

PRELIMINARY
MINUTES

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

September 12 and 13, 1977

Wichita Public Library

Members Present

Senator Jan Meyers, Chairperson
Representative Clarence Love, Vice-Chairperson
Senator John Chandler
Senator Norman Gaar
Senator Bill Mulich
Representative William Beezley
Representative Robert Caldwell
Representative Gerald Caywood
Representative Harold Dyck
Representative Vic Kearns
Representative Robin Leach
Representative John Myers

Staff Present

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

Others Present

Margaret Bangs, Wichita
Donna Paske, Wichita
Ruth Richards, League of Women Voters
Gary Rebenstorf, Wichita City Attorney's Office
John Dekker, Wichita City Attorney
Don Bell, Bond Counsel, City of Wichita
Representative Ardena Matlack, District No. 93
Representative Lynn Whiteside, District No. 85
Senator Billy McCray, District No. 29
Ray Reed, First Securities Company
Robin Hinton, KARD-TV
Jim Grabendike, Wichita
Dan Brooks, Wichita
Edgar Turn, Wichita
Paul, Gerling, Wichita
Don Jolley, Salina Recreation Commission

Monday, September 12, 1977

Proposal No. 55 - Municipal Bonds

Senator Jan Meyers called the meeting to order at 10:00 a.m. at the Wichita Public Library. She explained that the purpose of the meeting was to hear testimony on the advisability of making changes in the state bond laws that would facilitate construction of coal gasification facilities.

Mr. John Dekker, Wichita City Attorney, distributed copies of a revised S.B. 341 (S.B. 341 was killed in the Senate in 1977), a copy of which is attached (Attachment I.) He explained the major provisions of the bill which amends the state's revenue bond statutes as follows: Attachment I.

1. The provision for bond anticipation notes contained in the original S.B. 341 was stricken since the City of Wichita no longer believes that it needs this financing provision. Mr. Dekker said, however, that bond anticipation notes were a useful tool and the Committee should consider this concept on its own merits.
2. There is a clear statement that the Kansas Corporation Commission (KCC) would have no jurisdiction to determine whether a coal gasification project would result in duplication of existing utility services since the city would make this determination. The KCC, likewise, would have no jurisdiction over the rates, services or practices of such a facility. Mr. Dekker suggested that a provision might be included to provide for a hearing before the KCC to determine if duplication of services would result from the establishment of a coal gasification facility. He noted that he would give further consideration to this idea and would provide the Committee with appropriate language on this subject.
3. The revised bill also provides for a depreciation fund or a renewal and replacement fund. The original S.B. 341 exempted coal gasification facilities from the depreciation fund requirement.
4. The bill allows the appointment of a bond trustee. Mr. Dekker noted that in the Eastern bond market bond trustees are often used.
5. The provision in the original bill which allowed a lien or mortgage to be placed on the facilities and coal supply was deleted.
6. The bill provides that revenue bonds may be sold for 98 percent of par.
7. Provision is made for the bonds to mature not longer than 40 years; to be in either coupon or registered form and to have either a serial or term maturity.
8. The bond issue could include costs of capitalized interest for up to six months after completion of the facility.
9. The bill contains a clear statement that revenue bonds may be issued for coal gasification facilities.

There was then discussion of the protest petition provisions of the suggested bill. Mr. Dekker said the bill should be further clarified to insure that the protest provision applies to all types of utility improvements and not just coal gasification projects. The enumeration of various kinds of fuel was questioned by Senator Norman Gaar (Section 10 of the bill). Mr. Dekker suggested that the section could be amended to apply only to fossil fuels to avoid controversy over nuclear fuel.

Mr. Don Bell, Wichita bond counsel, said that the whole area of revenue bond laws needed clarification. He said that the provision which allows bonds to be sold at 98 percent of par would be more attractive to bond underwriters who could then offer the bonds for sale at face value and not at a premium. He said this would save money interest costs. Mr. Bell noted that most of the suggested changes to Kansas bond laws for the coal gasification project have been of concern to bond people for a number of years. Mr. Bell said the KCC was not geared to handle municipal utility matters and therefore should not have review authority in this area. Senate Chandler said that many people viewed the KCC as a referee for private utilities but that he viewed the KCC as an agency responsible for the protection of the consumers. Senator Gaar said that historically the KCC has been an instrument of the private utilities to keep municipal utilities from competing with them but that in recent years this situation had changed. In response to a question Mr. Dekker said that Wichita would not build a coal gasification plan unless it was convinced the facility would be environmentally safe.

Mr. Ray Reed of the First Securities Company said the whole reason for the suggested changes in the bond laws was to get the lowest possible bond interest rates for the coal gasification project. He said that if the KCC had the power of review over the proposed project that it would not be fatal but could make the project significantly more costly. Mr. Reed noted that most of the proposed changes were long overdue in Kansas.

Afternoon Session

Mr. Jim Grabendike of Wichita requested that the remarks he delivered before the Senate Local Government committee last February be distributed to the Committee. He said that he was concerned about two items in the revised S.B. 341 -- the provision for a depreciation fund and the authority of the KCC to review the project. He said that it was very important that an adequate depreciation fund was provided for and that the KCC should have final review of the need for the project, rates, etc.

Mr. Paul Gerling of Wichita questioned why the present Wichita gas utility was operating at a deficit since it had a "take or pay" policy in regard to the gas it sells. He said the proposed coal gasification project represented a sizeable risk for the city.

Mr. Dan Brooks of Wichita questioned why Wichita had avoided a referendum on the proposed coal gasification project. He said the project avoided the referendum requirement of the law because it was considered an improvement of an existing gas utility. He said that a \$700 million improvement may be an abuse of the spirit of the law. Senator Gaar said that it was common for a city to establish a utility by ordinance and later issue bonds for improvements of the utility without a referendum. He said that someone may question whether this is a good or bad law but not whether Wichita was conforming to the spirit of the law since the city had followed the letter of the law in this regard.

Mrs. Margaret Bangs of Wichita questioned the wisdom of extending the maturity of revenue bonds to 40 years. She said a coal gasification plant may not have a useful life of 40 years.

Senator Meyers said several local officials had expressed concern about the Committee's action at its last meeting extending the maturity of general obligation bonds paid by special assessments to 30 years. Senator Gaar said that citizens who will benefit from an improvement project generally initiate the proceedings and would have a voice in the length of time for the special assessments. He said that by extending the bond term to 30 years more persons with lower incomes could afford improvements paid by special assessments. Senator Chandler questioned if cities were having trouble financing projects paid by special assessments on a 20 year basis.

Mr. Alderson distributed copies of two bill drafts dealing with bond advance refunding and bond elections. (Attachments II and III.)

The Committee agreed that Mr. Alderson should work with Senator Gaar to draft a bill to simplify the statute (K.S.A. 10-126) dealing with interest coupons.

Representative Dyck made a motion that a bill be drafted to exempt all bonds issued for sewer construction from bonded debt limits. Representative Leach seconded the motion and the motion carried.

Representative Caywood moved that a bill be drafted to establish a bond custodial account in the State Treasurer's Office. Representative Dyck seconded the motion and the motion carried.

Representative Leach moved that a bill be drafted that would place any coal gasification utility constructed under the jurisdiction of the KCC. Representative Myers seconded the motion and the motion carried.

Staff was asked to provide the Committee with more information on bond anticipation notes and to explain the difference between these notes and temporary notes as well as how bond anticipation notes would be paid if revenue bonds were not issued. Staff was asked to provide the Committee with information on the difference between a bond trustee and fiscal agent. Staff was asked to determine whether the State Treasurer's Office would lose interest moneys if banks were designated as bond trustees rather than the Treasurer's Office.

Tuesday, September 13

Proposal No. 56 - Parks and Recreation

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

Mr. Don Jolley of the Salina Recreation Commission reviewed the revised suggestions of the Kansas Recreation and Park Association. Mr. Jolley also requested that a position be created in the State Park and Resources Authority to provide research and technical assistance to local park and recreation programs.

Mr. Jolley said that an Attorney General's opinion in 1975 said that recreation commissions had the authority to levy taxes outside their statutorily set limits for expenses such as workmen's compensation, social security, etc. He said that the Municipal Audit Section of the Division of Accounts and Reports, however, has said that recreation commissions do not have the above authority. Staff was asked to check on this matter.

Proposal No. 33 - Cemeteries

Mr. Mike Heim of the Legislative Research Department reviewed a memorandum dealing with suggested changes in the Kansas cemetery laws, a copy of which is attached (Attachment IV.)

Representative Kearns moved that perpetual care fund audit results be made available to the private cemetery corporation audited. Senator Mulich seconded the motion and the motion carried.

Representative Kearns moved that all county appraisers be required to file a list of all owners of cemetery lands, their addresses and a legal description of the land with the Secretary of State. Cemetery lands owned by governments, churches and family burial plots would be excluded. Senator Mulich seconded the motion and the motion carried.

Representative Love moved that cemetery corporations (as defined by K.S.A. 17-1312f) that fail to register with the Secretary of State's Office be charged with an unclassified misdemeanor and be subject to a \$100 fine. Representative Caywood seconded the motion and the motion carried.

SENATE BILL No. 341

By Committee on Local Government

2-17

0015 AN ACT relating to municipal utilities; concerning the issuance
0016 of revenue bonds for the acquisition, construction, recon-
0017 struction, alteration, repair, improvement, extension or en-
0018 largement of such utilities; authorizing certain contracts;
0019 amending K.S.A. 10-1201, 10-1202, 10-1203, 10-1204, 10-1205,
0020 10-1206, 10-1207, 10-1208 and 10-1210 and K.S.A. 1976 Supp.
0021 12-825j and repealing the existing sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 10-1201 is hereby amended to read as fol-
0024 lows: 10-1201. "Municipality" as used in this act means a mu-
0025 nicipality as defined in K.S.A. 10-101. "Utility" as used in this act
0026 means any publicly owned utility, instrumentality or facility of a
0027 revenue producing character including but not limited to plants
0028 plants, facilities and instrumentalities for the purpose of supply-
0029 ing natural or manufactured gas, water or electric light and
0030 off-street parking facilities and sewage disposal plants, facilities
0031 and interceptor sewers. "Revenue bonds" as used in this act
0032 means bonds, *or bond anticipation notes payable from bond*
0033 *proceeds*, issued by any municipality in this state to be paid
0034 exclusively from the revenue derived from the operation of a
0035 utility.

0036 Sec. 2. K.S.A. 10-1202 is hereby amended to read as follows:
0037 10-1202. (a) Any municipality authorized by the laws of the
0038 state of Kansas to issue general obligation bonds for the acquisi-
0039 tion, construction, reconstruction, alteration, repair, improve-
0040 ment, extension or enlargement of any utility is hereby em-
0041 powered to issue and sell revenue bonds in payment of the cost of
0042 such utility or improvements, to fix by ordinance or resolution
0043 such rates, fees and charges for the use thereof or services there-
from as may be reasonable and necessary and to provide the

ORIT

Atch. I

2

0045 manner of collecting and disbursing such revenues subject to the
0046 limitations hereinafter contained: ~~Provided, however, That.~~ If
0047 any city of the first class shall have issued temporary notes for
0048 waterworks improvements contemplating the issuance of general
0049 obligation bonds, said general obligation bonds having been
0050 authorized by the vote of a majority of the qualified electors of
0051 such city voting on the proposition at an election called and held
0052 for that purpose, such city may fund such temporary notes by the
0053 issuance of revenue bonds under the terms of this act without
0054 again submitting any proposition to the electors of such city: ~~And~~
0055 ~~provided further, That should.~~ If any city ~~issue has issued~~ reve-
0056 nue bonds under the terms of this act, such city may thereafter
0057 issue additional revenue bonds for improvements, enlargements,
0058 extensions or additions to any utility system and provide that, on
0059 such conditions as may be specified by the governing body of the
0060 city, such later bonds shall be on a parity as to the revenues of
0061 such utility and in all other respects with revenue bonds pre-
0062 viously issued against such utility under the terms of this act.

0063 (b) Any city is hereby empowered to issue and sell revenue
0064 bonds in payment of the cost of acquiring and constructing plants,
0065 facilities and instrumentalities for the purpose of producing
0066 manufactured gas for sale within or without the state of Kansas to
0067 any: (1) Municipal utility, (2) private utility, or (3) municipal,
0068 industrial, institutional or commercial person.

0069 Sec. 2. K.S.A. 10-1203 is hereby amended to read as follows:
0070 10-1203. No municipality, as herein defined, shall issue revenue
0071 bonds to acquire, construct, reconstruct, alter, repair, improve,
0072 extend or enlarge any plant or facilities, *except plants, facilities*
0073 *and instrumentalities for manufactured gas*, for the furnishing of
0074 any utility service where same is being furnished by a private
0075 utility, except upon approval by the corporation commission of
0076 the state of Kansas, after a finding based on substantial evidence
0077 that the acquisition, construction, reconstruction, alteration, re-
0078 pair, improvement, extension or enlargement of such plant or
0079 facilities is necessary or appropriate for the municipality and its
0080 consumers, and for the protection of investors and will not result
0081 in the duplication of existing utility services in the area served or

0082 to be served by the municipality. *Plants, facilities and instru-*
 0083 *mentalities to manufacture gas may be acquired and constructed,*
 0084 *and financed with revenue bonds and the rates, services and*
 0085 *practices of the issuing municipality relating to the manufacture*
 0086 *or transmission and sale of gas derived from such manufactured*
 0087 *gas plants, facilities and instrumentalities owned by the issuing*
 0088 *municipality shall not be subject to the jurisdiction of the cor-*
 0089 *poration commission of the state of Kansas.*

0090 Sec. 3 K.S.A. 10-1204 is hereby amended to read as follows:

0091 10-1204. Revenue derived from the operation of any utility fi-
 0092 nanced in whole or in part by revenue bonds authorized by this
 0093 act shall be paid into the treasury of the municipality or into the
 0094 treasury of its board of public utilities and kept in a separate
 0095 fund, and shall be used only for the purpose of paying the cost of
 0096 operation, maintenance, alteration, reconstruction, repair, im-
 0097 provement, extension and enlargement of such utility, providing,
 0098 ~~except in the case of manufactured gas plants, facilities and~~
 0099 ~~instrumentalities, an adequate depreciation fund,~~ ^{or principal and replacement} and paying the ^{fund}
 0100 principal of, and the interest upon, the revenue bonds and paying
 0101 the principal of, and the interest upon, any and all prior existing
 0102 revenue and general obligation bonds or other liens or indebted-
 0103 ness against any such utility or facility: ~~Provided, except~~ that all
 0104 the provisions of K.S.A. 12-825d and 13-1269 to 13-1274, inclu-
 0105 sive, shall remain in force when sufficient revenues have been set
 0106 aside for the payment of one year's principal and interest in
 0107 addition to the current year's principal and interest upon the
 0108 revenue bonds. Any surplus may be used to pay the principal of,
 0109 and interest upon, any general obligation bonds subsequently
 0110 issued.

0111 Sec. 4 K.S.A. 10-1205 is hereby amended to read as follows:

0112 10-1205. Such revenue bonds are hereby made a lien on the
 0113 revenues produced from such utility, *which may be pledged for*
 0114 *the benefit of bondholders to a trustee under a trust agreement,*
 0115 *but shall not be a general obligation of the issuing municipality*
 0116 *and shall not contain the recital set forth in K.S.A. 10-112, or any*
 0117 *amendment thereof, but shall contain recitals stating the author-*
 0118 *ity under which such bonds are issued, that they are issued in*

0119 conformity with the provisions, restrictions and limitations of
 0120 that authority, that such bonds and the interest thereon are to be
 0121 paid by the issuing municipality from the revenues derived from
 0122 the rates, fees or charges herein mentioned and not from any other
 0123 fund or source, that the same have been registered in the office of
 0124 the clerk of the issuing municipality and the state treasurer of the
 0125 state of Kansas, respectively, and that said bonds are negotiable.

~~0126 Revenue bonds issued to acquire and construct manufactured gas
 0127 plants, facilities and instrumentalities may be additionally se-
 0128 cured by a lien on the issuing municipality's interest in the coal
 0129 supply for such manufactured gas plants, facilities and instru-
 0130 mentalities. All such bonds, when registered and issued, as herein
 0131 provided, shall import absolute verity and shall be conclusive in
 0132 favor of all persons purchasing such bonds that all proceedings
 0133 and conditions precedent have been had and performed to au-
 0134 thorize the issuance thereof and such bonds shall be negotiable
 0135 and may be issued in addition to the statutory limit of bonded
 0136 indebtedness of the issuing municipality.~~

0137 Sec. ~~5~~ K.S.A. 10-1206 is hereby amended to read as follows:
 0138 10-1206. Bonds issued under this act ~~may be sold at public or~~
 0139 ~~private sale~~ and shall not be sold for less than ninety-eight percent
 0140 (98%) of the principal amount thereof and accrued interest and
 0141 shall not be offered for sale to nor purchased by the state school
 0142 fund commission.

0143 Sec. ~~6~~ K.S.A. 10-1207 is hereby amended to read as follows:
 0144 10-1207. Such revenue bonds issued under the terms of this act
 0145 shall mature serially, beginning not later than five (5) years after
 0146 the date of issuance; ~~may have serial or term maturities, except~~
 0147 ~~that~~ the date of maturity on said bonds shall not be fixed for a
 0148 longer period of time than ~~thirty (30)~~ forty (40) years after the date
 0149 of issuance; said bonds shall bear interest at a rate not to exceed
 0150 the maximum rate of interest prescribed by K.S.A. 10-1009, and
 0151 amendments thereto, payable semi-annually and the amount of
 0152 interest due each six (6) months shall be evidenced by coupons
 0153 attached to each bond issued; ~~said bonds may be in coupon or~~
 0154 registered form and interchangeable; and said bonds shall have
 0155 such other terms and provisions as the municipality may by

OMIT

OMIT

0156 resolution, ordinance or trust agreement provide.

0157 In no case where revenue bonds are issued under and by virtue
 0158 of this act shall the total amount thereof be in excess of the actual
 0159 cost of the project, plus capitalized interest for up to six (6)
 0160 months after completion of the plant, facility, and instrumentality
 0161 and reasonable reserves and issuance expenses. No municipality
 0162 shall have any right or authority to levy taxes to pay any of the
 0163 principal of or interest on any such bonds or any judgment
 0164 against the issuing municipality on account thereof and the
 0165 provisions of K.S.A. 10-113, shall not apply to any bonds issued
 0166 hereunder.

0167 Sec. 8. K.S.A. 10-1208 is hereby amended to read as follows:
 0168 10-1208. Provision shall be made by appropriate enactment by
 0169 the governing body or other proper officers having the control
 0170 and management of the utilities of such municipality for the
 0171 payment of said bonds by fixing rates, fees or charges for the use
 0172 of or services rendered by such utility, which rates, fees or
 0173 charges shall be sufficient to pay the cost of operation, improve-
 0174 ment and maintenance of the utility, and provide, ^{either} ~~except in the~~
 0175 ~~case of manufactured gas plants, facilities and instrumentalities,~~
 0176 ~~an adequate depreciation fund,~~ ^{or a renewal and replacement fund} and pay the principal of and the
 0177 interest upon said bonds when due: ~~Provided, That.~~ Rates, fees
 0178 and charges for the use of or services rendered by any interceptor
 0179 sewer utility, including the cost of construction, alteration, repair
 0180 or reconstruction of any such interceptor sewer utility, shall not
 0181 be based on strength or volume of sewage to be carried in any
 0182 interceptor sewer of such utility: ~~Provided, however, That.~~ Rates,
 0183 fees and charges for the use of or services rendered by any sewage
 0184 disposal plant utility may be based in part upon the strength or
 0185 volume of sewage contributed.

0186 The municipality shall cause annually an audit to be made by a
 0187 competent firm of independent auditors of the operation of any
 0188 utility for which revenue bonds have been issued by the munici-
 0189 pality and, if said audit shall disclose that proper provision has
 0190 not been made for all of the requirements of this section, then the
 0191 governing body or other officers having the control and manage-
 0192 ment of the utilities of such municipality shall promptly proceed

0193 to cause to be charged for the utility service rendered rates which
0194 will adequately provide for the requirements set out herein.
0195 Within thirty (30) days after the completion of said audit, a copy
0196 of same shall be filed with the clerk of the municipality and shall
0197 be open to public inspection. If the municipality does not own
0198 the waterworks system serving it and has instituted sewer service
0199 charges and rates for the use of its sanitary sewage system utility
0200 under this section, it may contract with any corporation owning
0201 the waterworks system serving such municipality for the billing
0202 and collection of sewer service charges in conjunction with the
0203 billing and collection of water charges, and such corporation
0204 shall have the power to contract for such billing and collection of
0205 sewer service charges.

0206 The terms of such contract shall be such as may be reasonable
0207 under the circumstances including the payment of reasonable
0208 compensation for the services rendered in billing and collecting
0209 such sewer service charges and may include a provision that
0210 water service to any customer using or required by law to use the
0211 sewage facilities of the municipality, except the youth center at
0212 Atchison, shall be discontinued, at the direction of the municipi-
0213 pality, in the event of such customers' failure to pay sewer service
0214 charges, and such water company shall have the power to dis-
0215 continue such water service under such circumstances. If the
0216 municipality owns and operates both the waterworks system and
0217 sanitary sewer system serving such municipality and it has insti-
0218 tuted sewer rates, fees, and charges under this section, it may
0219 combine the billing and collection of the charges for both such
0220 utility services and may discontinue the water service to any
0221 sewer user who may be delinquent in the payment of sewer
0222 services charges.

0223 Sec. 8 K.S.A. 10-1210 is hereby amended to read as follows:
0224 10-1210. The governing body, by a two-thirds vote of the
0225 members thereof, or where the utilities are under the control and
0226 management of a board of public utilities, said board by a
0227 three-fifths vote thereof, may *acquire and construct manufac-*
0228 *tured gas plants, facilities and instrumentalities or may contract*
0229 *for or make repairs, alterations, extensions, reconstruction en-*

0230 largements or improvements of any of its municipally owned
0231 utilities and issue or cause to be issued revenue bonds in payment
0232 of the cost thereof without submitting to a vote of the electors of
0233 such municipality the proposal to contract for or to make such
0234 repairs, alterations, extensions, reconstructions, enlargements or
0235 improvements and to issue such bonds in payment of the cost
0236 thereof: ~~Provided, That such repairs, alterations, extensions or~~
0237 ~~improvements will not cause duplication of existing utility ser-~~
0238 ~~vices furnished by a private utility: Provided, however, That. The~~
0239 *governing body of any such municipality shall find that such*
0240 *repairs, alterations, extensions or improvements will not cause*
0241 *duplication of existing utility service furnished by a private*
0242 *utility, except that no such finding is required where the acquisi-*
0243 *tion or construction of a manufactured gas plant, facility or*
0244 *instrumentality will provide manufactured gas within or without*
0245 *the state of Kansas to any: (1) Municipal utility, (2) private utility,*
0246 *or (3) municipal, industrial, institutional or commercial person.*
0247 The governing body or other proper officers of any such munici-
0248 pality shall, before contracting for *the acquisition and construc-*
0249 *tion of a manufactured gas plant, facility or instrumentality or the*
0250 making any such repairs, extensions, reconstructions, enlarge-
0251 ments or improvements, cause to be published in the official
0252 paper of said municipality or, if said municipality has no official
0253 paper, then some paper of general circulation in such municipal-
0254 ity a notice of its intention so to do which notice shall describe
0255 the nature of the proposed *manufactured gas plant, facility or*
0256 *instrumentality or* repair, alteration, reconstruction, enlargement
0257 or improvement, state the total amount of the cost thereof and the
0258 amount of the bonds to be issued for the payment thereof:
0259 ~~Provided, however,~~ If, within fifteen days after the publication
0260 as aforesaid of such notice, there shall be filed with the clerk of
0261 such municipality a written protest against such proposed *man-*
0262 *ufactured gas plant, facility or instrumentality or* repairs, alter-
0263 ations, extensions, reconstructions, enlargements or improve-
0264 ments and such bond issue, signed by not less than twenty
0265 percent (20%) of the qualified electors of such municipality, the
0266 governing body of such municipality shall thereupon submit

0267 such proposed project and the proposed bond issue to the electors
0268 of such municipality at a special election to be called for that
0269 purpose upon at least ten (10) days' notice, to be held not later
0270 than sixty (60) days after the filing of such protest or at a regular
0271 city election or general election which will occur not sooner than
0272 thirty (30) days nor not later than sixty (60) days after the filing of
0273 such protest. In the event that a majority of such voters voting on
0274 such proposition at such election shall vote in favor thereof, such
0275 *manufactured gas plant, facility or instrumentality or repairs,*
0276 alterations, extensions, reconstructions, enlargements or im-
0277 provements shall be made and such bonds may be issued in
0278 payment of the cost thereof.

0279 Sec. 10. K.S.A. 1976 Supp. 12-825j is hereby amended to read
0280 as follows: 12-825j. (a) Any municipality which owns or operates,
0281 or which hereafter owns or operates, a utility furnishing water,
0282 gas or electricity is hereby authorized and empowered to enter
0283 into contracts for the purchase of water, ~~gas, coal or electricity,~~
0284 ^{gas, coal or other fuel} from any person, firm, corporation or other municipality, upon
0285 such terms and conditions as may be deemed necessary and
0286 reasonable by the governing body of such municipality. Any such
0287 contract may include an agreement ^{for the purchase of to pay for}
0288 water, ~~gas, coal or electricity,~~ ^{gas, coal or other fuel} not actually received. No such
0289 contract shall be made for a period in excess of forty (40) years,
0290 but renewal options in favor of the purchasing municipality may
0291 be included therein. Nothing in this section shall be construed to
0292 authorize the levy of a tax by any municipality entering a contract
0293 as herein provided.

0294 (b) As used in this act, the term "municipality" shall mean
0295 and include any city, county or township.

0296 Sec. 11. K.S.A. 10-1201, 10-1202, 10-1203, 10-1204, 10-1205,
0297 10-1206, 10-1207, 10-1208 and 10-1210 and K.S.A. 1976 Supp.
0298 12-825j are hereby repealed.

0299 Sec. 12. This act shall take effect and be in force from and
0300 after its publication in the statute book.

II

BILL NO. _____

By Special Committee on Local Government

AN ACT relating to the refunding of bonds of certain municipal and quasi-municipal corporations; amending K.S.A. 1977 Supp. 10-110a, and repealing the existing section.

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

Section 1. K.S.A. 1977 Supp. 10-110a is hereby amended to read as follows: 10-110a. Any municipal or quasi-municipal corporation which has ~~prior--to-the-effective-date-of-this-act issued or may hereafter issue~~ revenue bonds under the laws of the state of Kansas, may issue, without an election, revenue bonds pursuant to the provisions of this act to refund any previous issue or issues or part thereof of its outstanding revenue bonds, ~~except that no previous issue or issues in an aggregate amount of less than one million dollars--(\$1,000,000)--shall be refunded~~ hereunder. The principal amount of any issue of such refunding revenue bonds shall not exceed the aggregate amount of: (a) The principal amount of the revenue bonds being refunded; (b) the amount of any interest which has accrued thereon or interest that will accrue to the date of payment of the bonds being refunded; (c) the amount of any premium required to be paid should such bonds be called for redemption and payment; (d) expenses of the municipal or quasi-municipal corporation deemed by the governing body to be necessary for the issuance of the refunding bonds; and (e) expenses incident to the payment of the bonds being refunded. Such refunding revenue bonds may be sold or exchanged for the bonds being refunded either as a whole or in installments at any time or times, either at, before, or after the maturity of the bonds being refunded. If such refunding revenue bonds are sold more than six (6) months prior to the maturity or earliest prior redemption date of the bonds being refunded, the proceeds derived

Atch. II

from such sale, together with any other moneys on hand, shall be placed in escrow under a trust agreement with a Kansas bank having full trust powers. Said proceeds and moneys shall be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America, which obligations shall mature or be subject to redemption by the holders thereof not later than the respective dates when the proceeds of said obligations together with the interest accruing thereon and any other moneys or investments held in escrow will be required for the purposes intended. Said trust agreement shall pledge or assign the moneys and investments so held in trust for the payment of the principal of the revenue bonds being refunded and may pledge or assign the moneys and investments so held in trust for the payment of the interest on the revenue bonds being refunded and any redemption premium thereon. The trust agreement may pledge or assign any of such obligations or other moneys or investments, or interest accruing thereon, so held in trust, which are in excess of the amount of such obligations and other moneys and investments so held which is equal to the amount of the principal of the bonds to be refunded which comes due on the date for which the bonds have been called for redemption or irrevocable instructions to all the bonds for redemption have been given and any redemption premium thereon, for the payment of the principal of and interest on any or all of such refunding revenue bonds and any redemption premium thereon, and shall contain provisions for protecting and enforcing the rights and remedies of the holders of such revenue bonds. No bonds shall be issued under the authority of this section to refund any refunding revenue bonds issued under this section unless at that time all previous bonds refunded under the authority of this section shall have been paid. Such refunding revenue bonds issued pursuant to this act shall not be general obligations of such municipal or quasi-municipal corporation, except as herein provided, and insofar as the same may be made applicable the issuance of such refunding revenue bonds, the

security thereof, and the rights, duties and obligations of the municipal or quasi-municipal corporation in respect thereof, shall be governed by the laws governing such matters with respect to the bonds being refunded and all other laws generally applicable to revenue bonds issued in this state by such municipal or quasi-municipal corporation.

Sec. 2. K.S.A. 1977 Supp. 10-116a is hereby repealed.

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

_____ BILL NO. _____

By Special Committee on Local Government

AN ACT relating to municipal bond elections; concerning publication of notice; amending K.S.A. 1977 Supp. 10-120, and repealing the existing section.

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

Section 1. K.S.A. 1977 Supp. 10-120 is hereby amended to read as follows: 10-120. Whenever an election is required for the issuance of bonds for any purpose by any municipality other than a school district, drainage district or irrigation district, or where a different procedure for giving notice of the election is specifically provided by law, upon compliance with the legal requirements necessary and precedent to the call for such election, the proper municipal officers shall call an election to be held within forty-five (45) days after compliance with the necessary requirements, or within ninety (90) days, should such long period include the date of a general election.

Notice of such election shall be published in a newspaper of general circulation in the municipality once each week for three (3) consecutive weeks, the first publication to be not less than twenty-one (21) days prior to such election. ~~If such notice is published in a weekly, semiweekly or triweekly paper, publication shall be on any one day of the week upon which such paper is published. If such notice is published in a daily paper, publication shall be on Wednesday or Thursday of each of the three (3) consecutive weeks.~~ Such notice shall set forth the time and place of holding the election and the purpose for which the bonds are to be issued and shall be signed by the municipal officers, or a majority of them, having authority to call an election in such municipality. Such election shall be held at the usual place of holding elections and shall be conducted by

Atch. III

the officers or persons provided by law for holding elections in such municipality.

At such elections all qualified electors shall be entitled to vote. The vote at such election shall be by ballot. Such ballot shall comply with the usual requirements for an official ballot for candidates for public office insofar as such requirements are applicable thereto. Upon such ballot shall be printed the bond proposition submitted, preceded by the words "Shall the following be adopted?" and followed by the words "To vote in favor of the bonds make a cross mark in the square after the word 'Yes.'" "To vote against the bonds make a cross mark in the square after the word 'No,'" followed by sufficient squares. If more than one proposition or question be submitted on said ballot the different propositions or questions shall be separately numbered and printed and be separated by a broad, solid line one eighth of an inch wide. Such elections are to be in all respects governed and the results declared according to the rules and regulations provided by law for holding elections in any such municipality.

Sec. 2. K.S.A. 1977 Supp. 10-120 is hereby repealed.

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

MEMORANDUM

August 31, 1977

TO: Special Committee on Local Government
FROM: Mike Heim, Kansas Legislative Research Department
RE: Suggested Changes to Cemetery Statutes

The following are suggested changes to the Kansas cemetery laws made by various conferees, Committee members and staff before the Special Committee on Local Government.

1. K.S.A. 17-1311.
 - A. The word "lot" used in this section should be defined. (Clyde Hill, Yates Center Attorney)
 - B. The 15 percent requirement should be clarified in regard to cemetery lots repossessed and later resold. (David Newcomer, IV, Johnson County Memorial Gardens)
 - C. The word "maintenance" should be clarified or defined. (Jack Brier, Assistant Secretary of State)
 - D. The frequency of the deposits to permanent maintenance funds should be clarified. (Jack Brier)
 - E. The words "fix and set aside" should be clarified. (Jack Brier)
2. K.S.A. 17-1312. The provision allowing the treasurers of private cemetery corporations to be in custody of and to invest permanent maintenance funds should be deleted. Only trust companys, banks with full trust powers or other appropriate financial institutions should be allowed to perform these functions. (Clyde Hill)
3. K.S.A. 17-1312a. There should be some type of penalty established for private cemetery corporations that fail to register with the Secretary of State's Office. (Staff)
4. K.S.A. 17-1312b. In lieu of an audit, private cemetery corporations should be required to file a verified annual statement under penalty of perjury with the Secretary of State's Office. (David Newcomer)
5. K.S.A. 17-1312(d). The words "neglect" and "maintain" should be defined or clarified. (Jack Brier)

Atch. 4

6. K.S.A. 17-1312e. This section should be amended to allow audit information to be disclosed to officers of the private cemetery corporations that are audited. (Jack Brier and Ginger Barr, Maplewood Memorial Lawn Cemetery of Emporia)

7. K.S.A. 13-5004. Does this statute permit the investment of permanent maintenance moneys in additional cemetery lands? (Jack Brier)

8. Counties should be given the responsibility and the financial means to properly maintain abandoned cemeteries. (Clyde Hill)

9. The State should create a Kansas Cemetery Board or Commission to oversee the operation and insure the proper maintenance of all cemeteries in Kansas. (Representative Clarence Love)

10. All cemeteries, both public and private, should be required to establish permanent maintenance funds. (Ginger Barr)

11. Cemetery officers, both public and private, should be covered by a blanket bond. (Clyde Hill)

12. All cemetery laws should be recodified. (Fred Allen, Kansas Association of Counties)

13. Cemetery laws contained in Chapter 17 of Kansas Statutes Annotated should be placed in the municipal sections of the statutes. (Clyde Hill)