

MINUTES OF THE Senate COMMITTEE ON Local Government

The meeting was called to order by Senator Don Montgomery at  
Chairperson

9:00 a.m./~~XXX~~ on January 22, 1985 in room 531-N of the Capitol.

All members were present except:

Senators: Bogina  
Mulich  
Steineger

Committee staff present:

Theresa Kiernan, Revisor  
Mike Heim, Research  
Emalene Correll, Research  
Lila McClaflin, Secretary

Conferees appearing before the committee:

Fred Allen, Kansas Association of Counties  
Ernie Mosher, League of Kansas Municipalities  
Chris McKenzie, League of Kansas Municipalities

The committee was called to order by the Committee Chairman Senator Montgomery. The staff was introduced as follows: Revisor, Theresa Kiernan, Research Mike Heim and Emalene Correll, Secretary Lila McClaflin. The Senators on the committee were introduced and Fred Allen and Beverly Bradley from the Kansas Association of Counties. Fred Allen made brief remarks to the committee and offered any assistance he and Beverly could be.

Ernie Mosher, League of Kansas Municipalities, introduced himself, Jim Kaup and Chris McKenzie. Senator Montgomery told the committee not to hesitate to contact Mr. Mosher or Mr. Allen if they needed any information concerning issues before the committee.

Senator Montgomery expressed the desire to start committee meetings promptly at 9:00 a. m. so that they could be adjourned at 9:55. Giving the Senators five minutes between meetings to contact their offices. He explained that Theresa Kiernan was the person to contact should they want to introduce legislation. A schedule of date deadlines for introduction of legislation can be found in their committee book.

The Interim Committee study resulted in four bills being introduced in the committee. He urged the members to read the report found on page 511 of the interim report. Senators still on the committee that served on the interim committee are: Senators, Allen, Ehrlich and Mulich.

Ernie Moser, requested the introduction of two bills, the first being, to authorize cities to establish a general capital improvement fund (See attachment 1). The second being, to specifically authorize cities to establish internal service equipment funds (See attachment 2).

Chris McKenzie, requested introduction of a third bill concerning the collection of certain debts by cities. The purpose being to authorize cities to recover the cost of abating public nuisances (See attachment 3).

Senator Allen moved to introduce the three bills, Senator Gaines seconded the motion, and it carried by a unanimous vote.

Mike Heim briefed the committee on the Interim Committee Report and passed out copies to the committee. He then briefed the committee on S.B.'S 12, 13, 14 and 15.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,  
room 531-N, Statehouse, at 9:00 a.m./~~p~~on January 22, 1985.

Senator Gaines moved introduction of a bill concerning the collection of sales tax and it's distribution. Senator Winter seconded the motion and it carried unanimously.

The meeting was adjourned.

  
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Senator Don Montgomery, Chairman





## City Capital Improvements Fund Bill

**Purpose:** To authorize cities to establish a general capital improvements fund.

**Background:** There is no single state law that generally authorizes cities to establish a capital improvements fund, which could be used to finance a variety of public improvements. Several special statutes exist which can be used for specified purposes; however, the basic thrust of Kansas laws has been to effectively require the financing of public improvements by the issuance of debt. Kansas cities will need to continue to rely on debt financing in the future, given the quantity of the existing infrastructure problem. However, legislation to facilitate meeting current capital improvement needs from current revenue, to the maximum extent possible, appears advisable, especially to meet deferred maintenance and repair.

It is possible that cities, under their constitutional home rule powers, may now accomplish this general objective, although charter ordinance amendments to some cash basis and budget laws would appear necessary, which has not been standard operating procedure to date. As a matter of state public policy, there is an advantage to specific legislation authorizing such capital improvement planning.

**Explanation:** The bill is broadly written, to permit maximum local discretion. It permits a city, by ordinance of the governing body, to establish a capital improvements fund to finance current and future capital improvements. Moneys credited to the fund would have to be budgeted. To assure the use of the fund for planned purposes, an officially adopted capital improvement plan is required.

The bill does not authorize a property tax; however, a separate property tax could be levied for this fund by home rule ordinance. The tax could be within or outside the local tax lid, as locally determined. Any such tax would be subject to a voter petition for a referendum.

Under subsection (c), moneys could not be credited to the capital improvement fund unless budgeted, except for reimbursed expenses.

Receipts and expenditures of the reserve fund must be shown in the annual budget.

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

**Advantages.** The bill would assist cities in the orderly planning and financing of infrastructure needs and could facilitate meeting current needs from current revenues.

It provides an incentive for cities to annually revise and adopt a capital improvements program.

It is likely that the fund will be used primarily for expensive repair and rehabilitation work, with major new improvements financed by bonds.

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The introduction and 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 for sponsorship by the League governing body.

(Attachment 1)

1/22/85



## By Committee on Local Government

AN ACT relating to cities; authorizing the establishment of a special capital improvements fund.

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

Section 1. (a) The governing body of any city, which has formally approved a multi-year capital improvement plan setting forth the public improvement and infrastructure needs of the city on a prioritized basis, may establish by ordinance a capital improvements fund. The ordinance establishing such fund, and any amendments thereto, may provide for the transfer of moneys from other city funds available for improvement purposes to the capital improvements fund, including moneys in the city's federal general revenue sharing fund and general fund. Any general property tax specifically levied for the use of such fund shall be authorized by ordinance adopted under the provisions of article 12, section 5 of the Kansas constitution.

(b) Moneys in such capital improvements fund may be used to finance, in whole or in part, any public improvement need set forth in the adopted capital improvements plan, including the repair, restoration and rehabilitation of existing public facilities. The ordinance may provide that disbursements from such fund may be made for engineering and other advance public improvement plans and studies and that reimbursements shall be made to the fund from future revenue from bond proceeds, special assessments or state or federal aid available for the completed project.

(c) Except for such reimbursed expenses, no moneys shall



be credited to such special fund except as may be annually budgeted, or transferred from other budgeted funds, and such fund shall not thereafter be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto. In making the budgets of such cities the amounts credited to, and the amount on hand in, such special fund and the amount expended therefrom shall be shown thereon for the information of the taxpayers of such cities. Moneys in such fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

(d) If the governing body of any municipality determines that money which has been transferred to such special fund or any part thereof is not needed for the purposes for which so transferred, the governing body by resolution may transfer such amount not needed to the general or other fund from which it was derived and such transfer and expenditure thereof shall be subject to the budget requirement provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto.

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



## General City Equipment Reserve Fund Bill

**Purpose:** To specifically authorize cities to establish internal service equipment funds.

**Background:** Under Kansas budget laws, the general rule is that public funds may not be spent without budget authorization. Further, 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), K.S.A. 12-631o (sewerage systems), 12-6a13 (special assessment projects), 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.

**Explanation:** The bill specifically authorizes cities to establish a municipal equipment reserve fund, from amounts budgeted, to finance new and replacement equipment. The term "internal service fund" is used in current municipal accounting literature to describe such an intra-governmental fund.

Rental or other equipment use charges may be 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 could be charged one-third of the replacement cost each year, with the amount credited to the equipment fund to finance its future replacement.

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

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

**Advantages:** The bill is intended to permit and encourage cities to meet their capital needs for machinery and equipment purposes on a continuing, annual planned basis, rather than deferring costs to the future, which may require no-fund warrants, bonds, or conditional lease-purchase agreements. It would also 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 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).

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The introduction and 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 for sponsorship by the League governing body.



By Committee on Local Government

AN ACT relating to cities; authorizing the establishment of an internal service equipment fund.

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

Section 1. (a) The governing body of any city may provide, by ordinance, for a municipal equipment fund, which may be used as an internal service fund to finance the acquisition of equipment. Moneys may be budgeted or transferred to such fund from any source, including rental or other equipment use charges on the various departments and agencies of the city, sufficient to finance new and replacement equipment. For the purposes of this act, equipment shall include machinery, vehicles and any other equipment or personal property including, but not limited to, computer hardware and software, which the city is authorized to purchase for municipal purposes.

(b) Moneys credited to such fund from budgeted appropriations or transfers shall not thereafter be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto. In making the budgets of such city, the amounts credited to, and the amount on hand in, such internal service fund and the amount expended therefrom shall be shown thereon for the information of the taxpayers of such city. Moneys in such fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

(c) If the governing body of any city determines that money which has been credited to such fund or any part thereof is not needed for the purposes for which so budgeted or transferred, the governing body may transfer, by resolution, such amount not needed to the fund from which it came and such retransfer and



expenditure thereof shall be subject to the budget requirement provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto.

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





# League of Kansas Municipalities

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

## Collection of Certain Debts by Cities

**Purpose:** To authorize cities to recover the costs of abating public nuisances, removing noxious weeds, and removing dangerous structures in the same manner the city would use to recover a personal debt.

**Background:** K.S.A. 12-1617e, 12-1617f, and 12-1755 authorize cities to abate public nuisances, remove noxious weeds and remove dangerous structures after giving personal notice to the owner of the offending property. In such cases, if the owner fails to respond, the city bears the expense of such actions. Each of the above statutes authorizes the recovery of the city's costs by certifying the outstanding amount to the county clerk for collection as a special assessment. It is common, however, for the owners of property charged with such assessments to refuse to pay. In those cases, the city must wait for the county to foreclose on the property for the delinquent special assessments and other taxes before it has any chance of recouping any of its expenses. Under current Kansas law, three years and ten months must pass before a foreclosure action can be commenced for delinquent taxes and assessments. As a practical matter, in the case of dangerous structures in which the owner has abandoned the property and refused to pay the special assessments and taxes, the tax foreclosure sale price is likely to be less than the city's cost of removal.

**Explanation:** The League respectfully requests introduction of the attached bill which would grant cities the right to bring actions in district court for the collection of the outstanding amount due the city in the same manner as a personal debt owed to the city may be recovered. In the case of dangerous structures, such actions would not be able to be commenced unless the proceeds of the sale of any salvageable material and the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 1984 Supp. 40-3901 et seq. are insufficient to cover the city's expenses. K.S.A. 79-2015 presently authorizes the collection of any taxes, fees, interest and penalties levied and assessed by the State of Kansas in exactly the same manner.

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The introduction and 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 for sponsorship by the League governing body.

(Attachment 3)

1/22/85



AN ACT concerning cities; authorizing actions in district court to recover certain costs; amending K.S.A. 12-1617e, 12-1617f, and 12-1755, and repealing the existing sections.

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

Section 1. K.S.A. 12-1617e is hereby amended to read as follows:

**12-1617e. Abatement of nuisances; assessment of costs.** The governing body of any city shall have the power to have removed or abated from any lot or parcel of ground within the city any and all nuisances, including rank grass, weeds, or other vegetation, and shall have the power to cause to be drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the board of health of such city shall file with the clerk of such city its statement in writing that such nuisance, rank vegetation, or pond of water, describing the same and where located, is a nuisance and dangerous to the health of the inhabitants of the city, or of any neighborhood, family or resident of the city, or in the event such city does not have a board of health, whenever the governing body of the city shall by resolution make such determination.

The city clerk shall forthwith issue notice requiring the owner or agent of the owner of the premises to remove and abate from said premises the thing or things therein described as a nuisance within a time, not exceeding ten days, to be specified in the notice; said notice shall be served by personal service, by delivering a copy thereof to the owner, occupant or agent of such property, or if the same be unoccupied and the owner a nonresident, then by mailing a notice to his or her last known address; and if the owner, occupant or agent shall fail to comply with the requirement of said notice for a period longer than that named in the notice, then the city shall proceed to have the things described in said notice removed and abated from said lot or parcel of ground, and the cost of such removal or abatement shall be assessed and charged against the lot or parcel of ground on which the nuisance was located; ~~and the city clerk shall, at the time of certifying other city taxes to the county clerk, certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against said lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.~~

collected as provided in Section 4, and amendments thereto, or shall be

If the cost is to be assessed,

**History:** L. 1903, ch. 134, § 1; L. 1905, ch. 120, § 1; R.S. 1923, § 12-1641; L. 1959, ch. 77, § 1; L. 1975, ch. 66, § 1; July 1.



Sec. 2. K.S.A. 12-1617f is hereby amended to read as follows:

**12-1617f. Weeds, destruction; special assessment.** The governing body of any city is hereby authorized to provide for and require the cutting or destruction of all noxious weeds on lots or pieces of land within said city; and where the occupant, owner or agent shall refuse, after five days' written or printed notice by the city clerk, or in cases where the owner is unknown or is a nonresident, and there is no resident agent, ten days after notice has been published by the city clerk in the official city paper, the city shall cut or destroy such weeds as aforesaid, and shall keep an account of the cost of same and report to the city clerk; and the city may levy a special assessment for such cost against the lot or piece of land in the same manner as provided in K.S.A. 12-1641.

**History:** L. 1915, ch. 144, § 1; L. 1917, ch. 112, § 1; R.S. 1923, § 12-1642; L. 1975, ch. 66, § 2; July 1.

12-1617e, and amendments thereto, or the city may collect the cost as provided in Section 4, and amendments thereto.

Sec. 3. K.S.A. 12-1755 is hereby amended to read as follows:

**12-1755. Same; removal of structure, when; certification; salvage, sale; removal costs on tax rolls; no-fund warrants; tax levies.**

If the owner of any structure has failed to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the city may proceed to raze and remove such structure, make the premises safe and secure, or let the same to contract. The city shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of removing such structure and making the premises safe and secure. All moneys in excess of that necessary to pay such costs shall, after the payment of all costs, be paid to the owner of the premises upon which the structure was located. If there is no salvageable material, or if moneys received from the sale of salvage is insufficient to pay the cost of such work, such costs or any portion thereof in excess of the amount received from the sale of salvage shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the city clerk shall at the time of certifying other city taxes, certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls of the county against said lot or parcel of land.

(a)

(b)

or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 1984 Supp. 40-3901 et seq., and amendments thereto, are

the balance shall be collected as provided in Section 4, and amendments thereto, or

Whenever any structure shall be removed from any premises under the provisions of this act, the city clerk shall certify to the county assessor that such structure, describing the same, has been so removed.

If there is no salvageable material or if the moneys received from the sale of salvage is insufficient to pay the costs of the work, such costs or any portion thereof in excess of that received from the sale of salvage may be financed, until the assessment is paid, out of the general fund or by the issuance of no-fund warrants. Whenever no-fund warrants are issued under the authority of this act the governing body of such city shall make a tax levy at the first tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in article 19 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, except they shall not bear the notation required by said section and may be issued without the approval of the state board of tax appeals. All moneys received from special assessments levied under the provisions of this section shall, when and if paid, be placed in the general fund of the city.

**History:** L. 1961, ch. 74, § 6; L. 1968, ch. 185, § 2; July 1.

New Section 4. As a complete alternative to levying special assessments to collect the city's uncompensated expenses or costs resulting from actions of the city in accordance with K.S.A. 12-1617e, 12-1617f or 12-1755, and amendments thereto, such expenses or costs may be collected by the city in the same manner as a personal debt of the property owner to the city by bringing an action in the district court of the county in which the city is located. Such actions may be maintained, prosecuted, and all proceedings taken, including any award of post-judgment interest in accordance with K.S.A. 1984 Supp. 16-204, and amendments thereto, to the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be and are hereby made available to the city in the enforcement of the payment of such obligations. In such actions, the city also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto, from and after the date the city incurs expenses in accordance with K.S.A. 12-1617e, 12-1617f, or 12-1755, and amendments thereto.

Sec. 5. K.S.A. 12-1617e, 12-1617f, and 2-1755 are hereby repealed.

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