

Approved Ivan Sand 3/26/85
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

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

2:00 XXX a.m./p.m. on MARCH 20, 1985 in room 521-S of the Capitol.

All members were present except: All Present.

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

Conferees appearing before the committee:

Mr. John Irwin, Department of Health and Environment -- SB 48
Ms. Mary P. Ladeisc, Treasurer, Wyandotte County -- SB 212
Mr. Ernest Mosher, League of Kansas Municipalities -- SB 212
Sen. Paul Burke -- SB 48
Dr. Barbara Sabol, Secretary, Dept. Health & Environment -- SB 48
Mr. Joseph M. Furjanic, Staff Legal Counsel, KASB -- SB 48
Mr. Chris McKenzie, League of Kansas Municipalities -- SB 59

Chairman Ivan Sand appointed a sub-committee to study SB 15 as follows:
Chairman, Rep. Elizabeth Baker; Rep. Robert D. Miller; and Rep. Kenneth Francisco.

Chairman Sand called for hearings on the following bills:

SB 212, concerning taxation; relating to the enforcement of liens for unredeemed real estate.

Mr. Mike Heim, Staff, gave an overview of the bill. (See Attachment I.)

Ms. Mary P. Ladeisc, Treasurer, Wyandotte County, appeared to testify in support of SB 212 in its amended form. (See Attachment II.)

Mr. Ernest Mosher, representing the League of Kansas Municipalities, appeared to testify in support of SB 212 in its amended form.

Chairman Sand explained an amendment provided by Staff in a balloon bill which included HB 2506 into SB 212.

Rep. Mary Jane Johnson made a motion to amend SB 212 as provided by Staff. Rep. Samuel Sifers seconded the motion. The motion carried.

The hearing on SB 212 was closed.

SB 48, concerning municipalities; authorizing governing bodies thereof to issue bonds for payment of the costs of removal or encapsulation of friable asbestos-containing material in public buildings; conditions.

Mr. Mike Heim, Staff, gave an overview of the bill. (See Attachment III.)

Senator Paul Burke, a sponsor of SB 48, appeared to give background and intent and urged the committee to support the bill.

When questioned, Sen. Burke said that the word "friable" restricts the bill. Mr. Heim, Staff, pointed out that the Senate Committee had amended the word "friable" into the bill.

Dr. Barbara Sabol, Secretary, Dept. Health and Environment, introduced Mr. John Irwin of that Department, who testified in support of the bill and explained that "friable" was included in the language of the bill to differentiate between asbestos products in buildings which should be removed and those which pose no hazard. Mr. Irwin said products may be determined "friable" through lab analysis; that if the product crumbles under hand pressure, removal is desirable. (See Attachment IV.)

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 2:00 ~~xxx~~/p.m. on MARCH 20, 1985

Committee discussion followed. It was noted that moving the asbestos could be dangerous; that encapsulation may take care of some problems; that rules and regulations haven't yet been established for contractors who remove asbestos.

Mr. Joseph M. Furjanic, Staff Legal Counsel, KASB, appeared to testify in support of SB 48. (See Attachment V.) When questioned, Mr. Furjanic explained that to remove all friable asbestos in school buildings might cost \$40,000,000 rather than the estimated \$25,000,000; that friable materials are not being used today.

Rep. Phil Kline made a conceptual motion that in addition to the removal of friable asbestos, "restoration" should be included in addition to encapsulation where appropriate in the bill.

Rep. Clyde Graeber seconded the motion.

The motion carried.

The hearing on SB 48 was closed.

SB 59, relating to cities; authorizing the establishment of an equipment reserve fund.

Mr. Chris McKenzie, representing the League of Kansas Municipalities, appeared to give background and intent of the bill and urged the Committee to support the bill. (See Attachment VI.)

The hearing on SB 59 was closed.

Chairman Sand called for action on the following bills:

SB 13, concerning municipalities; relating to the issuance of revenue bonds.

Rep. Kenneth D. Francisco made a motion that SB 13 be passed. Rep. Clyde Graeber seconded the motion. The motion carried.

SB 14, concerning counties; relating to the limitation of bonded indebtedness.

Rep. Elizabeth Baker made a motion that SB 14 be passed. Rep. Clyde Graeber seconded the motion. The motion carried.

SB 212, concerning taxation; relating to the enforcement of liens for unredeemed real estate.

Rep. Mary Jane Johnson made a motion that SB 212 be passed as amended. Rep. Dorothy Nichols seconded the motion. The motion carried.

The meeting was adjourned.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE 3-20-85

NAME ADDRESS REPRESENTING

Beverly Kongen	661 Briarcliff Rd Salina KS 67401	President Salina League of Women Voters
Nancy Naer	Rt 1, Bx 77 Assaria, Ka 67416	Executive Board Salina League of Women Voters
Johnny Willey	2127 Edgemoor Salina, KS 67401	Board - LWV of Salina
Carmen Wilson	2101 Neptune Salina, Ka.	League of Women Voters Salina
John Davin	Ks Dept of H/He/Edu.	→ Topeka, Ka.
B.J. Sabot	KD # + E	→ " "
Judy Anders	White	City of White
Bill Curtis	Topeka	Ks. Assoc. of School Bds.
Joe Ferguson	Topeka	KASB
PAT SCHAEFER	Topeka	DIVISION OF BUDGET

SENATE BILL No. 212

By Committee on Local Government

2-12

0018 AN ACT concerning taxation; relating to the enforcement of
0019 liens for unredeemed real estate; amending K.S.A. 79-2801
0020 and repealing the existing section.

property

relating to interest paid on tax judgments and settlements;

0021 *Be it enacted by the Legislature of the State of Kansas:*
0022 Section 1. K.S.A. 79-2801 is hereby amended to read as fol-
0023 lows: 79-2801. (a) Whenever real estate has been or shall be sold
0024 and bid in by the county at any delinquent tax sale and remains
0025 unredeemed on September 1 of the second year after the sale, or
0026 any extension thereof as provided by subsection (b) of K.S.A.
0027 79-2401a, and amendments thereto, the board of county com-
0028 missioners shall order the county attorney or county counselor
0029 and it shall be the duty of the county attorney or county coun-
0030 selor to institute an action in the district court, in the name of the
0031 board of county commissioners, against the owners or supposed
0032 owners of the real estate and all persons having or claiming to
0033 have any interest therein or thereto, by filing a petition with the
0034 clerk of the court. *The board of county commissioners may*
0035 *provide for special legal and other assistance necessary to secure*
0036 *the timely performance of duties required by this act.* Whenever
0037 the real estate involved is a mineral interest in land which has
0038 been severed from the fee, the bringing of the action for the
0039 foreclosure of the mineral interest shall be within the discretion
0040 of the board of county commissioners. Whenever the aggregate
0041 assessed valuation of the real estate subject to sale is less than
0042 \$10,000, the bringing of the action shall be within the discretion
0043 of the board of county commissioners. The petition shall contain
0044 a description of each tract, lot or piece of real estate including, if
0045 in a city of the first or second class, the street number or location.

(ATTACHMENT I)

3-20-85

0046 The petition shall state, as far as practicable, the amount of taxes,
0047 charges, interest and penalties chargeable to each tract, lot or
0048 piece of real estate, the name of the owner, supposed owner and
0049 party having or claiming to have any interest therein or thereto,
0050 and giving the year the real estate was sold for delinquent taxes
0051 under the provisions of K.S.A. 79-2302, and amendments thereto.

0052 The petition shall request that the court determine the amount of
0053 taxes, charges, interest and penalties chargeable to each particu-
0054 lar tract, lot or piece of real estate, the name of the owner or party
0055 having any interest therein and that the court adjudge and decree
0056 the amount due to be a first and prior lien upon the real estate
0057 and that the same be sold at public sale for the satisfaction of the
0058 lien, costs, charges and expenses of the proceedings and sale and
0059 other necessary relief. The petition shall be filed in duplicate
0060 and a copy delivered by the clerk to the county treasurer, who
0061 shall thereafter *shall* accept no payments of taxes upon the real
0062 estate included in the petition except as provided by K.S.A.
0063 79-2801 to 79-2810, inclusive, and amendments thereto.

0064 A summons shall be issued and personally served or publica-
0065 tion made as provided in other cases under the code of civil
0066 procedure. If service is made by publication, the notice, in
0067 addition to the requirements prescribed by the code of civil
0068 procedure, shall contain a description of the real estate. Any
0069 member of the board of county commissioners, county attorney
0070 or county counselor who fails to perform the duties required by
0071 this section shall forfeit the office held by the officer. *Any person*
0072 *may secure enforcement of the provisions of this act through*
0073 *mandamus. Such proceeding shall be initiated by filing a peti-*
0074 *tion in a court of competent jurisdiction.*

0075 (b) *Whenever a county has not brought an action to sell real*
0076 *estate located within a city as provided by subsection (a) within*
0077 *60 days after requested by the governing body of a city to bring*
0078 *such action, the governing body of the city may order the city*
0079 *attorney and it shall be the duty of the city attorney to institute*
0080 *such action in the same manner provided by subsection (a).*

0081 (b) *The governing body of any city may provide for the*
0082 *rendering of legal and other assistance to the county attorney or*

0083 county counselor to secure the expeditious judicial foreclosure
 0084 of real estate on which there is unredeemed delinquent tax liens,
 0085 including delinquent special assessments. The provision of such
 0086 services by the city shall not relieve any county officer of the
 0087 requirement to perform the duties required by this act. The
 0088 actual and necessary costs incurred by a city in providing such
 0089 assistance shall be considered as costs incident to the sale of the
 0090 real estate and the city may be reimbursed therefor from the
 0091 proceeds of the sale in an amount apportioned pursuant to
 0092 K.S.A. 79-2805, and amendments thereto.

New Sec. 2. From and after October 3, 1984, all moneys received as interest and all moneys received in lieu of interest pursuant to judgments or judicial settlements involving property tax disputes shall be credited to the general fund of the county levying such taxes. The board of county commissioners and the governing body of any taxing subdivision within or partially within the county may enter into agreements providing for the distribution of such moneys in any manner agreed upon by the parties to such agreements.

0093 Sec. [2] K.S.A. 79-2801 is hereby repealed.

0094 Sec. [3] This act shall take effect and be in force from and
 0095 after its publication in the statute book.

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Kansas register

(ATTACHMENT II)

3-20-85

TO: HOUSE LOCAL GOVERNMENT
FROM: MARY P. LADESIC, WYANDOTTE COUNTY TREASURER
RE: SENATE BILL 212

MR. CHAIRMAN AND HONORABLE MEMBERS OF THIS COMMITTEE. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF SENATE BILL 212.

INITIALLY, ON BEHALF OF WYANDOTTE COUNTY, I APPEARED BEFORE SENATE LOCAL GOVERNMENT IN OPPOSITION TO THIS BILL IN ITS ORIGINAL FORM. AS AMENDED, OUR COUNTY NOW SUPPORTS THIS BILL FOR THE FOLLOWING REASONS;

THE PURPOSE OF SENATE BILL 212 IS TO PROVIDE FOR THE TIMELY PERFORMANCE OF A JUDICIAL TAX FORECLOSURE SALE WITH THE NEEDS OF THE COUNTY, CITY AND TAXPAYER IN MIND.

IT ALLOWS FOR COUNTY COMMISSIONERS TO SECURE ANY ASSISTANCE NECESSARY IN THE PREPARATION AND SALE OF REAL ESTATE.

IT GIVES ANY INDIVIDUAL TAXPAYER THE OPPORTUNITY TO DEMAND THE ENFORCEMENT OF THE TAX SALE PROCEDURES.

FINALLY THIS BILL OFFERS THE CITIES THE OPTION OF RENDERING LEGAL OR OTHER ASSISTANCE TO THE COUNTY TO ACCOMPLISH A JUDICIAL TAX FORECLOSURE SALE IN A PROPER AND TIMELY FASHION.

WE ASK YOUR FAVORABLE CONSIDERATION OF SENATE BILL 212.

I WILL STAND FOR QUESTIONS. THANK YOU FOR YOUR KIND ATTENTION.

3/20/85

SUPPLEMENTAL NOTE ON SENATE BILL NO. 48**As Amended by Senate Committee on
Local Government****Brief of Bill***

S.B. 48 as amended authorizes the governing body of any municipality to issue general obligation bonds or temporary notes to remove or encapsulate fireable asbestos-containing material. The bonds are subject to a 10 percent protest petition-election procedure. Bonds issued are not subject to bonded debt limits. The Secretary of Health and Environment is required to provide technical assistance to municipalities if requested.

Municipality as defined in K.S.A. 10-1101 includes counties, cities, townships, school districts, community junior colleges, municipal universities, drainage districts and any other political or taxing subdivisions.

Background

The bill was supported by the Kansas Association of School Board, the League of Kansas Municipalities, and the Secretary of the Kansas Department of Health and Environment. S.B. 113 would give the Department of Health and Environment the authority to license persons engaged in the removal or encapsulation of fireable asbestos-containing material.

* Bill briefs are prepared by the Legislative Research Department and do not express legislative intent.

Kansas Department of Health and Environment

(ATTACHMENT IV)

3-20-85

TESTIMONY ON SB 48

PRESENTED TO House Local Government Committee, March 20, 1985

This is the official position taken by the Kansas Department of Health and Environment on SB 48.

BACKGROUND INFORMATION:

Recent years have seen the public health community grow increasingly concerned about the potential long term health risk of exposures to elevated levels of airborne asbestos fibers in such nonoccupational settings as public buildings and public schools. Surveys conducted by state and federal agencies have indicated that approximately 10% of the public schools in Kansas have had or have sprayed-on ceiling materials containing asbestos and as many as 35% of the public schools nationwide have easily damaged asbestos materials in either ceiling materials or pipe and boiler insulation. The identification of significant sources of airborne asbestos in these buildings in combination with the risk of irreversible health effects associated with excessive exposures, such as cancer, have resulted in increasing public interest and pressure for the development of responsible building management plans to prevent unnecessary asbestos exposures to building occupants and visitors. Because the health risks from asbestos exposures are greater if these exposures occur in early life, the potential for exposures in our public schools is of particular concern. While current federal regulations restrict the use of asbestos in new buildings, require the identification of asbestos in school buildings, and specify work practices for private employees who work with asbestos, no exposure standards have been established for nonindustrial settings, and no regulations mandate which corrective actions need to be taken in buildings where damaged asbestos-containing materials are found. These latter responsibilities now rest with local government and school administrators who, in the past, have not always had sufficient resources and information available to them to respond effectively to these problems. Senate Bill 48 in the department's view represents a positive step in alleviating some of these problems.

STRENGTHS OF CURRENT BILL:

1. Provides a clear recognition of the need for excellence in contractor performance if asbestos abatement projects are to be performed safely in public buildings and schools. Although there is still substantial scientific uncertainty involved in the assessment of the health risks of exposures to the comparatively low levels of airborne asbestos in well-maintained public buildings, there is substantial agreement that once an asbestos removal project begins, significant exposures can occur to the employees involved and other occupants of the building unless this work is performed carefully in accordance with the proper procedures. The requirement of Section 1(d) of this bill that contractors or persons performing asbestos abatement work be certified or licensed is,

therefore, believed to be an important element of this bill. The Department has also provided testimony supporting the passage of SB 113 which addresses the issue of asbestos abatement contractor licensing in Kansas.

2. Provides a clear financial management tool for municipalities to respond to local concerns for correcting potential asbestos problems and places the responsibility for deciding the necessity for an asbestos removal or encapsulation project at the local level of government where the financing responsibility also resides.

WEAKNESSES:

None

DEPARTMENT POSITION:

The department believes that Senate Bill 48 addresses an important issue confronting Kansas and supports its passage.

In conclusion, the Department strongly encourages your support of SB 48. Providing a source of funding for correcting asbestos exposure problems in our state's municipal buildings will establish Kansas as a responsible leader in addressing this important public health concern.



3-20-85



Testimony on S.B. 48

March 20, 1985

by

Joseph M. Furjanic, Staff Legal Counsel
Kansas Association of School Boards

My name is Joe Furjanic and I am the staff attorney with the Kansas Association of School Boards. I thank all the committee members for this opportunity to speak on behalf of Senate Bill 48.

The issue of asbestos in public schools has become one of increasing national and state concern. Kansas school boards have a vital interest in removing any health hazard that may affect Kansas public school students and employees. A Kansas State Department of Education survey estimated that the cost of removal of all the asbestos in our state's elementary and secondary school facilities to be over 25 million dollars.

For many years the Kansas Association of School Boards through its membership has maintained a belief that the American system of local and state control of public education by non-partisan, non-salaried lay boards of education is superior to a centralized, national, and/or professional control as exists in all other countries of the world. With this firmly rooted belief in local control comes the weighty burden of local responsibility.

November last, the delegate assembly at the annual KASB convention defeated a resolution calling for state financial assistance to Kansas school districts for the removal of all asbestos hazards in the public schools of the state - not

because they did not need more dollars to contain the hazards - but rather because our member districts felt that this matter could best be handled at the local USD level.

With this background in mind, KASB firmly supports Senate Bill 48. The avenue of general obligation bonding will not necessitate local school boards utilizing general fund dollars in order to once and for all deal with the asbestos problems facing them. Further, there will be no financial burdens incurred by the state in the funding process. Local districts will take control of their local problems.

Finally, our member districts support that part of the bill which speaks to the bidding process and contractor certification. Presently, the State of Kansas has no licensing or certification requirements for asbestos removal projects. In the past the United States Environmental Protection Agency has been less than clear as to what is required and who to contact for guidance when a school district makes the decision to abate the asbestos in its buildings.

Providing for the State Department of Health and Environment to authorize the licensing and certification of contractors would put a necessary check and balance into the system so that local school administrators and local boards of education could finally look to one state agency for guidance when bids are let for school district asbestos abatement projects.

I wish to thank you for your time and I will try to answer any questions.

SB 59--General City Equipment Reserve Fund

Purpose: To specifically authorize cities to establish an equipment reserve funds. SB 59 passed the Senate on February 19 by a vote of 37 to 3.

Background: Under Kansas budget laws, the general rule is that public funds may not be spent without budget authorization. This spending authority lasts only for the current budget year; unexpended cash continues in the fund but may not be spent unless again budgeted. Exceptions to these general rules exist under several statutes authorizing reserve funds, such as under K.S.A. 68-141g and K.S.A. 68-590 (highways) and street equipment, K.S.A. 12-631o (sewerage systems), 12-6a13 (special assessment projects), 12-825d (utilities), as well as for certain "operating" funds (risk management - K.S.A. 12-2615; tort liability - K.S.A. 75-6110). There is no general equipment reserve fund authorization.

In addition, the general rule is that moneys in a fund may not be transferred to another fund, except as provided by law (K.S.A. 79-2934). Again, there are a number of statutory exceptions to this general rule, such as exist for several of the reserve funds noted above. There is no general authorization for cities to transfer moneys to a general equipment reserve fund.

Explanation: SB 59 specifically authorizes cities to establish a municipal equipment reserve fund, from amounts budgeted, to finance new and replacement equipment. Equipment is defined to include machinery, vehicles and other personal property, such as computer hardware and software.

Use charges could then be annually levied on city departments and agencies to finance new and replacement equipment. For example, if police cars are replaced every three years, the police department's annual operating budget (part of the general fund) could be charged one-third of the replacement cost each year, with the amount credited to the equipment fund to finance future replacements.

Subsection (b) clarifies that the fund may be a reserve fund, and requires the receipts and expenditures of the fund to be shown in the annual budget. (This is in addition to the original budgeted appropriations).

Subsection (c) provides that any unneeded moneys in the reserve fund may be retransferred, subject to budget procedure requirements.

Advantages: SB 59 is intended to permit and encourage cities to meet their capital needs for machinery and equipment purposes on a continuing, annually planned basis, rather than deferring costs to the future, which may require no-fund warrants, bonds, or conditional lease-purchase agreements. It would tend to stabilize city revenue requirements, since the annual "real costs" of equipment could be met annually.

It will also facilitate more accurate cost accounting by function or purpose and the multiple use of equipment. For example, the cost of a backhoe could be assigned, according to its use, to the water department (fund), street department (two or more funds) and the sewerage department (general or special fund).

The passage of this bill is supported by the League of Kansas Municipalities. It is a policy objective set forth in the League's convention-adopted Statement of Municipal Policy and has been approved by the League governing body.

SENATE BILL No. 59

By Committee on Local Government

1-23

0018 AN ACT relating to cities; authorizing the establishment of an
0019 ~~internal service~~ equipment *reserve* fund.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. (a) The governing body of any city may provide,
0022 by adoption of an ordinance, for a municipal equipment *reserve*
0023 fund, ~~which may be used as an internal service fund~~ to finance
0024 the acquisition of equipment. Moneys may be budgeted ~~or~~ *and*
0025 transferred to such fund from any source *which may be lawfully*
0026 *utilized for such purposes*, including ~~rental or other~~ equipment
0027 use charges on the various departments and agencies of the city;
0028 ~~sufficient~~ to finance new and replacement equipment. For the
0029 purposes of this act, equipment shall include machinery, vehi-
0030 cles and any other equipment or personal property including,
0031 but not limited to, computer hardware and software, which the
0032 city is authorized to purchase for municipal purposes.

0033 (b) Moneys credited to such fund from *annually* budgeted
0034 ~~appropriations or~~ transfers shall not thereafter be subject to the
0035 provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amend-
0036 ments thereto. In making the budgets of such city, the amounts
0037 credited to, and the amount on hand in, such ~~internal service~~
0038 *equipment reserve* fund and the amount expended therefrom
0039 shall be shown thereon for the information of the taxpayers of
0040 such city. Moneys in such fund may be invested in accordance
0041 with the provisions of K.S.A. 10-131 and amendments thereto
0042 with interest thereon credited to such fund.

0043 (c) If the governing body of any city determines that money
0044 which has been credited to such fund or any part thereof is not
0045 needed for the purposes for which so budgeted or transferred,

. SB 59—Am.

2

0046 the governing body may transfer, by adoption of a resolution,
0047 such amount not needed to the fund from which it came and such
0048 retransfer and expenditure thereof shall be subject to the budget
0049 requirement provisions of K.S.A. 79-2925 to 79-2937, inclusive,
0050 and amendments thereto.

0051 Sec. 2. This act shall take effect and be in force from and
0052 after its publication in the statute book.