

M I N U T E S

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

August 9 and 10, 1977

Members Present

Senator Jan Meyers, Chairman
Representative Clarence Love, Vice-Chairman
Senator Frank Gaines
Senator Norman Gaar
Representative William Beezley
Representative Robert Caldwell
Representative Gerald Caywood
Representative Harold Dyck
Representative Vic Kearns
Representative Robin Leach

Staff Present

Mike Heim, Kansas Legislative Research Department
Alan Alderson, Revisor of Statutes' Office

Others Present

Mr. Dave Miller, Highland Park Cemetery Association, Kansas City
Ms. Ginger Barr, Maplewood Memorial Lawn Cemetery, Emporia
Mr. David Newcomer, IV, Johnson County Memorial Gardens Cemetery
Mr. Mike Stucky, Johnson County Memorial Gardens Cemetery
Mr. Bill Staley, Chapel Hill Memorial Garden Cemetery, Kansas City
Mr. Ernie Mosher, League of Kansas Municipalities
Mr. Fred Allen, Kansas Association of Counties
Mr. Clyde Hill, Attorney, Yates Center
Mr. Dwight Keen, Kansas Securities Commissioner
Mr. Robert Soelter, Duckwalls Stores, Inc., Abilene
Mr. Charles Bogan, Duckwalls Stores, Inc., Abilene
Mr. Gary Stotts, Kansas Budget Division
Ms. Susan Lueger, Kansas Planning and Research Division
Ms. Cynthia Heron, WIBW
Mr. Duane Pomeroy, Topeka Chamber of Commerce
Mr. Art Glassman, Topeka Cemetery Association
Mr. Robert Grant, Topeka Cemetery Association

August 9, 1977

Proposal No. 83 - Cemeteries

The Committee was called to order by Senator Jan Meyers, Chairperson, at 10:00 a.m.

Mr. Dave Miller of the Highland Park Cemetery Association of Kansas City said the state law governing private cemetery corporations was a good law if properly administered. He suggested that the law be amended to ensure that all private cemetery corporations were registering with the Secretary of State's office as required. He said his perpetual care fund was administered by the trust department of a local bank. It was noted that these funds also can be administered by the secretary-treasurer of the cemetery corporation if that person is bonded. Mr. Miller said that private cemetery corporations pay both federal and state income taxes and state personal property taxes but are exempt from real estate property taxes. A copy of Mr. Miller's statement is attached (Attachment I).

Ms. Ginger Barr of the Maplewood Memorial Lawn Cemetery of Emporia said the state law (K.S.A. 17-1312) should be changed to allow perpetual care fund audit results to be disclosed to the cemetery corporation owners. She suggested that perhaps religious and governmental-operated cemeteries should also be required to set aside moneys for permanent maintenance funds. Ms. Barr said that she was opposed to the creation of a new state board to regulate cemeteries because in other states this type of board had become a political football. She said that she was satisfied with the law's administration by the Secretary of State's office.

In response to a question, Mr. Jack Brier of the Secretary of State's office said that 100,000 letters were sent out to all corporations in Kansas informing them that if they were operating as private cemetery corporations they must register under K.S.A. 17-1312a. Only 53 corporations registered as a result of this mailing. Mr. Brier noted that corporations under the Kansas Corporation Code do not need to state the purpose for which they are incorporating and therefore the decision was made to notify all corporations of the requirements of K.S.A. 17-1312a.

Mr. David Newcomer, IV, of Johnson County Memorial Gardens Cemetery said the Kansas law was confusing in regard to situations where persons defaulted in their payments for interment rights in a burial plot of a cemetery. He noted that if the lot was resold his firm continued to deduct the 15 percent requirement for the perpetual care fund from the lot's sale price but that he was unsure this was actually what the law required. He suggested that the state require, in lieu of the perpetual care fund audit, a verified annual report to be filed under penalty of perjury with the Secretary of State showing the status of the fund.

Mr. Bill Staley of the Chapel Hill Memorial Gardens Cemetery of Kansas City said the Secretary of State was doing an excellent job administering the current law. He said that there may be a problem with getting private cemetery corporations to register but estimated that there were only about 100 of these corporations in Kansas at the present time.

Mr. Ernie Mosher of the League of Kansas Municipalities said there are about 150 city-owned cemeteries in addition to several hundred (over 500) cemetery districts which are quasi-governmental units. He said that he was not aware of any serious problems with public-owned cemeteries. Mr. Mosher said that he was opposed to any requirement that these governmental units maintain a perpetual care fund due to the added paperwork burden this would place on these units.

Mr. Fred Allen of the Kansas Association of Counties said the County Plat-form has called for a recodification of all cemetery laws for a number of years. He suggested that a long-term study of the problem was needed.

Afternoon Session

Senator Meyers, Chairperson, called the meeting to order at 1:30 p.m.

Mr. Clyde Hill, Attorney, Yates Center, suggested the cemetery provisions found in Chapter 17 of Kansas Statutes Annotated be placed in the municipal sections of the statutes. He said the definition of "lot" in K.S.A. 17-1311 is unclear and should be clarified. He suggested that the bond requirements relating to permanent maintenance funds and cemetery district board members should be clarified and that board members should be covered by a blanket bond. He suggested that perhaps counties should be given the responsibility for the care of abandoned cemeteries and tax levy authority for this purpose. He noted that townships were now required by law to maintain abandoned cemeteries but that not many townships were aware of this law (K.S.A. 80-916). Mr. Hill also said perpetual care funds possibly should all be administered by the trust department of a bank or similar financial institution. Staff was asked to prepare a memorandum listing all the recommendations in regard to cemeteries presented to the Committee. Mr. Brier suggested that the state law should provide further guidelines for the safekeeping of perpetual care funds when private cemetery corporation ownership is transferred.

Proposal No. 56 - Local Parks and Recreation

The Committee then reviewed a copy of a letter and revised bill drafts from Mr. Don Jolley of the Salina Recreation Commission, a copy of which is attached to the minutes (Attachment II). After further discussion the Committee adjourned.

August 10, 1977

Proposal No. 55 - Municipal Bonds

The Committee was called to order at 9:00 a.m. by Senator Jan Meyers, Chairperson.

Mr. Dwight Keen, Kansas Securities Commissioner, reviewed a copy of a recent Attorney General's opinion in regard to industrial revenue bond filings, a copy of which is in the Committee notebooks. In response to questions Mr. Keen said that it was too early to state whether he was comfortable with the present law but thought that some police power should be given to his office in regard to industrial revenue bond issues, i.e. similar to Regulation A of the Federal Securities Exchange Commission which requires an abbreviated registration for certain small issues of securities. He said that he had sufficient staff to perform the filing procedure required of his office by 1977 S.B. 434. He noted, however, that he was facing a severe shortage of staff in regard to the administration of other duties required of his office.

Mr. Robert Soelter of the Duckwalls Stores, Inc., of Abilene endorsed S.B. 481 (held over) which would prohibit industrial revenue bonds from being issued for retail store purposes. A copy of Mr. Soelter's statement is attached (Attachment III). Senator Gaar noted that the U.S. Treasury will not exempt the interest on industrial revenue bond issues if the firm for which the bonds were issued would have settled in the community anyway. Mr. Soelter said industrial revenue bonds should be allowed for warehouse and distribution center purposes.

Afternoon Session

The Committee was called to order at 1:30 p.m. by Senator Meyers, Chairperson. Staff then reviewed a memorandum on suggested changes to the municipal bond laws, a copy of which is in the Committee notebooks.

Senator Gaines moved that the Committee report reflect that the Committee endorses the concept of the industrial revenue bond law. Representative Dyck seconded the motion and the motion carried.

Senator Gaines moved that retail establishments be deleted from the industrial revenue bond law. Representative Kearns seconded the motion. Representative Caldwell made a substitute motion that the Committee report note that the Committee did not have sufficient information to decide on the retail store exclusion issue and that further study of this issue was needed. Representative Dyck seconded the motion and the substitute motion carried.

Representative Kearns made a motion to amend K.S.A. 9-1402 to permit advance refunded bonds to be pledged for security for public funds deposits. Senator Gaar seconded the motion and the motion carried.

Senator Gaines moved that all general obligation bond and special assessment bond statutes be amended to provide for a 30-year maturity. Senator Gaar seconded the motion. Representative Kearns offered a substitute motion to change the maturity on all bonds to 35-years. The substitute motion died for lack of a second. The vote on the original motion carried. Senator Gaar moved that all revenue bond statutes be amended to provide for a 40-year maturity. Representative Caywood seconded the motion and the motion carried.

Representative Kearns moved that the advance refunding bond law be amended to delete the \$1 million size requirement. Representative Leach seconded the motion and the motion carried. Representative Dyck moved to amend the advance refunding law to allow any revenue bond issue regardless of the effective date of 1977 S.B. 446 to be advance refunded. Representative Caywood seconded the motion and the motion carried.

Representative Leach moved that a separate bill be drafted to allow general obligation bonds of over \$100,000 (which would require a public sale) to be advance refunded. Senator Gaar seconded the motion and the motion carried. Representative Kearns made a conceptual motion to amend the bond election notice statutes to provide for three weekly publications 21 days before the bond election. Representative Caldwell seconded the motion and the motion carried.

The Committee decided to hold its September 12 and 13 meeting in Wichita to discuss proposed bond law changes related to the coal gasification issue. The Committee adjourned at 4:00 p.m.

Prepared by Mike Heim

Approved by Committee on:

9-12-77
(Date)

8-9-77
I

David Miller-Manager Highland Park Cemetery, Kansas City, Kansas

I appreciate the opportunity of appearing here today as I personally feel proper maintenance of the cemetery is a moral obligation that we in the cemetery industry willing accept.

The reason I am here is because KAS 17-1311 is a good law if properly enforced. Highland Park Cemetery has had no trouble complying with this statute.

KAS 17-1311 requires that each cemetery set aside 15% or not less than \$15.00 for each burial lot. I feel that \$15.00 is a bare minimum. Your average trust fund invested will earn between 6% and 7½%. This will allow the cemetery from 90¢ to \$1.13 for maintenance of one grave.

Progressive cemeteries are now using mausoleums and lawn crypt interment which greatly enhances the amount of funds that are placed in perpetual care.

When the responsibility of administering and enforcing this law was transferred from the State Bank examiner to the Secretary of States office, Highland Park was the first cemetery audited in 1974. It is my understanding from talking with other cemeteries across the state that only about four or five cemeteries have been audited since then.

I personally feel that there must be some changes made particularly in the requirement that cemeteries register with the Secretary of States office. It is my understanding that the Secretary of State has no power to require cemeteries to register with their office. Evidence of what can happen when cemeteries do not register may be seen by visiting our neighbor

Atch. I

to the south or two other neglected cemeteries in Wyandotte County.

The cemeteries that have not filed with the Secretary of State and do not maintain their cemeteries have no one to answer to. It appears that you are auditing the good guys and are letting the bad guys go.

Thank you very much for letting me appear, and I will be happy to answer any questions you might have.

II



SALINA RECREATION COMMISSION

CITY-COUNTY BUILDING

300 W. ASH

913 827-0621

SALINA, KANSAS 67401

DON M. JOLLEY
SUPERINTENDENT

July 25, 1977

Mike Heim
Kansas Legislative Research Department
Room #545, North
State House
Topeka, Kansas 66612

Dear Mike:

Enclosed is a copy of Article 19 with some penned revisions we would recommend. I have a few other comments on it. We would be very pleased with a revision which included the following:

1. Levy limit increase to 3 mills for recreation commissions.
2. Re-organization of the recreation commissions.
3. Ability to levy above the statutory limitation to pay for use of public facilities as called for in (d), page 4.
4. Clarification of recreation commission responsibility for conduct of programs, services and systems as provided in 12-1902.
5. Clarification of authority for recreation commissions to levy above the statutory limit for FICA, KPERS, Workmen's Compensation and Unemployment Insurance as provided in (d), page 4.
6. Authorize park-recreation mergers regardless of present organizational structure for recreation.
7. Require establishment of park-recreation advisory boards in all merged operations.
8. Establish new statutory limitations for merged departments, preferably outside the aggregate of the levying authorities.

Under these provisions, we would not press for free use of facilities, at least as a statutory requirement, nor would we press the idea of participation in special tax revenue sources.

We also would very much like to see enactment of an enabling statute for city-county parks and recreation. I have asked Butch to work with you to

Alch. II

help refine the first draft I submitted on this subject. Please let me know if there is anything further I can do.

Kind regards,



Don M. Jolley, Co-Chairman
KRPA Legislative Committee

DMJ/se

cc. Alan Alderson
Butch Felker

P.S. There is one other item we would like for the committee to consider and time has heretofore prevented us from mentioning it. We would like legislation passed establishing responsibility within some state agency to provide recreation services and information to local communities as well as statewide. This should include research, publications, long range planning, legislation, professional placement and registration, education, etc.

We would be glad to discuss this idea with you or the committee at your convenience.

12-1901. Unchanged

12-1902. Recreation commission. Any city or school district may operate such system independently, or may co-operate in its conduct in any manner mutually agreed upon, or may delegate the operation of the system to a recreation commission created by either or both of them: Provided, however, That such recreation programs and services shall not be conducted by both the city and school district each acting independently of the other. In a city or school district where a recreation commission has been established, said commission shall have exclusive authority to conduct the system, programs and services described herein. (L. 1945, ch. 108, &2; April 6.)

12-1903. Property; gifts. Any city, ^{COUNTY,} school district or commission given charge of the recreation system by this act, ^{OR OTHER STATE STATUTE} is authorized to conduct the activities of the system on any property under its custody and management, or through appropriate request, without fee or charge ^{ON} any public owned property within the taxing district served by the recreation commission or department, provided that such recreation program, activity or event shall be open to the general public without an admission charge; on any other public property and upon private property with the consent of the owners, and may receive gifts from any source whatsoever. (L. 1945, ch. 108, &3; April 6.)

12-1904. Unchanged.

12-1905. Unchanged.

12-1906. Unchanged.

12-1907. Unchanged.

12-1908. Certification of budget; tax levy; election to revoke; budget increase; procedure; tax levies; protest petitions; election. (a) Except as otherwise provided in subsection (b) of this section, when the provisions of this act shall have been adopted by an election the commission shall annually, and not later than twenty (20) days prior to the date for the publishing of the budget of such city or school

strict, certify its budget to such city or school district, which shall levy a tax sufficient to raise the amount required by such budget, but in no event more than one (1) mill or the amount set out in the petition provided for in section 12-1904 of the General Statutes of 1949, as amended: Provided, When said petition shall have been submitted to a city and school district jointly said budget shall be certified to the city or school district, whichever shall be the larger, and the tax levied by such city or school district: Provided further, That such levy shall not be deemed or considered a levy of such city or school district in determining the aggregate levy of such city or school district under any of the statutes of this state. That after three (3) years' operation the authority to levy the tax provided for in this section may be revoked by a majority of the electors voting at an election called in the same manner as the election authorizing the same. Upon such revocation all property and money belonging to such commission shall become the property of the city or school district levying the tax under this section.

(b) After any city or school district has begun to operate such a supervised recreation system, it appearing to the satisfaction of the recreation commission of a particular school district or city or of a city and school district jointly, that the budget should be increased so as to adequately meet the needs of the city or school district, such recreation commission may submit a proposed program with the budget for carrying out the same to the levying authority which may then levy a tax sufficient to raise the amount required by the expanded budget, but not to exceed two (2) mills, which levy shall be in addition to the one (1) mill authorized by section 1 of this act: Provided, Such additional two (2) mill levy shall not be deemed or considered a levy of such city or school district in determining the aggregate levy of such city or school district under any of the statutes of this state but shall be in addition to all other levies authorized by law and shall not be subject to limitations prescribed by law.

Before the tax levying authority shall make the additional levy authorized by this subsection, they shall cause the recreation commission to be reorganized as follows: There shall be nine (9) members of the recreation commission; five (5) who

be appointed, two (2) who are duly elected members of the city commission and two (2) who are duly elected members of the Board of Education. The five (5) appointed members shall be selected and appointed as described in section 12-1907 and the four (4) elected members being designated by the governing bodies of the city and school district. These elected members shall serve without pay and shall serve for a like term to which they have been elected to either the school district or city governing body. Once this reorganization is accomplished and before the additional two (2) mill levy authorized under this subsection shall be made, the tax levying authority shall adopt a resolution authorizing the making of the levy. Such resolution shall state the purpose for which the levy is made and the same shall be published once in the official city newspaper. Whereupon, the tax levy may be made without an election, unless a petition in opposition thereto is signed by not less than five percent (5%) of the qualified electors of the city or school district, who voted at the last preceding regular city election, shall be filed with the city clerk within thirty (30) days after the publication of the resolution. If a valid petition is signed, it shall be the duty of the governing body of the city or school district to submit the question of levying the tax at the next regular city or school district election or at a special election called for the purpose. When an election is held and a majority shall vote in favor of levying the tax, such tax may thereafter be levied. If the majority shall vote against the tax levy, then such levy shall not be made. (L. 1945, ch. 108, &§; L. 1963, ch. 88, &2; June 30.)

(c) Provided further that in the event a city, the entire corporate limits of which are served by a recreation commission or a county in which one or more recreation commissions are functioning under the appropriate statutes, levies a sales tax, income tax or any other special levy for the purpose of financing the ^{SERVICES} ~~general~~ fund of the political subdivision under applicable Kansas statutes, those recreation commissions shall receive a pro-rata share of such taxes annually, based upon the percentage comparison between the recreation commission ad valorem tax levy and the ad valorem tax levy of the taxing subdivision but not to exceed fifty percent (50%) of the recreation commission budget in any given budget year.

RECREATION SYSTEM UNDER THIS ACT OR OTHER STATE STATUTE
~~title 19~~ shall be authorized to certify a budget to their appropriate tax levying

authority in an amount exceeding the statutory levy limits set out herein sufficient to finance all social security, workmen's compensation, K.P.E.R.S. and unemployment insurance requirements in a given budget year. Also, such recreation commissions

DISTRICTS OR COMMISSIONS

shall be authorized to levy above their statutory limits any funds required to meet expenses incurred by the entering into of contracts or agreements with any other political subdivision for the use of facilities in which to conduct recreation programs and services.

- 12-1909. Unchanged.
- 12-1910. Unchanged.
- 12-1911. Repealed - 1974.
- 12-1912. Repeal.
- 12-1913. Unchanged.

12-1914. Same; notice; election, when; procedure; transfer of property to department; operation. (a) Whenever the governing body of any city operating a public recreation system under the provisions of this act shall deem it advisable to combine the operation and administration of its park system and its public recreation system, it shall publish a notice of its intention to combine the two systems and establish a single department. Such notice shall be published once each week for two (2) consecutive weeks in the official city newspaper and if within twenty (20) days after the last publication of said notice there shall be filed in the office of the city clerk not later than 5:00 P.M. on the last day a petition signed by qualified electors equal in number to not less than ten percent (10%) of the electors who voted at the last preceding regular election as shown by the poll books requesting an election upon such question, an election shall be called and held within ninety (90) days after the last publication of said notice or at the next regular city election if held within that time. Such election shall be called and held in the manner provided by law for bond elections. If no protest or no sufficient protest is filed or if an

tion is held and the proposition carries by a majority of those voting thereon the governing body may by ordinance provide for the combining of its park system and its public recreation system and the establishment of a combined park and recreation department. All property under the control or jurisdiction of either such systems shall upon the combination of the same be transferred to said department which shall thereafter administer the city's park and public recreation system. The governing body shall provide by ordinance for such officers and employees as may be necessary for the proper operation of said department who shall be appointed or employed in the manner provided for other officers and employees of the city. (L. 1965, ch. 121, &2; June 30.)

(b) Provided further, that whenever the governing body of a city in which a recreation system is being operated by a school district or by a school district and city acting jointly, wishes to combine the city park system with the public recreation system into a single city park and recreation department, the governing bodies of both shall, ^{IF THEY AGREE TO SUCH COMBINATION,} jointly publish a notice of intention to combine the two systems into one single city department of parks and recreation. Such notice shall be published and procedures shall be followed as described in 12-1914 (a) above.

12-1915. Same; park and recreation advisory board; membership, appointment terms.
The governing body of any city which exercises the provisions of 12-1914 (a) or the governing bodies of a city and school district which exercise the provisions of 12-1914 (b) shall, by appropriate ordinance or resolution, create a park and recreation advisory board which shall consist of seven (7) members to be appointed by the city governing body; provided however that two (2) of the seven (7) members shall be elected members of the participating school board, who shall serve terms concurrent with their elected office. Provided further that the members of the recreation commission at the time of such combination shall constitute the remainder of the park and recreation advisory board for the term for which they were appointed to the said recreation commission and upon the expiration of any term, an appointment shall be made to fill such position for a term of four (4) years.

12-1916. Same; reference of matters to board; reports and recommendations; action city governing body. The governing body of any city having a park and recreation advisory board shall refer all major proposals and propositions for the construction, reconstruction and improvement of public parks and recreational facilities including the acquisition of land for park purposes, the acquisition of major recreational equipment and facilities and the institution of new programs in the recreational system to such board. Such board shall make reports and recommendations to the governing body on all matters referred to it and such further recommendations as deemed advisable. Such reports shall be made within a time fixed by the governing body at the time the proposal or proposition is submitted to the board and no action shall be taken thereafter by the governing body upon any such proposal or proposition until the reports and recommendations thereon have been received from the board. The governing body of the city shall take action upon the reports and recommendations received from the advisory board within thirty (30) days after their receipt: Provided, That the governing body may extend the time as it shall deem necessary to give the matter further attention before action is taken. (L. 1965, ch. 121, &4; June 30.)

12-1917. Same; transfer of funds to department; use; tax levies. Upon the establishment of a combined park and recreation department, the current operating fund of or budgeted for the two (2) systems shall be transferred to the credit of the combined park and recreation department but shall be maintained in two (2) individual funds which shall be used for the purpose for which levied: Thereafter, levies made for the purpose of financing the operation of the park and recreation department shall be made annually as follows:

(a) A recreation levy in an amount not to exceed three (3) mills against all tangible property in the same taxing district which was being taxed for recreation prior to the merger of departments. All revenue from this levy shall be used to finance recreation programs, services and activities or costs directly related to the provision of the same. Said recreation levy shall be in addition to all other levies authorized or limited by law and shall not be subject to or considered a part

of the aggregate tax levy of the taxing subdivision making this levy in behalf of the
park and recreation department.

(b) A park levy in an amount not to exceed ^{FOUR (4)}~~three (3)~~ mills against all tangible property in the corporate limits of the city involved in such merger. All revenue from this levy shall be used to acquire, construct, improve and maintain park and recreation grounds and facilities. Said park levy shall be in addition to all other levies authorized or limited by law and shall not be subject to or considered a part of the aggregate tax levy of the city. Separate levies and budgets for certain park and recreation functions may be made under authority in other applicable statutes.

(c) Under the provisions of this section, the city, ^{COUNTY} and school district shall jointly plan, acquire, develop, provide and maintain facilities to serve the needs of the program, activities and services of the combined park and recreation department.

12-1918. Repeal.

NED CITY-COUNTY PARK AND RECREATION STATUTE

City-County Department; agreement; joint board established. Whenever it shall be determined that the recreation and park services, programs and facilities of any county and city or cities within that county may be best provided by the combining of all affected departments providing such services, programs and facilities into a single city-county department of parks and recreation under the administrative authority of a joint board of parks and recreation, the governing bodies of said county and city or cities shall so declare by resolution and may, by joint agreement establish such city-county board of parks and recreation with full powers and authority to provide services, programs and facilities and with such added duties and limitations as are now or may hereafter be provided by law for the creation and conduct of boards of parks and recreation to act severally in such municipalities. Upon the creation of such joint board of parks and recreation, all the jurisdiction, powers and duties now conferred by law upon any local, municipal or county park and/or recreation department or commission shall be withdrawn and conferred upon this joint board of parks and recreation.

Such joint board shall be appointed as follows:

There shall be nine (9) members of said joint board, to be selected in a manner mutually agreed upon by the governing bodies of the participating political subdivisions; provided however that there shall be at least one (1) elected official from each participating governing body. Elected officials shall serve terms concurrent with their terms to the governing body they represent. All appointed members shall serve staggered, four (4) year terms.

Budget and tax levies. Each participating political subdivision may levy taxes for park and recreation purposes provided that the amounts to be budgeted for such purposes by each contracting municipality shall be fixed by agreement after taking into consideration the population of each and any other factors which would necessarily increase or diminish the costs to be borne by it in the absence of agreement to establish such joint board of parks and recreation. In no case shall the approved budget in any given year be less than the combined mill levy total

funds budgeted for park and recreation purposes by all contracting municipalities in the budget year immediately preceding the merger.

Treasurer; election; term; bond; moneys. It shall be the duty of the joint board of parks and recreation to elect a treasurer, who shall be a member of such board, for such term as may be agreed upon under the authority of section _____ of this act. The treasurer shall hold office for the term for which he is elected and until his successor is elected and qualified, and shall give bond to be approved by the governing bodies of the contracting municipalities for the safekeeping and due disbursement of all funds that may come into his hands. All money provided for park and recreation purposes by the contracting municipalities shall, when collected, be paid over to the treasurer of said board in an amount not exceeding that budgeted by the municipalities for such purposes. The joint board of parks and recreation shall have the exclusive control over the expenditure of all moneys paid to the credit of its treasurer for park and recreation purposes, and the treasurer shall receive and pay out all the moneys under the control of said board as ordered by it.

Reports to governing bodies. The joint board of parks and recreation, during the month of January of each year, shall file with the governing body of each contracting municipality a report of its activities and a statement of all receipts and expenditures during the preceding year.

Withdrawal; notice. If the governing body of any city or county which has entered into an agreement to establish a joint board of parks and recreation shall adopt a resolution declaring its intention to withdraw from such agreement and joint board of parks and recreation, and shall give written notice thereof on or before July 15, of any fiscal year to each municipality which is a party to the agreement, such city or county may withdraw from such joint board of parks and recreation and agreement at the end of such fiscal year.

moneys. Any money remaining in the hands of the treasurer of the joint board of parks and recreation, upon its dissolution by the contracting parties, shall be repaid to the respective treasurers of the contracting municipalities in the proportion in which such municipalities contributed during the last fiscal year.

III

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

WEDNESDAY, AUGUST 10, 1977

Thank you, Senator Meyers, for allowing us to talk to you and the other members.

My name is Bob Soelter and I am the President and Chief Executive Officer of Duckwall Stores, Inc. Our Company was founded in Abilene in 1901 and that is still the location of our corporate headquarters.

We operate 42 ALCO Discount Stores and 58 Duckwall Variety Stores in the states of Kansas, Colorado, Nebraska, Iowa, Texas and New Mexico. We will soon open a store in South Dakota. Our projected volume for this year is \$137 million dollars. 63% of that volume will come from sales in the state of Kansas. Last year our tax liability to the state and to local taxing units was over \$3 million.

We are retailers. Our only business for the past 76 years has been retailing. We are here to urge your favorable consideration of Senate Bill No. 481 which would eliminate "commercial enterprises selling only at retail", from qualifying for Industrial Revenue Bonds.

We acknowledge the beneficial uses of such bonds. Our company has made use of Industrial Revenue Bonds to finance a distribution center in Abilene. The center processes, inspects and distributes merchandise to our one hundred locations. The facility employs two hundred people. It does not compete with anyone and allows us no advantages over any established business. We make payments assessed in lieu of taxes.

Atch. III

We are constantly adding to the number of stores that we are operating in the several states. We have not and will not use Industrial Revenue Bonds to finance any retail unit. We do not think we should use this method as a tool to expand our operation and that the present laws are too permissive.

There are chains which have been successful in financing their expansion with Industrial Revenue Bonds. The approach to a City Commission usually goes something like this: The developer/retailer indicates that the project will cost \$1,700,000.00. We are aware of construction and fixture costs and know that the actual cost will, in fact, be much less. The developer/retailer may agree to make payments in lieu of taxes and the governing body of the City assume that they will be adding \$1,700,000.00 to an assessed valuation. The agreement to make payments in lieu of taxes is not always part of the original proposal. The implication by the developer/retailer is that unless Industrial Revenue Bonds are issued the store will not be built and the community would lose that tax base. Generally, that is not true for if the community meets the retailers location criteria in terms of sales potential, the retailer will build the store and it will be financed in the conventional way through regular banking channels. The retailer's entry into a community is not dependent upon the issuance of the Industrial Revenue Bonds.

As a matter of philosophy we think the Industrial Revenue Bonds were created in Kansas for the purpose of financing facilities for wealth producing industries. Retail merchandisers go to communities that have already created wealth and remain there only so long as profit is realized. They need no incentive other than a wealth-producing area to justify their location in a community. The retailer will come and go and his only competitive advantage should be his individual merchandising ability.

The retail community of any Kansas town includes businesses large and small, old and new. Whatever their age and whatever their size most of them went through periods where survival was questionable. Some did not survive. Those who did know that it was a result of hard work and perserverance. One thing that they did not have was an advantage granted to them through Industrial Revenue Bonds which gave them exemption from state and local property taxes and reduced interest rates on their capital needs.

The citizens of Kansas communities and the retailers in those communities have provided their towns with schools, roads, fire and police departments, parks, playgrounds, libraries and hospitals. These facilities have been paid for out of hard earnings in the past. No advantage was given to the established retailers and should not be given to the new member of the retail community. The free enterprise system dictates that an equal opportunity should exist for all retailers without special government concession to any, where such concessions would tend to create an unequal cost advantage.

In our opinion the general thrust of the Industrial Revenue Bond Act was for industrial development, not economic improvement. We think it was intended to cover wealth-producing industries. We think that the intent of the law is presently being abused by retailers who are asking to finance their operations with Industrial Revenue Bonds. We think that the opportunity to abuse the law should be eliminated and that Senate Bill No. 481 accomplishes that objective.

We thank you for listening to our side. We think that retailers have a privilege under the current statutes that they should not have. We urge your favorable consideration of Senate Bill No. 481. We will be pleased to answer any questions that you may have.