

M I N U T E S

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

June 14 and 15, 1976

Members Present

Senator Elwaine Pomeroy, Chairman
Representative Victor Kearns, Vice-Chairman
Senator Norman Gaar
Senator Wm. Mulich
Senator Jim Parrish
Representative Harold Beninga
Representative Larry Erne
Representative Francis Gordon
Representative Max Mize
Representative John Sutter

Staff Present

Mike Heim, Legislative Research Department
Roy Johnson, Legislative Research Department
Richard Ryan, Legislative Research Departemnt
Alan Alderson, Revisor of Statutes' Office

Others Present

Mike Hrynewich, Kansas Savings and Loan League
Gary Hunt, Representing City of Overland Park
Marilyn Bradt, League of Women Voters of Kansas, Lawrence
Mary Jo Wiersma, Kansas Farm Bureau, Manhattan
Bill Gough, Kansas Association of Commerce and Industry
Walt Plosila, Division of State Planning and Research
Fred D. Allen, Kansas Association of Counties
Ernest Mosher, League of Kansas Municipalities
George Barbee, Kansas Consulting Engineers, Topeka
Chris McKenzie, Division of State Planning and Research
R. A. Willis, Princeton, New Jersey
Deb Krajnak, Division of State Planning and Research

June 14, 1976

Morning Session

Chairman Pomeroy called the meeting to order shortly after 10:00 a.m. He announced that the Committee would have two subjects of study -- Proposal No. 37 dealing with Local Government Revenue Sources and Needs, and Proposal No. 38 - Local Planning and Zoning Laws. The subject of study for Proposal No. 37 is to analyze the revenue sources of cities and counties to determine how they currently are paying for the services they provide and to determine how many cities and counties have reached their tax limits under the tax lid law and whether they need additional revenue sources. If additional sources are needed, what method or methods of filling this need should be authorized. With Proposal No. 38, the Committee is charged to review the existing city and county planning and zoning laws to determine if revisions are necessary.

Proposal No. 37 - Local Government Revenue
Sources and Needs

Mr. Heim briefly reviewed the agenda for today's meeting and reviewed what information is contained in the Committee notebooks. Mr. Alderson then reviewed the cash basis law and the budget law with the Committee. A copy of these statutes is in the Committee notebooks. The cash basis law and the budget law became effective in 1933. The purpose of the laws was to force municipalities to become fiscally sound. Mr. Ryan pointed out that in K.S.A. 12-1662 and 12-1663 there are provisions relating to budgeting of federal money. When any city receives federal aid, such money can be expended without regard to the budget limitations. A member asked what provisions there are for transferring items from one fund in the budget to another. Mr. Ryan stated there are specific statutes, in particular in the school area, which govern how funds can be transferred.

Mr. Ryan explained the tax lid law. See the memorandum in the Committee notebooks dated June 14, 1976, and entitled "The Property Tax Lid". A copy of the statutes is also filed in the notebooks. Chairman Pomeroy questioned if the Attorney General's opinion cited in the memorandum would refer to all land. Mr. Ryan stated that it would apply only to land with new improvements. In response to a question, the staff stated that the governing body can indicate a specific amount in a proposal to exceed the aggregate levy limitation. However, the League of Kansas Municipalities recommends not including a specific dollar amount in the proposition to exceed the aggregate levy limitation. The statutes are not too clear on this point.

Mr. Johnson explained the tax levies exempt from the tax lid. See the memorandum entitled "Property Tax Levies Exempt From Tax Lid" dated May 19, 1976, filed in the Committee notebooks. He stated that the history with this type of law is that whenever things get a little tight in a certain area, the legislature provides an exemption.

A member expressed concern about the problem of leasing spaces for offices from private owners who want a lease for a period of longer than one year. It was felt this would be in violation of the cash basis law. The staff responded that the attorney general's opinion concerning such long-range commitments was that as long as everybody was aware of the restrictions of the cash basis law, there would be no problem. Mr. Alderson stated that he believed there are specific statutes which pertain to the lease of public buildings. The Chairman announced that the Committee would look into this matter further.

Mr. Ryan explained the memorandum entitled "Trend of Assessed Valuations and Prices", dated June 14, 1976. This memo is filed in the notebooks. Mr. Ryan stated that he prepared this because one of the complaints from local officials is that the tax lid law is getting a little tight for them due to inflation. Percentagewise, the annual increase in prices has been greater than the increase in total assessed valuation and in rural valuation, he noted.

Mr. Heim reviewed the general bond law. A copy of the statutes is included in the Committee notebooks. The purpose of the general bond law passed in 1923 was to provide a uniform procedure for issuing bonds for all municipalities.

The Committee reviewed the existing revenue sources for cities and counties. Mr. Johnson reviewed the memorandum entitled "City and County Tax Revenues". This memo is in the Committee notebooks. In response to a question, Mr. Johnson stated that there are a few cities, mainly in Johnson County, where intangibles taxes fund a substantial part of general operating fund budgets.

Afternoon Session

Chairman Pomeroy called the meeting to order shortly after 1:30 p.m. Mr. Johnson continued with the review on the memo entitled "City and County Tax Revenues". He began his explanation on local sales taxes. In response to a question, Mr. Johnson indicated that the intangibles tax can be voted back in if it is once voted out.

Mr. Mosher reviewed city occupation taxes, which is another existing revenue source for cities. An Urban Information Report entitled "City Occupational Taxes" will be placed in the Committee notebooks. The bulk of the statewide collection of occupational taxes comes from Mission Woods, Kansas City and Overland Park. Mr. Mosher stated that occupational taxes are not really a very productive form of revenue.

Mr. Ryan reviewed another source of revenue for counties and cities, namely interest. See the memorandum in the Committee notebooks entitled "General Investment Authority of Local Governments". Mr. Ryan stated that the Budget Committee will probably have groups from various school districts in to testify sometime around October to see how the new guidelines for investment of idle funds is working for them. This legislation goes into effect on July 1, 1976.

Mr. Heim reviewed two more sources of revenue for cities and counties -- special assessments and bonds. See the memorandum in the Committee notebooks entitled "Special Assessments - Cities and Counties" and "Bonds - Debt Financing". Mr. Mosher indicated that a great deal of the street improvements are financed by special assessments. Staff stated it might be of interest to the Committee to find out how much is financed by special assessments and whether or not Kansas cities use them more than other cities in the United States. Mr. Mosher indicated he thought Kansas cities used special assessments more frequently than cities in other states. It was suggested that city and county debt limits may be one area that the Committee may want to study, since these limitations have been in effect for a number of years, there are a number of exceptions to the limits and there is not much rationale for the current debt limits. Mr. Heim then explained the dollar volume of bond registrations for 1975, 1974 and 1973 (filed in notebooks). This indicates how much borrowing is going on by cities and counties. The table titled "Local Government Bonded Debt" was taken from the Kansas Government Journal. There has been a 19% overall increase in local government bonded indebtedness since 1973.

The next two items discussed by Mr. Heim were the Urban Information Reports filed in the notebooks which detail the refuse collection and sewer charges in various cities of the state. The purpose of this is to give the Committee an idea of the variation of these user fees. Mr. Heim then reviewed a summary of all the different ways a city can generate revenue (filed in the Committee notebooks).

Mr. Ryan reviewed a memorandum entitled "State Shared Taxes and State Aids" with the Committee. This memorandum is also filed in the Committee notebooks. He stated that every few years there is an effort to change the amount of the Local Ad Valorem Tax Reduction Fund or the formula for the distribution of same. The formula has existed for almost 30 years and the criticism is that it gives more money to some counties that need it less than others. The state shared taxes include local ad valorem taxes, cigarette tax, liquor enforcement tax, bingo enforcement tax and motor fuel taxes.

Mr. Mosher reviewed federal revenue sharing and its impact on Kansas local governments. A copy of the Urban Information Report entitled "Impact of Federal Revenue Sharing Money on Kansas Local Governments" will be placed in the Committee notebooks.

Mr. Heim reviewed the federal grants which were awarded in individual counties between April 1 and May 1 of this year. See Committee notebooks. He suggested that the Committee might want to get more information in the area of federal grants. Some of this may have an impact on local governments in years to come.

Mr. Mosher discussed how many cities are levying the maximum allowed under the tax lid. A copy of the Urban Information Report entitled "The Tax Lid Leeway of Kansas Cities - 1976" will be placed in the Committee notebooks. About two-thirds of the cities in Kansas are at their practical tax lid limit according to Mr. Mosher. In response to a question, Mr. Mosher indicated that the revenue from Kansas City's local sales tax is running about \$250,000 a month. Mr. Mosher also provided the Committee with copies of five Urban Information Reports dealing with the local option sales tax. These Reports will be placed in the Committee notebooks.

Mr. Johnson discussed a memorandum entitled "Countywide Sales Tax Election Results". See the Committee notebooks for a detail of the results. A member asked if there was any reason readily known as to why the sales tax question failed in some counties and passed in others. Mr. Mosher stated that those counties that passed the local sales tax did a good job of selling it -- in Seward County the Chamber of Commerce supported it. Mr. Mosher indicated that Coffey County is planning an election on imposing a local sales tax.

Mr. Mosher then discussed various elections which were held to expand tax authority beyond the lid. See Urban Information Report entitled "Property Tax Lid Referendums, 1970-1976" in Committee notebooks. There have been nine general property tax lid referendums -- two were approved and seven rejected. In response to a question, Mr. Mosher indicated that he believes that there haven't been more elections

because local elected officials do not like the concept of this law. They particularly do not like going to the Board of Tax Appeals, a state agency, to request a raise in local taxes for local uses.

Mr. Heim discussed hearings before the Board of Tax Appeals to exceed the maximum levy limitation without an election due to emergency need. See report entitled "1975 Emergency Financing" in Committee notebooks. Some of the emergency no-fund warrants listed are outside of the tax lid, but not all.

Chairman Pomeroy asked members of the Committee in what area they wish the staff to obtain more information. Mr. Heim suggested several policy questions that the Committee may wish to consider to help formulate a direction for the study. A copy of these questions are attached. (Attachment I). A member felt that the Committee would need to determine what services need to be provided by cities and counties that they are not presently providing because of lack of funds. Another member suggested a way of saving money would be a consolidation of law enforcement. It was discussed that initially this would cost more money, because when two departments are consolidated the highest pay scale and highest fringe benefit scale would be used. The Chairman stated these are ideas that the Committee will study further.

A member indicated that this whole problem may be too complex to handle in the amount of time allotted for the Committee. He stated it would be of interest to know what percentage of counties, as well as cities, are bumping against the tax lid and how many are suffering because they don't have enough funds to provide the necessary services. He also would like to know how the revenue sharing money is being used and what effect these funds have. Also, he indicated he would like to get some idea as to how different cities of comparable size differ in their budget, etc. He stated that it is very hard to see where the problem lies and determine why the cities are having financial problems, until we see these internal spending priorities.

The Chairman stated that one area the Committee would need to keep in mind is the effect of new legislation that was passed by the 1976 Legislature, for example, the Court Unification Act, which will have a financial impact on counties.

Chairman Pomeroy announced that the Committee would continue its discussion of these matters at the next day's meeting. The meeting adjourned at 4:15 p.m.

June 15, 1976

Morning Session

Proposal No. 38 - Planning and Zoning

Vice-Chairman Kearns called the meeting to order shortly after 9:00 a.m. Mr. Alderson proceeded to review the existing laws concerning planning and zoning (Proposal No. 38). A copy of the "Kansas Planning Laws" is filed in the Committee notebooks. Mr. Heim advised that the background for this study goes back to 1972, 1973 and 1974, when there was a Land Use Planning Committee. Senate Bill No. 58 and Senate Bill No. 59 were derived from the 1974 Committee, the purpose of which was to make city and county planning laws more uniform. There were hearings on these bills in 1975 and 1976, but no action was taken. However, there is a continued interest in trying to revise and update some of the planning procedures. Mr. Heim pointed out some areas in the statutes which are areas of confusion. One being K.S.A. 19-2916a, where it allows "other legislative and administrative agencies" which are not specified to overrule the comprehensive plan adopted by the county planning board. Another area of confusion is the term "record vote" in K.S.A. 19-2920.

Chairman Pomeroy pointed out that the flood plain regulations are now important because of federal regulations which make it mandatory to have flood insurance for any structures in a flood plain area.

Committee discussion followed Mr. Alderson's presentation of the statutes which pertain to planning and zoning laws. Chairman Pomeroy stated that a provision in Senate Bill Nos. 58 and 59 would have required a sketch to accompany the public notice of a hearing relating to a re-zoning matter. In Topeka, the Planning Commission voluntarily publishes a sketch with the notice concerning re-zoning matters.

Chairman Pomeroy asked the Committee if there were particular areas they would like the staff to look into or if there were any groups or individuals they would like to invite to testify before the Committee. He stated he was sure the League of Kansas Municipalities would like to appear and he would like to hear testimony from local planning directors to see what problems they are having with the existing law.

Representative Erne stated that to his knowledge there are no provisions in the zoning law which allows permits for certain businesses on a temporary basis. He has a problem in his district concerning a couple who wants to start a small business in their home on a temporary basis until they get established and can lease commercial space. The staff indicated that special use permits are not statutorily authorized in Kansas, but they are upheld by the Supreme Court. Chairman Pomeroy stated he is sure that the local governments would already have the authority to grant such temporary permits because there is nothing in the statutes prohibiting them from doing so. Mr. Alderson stated that a Kansas Supreme Court case has upheld special use permits. The Committee requested that the staff obtain data as to how many communities pursue planning and zoning.

Proposal No. 37 - Local Government Revenue Sources
and Needs

Senator Gaar requested that an invitation to appear before the Committee be extended to the Johnson County Council of Mayors to speak on revenue problems of member cities. Chairman Pomeroy stated that the City of Overland Park is interested in this also.

Mr. Heim informed the Committee of a trip that Mr. Alderson, Mr. Johnson and he made to Kansas State University to visit with two economists who are studying the comparative costs of services provided by local governments to try and determine if there is an economy of size - an optimum size of a governmental unit - in providing certain services. A folder containing a series of seven pamphlets dealing with the comparative costs of various services was passed out to the Committee. Additional copies are available in the Research Department. The Committee advised Mr. Heim that they would be very interested to hear what these men have to say on the subject.

Senator Parrish expressed concern about the shortage of law enforcement officers in counties that have a reservoir, for instance, Jefferson County. He stated that these counties have an insufficient number of officers available compared to the summer visitor population. He felt it might be helpful to have a law enforcement representative from one of these counties speak to the Committee about the problems that they are incurring.

Representative Mize stated that he has written a letter to all of the local governments in his districts and asked for input regarding Proposal Nos. 37 and 38. He stated he thinks he will follow it up with a second letter including some of the policy questions considered for study.

Representative Erne stated the biggest complaint he has heard concerning intangibles taxes are the way they are enforced. He suggested that the Committee study this to see if it is being enforced adequately. Senator Parrish agreed that the enforcement problem should be addressed. He stated that possibly the county should collect these taxes rather than the state. Senator Gaar felt this would create more problems than it would solve. The Chairman suggested having the secretary of the Department of Revenue appear before the Committee on intangibles taxes.

It was suggested that an invitation be extended to the Kansas City, Kansas mayor to appear and discuss revenue problems and how the newly imposed local sales tax is working and what the money is being used for.

A member asked if the Committee needed to look at the local sales tax issue on a statewide basis. Senator Parrish stated that an investigation as to why the local sales taxes are not going over in different communities might be helpful. The Chairman indicated he was disappointed that both a county-wide and city election are required to institute a local sales tax.

The Committee also requested that the staff determine which cities are in a true bind under the tax lid and have representatives from some of them appear before the Committee.

Representative Erne stated that the Committee might possibly want to look at the way the gasoline tax is distributed, because of the flat percentage that goes to the state before any of the rest of it is distributed. The staff stated that Mr. Kalb of the Department of Revenue could address that issue when he appears on the intangibles tax. In addition, it was suggested Mr. Kalb address problems that may be encountered in administering future local sales taxes which impose taxes on a different tax base than the statewide sales tax.

Mr. Heim stated that one alternative for the Committee since this is such an extensive study would be to ask permission to have the Committee's study carried over and make this a two-year study. That would give more time to obtain more data and more time to study the problems.

A member suggested studying the possibility of imposing a statewide sales tax. The Chairman indicated he would be opposed to spoonfeeding other areas that do not impose a local sales tax on themselves after his area has imposed a local sales tax. Representative Mize stated that the problem in rural areas is that they are afraid that if they impose a local sales tax, they will lose more of their business which they cannot afford, whereas in a large community they are not faced with that problem. A small community cannot very well impose a local sales tax until the larger city nearby has imposed one.

Chairman Pomeroy announced that the Committee's next meeting would be on July 12 and 13. Meeting adjourned at 12:20 p.m.

Prepared by Mike Heim

Approved by Committee on:

Date

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POLICY QUESTIONS

- 1) WHAT KIND OF FINANCIAL SHAPE ARE CITIES AND COUNTIES IN TODAY?
- 2) WHAT ARE CITIES AND COUNTIES SPENDING THEIR REVENUES ON?
- 3) ARE THEY SPENDING THEIR REVENUES WISELY? WHAT WAYS CAN COSTS BE CUT? (COOPERATION, CONSOLIDATION)
- 4) HAVE CITIES AND COUNTIES REACHED THEIR TAXING LIMITS UNDER THE LAW? ARE THESE LIMITS TOO RESTRICTIVE?
- 5) HAVE THEY REACHED THEIR BORROWING LIMITS? ARE THESE LIMITS TOO RESTRICTIVE?
- 6) WHAT ARE THE SPECIFIC PRESSURES FOR INCREASED SPENDING?
 - a) INFLATION?
 - b) UNIONIZATION?
 - c) CITIZEN DEMANDS?
 - d) OTHER GOVERNMENT MANDATES?
 - e) OTHER?
- 7) ARE CITIES AND COUNTIES FACING UP TO THEIR LONG-TERM FINANCIAL OBLIGATIONS NOW AS THEY SHOULD?
- 8) IF CITIES AND COUNTIES NEED MORE REVENUE HOW SHOULD IT BE GENERATED?