet qualify it to be the largest business park in Olathe and would be #8 in the metropolitan Kansas City area according a Kansas City Business Journal survey. Our association believes this area is Olathe's most successful business incubator and didn't cost the city anything. The business park contains buildings of all sizes and allows businesses to start here and stay here during their growth period. The addition of sewers to this area would only enhance the ability to stay in the same area during growth. There are an additional 80 undeveloped acres, zoned industrial, adjacent to the park.

The Southview Business Park has paid in excess of \$3,500,000 in real estate taxes during the past 6 years. In 1991 we paid \$879,668 and 1992 paid \$734,063. In 1991 there were 1,434 people employed in the park.

The Board of Directors for Southview Business Association believe our businesses, property values, the City of Olathe, and the State of Kansas will benefit more than the cost of the sewers over the ten year financing period. This bill is good for all city governments in Kansas. It gives them a tool for recovering their investment in the infrastructure.

We suggest you give a high priority to approving H.B. 2433.

Sincerely,



Tom Rendleman, P.E.

*Senate Local Govt
3-19-93*

DIRECTORS AND OFFICERS

President	Jack Paradise	Jayhawk Plastics, 15285 S. Keeler	(913) 764-8181
Vice President	Tom Rendleman	Trend Plastics, 15665 S. Keeler	(913) 782-3080
Treasurer	Spencer Hawerlander	Trend Plastics, 15665 S. Keeler	(913) 782-3080
Secretary	Cameron Mott	Mott Signs, 15150 S. Keeler	(913) 782-2468
At-Large	Wes York	K & W Underground, 15608 S. Keeler Terr.	(913) 782-7387

Attachment 4



City of Lawrence KANSAS

MIKE WILDGEN, CITY MANAGER

CITY OFFICES

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66044-0708

6 EAST 6th

913-832-3000

CITY COMMISS

MAYOR

ROBERT C. SCHULTE

COMMISSIONERS

JOHN NALBANDIAN

SHIRLEY MARTIN-SMITH

BOB SCHUMM

ROBERT L. WALTERS

To: Senator Mark Parkinson, Chair, Senate Local Government
Committee and Committee Members
From: David Corliss, Assistant to the City Manager
Date: March 19, 1993
Re: House Bill 2433 -- Special Assessments; Payments by Owners
of Property within a benefit area outside improvement
districts

The City of Lawrence urges this Committee's support of House Bill 2433. This bill amends K.S.A. 12-6a19 to allow property owners, not in an original sanitary sewer or water benefit district, to petition for service from the already completed improvement, and then receive the service upon payment of a benefit fee. This benefit fee will be equal to what the property owner would have paid if she or he was in the original improvement district.

We believe this is an improvement on our current special assessment statutes. An example may best illustrate this point:

If a property owner desires to connect to the city sanitary sewer system, and the sanitary system must be extended or expanded to serve the property owner, it prudent for the city utility to require the cost of this extension or expansion to be paid by the property owner. The special assessment statutes currently provide a financing mechanism for the property owner to pay his or her share of these costs. In some cases this improvement may also benefit other property owners who do not currently wish to receive sanitary sewer services at the time of the improvement. The issue is how best to recover the public's investment in the earlier improvement when the property owner desires to connect to the sanitary sewer?

The current law does not adequately provide a complete method of recovering the public's investment. The current law deters a city from making an improvement in a situation described above because it realizes it will not recover appropriate public costs.

The proposed amendments to K.S.A. 12-6a19 would create a better procedure for both the property owners and the city. We urge your support.

Senate Local Govt

3-19-93

Attachment 5



Donald L. Martin

Attorney at Law

1023 Washington
P.O. Box 13
Ellis, Kansas 67637
913-726-3775

March 16, 1993

Trego County Clerk
FAX: 913-743-2461

Ellis County Clerk
FAX: 913-628-9451

Wayland J. Anderson
Division of Water Resources
FAX: 913-296-1176

Bernard Giefer
Trego County Attorney
FAX: 913-743-2002

William Jeter
Attorney for Ellis County
FAX: 913-628-1376

Cedar Bluff Irrigation District #6 (District) was formed in 1958 pursuant to Article 7 of K.S.A. Chapter 42. Included within the boundaries of the District is a total irrigable acreage of approximately 6,800 acres. The District signed a 40 year contract with the Bureau of Reclamation of the U.S. Department of Interior to purchase water from Cedar Bluff Reservoir. The first water was delivered in 1963 and continued until 1978. After 1978, there was not sufficient water in Cedar Bluff Reservoir for delivery of irrigation water and no water has been delivered to the District since 1978. Commencing in the late 1970's or early 1980's, the District was not able to pay construction repayment installments or operation, maintenance and replacement obligations under its contract with the Bureau. In December, 1987, a memorandum of understanding was entered into by and between the Bureau, the District, Fish and Wildlife Service, and the Department of Wildlife and Parks of the State of Kansas. A copy of said memorandum is enclosed.

The purpose of the Memorandum of Understanding made in December, 1987, was to spell out the rights and obligations of the parties concerning the "reformulation and operation of the Cedar Bluff unit." As specifically concerns the District, the intent was

*Senate Local Gov't
3-19-93
Attachment 6*

Page 2
March 16, 1993

that the District would be relieved from any past or future obligations to the Bureau of Reclamation, United States Department of the Interior, and the intent was that after all necessary acts had been performed, the District would be dissolved.

Section 4(d)(4) found on page 8 of the Memorandum of Understanding of December, 1987, provided that the District intends to "utilize all of its existing funds and any revenue from the sale of its real property, tools, and equipment to assist the individual landowners in affecting the abandonment of the distribution system and related facilities at no additional cost to the United States by reimbursing landowners with the remaining funds to accomplish satisfactory abandonment in accordance with District recommendations." The intent of the aforesaid language was that upon final dissolution, any funds and revenue remaining would be paid to the individual landowners based upon the proportion which their irrigable acres bore to the total irrigable acres in the District.

K.S.A. 42-722 provides that upon dissolution of the Irrigation District after the chief engineer is satisfied that all debts and obligations have been satisfied, any funds remaining shall be transferred to the County Treasurer of the counties within such District and the County Treasurer shall deposit such monies into the county general fund.

The District will expend a yet-to-be determined sum to fulfill their obligations concerning closure of the system. After the District fulfills its obligations, it is anticipated that there will be funds remaining. All funds in the hands of the District or to be hereafter received will be directly traceable to taxes levied upon the irrigable acreage in question or to direct water assessments or to the sale of real property and personal property owned by the District and used in connection with the operation of the District. The District is seeking to have special legislation passed by the Kansas legislature, which legislation will provide that upon dissolution, and in the process of dissolution, any funds remaining after payment of debts and obligations will be paid direct to the landowners in the District based upon the proportion which their irrigable acres bears to all irrigable acres.

A copy of Senate Bill 419 is enclosed. The bill has been referred to the Senate Local Government Committee. The committee will conduct a hearing on Friday, March 19 at 9:00 a.m., in Room 531 North, State Capitol.

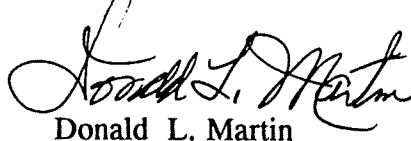
If the legislation passes the Senate, it will be referred to the House Tax Committee. I anticipate this committee will hold a hearing on March 22nd or 23rd.

6-2

Page 3
March 16, 1993

Since I will not have time to advise you of the time and place of this hearing, you should therefore verify the time and place.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donald L. Martin".

Donald L. Martin
Attorney for Cedar Bluff
Irrigation District #6

DLM/ss
Enclosures