

Approved Ivan Sand 2/7/84
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at
Chairperson

1:30 XXX a.m./p.m. on FEBRUARY 1, 1984 in room 521-S of the Capitol.

All members were present except: (All Present.)

Committee staff present:

Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Gloria Leonhard, Secretary to the Committee

Conferees appearing before the committee:

Representative George R. Dean, HB 2757
Mr. Kim Dewey, County Commission, Sedgwick Co., HB 2757
Representative Herman G. Dillon, HB 2748
Mr. Gordon Hahn, The Associated Landlords of Kansas, Shawnee Mission, KS., HB 2748
Representative Vic Miller, HB 2748
Mr. R. W. Cook, Enterprise, KS., HB 2748
Ms. Val Braun, Shawnee County Landlords' Assn. HB 2748
Mr. Don Sage, HB 2748
Rev. Richard Taylor, HB 2748
Mr. Jim Kaup, League of Kansas Municipalities, HB 2748
Mr. Chris McKenzie, League of Kansas Municipalities, New Legislation

Chairman, Ivan Sand, called for hearings on the following House Bills:

HB 2757, concerning the regulation, licensing and vaccination of dogs in the unincorporated area of the county;

Mike Heim, Staff, gave a brief overview of the bill. (See Attachment I.) Heim noted that the bill had originally been a statewide proposal but that this version had been limited to Sedgwick County, Kansas.

Representative George R. Dean, a sponsor of the bill, gave background and intent of the bill.

Mr. Kim C. Dewey, Sedgwick County, Kansas, testified in support of the bill. (See Attachment II.)

It was noted that the requirement of a rabies vaccination each year might need to be clarified as some vaccines immunize an animal for three years.

When questioned, Dewey stated that the bill had the potential of raising \$45,000 for Sedgwick County.

The hearing on HB 2757 was closed.

HB 2748, concerning cities; relating to charges for utility services;

Mike Heim, Staff, gave a brief overview of the bill. (See Attachment III.)

Theresa Kiernan, Staff, pointed out that language contained in Lines 100 through 103 of the bill should not be included; that the inclusion of these lines is probably a printing error.

Heim stated he feels the bill may need some further clarification before it is passed out of the committee.

Representative Herman G. Dillon, a sponsor of the bill, appeared to give background and intent of the bill. Dillon summarized the intent of the bill to be to keep landowners from being liable for someone else's debts; that if a tenant leaves an unpaid utility bill behind when he leaves, he will nonetheless be responsible for it.

Staff was asked if Section 1 and Section 4 are contradictory regarding water and sewage

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
 room 521-S, Statehouse, at 1:30 ~~xxx~~/p.m. on FEBRUARY 1, 1984.

cutoffs. Mike Heim responded that there does appear to be an inconsistency.

Mr. Gordon Hahn, The Associated Landlords of Kansas, Shawnee Mission, Kansas, (TALK), testified in support of the bill. (See Attachment IV.)

Hahn illustrated his points by reading from a June, 1983, newspaper article and showing a chart which set out how unpaid refuse charges to tenants in the total amount of \$427 were transferred to himself as property owner. He pointed out that there was also a similar amount for sewage also. Hahn stated that the problem is widespread in Shawnee County; that in July, 1983, a huge crowd of protestors attended a meeting with the County Commissioners. Hahn stated that his Association recommends that the changes in this bill also apply to 65-3410.

When questioned, Hahn explained that the companies providing the services did not collect a deposit because the service is not a utility; that collection procedures should go through the courts; that although a property owner is responsible for his property, a tenant's unpaid bill is a different type of responsibility; that a property owner is under contract and must use due process of law to get property back from a tenant or clean it up.

Representative Vic Miller appeared in support of the bill. He verified Mr. Hahn's account of the large number of protestors at the July, 1983, Commission meeting; that the protestors were "a group of people who were being asked to pay a bill they did not incur." Miller stated that liens should be exercised with scrutiny; that the law was designed to cover property owners who don't pay -- not to reimburse tenants who walk away from their debts; that nothing prevents a city from collecting security deposits; that there is currently another refuse/sewer bill under consideration.

Theresa Kiernan, Staff, verified that the bill referred to by Miller and HB 2748 could be incorporated.

One suggestion was to allow Section 5 to cover the problem and not remove language in other parts of the bill.

Chairman Sand directed Staff to look into incorporating additional ideas into a substitute bill.

Mr. R. W. Cook, a landlord from Enterprise, Kansas, testified in support of the bill. (See Attachment V.)

Ms. Val Braun, Vice President, Shawnee County Landlords' Assn., testified in support of the bill. (See Attachment VI.) Ms. Braun stated she believes that an occupant who contracts for services should be responsible for them. She asked the committee to also change 65-3410 along similar lines.

Mr. Don Sage, landlord, testified that he supports HB 2748.

Rev. Richard Taylor, testified that he supports HB 2748.

Mr. Jim Kaup, League of Kansas Municipalities, testified as an opponent to HB 2748. Kaup stated that he has no problems with the first four sections of the bill; but that there are clear inconsistencies between the amendments in the first four sections and the new Section 5. Kaup pointed out that landowners gain because they are landowners; that landowner liability has been recognized for many years; that to assess landowners for tenant's unpaid bills is more fair than to spread the cost among all city citizens; that one helpful approach to the problem might be to have landowners notified at the beginning that a tenant has opened an account for a service.

When questioned, Kaup stated that many cities are getting out of the security deposit business because of the rate of interest charged on deposits; that they suffer a net loss by taking the money in; that smaller towns have the greatest problems with transient tenants leaving unpaid bills.

Chairman Sand stated that additional hearings on the bill will be needed and may be scheduled for next week.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
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Mike Heim, Staff, asked for input from the Committee for preparing a substitute bill.

It was proposed that Staff look at all facets of the bill, clean it up as much as possible, and bring it back to the committee for consideration.

Representative Clinton C. Acheson moved and Representative Mary Jane Johnson seconded that staff prepare a substitute bill. Motion carried.

Mr. Chris McKenzie, League of Kansas Municipalities, addressed the committee regarding the creation of Joint City-School District Recreation Commissions and asked consideration by the committee of the introduction of a bill that would authorize the creation of such joint city-school district recreation systems. (See Attachment VII.)

It was moved by Representative Mary Jane Johnson and seconded by Representative Arthur W. Douville that the proposal as described by Mr. McKenzie be introduced as a committee bill. Motion carried.

Meeting adjourned.

MEMORANDUM

January 31, 1984

TO: House Local Government Chairman
FROM: Kansas Legislative Research Department
RE: H.B. 2757

H.B. 2757 amends K.S.A. 19-2230 concerning the licensing and vaccination of dogs by counties. The bill permits Sedgwick County to levy and collect an annual license fee in an amount equal to that levied by any city of the first class in that county.

(ATTACHMENT I)

MH



SEDGWICK COUNTY, KANSAS

DEPARTMENT OF ADMINISTRATION

FOREST TIM WITSMAN
COUNTY ADMINISTRATOR

COUNTY COURTHOUSE, • 525 N. MAIN, • WICHITA, KANSAS 67203-3703 • TELEPHONE 268-7575

TESTIMONY OF KIM C. DEWEY SEDGWICK COUNTY, KANSAS

HOUSE LOCAL GOVERNMENT COMMITTEE
HOUSE BILL 2757
FEBRUARY 1, 1984

The substance of House Bill 2757 is essentially that of House Bill 2201, which was reported favorably by this Committee and subsequently passed the House on a vote of 89 to 30. The bill removes the one dollar limitation on dog license fees in the unincorporated areas of the county, and limits the amount which can be charged to no more than that charged by any first class city in the county. The exception applies only to Sedgwick County.

Sedgwick County Animal Control officials presented extensive testimony to this Committee last year on House Bill 2201, so the Committee is aware of the situation in Sedgwick County. We do have animal control regulations in the unincorporated areas of the County, and do require licenses for dogs. We feel the operation should require as little general tax support as possible, but this is not the case with a fee limited to \$1 per year.

Currently, Wichita is the only first class city in Sedgwick County, and they charge \$20 per year for a license with five dollar reductions for dogs spayed and neutered and dogs in fenced yards.

The Committee should be aware that although the exception applies only to Sedgwick County, the exception renders the act non-uniform, allowing charter action by other counties. However, charter actions are subject to referendum upon submittal of a 2% protest petition.

We ask you to report House Bill 2757 favorably.

(ATTACHMENT II)

MEMORANDUM

January 31, 1984

TO: House Local Government Chairman
FROM: Kansas Legislative Research Department
RE: H.B. 2748

H.B. 2748 strikes the power of cities to impose liens for unpaid utility bills in certain instances. Section 1 deals with sewer service charges. Language is added in this section to require a city to comply with State Corporation Commission rules concerning disconnection of utility services to protect human health. Section 2 deals with user fees for water, storm drain, or sewer services. Section 3 deals with water and sewer systems. Section 4 deals with sewage disposal. Section 5 prohibits any city from creating a lien upon any property for unpaid utility bills unless the property is owned by the person requesting the service.

The bill appears to need some further amendments.

(ATTACHMENT III)

MH

THE ASSOCIATED LANDLORDS OF KANSAS
SHAWNEE MISSION, KANSAS

House Bill 2748 addresses some of the problems recently encountered by landlords across Kansas, especially those created by tenants who receive municipal utility services and then leave without honoring their obligations to the city. The Associated Landlords of Kansas strongly support the bill. Up until now, abandoned tenant utility obligations have created potential liens against the landlord's property, without the landlord knowing that the lien had been created. This bill would go a long way toward rectifying that problem, and returning the obligation to the rightful creditor.

However, we would ask that the bill be broadened to include all municipal services of a similar nature, not only those involving traditional utility services of water, sewer, electricity, and natural gas. Specifically, we would ask that trash services be included as well.

The landlords in the Shawnee County area have recently experienced significant problems with tenants arranging for trash services and then leaving without paying for their service. Shawnee county has taken the position that the statutes permit the tenant to create a lien against the landlord's property by this lack of payment, and the county has recently attempted to enforce such liens. In many cases the resulting liens against property were caused by trash service bills that were several years old. Only after vigorous protests was the county convinced that such action was not appropriate.

The more than 1,000 statewide members of The Associated Landlords of Kansas are primarily individual owners of single-family houses, maintaining their properties themselves and attempting to build small investments through real estate ownership. As such, the landlords would appreciate the committee's consideration of their difficulty with utility liens, and ask that the bill be amended to include the statutes that also allow liens to be created through unpaid trash and refuse services.

If the committee desires any additional information or testimony, the association will assist in any way that it can.

Mr. Chairman and members of the committee, I would like to thank you for allowing me to come before you and speak today. My name is R. W. Cook and I have with me my wife Donna. We are here to talk about an ordinance that was passed in 1980 in the city of Enterprise that makes the landlord responsible for utility bills left unpaid by tenants.

My wife and I have a mobile home court and rental properties. We also engage as agents for other landlords in the city of Enterprise. This ordinance has caused us a considerable amount of trouble. We feel it is unfair that we should pay the bills of someone else.

In our mobile home court, we rent a lot for \$40 per month. Our tenants each are responsible for contracting for their own utilities. Each lot has separate meters. If a tenant stays for a short amount of time and then decides to move he has paid rent of \$40 a month. If he leaves without paying his utility bills, I become responsible for the bill.

As a landlord I cannot be responsible for a contract made between a tenant and a utility company. I should not have to become a collection agency to make sure that their bills are paid. This should be the responsibility of the individual or the company he is contracted with. I pay my utility bills and I feel that I should not have to pay those of my tenants.

The thing that is most unfair about this situation is that even though I become responsible for their bills there is no way for me to make sure they pay them. My lawyers tell me that I cannot place a lein

on their trailers because I am not the one who sold them the service. Basically, it comes back to me having to pay someone elses bills.

I would like to give you a specific example of one occasion where we have had to pay someones bill. We rented a lot to a woman. She called us one day and informed us that she would be moving but that her son would be moving in. My wife called the city clerk and informed her of the situation. She felt that the clerk should get a reading of the meter and charge the son a deposit. The clerk said that she would inform the family of charges.

Two months later my wife received a call from the clerk saying that the utility bill on lot #10 was \$150.00. She told her to turn it off and asked if any deposit had been taken. The clerk said that no deposit was taken and I had no right to terminate the service.

At this point my wife found out that we now owed a little over two months on the bill. We ended up paying \$141.69 for services we did not receive.

I want to thank the committee again for allowing me to speak on this issue. I just wanted to let you know that we do have several documents which support out stand and if there is anything you would like to see, we would be happy to get together with you. Thank you again.

Mr. Chairman; Members of the Committee

Thank you for the opportunity to appear before you.
My name is Val Braun; I represent the Topeka/Shawnee County
Landlords Association. We number over 100 members.

We support HB-2748 in its entirety. This bill will go far toward
correcting the unfairness inherent in the existing statute; the change
is a welcome relief. Landlords generally are not overwhelmed with
good news, so we truly appreciate this fine proposal.

The local governing entities should not use rental property owners
as their bill collectors - which is the case under existing situation.
Another consideration is that when a contract for service is made,
it is the contracting party who should be responsible for payment for
that service. Not only is such arrangement natural, legal and proper,
but where all utilities are contracted for by the tenant and paid
directly, there is no way for the owner to know about any outstanding
bills when that tenant vacates the property. In addition, the Landlord-
Tenant Act stipulates that the lease deposit must be refunded (or
accounted for) within 30 days of lease termination. Unfortunately,
the efficiency of our local governmental departments has been such
that it has taken up to TWO years for such unpaid bill to surface!

HB-2748 as written corrects all these inequities.

However, there is KSA 65-3410, which refers to unpaid trash collection
fees being considered a lien upon the property, and which is not
being addressed by HB-2748. We believe that to continue 65-3410 to
exist would merely allow the county government to hide its inefficiency

and inaptitude behind the state mandate. If the county has a collection problem, the solution is very simple: follow the proven example of private and city utilities by instituting a deposit requirement.

Instead, ^{of municipalities} ~~our county is~~ laboring under the fallacious assumption that the property owner shall be responsible for the refuse bills incurred at the property. We hope you will agree with us, that it is the occupant of the property, who contracts for the service directly with the ^{service} ~~county~~, who should be responsible for such bills.

In summary, we support HB-2748 as printed.

We respectfully ask that you give consideration to changing KSA 65-3410 along similar lines.

Thank you.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Local Government
FROM: League of Kansas Municipalities
DATE:
SUBJECT: Creation of Joint City-School District Recreation Commissions

I. Introduction

Since 1945 the laws of Kansas, K.S.A. 12-1901 et seq., have authorized cities and school districts, acting either individually or jointly, to establish and levy a tax to support recreation systems. K.S.A. 12-1904 specifies the procedure for the establishment of such systems. That section requires the filing of a petition containing the signatures of at least 5 percent of the qualified and registered voters of the city or school district, a subsequent meeting of the city or school district governing bodies, or a joint meeting in the case of a petition for a joint recreation system, and a public referendum on the question. The procedure to be followed in levying the tax is for the commission to certify a budget, not later than 20 days prior to the date for the publishing of the budget for the city or school district, which provides for levying a tax by the city or school district sufficient to raise the amount required under the budget.

II. Problem

Since the enactment of the recreation commission laws in 1945, League records indicate that by 1982 only 154 recreation commissions had been created. This figure is based on recreation fund levies for city, school and joint recreation commissions that are recorded in the county tax levy sheets each year. This means that only 16.5 percent of the 933 cities and school districts in Kansas make annual property tax levies for individual or joint recreation commissions. While the number of school districts and cities participating in commissions would be somewhat higher since some participate in joint commissions, that number is not available.

The League believes that one of the reasons for this relatively low rate of participation in the creation of recreation commissions is the process required by state law in K.S.A. 12-1904 for initiating the creation of local recreation commissions. Unlike a number of more recent enactments such as the sales tax act, K.S.A. 12-187, and the act authorizing city and county levies for programs for the elderly, K.S.A. 12-1680, state law does not authorize the calling of a referendum for submission of the question of creating a recreation system and levying a tax therefor by action of the governing body. The exclusive method for creating such commissions is by the submission of a voter petition.

III. League Proposal

The League of Kansas Municipalities requests your consideration of the introduction of a bill that would authorize the calling of referendums concern-

ing the creation of joint city-school district recreation systems by action of the governing bodies of the city and school district without the necessity of a voter petition. Attached is a draft bill which we believe would accomplish that objective. We would stress that the procedure recommended in that bill would only authorize the calling of referendums for the creation of joint recreation commissions by action of the governing bodies of the city and school district. Creation of individual city or school district recreation commissions would still have to be undertaken by the filing of a petition.

Sincerely,



Chris McKenzie
Attorney/Director of Research

CM:gs

Encl.

_____ BILL No. _____

AN ACT concerning recreation systems; authorizing the calling of referendums by city and school district governing bodies.

Section 1. As an alternative to the procedure contained in K.S.A. 12-1904 and amendments thereto, the governing body of any city and any school district governing body may jointly initiate by appropriate ordinance or resolution the submission to the qualified electors within the boundaries of the city or school district, whichever is larger, the question of creating a joint city-school district recreation system and levying an annual tax not to exceed one mill for such recreation system and to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto. The question shall be submitted at the next regular or special election of the city or school district, whichever is larger, to be held more than 30 days after the adoption of the ordinance and resolution. Upon the adoption of the proposition by a majority of those voting on it at the election, the governing bodies of the city and school district shall establish a joint city-school district recreation system and commission as provided in K.S.A. 12-1906 and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.