

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on February 22, 1994, in Room 531-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Whitney Damron, on behalf of City of Kansas City, Kansas  
Veda J. Monday, City councilwoman, Kansas City, Kansas  
Don Moler, League of Kansas Municipalities  
Donald R. Seifert, Acting Director, Administrative Services, City of Olathe  
Gerry Ray, Intergovernmental Coordinator, Johnson County Board of Commissioners

Others attending: See attached list

SB 732--Concerning mechanics' liens on property on which certain conditions are ordered to be abated by cities and counties.

Ms. Kiernan explained that the bill amends several statutes concerning mechanics' liens and provides that if a governing body contracts for the destruction of a dangerous building, the contractor will have a lien on the property.

Whitney Damron testified in support of the bill on behalf of the City of Kansas City, Kansas. (See Attachment 1)

John Mendez, Assistant City Administrator for the City of Kansas City, Kansas, responded to a question from the Chairman regarding abandoned property. Mr. Mendez explained that if the city upgrades or demolishes a structure on abandoned property, the owner can come back to claim the property, however, the owner would have to pay the lien and back taxes. The intent of the bill was to allow the city to rehab the property and make it tax paying property again. The Chairman asked if this has been done elsewhere, and Mr. Damron answered that it has been done in Kansas City, Missouri.

Veda Monday, City Councilwoman, Kansas City, Kansas, testified further in support of SB 732 as a means to provide low income areas of a city an opportunity to repair rather than demolish uninhabitable homes. (See Attachment 2)

Sen. Ranson asked why there has not been foreclosures on such property. Ms. Monday replied that the foreclosure process is done at present, but it is a lengthy process and any kind of a glitch means the process must be started over again. In the meantime, the neighborhood deteriorates more.

Sen. Gooch asked Ms. Monday if the end result of such a process for improvement would be that the investment in the abandoned property would be made by an individual or by the city. Ms. Monday said that there would be several options for improvement of the property. The Chairman asked staff if a city can make these improvements on abandoned property at present by declaring the property abandoned and taking title to it. Mr. Heim said that cities can destroy or improve unsafe structures by declaring them to be dangerous at present but the type of repair allowed is not the major renovation included in SB 732.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on February 22, 1994.

Don Moler, League of Kansas Municipalities, stood to inform the committee that at present counties can take property and make improvements, but they pick and choose and take only the property which will make money which leaves other abandoned property to continue to deteriorate. At present, a person could improve a structure on abandoned property and live there, but there is no mechanism to get the title. Therefore, if the county sells the property, the resident in the improved structure would be responsible for the back taxes. Ms. Monday responded that perhaps language could be added that would put a time limit after which a resident could get title to the property.

Don Moler testified in support of the bill as a creative and positive approach to revitalizing certain neighborhoods. (See Attachment 3)

Sen. Gooch stated that he favors the bill, however, he feels more is needed than what is in it.

Sen. Langworthy informed the committee that there are other bills on the same subject, one in Assessment and Taxation Committee dealing with this issue and another which deals with county foreclosure sales. The Chairman suggested that perhaps Sen. Langworthy, Sen. Gooch and himself could confer on the other related bills and gather more input on how to accomplish the intent of SB 732 in a clearer way. With this, the hearing on SB 732 was concluded.

SB 798—Concerning cities and counties; relating to the acquisition and financing of certain improvements.

The Chairman explained that he had requested the introduction of this bill because of the need for it by the City of Olathe where the city wants to transfer a sewer line that is owned by the county to the City of Olathe, but this is not possible under present statute. Although this is for Johnson County, it could be applied to other counties also.

Don Siefert, City of Olathe, testified in support of the bill. (See Attachment 4)

Don Moler, League of Kansas Municipalities, testified in support of SB 798 but had concerns. (See Attachment 5).

With regard to Mr. Moler's concern that taxes for one city would be spread across the county on citizens of other cities, the Chairman suggested that the bill be amended on page 2, line 5, by striking "county at large." The Chairman also suggested that the bill be limited to Johnson County and that it say that counties can transfer to cities but not vice versa. Ms. Kiernan said the bill was originally drafted that way. Tom Glinstra of the City of Olathe stood to explain that the bill was changed because there is a city that will have to transfer to the county in the near future, therefore, the original bill was changed to accommodate that city.

Gerry Ray, for the Johnson County Board of Commissioners, testified in support of the bill. (See Attachment 6) Ms. Ray added that she would not oppose limiting the bill to Johnson County, but she feels it would be beneficial if it applied statewide. This concluded the hearing on SB 798.

Sen. Langworthy made a motion to amend SB 798 to allow counties to transfer to cities but not cities to counties, Sen. Ramirez seconded, and the motion carried.

Sen. Reynolds made a motion to recommend SB 798 favorable for passage as amended, Sen. Langworthy seconded and the motion carried.

Attention was turned to bills previously heard.

With regard to SB 469 concerning qualifications of sheriffs, Sen. Reynolds made a motion to technically amend the bill on line 12 to change "a" to "as", and that it be reported favorable for passage as amended, Sen. Tillotson seconded.

Sen. Feleciano expressed his opposition to grandfathering the training requirement in the bill. Sen. Reynolds noted that Section 5 (b) concerning training for an elected sheriff is currently in the law. The Chairman added that the bill says that if a person has not been a law officer for five years, he cannot be elected.

Upon a call for a vote on Sen. Reynolds' motion, the motion carried with Sen. Langworthy voting "No."

Sen. Tillotson offered an amendment to SB 570 relating to the office of county administrator. (See Attachment 7) The amendment provides a procedure more like the cities change their form of government by providing for a mandatory election instead of the bill's original provision that the form of government be changed automatically on a petition of 5% of qualified electors. Sen. Tillotson said the Sen. Emmert, who

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on February 22, 1994.

had sponsored the bill, had no objection to this amendment.

Sen. Tillotson made a motion to amend SB 570 as in Attachment 7, Sen. Downey seconded, and the motion carried.

Sen. Ranson reminded the committee that concern was expressed during the hearing on SB 570 regarding lines 31-34 on page 2 regarding supervision of elected county officials. There being no further time to discuss this, the Chairman said the committee would meet Friday to discuss the bill further.

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for February 23, 1994.

Date: February 22, 1994

## GUEST REGISTER

**SENATE  
LOCAL GOVERNMENT**

NAME	ORGANIZATION	ADDRESS
Whitney Dawson	Peterchurch Assoc/KC, KS	Topeka
Don Moler	League of KS Mun.	"
Don Safrit	City of Olathe	Olathe
Tom Slawka	City of Olathe	Olathe
John Meeker	City of KCK	KCK
Veda J. Mondak	City of KCK	KCK
Chuck Stones	KS Bankers Assn	Topeka
Pat Brice	Bankers Assn	Topeka
Kenneth H. Edmiston	Junction City, CgC	Junction City
Roy H. Palmer	SC Crossroads Leadership	J.C.
Don Macgovern	J.C. Crossroads Leadership	Junction City
Linda Tanton	SC Crossroads Leadership	Milford

**TESTIMONY**  
**OF**  
**WHITNEY DAMRON**  
**OF**  
**PETE MCGILL & ASSOCIATES**  
**ON BEHALF OF**  
**THE CITY OF**  
**KANSAS CITY, KANSAS**  
**PRESENTED BEFORE**  
**THE SENATE**  
**LOCAL GOVERNMENT COMMITTEE**  
**FEBRUARY 22, 1994**  
**RE: SB 732**

*Senate Local Gov't  
2-22-94  
Attachment 1*

Good morning Chairman Parkinson and Members of the Senate Committee on Local Government. I am Whitney Damron of Pete McGill & Associates appearing before you today on behalf of the City of Kansas City, Kansas in support of Senate Bill 732.

Councilwoman Veda Monday of Kansas City, Kansas will testify regarding the merits of the bill in a few moments. However, I would like to briefly present the Committee with a legislative history of this proposal.

The concept contained in SB 732 was originally introduced last session in the form of SB 147. It was a mechanic's lien bill for the rehabilitation of dangerous structures localized only to the City of Kansas City, Kansas. The bill received hearings before the Senate Judiciary Committee, was "blessed" by Senate Federal & State Affairs Committee and ultimately not acted upon during the 1993 legislative session. In early 1994 the Senate Judiciary Committee reported SB 147 adversely.

Prior to introduction of another piece of legislation we visited with members of the Wyandotte County Delegation as well as members of the Senate Tax Committee. We were requested by certain legislators to open the bill up statewide to allow for county option and also address the issue of increased property tax valuations in regards to the potential inability to pay property taxes on affected property due to such increased valuations.

In our bill introduction before the Senate Committee on Assessment & Taxation we indicated that we were asking for introduction of bill similar to SB 147 with the addition of statewide city and county option. In addition, we stated that we would work on language in attempts to address the concerns of certain legislators regarding increased property tax liabilities due to increased valuations.

Attached to my testimony is a proposed amendment that would allow for the creation of a dangerous property abatement fund and allow for a tax credit on increased valuation liabilities. The amendment contains local checks and balances by implementing this program through interlocal agreement and cooperation. We have borrowed language from SB 698 and HB 2736 relating to neighborhood revitalization. Our approach is somewhat different in that those pieces of legislation would propose to rebuild the inner cities a block or more at a time while SB 732 would rebuild such areas one house at a time.

With that introduction, I would turn the podium over to Councilwoman Monday. Also with us today is John Mendez, Assistant City Administrator for the City of Kansas City, Kansas who is available to answer any technical or operational questions you might have with SB 732 and our proposed amendment.

We would respectfully ask the Senate Local Government Committee for its support of SB 732. I thank you for your time and consideration and would be pleased to respond to questions at the appropriate time.

Senate Bill 732 - Mechanics' Liens on Property on Which Certain Conditions are  
Ordered to be Abated by Cities and Counties.

Proposed Amendments:

New Section 6. (a) The governing body of a city, county or other taxing unit may, by ordinance, interlocal cooperation agreement or similar official action, designate real property within their jurisdiction as dangerous property and in need of repair and therefore order conditions abated pursuant to K.S.A. 60-1101, et. seq.

(b) The governing body of a city, county or other taxing unit shall, by ordinance, interlocal agreement or similar official action, designate an agency or official responsible for administering this program.

(c) Any taxing unit or combination of taxing units may provide, by adoption of an ordinance or other similar official action, for a dangerous property abatement fund to finance redevelopment of real property designated as in need of repair under this act. Moneys may be budgeted and transferred to such fund from any source which may be lawfully utilized for such purposes.

(d) Moneys credited to such fund from annually budgeted transfers shall not thereafter be subject to the provisions of K.S.A. 79-2925 through 79-2937 and amendments thereto. In making the budget of the taxing unit, the amounts credited to, and the amount on hand in, such dangerous property abatement fund and the amount expended therefrom shall be shown thereon for the information of taxpayers. Moneys in such fund may be invested in accordance with K.S.A. 10-131 and amendments thereto with the interest credited to the fund.

(e) If the taxing unit determines that money which has been credited to such fund or any part thereof is not needed for the purposes for which it is budgeted or transferred, the unit may transfer such amount not needed to the fund from which it came and such retransfer and expenditure shall be subject to the budget requirement provisions of K.S.A. 79-2925 through 79-2937 and amendments thereto.

(f) Any increment in ad valorem property taxes levied by the taxing unit resulting from repairs or improvements by a taxpayer or taxing unit to property deemed dangerous under this act shall be credited to the fund for the purpose of returning the increment to the taxpayer in the form of a rebate. A taxpayer must file, with the county or district appraiser's office or an official designated pursuant to subsection (b) of Section 6, a letter of intent to qualify for a rebate. The letter must include the taxpayer's name and address and a description of the improvements performed on the property and the subsequent increase in assessed valuation. The taxing unit upon approval of the application shall then rebate any incremental increases resulting from the improvements within 30 days of payment by the taxpayer.

"Sec. 6." becomes "Sec. 7."

"Sec. 7." becomes "Sec. 8."



**TESTIMONY OF THE CITY OF KANSAS CITY, KANSAS,**  
**BY VEDA J. MONDAY, CITY COUNCILWOMAN, FIRST DISTRICT**  
**KANSAS CITY, KANSAS**  
**IN REGARD TO SENATE BILL NO. 732**

The City of Kansas City, Kansas, as part of an urban, metropolitan complex, experiences the same type of problems as other urban areas. The abandonment and neglect of residential structures within low income areas occur because of the owner's financial inability or the lack of economic feasibility to maintain the property in a habitable condition. As a result, such properties are left unused, unrepaired, and property taxes unpaid. These residential structures are eventually sold at a tax sale to land speculators hoping that during their ownership an opportunity will occur that makes their investment worthwhile. If not, the cycle is repeated with the property once again placed on the tax rolls for sale.

The moving force behind Senate Bill No. 732 is to break this cycle of disuse and provide a mechanism by which low income persons may acquire a starter home that is maintained with taxes paid. Presently, a mechanic's lien may attach when a person provides services and materials to the repair and improvement of a structure pursuant to an agreement between the parties and when the receiving party fails thereafter to pay for said materials and services. The lien acquired serves to protect the interest of the provider.

In Senate Bill 732, the idea was to provide a mechanism by which the City may authorize the repair of a residential structure by a person or public service organization with or without a contract with the titled owner and acquire a lien to protect such a provider. The intent would be for the City to allow interested, low-income persons to acquire an ownership interest in residential real estate that could not be deprived without due process of law and which in most cases would provide a sufficient financial interest that would discourage the owner from reacquiring possession of the property.

Senate Bill No. 732 is to provide a legal mechanism by which a qualifying person could take possession of an abandoned residential structure, make repairs as necessary to return the same to a habitable condition, and maintain possession against the titled owner unless that person paid the full and fair market value for the improvements made to the property. In essence, one might compare this to acquiring title by adverse possession but doing so in a shorter period of time. Several key points need to be made in reference to this concept:

(1) **Abandoned property**

This could be defined as property that has not been inhabited for a specified period of time or upon which taxes have not been paid for a minimum of three years, or a combination of these and other physical characteristics of the condition of the property.

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*Attachment 2*

(2) **Due Process**

A need would exist for publication, the posting of notice or in some sufficient manner notifying the owner that unless certain repairs are made within a designated period of time, a certain individual would be authorized to take possession and make those repairs for which he, the titled owner, would be liable if he desired to reacquire possession.

(3) **Mechanic's Lien**

A mechanic's lien would attach from the moment that any repairs were made in the favor of the provider of the materials and services with or without contract and with or without consent of the titled owner. A person could only be dispossessed of the premises through payment of the lien and a procedure would be established by which the titled owner could be dispossessed of title through foreclosure of the mechanic's lien.

(4) **Abatement or Remission of Past Due Taxes**

Any property acquired by definition would probably have past due taxes owing to the County. These taxes would either be abated or in some way remitted, allowing the low income person to pay a portion of the taxes over a period of time.

(5) **Qualifications**

Acquisition would be limited to one house per family or household with that family or person meeting certain financial guidelines established by State law or the City ordinance adopting procedures pursuant to State authority.

The intention would be that in low income areas of a municipality, a city could offer an alternative to demolition which leaves a vacant lot that is not likely to be in-filled with new construction. This would allow low income persons to acquire a home, contribute additional taxes, and prevent the erosion of the inner city where residential stability, family life, and new residents would add to the long-term survivability and quality of City life.

The City endorses adoption of Senate Bill No. 732. Within our City, several organizations stand willing to make repairs on behalf of low income persons to make the home habitable, but assurances are needed that upon making these repairs, the person holding title cannot then step forward, evict the resident, and be benefitted from the improvements made. It is our belief that this idea could serve as a model for cities throughout our state to preserve older sections of their city, provide an alternative to other forms of public housing, and take advantage of existing housing stock without significantly impacting the rights of owners unwilling to make repairs and who simply engage in rank speculation on properties. Cities would not be as likely to be forced into demolition and the result could be a winning one for all parties.



**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** Senate Committee on Local Government

**FROM:** Don Moler, General Counsel

**DATE:** February 22, 1994

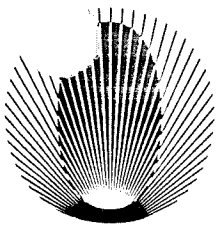
**RE:** SB 732--Mechanics' Liens on Dangerous Buildings

Thank you for the opportunity to appear on SB 732, concerning the subject of allowing mechanics' liens on property deemed a dangerous building by a city or county governing body. We support the efforts of the proponents of this legislation to allow for mechanics' liens to be placed on this type of property in an effort to save usable housing that otherwise would have to be destroyed. Specifically this allows for a mechanics' lien to arise on property with the direction or authorization of a city or county governing body without a specific contract with the actual owner of the property.

We would envision that this would mostly be used in the larger communities of the state which have neighborhoods in which this process could effectively be utilized. We believe this may be an important first step in helping to revitalize certain neighborhoods and at the same time provide much needed housing to low-income families from the existing housing stock. It strikes the League as a creative method to help deteriorating residential areas of cities move in the direction of upgrading the housing supply and halt the blight in the specific neighborhoods or areas.

The League hopes the committee will support this creative initiative to respond to a very difficult problem.

*Senate Local Gov't  
2-22-94  
Attachment 3*



City of Olathe

MEMORANDUM

TO: Members of the Senate Local Government Committee

FROM: Donald R. Seifert, Acting Director, Administrative Services

SUBJECT: Senate Bill No. 798; Transfer of Sewer Districts

DATE: February 22, 1994

On behalf of the City of Olathe, I want to thank the Committee for introducing this bill concerning the transfer of a sanitary sewer district between a city and county. This bill provides the authority for interlocal agreements covering sewer district transfers between any city and county in the state. The bill also clarifies the status of outstanding indebtedness that may exist with the district at the time of transfer.

For some time, the City of Olathe and Johnson County have engaged in discussions on the transfer of a 2500 acre sewer district known as Cedar Creek Sub-District No. 1 from the county to the city. As shown on the attached exhibit, the district serves the Cedar Creek residential development in northwest Olathe, as well as undeveloped property near the Highway K-10/K-7 intersection planned for a high quality business park. The sewer collection system was built and has been operated by the county, but wastewater treatment within the district has been provided by the city at its Cedar Creek treatment plant. Since most of the district lies within the corporate limits of Olathe, and is somewhat isolated from other county sewer facilities, as the are continues to develop, it makes sense to consolidate responsibility for all wastewater service with the city.

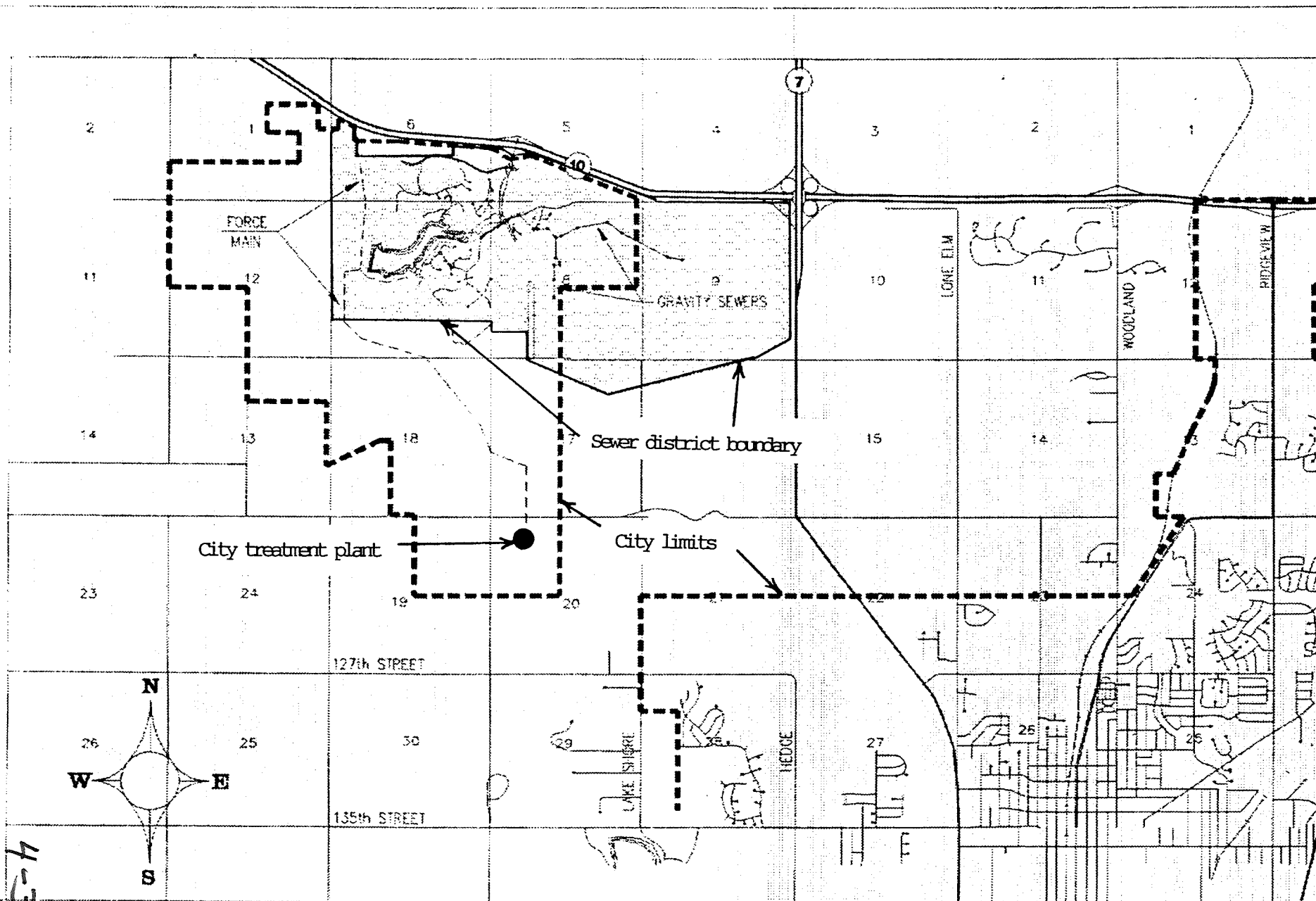
This is exactly what both governing bodies have agreed to do. However, legal questions have arisen as to the 20 year bonds issued by the county in 1988 to construct the district's original sewer main facilities. In subsection (c), SB 798 clarifies that after transfer, the outstanding debt remains an obligation of property owners within the district until the bonds are retired. As an alternative, subsection (d) of the bill also authorizes the entity acquiring the sewer district

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Attachment 4

to issue additional bonds to pay off the pre-existing debt.

Passage of this bill will facilitate the transfer of this growing district, allowing development to continue in a coordinated manner with one unit of government providing all utility service. Again, the city of Olathe appreciates your introduction of this bill, and encourages the Committee to recommend it favorably.

# CEDAR CREEK SUB-DISTRICT No. 1





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of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** Senate Committee on Local Government

**FROM:** Don Moler, General Counsel

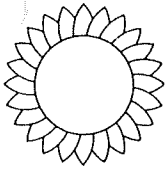
**DATE:** February 22, 1994

**RE:** SB 798--Acquisition and Financing of Certain Sewerage Systems

Thank you for the opportunity to appear on SB 798, concerning the acquisition and financing of certain sewerage systems by cities and counties. Specifically the League appears in general support of the objectives of this legislation as presented by the City of Olathe and Johnson County. We understand the concerns they have expressed and are generally supportive of the method they are pursuing to achieve the transfer of the sewerage district in question.

We have a concern, however, about the statewide applicability of this legislation in those sections of the bill found on lines 3:7 on page 2. Specifically we are concerned about a county transferring to or obtaining a sewer system from a city and then financing the transfer or acquisition by taxes spread across the county on citizens of other cities in the county. This is an underlying concern which we do not feel we can support at this time.

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Attachment 5*



Johnson County  
Kansas

SENATE LOCAL GOVERNMENT COMMITTEE

FEBRUARY 22, 1994

HEARING ON SENATE BILL 798

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR  
JOHNSON COUNTY BOARD OF COMMISSIONERS

Mr. Chairman, members of the Committee, my name is Gerry Ray, representing the Johnson County Board of Commissioners and appearing today in support of Senate Bill 798.

The bill would further the interests of interlocal governmental cooperation. It authorizes a city and county to enter into an agreement for the transfer of a county created sewer district to a city for operation and governance.

While it may appear that cities and counties can enter into such agreements and transfers under existing statutes, we believe that sufficient legal questions may be raised against such a transfer that the benefits of cooperation could be lost through the exercise of risk prevention. SB 798 is intended to clarify, in the statutes, the authority of a city and a county to implement the agreement and transfer.

The proposed bill will greatly assist Johnson County and the City of Olathe in completing a transfer of a county sewer district to the city. Cedar Creek Sewer Subdistrict No. 2 was formed by the County upon petition of the property owners to serve the Cedar Creek Subdivision. At the time the district was created, the city did not have the capacity to create a sewer district for the area. The County, therefore, proceeded to form the district and construct the sewer lines.

Almost the entire district has now been annexed by the City of Olathe, and treatment of the wastewater is provided by the City at its municipal treatment plant. The County sewer district owns and maintains the sewer lines resulting in the property owners being governed by both the City and the County sewer districts and paying charges to each jurisdiction.

The property owners, the Board of County Commissioners and the City governing body totally support a full transfer of the district to the City. Because of the financial obligations of the district for outstanding bonds, there are legal issues that apply to the transfer. Senate Bill 798 will eliminate most of those issues and will permit the City to complete the transfer without undue risk and uncertainty.

The Johnson County Commissioners respectfully request that the Committee recommend Senate Bill 798 for passage.

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On page 1, by striking all in lines 12 to 25, inclusive, and inserting:

"Section 1. (a) The board of county commissioners of any county may adopt a resolution establishing the office of county administrator.

(b) Upon presentation of a petition requesting the establishment of the office of county administrator signed by at least 5% of the qualified electors of the county, the board of county commissioners shall adopt a resolution establishing such office. Such resolution shall not be effective until the question has been submitted to and approved by a majority of the voters of the county voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law.";

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Attachment 7