

Approved January 26, 1988
Date

MINUTES OF THE Senate COMMITTEE ON Local Government

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

9:00 a.m./~~p.m.~~ on January 20, 1988 in room 531-N of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Theresa Kiernan and Lila McClaflin

Conferees appearing before the committee:

Ernie Mosher, The League of Kansas Municipalities
Richard Funk, Kansas Association of School Boards

Chairman Montgomery announced the sponsors of all the carry over bills had been contacted. The sponsors of Senate Bills 204, 211, 251, 254, 314, House Bills 2063 and 2109, had no interest in pursuing these bills.

A motion was made by Senator Allen to report all of these bills adversely. The motion was seconded by Senator Daniels. The motion carried.

The Chairman called on Ernie Mosher. Mr. Mosher stated they had four requests for introduction of bills.

The first request was for a bill regarding the use of city industrial fund taxes (Attachment I) A motion was made by Senator Ehrlich to introduce the bill. Senator Salisbury seconded the by motion and it carried.

Second request was for a bill to reduce certain financial records (Attachment II) A motion to introduce the bill was made by Senator Allen. The motion was seconded by Senator Salisbury. The motion carried.

Third request - Investment of temporary note moneys. The purpose is to clarify the investment authority of municipalities as to temporary note moneys. (Attachment III) A motion to introduce this legislation was made by Senator Daniels. The motion was seconded by Senator Langworthy, and it carried.

Fourth Request - Temporary financing of state assisted municipal improvements. Mr. Mosher stated the purpose of this legislation is to provide municipalities with a method of temporarily financing public services or improvements which will be permanently financed by state loans and grants. After a short discussion, Senator Bogina made a motion to introduce the bill. The motion was seconded by Senator Langworthy, and it carried. (Attachment IV).

Richard Funk addressed the Committee concerning a situation a school district had encountered regarding the official publication requirement. He thought their request could be handled by amending S.B. 245 which is in the House Local Government Committee.

The Chairman announced hearings, on bills in committee, would start next week. The next meeting will be at 9:00 a.m., January 26, 1988. The meeting adjourned.

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.

Don Montgomery
Chairman

Use of City Industrial Fund Taxes

Purpose: To specify that moneys in a city industrial tax fund established under K.S.A. 12-1617h may be used for "retaining" existing industries or manufacturing institutions as well as for "securing" such institutions.

Background: Questions have been raised as to whether moneys in a city industrial tax fund may be used to assist in retaining existing industries. While it is known that moneys in such a fund, currently used by about 70 Kansas cities, has been used by some cities for promoting, supporting and retaining existing industries, clarification appears advisable. The wording of K.S.A. 12-1617i, "inducing industries to locate," seems to imply that it may not be used for retaining existing businesses.

Explanation: The principal substantive changes made by the bill is simply to add the words "or retaining" after the words "securing" and "inducing."

This is an old statute, originally enacted in 1923, and several editorial changes appear necessary.

The proposed new language at the end of K.S.A. 12-1617h is designed to clarify that the use of an industrial tax levy, approved by the voters, is not an exclusive financial means for cities to promote economic development. The existing statute precedes constitutional home rule. Most cities now use their general fund for this purpose. If a city wants to establish a special property tax fund, it could do so by home rule charter ordinance rather than utilize this statute.

Advantages: Clarifies the existing statutes and recognizes the current emphasis on the retention and expansion of existing businesses as compared to concentrating on securing new industries.

12-1617h. Securing industries in or near cities; tax levy, use of proceeds; election required; resubmission, when. ~~Incorporated cities~~

~~are hereby authorized to levy annually upon all the taxable tangible property within said city a tax not to exceed the limitation prescribed by K.S.A. 79-1948, 79-1949, 79-1950, 79-1951, 79-1952 and 79-1953, for the purpose of creating a fund to be used in securing industries or manufacturing institutions for such city or near its environs and to pay a portion of the principal and interest on bonds issued by such city under the authority of K.S.A. 12-1774, and amendments thereto. No such levy shall be made until the city commissioners or governing body shall be instructed to do so by a majority of all the votes cast on this proposition at an election held in such city or cities for such purpose, or by submitting the proposition above mentioned to the voters of such city or cities at any city or general election.~~

Such election shall be held as provided by law for bond elections, ~~and any one such election shall authorize above mentioned cities to levy said taxes.~~ If any such city shall not make such tax levy in any year, after the third year following the approval of such tax levy by the voters, then it shall be necessary to resubmit the issue to the voters before any such tax levy shall be imposed again. The tax levy herein authorized shall be in addition to all other levies authorized by law and shall not be subject to any of the limitations prescribed by article 19 of chapter 79 of the Kansas Statutes Annotated or acts amendatory thereof and supplemental thereto.

12-1617i. Same; fund. All moneys collected by virtue of the tax hereinbefore authorized shall be ~~replaced~~ ~~[placed]~~ in the fund known as an "industrial fund," and shall only be used by ordinance duly adopted by the governing body of such city for the purpose of inducing industries to locate within the ~~said~~ city or near its environs, ~~and said ordinance may be passed only after submitting the proposition to the voter as provided for in K.S.A. 12-1617h.~~

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Nothing herein shall be construed as restricting the authority of cities to utilize the general fund or other revenue sources for the purpose of promoting or securing the location or expansion of business and industry.

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RESEARCH/INFORMATION BULLETIN

published by league of kansas municipalities / 112 west seventh street / topeka, kansas 66603 / 913 354-9565

Vol. X, No. 463
January 14, 1988

CITY INDUSTRIAL DEVELOPMENT TAX LEVIES

Under K.S.A. 12-1617h, Kansas cities are authorized to annually levy a property tax "for the purpose of creating a fund to be used in securing industries or manufacturing institutions for such city or near its environs..." The proposed tax levy must be initially approved by the voters at a referendum and may not exceed one mill. The levy is not subject to the property tax lid (K.S.A. 79-5011).

It should be noted that expenditures for general economic development may also be made from the city's general fund. A special fund is not necessary. Further, a special tax levy could be provided for under the city's constitutional home rule authority rather than under this statute.

The listing of cities and mill levies on the next page relates only to those cities which have a separate tax levy and fund for economic development purposes under K.S.A. 12-1617h.

The number of cities with separate industrial fund levies has not changed significantly in recent years. The number levying such taxes for various years has been as follows: 1966--55; 1971--68; 1976--77; 1978--77; 1979--77; 1980--71; 1981--71; 1984--68; 1985--70; and 1987--71. Since a discontinuation of the levy in one year, after the third year, requires another referendum, some cities levy only a small amount to keep their tax authority "alive."

Cities which levied a special industrial development tax in 1980, 1984, 1985 and 1987 are shown on the next page.

Special reference should be made to Research/Information Bulletin No. 368, which notes that many special tax fund levies are unnecessary since there is no longer a levy rate limit on the general fund tax or restrictions as to its purpose. Further, separate and special tax levies are not essential for tax lid purposes where an appropriate home rule charter ordinance has been adopted--see RIB No. 401.

<u>CITY</u>	<u>1987</u> <u>POP.</u>	<u>1980</u> <u>RATE</u>	<u>1984</u> <u>RATE</u>	<u>1985</u> <u>RATE</u>	<u>1987</u> <u>RATE</u>	<u>CITY</u>	<u>1987</u> <u>POP.</u>	<u>1980</u> <u>RATE</u>	<u>1984</u> <u>RATE</u>	<u>1985</u> <u>RATE</u>	<u>1987</u> <u>RATE</u>
Abilene	6,430	.80	.79	.95	1.001	Junction City	19,987	1.00	----	.35	1.00
Anthony	2,743	1.00	1.00	1.00	1.00	LaCrosse	1,526	.53	.10	.10	1.00
Ashland	1,177	1.00	1.00	1.01	1.00	Lakin	2,123	1.00	.51	.51	.51
Atchison	11,402	1.00	----	----	----	Larned	4,875	1.00	1.00	1.00	1.00
Baldwin City	2,798	----	----	1.00	.975	Lindsborg	3,270	.50	.997	1.00	.987
Bartlett	156	.74	1.08	1.36	----	Lucas	522	.50	.50	1.01	1.00
Baxter Springs	4,502	1.00	1.00	1.00	1.00	Lyons	3,964	.50	.50	.50	.496
Balle Plaine	1,721	----	----	----	.98	Manhattan	32,381	1.00	1.00	1.00	.051
Burlington	3,283	1.00	1.00	.98	1.00	Marion	1,901	1.00	1.00	.99	.987
Caney	2,313	.97	.03	.03	.03	Marysville	3,776	.96	1.00	1.00	.999
Canton	869	----	.416	.49	.49	McPherson	12,039	.16	.40	.67	.778
Chanute	10,889	.50	.50	.50	1.00	Medicine Lodge	2,711	----	1.50	1.50	----
Cheney	1,398	.10	.102	.098	1.00	Minneapolis	2,060	.94	1.00	1.00	1.00
Cherryvale	2,631	.45	.10	.10	1.00	Moran	583	1.00	----	----	----
Chetopa	1,620	.50	.50	.50	.50	Mulvane	4,408	----	.496	.498	.926
Clay Center	4,824	.75	.25	1.00	1.00	Natoma	520	1.00	1.06	----	----
Coffeyville	14,590	.01	.50	.01	.50	Neodesha	3,261	1.00	1.00	1.00	1.00
Columbus	3,522	.50	.50	.50	.50	Ness City	1,885	1.00	.99	1.00	.966
Concordia	6,779	.25	1.01	1.02	1.01	Norton	3,277	.50	.50	1.00	1.00
Cottonwood Falls	911	.50	.04	.03	.03	Onaga	684	----	----	----	1.00
Council Grove	2,285	.10	1.00	1.00	1.00	Osage City	2,829	----	1.00	1.00	1.00
Downs	1,287	1.00	1.00	1.00	1.00	Osawatomie	4,576	.50	1.00	1.00	1.00
El Dorado	11,272	1.00	1.00	.997	.99	Osborne	2,005	.50	.55	1.55	1.50
Ellis	2,123	.34	.393	.718	1.00	Oskaloosa	1,112	.60	.60	.60	.60
Ellsworth	2,380	1.00	1.00	1.00	1.00	Oswego	2,158	1.00	1.00	1.00	1.00
Emporia	27,087	.98	1.00	1.00	1.00	Paola	4,387	1.00	1.00	1.00	1.00
Erie	1,467	1.00	1.00	1.00	1.00	Parsons	13,089	1.00	.75	.87	.89
Eureka	3,384	.10	----	.07	----	Phillipsburg	3,123	----	----	----	1.00
Fort Scott	8,746	.50	.50	.493	.494	Pittsburg	18,489	.25	1.00	.994	.986
Fredonia	2,873	1.00	.10	1.00	1.00	Plainville	2,450	1.00	----	.99	1.00
Great Bend	17,637	.772	.51	.973	.897	Russell	5,647	.90	.25	----	1.00
Harper	1,768	.64	.10	.10	1.00	Sabetha	2,268	1.00	----	----	----
Herington	2,893	1.00	1.00	1.04	1.033	St. John	1,569	.50	----	----	----
Hiawatha	3,684	1.00	1.00	1.00	1.00	Sedgwick	1,541	.01	.98	.078	.995
Hillsboro	2,614	.10	1.00	1.00	.986	Seneca	2,334	.02	.92	.897	.914
Hoisington	3,675	.164	.093	.094	.990	Smith Center	2,172	----	.50	1.00	1.00
Holton	2,964	----	.94	.95	.90	Stafford	1,364	.50	----	----	----
Horton	1,960	1.00	1.00	1.00	1.00	Stockton	1,838	1.00	----	.97	.34
Independence	10,997	.10	1.00	.97	1.00	WaKeeney	2,526	.70	.70	.70	.70
Iola	7,025	.15	.49	.47	.50	Wakefield	807	1.00	1.00	----	.10
						Winfield	11,770	.50	.49	.50	.50

Destruction of Certain City Financial Records

Purpose: To reduce the time period cities are required to retain certain financial records and to clearly authorize the retention of microfilm copies in lieu of the original.

Background: The current statute, K.S.A. 12-120, was enacted in 1949. While phrased as an "authorization" to destroy certain records, it is in effect a limitation, since other, non-specified financial records may be destroyed at any time--see K.S.A. 12-121. For some cities the present extended retention time period for certain records is a burdensome storage problem.

Explanation: The proposed bill does three things: (1) reduces the minimum required retention period for certain financial records, (2) cleans up some of the language, and (3) specifies that a microfilm copy may be made, with the original destroyed at any time.

Advantages: Facilitates city records management and eliminates unnecessary storage.

Comments: The revised time periods are the consensus recommendations of a number of city clerks and finance officers. These records appear to have no historical value.

The provisions of K.S.A. 12-122, reproduced below, may also need an amendment. Further changes may be offered at the public hearing on the bill.

12-122. Reproduction of records on film. The governing body may cause any or all records, documents or papers to be photographed, microphotographed, or reproduced on film. Such photographic film shall comply with federal standard No. 125a, dated April 24, 1958, or the latest revision thereof, issued pursuant to the federal property and administrative services act of 1949, as amended, and the device used to reproduce such records on such film shall be one which accurately reproduces the original thereof in all details.

History: L. 1949, ch. 123, § 3; L. 1972, ch. 41, § 1; Feb. 9.

(ATTACHMENT II) LOCAL GO 1/20/88

12-120. Destruction of certain records.

The ~~officials~~, officers, and employees of any city charged with the custody or having in their custody the following records, documents, or other papers may destroy the same after they have been on file for the period stated:

- (1) Claims (and ~~the~~ purchase orders thereto attached) ~~presented and allowed by the governing body of the city or the board, commission, department, bureau or officer authorized to allow such claims, fifteen (15)~~ any which have been paid, 10 years.
- (2) Warrants or warrant checks, whether originals or duplicates, that have been ~~stamped or marked paid as provided by law,~~ five ~~(5)~~ years.
- (3) Duplicates of receipts or stubs of receipts issued, ~~five (5)~~ three years.
- (4) Duplicates of utility bills sent to customers, ~~five (5)~~ three years.
- (5) Bookkeeping or accounting records of utility customer's accounts, ~~five (5)~~ three years, except that the period for the records of deposits to guarantee the payment of bills or the return of meters shall begin when the account is closed or the customer ceases to receive service.
- (6) Duplicates or stubs of licenses issued for license fees or ~~occupation~~ taxes, ~~five (5)~~ three years.
- (7) Bonds of ~~officials~~, officers, or employees, ~~fifteen (15)~~ 10 years, the period to begin at ~~the date of the termination of the term or employment.~~ of the bond
- (8) Insurance policies, five ~~(5)~~ years, the period beginning at expiration of the policy unless a ~~rate case~~ is pending. claim
- (9) Canceled checks, five ~~(5)~~ years.
- (10) Requisition and duplicate purchase orders, ~~five (5)~~ three years.
- (11) Bonds and coupons stamped paid or canceled and returned by the ~~state~~ fiscal agent, five ~~(5)~~ years, the period beginning at the date of maturity of the bond or coupon.

The original of records, documents or other papers noted above may be destroyed at any time if reproduced on film, as provided in K.S.A. 12-122, and such film shall be retained for a period not less than required for the original records.

Investment of Temporary Note Moneys

Purpose: To clarify the investment authority of municipalities as to temporary note moneys.

Background: Attorney General Opinion No. 82-122, issued June 10, 1982, is a four-page opinion concluding that a "temporary note" is a "bond" for investment purposes under K.S.A. 10-131.

Explanation: The amendment proposed would make local officials aware that temporary note moneys may be invested in the same manner as bond moneys.

Advantages: Clarifies existing statutes and should help increase local investment earnings.

(ATTACHMENT III) LOCAL GO
1/20/88

10-131. Investment of proceeds of bonds and certain funds authorized; disposition of interest received therefrom. The governing body of any municipality, as defined in K.S.A. 10-101 and amendments thereto which has ~~heretofore~~ issued or may ~~hereafter~~ issue bonds/for any purpose, is hereby authorized and empowered to invest any portion of the proceeds of such bonds/or funds held pursuant to the resolution or ordinance authorizing the issuance of such bonds, which is not currently needed, in: (a) Investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein; (b) in direct obligations of the United States government or any agency thereof; (c) in the municipality's temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (d) in interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the municipality is located; (e) obligations of the federal national mortgage association, federal home loan banks or the federal home loan mortgage corporation; (f) repurchase agreements collateralized by securities described in (b) or (e) above; (g) investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody's investors service or Standard and Poor's corporation; (h) investments in shares or units of a money market fund or trust the portfolio of which is comprised entirely of securities described in (b) or (e) above; (i) receipts evidencing ownership interests in securities or portions thereof described in (b) or (e) above; (j) municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (k) bonds of any municipality of the state of Kansas as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (b) or (e) above. The interest received on any such investment shall upon receipt thereof be set aside and used for the purpose of paying interest on the bonds/issued or used for paying the cost of the project for which the bonds/were issued.

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Temporary Financing of State Assisted Municipal Improvements

Purpose: To provide municipalities with a method of temporarily financing public services or improvements which will be permanently financed by state loans and grants.

Background: Municipalities may now issue temporary notes under K.S.A. 10-123 to temporarily finance improvements in advance of the issuance of bonds. Municipalities may issue temporary notes or no-fund warrants under K.S.A. 12-1662 et seq. to temporarily finance the federal share of federally-assisted projects which are on a reimbursement basis. There is no similar authority to finance local expenditures in advance of the receipt of a state loan or grant, to meet the requirements of the cash basis law (K.S.A. 10-1112 and 10-1116).

SB 472 provides for a state revolving loan fund for water pollution control purposes. The Governor has proposed a state loan program for public infrastructure improvements for economic development purposes. The final acts may, or may not, deal with the practical problem of how a municipality pays for the initial costs (e.g., planning and engineering) of a state assisted project, or how the contractor is paid if the state assistance is on a reimbursement basis. Similar state loan and grant programs may occur in the future. There are now some practical (and legal) local problems in handling CDBG grants.

Explanation: The bill proposes a general act, applicable to all municipalities, authorizing the temporary financing of the costs of services and improvements for which state assistance will be later received, by the issuance of temporary notes or no-fund warrants. The notes or warrants may not be issued unless there is a written agreement providing for the state loan or grant, and for not to exceed the amount of the proposed loan or grant.

Some problems have occurred in the past with the timely receipt of federal loans and grants, and may well occur under a state program. As a result, Section 4 of the bill permits the extension of the notes or warrants if the state assistance is not timely received. Further, Section 4 provides for the issuance of new notes or warrants if the state loan or grant actually received is less than agreed to, which would be retired by tax levies or other sources (e.g., service charges).

In some instances, the state loan or grant may be for a portion of the cost, such as 50%. Section 6 provides that if there is a local bond issue to finance the local share, the amount of that bond issue authorization may include an amount to temporarily finance the state share.

Advantages: The bill attempts to provide a practical means for local units to utilize state grant and loan programs now under consideration or which may be enacted in the future. In the absence of such a law, provision will need to be made in each loan or grant program for advance payments to the municipality, since no temporary financing mechanism is now legally available as exists for projects financed by local bonds or by federal grants. Most local units do not have uncommitted money on hand sufficient to temporarily finance local expenditures later funded by a state grant or loan.

Draft 1/15/88

_____ Bill No. _____

By _____

AN ACT concerning municipalities; relating to the temporary financing of public services or improvements in anticipation of state loans or grants.

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

Section 1. As used in this act:

(a) "Municipality" means any city, county, township, school district, or other political subdivision of the state.

(b) "State agency" means a department, authority, office or other governmental agency of this state which is authorized by law to make state grants or loans to a municipality.

(c) "State grants or loans" means financial aid, gifts, grants or other payments to a municipality made pursuant to a written agreement by a state agency, including moneys loaned to a municipality, with or without interest, whether such money is derived from state or federal revenue sources or from moneys borrowed by the state or its agencies as authorized by law.

Sec. 2. Any municipality which has entered into a written agreement

with a state agency providing for a state grant or loan to the municipality for the performance of any public service or the construction of any public improvement, where such grant or loan constitutes a reimbursement for expenditures or obligations incurred by the municipality in undertaking such service or improvement, is hereby authorized to borrow money to temporarily finance such service or improvement. The amount borrowed under the provisions of this act shall not exceed the amount of the loan or grant to be received by the municipality under the terms of the agreement.

Sec. 3. Such borrowing in anticipation of a state grant or loan may be in the form of temporary notes or no-fund warrants, and shall be issued in substantially the same manner provided by law for the issuance of other temporary notes or no-fund warrants, but the approval of the state board of tax appeals shall not be required. The terms of such notes or warrants shall not exceed the scheduled date the municipality is to be reimbursed by the state loan or grant, as determined by the agreement.

Sec. 4. Any notes or warrants issued under the authority of this act by a municipality with the power to levy taxes shall constitute a general obligation of such municipality but shall not be within any debt limits of such municipality. Upon the failure of the municipality to timely receive payment of the loan or grant, it may extend the terms of the notes or warrants or may issue new notes or warrants. Upon the failure of the municipality to receive some or all of the loan or grant provided for in the written agreement, the municipality may provide for the issuance of new notes or warrants, for a term determined by the governing body thereof, in an amount sufficient to pay the principal and interest on such notes or warrants. Such notes or warrants may be paid from the levy of taxes,

from any future revenue received from the public improvement or service financed in part or in whole by the loan or grant, or from any other revenue source lawfully available for such purposes.

Sec. 5. Any money received by a municipality from a state loan or grant may be expended without regard to budget limitations and over, above or outside the budget, and such expenditures shall not be charged against the budget. If a municipality temporarily finances the service or improvement from budgeted funds and later is reimbursed by the state loan or grant, such expenditures shall not be charged against the budget. If a municipality temporarily finances the service or improvement from budgeted funds and later is reimbursed by the state loan or grant, such expenditure from budgeted funds shall be a reimbursed expense, and if received after the budget year, shall increase the current budget to the same amount unless the budget had anticipated and included the reimbursement as income.

Sec. 6. In addition to the temporary borrowing authorized by the provisions of this act, any municipality authorized by law to issue bonds for a public purpose or public improvement for which a state loan or grant may be received pursuant to a written agreement may include in any bond issue authorization an amount sufficient to temporarily finance any expenditures necessary in advance of the receipt of the state loan or grant as well as the amount of the municipality's share of the cost of the public service or public improvement, if any.

