

STATE AFFAIRS COMMITTEE  
March 4, 1968

The meeting was called to order by the Chairman, and Senator Porter was introduced to discuss SB 517. She asked Rep. Mankin to explain the proposal. He stated that this would require that public buildings be equipped for the handicapped; that it would not affect buildings already in existence, but that KSTC at Emporia, because of so many handicapped veterans, had already been taking this into consideration, and the bill would simply require that future buildings be so constructed as to make them accessible to the handicapped. Mr. Rogers inquired about additional expense, and Mr. Hale from the Architects office stated that it would be very little additional cost to equip new buildings with wider doors and halls and an access elevator.

Blake Williamson appeared to discuss SCR 54, stating that it deals with standardizing merit systems in state employment; that at the present the agencies handle it differently with some giving within grade raises and others remaining at the same scale for long periods of time. Also, some agencies have mandatory retirement at 65, while others allow special extensions.

Mr. Carmen discussed SB 523, explaining that it deals with special assessments on improvement projects for added interest costs resulting from litigation; that it should not be used too extensively, but that it is a real problem in these isolated cases. Mr. Mosher from the League testified that he could not think of any other way to handle it. Mr. Turner inquired how it has been handled in the past, and Mr. Mosher replied that if the city loses its case they can only assess against the districts, which is okay unless some owners have already paid. Mr. Turner then stated it would be the ones who brought the suit who would pay twice, and Mr. Mosher stated it is possible.

Mr. Lindahl discussed SB 711, stating that it is just cleaning up 177 which passed last year; that it was commonly known as the "junkyard bill"; that this will provide for licensing and penalties.

Mr. Fribley discussed SB 700, stating that it pertains to meetings of committees during the interim; providing for the odd and even numbered years; with meetings on call of the Chairman, with sub-committees meeting at the direction of the Chairman, and that it also provides for notice to members. He stated that under this bill, final action could not be taken without proper notice; that the guidelines are stricter. Mr. Turner stated that in the Judiciary Committee it had been very helpful to have studied the Juvenile Code in the interim and that when the Gault decision was handed down they were able to incorporate it into the recommendations because everyone was familiar with the matter.

The Chairman stated that SCR 48 dealt with a Legislative Council Study concerning civil service for county employees. Mr. Buchele stated that the local sheriff in Shawnee County had asked for a bill to allow this, but he wondered if it would be practical in all cases and asked that the committee consider amending the bill to include either civil service or merit systems in county government. Mr. Buchele then moved that it be amended to include merit systems. Motion was seconded by Mr. Turner and carried without dissent.

Mr. Fribley presented amendments to SB 517, and moved their adoption. Motion was seconded by Mr. Rogers and carried unanimously. Thereupon, Mr. Fribley moved that the bill, as amended be recommended favorably. Motion was seconded by Mr. Rogers and carried unanimously.

Mr. Fribley moved that SB 523 be recommended for passage. Motion was seconded by Mr. Rogers and carried 12 yes and no dissents.

Mr. Fribley moved that SB 700 be recommended for passage. Motion was seconded by Mr. Turner and carried 12 to 1.

Mr. Lindahl moved that SB 711 be recommended favorably. Motion was seconded by Mr. Turner and carried 13 yes and no dissents.

Mr. Buchele moved that SCR 48, as amended, be recommended for adoption. Motion was seconded by Mr. Turner and carried twelve to one.

Mr. Turner moved that SCR 54 be recommended for adoption. Upon second by Mr. Fribley, motion carried 11 yes and no dissents.

Mr. Fribley moved that SCR 57 be recommended for adoption. Upon second by Mr. Kessinger, motion carried 12 yes with no objection.

The Chairman called for action on SB 524. Mr. Andrews inquired if this didn't have a 2 million fiscal note. The Chairman explained that it would cost the employer more, but no more than originally intended when the program was initiated; that investments, etc. had caused the employer contribution to go down, and this would simply bring it back to its original state and give the employees a more generous retirement benefit. Mr. McGill stated it would cost his hospital \$9,000 per year. Mr. Rogers moved that the bill be favorably recommended. Upon motion's second by Mr. Turner, motion carried 11 to 2.

Mr. Buchele moved that SB 649 be recommended for passage. Motion was seconded by Mr. Rogers and carried 16 yes, no dissents.

Mr. Andrews moved that HCR 1081 be recommended for adoption. Motion was seconded by Mr. Fribley and carried with a vote of 13 yes and no dissents.

Mr. Kessinger moved that HCR 1090 be recommended favorably. Motion was seconded by Mr. Fribley and carried 8 yes to 5 no.

Mr. Doyen asked to be of record concerning SB 700. He explained that he had been in another meeting and unable to be present when the vote was taken. He stated that he hoped everyone would realize what they had done by recommending this bill favorably; that he saw no reason to have meetings during an election year because it is quite possible some members will not be returning. Mr. Turner reiterated why he thought it was good, citing again the matter of the Juvenile Code. Mr. Doyen stated that attendance would not be good during election year because they have difficulty with attendance for Legislative Council.

The meeting was adjourned.

A meeting of the State Affairs Committee was held on Wednesday, March 6, 1968, at 1:00 P.M. in Room 522.

The first order of business was the introduction of Senator Bennett who discussed S.B. 554, a bill which will expand the inter-governmental cooperation to include police protection, libraries, data processing, flood control, storm water drainage, park and recreational programs and facilities. Mr. Mosher, of the League of Kansas Municipalities, was also called upon to discuss this bill. An amendment suggested for this bill would read as follows: Section 2, page 3, line 3, by inserting after the word "board" the words "or one of the participating public agencies to be". The amendment would allow one of the controlling agencies to be the supervising agency. Mr. Andrews asked whether fire fighting would be included in this bill, and Senator Bennett said that it would be.

S.B. 44 was discussed by Senator Strahan. The bill would delete the present \$2.50 charge by motels and hotels for temporary membership in private clubs and would also take "brand and age" off the present club law.

Mr. Grauerholz of Coffeyville was called upon for his views on Senate Bill 717. This bill applies only to first class cities. Representative Woodworth asked if a city ordinance wouldn't take care of the conflict of interest instead of making a new law. Senator Sebelius was also called upon regarding this bill, and he indicated a study should be made so that one conflict of interest bill would not only include bankers, but insurance men, etc. as well.

Senator Sebelius indicated that he thought S.B. 494 was good legislation and should be considered by the Legislature. Regarding SCR 7, Senator Sebelius indicated it would be good procedure to enlarge to 6 the number of propositions to amend instead of the present 3 presently in our Constitution.

Senator Reilly discussed SB 567, which would delete the \$2.50 temporary membership charge at hotels, motels and Class B clubs.

After discussion of the above bills by the Committee, Representative Rogers made a motion that S.B. 494 be passed out with a recommendation it be passed. The motion was seconded by Representative Boyer and the motion carried unanimously.

Representative Woodworth made a motion that SB 717 be tabled, and the motion was seconded by Mr. Buchele, and the motion carried with 7 yes votes and 2 voting no.

Representative Woodworth made a motion that S.B. 554 be recommended for passage as amended. The motion was seconded by Mr. Rogers and the motion carried.

Representative McGill made a motion and Representative Woodworth seconded the motion that SCR 7 be adopted. The motion carried with 6 yes votes and 4 voting no.

A motion was made by Representative Boyer that S.B. 567 be recommended for passage and the motion was seconded by Representative Buntin. The motion carried favorably.

S.B. 44 is to be given further consideration by the Committee.

Meeting adjourned.

Guests

3/6-68

Regy Gatewood	League of Women of Kansas
GRAUERHOLZ	Coffeyville, Kansas
Carl Komsey	Kansas Co. Comm. assn.
Bennett J	
Strahan	
mie Mosler	Lobbyist - Municipalities
<del>Bill Brian</del>	
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REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your committee on State Affairs

Recommends that Senate Bill No. 44, as printed for the House

"AN ACT relating to alcoholic beverages; to regulate and license "clubs," as therein defined; to prescribe certain fees; to regulate and define the places where and when alcoholic liquor and certain other alcoholic beverages may be consumed in certain cases; to declare certain acts unlawful and to provide penalties, forfeitures and remedies for violations of the act; to provide for the revocation and suspension of license; amending K. S. A. 1965 Supp. 41-2601, 41-2602, 41-2606, 41-2610, 41-2611, 41-2614, 41-2616, 41-2618, 41-2622, 41-2632 and 41-2704 and repealing the existing sections, and also repealing K. S. A. 1965 Supp. 41-2624."

Be amended:

On page 1, line 1, by striking the figures "1965" and inserting in lieu thereof "1967," and in line 15 by striking the word "accompanied" and inserting in lieu thereof the word "invited";

On page 2, in line 7, by striking "(1)" and inserting in lieu thereof "(7)"; in line 16, by striking "three (3)" and inserting in lieu thereof "seven (7)"; in line 20, by striking the following: "maintain a liquor pool as herein defined and"; in line 21, by striking the word "guests" and inserting in lieu thereof the words "a guest"; also in lines 21 and 22 by striking the following: "file application for" and inserting in lieu thereof "be granted"; in line 23, by striking the word "they" and inserting in lieu thereof the words "such guests"; also by striking the word "a"; in line 27, by striking the word "for" and inserting in lieu thereof the word "from"; in line 29, by striking all of the line after the word "member" and by striking all of line 30 and inserting in lieu thereof the following: ". A temporary member shall show upon entering the club proof of his registration at the hotel, and shall register accompanied guests.";

On page 3, line 3, by striking "(1)"; in line 14, by striking all of the line after the word "deposited" and by striking all of lines 15 to 31, inclusive, and inserting in lieu thereof a period.

On page 4, by striking all of lines 1 to 4, inclusive; in line 18, by striking the figures "1965" and inserting in lieu thereof "1967"; on page 5 by striking all of lines 11 to 31, inclusive; and on page 6 by striking all of lines 1 to 3, inclusive; and by renumbering original sections 4 to 11 as sections 3 to 10, respectively;



Also on page 6, line 4, by striking the figures "1965" and inserting in lieu thereof "1967";

on page 7, line 12, by striking the figures "1965" and inserting in lieu thereof "1967"; and also

on page 7, by striking all of lines 30 and 31, and on page 8, by striking all of lines 1 to 10, inclusive, also on page 8, line 11, by striking "(g)" and inserting in lieu thereof "(f)"; in line 16 by striking the figures "1965" and inserting in lieu thereof "1967"; in line 23, by striking the figures "1965" and inserting in lieu thereof "1967"; and in line 26, by inserting before the word "club" the following: "class A; also in line 28, by striking the figures "1965" and inserting in lieu thereof "1967"; and in line 31 by striking the figures "1965" and inserting in lieu thereof the figures "1967";

on page 9, line 2, by inserting before the word "club" in each instance the following: "class A"; in line 5, by striking the following: "under option (1)"; in line 6, by striking all of said line before the word "shall"; in line 8, by striking "brand, age,"; in line 11, by striking the words "or joint accounts"; in line 19 by striking the words "or reserve fund"; in line 20, by striking the figures "1965" and inserting in lieu thereof "1967";

on page 10, in line 6, by inserting before the word "club" the following: "class B"; in line 9, by inserting the word "annual" before the word "occupation"; in line 18, by striking the figures "1965" and inserting in lieu thereof, the figures "1967";

on page 11, line 12, by striking the figures "1965" and inserting in lieu thereof the figures "1967";

on page 12, by inserting a new section 11 between lines 14 and 15 to read as follows:

"Sec. 11. K. S. A. 1967 Supp. 41-2705 is hereby amended to read as follows: 41-2705.

It shall be unlawful for any brewer or brewers to sell, deliver or distribute cereal malt beverages or malt products in the state of Kansas except to a licensed wholesaler of such.

No manufacturer, distributor, agent or wholesaler shall, directly or indirectly, sell, supply, furnish, give or pay for, or loan or lease, any furnishings, fixture or equipment on the premises of a place of business of a licensee authorized under this act to sell cereal malt beverages at retail, nor shall he, directly or indirectly, pay for any such license, or advance, furnish, lend or give money for payment of such license, or purchase or become the owner of any note, mortgage or other evidence of indebtedness of such licensee or any form of security therefor, nor shall such manufacturer, distributor or wholesaler, directly or indirectly, be interested in the ownership, conduct or operation of the business of any such licensee, nor shall any manufacturer, distributor or wholesaler be interested directly or indirectly or as owner or part owner of said premises or as lessee or lessor thereof, in any premises upon which cereal malt beverages are sold at retail.

"No manufacturer, distributor or wholesaler shall, directly or indirectly or through a subsidiary or affiliate, or by any officer director or firm of such manufacturer, distributor or wholesaler, furnish, give, lend or rent any interior decorations other than signs, costing in the aggregate more than one hundred dollars (\$100) in any one calendar year for use in or about or in connection with any one establishment on which products of the manufacturer, distributor or wholesaler are sold. No person, engaged in the business of manufacturing, distributing or wholesaling cereal malt beverages shall, directly or indirectly, pay for, or advance, furnish, or lend money for the payment of any license for another.

"Any licensee who shall permit or assent, or be a party in any way to any violation or infringement of the provisions of this section, shall be deemed guilty of a violation of this act, and any money loaned contrary to a provision of this act shall not be recovered back, or any note, mortgage or other evidence of indebtedness, or security, or any lease or contract obtained or made contrary to this act shall be unenforceable and void.

"No wholesaler or distributor shall sell any cereal malt beverage to any person who has not secured a license as provided for in this act.

"Sales of cereal malt beverages may be made to an agent of a private club licensed in accordance with the provisions of K. S. A. 1967 Supp. 41-2605 et seq.."

"No brewer or breweries shall directly or indirectly or through a subsidiary or affiliate, or by any officer, director or firm of such brewer or breweries, furnish, give or lend money for the payment of any license for any wholesaler in the state of Kansas, nor have or own any financial interest directly or indirectly in the ownership, conduct or operation of the business of any such wholesaler, nor shall any brewer be interested directly or indirectly or as owner or part owner of, or as lessee or lessor thereof of any premises upon which cereal malt beverages are sold at wholesale, it being the declared intention to prohibit brewers from engaging in the wholesale dispensation of cereal malt beverages or malt products in the state of Kansas: Provided, however, That nothing herein shall be construed to prohibit brewers from making sale and deliveries of cereal malt beverages or malt products to licensed wholesalers in the state of Kansas; nor to a branch, subsidiary or affiliate located in the state of Kansas; from which, on or before January 14, 1947, it had been dispensing at wholesale cereal malt beverage or malt products, and for which it holds, directly or indirectly, a license and pays a license tax as provided for in K. S. A. 21-2710. Nothing contained in this section shall make it unlawful for any person to be a member of a club licensed as such by the state director of alcoholic beverage control nor shall membership in such a club by any person constitute a disqualification of any person for any license under the act of which this section is amendatory." ;

also on page 12, in line 15, by striking the figures "1965" and inserting in lieu thereof the figures "1967"; and by striking the figures "41-2606,"; in line 16, by striking the word "and" and inserting in lieu thereof a comma; in line 17, by inserting after the figures "41-2704" the following: "and 41-2705";

In the title, line 7, by striking the figures "1965" and inserting in lieu thereof the figures "1967"; and in line 9, by striking the word "and" before the figures "41-2704" and inserting in lieu thereof a comma;

and by inserting after the figures "41-2704" the following: "and 41-2705"; in line 10, by striking the figures "1965" and inserting in lieu thereof the figures "1967";

And the bill be passed as amended.

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Chairman.

Am P3

(As Further Amended by Senate Committee of the Whole)

(As Amended by Senate Committee of the Whole)

(As Amended by Senate Committee)

Session of 1968

## SENATE BILL No. 554

By Senators Bennett and Gaar

AN ACT concerning intergovernmental cooperation; authorizing cooperation concerning ~~police protection and libraries additional matters~~ [certain governmental functions and services]; amending K. S. A. 12-2903 and 12-2904 and repealing the existing sections.

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

1 Section 1. K. S. A. 12-2903 is hereby amended to read as follows:  
2 12-2903. For the purposes of this act: (a) The term "public agency"  
3 shall mean any county, township, city, town, village, school dis-  
4 trict, *library district*, road district, drainage or levee district, sewer  
5 district, water district, fire district or other municipal corporation,  
6 quasi-municipal corporation or political subdivision of this state or  
7 of any other state and any agency or instrumentality of this state or  
8 any other state or of the United States;

9 (b) The term "state" shall mean a state of the United States and  
10 the District of Columbia;

11 (c) The term "private agency" shall mean an individual, firm,  
12 association or corporation.

13 Sec. 2. K. S. A. 12-2904 is hereby amended to read as follows:  
14 12-2904. (a) Any power or powers, privileges or authority exer-  
15 cised or capable of exercise by a public agency of this state relat-  
16 ing to public improvements, public utilities, *police protection,*  
17 *libraries, data processing services, building and related inspection*  
18 *services, flood control and storm water drainage, park and recrea-*

1 *tional programs and facilities, [ambulance service,]* or fire protec-  
2 tion, may be exercised and enjoyed jointly with any other public  
3 agency of this state or with any private agency, and jointly with any  
4 public agency of any other state or of the United States to the extent  
5 that the laws of such other state or of the United States permit  
6 such joint exercise or enjoyment. Any agency of the state govern-  
7 ment when acting jointly with any public or private agency may  
8 exercise and enjoy all of the powers, privileges and authority con-  
9 ferred by this act upon a public agency.

10 (b) Any public agency may enter into agreements with one or  
11 more public or private agencies for joint or cooperative action pur-  
12 suant to the provisions of this act. Appropriate action by ordinance,  
13 resolution or otherwise pursuant to law of the governing bodies of  
14 the participating public agencies shall be necessary before any such  
15 agreement may enter into force.

16 (c) Any such agreement shall specify the following:

17 1. Its duration.

18 2. The precise organization, composition and nature of any sepa-  
19 rate legal or administrative entity created thereby together with the  
20 powers delegated thereto, provided such entity may be legally  
21 created.

22 3. Its purpose or purposes.

23 4. The manner of financing the joint or cooperative undertaking  
24 and of establishing and maintaining a budget therefor.

25 5. The permissible method or methods to be employed in accom-  
26 plishing the partial or complete termination of the agreement and  
27 for disposing of property upon such partial or complete termination.

28 6. Any other necessary and proper matters.

29 (d) In the event that the agreement does not establish a sepa-  
30 rate legal entity to conduct the joint or cooperative undertaking,  
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*in one of the participating public agencies to be*

SB 554—Am. Further SCW

1 the agreement shall, in addition to items 1, 3, 4, 5 and 6 enumerated  
2 in subdivision (c) hereof, contain the following:

3 1. Provision for an administrator or a joint board responsible  
4 for administering the joint or cooperative undertaking. In the case  
5 of a joint board public agencies party to the agreement shall be  
6 represented.

7 2. The manner of acquiring, holding and disposing of real and  
8 personal property used in the joint or cooperative undertaking.

9 (e) No agreement made pursuant to this act shall relieve any  
10 public agency of any obligation or responsibility imposed upon it  
11 by law except that to the extent of actual and timely performance  
12 thereof by a joint board or other legal or administrative entity  
13 created by an agreement made hereunder, said performance may be  
14 offered in satisfaction of the obligation or responsibility.

15 (f) Every agreement made hereunder shall, prior to and as a  
16 condition precedent to its entry into force, be submitted to the  
17 attorney general who shall determine whether the agreement is in  
18 proper form and compatible with the laws of this state. The attor-  
19 ney general shall approve any agreement submitted to him here-  
20 under unless he shall find that it does not meet the conditions set  
21 forth herein and shall detail in writing addressed to the governing  
22 bodies of the public and private agencies concerned the specific  
23 respects in which the proposed agreement fails to meet the require-  
24 ments of law. Failure to disapprove an agreement submitted here-  
25 under within ninety (90) days of its submission shall constitute  
26 approval thereof.

27 Sec. 3. K. S. A. 12-2903 and 12-2904 are hereby repealed.

28 Sec. 4. This act shall take effect and be in force from and after  
29 its publication in the statute book.

REPORTS OF STANDING COMMITTEES

MR. SPENCER:

Your committee on State Affairs

Recommends that Senate Bill No. 554

"AN ACT

"Be Amended

In Section 2, Page 3, Line 3, by inserting after the word  
"board" the following: "or one of the participating public  
agencies to be"



*Tapscott*

(As Amended by Senate Committee of the Whole)

Session of 1968

**SENATE BILL No. 717**

By Committee on Federal and State Affairs

AN ACT relating to certain officials of cities of the first class; prohibiting pecuniary interest by such officials in certain contracts; providing penalties for violation; amending K. S. A. 13-533, and repealing the existing section.

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

1 Section 1. K. S. A. 13-533 is hereby amended to read as follows:  
2 13-533. It shall be unlawful for any elective or appointive officer  
3 or servant of the city to be a party to, or pecuniarily interested in,  
4 any contract, job or piece of work which may be let by the city, and  
5 any such contract shall be absolutely null and void; and in case any  
6 money shall have been paid out on any such contract, it shall be the  
7 duty of the city attorney to sue for and recover the amount so paid  
8 out from the parties to such contract and from the officer or servant  
9 of the city pecuniarily interested in the same. No officer or servant  
10 of the city, while holding such position, shall sell any commodity or  
11 service of any kind or character to such city. *This section shall not*  
12 *apply to any contract for the deposit of public funds in a bank or*  
13 *depository regulated by the state bank commissioner or the comp-*  
14 *troller of the currency: Provided, That any official or servant of the*  
15 *city, who is a party to or has participated in the making of such*  
16 *contract, and who has a direct or indirect pecuniary interest in the*  
17 *bank or depository where such public funds are to be deposited,*  
18 *shall have, prior to the making or approving of any contract for*  
19 *such deposit, filed his written statement with the secretary of state,*  
20 *[and with the city clerk of such city,] making a full and complete*  
21 *disclosure of his pecuniary interest therein, and, that thereafter the*

1 *contract for the deposit of said funds shall be approved by the*  
2 *unanimous vote of all members of the governing body, board or*  
3 *commission contracting for the deposit of such funds.*

4 If any officer while in office shall become pecuniarily interested,  
5 directly or indirectly, in any contract or agreement in which the city  
6 shall be interested, or in any question submitted, or proceedings  
7 upon which such officer may be called upon to vote or act officially,  
8 with intent to gain, directly or indirectly, pecuniarily, any benefit,  
9 profit, or pecuniary advantage, he shall be removed from office, and  
10 on conviction shall be deemed guilty of a misdemeanor, and be  
11 punished by a fine not exceeding five hundred dollars (\$500), or  
12 imprisonment in the county jail not exceeding one (1) year, or both  
13 such fine and imprisonment. The proceedings above provided for  
14 may be brought in the district court by the city attorney, or, if he  
15 fails to act, then the county attorney shall bring such action.

16 Sec. 2. K. S. A. 13-533 is hereby repealed.

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

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Am P 3

(As Further Amended by Senate Committee of the Whole)

(As Amended by Senate Committee of the Whole)

(As Amended by Senate Committee)

Session of 1968

## SENATE BILL No. 554

By Senators Bennett and Gaar

AN ACT concerning intergovernmental cooperation; authorizing cooperation concerning *police protection and libraries additional matters* [certain governmental functions and services]; amending K. S. A. 12-2903 and 12-2904 and repealing the existing sections.

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

1 Section 1. K. S. A. 12-2903 is hereby amended to read as follows:  
2 12-2903. For the purposes of this act: (a) The term "public agency"  
3 shall mean any county, township, city, town, village, school dis-  
4 trict, *library district*, road district, drainage or levee district, sewer  
5 district, water district, fire district or other municipal corporation,  
6 quasi-municipal corporation or political subdivision of this state or  
7 of any other state and any agency or instrumentality of this state or  
8 any other state or of the United States;

9 (b) The term "state" shall mean a state of the United States and  
10 the District of Columbia;

11 (c) The term "private agency" shall mean an individual, firm,  
12 association or corporation.

13 Sec. 2. K. S. A. 12-2904 is hereby amended to read as follows:  
14 12-2904. (a) Any power or powers, privileges or authority exer-  
15 cised or capable of exercise by a public agency of this state relat-  
16 ing to public improvements, public utilities, *police protection*,  
17 *libraries, data processing services, building and related inspection*  
18 *services, flood control and storm water drainage, park and recrea-*

1 *tional programs and facilities, [ambulance service,]* or fire protec-  
2 tion, may be exercised and enjoyed jointly with any other public  
3 agency of this state or with any private agency, and jointly with any  
4 public agency of any other state or of the United States to the extent  
5 that the laws of such other state or of the United States permit  
6 such joint exercise or enjoyment. Any agency of the state govern-  
7 ment when acting jointly with any public or private agency may  
8 exercise and enjoy all of the powers, privileges and authority con-  
9 ferred by this act upon a public agency.

10 (b) Any public agency may enter into agreements with one or  
11 more public or private agencies for joint or cooperative action pur-  
12 suant to the provisions of this act. Appropriate action by ordinance,  
13 resolution or otherwise pursuant to law of the governing bodies of  
14 the participating public agencies shall be necessary before any such  
15 agreement may enter into force.

16 (c) Any such agreement shall specify the following:

17 1. Its duration.

18 2. The precise organization, composition and nature of any sepa-  
19 rate legal or administrative entity created thereby together with the  
20 powers delegated thereto, provided such entity may be legally  
21 created.

22 3. Its purpose or purposes.

23 4. The manner of financing the joint or cooperative undertaking  
24 and of establishing and maintaining a budget therefor.

25 5. The permissible method or methods to be employed in accom-  
26 plishing the partial or complete termination of the agreement and  
27 for disposing of property upon such partial or complete termination.

28 6. Any other necessary and proper matters.

29 (d) In the event that the agreement does not establish a sepa-  
30 rate legal entity to conduct the joint or cooperative undertaking,  
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*of the participating public agencies*  
*to be*

1 the agreement shall, in addition to items 1, 3, 4, 5 and 6 enumerated  
2 in subdivision (c) hereof, contain the following:

3 1. Provision for an administrator or a joint board responsible  
4 for administering the joint or cooperative undertaking. In the case  
5 of a joint board public agencies party to the agreement shall be  
6 represented.

7 2. The manner of acquiring, holding and disposing of real and  
8 personal property used in the joint or cooperative undertaking.

9 (e) No agreement made pursuant to this act shall relieve any  
10 public agency of any obligation or responsibility imposed upon it  
11 by law except that to the extent of actual and timely performance  
12 thereof by a joint board or other legal or administrative entity  
13 created by an agreement made hereunder, said performance may be  
14 offered in satisfaction of the obligation or responsibility.

15 (f) Every agreement made hereunder shall, prior to and as a  
16 condition precedent to its entry into force, be submitted to the  
17 attorney general who shall determine whether the agreement is in  
18 proper form and compatible with the laws of this state. The attor-  
19 ney general shall approve any agreement submitted to him here-  
20 under unless he shall find that it does not meet the conditions set  
21 forth herein and shall detail in writing addressed to the governing  
22 bodies of the public and private agencies concerned the specific  
23 respects in which the proposed agreement fails to meet the require-  
24 ments of law. Failure to disapprove an agreement submitted here-  
25 under within ninety (90) days of its submission shall constitute  
26 approval thereof.

27 Sec. 3. K. S. A. 12-2903 and 12-2904 are hereby repealed.

28 Sec. 4. This act shall take effect and be in force from and after  
29 its publication in the statute book.

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*Adopted.*

(As Amended by Senate Committee)

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Session of 1968

## Senate Concurrent Resolution No. 7

By Senators Gaar, Bennett and Sebelius

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A PROPOSITION concerning amendments of the constitution of the state of Kansas and amending section 1 of article 14 of the constitution of the state of Kansas.

*Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein:*

1 Section 1. The following proposition to amend the constitution  
2 of the state of Kansas shall be submitted to the qualified electors  
3 of the state for their approval or rejection: Section 1 of article 14  
4 of the constitution of the state of Kansas is amended to read as  
5 follows:

6 "Section 1. Propositions for the amendment of this constitu-  
7 tion may be made by either branch of the legislature; and if two-  
8 thirds of all the members elected to each house shall concur  
9 therein, such proposed amendments, together with the yeas and  
10 nays, shall be entered on the journal; and the secretary of state  
11 shall cause the same to be published in at least one newspaper  
12 in each county of the state where a newspaper is published, for  
13 three months preceding the next election for representatives, at  
14 which time the same shall be submitted to the electors, for their  
15 approval or rejection; and if a majority of the electors voting on  
16 said amendments, at said election, shall adopt the amendments,  
17 the same shall become a part of the constitution. When more  
18 than one amendment shall be submitted at the same time, they  
19 shall be so submitted as to enable the electors to vote on each  
20

1 amendment separately; and not more than ~~three~~ six propositions  
2 to amend shall be submitted at the same election. *Every propo-*  
3 *sition made for the amendment of this constitution shall*  
4 *have appended thereto an explanation of the proposition*  
5 *which shall state the object, purpose or effect of the pro-*  
6 *posed amendment. The secretary of state, when he*  
7 *causes the text of the amendment to be published as here-*  
8 *inbefore provided, shall cause said explanation to be pub-*  
9 *lished therewith. Said explanation shall be printed on*  
10 *the ballot as an appendix to and with the text of the*  
11 *amendment when the amendment is submitted at the elec-*  
12 *tion to the electors for their approval or rejection. The*  
13 *legislature submitting the amendment shall have exclusive*  
14 *power to determine the sufficiency of the explanation re-*  
15 *quired to be appended to such amendment."*

16 Sec. 2. This resolution, if concurred in by two-thirds of the mem-  
17 bers elected to the senate and two-thirds of the members elected to  
18 the house of representatives, shall be entered on the journals, to-  
19 gether with the yeas and nays. The secretary of state shall cause  
20 the proposed amendment to be published and submitted to the elec-  
21 tors of the state at the general election in the year 1968 as provided  
22 by law. This resolution shall be published by the secretary of state  
23 in the session laws of 1968, and shall be given a chapter number  
24 therein.

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REPORTS OF STANDING COMMITTEES

MR. SPEAKER:  
Your committee on

State Affairs

Recommends that

SCR No. 7

"AN ACT

be adopted.



Name

Sen Sebelius

A Call from

al Graverhols  
from Coffey-  
ville

Remarks

worrying about

SB 717

3/6 - CL1-0330

Date

3-4

Time

5:00 PM

**SENATE BILL No. 717**

By Committee on Federal and State Affairs

AN ACT relating to certain officials of cities of the first class; prohibiting pecuniary interest by such officials in certain contracts; providing penalties for violation; amending K. S. A. 13-533, and repealing the existing section.

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

1 Section 1. K. S. A. 13-533 is hereby amended to read as follows:  
2 13-533. It shall be unlawful for any elective or appointive officer  
3 or servant of the city to be a party to, or pecuniarily interested in,  
4 any contract, job or piece of work which may be let by the city, and  
5 any such contract shall be absolutely null and void; and in case any  
6 money shall have been paid out on any such contract, it shall be the  
7 duty of the city attorney to sue for and recover the amount so paid  
8 out from the parties to such contract and from the officer or servant  
9 of the city pecuniarily interested in the same. No officer or servant  
10 of the city, while holding such position, shall sell any commodity or  
11 service of any kind or character to such city. *This section shall not*  
12 *apply to any contract for the deposit of public funds in a bank or*  
13 *depository regulated by the state bank commissioner or the comp-*  
14 *troller of the currency: Provided, That any official or servant of the*  
15 *city, who is a party to or has participated in the making of such*  
16 *contract, and who has a direct or indirect pecuniary interest in the*  
17 *bank or depository where such public funds are to be deposited,*  
18 *shall have, prior to the making or approving of any contract for*  
19 *such deposit, filed his written statement with the secretary of state,*  
20 *making a full and complete disclosure of his pecuniary interest*  
21 *therein, and, that thereafter the contract for the deposit of said*  
22

1 *funds shall be approved by the unanimous vote of all members of*  
2 *the governing body, board or commission contracting for the de-*  
3 *posit of such funds.*

4 If any officer while in office shall become pecuniarily interested,  
5 directly or indirectly, in any contract or agreement in which the city  
6 shall be interested, or in any question submitted, or proceedings  
7 upon which such officer may be called upon to vote or act officially,  
8 with intent to gain, directly or indirectly, pecuniarily, any benefit,  
9 profit, or pecuniary advantage, he shall be removed from office, and  
10 on conviction shall be deemed guilty of a misdemeanor, and be  
11 punished by a fine not exceeding five hundred dollars (\$500), or  
12 imprisonment in the county jail not exceeding one (1) year, or both  
13 such fine and imprisonment. The proceedings above provided for  
14 may be brought in the district court by the city attorney, or, if he  
15 fails to act, then the county attorney shall bring such action.

16 Sec. 2. K. S. A. 13-533 is hereby repealed.

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

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**ALVIN F. GRAUERHOLZ**

ATTORNEY AT LAW

COFFEYVILLE, KANSAS 67337

February 21, 1968

HOTEL DALE BUILDING  
316 CLINTON 1-0330

*Fed + State*  
*SB # 7/7*

Senator Keith G. Sebelius  
c/o Senate Chamber  
State Capitol Building  
Topeka, Kansas 66612

RE: Coffeyville State Bank

Dear Keith:

\* I enclose a photocopy of Section 13-533 of the Kansas Statutes  
\* Annotated and a photocopy of the opinion of the Attorney General dated February 19, 1968. This opinion by our Attorney General was requested by a member of the five-man Coffeyville City Commission who happens to be a stockholder and Director in Coffeyville State Bank. As attorney for and a Director of Coffeyville State Bank, I discussed this matter with Senator Jack Barr, with the Senate Committee on Banks and Banking and with yourself on February 19 and 20, 1968. The problem is that there are three categories of persons who make null and void any contract for the deposit of public funds in Coffeyville State Bank. We have four stockholders in the "elective officer" category, nine stockholders in the "appointive officer" category, and nine stockholders in the "servant of the city" category.

I have been told that there are a great many people who have a pecuniary interest in banks in Kansas who are also serving on City Commissions, City Councils, City Planning Commissions, City Recreation Commissions, City Commissions on Human Rights, City Zoning Boards, City Hospital Boards, Urban Renewal Agencies appointed by city governing bodies, etc. We have about 303 stockholders of stock issued by Coffeyville State Bank and 22 of them are holders of about 16% of the stock, in small amounts, and K.S.A. 13-533 will, in accordance with the opinion of the Attorney General, prevent us from having approximately \$300,000.00 of public funds on deposit in Coffeyville State Bank. We intend to obey the law and fully believe that if all banks are required to obey the law in this

particular regard there will be a great many resignations to be made from the above-mentioned sorts of public boards and commissions. These people are usually people of the "leadership group" in each and every Kansas community and either the banks in which they have a pecuniary interest or the cities which they have been serving free of charge will be the losers if all of them follow the law as interpreted by the Attorney General.

Therefore, I earnestly request an amendment of K.S.A. 13-533.

Let me suggest the following four possible amendments:

1. "Provided, however, this section shall not apply to any bank regulated by the State Bank Commissioner of Kansas."
2. "Provided, however, this section shall not apply to any contract approved by the State Bank Commissioner of Kansas."
3. "Provided, however, this section shall not apply to any deposit of public funds where persons having a direct or indirect pecuniary interest in the bank or depository where such public funds are to be deposited, has, prior to the making or approving of any contract for such deposit, filed his written statement with the Secretary of State of Kansas making a full and complete disclosure of his pecuniary interest therein."
4. "Provided, however, this section shall not apply to any deposit of public funds where persons having a direct or indirect pecuniary interest in the bank or depository where such public funds are to be deposited, has, prior to the making or approving of any contract for such deposit, filed his written statement with the Secretary of State of Kansas making a full and complete disclosure of his pecuniary interest therein, and, that thereafter the contract for the deposit of said funds shall be approved by the unanimous vote of all members of the board or commission which makes the deposit of such funds."

The four amendments stated above cover some suggestions which have been made to me. Also, it has been suggested that the following two possibilities would be in the public interest:

Senator Keith G. Sebelius

-3-

February 21, 1968

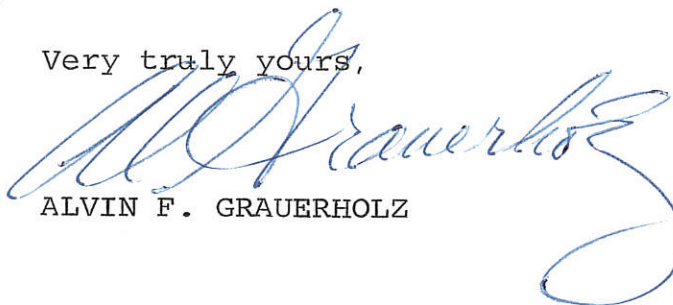
5. Section 75-4301 of the Kansas Statutes Annotated, commonly referred to as the 1967 "conflict of interest law", could be amended to include all of the valuable items of K.S.A. 13-533 and the amendment to K.S.A. 75-4301 could go further, and repeal K.S.A. 13-533.

6. K.S.A. 13-533 could be repealed by act of the Kansas Legislature so that we would only have one "conflict of interest law" to govern our actions in Kansas.

Your many courtesies to me in this and other matters are sincerely and gratefully appreciated.

With warmest personal regards, I am

Very truly yours,



ALVIN F. GRAUERHOLZ

gm

cc: Senator Jack Barr

P.S. My law office telephone number is 316 251-0330.  
My home telephone number is 316 251-6589.  
Please feel free to call me "collect" at any time.

"13-533. Officials pecuniarily interested in contracts; proceedings; penalty. It shall be unlawful for any elective or appointive officer or servant of the city to be a party to, or pecuniarily interested in, any contract, job or piece of work which may be let by the city, and any such contract shall be absolutely null and void; and in case any money shall have been paid out on any such contract, it shall be the duty of the city attorney to sue for and recover the amount so paid out from the parties to such contract and from the officer or servant of the city pecuniarily interested in the same. No officer or servant of the city, while holding such position, shall sell any commodity or service of any kind or character to such city.

"If any officer while in office shall become pecuniarily interested, directly or indirectly, in any contract or agreement in which the city shall be interested, or in any question submitted, or proceedings upon which such officer may be called upon to vote or act officially, with intent to gain, directly or indirectly, pecuniarily, any benefit, profit, or pecuniary advantage, he shall be removed from office, and on conviction shall be deemed guilty of a misdemeanor, and be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding one year, or both such fine and imprisonment. The proceedings above provided for may be brought in the District Court by the city attorney, or, if he fails to act, then the county attorney shall bring such action. (L. 1903, ch. 122, § 96; March 18; R.S. 1923, § 13-533.)"

Source or prior law: L. 1867, ch. 70, § 9; G.S. 1868, ch. 18, § 114; L. 1881, ch. 37, § 99.

Revisor's Note: Application to commission government, see 13-2904.

ROBERT C. LONDERHOLM  
ATTORNEY GENERAL

ASSISTANT ATTORNEYS GENERAL

LAND AND MUNICIPAL LAW DIVISION

RICHARD FOTH, CHIEF

G. R. BYTES, JR.

SHERMAN A. PARKS

RICHARD E. GRANDALE

CRIMINAL LAW AND LITIGATION DIVISION

RICHARD M. SEATON, CHIEF

DANIEL G. METZ

DEAN BURNHEAD

JON K. SARGENT



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

TOPEKA, KANSAS 66612

ROBERT E. HOFFMAN  
DEPARTMENT OF ADMINISTRATION

JOHN H. MORSE  
STATE HIGHWAY COMMISSION

EDWARD G. COLLISTER, JR.  
ALCOHOLIC BEVERAGE CONTROL  
ASSISTANT ATTORNEYS GENERAL

February 19, 1968

Mr. Joe L. Levy  
City Building  
Coffeyville, Kansas

Dear Mr. Levy:

You have asked us whether a member of the City Commission who is a stockholder and director of a local bank would have a conflict of interest if the commission entered into a contract to use the bank as one of its official depositories.

Your attention is directed to the provisions of K.S.A. 13-533 which states in part:

"It shall be unlawful for any elective or appointive officer or servant of the city to be a party to, or pecuniarily interest in, any contract, job or piece of work which may be let by the city, and any such contract shall be absolutely null and void: . . . ."

The above statute further provides that if any officer while in office shall become pecuniarily interested, directly or indirectly, he shall be removed from office, and on conviction shall be deemed guilty of a misdemeanor. We note that this statute is all inclusive in that it applies to any elective or appointive officer or servant of the city.

It is well settled that no evidence of fraud or bad faith on the part of the officer is required; the statute is one of prevention rather than one of correction. Such a con-

tract is invalid even though the interested officer did not vote to authorize the contract, did not influence the vote, and the contract is otherwise fair and free from fraud.

It is our opinion that your city commission may not contract with a bank in which a member of the commission is a stockholder and director.

Very truly yours,

ROBERT C. LONDERHOLM  
Attorney General

SAP:la

cc: Mr. Alvin F. Grauerholz  
Hotel Dale Building



ALVIN F. GRAUERHOLZ  
ATTORNEY AT LAW  
COFFEYVILLE, KANSAS 67337

*Fed + State*

February 21, 1968

HOTEL DALE BUILDING  
316 CLINTON 1.0330

Senator Keith G. Sebelius  
c/o Senate Chamber  
State Capitol Building  
Topeka, Kansas 66612

RE: Coffeyville State Bank

Dear Keith:

\* I enclose a photocopy of Section 13-533 of the Kansas Statutes  
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particular regard there will be a great many resignations to be made from the above-mentioned sorts of public boards and commissions. These people are usually people of the "leadership group" in each and every Kansas community and either the banks in which they have a pecuniary interest or the cities which they have been serving free of charge will be the losers if all of them follow the law as interpreted by the Attorney General.

Therefore, I earnestly request an amendment of K.S.A. 13-533.

Let me suggest the following four possible amendments:

1. "Provided, however, this section shall not apply to any bank regulated by the State Bank Commissioner of Kansas."

2. "Provided, however, this section shall not apply to any contract approved by the State Bank Commissioner of Kansas."

3. "Provided, however, this section shall not apply to any deposit of public funds where persons having a direct or indirect pecuniary interest in the bank or depository where such public funds are to be deposited, has, prior to the making or approving of any contract for such deposit, filed his written statement with the Secretary of State of Kansas making a full and complete disclosure of his pecuniary interest therein."

4. "Provided, however, this section shall not apply to any deposit of public funds where persons having a direct or indirect pecuniary interest in the bank or depository where such public funds are to be deposited, has, prior to the making or approving of any contract for such deposit, filed his written statement with the Secretary of State of Kansas making a full and complete disclosure of his pecuniary interest therein, and, that thereafter the contract for the deposit of said funds shall be approved by the unanimous vote of all members of the board or commission which makes the deposit of such funds."

The four amendments stated above cover some suggestions which have been made to me. Also, it has been suggested that the following two possibilities would be in the public interest:

Senator Keith G. Sebelius

-3-

February 21, 1968

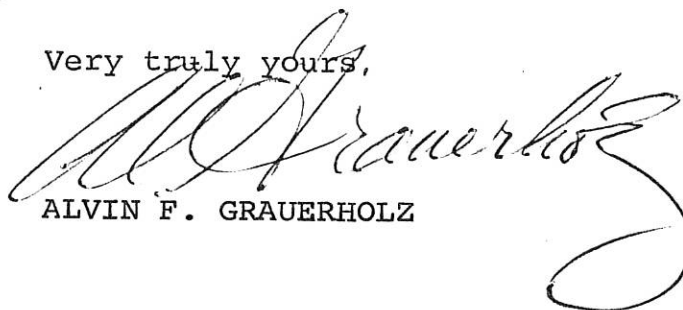
5. Section 75-4301 of the Kansas Statutes Annotated, commonly referred to as the 1967 "conflict of interest law", could be amended to include all of the valuable items of K.S.A. 13-533 and the amendment to K.S.A. 75-4301 could go further, and repeal K.S.A. 13-533.

6. K.S.A. 13-533 could be repealed by act of the Kansas Legislature so that we would only have one "conflict of interest law" to govern our actions in Kansas.

Your many courtesies to me in this and other matters are sincerely and gratefully appreciated.

With warmest personal regards, I am

Very truly yours,



ALVIN F. GRAUERHOLZ

gm

cc: Senator Jack Barr

P.S. My law office telephone number is 316 251-0330.  
My home telephone number is 316 251-6589.  
Please feel free to call me "collect" at any time.

ROBERT C. LONDERHOLM  
ATTORNEY GENERAL



ROBERT R. HOFFMAN  
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STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL  
TOPEKA, KANSAS 66612

CRIMINAL LAW AND LITIGATION DIVISION  
RICHARD M. SEATON, CHIEF  
DANIEL D. WITZ  
DEAN DURMEZAR  
JOHN K. SARGENT

February 19, 1968

Mr. Joe L. Levy  
City Building  
Coffeyville, Kansas

Dear Mr. Levy:

You have asked us whether a member of the City Commission who is a stockholder and director of a local bank would have a conflict of interest if the commission entered into a contract to use the bank as one of its official depositories.

Your attention is directed to the provisions of K.S.A. 19-533 which states in part:

"It shall be unlawful for any elective or appointive officer or servant of the city to be a party to, or pecuniarily interest in, any contract, job or piece of work which may be let by the city, and any such contract shall be absolutely null and void: . . . ."

The above statute further provides that if any officer while in office shall become pecuniarily interested, directly or indirectly, he shall be removed from office, and on conviction shall be deemed guilty of a misdemeanor. We note that this statute is all inclusive in that it applies to any elective or appointive officer or servant of the city.

It is well settled that no evidence of fraud or bad faith on the part of the officer is required; the statute is one of prevention rather than one of correction. Such a con-

tract is invalid even though the interested officer did not vote to authorize the contract, did not influence the vote, and the contract is otherwise fair and free from fraud.

It is our opinion that your city commission may not contract with a bank in which a member of the commission is a stockholder and director.

Very truly yours,

ROBERT C. LONDERHOLM  
Attorney General

SAP:la

cc: Mr. Alvin F. Grauerholz

*Conrad*

Session of 1968

**SENATE BILL No. 567**

By Senators Reilly and Gaar

AN ACT relating to the licensing and regulation of clubs; amending K. S. A. 1967 Supp. 41-2601, and repealing the existing section.

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

Section 1. K. S. A. 1967 Supp. 41-2601 is hereby amended to read as follows: 41-2601. As used in ~~sections 1 to 31~~ K. S. A. 1967 Supp. 41-2601 to 41-2634, both sections inclusive, ~~of this act:~~

(a) Each of the following words and phrases shall have the meaning respectively ascribed to it by K. S. A. 41-102: (1) "Alcoholic liquor"; (2) "board"; (3) "director"; (4) "original package"; (5) "person"; (6) "sale"; and (7) "to sell."

(b) (1) "Club" shall be an organization licensed hereunder to which the club members shall be permitted to resort for the purpose of consuming alcoholic liquor.

(2) A class A club shall be a premises owned or leased and operated by a corporation, partnership, business trust or association, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), their families and invited and accompanied guests, and which is not operated for a profit other than such as would accrue to the entire membership. A corporation, partnership, business, trust, or association not operated for a profit, for the purposes of the definition of a class A club shall only include such a corporation, partnership, business trust, or association which has been exempted from the payment of federal income taxes as provided by section 501 (c), (7) and (8), internal revenue code of 1954.

1 (3) A class B club shall consist of a premises operated for profit  
2 by a corporation, partnership or individual, known as the manage-  
3 ment, to which premises the management allows persons, known as  
4 members, to resort for the consumption of food and/or alcoholic  
5 beverages and for entertainment. As a prerequisite for attaining  
6 membership the management must screen the applicants for good  
7 moral character. No membership may be granted within thirty (30)  
8 days of the application therefor. Each membership must be renew-  
9 able annually upon payment of the annual dues of at least ten dol-  
10 lars (\$10): *Provided, however,* Any class B club located on the  
11 premises of a hotel as defined in K. S. A. 36-101 may establish rules  
12 whereby guests registered at said hotel, who are not residents of  
13 the county in which said club is located, may file application for  
14 temporary membership in said club, ~~together with an applica-~~  
15 ~~tion fee of not less than two dollars fifty cents (\$2.50)~~ for  
16 each registration, which membership, if granted, shall only be valid  
17 for the period of time that they are a bona fide registered guest at  
18 said hotel. Said temporary membership shall not be subject to the  
19 waiting period or dues requirement contained in this section. Said  
20 temporary member shall be served alcoholic liquor only from an  
21 original package purchased by him from a Kansas licensed retailer  
22 which original package is clearly marked with the name of the  
23 temporary member.

24 (c) The word "minor" shall mean any person, male or female,  
25 under twenty-one (21) years of age, regardless of marital status.

26 (d) "Liquor pool" is any arrangement whereby a club or any  
27 designated agent thereof shall purchase a quantity of alcoholic  
28 liquor for the use or consumption of any member of the club for  
29 which the purchaser is reimbursed before the purchase: *Provided,*  
30 The purchaser shall receive for making the purchase no service  
31

1 charge or reimbursement which is in excess of the amount paid  
2 for said quantity of alcoholic liquor: *Provided further*, If a club  
3 shall accept funds for its liquor pool and credit members accounts  
4 therewith but not maintain the full quantity of alcoholic liquor on  
5 the premises, said club shall maintain a trust account separate from  
6 all other club funds into which the unexpended liquor pool moneys  
7 shall be deposited.

8 (e) "Beneficial interest" shall not include any interest a person  
9 may have as owner, operator, lessee or franchise holder of a li-  
10 censed hotel or motel on which the club premises are located.

11 Sec. 2. K. S. A. 1967 Supp. 41-2601 is hereby repealed.

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

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REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your committee on *State Affairs*

Recommends that *Senate Bill 567*

"AN ACT

be passed.



Passed

(As Amended by the Senate on Third Reading)

(As Amended by Senate Committee)

Session of 1968

SENATE BILL No. 494

By Committee on Federal and State Affairs

AN ACT providing for the maintenance of sanitary conditions in areas surrounding certain impoundments of water; amending K. S. A. 1967 Supp. 65-185, 65-187, 65-188 and 65-189 and repealing the existing sections, and also repealing K. S. A. 1967 Supp. 65-186.

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

1 Section 1. K. S. A. 1967 Supp. 65-185 is hereby amended to read  
2 as follows: 65-185. For the purpose of this act unless the context  
3 otherwise requires:

4 (a) The term "sanitation zone" means the *land within an area*  
5 *designated and described by regulation of the state board of health*  
6 *under the provisions of this act, no portion of which is located*  
7 ~~within~~ *more than three (3) miles of* from the water line of the  
8 conservation pool of any *existing or proposed* state or federal res-  
9 ervoir having a surface area of its conservation pool of more than  
10 one hundred (100) acres, but not including any area within any  
11 incorporated city.

12 (b) The term "federal reservoir" means any reservoir con-  
13 structed and operated by any agency of the federal government.

14 (c) The term "state reservoir" means any reservoir, lake or water  
15 impoundment operated by any agency of the state of Kansas.

16 (d) The word "department" means the state department of  
17 health.

18 (e) The term "agricultural use" means use for growing crops or  
19  
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1 pasture and functions related thereto, but not including drylot  
2 feeding of livestock other than for incidental use by a resident on  
3 the land.

4 *(f) The term "reservoir officer" means the county engi-*  
5 *neer, or such other officer as may be designated by resolu-*  
6 *tion of the board of county commissioners for the purpose*  
7 *of administering the provisions of this act.*

8 *(f) The term "reservoir sanitation officer" means the county en-*  
9 *gineer or other officer designated by a majority of the county com-*  
10 *missioners in counties with territory in such sanitation zone [sub-*  
11 *ject to the approval of the state board of health]. In any event the*  
12 *board of county commissioners shall fund the budget of the reser-*  
13 *voir sanitation officer in accordance with the counties' area con-*  
14 *tained in the sanitation zone.*

15 Sec. 2. K. S. A. 1967 Supp. 65-187 is hereby amended to read as  
16 follows: 65-187. The following powers and duties are hereby  
17 conferred and imposed upon the department and state board of  
18 health:

19 (a) The state board of health is authorized to adopt rules and  
20 regulations for the implementation of this act, and the de-  
21 partment is authorized to enforce this act and such rules  
22 and regulations by any necessary and proper methods and  
23 actions.

24 (b) The department is authorized to issue sanitation  
25 permits for any building or construction which is not in  
26 violation of this act or the rules and regulations adopted  
27 hereunder. No fee shall be charged for such permit.

28 (c) The department is also authorized to designate,  
29 under such conditions as it may require, agents who are  
30 authorized to process, consider and issue sanitary permits  
31 in any place in the state. Such agents may be local city

1 or county health officers or departments or any other pub-  
2 lie or private officer, commission or board.

3 (d) The department shall maintain appropriate mea-  
4 sures and procedures to assure to the public the prompt  
5 and adequate processing of all applications for sanitary  
6 permits required under the provisions of this act designating  
7 and establishing "sanitation zones" for the purposes of this act.

8 (b) The state board of health is hereby authorized to adopt rules  
9 and regulations fixing minimum standards for the control of sanita-  
10 tion in water supply, sewage disposal and refuse disposal upon  
11 property located within sanitation zones established under the  
12 provisions of this act. Such regulations shall fix a scale of reason-  
13 able fees to be paid to the county by the applicant for approval of  
14 sanitation plans.

15 (c) The state board of health shall adopt rules and regulations  
16 establishing procedures for the hearing of appeals by landowners  
17 from decisions of reservoir [sanitation] officers denying approval of  
18 sanitation plans.

19 (d) The department shall examine and approve the maps, plans  
20 and specifications of all water supply and sewage disposal systems  
21 required to be submitted to the department under the provision of  
22 this act.

23 *New Sec. 3.* Whenever regulations establishing sanitation zones  
24 and providing for the control of sanitation therein shall have been  
25 adopted under the provisions of this act, the owner or owners of  
26 any land located within such zone, proposing to (a) build or con-  
27 struct any building, structure or facility for any purpose upon any  
28 lot or tract of land of five (5) acres or less, or for any purpose  
29 other than a single family residence or dwelling upon any lot or  
30 tract of land of more than five (5) acres, or (b) subdividing the  
31 same into tracts or lots any one or all of which are of five (5) acres

1 or less, shall submit a sanitation plan for such land to the reservoir  
2 [sanitation] officer of the county in which the land is located. If such  
3 plan provides for any water supply or sewage disposal system serv-  
4 ing two (2) or more lots or tracts of land of five (5) acres or less or  
5 serving any lot or tract of more than five (5) acres used for any  
6 purpose other than a single family residence or dwelling, maps,  
7 plans and specifications of such proposed system or systems shall  
8 be submitted to and be approved by the department and the res-  
9 ervoir [sanitation] officer shall not approve any sanitation plan with-  
10 out the plans and specifications of any such water supply or sew-  
11 age disposal systems having first been approved by the department.

12 The reservoir [sanitation] officer shall determine if plans submitted  
13 comply with the standards established by the rules and regulations  
14 of the state board of health. If the reservoir [sanitation] officer shall  
15 find that any sanitation plan does not meet the standards estab-  
16 lished by the state board of health, he shall within thirty (30) days  
17 of the date of receipt of such plan, notify the owner or owners of  
18 such fact. If the plan does not meet the standards established by  
19 the state board of health and the plans and specifications of pro-  
20 posed water supply or sewage disposal systems have been approved  
21 by the department, such fact shall be endorsed.

22 Appeals to the state board of health may be taken by the owner  
23 of land from the decision of the reservoir [sanitation] officer denying  
24 the approval of any sanitation plan submitted by him within twenty  
25 (20) days of the date of receipt of the notice of such denial.

26 *New Sec. 4.* No building structure or facility shall be built or  
27 constructed for any purpose upon any lot or tract of land of five (5)  
28 acres or less, or for any purpose other than a single family resi-  
29 dence or dwelling upon any lot or tract of land of more than five  
30 (5) acres, located within any sanitation zone and no tract or lot of  
31 five (5) acres or less located within any sanitation zone shall be

1 sold or conveyed without a sanitation plan therefor having first  
2 been approved and all water and sewage systems and facilities  
3 provided in such plan having been completed and approved by  
4 the reservoir [*sanitation*] officer as being in accordance with the ap-  
5 proved plan: *Provided*, That in lieu of completing such work or  
6 installation prior to the construction of any building or structure or  
7 the sale or conveyance of any tract or lot, the reservoir [*sanitation*]  
8 officer may accept on behalf of the county, a corporate surety bond,  
9 cashier's check, escrow account or other like security in an amount  
10 to be approved by the board of county commissioners conditioned  
11 upon the actual construction of such systems or facilities within a  
12 specified period in accordance with the approved plan. The board  
13 of county commissioners are hereby empowered to enforce such  
14 bond by all legal and equitable remedies.

15 Sec. 5. K. S. A. 1967 Supp. 65-188 is hereby amended to read as  
16 follows: 65-188. The county attorney of every county ~~and the~~  
17 ~~city attorney of every city~~ is hereby authorized and directed  
18 to file appropriate actions for the enforcement of this act upon the  
19 request of the department or ~~agent thereof~~ the reservoir [*sanita-*  
20 *tion*] ~~officer of the county~~. Actions of injunction, mandamus or quo  
21 warranto are appropriate to enforce the provisions of this act. In  
22 any proper case hereunder a district court may issue its order grant-  
23 ing relief in the nature of affirmative orders as well as negative  
24 orders.

25 Sec. 6. K. S. A. 1967 Supp. 65-189 is hereby amended to read as  
26 follows: 65-189. The provisions of this act shall not apply to land  
27 devoted exclusively to agricultural use [~~or the feeding of livestock~~  
28 ~~but not including dry-lot feeding~~], or under the control of the  
29 state park and resources authority or under the control of the state  
30 forestry, fish and game commission. Also, notwithstanding the  
31 provisions of this act, the department and state board of health

1 shall adopt rules and regulations which shall, consistent with the  
2 purposes of this act, make provision for exceptions to be made in  
3 the ~~granting of sanitation permits in~~ platted areas approved  
4 by the board of county commissioners, and filed prior to August 1,  
5 1965. Such exceptions shall provide for ~~relaxing or dis-~~  
6 ~~regarding minimum standards contained in adopted rules~~  
7 ~~and regulations~~, where it is shown that an undue hardship would  
8 otherwise result and where it is found that the granting of such  
9 exceptions would not be unduly harmful to the health and welfare  
10 of the area as a whole. When a ~~sanitation permit~~ *an exception*  
11 is granted ~~pursuant to such an exception~~ *it the order granting*  
12 *the same* may contain a reasonable time limitation, may require  
13 the property owner involved to consent to and connect to a public  
14 water and sewer system when available, and may require the ini-  
15 tiation of reasonable procedures to make such public systems  
16 available *or may require the giving of a performance bond condi-*  
17 *tioned upon the making of connections to public water and sewer*  
18 *systems or the providing of alternative systems within a reasonable*  
19 *stated time.*

20 Sec. 7. K. S. A. 1967 Supp. 65-185, 65-186, 65-187, 65-188 and  
21 65-189 are hereby repealed.

22 Sec. 8. This act shall take effect and be in force from and after  
23 its publication in the statute book.

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REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

Your committee on State Affairs

Recommends that Senate Bill 494

"AN ACT

be passed.

STATE OF KANSAS · HOUSE OF REPRESENTATIVES

JESS TAYLOR

123rd District, Scott, Wichita, Kearny, Hamilton and Greeley Counties,  
Tribune, Kansas 67879

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**memorandum**

March 4, 1968

TO: State Affairs Committee

Today we will hear the following: SB 517;  
523; 700; 711 & SCR 48; 54 & 57.

We will probably vote on the above items,  
plus the following: SB 524; 649; and  
HCR 1081 and 1090.

JESS TAYLOR, Chairman

Committee dinner tonight--Hotel Jayhawk--  
6:30 P.M. Please notify Margaret right  
away so we may have a count.

*Get SB 554 in  
book*



# League of Kansas Municipalities



112 WEST SEVENTH STREET

TOPEKA, KANSAS

PHONE CENTRAL 4-3437

## Kansas Government Journal

MEMO -- SB523 -- BONDS AND SPECIAL ASSESSMENT LITIGATION

To: Jess Taylor, Chairman, Committee on State Affairs

From: E. A. Mosher, Executive Director

March 1, 1968

SB523 permits cities to issue bonds, payable by the city at large as a result of special assessment litigation, for:

(a) The unanticipated added interest cost for temporary notes caused by delay in issuing bonds to take up temporary notes (bonds not marketable when litigation pending),

and/or

(b) The difference between the original assessment and final assessment after litigation.

Option (a) above is advisable to make it clear that this is legal. The alternative financing method, when the city wins its case, is to pay the interest cost out of current revenues, which may or may not be proper. (It is not all clear under existing law)

Option (b) above is advisable when the city loses its case. Not only must the added interest cost be financed but the difference in the original and final assessments must be financed. This is usually done by reassessment of the costs, but in some instances there may be no legal method of doing this (e.g. where all others assessed have paid their original assessments prior to the assessment contest).\* In some cases, "at large" payment would be more equitable. If one property owner's assessment within a benefit district is reduced by \$1,000 by court action, should this increase the assessments benefits against the remaining property by \$1,000? And it may be too late to reassess all others in the district--some may have paid their assessment.

\*See K.S.A. 10-115



MEMO -- SB523 -- BONDS AND SPECIAL ASSESSMENT LITIGATION

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March 1, 1968

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