

Approved February 10, 1988
Date

MINUTES OF THE Senate COMMITTEE ON Local Government

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

9:10 a.m./p.m. on February 4, 1988 in room 531-N of the Capitol.

All members were present except:

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

Ernie Mosher, League of Kansas Municipalities
Marla Howard, City of Wichita
Conferees appearing before the committee:

The minutes of February 2, 1988 were presented. A motion was maded
by Senator Allen to adopt the minutes. The motion was seconded by Sen-
ator Ehrlich. The motion carried.

The chairman opened discussion on S. B. 485. Staff presented a
clarifying amendment they had prepared (Attachment I).

Marla Howard presented the amendments proposed by the City of Wichita.
She said the amendment had been drafted for them by the League (Attachment
II).

Ernie Mosher explained why they felt the amendment was necessary.
He responded to questions. He further stated, this bill may not be the
solution but they would like to give it a try.

A motion was made by Senator Daniels to strike the last sentence
in the language on page two of the proposed amendment and strike "Such
agreements also may provide", on line 144 of the bill and all of the
new language proposed in the Wichita amendment. The motion was seconded
by Senator Salisbury. The motion carried.

A motion by Senator Langworthy would include the amendment prepared
by Staff, at the end of the paragraph of new language on page two. Sen-
ator Daniels seconded the motion. The motion carried.

Senator Allen moved to report S.B. 485 as amended, favorably for
passage. The motion was seconded by Senator Daniels. The motion car-
ried. Senator Daniels will carry the bill.

The chairman opened the hearing on S.B. 513 - concerning municipal-
ities, relating to the temporary financing of public services or improve-
ments in anticipation of state loans or grants. He called on Ernie
Mosher to explain the bill.

Mr. Mosher stated the bill was requested by the League to provide
municipalities with a method of temporarily financing public services
or improvements which will be permanently financed by state loans and
grants. His written testimony gives the background and the advantages
of having this type of legislation (Attachment III). Mr. Mosher res-
ponded to questions.

Senator Daniels moved to report S.B. 513 favorably for passage.
The motion was seconded by Senator Langworthy. The motion carried.

Chairman Montgomery announced the committee will take final action
on H.B. 2063 at the next committee meeting, which will be at 9:00 a.m.,
February 10, 1988. He expressed the importance of all members being
present. The meeting adjourned.


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.

SB 485

If the proposed improvement district includes property within an industrial district, established by a resolution adopted pursuant to K.S.A. 19-101a, and amendments thereto, the board of directors of such industrial district also shall enter into the agreement prior to the undertaking of any improvement.

(Attachment I.) Local Go 2/4/88

SENATE BILL No. 485

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

1-14

0018 AN ACT concerning city-county boundary streets; relating to the
0019 cost of improvements thereof; amending K.S.A. 12-693 and
0020 68-572 and K.S.A. 1987 Supp. 68-506 and repealing the exist-
1 ing sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 12-693 is hereby amended to read as fol-
0024 lows: 12-693. (a) All cities are hereby authorized to make im-
0025 provements authorized by and in the manner provided for in the
0026 general improvement and assessment law as contained in
0027 chapter 12, article 6a of Kansas Statutes Annotated, in those
0028 unincorporated areas beyond their corporate limits and within
0029 three miles thereof. Before any such improvements shall be
0030 made, the city shall have adopted, in the manner provided by
0031 law, regulations governing the subdivision of land in such unin-
0032 corporated area. Such improvements may be located in a pro-
0033 posed improvement district which is wholly outside the cor-
0034 porate limits of the city or partially within the city limits.

Improvements within such three ~~(3)~~ mile area located in a
0036 proposed improvement district which is wholly outside the cor-
0037 porate limits of the city shall be commenced only upon a petition
0038 signed by both a majority of the owners of record of property and
0039 the owners of record of more than one-half of the area liable for
0040 special assessment under the proposal. Improvements within
0041 such three ~~(3)~~ mile area located in a proposed improvement
0042 district which is partially within the corporate limits of the city
0043 shall be commenced only upon a petition found sufficient by the
0044 provisions of K.S.A. 12-6a04, and amendments thereto, except
0045 that for the purpose of determining the sufficiency of the signa-

[Except as provided in subsection (b), improvements

(Attachment II) Local Go 2/4/88

0046 tures to such petitions only, that area which is outside the
 0047 corporate limits of the city shall be considered to constitute the
 0048 proposed district. Financing of ~~said~~ the improvements, including
 0049 the levying of special assessments, shall be made in the same
 0050 manner as if the improvements were made within the corporate
 0051 limits of the city. In the event the improvements authorized
 0052 hereunder are for water, storm water drain or sanitary sewer
 0053 systems, the city is hereby authorized to impose upon the prop-
 0054 erty served, user fees which may be based upon the cost of the
 0055 operation and maintenance of such improvements and also the
 0056 recovery of an equitable portion of the capital improvement costs
 0057 of any of such improvements originally charged to or assessed
 0058 against property within the corporate limits of such city. The
 0059 user fees herein authorized shall be a lien against the property
 0060 served and may be collected in the same manner as delinquent
 0061 real estate taxes.

0062 ~~(b) All cities are hereby authorized to construct or recon-~~
 0063 ~~struct boundary roads between the city and county and to assess~~
 0064 ~~the cost thereof against an improvement district which includes~~
 0065 ~~property both inside and outside the corporate limits of the city.~~
 0066 ~~Such improvements to boundary streets hereunder shall be~~
 0067 ~~initiated under the provisions of K.S.A. 12-6a04, and amend-~~
 0068 ~~ments thereto.~~

0069 Sec. 2. K.S.A. 1987 Supp. 68-506 is hereby amended to read
 0070 as follows: 68-506. (a) In counties which have not adopted the
 0071 county unit road system, it shall be the duty of the boards of
 0072 county commissioners with the approval of the county engineers
 0073 in their respective counties, to classify and designate the roads
 0074 and highways within such county within the following classes:

0075 (1) "Secondary roads or highways" which shall include all
 0076 county roads and highways designated for inclusion in the sec-
 0077 ondary road system in accordance with K.S.A. 68-1701 to 68-
 0078 1704, and amendments thereto;

0079 (2) "county minor collector roads or highways" which shall
 0080 include all county roads and highways, not designated for inclu-
 0081 sion in the secondary road system, which are main traveled roads
 0082 utilized and designed primarily for the movement of traffic

In the event the area of a proposed improvement district is located partly within and partly outside the city, and provides for the construction, reconstruction or other improvement to roads or streets which lie upon the corporate boundary limits of the city, the governing body of the city and the board of county commissioners of the county may enter into agreements whereby the city may initiate such improvements by the establishment of an improvement district under the provisions of K.S.A. 12-6a04, and amendments thereto. Such agreement shall provide for the proportionate share of the total costs of the improvement which shall be paid by the city and by the county and the share to be paid by the levying of special assessments against the benefitting property within the improvement district. If the proposed boundary line road or street improvement involves a road under the jurisdiction of a township, the governing body of the township may also enter into an agreement with the governing body of the city to contribute a share of the cost of the improvement. (Agreements entered into by a city, county or township as to the method and cost sharing of the construction, reconstruction or other improvement to a city boundary line road or street may provide for the sharing of the future costs of maintaining such roads or streets or separate agreements may be entered into pursuant to the provisions of K.S.A. 68-169.)

0083 between different areas of the county; and

0084 (3) "township or local service roads" which shall include all
0085 roads and highways not designated for inclusion in the second-
0086 ary road system or as county minor collector roads or highways.

0087 (b) Whenever any county secondary road or highway or
0088 county minor collector road or highway is located partly within
0089 and partly without a city or connects any such road or highway
0090 with a city, by and with the consent of the governing body the
0091 board of county commissioners is hereby given power and au-
0092 thority and required to designate such public road or highway as
0093 a part of the county road or highway system, and it shall be
0094 improved and maintained as other parts of the county road
0095 system, except that the governing body of such city may aid in
0096 the construction, maintenance and improvement of such road or
0097 highway as it would were the road or highway wholly within the
0098 corporate limits of the city *and may improve any such road*
0099 ~~which constitutes a boundary between the city and county in~~
0100 *the manner provided by K.S.A. 12-693, and amendments thereto.*

[city boundary line
[or street

0101 When a road or highway is being, or has been, improved by the
0102 county where state or federal aid has been extended in the
0103 improvement of such road or highway, and such road or highway
0104 terminates at the city limits, and where a road or highway has
0105 been or shall be constructed with federal aid, which such road or
0106 highway terminates at a state line, and the state line is the
0107 corporate limits of a city within this state, the secretary of
0108 transportation is hereby authorized and empowered to extend
0109 federal aid, and the board of county commissioners, on the
0110 application of the governing body of the city, shall declare such
0111 city through which a street or streets form a connection between
0112 such roads or highways, a benefit district, and shall extend state
0113 aid on that part of the road or highway lying within the city limits
0114 in the same way and in the same manner as they extend aid in the
0115 improvement of the road or highway outside of the city limits.
0116 The secretary of transportation is hereby authorized and em-
0117 powered to cooperate and deal with the governing body of the
0118 city, board of county commissioners, or other interested parties
0119 that provide funds to take care of the local part of the costs of the

0120 improvement of the road or highway lying within the city limits,
0121 and such improvement shall be under the supervision and di-
0122 rection of the secretary as provided for in the improvement of
0123 other roads and highways of like nature in the county.

0124 (c) The county engineer and the boards of county commis-
0125 sioners may shift road or highway mileage from one county road
0126 or highway classification to another as continuing study indicates
0127 that such changes are needed by reason of changing traffic needs
0128 or for other reasons substantiated by engineering analysis, ex-
0129 cept that no road or highway mileage may be shifted to or from
0130 the secondary road system except as provided in article 17 of
0131 chapter 68 of the Kansas Statutes Annotated and amendments
0132 thereto.

0133 Sec. 3. K.S.A. 68-572 is hereby amended to read as follows:
0134 68-572. The board of county commissioners of any county, any
0135 township board of highway commissioners of the county or city
0136 governing body within such county are hereby authorized to
0137 enter into agreements for the construction, reconstruction or
0138 maintenance of any roads or streets. Such agreements may also
0139 may provide methods of mutual assistance and cooperation
0140 whereby the machinery, equipment and employees of the
0141 county and township may be used for grading or bringing to
0142 grade township roads by the county or by the county and town-
0143 ship and the completion and maintenance thereof by the town-
0144 ship. ~~Such agreements also may provide that any of the parties~~
0145 ~~thereto may build, reconstruct or improve boundary roads and~~
0146 ~~streets between a city and unincorporated areas of the county. A~~
0147 ~~party so building, reconstructing or improving such a boundary~~
0148 ~~road or street shall be authorized to make such improvements~~
0149 ~~and to finance the payment of the cost of the same in the manner~~
0150 ~~provided for in the general improvement and assessment law as~~
0151 ~~contained in article 6a of chapter 12 of the Kansas Statutes~~
0152 ~~Annotated and K.S.A. 12-693, and amendments thereto. That~~
0153 ~~portion, if any, of the cost of such improvements which are to be~~
0154 ~~paid by the city at large, as opposed to by assessment against an~~
0155 ~~improvement district, shall be paid for as provided by the~~
0156 ~~parties in the agreement.~~ Any such agreement between a county

for the improvement and maintenance of city boundary line
roads or streets in accordance with the provisions of K.S.A.
12-693, and amendments thereto.



League of Kansas Municipalities

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

RE: SB 513--Temporary Financing of State Assisted Municipal Improvements
TO: Senate Committee on Local Government
FROM: E.A. Mosher, Executive Director
DATE: February 4, 1988

As members of this Committee know, SB 513 was requested by the League 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 also 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. But there is no similar authority to finance local expenditures in advance of the receipt of a state loan or grant, in order 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 local units for water pollution control purposes. Further, the Governor has proposed a state loan program for public infrastructure improvements for economic development purposes. However, we still need to 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.

Finally, as background information, it is important to note the federal government is starting to use letters of credit instead of cash payments in advance. We anticipate problems in the future as to how local units finance services and improvements assisted by state administered federal grants, if payments to the state are on a reimbursement basis. We doubt the state will want to use state general fund moneys for payments to local units, and then wait for the federal reimbursement.

Explanation: SB 513 proposes a general act, applicable to all municipalities, authorizing the temporary financing of the costs of services and improvements for which state assistance (including state administered federal funds) 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.

(Attachment III) Local GO 2/4/88

Some problems have occurred in the past with the timely receipt of federal loans and grants, and may well occur under a state administered program. As a result, Section 3 of the bill permits the extension of the notes or warrants if the state assistance is not timely received. Further, Section 3 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 5 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: SB 513 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, and state administered federal assistance programs on a reimbursement basis, and to meet the requirements of the cash basis law. 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 direct 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.

SENATE BILL No. 513

By Committee on Local Government

1-22

0016 AN ACT concerning municipalities; relating to the temporary
0017 financing of public services or improvements in anticipation
0018 of state loans or grants.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. When used in this act:

0021 (a) "Municipality" means any city, county, township, school
0022 district or other political subdivision of the state;

0023 (b) "state agency" means any department, authority, office or
0024 other governmental agency of this state which is authorized by
0025 law to make state grants or loans to a municipality;

0026 (c) "state grants or loans" means financial aid, gifts, grants or
0027 other payments to a municipality made pursuant to a written
0028 agreement by a state agency, including moneys loaned to a
0029 municipality, with or without interest, whether such money is
0030 derived from state or federal revenue sources or from moneys
0031 borrowed by the state or its agencies as authorized by law.

0032 Sec. 2. (a) Any municipality which has entered into a written
0033 agreement with a state agency providing for a state grant or loan
0034 to the municipality for the performance of any public service or
0035 the construction of any public improvement, where such grant or
0036 loan constitutes a reimbursement for expenditures or obligations
0037 incurred by the municipality in undertaking such service or
0038 improvement, is hereby authorized to borrow money to tempo-
0039 rarily finance such service or improvement. The amount bor-
0040 rowed under the provisions of this act shall not exceed the
0041 amount of the loan or grant to be received by the municipality
0042 under the terms of the agreement.

0043 (b) Such borrowing in anticipation of a state grant or loan may
0044 be in the form of temporary notes or no-fund warrants, and shall
0045 be issued in substantially the same manner provided by law for
0046 the issuance of other temporary notes or no-fund warrants, but
0047 the approval of the state board of tax appeals shall not be
0048 required. The terms of such notes or warrants shall not exceed
0049 the scheduled date the municipality is to be reimbursed by the

0050 state loan or grant, as determined by the agreement.

0051 Sec. 3. Any notes or warrants issued under the authority of
0052 this act by a municipality with the power to levy taxes shall
0053 constitute a general obligation of such municipality but shall not
0054 be within any debt limits of such municipality. Upon the failure
0055 of the municipality to receive timely payment of the loan or
0056 grant, it may extend the terms of the notes or warrants or may
0057 issue new notes or warrants. Upon the failure of the municipality
0058 to receive some or all of the loan or grant provided for in the
0059 written agreement, the municipality may provide for the is-
0060 suance of new notes or warrants, for a term determined by the
0061 governing body thereof, in an amount sufficient to pay the
0062 principal and interest on such notes or warrants. Such notes or
0063 warrants may be paid from the levy of taxes, from any future
0064 revenue received from the public improvement or service fi-
0065 nanced in part or in whole by the loan or grant or from any other
0066 revenue source lawfully available for such purposes.

0067 Sec. 4. Any money received by a municipality from a state
0068 loan or grant may be expended without regard to budget limita-
0069 tions and over, above or outside the budget, and such expendi-
0070 tures shall not be charged against the budget. If a municipality
0071 temporarily finances the service or improvement from budgeted
0072 funds and later is reimbursed by the state loan or grant, such
0073 expenditures shall not be charged against the budget. If a mu-
0074 nicipality temporarily finances the service or improvement from
0075 budgeted funds and later is reimbursed by the state loan or grant,
0076 such expenditure from budgeted funds shall be a reimbursed
0077 expense, and if received after the budget year, shall increase the
0078 current budget to the same amount unless the budget had antic-
0079 ipated and included the reimbursement as income.

0080 Sec. 5. In addition to the temporary borrowing authorized by
0081 the provisions of this act, any municipality authorized by law to
0082 issue bonds for a public purpose or public improvement for
0083 which a state loan or grant may be received pursuant to a written
0084 agreement may include in any bond issue authorization an
0085 amount sufficient to temporarily finance any expenditures nec-
0086 essary in advance of the receipt of the state loan or grant as well
0087 as the amount of the municipality's share of the cost of the public
0088 service or public improvement, if any.

0089 Sec. 6. This act shall take effect and be in force from and
0090 after its publication in the statute book.