

M I N U T E S

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

October 6 and 7, 1977

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

Mr. Ernie Mosher, League of Kansas Municipalities
Mr. Neil Shortlege, League of Kansas Municipalities
Mr. Wayne Herndon, Kansas Park and Resources Authority
Mr. John Small, Attorney General's Office

Thursday, October 6, 1977

Proposal No. 55 - Municipal Bonds

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

Mr. Alan Alderson of the Revisor's Office reviewed a bill draft dealing with the form of bond interest coupons (Attachment I). Representative Dyck moved to strike the words "no less than" on page 2 of the bill draft concerning the size of the coupons. Representative Caywood seconded the motion. After further discussion the motion was withdrawn. Representative Kearns made a motion that coupons be approximately 1½ inches by 4½ inches but that the size can be varied if approved by the Attorney General. Senator Gaar seconded the motion and the motion carried.

Mr. Alderson then reviewed a bill draft dealing with the establishment of a custodial account in the State Treasurer's Office (Attachment II). Mr. Alderson was asked to check back with the State Treasurer's Office on this bill.

It was the consensus of the Committee that the final decision on introduction of all bills would be made at the November meeting.

Mr. John Small of the Attorney General's Office recommended the following:
(1) a non-litigation certificate should be made a part of bond transcripts reviewed by his office certifying that no litigation is threatened or pending regarding a bond issue; (2) K.S.A. 60-2103 should be made applicable to bond protest litigation; (3) situations in which typed bonds are allowable should be clarified; and (4) temporary notes should be required to be typed and signed all on one page to lessen the possibility of fraud. Mr. Alderson was asked to work with Mr. Small on preparing bill drafts incorporating these ideas.

Afternoon Session

The Committee then reviewed a bill draft amending K.S.A. 1977 Supp. 9-1402 dealing with the investment of public moneys (Attachment III) and a bill draft amending K.S.A. 10-302 et seq., dealing with bonded debt limits (Attachment IV). The Committee agreed that the bill dealing with bonded debt limits should be clarified to exempt both sanitary sewer and storm sewer bonds from debt limits.

Mr. Alderson reviewed a copy of a bill draft presented to the Special Committee on Sedgwick County Area Legislative Matters by the City of Wichita a day earlier dealing with coal gasification (Attachment V).

Representative Dyck moved that a bill be drafted allowing municipalities to issue bond anticipation notes. Representative Kearns seconded the motion and the motion carried. Staff was asked to prepare a brief memorandum explaining various aspects of bond anticipation notes.

Senator Gaar made a motion the Committee adopt the City of Wichita's proposal contained in Section 2 of the bill draft. Representative Dyck seconded the motion and the motion failed.

Representative Kearns moved that coal gasification projects be specifically excluded from Kansas Corporation Commission (KCC) jurisdiction in determining duplication of services. Representative Dyck seconded the motion and the motion failed.

Representative Kearns then moved that only coal gasification projects be included within the jurisdiction of the KCC in determining duplication of services. All other municipal utilities would be excluded from KCC coverage in this regard. Senator Chandler seconded the motion and the motion carried.

Friday, October 7, 1977

Proposal No. 55 - Municipal Bonds

The Committee was called to order at 9:00 a.m. by Senator Meyers, Chairperson. Staff was asked to check with the City of Wichita in regard to the amount of money that might be placed in a renewal and replacement fund. The Committee agreed by consensus to have the proposed bill draft dealing with coal gasification amended to change the protest provision in Section 8 to 5 percent and 60 days. The Committee also agreed that provisions relating to the KCC and coal gasification should be made uniform throughout.

The Committee then discussed a memorandum dated September 30, 1977 summarizing Committee action on Proposals 55, 56 and 83, a copy of which is attached (Attachment VI). The Committee by consensus agreed to have a bill drafted dealing with industrial revenue bonds to change the requirement of an official statement to that of an offering circular or prospectus in regard to filings with the Securities Commissioner. The Committee directed that the report should reflect the Committee's desire for further monitoring and study of industrial revenue bond filings with the Kansas Securities Commissioner. The Committee also agreed by consensus to have bills drafted to clarify the private placement provisions of 1977 S.B. 434 to conform to the federal "blue sky" law and to repeal K.S.A. 15-709. The Committee directed that the report should indicate that further study was needed regarding county improvements procedures, recodification of sewer district statutes and changes in procedures relating to water district formation (which were suggestions presented by a conferee in regard to the bond proposal).

Proposal No. 83 - Cemeteries

Mr. Alderson reviewed a copy of the bill draft dealing with cemeteries, a copy of which is attached (Attachment VII). Mr. Alderson was asked to clarify the provision relating to general and full trust powers of banks.

Afternoon Session

A motion was made by Representative Dyck and seconded by Representative Cald. to require counties to maintain abandoned cemeteries. The motion was further clarified to require either cities or counties to maintain those cemeteries and contingent on

Legislative Coordinating Council agreement that this motion was within the charge of the Committee. The motion carried. Senator Meyers said the Committee's action was a good first step toward solving problems in regard to cemeteries. Copies of a draft of the report on Proposal No. 83 was also distributed.

Proposal No. 56 - Parks and Recreation

The Committee tentatively agreed by consensus to introduce two bills dealing with parks and recreation (Attachments VIII and IX). The Committee also agreed that the report should contain a recommendation that the Kansas Park and Resources Authority be given an additional staff person to provide research and technical assistance for local park and recreation programs.

The minutes for the September meeting were approved by a motion made by Representative Dyck and seconded by Representative Caywood and adopted by the Committee.

The next Committee meeting will be held on November 17 and 18. The meeting adjourned.

Prepared by Mike Heim

Approved by Committee on:

November 18, 1977
Date

BILL NO.

By Special Committee on Local Government

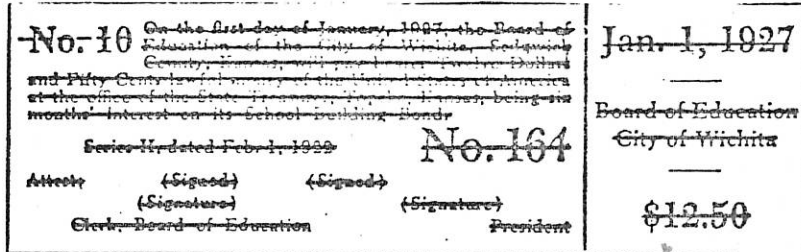
AN ACT relating to bonds issued by the state or political subdivisions thereof; concerning the form of coupons attached thereto; amending K.S.A. 10-126, and repealing the existing section.

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

Section 1. K.S.A. 10-126 is hereby amended to read as follows: 10-126. ~~When issuing bonds of the state of Kansas or of a county, a city, a board of education, a school district, a drainage district, or any other political subdivision of the state of Kansas, the officials authorized to issue such bonds shall require in the printing of the bonds that the coupons attached thereto are approximately one and one-quarter inches ($1\frac{1}{4}$ ") in width and four and one-quarter inches ($4\frac{1}{4}$ ") in length. Said officials shall also require that the following information be shown upon each and every coupon attached to said bonds, respectively, to-wit: The left three inches (3 ") of each coupon shall be known as the body of the coupon, which shall contain (a) the number of the coupon, (b) the date upon which the coupon matures, (c) the name of the political subdivision of the state issuing said bond and coupon, (d) the amount of money of said coupon written in words, (e) the place at which the same is made payable, (f) the kind, date, and number of the bond to which the coupon pertains, and (g) the signatures of the officials authorized to sign the bonds and coupons. The right one and one-quarter inches ($1\frac{1}{4}$ ") of the coupon shall be used for the briefing of certain information shown in the body of said coupon as follows: (a) In the upper one-third ($\frac{1}{3}$) of said space, the date of maturity of said coupon, (b) in the center of said space, the name of the municipality issuing said bond and coupon, and~~

Atch. I

~~(c) in the lower one-third (1/3) of said space, the amount of the coupon in large figures. For the convenience of issuing officials and printers the following is a sample coupon printed in accordance with the foregoing requirements:~~



~~Provided, however, That any municipality as defined in K.S.A. 10-101 may print coupons in substantially the form and proportion as set out above, but of a size of approximately one and one quarter inches (1 1/4") in width and two and one quarter inches (2 1/4") in length. All coupons attached to bonds issued by the state of Kansas, or any political subdivision thereof, shall be sized (no less than) approximately one and one quarter (1 1/4") in width and two and one quarter inches (2 1/4") in length. The following information shall be shown upon the face of such coupons: (a) The name of the state of Kansas or the political subdivision thereof issuing said bond and coupon; (b) the place at which the same are made payable; (c) the kind, date and number of the bond to which the coupon pertains; and (d) the facsimile signatures of the officials authorized to sign the coupon. In addition, on approximately the right side of the face of all coupons, separately, apart and in larger type than the above-listed information, shall be shown: (a) The date of maturity; (b) the amount of the coupon; and (c) the number of the coupon.~~

Sec. 2. K.S.A. 10-126 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 the redemption of municipal bonds and coupons by the state fiscal agent; amending K.S.A. 10-130, and repealing the existing section.

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

Section 1. K.S.A. 10-130 is hereby amended to read as follows: 10-130. (a) The treasurers of all municipalities shall remit to the state fiscal agent at least twenty (20) days before the day of maturity of any bonds or coupons, payable at the office of the state treasurer as fiscal agent, sufficient moneys for the redemption of such bonds and coupons to be paid by them respectively. The treasurer of any city may, in lieu of remitting such moneys to the state fiscal agent at such time, provide the state fiscal agent with a certificate of a state or national bank that there are on deposit in said bank, held in trust for such state fiscal agent, funds in the form of cash or securities of the United States government, sufficient for the redemption of such bonds or coupons, and that such funds will reach the office of the state fiscal agent on or before twelve o'clock noon of the third working day before the day of maturity of such bonds or coupons. Upon receipt of such certificate the state fiscal agent shall file the same in the office of the state fiscal agent. Upon receipt of any such moneys from a municipal treasurer, the state fiscal agent shall deposit the same in a custodial account from which payment shall be made.

(b) When a municipality needs moneys that are in the county treasury to redeem bonds or coupons, the treasurer of such municipality shall make a written request of the county treasurer for the amount needed not later than twenty-five (25) days prior to the maturity date of the bonds or coupons. Not later than two

Atch. II

(2) days following the receipt of such request the county treasurer shall forward to the treasurer of the municipality the amount requested, if he or she has collected the same for such purpose. If the full amount of such a request is not in the county treasury, the county treasurer shall forward that portion that is in his or her possession for such purpose.

(c) When a county treasurer is charged with the collection of tax moneys for a municipality, the territory of which is in more than one county, such treasurer shall forward any such funds when collected to the proper county treasurer as soon as practical, or not later than two (2) days following receipt of a request from the county treasurer to whom they are to be properly forwarded.

(d) Failure to pay bond moneys when due is any of the following:

(1) Failure of a county treasurer to forward moneys in the county treasury when requested as provided in this section, or

(2) failure of the treasurer of a municipality or any county treasurer to make timely request for moneys as provided in this section, or

(3) failure of the treasurer of a municipality to make timely remittance of moneys for redemption of bonds or coupons, when such moneys are available for such remittance.

Failure to pay bond moneys when due is a class C misdemeanor.

Sec. 2. K.S.A. 10-130 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 banks and banking; authorizing investment of public moneys in certain revenue bonds; amending K.S.A. 1977 Supp. 9-1402, and repealing the existing section.

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

Section 1. K.S.A. 1977 Supp. 9-1402 is hereby amended to read as follows: 9-1402. Before any deposit of public moneys or funds shall be made by any municipal or quasi-municipal corporation with any state or national bank or trust company, such municipal or quasi-municipal corporation shall obtain security for such deposit in one of the following manners. Such bank or trust company may give to the municipal corporation or quasi-municipal corporation a personal bond, in double the amount which may be on deposit at any given time. Such bank or trust company may give a corporate surety bond of some surety corporation authorized to do business in this state, which bond shall be in an amount equal to the public moneys or funds on deposit at any given time, and such bond shall be conditioned that such deposit shall be paid promptly on the order of the municipal or quasi-municipal corporation making such deposits.

Any state or national bank or trust company may deposit and maintain for the benefit of the governing body of the municipal or quasi-municipal corporation in the manner as hereinafter provided in this act securities in the amount of seventy percent (70%) of the total deposits at any given time and such securities shall consist of direct obligations of, or obligations that are insured as to principal and interest by, the United States of America, or of any agency thereof, or bonds which have been refunded in advance of their maturity and secured by an escrow trust agreement, all in accordance with K.S.A. 1977 Supp.

Atch. III

~~10-116a, and amendments thereto,~~ or bonds of the state of Kansas, or general obligation bonds of any municipal or quasi-municipal corporation thereof, or revenue bonds if approved by the state bank commissioner (except bonds issued under K.S.A. 12-1740 ~~to 12-1749, inclusive, and amendments thereto et seq.,~~ unless such bonds have been refunded in advance of their maturity, and bonds secured by revenues of a utility which has been in operation for less than three years) of any municipal corporation or quasi-municipal corporation thereof, or first mortgages on real estate located within the state of Kansas. Any state or national bank or trust company which has agreed to pay a rate of interest upon moneys deposited pursuant to K.S.A. ~~1976~~ 1977 Supp. 12-1675, and any amendments thereto, greater than the average yield before taxes received on ninety-one (91) day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the inception of such deposit contract, and depositing securities to secure payment of such deposit, shall deposit and maintain for the benefit of the governing body of the municipal or quasi-municipal corporation, in the manner as hereinafter provided in this act, securities of a type described in this section in the amount of one hundred percent (100%) of such deposit. Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval. All mortgages shall be appraised and approved by the governing body of such municipal corporations or quasi-municipal corporations before the same shall be accepted as security. Real estate mortgages shall be taken at their appraised value for not more than one-half of the security required under the provisions of this act.

Sec. 2. K.S.A. 1977 Supp. 9-1402 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 limits of bonded indebtedness; exempting certain bonds issued by cities; amending K.S.A. 10-302, 10-302a and 10-303, and repealing the existing sections.

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

Section 1. K.S.A. 10-302 is hereby amended to read as follows: 10-302. At no time shall the bonded indebtedness of any city of the first class having a population of more than sixty thousand (60,000) and less than one hundred twenty thousand (120,000) exceed fifteen percent (15%) of the assessed value of all the tangible taxable property within said city, as shown by the assessment books of the previous year~~---Provided, That,~~ Nothing in this section shall be construed to impair or invalidate any bonds already issued, whether for general purposes or for special improvements, or bonds to pay for improvements already legally petitioned for~~---Provided---further,---That,~~ Notwithstanding the foregoing provisions, all bonds heretofore or hereafter issued by any city of the first class having a population of more than sixty thousand (60,000) and less than one hundred twenty thousand (120,000) for the purpose of acquiring, enlarging, extending or improving any sewer system or any public utility such as waterworks, electric-light plants or like utilities, shall not be taken into account or in any way be a limitation upon the power of such city to issue bonds for any other purpose~~---Provided, That,~~ Any bonds issued by any city under a statute which specifically exempts such bonds from the statutory limitations of bonded indebtedness or authorizes the issuance of such bonds without regard to any statutory limitations of bonded indebtedness shall not be included in computing the total bonded indebtedness of such city within the

Atch. IV

meaning of this section.

Sec. 2. K.S.A. 10-302a is hereby amended to read as follows: 10-302a. At no time shall the bonded indebtedness of any city of the first class having a population of one hundred twenty thousand (120,000) or more, except for bonds heretofore or hereafter issued for special improvements for which a special tax is levied upon the property improved, and except for bonds heretofore or hereafter issued for the purpose of acquiring, extending, enlarging or improving any public utility such as waterworks, electric-light plants and like utilities, exceed eight percent (8%) of the assessed value of all the tangible taxable property within said city, as shown by the assessment books of the previous years; and at no time shall the bonded indebtedness of any city of the first class having a population of one hundred twenty thousand (120,000) or more, including bonds issued for special improvements for which a special tax is levied upon the property improved, but not including bonds heretofore or hereafter issued for the purpose of acquiring, enlarging, extending or improving any public utility such as waterworks, electric-light plants and like utilities, exceed seventeen percent (17%) of the assessed value of all the tangible taxable property within said city, as shown by the assessment books of the previous year: ~~Provided, That.~~ Nothing in this section shall be construed to impair or invalidate any bonds already issued, whether for general purposes or for special improvements, or bonds to pay for improvements already legally petitioned for: ~~Provided, further, That.~~ Notwithstanding the foregoing provisions. all bonds heretofore or hereafter issued by any city of the first class having a population of one hundred twenty thousand (120,000) or more for the purpose of acquiring, enlarging, extending or improving any sewer system or any public utility such as waterworks, electric-light plants or like utilities, shall not be taken into account or in any way be a limitation upon the power of such city to issue bonds for any other purpose: ~~Provided, That.~~ In addition. any bonds issued by

any city under a statute which specifically exempts such bonds from the statutory limitations of bonded indebtedness or authorizes the issuance of such bonds without regard to any statutory limitations of bonded indebtedness shall not be included in computing the total bonded indebtedness of such city within the meaning of this section~~---Provided---further---That.~~ Bonds issued by improvement districts, which improvement districts have been annexed in whole or in part subject to the provisions of K.S.A. 19-2786d and 19-2786e, are hereby specifically exempted from the statutory limitations of the bonded indebtedness herein provided for and shall not be included in computing any part of the total bonded indebtedness of such city within the meaning of this section.

Sec. 3. K.S.A. 10-303 is hereby amended to read as follows:
10-303. At no time shall all the bonded indebtedness of any city of the second or third class for all purposes exceed fifteen percent (15%) of the assessed valuation of all the taxable tangible property within such city as shown by the assessment books of the year last previous to the one in which a new issue of bonds is proposed to be made~~---Provided---That.~~ Bonds issued to pay the cost of improvements for which a special tax is levied upon the property involved and the bonds issued to pay the cost of improvements of intersections of streets, alleys and avenues, and that portion of the street immediately in front of city property, and bonds issued for general constructing, extending, enlarging or otherwise improving sewers shall not be included in computing said bonded indebtedness~~---Provided---further---That.~~ The total bonded indebtedness of any such city for all purposes shall at no time exceed twenty-five percent (25%) of the assessed valuation of all the taxable tangible property within such city as shown by the assessment books of the year last previous to the one in which a new issue of bonds is proposed to be made~~---And provided---further---That.~~ In addition, any bonds issued by any such city under a statute which specifically exempts such bonds from the statutory limitations of bonded indebtedness or

authorizes the issuance of such bonds without regard to any statutory limitations of bonded indebtedness shall not be included in computing the total bonded indebtedness of such city within the meaning of this section~~---Provided---further---That,~~ Bonds issued during the years 1957 and 1958 by a city of the third class located in a county having a population of not less than thirty thousand nor more than forty thousand with an assessed taxable tangible valuation of not less than seventy-eight million dollars (\$78,000,000) nor more than ninety million dollars (\$90,000,000) for waterworks improvements shall not be included in computing bonded indebtedness and such bonds shall be excluded from any limitations on bonded indebtedness imposed herein.

Sec. 4. K.S.A. 10-302, 10-302a and 10-303 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 341

By Committee on Local Government

2-17

V

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~~
utility, 1

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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 acqui-
0039 sition, 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-
0044 from as may be reasonable and necessary and to provide for the
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.

Atch. V

2

0069 Sec. 3. 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

similar service

in the area

a finding by the governing body of the municipality,

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.~~

Where any similar utility service is being furnished in the area by a private utility and the governing body makes a finding as set out above, the governing body shall cause a notice of its finding to be delivered to either a local office or the principal office of each private utility furnishing similar utility service in the area. Any such private utility shall be entitled, within thirty (30) days after receipt of a copy of such notice, to appeal the finding of the governing body to the Kansas Corporation Commission which shall conduct an appropriate hearing. The corporation commission, after hearing, may affirm the finding of the governing body, or may set the finding aside and order that the bonds not be issued if the commission finds that there is no substantial evidence to support the finding. If no appeal is filed with the corporation commission within such thirty (30) days, or if the finding of the governing body is affirmed, such bonds may be issued upon compliance with any other requirements of law.

for the furnishing of any utility service where similar service is being furnished in the area by a private utility body except upon a finding by the governing body of the municipality

0090 Sec. 4. K.S.A. 10-1204 is hereby amended to read as follows:
 01 10-1204. Revenue derived from the operation of any utility fi-
 02 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 and paying the~~
 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.*

EITHER A

or a renewal and replace-
ment fund

0111 Sec. 5. 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.

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37 Sec. 6. 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.*

OMIT

0143 Sec. 7. 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*

0156 resolution, ordinance or trust agreement provide.

7 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, *except in the*
0175 *case of manufactured gas plants, facilities and instrumentalities,*
0176 *an adequate depreciation 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.

EITHER A

or a renewal and re-
placement fund

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 munici-
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.

3 Sec.-9. 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, reconstructions, 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 ~~vise 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 municipa-
0248 lity 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 municipa-*
0254 *lity 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*

67 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.*

where similar service is being furnished in the area by a private utility, no such bonds shall be issued without the finding and procedures required by section 2 of this act (K.S.A. 10-1203 amended), but such finding and procedures may be made and taken contemporaneously with the procedures hereafter set out.

PCC

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0279 Sec. 40. 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 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 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.

gas, coal or other fossil fuel

gas, coal or other fossil fuel

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

0296 Sec. 10. 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. 11. This act shall take effect and be in force from and
 0300 after its publication in the statute book.

MEMORANDUM

September 30, 1977

TO: Special Committee on Local Government

FROM: Mike Heim, Kansas Legislative Research Department

RE: Committee Action to Date on Proposals 55, 56 and 83

Attached are copies of memorandums listing the suggested changes to the municipal bond laws (Proposal No. 55) and cemetery laws (Proposal No. 83). An asterisk preceding the suggested change indicates the Committee has taken some action on this issue in the attached memorandums.

Proposal No. 55. The following are additional ideas that have been proposed or discussed or changes made to ideas presented in the memorandum regarding Proposal No. 55.

1. The request for authority to issue bond anticipation notes by the City of Wichita for its proposed coal gasification facility has been recinded. The City however, believes that the concept of bond anticipation notes deserves consideration on its own merits.
2. The City of Wichita has agreed that a depreciation fund or a renewal and replacement fund provision should be included in the revenue bond statutes. Originally the city had requested that the provision of the current law which requires an adequate depreciation fund be deleted.
- *3. Mr. John Dekker, Wichita City Attorney, is working on language that would provide for a hearing before the Kansas Corporation Commission (KCC) to determine if a coal gasification facility was needed or would duplicate existing private utility services.
- *4. Several Wichita citizens requested that the KCC be given jurisdiction to determine the need for coal gasification facilities and rates charged by such facilities.
5. The City of Wichita has recinded its earlier request to be able to mortgage the coal and the coal gasification facility as security for the revenue bond issue.

*6. Mr. Robert Soelter of Duckwalls Stores, Inc., recommended that the industrial revenue bond law be amended so retail stores would not qualify for such financing.

* The asterisk indicates the Committee has taken some type of action on this proposed change.

The Committee has come to the following preliminary conclusions in regard to Proposal No. 55.

1. The Committee endorses the concept of industrial revenue bonds but does not think that it has had sufficient information to come to any conclusions on the issue of excluding retail stores from this financing tool.
2. All general obligation bond statutes including those where bonds are paid by special assessment are to be amended to provide for a 30 year maturity.
3. All revenue bond statutes are to be amended to provide for a 40 year maturity.
4. The advance refunding law relating to revenue bonds is to be amended to delete the \$1 million bond issue requirement and to allow advance refunding of revenue bonds regardless of the effective date of the enabling legislation. (This date currently serves as the cutoff date. No bonds can be advance refunded that have been issued after this date.)
5. The advance refunding technique is to be extended to general obligation bond issues in an aggregate amount of over \$100,000.
6. The bond election requirements concerning public notice are to be clarified. The current law prescribes the day of the week when notice is to be published and this is to be deleted.
7. The Committee agreed to draft a bill to simplify the statute prescribing the format of bond interest coupons.
8. The Committee agreed to draft a bill to exempt all bonds issued for all sewer purposes from bonded debt limits.

9. The Committee agreed to draft a bill to establish a custodial fund in the State Treasurer's Office.
10. The Committee agreed that the KCC should have jurisdiction to determine the need for coal gasification facilities and rates charged by such facilities.

Proposal No. 83 - Cemeteries. The Committee has come to the following preliminary conclusions in regard to this proposal. (All suggested changes are included in the attached memorandum).

1. Perpetual care fund audit results are to be made available to the private cemetery corporation audited.
2. County appraisers are to provide the Secretary of State with a list of the owners of cemeteries and the legal description of such lands. Cemeteries owned by governments, churches and family burial plots are to be excluded.
3. Owners of a cemetery corporation that fail to register with the Secretary of State are to be subject to an unclassified misdemeanor and a \$100 fine.
4. The term "maintenance" is to be defined.
5. Permanent maintenance fund deposits are to be made at least within 30 days of the receipt of payments for cemetery lots.
6. Each private cemetery corporation is to be required to have a bank with trust powers or a financial institution with trust powers manage their perpetual care funds.
7. The Committee has recommended that all cemetery laws be recodified and that municipal cemetery laws contained in Chapter 17 of Kansas Statutes Annotated be placed in the municipal section of the statutes.

Proposal No. 56 - Parks and Recreation. The following are suggestions made by the Kansas Recreation and Park Association.

1. Increase the mill levy authority for most recreation commissions from two mills to three mills subject to an increase in the size of the recreation commission board to nine members, five who would continue to be appointed and two each would be selected from the city and school governing bodies.

2. Allow recreation commissions to levy taxes above their statutorily set limit for the purposes of paying the costs of retirement, workers compensation, social security, retirement and unemployment insurance and to pay for the use of public facilities.
3. Provide a vehicle for the merger of park and recreation programs and the appointment of park-recreation advisory boards.
4. Clarification of recreation commission responsibilities for the conduct of recreation programs and services.
5. Authorize city-county park and recreation departments.
6. Exempt tax levies for park and recreation purposes from the tax lid.
7. Provide for a sharing of local sales taxes, income taxes or any other special taxes levied by the parent political subdivision with the recreation commission.
8. Provide for one additional staff person with the State Park and Resources Authority to give technical advice and provide research for local recreation programs.

Staff was directed at the last meeting to work on a bill draft incorporating several of the above concepts i.e., increased mill levy authority; elected city and school district officials to serve on recreation commission boards; authorization for city-county park and recreation departments; and clarification of recreation commission responsibilities.

MEMORANDUM

August 5, 1977

TO: Special Committee on Local Government
FROM: Mike Heim, Kansas Legislative Research Department
RE: Suggested Changes to the Municipal Bond Laws

The following are suggested changes to the Kansas municipal bond laws made by various conferees. Suggestions made by Mr. Don Bell, Wichita attorney, are exceptions from the memorandum he presented to the Committee at its July meeting. This memorandum does not contain the suggestions by Mr. John Small of the Attorney General's office or further suggestions by Mrs. Joan Finney, State Treasurer, which will be forthcoming.

X 1. K.S.A. 9-1402. Banks should be allowed to pledge advance refunded bonds as security for public fund deposits. (Mr. Jack Ranson, Ranson & Company.)

2. K.S.A. 10-103, 10-1207

X A. Bond maturity for both general obligation and revenue bonds should be extended. (Mr. Jack Ranson.)

X B. It is suggested that a study be made of all special assessment statutes with a view towards allowing all assessments to run as long as 20 years.

K.S.A. 10-103 allows all municipal bonds, including bonds payable from assessments, to be issued to mature in not more than 20 installments; but many special assessment statutes only allow assessments for 10 years. An example is K.S.A. 12-667 which limits special assessments to 10 annual installments. (Mr. Don Bell.)

(See also Suggestion No. 9.)

3. K.S.A. 10-106. This statute needs to be clarified in regard to the information required for municipal bonded debt statements. (Mr. Ken Britt, Zahner & Company.)

X 4. K.S.A. 10-116a - Advance Refunding

A. The law should be amended to clarify specifically what the \$1,000,000 reference is to, i.e., does it refer to the original amount of the previous issue or issues or the outstanding amount; does it require each previous issue to be \$1,000,000 or is it sufficient that the total of the previous issues to be funded is \$1,000,000. (Mr. Don Bell.)

- ✶ B. It is suggested that the law also be amended to indicate that the requirements of K.S.A. 10-116a insofar as they are restrictive in nature, such as the \$1,000,000 requirement and the requirement that the previous issue of bonds must have been issued prior to the effective date of the act, be made to apply only to advance refunding bonds. Preliminary interpretations of the law would indicate that in amending other refunding statutes, such as K.S.A. 10-1211, simple refunding of outstanding bonds such as utility revenue bonds may be seriously curtailed by imposition of the restrictive requirements of K.S.A. 10-116a. This apparently was not the intent of the Legislature, but appears to have been the result of the amendments contained in S.B. 446. (Mr. Don Bell.)
- ✶ C. The provision that restricts the advance refunding of revenue bonds to those bonds issued prior to the effective date of 1977 S.B. 446 should be stricken to allow refunding of bonds issued after this date also. (Senator Norman Gaar.)
- ✶ D. The \$1 million restriction in regard to advance refunding should be eliminated or reduced and advance refunding of general obligation bonds should be permitted. (Mr. Jack Ranson.)
- ✶ 5. K.S.A. 10-120. The bond election requirements should be simplified to avoid situations where a bond election is held invalid because an election notice publication was made on the wrong day. (Mr. Ernie Mosher, League of Kansas Municipalities.)
- 6. K.S.A. 123. Registration of Xerox copies of temporary notes should not be allowed. (Mrs. Joan Finney, State Treasurer.)
- ✶ 7. K.S.A. 10-302 - 10-303. It is suggested all city debt limitations found in Article 3 of Chapter 10 be amended to specifically exclude from debt limitations all city bonds of any kind or character issued for sewer improvements. Most bonds for city improvements are issued under Article 6 of Chapter 12. Bonds issued for sewer plants, outfall lines, pumping stations and interceptor mains are generally specifically exempt from the debt limitations. Sewer lines for laterals and other lines to be assessed against the property owners are within debt limitations. Large Federal grants are available for new sewer systems and improvements to sewer systems, but some cities are finding it difficult to finance such systems or improvements under existing debt limitation laws. Very often certain lines are determined to be main interceptors and chargeable to the city at large in order to get that particular cost outside the debt limitation even though the particular line might be more properly chargeable, at least in part, to the property owners as special assessments; but such special assessment bonds would be within debt limitations. Cities should be allowed to develop sewer systems for the health and welfare of the city without the necessity of structuring the financing solely on the basis of bonded debt limitations. (Mr. Don Bell.)

8. K.S.A. 10-501 et seq. A custodial account should be created in the State Treasurer's Office to facilitate bond and interest payments when the treasurer acts as fiscal agent for municipalities. (Mrs. Joan Finney.)
9. K.S.A. 10-1201 et seq. - Utility Revenue Bonds. It is suggested that the utility revenue statutes, found in Article 12 of Chapter 10, be amended to allow more modern financing methods to be used. Substantially all of the suggested changes involve methods used in many other states to make the financing more attractive and thus provide a lower financing cost to the city. Consideration is suggested of each of the following:
- A. To allow bond anticipation notes, payable from revenue bond proceeds, for the purpose of temporarily financing projects prior to the actual issuance of bonds.
 - B. Amendment of 10-1203 to specifically allow the city to determine whether the same utility service is being furnished by a private utility. The Kansas Corporation Commission seems to take the position that the city does not have the right to make that determination in the first instance.
 - C. Allow the pledging of revenues to a Trustee for the benefit of bondholders under a trust agreement. Also, possibly allow a mortgage of the facility.
 - D. Amend 10-1206 to allow such revenue bonds to be sold at public or private sale for not less than 98 percent of the principal amount plus accrued interest.
 - E. Amend 10-1207 to allow serial or term maturities up to 40 years instead of 30 years and issuance of bonds in coupon or registered form.
 - F. Consider a clarification or deletion of the requirement for an "adequate depreciation fund."

(These suggestions were made by Mr. Don Bell and endorsed by Mr. Mosher, Mr. John Dekker, Wichita City Attorney and Mr. Ranson).

10. K.S.A. 12-1740 et seq. - Industrial Revenue Bonds

- A. Experience with Chapter 62 of the 1977 Session Laws (S.B. 434) relating to a notice to be filed with the Securities Commissioner with respect to industrial revenue bonds has not been sufficient to indicate all changes which might be desirable in the law.

The Securities Commissioner has requested certain opinions from the Attorney General's Office, which, when forthcoming, might suggest specific clarifications in the law. Preliminarily, we would suggest consideration be given to one amendment; and that is to insert in section 1, subsection (g), additional phraseology which would allow an offering circular or prospectus to be submitted instead of an "Official Statement." The requirement of an "Official Statement" implies that such statement is issued by the city whereas in fact substantially all of such official statements are prepared by underwriters and their counsel, and approval and adoption by the city is sometimes requested under circumstances which allow no room for the city to verify material in the "Official Statement." Although many times we feel it is appropriate for the city to approve and adopt such official statements, for the most part we feel the primary obligation in this regard is on the underwriters of such industrial revenue bonds; and we do not feel that the law should specifically make a requirement which might impose an undue burden on a city in a particular situation. Perhaps the law was not intended to impose this burden on the city, but there appears to be an implication to that effect. (Mr. Don Bell.)

- B. The private placement provision of 1977 S.B. 434 should be clarified to conform to the federal "blue Sky" law. (Senator Norman Gaar.)
- C. The Kansas Securities Commissioner should be given the authority to block the issuance of industrial revenue bonds in certain cases. (This suggestion was made by Mr. Ray Barmby of the George K. Baum & Company. Copies of his suggested legislation and rules and regulations are attached.)

11. K.S.A. 15-709. It is suggested that K.S.A. 15-709, which limits expenses on bond issues of third class cities to 20 percent of the contract price of the work, be repealed.

This statute only applies to third class cities; and, apparently, a city could pass a charter ordinance exempting itself from the statute. Most third class cities are not even aware of the problem; and unless it has been anticipated, the statute presents many problems in the financing of projects in smaller towns. Other statutes insure that assessments be made only for costs of a project and that bonds cannot be issued in excess of the cost of the project. The statute is of doubtful value and further poses serious problems of interpretation and application. (Mr. Don Bell.)

12. K.S.A. 19-2701 et seq. It is suggested that the procedures relating to the making of improvements and imposition of special assessments for improvement districts set out in Article 27 of Chapter 19 be amended to conform more closely to such procedures in cities.

The improvement district assessment procedures are cumbersome and do not necessarily provide the best protection for land owners. In addition, all special assessments must be made 100 percent against the specific property benefitted whereas many improvements made in improvement districts would perhaps more properly be chargeable at least in part to the city at large. It is suggested that the procedures set out in K.S.A. 12-6a01 et seq. might be more conducive to fairness and orderly procedures in improvement districts. (Mr. Don Bell.)

- B. It is suggested that the Committee consider recommending a statute which would allow for the formation of county water districts much in the same manner that county sewer districts are formed under Article 27 of Chapter 19.

The only statutes currently being used to any extent in this regard are the rural water district statutes which are ordinarily used in connection with certain federal funding. These statutes are somewhat cumbersome and contain certain requirements which are not applicable to all cities, particularly suburban developments. Perhaps the Johnson County water district statutes could be amended to apply to other counties where feasible to do so. (Mr. Don Bell.)

- C. Consideration should be given to a general review, updating, elimination of duplications, and clarification of all the county sewer statutes contained in Chapter 19 of Article 27.

Many of these statutes are confusing and are not conducive to an orderly development of an overall sewer plan. The statutes were originally designed for special assessment procedures only. Current developments in area sewer plans envision certain sewer improvements chargeable to a wide area with other improvements more properly made on a special assessment basis. Perhaps this study and the preparation of resulting changes in the law would be more than the Committee would want to handle in an interim period. In that event, the Committee might want to suggest this as a study for a special committee in the next interim session. (Mr. Don Bell.)

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AN AMENDMENT TO THE KANSAS SECURITIES ACT RELATING TO ECONOMIC DEVELOPMENT REVENUE BONDS; REQUIRING CERTAIN NOTICE TO THE SECURITIES COMMISSIONER PRIOR TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SECURITIES COMMISSIONER TO ISSUE A CERTIFICATE OF NOTICE AND NO OBJECTION OR DELAY THE ISSUANCE OF SUCH BONDS UPON CERTAIN FINDINGS; SPECIFYING CERTAIN PROCEDURES; REQUIRING THE PREPARATION, DISTRIBUTION AND FILING OF AN OFFERING CIRCULAR OR OFFICIAL STATEMENT; AND REQUIRING THE FILING OF OPINION OF BOND COUNSEL.

Be It Enacted by the Legislature of the State of Kansas:

Section 17-1252. Definitions is amended to include:

"Bond Counsel" shall mean the attorney or attorneys proposing to issue an opinion with respect to the validity of an issue of economic development revenue bonds; and, where appropriate, the tax exempt status of the interest on such bonds.

"Guarantor" shall mean the guarantor of the performance by the lessee of its obligations under a lease or the guarantor of principal and interest on any economic development revenue bonds.

"Economic Development Revenue Bonds" shall mean bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, as amended: Port Authority bonds and Airport Revenue bonds for industrial development purposes.

"Issue" or "Issuance" with reference to time shall mean the date the bonds are delivered and paid for.

"Issuer" shall mean any municipality, county or Port Authority authorized to issue economic development revenue bonds and proposing to issue any such bonds after the effective date of this Act.

"Lease" shall mean the lease or other agreement by which the lessee obtains the right to use the project and agrees to make payments sufficient to pay the principal of and interest on the economic development revenue bonds issued to finance or refinance the project.

"Lessee" shall mean the lessee, purchaser or user of the project under the lease.

"Paying Agent" shall mean the bank or trust company or state agency which is to disburse monies as interest coupons and bonds are presented for payment.

"Project" shall mean any land, building or equipment financed with proceeds of any economic development revenue bonds to be used by lessee under the lease.

"Securities Commissioner" shall mean the Securities Commissioner of Kansas appointed as provided in K.S.A. 17-1270, as amended.

"Trustee" shall mean the bank or trust company or state agency which is to act as fiscal agent with respect to an issue of economic development revenue bonds.

"Underwriter" shall mean the person or persons originally purchasing or guaranteeing the purchase of an issue of economic development revenue bonds.

"Underwriter's Counsel" shall mean the attorney or attorneys proposing to advise the underwriter as to its duties and obligations with respect to full disclosure to potential holders of economic development revenue bonds and its various liabilities in connection with the underwriting of any such bonds.

Section 17-1256a. Notification of intent to issue certain bonds; requirements; when effective.

(1) At least forty-five (45) days prior to the issuance of any economic development revenue bonds, the issuer, directly or through bond counsel, underwriter's counsel or the underwriter, shall notify the Securities Commissioner of the proposed issuance of an issue of economic development revenue bonds, which notice shall contain the following information:

(a) The name and address of the issuer, the lessee, the guarantor, if any, the underwriter, bond counsel, and underwriter's counsel, which may be the same as bond counsel;

(b) The estimated total cost of the project and the face amount of the economic development revenue bonds proposed to be issued;

(c) The exact purpose of the issue, including the approximate area of any land to be acquired including a description of any improvements existing thereon, a description of any building to be constructed, including the type of construction and the approximate number of square footage, and a detailed description of any equipment to be acquired;

(d) The name of the present owner of any land and existing buildings and equipment to be purchased and whether or not the owner has any relationship with the proposed lessee and the nature of such relationship; and the name of the proposed contractor for any new construction, or how the contract will be awarded, and any relationship between the lessee and any proposed or possible contractor;

(e) A complete list of all persons to whom consulting or professional fees are to be paid from the proceeds of the bond issue and the total estimated amount thereof, but the amount of each such fee shall not be required; except that architects' and engineering fees shall be combined and separately stated;

(f) The proposed date of the bonds, proposed maturity schedule, which may be later changed, and a summary of call provisions, if any;

(g) The proposed term of the lease, the date when first rental is to begin and the proposed amount of rental;

(h) The limitations, if any, on the obligations of the lessee to pay an amount necessary to pay the bonds in full;

(i) The limitations, if any, on the obligations of the guarantor or guarantors to pay the full amount necessary to pay principal and interest and redemption premium, if any, on the bonds;

(j) The amount of escrowed interest and any reserve funds to be included in the bond issue;

(k) A summary of estimated cost and use of proceeds by category, such as: land and existing improvements, new building construction, equipment, escrowed interest, reserve, underwriting and legal fees and other professional fees;

(l) A statement concerning the lessee and guarantors, including their experience, history, location of principal offices, area of operations, market area, that audited financial

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statements and other similar information will be available or that pro-forma financial statements will be available which have been prepared pursuant to CPA review, and whether or not feasibility studies have been made and will be available:

(m) Approximate anticipated date of issuance;

(n) A statement that an offering circular or official statement in form acceptable to underwriter's counsel will be furnished as hereafter required.

Such notice shall be typewritten or printed on letter size paper, shall be filed in triplicate, signed by a representative of the issuer, bond counsel, underwriter's counsel or the underwriter, and must be received and filed in the office of the Securities Commissioner at least forty-five (45) days prior to the issuance of the bonds and accompanied by a fee of \$100.00.

A notice identifying the proposed bond issue and referring to an attached preliminary offering circular containing the above listed information shall constitute a sufficient notice under this Section.

2. Upon receipt of the notice specified in the foregoing section, the Securities Commissioner shall retain one copy for examination and the permanent records of the office, one copy shall be placed in a file containing a copy of all such notices received for at least the previous twelve (12) month period and shall be open for public inspection during normal office hours, and the other copy shall be immediately transmitted to the Attorney General of the State of Kansas for informational purposes, but no analysis or action of any kind with respect to such notice shall be required by the office of the Attorney General.

3. If the Securities Commissioner makes an affirmative finding on all matters required in the foregoing section, he or she shall, within fifteen (15) days from the date of filing of the notice, issue a certificate of notice and no objection in substantially the following form:

Certificate of Notice and
No Objection

There has been filed in my office a notice indicating the intention of _____ to issue its economic development revenue bonds in the amount of \$_____ for the purpose of providing funds to pay the cost of: _____

_____ secured by a lease with _____ as lessee and _____ as guarantor and a separate guaranty of the bonds by _____

Such notice apparently complies with the requirements of law and the Securities Commissioner has made a preliminary finding as required by law and has no objection to the issue. No stop order is effective with respect to such proposed issue. This certificate is not an approval of said bonds and it is unlawful for any person to represent that such bonds have been approved by the Securities Commissioner or any other agent of the State of Kansas.

Dated this ____ day of _____, 19 __.

Securities Commissioner
of the State of Kansas

By _____

These amendments shall take effect and be in force from and after publication in the statute book.

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FURTHER AMENDMENTS TO KANSAS SECURITIES ACT

Add new language at 17-1261(a)

... of any of the foregoing, such securities shall not include revenue bonds issued for economic development purposes by any political subdivision of the State of Kansas such as airports, port authorities, municipalities and counties.

Amend 17-1260(a) as follows:

any registration statement or notice of proposed issuance of bonds ...

- (1) The issuer's or lessee's plan
- (2) the issuer's or registrant's or lessee's
- (4) ... or guarantor or lessee ...
- (7) ... such issuer or lessee ...
- (8) ... such issuer or lessee.

(b) ... of the registration statement or notice of proposed issuance of bonds pending final determination of any proceeding under this section or K.S.A. 17-1256a.

... within fifteen days (ten days in connection with bonds)...

Amend Section 17-1255 as follows:

under section 5 (17-1256) or filing of notice of proposed issuance of bonds (17-1256a) or registered by coordination

Amend 17-1268 by adding

(e) It shall be unlawful for any issuer to issue any economic development revenue bonds unless the foregoing certificate with respect to such economic development revenue bonds shall have been issued by the Securities Commissioner. When a certificate of notice and no objection shall have been issued by the Securities Commissioner, no stop order thereafter issued by the Securities Commissioner shall be effective unless prior to the issuance of the economic

development revenue bonds such stop order shall have been served personally upon the person who signed the notice on behalf of the issuer, or such person's successor, and also to each bond counsel, underwriter's counsel and managing underwriter named in the notice. A certificate of notice and no objection shall be conclusive evidence of formal compliance by the issuer with this Act and the failure of the issuer to comply with any requirements of this Act in the issuance of such economic development revenue bonds described in said certificate shall not affect the validity of such economic development revenue bonds. In the event that any economic development revenue bonds shall be issued without a certificate of notice and no objection having been issued with respect thereto, the holder of any such bond, in addition to any other rights he may have by statute or law, shall have the right of rescission of purchase of such bond against either the issuer or underwriter or both; provided that such right shall be exercised within twelve (12) months from the date of issuance; and provided further, that any right of recovery from the issuer shall be limited to the then unexpended proceeds of the bonds.

In the event the Securities Commissioner shall refuse to issue a certificate of notice and no objection to any issuer entitled thereto, an appeal shall lie to the District Court of Shawnee County, Kansas which shall have jurisdiction to require the Securities Commissioner forthwith to issue any such certificate wrongfully withheld.

SUGGESTED ADDITIONS TO THE
RULES AND REGULATIONS
OF THE SECURITIES COMMISSIONER

(A) In the event the Securities Commissioner finds that the issuance of such economic development revenue bonds would not be advisable because of the failure of an affirmative finding on all matters required in Section 1 hereof, the Securities Commissioner shall issue a stop order. A stop order shall be in substantially the following form:

Stop Order Directing That
Economic Development Revenue Bonds
Not be Issued

To All Interested Persons:

You and each of you are hereby notified that the Securities Commissioner of the State of Kansas has determined that it would not be advisable to issue at this time proposed economic development revenue bonds by _____ in the amount of \$ _____ for the purpose of financing a project wherein _____ is proposed as lessee and _____ as guarantor. This finding is based on the following determinations:

You are further notified that unless and until this stop order has been removed, it is unlawful to issue, deliver or sell any of such economic development revenue bonds. You are further notified that this office is empowered to consult with all interested parties, and that an informal conference or a formal hearing may be requested with respect to such stop order. All requests for informal conferences or formal hearings are to be directed in writing to this office.

Dated this _____ day of _____, 19__.

Securities Commissioner
of the State of Kansas

By _____

Upon receipt of any such stop order, the issuer, bond counsel, underwriter's counsel or the underwriter may request an informal conference or a formal hearing in writing which shall be scheduled and held in the office of the Securities Commissioner or at such other place as he or she may designate within ten (10) days from the date of receipt of such request unless for good cause shown a longer time is required for such scheduling. At such conference or hearing all interested parties shall be entitled to be heard and to present evidence which may be required by the Securities Commissioner to be under oath. At such conference or hearing, the Securities Commissioner shall discuss his determinations and all parties shall

be entitled to comment thereon. At the conclusion of such conference or hearing the Securities Commissioner shall announce whether or not the stop order is still in effect and if his announcement is that the stop order remains in effect it shall remain effective unless and until set aside by the Securities Commissioner or at the direction of the District Court of Shawnee County, Kansas. If the stop order is set aside the Securities Commissioner shall make a written finding amending any previous inconsistent determination and stating any new determinations justifying such action; and the Securities Commissioner shall thereupon issue a certificate of notice and no objection.

(B) Nothing herein shall be construed to prevent an issuer from authorizing the filing of a new notice upon a showing of substantial change in a proposed issue for which a stop order has been issued, and in such case a notice may be filed with the Securities Commissioner and the same shall be treated as a new notice with respect to a new proposed issue.

(C) The Securities Commissioner is empowered to waive any of the time requirements of this Act by written waiver upon good cause shown. However the routine waiver of time requirements specified by this Act shall not be construed to be consistent with the purposes of this Act and shall not be made without good cause shown.

(D) Nothing herein shall be construed to authorize the Securities Commissioner to issue a stop order with respect to any issue of economic development revenue bonds solely upon the Securities Commissioner's findings that one or more of the following is applicable:

(a) The lessee is a newly formed corporation;

or

(b) The success of the project is not completely assured, unless the Securities Commissioner has reason to believe this will not be fully disclosed.

(E) An offering circular or official statement in form acceptable to underwriter's counsel shall be prepared with respect to each issue of economic development revenue bonds and delivered to each original purchaser from the underwriter or any member of the original selling syndicate prior to acceptance of pay-

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.

- h* A. The word "lot" used in this section should be defined. (Clyde Hill, Yates Center Attorney)
- h* B. The 15 percent requirement should be clarified in regard to cemetery lots repossessed and later resold. (David Newcomer, IV, Johnson County Memorial Gardens)
- h* C. The word "maintenance" should be clarified or defined. (Jack Brier, Assistant Secretary of State)
- h* D. The frequency of the deposits to permanent maintenance funds should be clarified. (Jack Brier)
- h* E. The words "fix and set aside" should be clarified. (Jack Brier)

h 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)

h 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)

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)

_____ BILL NO. _____

By Special Committee on Local Government

AN ACT relating to cemetery corporations; concerning permanent maintenance funds thereof; amending K.S.A. 17-1311, 17-1312, 17-1312a, and 17-1312e, and repealing the existing sections.

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

Section 1. K.S.A. 17-1311 is hereby amended to read as follows: 17-1311. Such corporation shall ~~fix-and-set-aside,~~ maintain, in a bank having ^{General} ~~full~~ trust powers ^{or trust company} within the state of Kansas, a percentage of the purchase price of each burial lot hereafter sold by it, or any payment thereon, and any charges for opening and closing a grave located on such burial lot, not less than fifteen percent (15%) thereof of all such charges, for the permanent maintenance of the cemetery within which said burial lot lies, but the total amount so set aside shall not be less than fifteen dollars (\$15) for each burial lot at the time of conveyance of such lot:--~~Provided,~~ Deposits to the permanent maintenance fund shall be made within thirty (30) days of receipt of moneys for which deposits are required to be made. Moneys placed in such fund under the provisions of K.S.A. ~~1976-Sub~~ 17-1308 shall be credited for the purposes of fulfilling such requirement. Moneys in such fund may be held and invested to the same extent as is provided in K.S.A. 17-5004 and any amendments thereto:--~~Provided,~~ The, but the total amount of money invested in any mortgage upon real property shall not exceed an amount equal to seventy-five percent (75%) of the market value of such property at the time of such investment. The income of the said permanent maintenance fund shall be used exclusively for the maintenance of said cemetery. Such maintenance shall include, but not be limited to, mowing, road maintenance and landscaping, but shall not include administrative costs, expense of audits or

the portion of any capital expense for equipment used to maintain portions of a cemetery not sold for burial purposes or in use for grave sites. No part of the principal of said fund shall ever be used for any purpose except for such investment. In no event shall any loan of said funds be made to any stockholder in such corporation. The treasurer of such corporation may receive, ~~acquire--and--hold~~ deposit, to the credit of such fund, donations or bequests for said fund and may retain property so acquired without limitation as to time and without regard to its suitability for original purchase. As used in this section, the term "burial lot" shall mean space for one grave.

Sec. 2. K.S.A. 17-1312 is hereby amended to read as follows: 17-1312. ~~That--said~~ The permanent-maintenance fund required to be established by K.S.A. 17-1311, as amended, shall at all times be in the custody of ~~the--treasurer--of--said corporation,--who--shall--give--a--surety--company--bond--in--a--sum--not less--than--the--amount--of--funds--in--his--hands,--conditioned--for--the safekeeping--of--such--funds--and--to--account--for--and--turn--over--the same--whenever--called--upon--so--to--do--by--said--corporation;--Provided, however,--that--in--lieu--of--such--custody--by--the--treasurer--the directors--of--said--cemetery--corporation--may--entrust--the--custody--of the--permanent--maintenance--fund--and--may--delegate--their responsibilities--and--powers--to--invest,--reinvest,--exchange, retain,--sell--and--manage--the--permanent--maintenance--fund--to--any a trust company or bank having general trust powers within the state of Kansas. Such trust company or bank may serve without bond and may be reasonably compensated for its services out of the income of said fund. It shall be a provision of such trust agreement that no moneys, other than income from the trust, shall be paid over to the cemetery corporation by the trustee, except upon the written permission of the secretary of state.~~

Sec. 3. K.S.A. 17-1312a is hereby amended to read as follows: 17-1312a. (a) On July 1, 1974, all cemetery corporations shall register with the secretary of state. Each cemetery corporation thereafter formed under the laws of the

state of Kansas and each foreign corporation granted a certificate of authority to own or operate a cemetery within the state of Kansas shall register with the secretary of state before commencing business in Kansas. Each cemetery corporation shall prepare and forward to the secretary of state at the time it is required to make an annual report under the Kansas general corporation code, or if no such report is required then on January 1 in each year, a statement verified by the treasurer of said corporation describing the corpus and any accumulated income on the preceding December 31, or on the last day of its fiscal year if it does not use the calendar year in its accounts, in each permanent maintenance fund established by said corporation, the cost and the market value on said date of each security then held in each such fund, and the income of and disbursements from each such fund during the calendar or fiscal year then ended. This statement shall otherwise be in such form as the secretary of state shall prescribe. Whenever the secretary of state shall determine that any cemetery corporation required by this act to be registered has failed or refused to do so, the secretary of state may notify the county attorney or district attorney of the county in which such cemetery corporation is located, and such county attorney or district attorney shall commence prosecution against such cemetery corporation. Any cemetery corporation which fails to register with the secretary of state shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed one hundred dollars (\$100).

(b) Whenever and as often as he deems it necessary, the secretary of state, or an employee designated by the secretary of state, may audit or otherwise examine any cemetery corporation books and accounts. Whenever such an audit or examination is so made, the cemetery corporation shall pay to the secretary of state a fee of fifty dollars (\$50) for each day or part of a day required for such audit or examination.

(c) Prior to July 1, 1979, it shall be the duty of the

county appraiser of each county in this state to provide the secretary of state with a list of all cemeteries or other places of human interment located within such county appraiser's county. Such list shall include the location, including a street address and a legal description thereof, and the name or names of the owners thereof.

Sec. 4. K.S.A. 17-1312e is hereby amended to read as follows: 17-1312e. All information which the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation shall be deemed to be confidential information, and shall not be disclosed by the secretary of state, any assistant, examiner or employee thereof, except to officers of the cemetery corporation being audited, or to the attorney general, when in the opinion of the secretary of state the same should be disclosed.

Sec. 5. K.S.A. 17-1311, 17-1312, 17-1312a and 17-1312e are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

VIII

_____ BILL NO. _____

By Special Committee on Local Government

AN ACT relating to public recreation systems; concerning operation thereof by cities, school districts or recreation commissions; amending K.S.A. 12-1902, 12-1914, 12-1915 and K.S.A. 1977 Supp. 12-1908, and repealing the existing sections; also repealing K.S.A. 12-1918.

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

Section 1. K.S.A. 12-1902 is hereby amended to read as follows: 12-1902. Any city or school district may operate such system independently, or may cooperate 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,~~ but the programs and services within such recreation system shall not be conducted by both the city and school district each acting independently of the other. In any city or school district where a recreation commission has been established, said recreation commission shall have exclusive authority to operate the system and all programs and services thereof.

Sec. 2. K.S.A. 1977 Supp. 12-1908 is hereby amended to read as follows: 12-1908. (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 district, 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 K.S.A. 12-1904. When said petition shall have been submitted to a city and school district

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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, but 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. 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 one (1) mill, which levy shall be in addition to the one (1) mill authorized by K.S.A. 12-1904. Any city of the first class located in any county having a population of more than twenty-seven thousand (27,000) and not more than thirty-two thousand (32,000) may levy for a recreation commission located therein a tax in an amount not to exceed one (1) mill in addition to those levies authorized herein and in K.S.A. 12-1904. Any levy in addition to the one (1) mill levy authorized by K.S.A. 12-1904 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.

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(c) Any recreation commission established by a city, school

district or both, acting jointly, which has been operating for at least three (3) years on the maximum levies authorized by K.S.A. 12-1904 and subsection (b) of this section, 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 such budget, but not to exceed one (1) mill. Such levy shall be in addition to the levies authorized by K.S.A. 12-1904 and subsection (b) of this section and shall not be deemed or considered a 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 any limitations prescribed by law.

(d) In any city or school district in which a recreation commission has been established, before the levying authority shall make any additional levy authorized by subsection (c) of this section, it shall adopt a resolution reorganizing the recreation commission as follows: (1) Where the recreation commission was established by a city acting independently, five (5) members shall be appointed as provided in K.S.A. 12-1907, two (2) members shall be duly elected members of the city governing body and the city governing body shall appoint one (1) member of the board of education of each school district whose boundaries encompass any portion of the city; (2) where the recreation commission was established by a school district acting independently, five (5) members shall be appointed as provided in K.S.A. 12-1907, two (2) members shall be duly elected members of the board of education of such school district and the board of education shall appoint one (1) member of the governing body of each city whose boundaries encompass any portion of the school district; and (3) where the recreation commission was established by a city and school district jointly, five (5) members shall be appointed as provided in K.S.A. 12-1907, two (2) members shall be duly elected members of the city governing body and two (2) members shall be duly elected members of the board of education of the school district. Ex officio members of the recreation

commission shall serve without compensation.

(e) Before the tax levying authority shall make any additional levy authorized by this section, the city or the school district, or both, shall adopt a resolution authorizing the making of the levy. Such resolution shall state the purpose for which the levy is made and 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 the school district, who voted at the last preceding regular city election, shall be filed with the city clerk within sixty (60) 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 of the 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.

(f) Any recreation commission or department operating under the provisions of article 19 of chapter 12 of the Kansas Statutes Annotated is authorized to certify a budget to their appropriate levying authority in an amount exceeding their statutory levy limits sufficient to finance all social security, workmen's compensation, Kansas Public Employees Retirement System and unemployment insurance requirements for the succeeding budget year.

Do or this again

Sec. 3. K.S.A. 12-1914 is hereby amended to read as follows: 12-1914. (a) Whenever the governing body of any city operating a public recreation system pursuant to 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 election 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.

(b) 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 notice of the intention to combine the two (2) systems into a single city department of parks and recreation. 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 election 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.

Sec. 4. K.S.A. 12-1915 is hereby amended to read as follows: 12-1915. The governing body of any city ~~may which~~ exercises the provisions of K.S.A. 12-1914, as amended, shall, by ordinance provide for the creation of a park and recreation advisory board which--shall--consist--of--five--(5)--members to be appointed by the governing body of the city. Of--the--members--first appointed--two--(2)--members--shall--be--appointed--for--a--term--of--four (4)--years,--one--(1)--member--shall--be--appointed--for--a--term--of--three (3)--years,--one--(1)--member--shall--be--appointed--for--a--term--of--two (2)--years--and--one--(1)--member--shall--be--appointed--for--a--term--of--one (1)--year.--Thereafter,--all--appointments--except--to--fill--vacancies shall--be--for--four--(4)--years;--Provided,--that--in--any--city--which--had

~~prior to the combining of the operation and administration of the parks and public recreation system established a recreation commission under the provisions of article 19 of chapter 12 of the Kansas Statutes Annotated,~~ The members of the recreation commission at the time of such combination shall constitute the initial park and recreation advisory board. Members shall serve upon such 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 of any member, appointment shall be made to fill such position for a term of four (4) years. In addition, where the recreation system was being operated by a school district or a school district and city acting jointly prior to combining the park and recreation systems, the city governing body shall appoint two (2) members of the board of education of such school district to the park and recreation advisory board, and such members shall serve for terms concurrent with their terms as members of the board of education.

Sec. 5. K.S.A. 12-1902, 12-1914, 12-1915 and 12-1918, and K.S.A. 1977 Supp. 12-1908 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

one statute repealed

BILL NO. _____

By Special Committee on Local Government

AN ACT relating to public parks and recreation; concerning operation of a system of parks and recreation by a city-county board of parks and recreation.

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

Section 1. Whenever it shall be determined that the recreation and park services, programs and facilities of any county and city or cities within a 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 a 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, but there shall be at least one (1) elected official from each participating governing body. Elected officials shall serve terms concurrent with their terms

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as members of the governing body they represent. All appointed members shall serve staggered, four (4) year terms.

Sec. 2. 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 such municipality 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 of funds budgeted for park and recreation purposes by all contracting municipalities in the budget year immediately preceding the creation of a joint board.

Sec. 3. 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 1 of this act. The treasurer shall hold office for the term for which elected and until a 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 the treasurer's 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.

Sec. 4. 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.

Sec. 5. 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.

Sec. 6. 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 preceding fiscal year.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

ment for such bonds. A copy of such offering circular or official statement shall be filed by underwriter's counsel with the Securities Commissioner before or within five (5) days after the issuance of the bonds but the failure to make such filing shall not affect the validity of the bonds. The form of such offering circular or official statement shall not be subject to the approval of the Securities Commissioner but shall be in a form determined by underwriter's counsel to be acceptable and substantially consistent with standards and practices of the securities industry in the State of Kansas at the time. The Securities Commissioner may refuse to accept a notice of proposed issuance of economic development revenue bonds listing as underwriter's counsel any attorney or firm of attorneys who have failed to furnish an offering circular or official statement for any issue which was issued more than five days prior to such notice and have failed to comply with this provision or who have previously and consistently failed to comply within the time specified and have ignored requests by the Securities Commissioner to make such filings.

(1) Within five (5) days from the issuance of any economic development revenue bonds, bond counsel shall file a copy of bond counsel's opinion with the Securities Commissioner but the failure to make such filing shall not affect the validity of the bonds. The Securities Commissioner may refuse to accept a notice of proposed issuance of economic development revenue bonds listing as bond counsel any attorney or firm of attorneys who have failed to furnish an opinion for any issue which was issued more than five days prior to such notice and have failed to comply with this provision or who have previously and consistently failed to comply with this provision within the time specified and have ignored requests by the Securities Commissioner to make such filings.