

Approved February 2, 1988
Date

MINUTES OF THE Senate COMMITTEE ON Local Government

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

9:09 a.m./~~p.m.~~ on January 28, 1988 in room 531-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

- Marla Howard, City of Wichita
- Tom Powell, Director of Law, City of Wichita
- Jim Kaup, The League of Kansas Municipalities

Senator Ehrlich moved to approve the minutes of the meeting of January 27, 1988. Senator Langworthy seconded the motion. The motion carried.

The Chairman opened the hearing on S.B. 486 - concerning cities; relating to public improvements and the payment of costs thereof. He called on Marla Howard, City of Wichita.

Ms. Howard introduced, Tom Powell, Director of Law, City of Wichita.

Tom Powell presented written testimony in support of S.B. 486 (Attachment I). He stated the City of Wichita requested, through the Sedgwick County Legislative Delegation, that this bill be introduced. This bill would allow cities to charge a benefit fee to any owners of land that are included in a benefit district, who will benefit from a project at the time the land is developed.

Jim Kaup presented amendments to S.B. ⁴⁸⁶~~346~~, with these amendments they would support the bill (Attachment II).

After a question and answer time, Senator Bogina stated for further consideration, he would move that the amendment offered by the League be adopted. Senator Salisbury seconded the motion. The motion carried.

Further discussion on the bill was deferred until the Committee could look at the amended version.

Next meeting of the Committee will be at 9:00 a.m., on February 2, 1988. The meeting was adjourned by the Chairman.


Chairman, Senator Don Montgomery

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.

City of Wichita

January 27, 1988

Senate Local Government Committee
Don Montgomery, Chairman
State Capital Building
Topeka, Kansas 66612

RE: Senate Bill 486/Benefit Fees

Ladies and Gentlemen:

I am here today to testify concerning the City of Wichita's position on Senate Bill No. 486. The City of Wichita has requested, through the Sedgwick County Legislative Delegation, that this bill be considered and enacted by the 1988 Kansas Legislature.

The City joins with the Kansas League of Municipalities in recommending that Senate Bill 486 be amended as set forth in the material submitted by the League.

An explanation of why the City of Wichita is requesting that this bill be enacted can best be shown by illustrating the factual situation that has arisen that causes the City to come forward to the legislature.

On several occasions in the recent past, the City Council of Wichita has had before it K.S.A. 12-6a01, et seq. petitions for public improvement (water and/or sewer) containing more than 50 percent of the owners and/or land area of a benefit district. The petitioners are typically developers who are seeking to develop a particular tract of land. In order for the particular tract of land to develop, it is necessary to bring a water line or a sewer line from a main line that when constructed will be adjacent to property that is not being developed. Persons whose land is not being developed on occasion appear before the City Council protesting the inclusion of their property in a benefit district. Persons protesting often object to a project on the grounds that the assessment from the project would place an unfair burden upon them. Often the land owned by such protesters is undeveloped and the protesters have no immediate plans and have no immediate needs for a sewer or water line to serve their property.

(Attachment I) Local Go 1/28/88

Senate Local Government Committee
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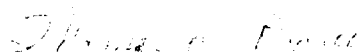
The City Council, in such situations, are placed in a delima with no easy answer. The City Council may accept the petition and cause costs to be spread against the protester's land which can be unfair if the protesters have no desire or immediate ability to develop the land. The other choice the City Council has is to require the developer to submit a petition that contains 100 percent signatures. This type of request most often results in the petitioner being required to reduce the size of the benefit district to include the land he wishes to develop only. This is unfair because it places land outside the benefit district in a position where it can be developed in the future without paying for sewer and water lines that have been installed at the expense of others.

Senate Bill 486, if enacted, would allow cities to accept a 100 percent petition from a developer. It would allow cities to charge a benefit fee to any owners of land that are included in a benefit district but who will benefit from a project at the time the land is developed. The benefit fee charged to such landowners would be spread and collected the same as any other special assessment. The assessment would be reduced on a pro rata basis for each month the property remained undeveloped through the date final payment on principal and interest for bonds are due. The benefit fees paid under Senate Bill 486 would be applied to any remaining principle and outstanding interest on bonds issued to finance improvements with a resulting pro rata reduction of assessment against the property originally included in the improvement district.

In conclusion, it is respectfully requested that the Senate and Local Government Committee pass favorably on Senate Bill 486 and cause it to be forwarded to be considered by the Senate as a whole.

Thank you for your consideration.

Very truly yours,



Thomas R. Powell
Director of Law

TRP:kh



League of Kansas Municipalities

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Session of 1988

SENATE BILL No. 486

By Senators Francisco, Anderson, Daniels, Feleciano,
Morris and Yost

1-14

AN ACT concerning cities; relating to public improvements and the payment of costs thereof.

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

Section 1. Whenever the construction of any water or sanitary sewer improvement is initiated by petition pursuant to subsection (2) of K.S.A. 12-6a04, and amendments thereto, the governing body of the city may require the owners of property which receive benefits from such improvement but which was not included within the original improvement district to pay a benefit fee at the time the owners of such property request to be served by such improvement.

The amount of such benefit fee shall not exceed the amount of the assessment, including principal and interest, which would have been levied against the property had it been included in the original improvement district, reduced in the proportion which each month or part of a month that has passed from the date the assessment for the improvement was levied to the date such property begins being served by the improvement bears to the total number of months of assessments against property included within the original improvement district. Such benefit fee shall be due and payable at the time the property begins being served by the improvement and shall be assessed, collected and paid in the same manner, and subject to the same interest, as assessments against property originally included in the improvement district for such improvement. Any benefit fees paid hereunder shall be applied to the remaining principal and outstanding interest on the bonds issued to finance the improvement, with a resulting pro rata reduction of the assessments against property originally included in the improvement district for such improvement.

The provisions of this act shall be supplemental to any legal authority cities may exercise in imposing hook-up or connection fees or other user or regulatory charges for water or sanitary sewer service.

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

(Attachment II) Local Go. 1/28/1988

SENATE BILL No. 486

By Senators Francisco, Anderson, Daniels, Feleciano,
Morris and Yost

1-14

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

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0022 tary sewer improvement is initiated by petition pursuant to
0023 subsection (2) of K.S.A. 12-6a04, and amendments thereto, the
0024 governing body of the city may require the owners of property
0025 ~~benefited by~~ such improvement but ~~not included within the~~
0026 original improvement district to pay a ~~hook-up~~ fee at the time the
0027 owners of such property request to be served by such improve-
0028 ment.

0029 The amount of such ~~hook-up~~ fee shall not exceed the amount
0030 of the assessment, including principal and interest, ~~against the~~
0031 property had it been included in the original improvement
0032 district, reduced ~~by an amount equal to 1/180 of such assessment~~
0033 ~~for~~ each month or part of a month that has passed from the date
0034 the assessment for the improvement was levied to the date such
0035 property begins being served by the improvement. Such ~~fee~~
0036 shall be ~~paid in equal, yearly installments~~ in the same manner as
0037 assessments against property originally included in the im-
0038 provement district for such improvement. Any ~~hook-up~~ fees paid
0039 hereunder shall be applied to the remaining principal and out-
0040 standing interest on the bonds issued to finance the improve-
0041 ment, with a resulting pro rata reduction of the assessments
0042 against property originally included in the improvement district
0043 for such improvement.

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0045 after its publication in the statute book.

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benefit

benefit
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