

Approved Ivan Sand 2/18/85
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE R. D. MILLER at
Chairperson

1:30 ~~am~~/p.m. on FEBRUARY 14, 1985 in room 521-S of the Capitol.

All members were present except: Representative Ivan Sand, excused
Representative L. V. Roper, excused
Representative Arthur W. Douville, excused

Committee staff present: Mike Heim, Legislative Research Department
Mary Hack, Revisor of Statutes Office
Gloria M. Leonhard, Secretary to the Committee

Conferees appearing before the committee:

Mr. Arden Endsley, Revisor of Statutes, -- New Legislation
Rep. James Braden -- HB 2191
Mr. Jim Kaup, League of Kansas Municipalities -- HB 2194
Mr. James Magg, Kansas Banker's Association -- HB 2163

Vice-Chairman, Robert D. Miller, called for introduction of new legislation.

Mr. Arden Endsley, Revisor of Statutes, appeared and explained proposed legislation regarding revenue anticipation notes. Mr. Endsley pointed out that this legislation would be another device for financing.
(See Attachment I.)

Rep. Elizabeth Baker made a motion to introduce the legislation as a committee bill. Rep. Phil Kline seconded the motion. The motion carried.

Vice-Chairman Miller called for hearing on the following bills:

HB 2191, concerning improvement districts; relating to the powers and duties thereof.

An overview of the bill was provided by Staff. (See Attachment II.)

Rep. James Braden, a co-sponsor of the bill, appeared to give background and intent. Mr. Braden urged the Committee to support the bill.

HB 2194, concerning cities; relating to the designation of an official city newspaper.

An overview of the bill was provided by Staff. (See Attachment III.)

Mr. Jim Kaup, representing the League of Kansas Municipalities, appeared to urge the Committee to support the bill. Mr. Kaup said the legislation will clean up Statute 12-1651a (See Attachment IV.) and make it agree with a Kansas Supreme Court decision.

It was noted that not all areas have an "official" paper but that all cities have access to such a paper.

The hearing on HB 2194 was closed.

Vice Chairman Miller referred the Committee's attention to HB 2163, on which a hearing had been conducted on February 12, 1985, and called on Mr. James Magg who provided the Committee with copies of a letter stating that the Kansas Bankers Association opposes the bill. (Attach. V.)

The minutes of the meetings of February 12, 1985, and February 13, 1985, were approved as presented.

The meeting was adjourned.

2/14/85

BILL NO. _____

By

AN ACT relating to cities; authorizing the issuance of revenue anticipation notes.

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

Section 1. Any city which is entitled by law to receive moneys to be credited to any fund of the city for any fiscal year may, in the same fiscal year it is entitled to receive or credit such moneys, issue and sell one or more notes payable from the anticipated revenue of such fund. The principal amount of notes issued pursuant to this act shall be limited to 75% of the amount of revenue actually credited to such fund during the next preceding fiscal year. The notes shall describe the fund and the revenue from which such notes are payable and shall mature not later than January 31 next following the date of issuance.

Sec. 2. Any city that issues notes under this act shall adopt a resolution authorizing the issuance of such notes, stating the amount and purpose of the note and the anticipated revenue to secure such notes. All notes issued pursuant to this act shall be made payable at the office of the chief fiscal officer of the city issuing such notes and shall bear a notation citing the resolution pursuant to which the same is issued.

Sec. 3. Notes issued pursuant to this act shall be payable solely from the revenues pledged thereto and the registered owners or holders of the notes may not look to any other source for repayment of the principal of or interest on the notes. In every case, the revenues pledged shall be those which are the subject of appropriations for the current fiscal year and are yet to be credited to the applicable fund. No note issued pursuant to this act shall constitute a debt or an indebtedness of the city within the meaning of any constitutional or statutory limitation

upon the incurring of indebtedness.

Sec. 4. Notes issued pursuant to this act and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas inheritance taxes.

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

MEMORANDUM

February 11, 1985

TO: House Local Government
Chairman

FROM: Kansas Legislative Research
Department

RE: H.B. 2191

(ATTACHMENT II)

2/14/85

H.B. 2191 amends the improvement district law dealing with improvement districts located more than five miles from a city to clarify procedures regarding the collection of charges for the abatement of nuisances, the cutting of weeds, and the collection of unpaid utility bills. In each of the above cases, these costs shall become a lien upon the property and shall be assessed and collected in the same way that unpaid ad valorem taxes are collected.

MEMORANDUM

February 11, 1985

TO: House Local Government
Chairman

(ATTACHMENT III)

2 / 14 / 85

FROM: Kansas Legislative Research
Department

RE: H.B. 2194

H.B. 2194 amends a statute dealing with the designation of an official city newspaper. The bill provides that each city of the second and third class shall designate by resolution a newspaper to be the official city newspaper which shall remain such until a different newspaper is designated.

The bill is effective upon publication in the Kansas Register.

To the House Local Government Committee
February 14, 1985
Re: HB 2194

(ATTACHMENT IV)

2/14/85

12-1651a. Same; annual designation. At the first meeting of the newly elected city governing body it shall designate a newspaper to be the official city newspaper for the ensuing year. The official city newspaper shall thereafter be designated annually.

History: L. 1959, ch. 79, § 1; March 27.

Revisor's Note:

Title to L. 1959, ch. 79, refers to cities of second and third class.

VOL. 233

JANUARY TERM, 1983

1039

Cook v. City of Enterprise

No. 55,252

R. W. COOK, *Appellant*, v. CITY OF ENTERPRISE, KANSAS,
Appellee.

(666 P.2d 1197)

SYLLABUS BY THE COURT

1. CITIES AND MUNICIPALITIES—*Official Newspaper—Statutory Designation for Second- and Third-Class Cities.* K.S.A. 12-1651a, requiring an annual designation of the official city newspaper of cities of the second and third class, is directory rather than mandatory.
2. SAME—*Official Newspaper.* A newspaper formally designated by resolution of the city's governing body as the official city newspaper, and utilized as such over a long period of years, remains the official city newspaper.

K.S.A. 12-1651a was enacted by the legislature in 1959, and has not since been amended or repealed. It was in full force and effect at the time the Home Rule amendment was adopted in 1960. The statute does not require designation of an official city paper by ordinance; it does not state how designation is to be effected. We read the statute as directory rather than mandatory. Here, where the City officially designated the newspaper as its official city newspaper and then continued to utilize it for local publication of its ordinances over a period of many years, the purpose of the statutes requiring publication of ordinances, and of K.S.A. 12-1651a requiring designation of an official city newspaper, are fully accomplished.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

(ATTACHMENT V)

2/14/85

FEBRUARY 14, 1985

TO: HOUSE COMMITTEE ON LOCAL GOVERNMENT
REP. IVAN SAND, CHAIRMAN

FROM: JAMES S. MAAG *JSM*
KANSAS BANKERS ASSOCIATION

RE: HB 2163

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE VERY MUCH THE OPPORTUNITY TO PRESENT WRITTEN COMMENTS ON THE PROVISIONS OF HB 2163 AND APOLOGIZE FOR NOT BEING PRESENT AT THE HEARING WHICH WAS HELD ON THE BILL ON FEBRUARY 12. WHILE WE ARE SYMPATHETIC WITH FISCAL CONCERNS OF LAWRENCE MEMORIAL HOSPITAL, WE HAVE SERIOUS OPPOSITION TO THE STATUTORY CHANGES WHICH THEY ARE REQUESTING IN HB 2163.

AS THEY STATE IN THEIR TESTIMONY, THE ATTORNEY-GENERAL DOES CONSIDER THE HOSPITAL TO BE A "QUASI-MUNICIPAL" CORPORATION AND, THEREFORE, SUBJECT TO THE PUBLIC FUNDS INVESTMENT LAWS AS CONTAINED IN K.S.A. 9-1401 ET SEQ AND 12-1675 ET SEQ. IT SHOULD BE NOTED THAT MANY OTHER MUNICIPAL AND QUASI-MUNICIPAL CORPORATIONS ALSO GENERATE REVENUES WHICH ARE NOT TAX REVENUES BUT WHICH ARE CONSIDERED PUBLIC FUNDS FOR INVESTMENT PURPOSES. THUS, TO SINGLE OUT THE LAWRENCE MEMORIAL HOSPITAL FROM OTHER LOCAL UNITS OF GOVERNMENT FOR AN EXCEPTION FROM THE LAW WOULD BE HIGHLY DISCRIMINATORY.

SECONDLY, WE WOULD NOTE THAT THE HOSPITAL'S REQUIREMENT THAT THERE BE 100% COLLATERALIZATION OF DEPOSITS IS CONTRARY TO EXISTING ATTORNEY-GENERAL INTERPRETATION OF K.S.A. 9-1402 WHICH SETS FORTH WHAT PLEDGING REQUIREMENTS FOR LOCAL PUBLIC FUNDS SHALL BE (SEE A.G. OPINION 80-35). IN THAT OPINION, THE ATTORNEY-GENERAL STATED THAT A LOCAL UNIT OF GOVERNMENT DOES NOT HAVE THE AUTHORITY TO REQUEST A BANK OR S&L, WHICH IS RECEIVING THE DEPOSITS OF THAT LOCAL UNIT, TO PLEDGE MORE THAN THE STATUTORILY REQUIRED PERCENTAGE OF SECURITIES. HOWEVER, IT SHOULD BE NOTED THAT A BILL HAS BEEN INTRODUCED IN THE 1985 SESSION (HB 2122) WHICH WOULD REQUIRE 100% PLEDGING ON ALL LOCAL PUBLIC FUNDS AND THUS WOULD END THIS PARTICULAR ARGUMENT. HB 2122 HAS BEEN ENDORSED AND IS BEING SUPPORTED BY THE KANSAS BANKERS ASSOCIATION.

AS TO THE ARGUMENT THAT THE HOSPITAL WILL NOT RECEIVE A COMPETITIVE RATE, WE FIND IT VERY DIFFICULT TO BELIEVE THAT AT LEAST ONE OF THE FOUR BANK HOME OFFICES IN LAWRENCE WOULD NOT BE WILLING TO PROVIDE A COMPETITIVE BID ON THE INVESTMENTS OF THE HOSPITAL.

Attachment 5

TO ALLOW THE PROVISIONS OF HB 2163 TO BE ENACTED WOULD ALSO RUN CONTRARY TO THE 1982 COMPROMISE LEGISLATION AGREED TO BY BANKS AND S&LS AND SUBSEQUENTLY PASSED BY THE LEGISLATURE. MANY MEMBERS WILL RECALL THE LONG AND ARDUOUS NEGOTIATIONS WHICH SURROUNDED THAT LEGISLATION AND THE MANDATE FROM THE LEGISLATURE THAT SOME COMPROMISE BE REACHED. PASSAGE OF THIS BILL WOULD MOST LIKELY RENDER THAT COMPROMISE INOPERATIVE SINCE TO GIVE A SPECIAL EXCEPTION TO ONE LOCAL UNIT OF GOVERNMENT RAISES THE POSSIBILITY THAT OTHER LOCAL UNITS COULD USE THEIR HOME RULE POWERS TO EXEMPT THEMSELVES FROM THE REQUIREMENTS OF PUBLIC FUNDS STATUTES.

THEREFORE, DUE TO THE ABOVE REASONS, WE STRONGLY URGE THE COMMITTEE TO REPORT HB 2163 ADVERSELY.