

MINUTES OF THE Senate COMMITTEE ON Local Government

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

9:13 a.m./^{XX}p.m. on Monday, April 1, 1985 in room 531-N of the Capitol.

All members were present except: Senators: Allen, Bogina, Gaines, Mulich, Steineger and Winter who were all excused.

Committee staff present: Mike Heim, Theresa Kiernan, Lila McClaflin, Emalene Correll

Conferees appearing before the committee: Gerry Ray, Johnson County Commissioners, Olathe Representative Mike Peterson, Kansas City Fred Allen, Kansas Assn. of Counties, Topeka Chris McKenzie, League of Kansas Municipalities, Carlos Cooper, Wyandotte County Commissioners

The chairman called the meeting to order.

The hearing on H.B. 2383 was opened. Rep. Peterson, the sponsor of the bill, was present and testified in favor of it. The bill as amended, changes a section of the economic development bond law to permit counties to issue bonds inside cities on county owned property, without obtaining approval of the city.

Wyandotte County has an area of land that they own that is in city limits. They have negotiations going on with a professional sports franchise that wants to come to Kansas City and build a sports arena on this property and they want to issue bonds to build the complex. The league has a proposed amendment they will offer.

Carlos Cooper, Wyandotte County Commissioners, stated they did not oppose the bill and favored the amendment that the league will offer.

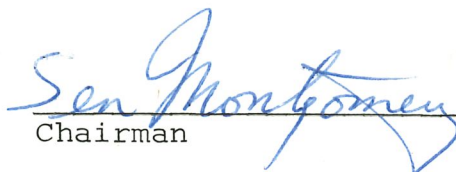
Chris McKenzie said the amendment that he offers could possibly save a law suit. The amendment and his written testimony are apart of these minutes (attachment 1).

The chairman announced Wichita was going to oppose the bill but since it defines bonds being issued to land owned by the county, they decided not to oppose it.

H.B. 2160 changes the time when the county extension council budgets have to be filed with the counties. The bill changes the date from June 13 to June 30 of each year. Gerry Ray appeared as a proponent, she stated the thirteen days would help in Johnson County. Her written testimony is apart of these minutes (attachment 2).

Fred Allen stated the county platform, item 10, supports the stand Gerry Ray has taken. They approve the bill for passage.

The meeting adjourned until Tuesday, April 2, 1985.


Chairman



League of Kansas Municipalities

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

TO: Senate Committee on Local Government
FROM: Chris McKenzie, Attorney/Director of Research *CM*
DATE: April 1, 1985
SUBJECT: HB 2383, As Amended

In its current form, the League of Kansas Municipalities has no objection to HB 2383, as amended by the House Committee on Local Government. The House added amendment would provide that the approval of a city governing body of a county IRB issue is not necessary if the facilities financed with the IRBs are located on real estate which is titled to the county. The League does have one concern about this bill, however, which we would appreciate the Committee addressing by adopting the attached amendment.

During the hearing on HB 2383 before the House Committee on Local Government, it was indicated that county IRB financed facilities within city corporate limits would be subject to any applicable zoning and other land use regulations. After the House Committee approved the bill, certain members of that Committee asked me to research this question. I have been unable to find any cases in which either the Kansas Supreme Court or the Kansas Court of Appeals directly considered whether uses of county-owned property in cities must comply with city land use regulations. A 1978 decision by the Kansas Court of Appeals which dealt with the applicability of county zoning regulations to the use of land by an agency of the State of Kansas, however, does provide some guidance in this area. In that case, Brown v. Kansas Forestry, Fish and Game Commission, 2 Kan. App.2d 102, the Kansas Court of Appeals concluded that in the absence of a clear expression of legislative intent concerning whether one governmental agency is subject to the land use regulations of another depends on an inference of legislative intent derived from an overall evaluation of all relevant factors. I believe it is likely that if a similar question arose in the local government context, that the same basic test would be applied.

In view of the uncertainty of this question, the League recommends that HB 2383 be further amended to make clear that such property shall be subject to all zoning regulations, subdivision regulations and building code regulations of the city. Such an amendment would, in our opinion, avoid the need for litigation in the future to settle this question.

(attachment 1)

4/1/85

President: Peggy Blackman, Mayor, Marion • Vice President: Ed Eilert, Mayor, Overland Park • Past President: Jack Alexander, Commissioner, Topeka • Directors: Robert C. Brown, Commissioner, Wichita • John L. Carder, Mayor, Iola • Richard B. Chesney, City Manager, El Dorado • Constance M. Conyac, Commissioner, Stockton • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Donald L. Hamilton, City Clerk/Administrator, Mankato • Carl D. Holmes, Mayor, Plains • John E. Reardon, Mayor, Kansas City • David Retter, City Attorney, Topeka • Robert K. Schmidt, Mayor, Hays • Deane B. Wiley, City Manager, Overland Park • Executive Director: F. A. Mosher

JOHNSON COUNTY KANSAS

Office of the Board of County Commissioners

JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS 66061
782-5000

SENATE LOCAL GOVERNMENT COMMITTEE

HEARING ON HOUSE BILL NO. 2160

MONDAY, APRIL 1, 1985

TESTIMONY OF GERRY RAY, LEGISLATIVE LIAISON
JOHNSON COUNTY BOARD OF COMMISSIONERS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. MY NAME IS GERRY RAY, LEGISLATIVE LIAISON FOR THE JOHNSON COUNTY BOARD OF COMMISSIONERS. I APPEAR AS A PROPONENT OF HOUSE BILL 2160 WHICH PERTAINS TO THE STATUTORY REQUIREMENT FOR APPROVAL OF THE BUDGET OF COUNTY EXTENSION COUNCILS.

THIS BILL WAS REQUESTED BY THE JOHNSON COUNTY COMMISSIONERS BECAUSE THE DATE PRESCRIBED IN THE EXISTING STATUTE FOR APPROVAL OF THE EXTENSION COUNCIL BUDGET HAS BEEN A PROBLEM IN OUR COUNTY FOR CLOSE TO FOUR YEARS.

FOR MANY YEARS PRIOR TO 1981 K.S.A. 2-610 WAS INTERPRETED BY OUR COUNTY COUNSELOR TO ALLOW THE FILING OF THE EXTENSION COUNCIL BUDGET WITH THE COMMISSIONERS ON OR BEFORE JUNE 13, WITH FINAL APPROVAL TAKING PLACE AT A LATER DATE COMPATIBLE WITH THE GENERAL BUDGET LAW. IN 1981 A QUESTION AROSE IN NEOSHO COUNTY AND AN ATTORNEY GENERAL'S OPINION WAS REQUESTED BY THEIR COUNTY ATTORNEY. IN THAT OPINION IT WAS DETERMINED THAT EXTENSION COUNCIL BUDGETS ARE NOT GOVERNED BY THE GENERAL BUDGET LAW AND MUST BE PREPARED, APPROVED AND CERTIFIED TO THE COUNTY CLERK ON OR BEFORE JUNE 13 AS PROVIDED IN K.S.A. 2-610.

OPERATING UNDER THE GENERAL BUDGET LAW THE COUNTY BUDGET PROCESS IS IN THE PRELIMINARY STAGES ON JUNE 13. THE INITIAL REQUESTS FROM THE DEPARTMENTS AND AGENCIES ARE NOT ALL SUBMITTED, THUS MAKING AN OVERVIEW OF THE TOTAL COUNTY BUDGETARY REQUIREMENTS FOR THE UPCOMING YEAR IMPOSSIBLE. CONSEQUENTLY THE COMMISSIONERS ARE FORCED TO MAKE PREMATURE DECISIONS ON JUST ONE AREA OF EXPENDITURE WITH ADEQUATE DATE. FOR THE COUNTY THIS IS AN INCONVENIENCE, FOR THE LOCAL EXTENSION COUNCIL IT CAN BE QUITE A DISADVANTAGE, BECAUSE THE COMMISSIONERS TEND TO TAKE A VERY CONSERVATIVE APPROACH AS TO WHAT DOLLAR FIGURE THEY ARE WILLING TO COMMIT UNDER THESE CIRCUMSTANCES.

(attachment 2)

4/1/85

HOUSE BILL 2160/TESTIMONY OF GERRY RAY

ORIGINALLY WE UNDERSTOOD ALL PARTIES AGREED TO A BILL MAKING JULY 15 THE DATE FOR APPROVAL. HOWEVER, IN THE HOUSE LOCAL GOVERNMENT, DR. ROBERT NEWSOM OF KANSAS STATE UNIVERSITY INDICATED HIS BOARD HAD RECONSIDERED AND COULD NOT SUPPORT ANYTHING LATER THAN JUNE 30, AND THUS THE BILL WAS AMENDED. WE, OF COUSE, WOULD HAVE LIKED THE LATER DATE BUT AT THIS POINT WE ARE SATISFIED TO TAKE WHATEVER WE CAN GET.

WE RECOGNIZE THAT COUNTIES WITH MORE COMPLEX BUDGET PROCEDURES ARE THE MOST LIKELY TO HAVE PROBLEMS WITH THE CURRENT LAW, HOWEVER, AS ILLUSTRATED BY THE NEOSHO COUNTY REQUEST FOR AN ATTORNEY GENERAL'S OPINION ON THE SUBJECT, SMALLER COUNTIES ALSO EXPERIENCE DIFFICULTIES. THE BILL IS WRITTEN SO ANY COUNTY WISHING TO FINALIZE THEIR EXTENSION COUNCIL BUDGET EARLIER THAN JULY 15 ARE FREE TO DO SO, YET ALLOWING THE LATITUDE TO OTHER COUNTIES THAT WILL RESULT IN A MORE LOGICAL DECISION MAKING PROCESS.

OUR COMMISSIONERS ASK FOR YOUR SUPPORT IN BRINGING ABOUT COMPATIBILITY IN THIS SITUATION WITH A FAVORABLE REPORT ON HOUSE BILL 2160.