

Approved On: 4-3-86

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on April 2, 1985 in room 519 South at the Capitol of the State of Kansas.

The following members were absent (excused):

Representatives Crowell, Erne, Ott, Vancrum

Committee staff present:

Tom Severn, Legislative Research  
Melinda Hanson, Legislative Research  
Don Hayward, Reviser of Statutes  
Millie Foose, Committee Secretary

HB-2583, an act concerning the taxation of property; relating to the exemptions of farm machinery and equipment, was discussed. Mr. Vic Miller, Director Division of Property Valuation, presented a memorandum clarifying the nature and extent of the farm machinery exemption which had been distributed to the county appraisers. (Attachment 1)

Representative Lloyd Polson testified in support of the bill and submitted copies of an ad concerning custom work that the Marshall County Appraiser's Office published in the Marysville Advocate. (Attachment 2) He also submitted copies of an article published in the Marysville Advocate concerning eligibility for tax-exempt status for machinery or equipment; suggesting if a person does not agree with the local assessment he can go to the State Board of Tax Appeals. (Attachment 3)

Representative Gayle Mollenkamp spoke in support of the bill, describing a solution to the problem that some farmers have developed in pooling equipment. (Attachment 4)

Representative Gene Shore testified in support of the bill; also Representative Don Sallee.

Mr. John Blythe, Assistant Director Public Affairs Division Kansas Farm Bureau, testified in support of HB-2583 and submitted a statement on behalf of the farmers and ranchers in Kansas who are members of the 105 Farm Bureaus in the state. (Attachment 5)

Mr. Dee Likes, Executive Vice President of Kansas Livestock Association, testified in support of this bill on behalf of the members of his organization. (Attachment 6) He also recommended an amendment to the bill that would include all farm and ranch activities.

Mr. Fred Weaver spoke in support of the bill and submitted two examples -- a letter from Mary Cech, Thomas County Appraiser, and a letter addressed to Ms. Cech from Mr. Phil Vrana, an accredited farm manager, relative to tax exemption status on farm machinery. (Attachments 7 and 8) Mr. Weaver was questioned by the committee members on possible exemptions. Mr. Weaver said that most of these questions would have to be referred to the Board of Tax Appeals and decided on a case by case basis.

Mr. Vic Miller spoke further on the bill and stated there were questions that were unanswered and all he is providing to county appraisers in his letter of interpretation is guidance. He said that any suspect category should be referred to the county appraiser. That concluded the hearing on HB-2583.

Mr. Darold Main discussed HB-2595, an act amending the Kansas retailers' sales tax act; relating to the definition of political subdivision, and emphasized the need for a public building commission. (Attachment 9)

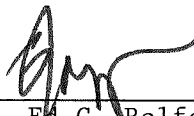
Commissioner Harry Felker also supported this bill and emphasized the need to include "public building commission".

Mr. Joe Zima testified for Shawnee County and said that it is important to include the city, county, and state in this bill.

Representative Wagnon moved, second by Representative Lowther. that HB-2595 be recommended favorably. The motion passed.

The minutes of March 29 were reviewed. There were no changes and they were approved as presented.

There being no further business, the chairman adjourned the meeting.



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Ed C. Rolfs, Chairman



John 1

Kansas  
DEPARTMENT OF REVENUE

State Office Building  
TOPEKA, KANSAS 66625

M E M O R A N D U M

TO: All County Appraisers

FROM: Victor W. Miller, Director *W*  
Division of Property Valuation

DATE: March 5, 1985

The Kansas Supreme Court, recently ruling on appeals from the findings of the Board of Tax Appeals in two cases, has further clarified the nature and extent of the farm machinery exemption.

In cases brought by T-bone Feeders and Merle Yakle and others, the court considered questions relevant to whether custom operators, feedlots, cooperatives and other similar farm machinery users were entitled to the exemption. The court carefully distinguished between agricultural pursuits on the one hand and "farming and ranching operations" on the other. The court found that the definition of "farming and ranching operations" was to be narrowly construed when considering farm machinery exemptions.

The court also approved the requirement, articulated by the Board of Tax Appeals, that in order for a taxpayer to qualify for the exemption under K.S.A. 79-201j, he must have "a significant tie to the land".

In carefully written decisions by Judge Praeger and Judge Lockett, the court clearly imposed upon the property tax community a responsibility to apply the farm machinery exemption in a most narrow manner.

Custom operators are not eligible for exemption for farm machinery when they provide a service for cash. Apparently, this would be the case with any equipment so used; real property holdings by custom operators in their own name cannot ever be so great as to qualify custom operating machinery for exemption. Apparently, from reading the Supreme Court decision, a farmer who farmed his own land and then provided services through his neighbor for money would not be eligible for exemption for any machinery or equipment used by him in providing those services to his neighbor. However, where the farmer had other equipment used only on his own land, that equipment will be eligible for exemption; the court was careful to frequently point out that, like all other property tax exemptions, use and not ownership is the test for exemption.

Custom operators, that is persons who perform farm operations of others for cash, are not eligible for the farm machinery exemption. Equipment used by such persons in these endeavors should be taxed.

The court in a separate opinion, found that commercial feedlots were not farming and ranching operations.

Because the exemption is to be narrowly construed, county officials are warned to scrutinize most carefully specific instances in which, we are informed, certain counties have been granting exemptions.

Since taxation is the rule and exemption the exception, county appraisers are required to verify all facts and any evidence inconsistent with the test for exemption. Any evidentiary dispute lends itself to the appeal process on a case by case basis.

Commercial feedlots are not eligible for exemption on "farm machinery and equipment". Property used by such enterprises is to be taxed. Apparently, viewing the decision of the Kansas Supreme Court in the light most likely to reach the conclusions intended, commercial feedlots which have associated agricultural enterprises which are farms raising forage or fodder may not seek the exemption of any equipment which is used in both enterprises.

Where a commercial feedlot farms land for fodder or other purposes it is apparently inappropriate for the feedlot to seek exemption for its farm machinery as long as the farm and feedlot are the same taxpayer.

Implement dealers have never come under the farm machinery exemption. Certain counties had perceived these taxpayers as being eligible for farm machinery exemptions; they are not eligible for this exemption. Property held by implement dealers is to be assessed and taxed in the name of the owner thereof.

Machinery primarily designed for use on a farm but used in construction applications by construction companies is not eligible for exemption.

Machinery used by "land improvement companies" to form terraces, make ponds irrigation ditches and level grades is not eligible for exemption as farm machinery; it is being used in a construction pursuit.

Farm machinery operated by grain elevators is not eligible for exemption.

Farm machinery operated by commercial enterprises which are not farms is not eligible for exemption. A factory which owns a small tractor and field mower or brush mower is not eligible to seek exemption for that piece of equipment as a farm machine. It is the position of the Division of Property Valuation that no "agribusiness endeavor" other than an actual farmer or rancher with a "significant tie to the land" will be eligible for this exemption.

It is hoped that these instructions will assist county officials in the discharge of their duties. Local appraisal and administrative officers, including county commissioners, are reminded of the substantial penalties, criminal (K.S.A. 79-1426) and civil (K.S.A. 79-1703) which could result from a failure to discharge their statutory duty. Any question with regard to these statutes should be answered with the assistance of the county attorney or counselor.

If any questions arise, county officers are invited to call the Division of Property Valuation for assistance.

For the assistance and guidance of county appraisers, commissioners and other officers, a copy of each of the two supreme court decisions is enclosed. County officials are invited to consult that language of the court for guidance in the resolution of any question not addressed by this memorandum.

VWM:rob

Attachments

LLOYD D. POLSON  
REPRESENTATIVE, SIXTY-SECOND DISTRICT  
MARSHALL, NEMAHA AND POTTAWATOMIE  
COUNTIES  
BOX 164  
VERMILLION, KANSAS 66544



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
CHAIRMAN: AGRICULTURE AND SMALL BUSINESS  
MEMBER: JOINT COMMITTEE ON ADMINISTRATIVE  
RULES AND REGULATIONS  
EDUCATION  
NATIONAL COUNCIL OF STATE  
LEGISLATURES COMMITTEE ON  
AGRICULTURE AND FOOD POLICY

March 28, 1985

MARYSVILLE ADVOCATE

# ATTENTION

**To: All persons who do any  
kind of custom work.**

**From: The Marshall County  
Appraiser's Office.**

**Due to a recent Kansas Supreme Court  
ruling, all persons doing custom work for  
cash will be taxed on their farm machinery  
and equipment used in that particular  
operation.**

**If you are planning on doing any custom  
work or have already done custom work  
for the calendar year 1985, please contact  
our office as quickly as possible.**

**Thank you,**

**The Marshall County  
Appraiser's Office**

LLOYD D. POLSON  
 REPRESENTATIVE, SIXTY-SECOND DISTRICT  
 MARSHALL, NEMAHA AND POTTAWATOMIE  
 COUNTIES  
 BOX 164  
 VERMILLION, KANSAS 66544



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 AGRICULTURE AND FOOD POLICY

MARYSVILLE ADVOCATE March 14, 1985

## State issues tax ruling

A farmer who is paid for services he provides for his neighbor will not be eligible for tax-exempt status for machinery or equipment used in providing the services.

This was the word county appraisers received recently from the State Division of Property Valuation as a result of a recent Kansas Supreme Court ruling on appeals to the Board of Tax Appeals.

"The court found that the definition of 'farming and ranching operations' was to be narrowly construed when considering farm machinery exemptions," said Victor W. Miller, director of property valuation, in a memorandum county commissioners read here Monday.

Anyone paid for using his farm equipment, regardless of whether he is a farmer, is not eligible for a farm machinery exemption on the equipment used in the custom work.

In a separate opinion, the State Supreme Court ruled that commercial feedlots would not be exempt because they are not farming and ranching operations.

County officials were asked by Miller to "scrutinize most carefully specific instances in which, we are informed, certain counties have been granting exemptions."

If a person does not agree with the local assessment, he can go the State Board of Tax Appeals.

Assistant County Attorney Steve Boyda told commissioners.

The ruling would even affect farmers who get paid to clear snow with their tractors, Boyda said.



TOPEKA

HOUSE OF  
REPRESENTATIVES

GAYLE MOLLENKAMP  
REPRESENTATIVE, 118TH DISTRICT  
LOGAN, GOVE, TREGO, GRAHAM  
AND PARTS OF NESS AND  
ROOKS COUNTIES  
HC2, BOX 5  
RUSSELL SPRINGS, KANSAS 67755

COMMITTEE ASSIGNMENTS  
MEMBER: ENERGY AND NATURAL RESOURCES  
LOCAL GOVERNMENT  
PENSIONS, INVESTMENTS AND  
BENEFITS

April 2, 1985

MR. CHAIRMAN AND MEMBERS OF THE HOUSE ASSESSMENT AND TAXATION COMMITTEE:

I want to rise in support of HB 2583. We have a situation in my area where a hard working group of young farmers can no longer make the interest payments on their debts. They are having to liquidate their livestock and machinery to reduce the debt. The farmers in the area are planning to pool machinery and services to try to keep the troubled farmers in business. The plan is to put together a group of farmers to form a unit where one farmer will do only hay work with his equipment, another harvesting equipment, another seed bed preparation equipment and another silage equipment. The equipment among the group not used in their special assignment will be sold to reduce the debt load. The overall goal is to all survive together.

If the group has to assess their remaining equipment for doing custom work, it will only add to the problem. I urge you to support HN 2583.

Representative Gayle Mollenkamp



**Kansas Farm Bureau, Inc.**

2321 Anderson Avenue, Manhattan, Kansas 66502 / (913) 537-2261

STATEMENT OF KANSAS FARM BUREAU  
to the  
HOUSE COMMITTEE ON ASSESSMENT & TAXATION

RE: H.B. 2583--Taxation of Farm Machinery & Equipment  
April 2, 1985  
Topeka, Kansas

Presented by  
John K. Blythe, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to make a statement relating to the taxation of farm machinery and equipment on behalf of farmers and ranchers in Kansas who are members of the 105 county Farm Bureaus in this state.

Many on this committee know Farm Bureau's policy concerning the exemption of farm machinery and equipment from ad valorem taxation.

Following is the policy statement adopted by the voting delegates representing 105 county Farm Bureaus at the 66th annual meeting of the Kansas Farm Bureau in Wichita, December 4, 1984:

**FARM MACHINERY TAX EXEMPTION**

**We believe the exemption of farm machinery recognizes the importance of agriculture to the Kansas**



economy, is in keeping with similar actions in 27 other states and the trend nationally exempting farm machinery from property taxation, and should be defended vigorously.

Our policy statement is very straight forward. It recognizes that this exemption is granted in 27 other states, with yet other states that provide a reduced tax or appraisal on farm machinery. Our people want farm machinery to remain exempt from property taxation and they want us to defend it vigorously. They likewise want you, the Legislature, to defend it vigorously.

This policy statement was adopted prior to the recent Supreme Court decision relating to custom cutters. Our members felt confident that the Supreme Court would overturn the decision of the State Board of Tax Appeals and District Court relating to farm machinery. They knew that they used hay balers, combines, and planters exclusively in farming and ranching operations. They felt confident that farmers were not using this equipment to run into town to buy groceries or school books and therefore all farm machinery and equipment regularly and exclusively used in farming and ranching operations would be exempt from property taxation.

We continue to believe the court is in error in its interpretation. However, the court has spoken and the decision was unanimous.

The court said in its decision that the farm machinery and equipment must have a "significant tie to the land."

The Supreme Court did not define the term "significant tie to the land." The District Court and the Board of Tax Appeals also failed to offer a definition of this important term that they all three used in their decision. In fact, members of the Supreme Court questioned the attorney for the Kansas Department of Revenue during the court case as to how much land the farm machinery owners would have to operate or how much work the owners of the farm machinery would be allowed to do for others and still retain the exemption. No good, clear cut answer was given.

I believe that the term "significant tie to the land" has caused a real problem for the Director of the Property Valuation Department and for the county appraisers across the state.

The Director of P.V.D. has interpreted the court's decision to apply the "farm machinery exemption in a most narrow manner."

To us that means that the farmer who, as a neighbor, friend, brother, cousin, father or son, would help bale hay, plant a crop or harvest a crop would lose his property tax exemption for the machinery that was used.

To those of us who know how neighbors, friends and relatives sometimes help each other on the farm, this interpretation will create a severe hardship. Farmers want to, and do pay for this exchange of work unless it is help that is rendered in times of sickness or other unusual circumstances.

It was about 10 days ago when Farm Bureau was testifying in support of the reappraisal and classification proposals that I gave you information relating to farm income and agricultural

property taxes. We will not take time to, again, go over the information sources but simply state that personal income of farmers in Kansas averaged over five years show farm income at 3.56%, yet agriculture pays more than 15% of the property tax.

Mr. Chairman and members of the Committee we are in support of H.B. 2583 and want to express our appreciation for its introduction. We are hopeful that this proposal will clear-up the exemption of farm machinery and equipment.



2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358  
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

Statement  
of the  
Kansas Livestock Association  
to the  
House Committee on Assessment & Taxation  
Rep. Ed Rolfs, Chairman  
with respect to  
HB 2583 ... Taxation of Farm Machinery & Equipment  
presented by  
Dee Likes  
Executive Vice President  
April 2, 1985

Mr. Chairman and members of the Committee, the Kansas Livestock Association represents the entire spectrum of beef cattle production in Kansas including cow-calf operators, stocker operators and cattle feeders. In addition, KLA also represents swine and sheep producers. A large percentage of our membership is also engaged in farming and crop producing activities. Our members have a vital interest in farm machinery taxation and we fully support the enactment of HB 2583.

Our statement before you today will be relatively short because we believe the legislature and the various organizations who participated in the enactment of HB 2425 which created the farm machinery tax exemption several years ago knew exactly what they were doing when the language was adopted which exempted "all farm machinery and equipment". In our opinion, it was most unfortunate that the State Board of Tax Appeals read into the law more than it actually said. The Board of Tax Appeals indicated that there must be a "significant tie to the land". The Supreme Court concluded that custom feedlots, for example, are "agricultural endeavors" but not "farming and ranching". We vehemently disagree with these illogical conclusions. We believe the legislature knew exactly what it was doing when the language of HB 2425 was changed: For example, as passed by the Senate the bill originally read:

"The following described property, to the extent specified by this section, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

All farm machinery and equipment and aircraft. The term 'farm machinery and equipment and air craft' means that personal property used by the owner thereof in conducting a farming or ranching operation or in the case of aircraft used by the owner in the conduct of business. The term 'farm machinery and equipment' shall not include any passenger vehicle, truck, truck-tractor, trailer, etc., etc."

However, the House/Senate conference committee changed the language of this section by removing to a separate section the provisions relative to the exemption of aircraft and then rewrote the sentences with respect to farm machinery and equipment to read as follows:

"All farm machinery and equipment. The term 'farm machinery and equipment' means that personal property actually and regularly used in farming and ranching operations."

Although the final legislative change to delete the requirement that the personal property subject to exemption must be used "by the owner thereof" and despite the fact that it is very significant and obvious that the legislature sought to emphasize that ownership was not a criterion but that use was to be the ultimate standard as a requirement for exemption, the Board of Tax Appeals was literally indifferent to these facts. Unfortunately, the State District Court and the Supreme Court of the state of Kansas upheld their decision.

Mr. Chairman and members of the committee, we believe that a more simple and more logical interpretation of the statute should have been forthcoming. In other words, we believe the "all" should mean just exactly that and we do not believe that the fact that a person does some custom farm and ranch work for hire should erase their status as farmers and ranchers. If the exemption is indeed to be triggered by "use", it is hard to follow the logic that farm and ranch work when done for another is no longer farm and ranch work.

Amazingly, it has been concluded that feedlots that are feeding their own cattle do qualify for the exemption and feedlots who are feeding even a small portion of the cattle in their custody for others do not. One might ask where do we draw the line? We don't believe there should be any difference between a sizeable commercial feedlot which takes in cattle of other farmers and ranchers and a farmer or rancher of smaller size and scale which takes a few pens of his neighbors cattle in order to feed out each year. Under the criteria as established by the courts, a farmer or rancher who rents his pasture to another and agrees to furnish the feed and care would lose his status as a farmer or rancher and therefore his farm machinery exemption. It would also seem to follow under this same type of reasoning that any farmer or rancher who performs any farm or ranch activity upon the property of another would lose the exemption.

We believe strongly that the test should be whether or not the activity performed is a farm or ranch activity. If tilling the soil is deemed to be a farm and ranch activity, it should make no difference to whom that soil belongs. Similarly, if grazing cattle is a farming and ranching activity or if feeding cattle is a farming and ranching activity it should make no difference who owns the animals. Likewise, size

should make no difference. Stated simply, if feeding a few head of cattle for slaughter in a barnyard pen is farming and ranching then the feeding of 2,500 or 5,000 head or 25,000 head or more wherein the end result is exactly the same ... then that activity is similarly a farming and ranching pursuit.

We believe that this particular area is in dire need of clarification by the legislature. Because of these recent court decisions, we now have created an abundance of confusion about how to treat various taxpayers. The current interpretation of the law could cause serious ramifications for many farmers and ranchers who exchange work; rent land; care for another's cattle, etc., etc. We ask you to take swift and favorable action on HB 2583.

# MID-WEST FARM MANAGEMENT, INC.

MANAGEMENT - SALES - APPRAISALS - IRRIGATION DEVELOPMENT

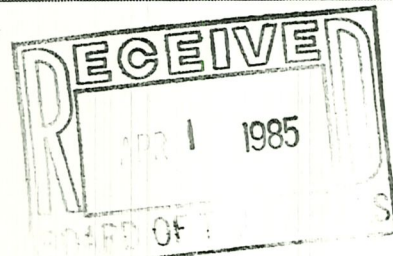
P.O. BOX 134 - HASTINGS, NEBRASKA 68901 - 402-463-1110

PHILIP W. VRANA

ACCREDITED FARM MANAGER



March 22, 1985



Mary Cech  
Thomas County Appraiser  
Thomas County Courthouse  
300 North Court  
Colby, Kansas 67701

Re: Board of Tax Appeals

Dear Mary:

I am concerned about the recent ruling on tax exemption status on farm machinery whether used entirely in leased farming operations or any custom operation.

It is my understanding according to the latest ruling that in the event any farm equipment owned by a farm operator is used in any custom operation then it is no longer exempt from personal property taxes.

This seems quite out of proportion in that many operators may do some custom work with part or much of their equipment, though maybe for only 10 to 30% of their time. The remaining 70 to 90% of the time the equipment is being used on his own leased land or land he owns.

This makes a new set of rules for the farm operator in deciding whether or not he can do extra work with his equipment in order to earn additional income. It would, in effect, discourage custom operations, raise the price of such work, or both.

We work with some farm operators in the area both on a lease and custom operation basis. This change in operation at a time when we are ready to go to the field creates an immediate problem. I would appreciate a very early reply from you so that we can proceed accordingly.

Very truly yours,

Phil Vrana

PV:jrs

cc: Holly Miller  
Wendell Lauber  
Claiton Lau

4/2/85

# Thomas County

Colby, Kansas 67701



ORGANIZED OCTOBER 8, 1885

March 28, 1985



Board Of Tax Appeals  
State Office Bldg.  
Topeka, Kansas 66612

I have a question on one farm assessment that has risen. All the family members own land, the father owns the equipment, and the members use it on his land as well as their own land. The father charges the members a rate for the expenses involved. The expenses include fuel, fertilizing, and use of machinery. This is not a corporation farm, it is strictly a family operation but a charge is made on the use of the equipment on their land. In this instance, is the equipment taxable?

These two enclosures I would like responses to as soon as you can.

Sincerely,

*Mary R. Cech*

Mary R. Cech, CKA  
Thomas Co. Appraiser

MRC/mm

Enc.



to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by K.S.A. 12-1755.

**History:** L. 1961, ch. 74, § 7; June 30.

#### PUBLIC BUILDING COMMISSION

**12-1757. Public building commission authorized; municipal corporation.** There is hereby authorized to be created in any city of the state, a public building commission. Such public building commission shall be a municipal corporation and shall be created only under the conditions hereinafter set forth in this act and authorized to exercise the powers hereinafter provided.

**History:** L. 1965, ch. 122, § 1; L. 1968, ch. 163, § 1; July 1.

**12-1758. Same; creation by ordinance; purposes.** Any such city may, by ordinance, create a public building commission for the purposes of acquiring a site or sites for and constructing, reconstructing, equipping and furnishing a building or buildings or other facilities of a revenue producing character, including parking facilities, or for purchasing or otherwise acquiring such building or buildings or facilities and such building or buildings or facilities shall be maintained and operated for a county courthouse, and the housing and accommodation of county offices or county business or for city offices or such other purposes as are commonly carried on in connection with such facilities or in county courthouses and general city buildings, including administrative offices for school districts and housing, accommodations and parking facilities for offices of state and federal agencies. In addition to the above, public building commissions may acquire land and facilities adjacent to or near any state university, construct, reconstruct, equip, and furnish such facilities on such land and lease said land and facilities to any board of trustees of said university or to the official governing body of said university; and such a lease entered into shall pledge the net revenue from such land and facilities and may also pledge such funds as may be necessary from those which are provided to be paid over to such board of trustees from the annual tax levy by any city as provided by K.S.A. 76-3a07, and the governing body of such city is hereby autho-

rized to designate any surplus from such tax levy as may be necessary to guarantee the rentals under any such lease, and any such city is hereby exempted from the provisions of K.S.A. 10-1101 to 10-1122, and amendments thereto, and K.S.A. 1982 Supp. 79-2925 to the extent necessary to enable such city to make a covenant to effect such guarantee.

**History:** L. 1965, ch. 122, § 2; L. 1967, ch. 93, § 1; L. 1968, ch. 288, § 1; L. 1969, ch. 86, § 1; July 1.

**12-1759. Same; ordinance specifications.** Such ordinance shall specify the purposes and functions of such public building commission and shall specify the number of members for the governing body of such commission, which shall not be fewer than three (3) nor more than nine (9), except that where such commission will provide for a building which will house offices or agencies of the state, county or a school district, the secretary of administration and the governing bodies of such county and school district shall be represented by not less than one (1) on such commission.

**History:** L. 1965, ch. 122, § 3; L. 1968, ch. 176, § 1; L. 1978, ch. 330, § 5; July 1.

**12-1760. Same; powers of commission.** A public building commission authorized under this act shall have power to do all things necessary or incidental to the purpose of constructing or acquiring or enlarging, furnishing and equipping and operating and maintaining buildings to be made available for use by governmental agencies.

**History:** L. 1965, ch. 122, § 4; June 30.

**12-1761. Same; issuance of revenue bonds, purpose; refunding bonds; election required in certain cities.** After the negotiation of a lease or leases for the use of public buildings proposed to be acquired or constructed under the authority of this act with one or more public body, the public building commission may issue revenue bonds of the commission to provide funds for the purpose of acquiring, erecting, equipping, repairing, maintaining and operating buildings and other facilities and to acquire sites necessary and convenient therefor and to pay all costs and expenses incident thereto, or to refund its outstanding bonds through the issuance of refunding bonds in the manner prescribed by and, except as other-

wise herein provided, subject to the provisions of K.S.A. 10-116a, except that no such revenue bonds, except bonds issued for the purpose of refunding outstanding bonds, shall be issued by a public building commission created and established in any city having a population of more than one hundred seventy-five thousand (175,000) and not more than two hundred thousand (200,000) without the question of the issuance of such bonds having been first submitted to and having been approved by a majority of the electors of such city voting at an election called and held thereon. Such election shall be called and held in the manner provided for the calling and holding of elections upon the question of the issuance of bonds under the general bond law. Except as otherwise provided by K.S.A. 10-116a, such revenue bonds shall be payable solely from the rents and revenues to be derived from the operation, management or use of the buildings or other facilities acquired by the commission. The commission shall have no power to levy taxes, and bonds issued by the commission shall not constitute a debt of the commission or of any public body within the meaning of any statutory or constitutional limitation as to debt.

**History:** L. 1965, ch. 122, § 5; L. 1973, ch. 66, § 1; L. 1977, ch. 58, § 6; May 18.

**12-1762. Same; fixing of rates and charges.** The public building commission authorized to be created under this act shall be authorized to establish and fix rates, rentals, fees and charges, for the use of any and all buildings or space therein or other facilities owned and operated by the commission, sufficient at all times to pay maintenance and operation costs of such buildings or facilities, the principal of and the interest on the bonds issued by the commission as the same shall become due and payable, and to make all payments to any accounts created by any bond resolution.

**History:** L. 1965, ch. 122, § 6; June 30.

**12-1763. Same; rental of building space and other facilities; exception.** The public building commission shall have the authority to rent all or any part of its buildings or other facilities to any federal, state or county governmental agency, or any municipal corporation, quasi-municipal corporation, political subdivision or body politic, or agency thereof, doing business, maintaining an of-

fice or rendering a public service in the county seat or county in which the commission was organized and to rent any space as may not be needed by such governmental agencies for such service facilities as such public building commission may determine will primarily serve the comfort and convenience of the occupants of its buildings or other facilities: *Provided*, In any city having a population of more than fifty thousand (50,000) which is located in a county which is designated as an urban area, no more than fifty percent (50%) of the floor space of any such building shall be used for city facilities.

**History:** L. 1965, ch. 122, § 7; June 30.

**12-1764. Same; acquisition of property; title.** The public building commission established under this act shall have the power to acquire the fee simple title to real property, including easements and reversionary interests in the streets, alleys and other public places and personal property required for its purposes, by purchase, gift, devise, or by the exercise of the power of eminent domain of the state and title thereto shall be taken in the corporate name of the commission.

**History:** L. 1965, ch. 122, § 8; June 30.

**12-1765. Same; leases by political subdivisions and state departments within county.** The governing bodies of all school districts, cities, agencies and departments of the state of Kansas, and all boards of county commissioners now located or which may hereafter be located within the county where such public building commission has been created are hereby authorized and empowered to enter into leases without the necessity of any election and without regard to K.S.A. 10-1001 to 10-1122, inclusive, and amendments thereto or to K.S.A. 1982 Supp. 79-2925 for any period of time not to exceed fifty (50) years.

**History:** L. 1965, ch. 122, § 9; June 30.

**12-1766. Same; use of certain building levy to prepay rent.** If any city or school district has heretofore established a building fund levy such city or school district may use all or any part of such building fund levy to prepay rent under any lease to be made with any such public building commission.

**History:** L. 1965, ch. 122, § 10; June 30.

**12-1767. Same; revenue bond issues,**

laws applicable; resolution, protest petition, election. Any revenue bonds authorized by this act shall be issued as provided in K.S.A. 10-1201 *et seq.* and amendments thereto, except to the extent that such statutes are in conflict with this act. Before any revenue bonds are authorized or issued under the provisions of this act, the public building commission shall adopt a resolution specifying the amount of such bonds and the purpose of the issuance thereof. The resolution shall provide that if within 30 days after the last date of publication of the resolution a petition in opposition to the resolution, signed by not less than 5% of the electors of the city, is filed with the county clerk, the board shall submit the question to the voters at an election called for that purpose or at the next general election. Such resolution shall be published once a week for two consecutive weeks in the official city newspaper.

**History:** L. 1965, ch. 122, § 11; L. 1968, ch. 163, § 2; L. 1981, ch. 173, § 25; July 1.

**Law Review and Bar Journal References:**

Discussion of prior law and 1968 statutory changes. Robert F. Bennett, 37 J.B.A.K. 159, 206 (1968).

**12-1768.** Same; invalidity of part. If any part or application of this act is held invalid, the remainder of this act or its application to other situations or persons shall not be affected.

**History:** L. 1965, ch. 122, § 12; June 30.

**COMMUNITY BUILDINGS;  
JOINT CITY AND SCHOOL**

**12-1769.** Bonds by city and school district for site, construction and equipping community building; election; joint management. Any city and the school district in which such city is located may jointly acquire a site and construct, furnish and equip thereon a community building upon such terms and conditions as shall be agreed upon by the governing body of such city and the governing board of the school district. Such community building shall be under the joint control and management of the governing body of the city and the governing board of the school district and shall be used for such purposes as said governing body and governing board of the school district shall provide by written agreement.

For the purpose of providing funds to be

used for the acquisition of a site, construction, furnishing and equipment of said community building, said city and the school district may each issue general obligation bonds. In addition to funds derived from the issuance of bonds, the city may use any other funds for such purposes as it may have available therefor.

No bonds shall be issued by any city or school district under the authority conferred by this section until the question of the issuance of said bonds shall have been submitted to a vote of the qualified electors of such city for city bonds and the qualified electors of the school district for school district bonds at a regular city or regular school district election, as the case may be, or at a special election called for that purpose and unless a majority of those voting on the question shall have declared by their votes to be in favor of the issuance of said bonds: *Provided*, That neither the city nor the school district may issue bonds unless both elections carry. Such bond election shall be called and held and said bonds shall be issued, registered, sold, delivered and retired in accordance with the provisions of the general bond law. All bonds issued under the authority conferred by this act shall not be subject to or within any bonded debt limitation provided by any other law of this state. "School district" as used in this act means any district or political subdivision organized to provide grade, high, extension, college or vocational instruction and having the power to issue bonds, levy taxes and hold elections.

**History:** L. 1949, ch. 178, § 1; L. 1965, ch. 140, § 1; June 30.

**Revisor's Note:**

Section transferred from 14-1038.

**Research and Practice Aids:**

Municipal Corporations—918(1).

C.J.S. Municipal Corporations §§ 1920 *et seq.*

**REDEVELOPMENT OF CENTRAL BUSINESS DISTRICT AREAS**

**Law Review and Bar Journal References:**

"Urban Revitalization: Planning for the Future in Our Cities," Lester D. Mardiks, 21 W.L.J. 116, 124, 125 (1981).

**12-1770.** Purpose of act. It is hereby declared to be the purpose of this act to promote, stimulate and develop the general and economic welfare of the state of Kansas and its communities and to assist in the devel-