

Approved February 7, 1989
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative R. D. Miller at
Chairperson

1:38 ~~am~~/p.m. on January 31, 1989 in room 521-S of the Capitol.

All members were present except:

Representative Kerry Patrick, absent
Representative Tom Sawyer, absent

Committee staff present:

Mike Heim, Legislative Research Dept.
Theresa Kiernan, Revisor of Statutes' Office
Connie Smith, Committee Secretary

Conferees appearing before the committee:

David Corliss, Attorney, League of Kansas Municipalities
Kelly Arnold, City of Lawrence
Linda Fincham, Register of Deeds Assn.
Ernie Mosher, Executive Director, League of Kansas Municipalities
Bev Bradley, Kansas Association of Counties
Linton Bartlett, City of Kansas City, Kansas
Bill Curtis, Kansas Assn. of School Boards

Chairman Miller called for hearings on the following House Bills:

HB 2077, concerning delinquent property tax; relating to the sale of property by the county.

Mike Heim gave an overview of HB 2077.

David Corliss testified in support of HB 2077. (Attach. I)

Kelly Arnold introduced Chris McKenzie, County Administrator for Douglas County, and testified in support of HB 2077. (Attach. II)

A discussion was held.

Linda Fincham testified in support of HB 2077 stating that recording deeds at the time of execution prevents possible loss of deeds and allows the proper record owner to be current. (Attach. III)

Hearing on HB 2077 closed.

HB 2081, concerning municipalities; relating to the temporary financing of public services or improvements in anticipation of state loans or grants.

Mike Heim gave a brief overview.

Ernie Mosher testified in support of HB 2081. (Attach. IV)

Bev Bradley testified in support of HB 2081 and urged the Committee's approval. (Attach. V)

Linton Bartlett testified in support of HB 2081. (Attach. VI)

Bill Curtis urged support in HB 2081. (Attach. VII)

Hearing on HB 2081 closed.

Representative Williams made a motion to approve the minutes of January 12, 18, 19, and 26, seconded by Representative Turnbaugh and the motion carried.

Meeting adjourned at 2:24 p.m.
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.



**League
of Kansas
Municipalities**

**Municipal
Legislative
Testimony**

An Instrumentality of Its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

TO: House Committee on Local Government
FROM: David Corliss
DATE: January 31, 1989
RE: HB 2077 - Recording of Delinquent Tax Deeds

HB 2077 amends K.S.A. 79-2804 to provide that a sheriff's deed from a property tax foreclosure sale be recorded at the time the deed is executed to the successful bidder. The League's convention-adopted Statement of Municipal Policy provides: "All transfers of the ownership of property resulting from judicial foreclosures for delinquent taxes should be automatically recorded with the register of deeds."

Need for Legislation: (Currently, the law places the responsibility for filing the sheriff's deed on the purchaser of property from the tax foreclosure sale of tax delinquent property.) It is not uncommon for those purchasers to delay for an extended period the filing and recording of the deed. The non-filing of the deed can cause significant interference with several important municipal functions that require accurate and up-to-date property ownership information. Special assessments, nuisance abatement, condemnation, rezoning, and annexation are among the municipal services which require identification and notification of property owners. Some statutes require a notice, hearing and protest opportunity for property owners, which is difficult to accomplish when the ownership is not recorded.

Explanation of Bill. HB 2077 would add the following language to K.S.A. 79-2804: "The deed shall be filed for record, by the sheriff at the time the deed is executed, in the office of the register of deeds of the county where such real estate is situated. Any fee or charge for filing shall be collected from the successful bidder at the time of recording."

Two factors exacerbate the problems associated with delayed filing. First, until the sheriff's deed is filed, the property owner of record is the delinquent property taxpayer who has just lost their property in a foreclosure sale and has no interest in the property. Thus, any required notice to that property owner is of little value in fulfilling the statutory intent behind notifying property owners that their local government is contemplating action which will affect their property. Second, much of the property in a tax foreclosure sale is typically of the type which is affected by government action, such as platted property which has not been developed (frequently subject to special assessments) and abandoned residences and buildings (which may be condemned or abated for health and safety reasons). Thus, the need for accurate and current property ownership information is essential to carry out important municipal services and functions.

Please find attached an article that dicusses the property tax foreclosure process that was printed in the October, 1986 edition of the Kansas Government Journal.

py
1-31-89
ATTACH. 1

The Kansas Real Property Judicial Tax Foreclosure Process: Policy and Procedure

by **Chris McKenzie**
County Administrator
and
David Corliss
Management Intern
Douglas County

Kansas local government officials are keenly aware of the importance of the ad valorem tax on real estate as a source of revenue to finance essential local services. Many of the same officials are aware that the latent threat of judicial tax foreclosure is a necessary feature of the property tax collection process. These two factors combine to make Kansas procedure and policy concerning real estate tax foreclosure actions of interest to all people gathered around the public fisc.

This article surveys Kansas law authorizing foreclosure suits for real property with delinquent taxes and offers suggestions to both the practitioner and policy-maker blessed with this responsibility. Due to the Leviathan nature of the chore, tax foreclosure suits are often the victim of postponement and procrastination. This delay, however, inevitably multiplies the number of defendants and tracts that are eventually included in foreclosure suits requiring even greater legal and abstract work and even further delay. Filing regular and timely foreclosure actions is certainly the advisable path. While many property owners with tax delinquencies are overly ambitious developers or distant heirs of the near-forgotten, unfortunately, some are fixed-income homeowners for whom the threat of foreclosure can command life-changing decisions. Notwithstanding these facts, tax foreclosure sales can be seen as serving an important public purpose — ensuring that the costs of government are

borne equitably by all those who share its benefits.

Before discussing the actual commencement of the tax suit, it is helpful to survey the statutory provisions concerning redemption of property. K.S.A. 79-2301 *et seq.* sets forth the procedure for redeeming property on which taxes have not been paid as of the twentieth day of June in each year. On the first Tuesday of September, real estate with unpaid taxes from the preceding year is "bid-off" by the county treasurer to the county for the amount of delinquent taxes. This bidding off (or lien-perfection) by the county begins the redemption period under K.S.A. 79-2401a during which the property owner may redeem the real estate by paying to the county the amount of the sale (delinquent taxes), the interest accrued and other costs. K.S.A. 79-2968 sets the interest rate for delinquent taxes at 18 percent per year. Partial redemptions of less than the total amount due are authorized by law at this stage of the process.

K.S.A. 79-2401a provides for a two-year redemption period from the date of sale (to the county), except for homestead property under Section 9 of Article 15 of the Kansas Constitution which is granted a three-year redemption period. Subsection (d) of K.S.A. 79-2401a provides that if at the expiration of the redemption period the real estate has not been redeemed, the real estate shall be disposed of by foreclosure and sale in the manner provided by K.S.A. 79-2801 *et seq.* The county also may

foreclose on property with delinquent special assessments according to this timetable (i.e., two years, except for homesteads) if the city clerk certifies the public improvements for which the special assessments were levied were requested by the landowners.

In preparing to file the actual tax foreclosure action, all of the owners or supposed owners of the real estate and persons having or claiming to have any interest in the property must be identified because K.S.A. 79-2801 requires the county to name all such individuals and corporations as defendants in the foreclosure suit. Abstract and title companies are skilled and eager to prepare an ownership and title report in this regard. With the list of owners and additional parties from the abstract company identifying the defendants, the next step is to locate them. Finding addresses for certain defendants will require little beyond the telephone directory. However, property owners (and their heirs, judgment creditors or mortgagees as the case may be) can be difficult to locate.

Before the suit is filed, the board of county commissioners must authorize the county attorney or county counselor to institute the foreclosure action in the District Court. If the tax foreclosure suit involves numerous defendants, it may be advisable to obtain a court order under K.S.A. 60-205 which will avoid the necessity of the county and the defendants having to serve every party with every pleading. Joinder of defendant parties in one lawsuit is provided for in K.S.A. 79-2802. Additionally, appointment of an attorney for defendants in the military service and as a guardian ad litem is necessary under federal and state law.

Under the provisions of the federal Bankruptcy Code (11 U.S.C. Subsection 362(a)), the filing of a bankruptcy petition automatically stays a real estate tax foreclosure action. Counties routinely receive copies of bankruptcy petitions from the bankruptcy court clerk. Debtors listed in active petitions should be checked against property owners in the foreclosure suit to avoid violating the automatic stay provisions of the code.

The tax foreclosure suit petition (which must be filed in duplicate) must contain:

- ✓ a legal description and any applicable city address for the delinquent property
 - ✓ the amount of taxes, charges, interest and penalties chargeable to the property
 - ✓ the names of the owner, supposed owner and any parties having or claiming to have an interest in the property
 - ✓ and the year the real estate was "bid-off" by the county under K.S.A. 79-302
- The petition should request that the court determine the amount charged against the property and also determine the identity of the owner and interested parties. Finally, the petition should request that the amount

due be adjudged a first and prior lien upon the real estate and that the property be sold at public sale for the satisfaction of the lien and other expenses.

After the petition has been filed, payment of taxes upon the real estate included in the petition no longer occurs under the redemption provisions of K.S.A. 79-2401a; instead K.S.A. 79-2803 governs post-petition redemption. At this stage, only the owner, mortgagee or party claiming ownership can redeem the property. Redemption of property in the suit is accomplished by completing an Application to Redeem in the district court clerk's office, tendering court costs and paying the delinquent taxes and interest to date in the treasurer's office. The treasurer's office forwards a copy of the Application to Redeem and paid tax statements to the county counselor or attorney. He or she then prepares a motion for dismissal for the various causes of actions which have been redeemed. The motion and order of dismissal is then mailed to the defendants in the dismissed causes of action.

Post-petition — unlike pre-petition — redemptions must be for the *full* satisfaction of taxes due on the property, not just for the earlier delinquent taxes that made the property eligible for the foreclosure suit. In other words, partial redemptions are not authorized by law after the filing of the foreclosure petition.

While the service and summons of the petition follow routine Kansas Civil Procedure, it is important to note that since many property owners will not be located and therefore not personally served, service by publication will become a necessity. If service is made by publication, the notice, in addition to the requirements prescribed by the Code of Civil Procedure, must contain a description of the real estate.

Under K.S.A. 79-2803, tax foreclosure suits "shall have precedence over all other actions except criminal cases," in the District Court. Tax foreclosure suits differ from other forms of litigation in that most defendants fail to answer, and those defendants who do answer seldom set forth a defense. Since there is rarely any factual dispute, a jury trial is usually waived. Thus once all defendants have been provided notice — either by personal service or publication, a default judgment against the defendants can be sought and a journal entry of judgment prepared for approval by the court.

K.S.A. 79-2802 provides that the journal entry must particularize the judgment lien amount and the owner(s) for each piece of real estate. The judgment lien should include the statutory interest to date and the costs, charges and expenses of the suit (including abstracting expenses) and anticipated cost of the sale (such as publication and auction costs) chargeable to each piece of unredeemed property.

After judgment is rendered, the clerk of the district court issues an order of sale to the sheriff, who publishes legal notice of the sale for three consecutive weeks. The notice of sale describes the property and judgment lien and fixes a sale date not less than 30 days from the date of the first publication.

The property is sold at public auction for "the highest and best bid obtainable." Tax foreclosure sales will draw the keen attention of many neophyte real estate entrepreneurs fresh from no-money-down seminars. The level of interest expressed by potential purchasers will be determined by the number and quality of unredeemed pieces of real estate. It is certainly in the interest of the county to encourage active and monied participation in the auction. One way in which Douglas county accommodates public interest in such sales is by agreeing to send the final notice of the sale and the property included therein to any individual providing the county with a self-addressed, stamped envelope.

The successful bid may be for an amount below the judgment lien. However, K.S.A. 79-2804g prohibits the sale of foreclosure property directly (or indirectly) for an amount *less* than the judgment lien to any person having a statutory right to redeem the property. This proscription is enforced by K.S.A. 79-2804h which requires all purchasers to file an affidavit with the district court clerk stating that the purchase of the real estate was not made, either directly or indirectly, for any person having the statutory right to redeem. If the property sells for an amount greater than the judgment lien, the owner or creditors can obtain the excess by court order.

After the sale has been confirmed, the sheriff executes a deed to the purchaser. The sheriff's deed vests the purchaser with fee simple title to the property subject only to covenants and easements of record and taxes which have become a lien on the property since judgment was rendered. All past tax liabilities, debts and liens are removed, but the property remains liable for all future taxes (and special assessments).

The proceeds of the sale are paid by the clerk of the district court to the county treasurer, who has the responsibility under K.S.A. 79-2805 to prorate to each fund, if practicable, its proportionate interest in the entire lien. As those familiar with mill levy mathematics might presume, apportioning the tax sale proceeds for each tract is a time-consuming task.

K.S.A. 79-2804b provides that any action to open or set-aside a tax foreclosure suit or sale must be commenced within 12 months after the date the sale of real estate was confirmed by the court. However, most litigation surrounding tax foreclosure actions concerns either the failure to sue the proper owners and additional parties or the failure to provide these individuals with

adequate legal notice of the suit. The Kansas Supreme Court has held the 12-month time limitation in K.S.A. 79-2804b is generally inapplicable against such parties who claim a due process deficiency in the tax foreclosure suit or sale. With this as background, the importance of service and legal notice to all owners, supposed owners and parties claiming a legal interest in the property is not easily exaggerated.

Kansas law governing tax foreclosure provides a straightforward, albeit time-consuming, procedure for the collection of delinquent property taxes. Both the public official and legal practitioner should appreciate the duty to all taxpayers to vigorously advance tax collection efforts. As the tax collection agent for all other taxing subdivisions, counties bear a special obligation to ensure the prompt collection of delinquent real estate taxes. The failure to utilize the tax foreclosure mechanism provided by state law only shifts a greater tax burden on those who make timely payments, thereby increasing the inequities in the property tax system.

Another Tax on Tax-Exempt Income

Congress' \$9 billion tax package to fund the costs of the toxic waste removal program (Superfund) includes \$2.5 billion to be raised over five years through the alternative corporate "book income" minimum tax provision of the new tax reform legislation. Book income includes tax-exempt interest income.

The rate would be .12 percent for Superfund financing and would be assessed against all corporations subject to the minimum tax, including banks.

Although the President has threatened to veto the legislation, it passed both houses of Congress by overwhelming margins.

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The National Leadership Conference of Women Executives in State Government reports that a record nine women candidates have won gubernatorial primaries in 1986 statewide elections.

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TESTIMONY BEFORE THE
KANSAS HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

Mr. Chairman and Members of the Committee, my name is Kelly Arnold and I am the Legislative Liaison and Administrative Assistant to the City Manager for the City of Lawrence. I am appearing today on behalf of both the City of Lawrence and Douglas County, Kansas. I want to thank you for the opportunity to address you on House Bill No. 2077. As you are aware, this bill amends K.S.A. 79-2804 to provide that a sheriff's deed from a property tax foreclosure sale be recorded at the time the deed is executed to the successful bidder.

This bill is important to the City because it resolves the issue of when a sheriff's deed from a tax foreclosure sale must be recorded. Currently, there is no time frame in which a sheriff's deed is recorded. As a result, this can directly affect the City's notification procedure.

Let me explain this further. The City relies upon the County Clerk's records for property ownership. The County Clerk's records are as complete as possible and any change of ownership comes from the County Recorder's records. Thus, if sheriff's deeds are not recorded in a timely fashion, then the County Recorder's records are not up-to-date and the information the City receives is not accurate.

The City uses the property ownership for several important notification functions that require accurate and up-to-date property ownership information. These functions require notification of property owners, before any action may

be taken. On the next page is a list of the functions and the number of days required for notification.

o o Rezoning and Annexation:

The City is required to give 20 days of notification to all property owners within 200 feet of the property being rezoned or annexed.

o o Condemnation and Enforcement of Environmental Code:

By certified mail, the City is required to give at least 30 days notification and an additional 30 days before a public hearing on the case.

o o Special Assessments:

The City uses the County's tax rolls to charge for special assessments.

As you can see, there are several functions that require accurate property ownership records.

In order to gain further perspective on the timeliness of recording of sheriff's deeds, I analyzed the last foreclosure sale in Douglas County. This sale took place June 6, 1987 and involved 45 delinquent properties. After the sale was complete it took two weeks for the sheriff's office to execute the deed. After the execution was completed, the sheriff's office then notified all successful bidders that their deed was ready to be picked up. Only twenty

properties were recorded within a week after the Sheriff's notification. Ten more were recorded within two months. Five more properties were recorded within six months. It took over a year for eight additional properties to be recorded. What happened to the final two properties? These have yet to be filed and still show former owner as owner of record.

During this analysis, I discovered a good case in point on how the inaccuracy of property records can affect City functions. One of the delinquent properties that took over a year to record was involved in an environmental code infraction with weeds and a small, condemned house. The City proceeded to notify the owner of record of the problem, but no response was received. Notification efforts continued, while the City mowed the weeds on the property and assessed the \$77 cost to the property. Finally, the City was set to contract out the demolition of the dilapidated structure, the new owner notified the City of the purchase. The City then had to begin the notification procedure again. After nearly six months of notification the house was demolished, because the new owner consented that he did not want the house. The \$855 bill for this demolition was also assessed to the property taxes, but there has been no payment.

We believe that this bill, if enacted, will clarify when and how the recording of delinquent tax sales will be completed. The recording of the sheriff's deed immediately will insure accurate property records. This will minimize future major problems in notifying property owners involved in delinquent property tax sales. Thank you for your time and opportunity to speak to you on this important bill.

7439

7439 ✓

NO _____
INDEXED _____
NUMERICAL INDEX _____

SHERIFF'S DEED

KNOW ALL MEN BY THESE PRESENTS, that whereas, on the 18th day of June, 1987, pursuant to the order of the District Court of Douglas County, Kansas, in case number CV 86-569, Division No. 4, styled Board of County Commissioners of the County of Douglas, State of Kansas, plaintiff, vs. Robert D. Abbott, et al., defendants, the Sheriff of Douglas County, Kansas, did offer at public sale and auction to sell to the highest bidder for cash in hand at time of said sale the following-described property in Douglas County, Kansas, to wit:


Lot Twenty-three (23) in Block Seven (7) in Orchards No. Two (2) Subdivision, in the City of Lawrence, in Douglas County, Kansas.

AND WHEREAS, the above-described real property was at said sale sold to Katzfey Construction Company, Inc. for the purchase price of \$11,000.00.

AND WHEREAS, said sale was found to be regular and confirmed on the 6th day of July, 1987, by the District Court of Douglas County, Kansas.

NOW, THEREFORE, I, Rex D. Johnson, Sheriff of Douglas County, Kansas, in consideration of the premises and by virtue of the powers vested in me by law, do hereby give, grant, sell, and convey unto the said Katzfey Construction Company, Inc., its heirs and assigns, forever, the lands and tenements described, subject to valid covenants running with the land and valid easements of record or in use, to have and to hold the same unto the said party, its heirs and assigns the above-described real estate.

IN TESTIMONY WHEREOF, I, Rex D. Johnson, Sheriff of Douglas County, Kansas, have hereunto set my hand this 6th day of July, 1987.

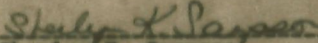

Rex D. Johnson
Sheriff of Douglas County, Kansas

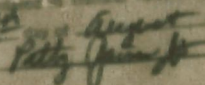
STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this 6th day of July, 1987, before me, the undersigned, Clerk of the District Court of Douglas County, Kansas, came Rex D. Johnson, Sheriff of Douglas County, Kansas, personally known to me to be the same person who executed the foregoing instrument as such sheriff, and duly acknowledged execution of the same as Sheriff of Douglas County, Kansas.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.




Sherlyn K. Sampson
Clerk of the District Court of Douglas County, Kansas

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County Clerk

408 837

State of Kansas, Douglas County, KS
Filed and Entered in Vol. _____
Page 537 of 1211
AUG 3 - 1987
2-4

Good afternoon, Chairman Miller, and members of the committee. I am Linda Fincham, Chairman of the Register of Deeds Association Legislative Committee.

The Register of Deeds Association supports HB 2077.

The timely filing of Sheriff's deeds serves notice to the public immediately following the sale.

We have found that recording deeds at the time of execution prevents possible loss of deeds and allows the proper record owner to be current.

Some counties have experienced both ways of handling these deeds and they have found that recording the deeds upon execution was far superior to having the landowner record the deed at his convenience.

The recording of the deed will also facilitate the generating of a correct tax statement.

Thank you for allowing us to express our opinion.

Linda Fincham
Register of Deeds Association

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1-31-89
ATTACH. III



League
of Kansas
Municipalities

Municipal
Legislative
Testimony

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

TO: House Committee on Local Government
FROM: E.A. Mosher, Executive Director
RE: HB 2081 -- Temporary Financing of State Assisted Improvements
DATE: January 31, 1989

The League of Kansas Municipalities supports the passage of HB 2081.

In Brief: HB 2081 would provide municipalities (all local units) with a method of temporarily financing that portion of public services or improvements which will be permanently financed by state loans or grants. Passage is important for local implementation of the new state water pollution loan fund program and infrastructure loan program. Passage will also help prevent violations of the cash basis law where state-administered federal grants, like CDBG, are on a reimbursement basis. Passage is especially important for smaller local units which have little uncommitted cash or reserve funds.

1988 History. HB 2081 is the same as SB 513 of the 1988 session, which was withdrawn from the House consent calendar and a floor amendment added which would have restricted the authority of cities to impose franchise fees on utilities. At the end of the session, the amended bill remained in conference committee. Near the end of the session, SB 765, identical to the original SB 513, was passed by the Senate by a vote of 39 to 0. This bill died on House general orders at the adjournment of the 1988 session.

Background: Kansas 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 direct 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, or state-administered federal aid.** The cash basis law (K.S.A. 10-1112:10-1116a) prohibits a municipality from entering into a financial obligation in excess of funds actually on hand, with certain exceptions, such as where bonds are authorized. There are now no exceptions for state loans or grants or for state-administered federal aid.

Chapter 320, 1988 Session Laws of Kansas, provides for a state revolving loan fund for local units for water pollution control purposes. Chapter 394, 1988 Session Laws of Kansas, provides for a state loan program for public infrastructure improvements for economic development purposes. However, these 1988 acts do 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 to be paid, if the state assistance is on a reimbursement basis. There are now also some practical (and legal) local problems in handling state-administered federal CDBG grants.

It is also reported that the federal government is starting to use letters of credit, instead of cash payments in advance, for aid to state and local units. How will local units finance those services and improvements assisted by state-administered federal grants, if payments to local units are on a reimbursement basis?

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1-31-89
ATTACHED

*President: Douglas S. Wright, Mayor, Topeka * Vice President: Irene B. French, Mayor, Merriam * Past President: Carl Dean Holmes, Mayor, Plains
* Directors: Margo Boulanger, Mayor, Sedan * Nancy R. Denning, Commissioner, Manhattan * Ed Eiert, Mayor, Overland Park * Greg Farns,
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Russell * Joseph E. Steingor, Mayor, Kansas City * Bonnie Talley, Commissioner, Garden City * Executive Director: E.A. Mosher*

Explanation of Bill. HB 2081 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.

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).

Frequently, a state or federal grant or loan may be for only a part of the cost, requiring the municipality to temporarily finance the state and federal share as well as permanently finance the local share. Section 5 of the bill provides that if bonds are to be issued, the bonds may cover the state-federal share as well as the local share. To do so, the municipality must already be authorized by law to issue bonds for the purpose or improvement (lines 79:81).

Objections. One objection was raised to the similar bill at the 1988 Session. That issue related to the fact that Section 2(b) provides that the issuance of no-fund warrants under this proposed act does not require approval of the State Board of Tax Appeals. Since the notes or warrants could not be issued unless there was a written agreement with a state agency and the amount temporarily borrowed could not exceed the amount to be received by the loan or grant, it seems incongruous for one state agency--the Board of Tax Appeals--to approve the temporary financing of a program which has already been approved by another state agency, in writing, and by the locally elected governing body.

Advantages. HB 2081 would provide a practical means for local units to utilize state grant and loan programs which now exist or may be enacted in the future, and state-administered federal assistance programs on a reimbursement basis, and a legal means to meet the requirements of the cash basis law. It is especially needed by smaller local governments.



"Service to County Government"

212 S. W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

January 31, 1989

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Dixie Rose
Butler County Register of Deeds
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NACo Representative
Joe McClure
Wabaunsee County Commissioner
(913) 499-5284

Executive Director
John T. Torbert

To: Representative R. D. Miller, Chairman
Members House Local Government Committee

From: Bev Bradley, Legislative Coordinator
Kansas Association of Counties

Re: HB-2081 relating to the temporary financing of public services or improvements in anticipation of state loans or grants.

The Kansas Association of Counties is in support of HB-2081 a bill to provide temporary financing of state assisted municipal improvements and services.

Provisions currently exist for municipalities to issue temporary notes to temporarily finance improvements in advance of issuing of bonds and temporary notes or no fund warrants to temporarily finance the federal share of federally funded projects. It seems the precedent is set but authority needs to be specific for similar authority to finance local expenditures in advance of the receipt of a state loan or grant. No such authority currently exists. As proposed in HB 2081, the notes or warrants may not be issued unless there is a written agreement providing for the state loan or grant and the amount must not exceed the amount of the proposed loan or grant to be received by the municipality.

Section 5 authorizes any municipality authorized by law to issue bonds, to include in any bond authorization an amount to temporarily finance any expenditures necessary in advance of receiving the state loan or grant as well as the local share of the cost of the given project.

We believe this is practical legislation, usable by counties. Therefore, The Kansas Association of Counties supports HB 2081

1-31-89
ATTACH. V

Beut

ISSUE #10:

Municipal Bonds

SUMMARY:

Cities should enjoy broad powers and flexibility in debt financing and in current financing of capital improvements, facilities, and equipment. Local governments should also have flexibility in the marketing of municipal bonds, so that they are sold in the best interest of the taxpayer or utility ratepayers. State laws governing municipal bonds should be continuously modernized to preserve their high investment quality in what has become an increasingly competitive bond market, and to reduce the cost of borrowing.

Cities should be allowed to issue Revenue Anticipation Notes. For example, Revenue Anticipation Notes could be issued to finance improvements or services for which state administered loans or grants are provided, but not yet received. Also, legislation is needed authorizing a simplified, inexpensive, short-term borrowing procedure. In addition, the amount of bonds issued for public improvements of primary benefit to schools and other public agencies should be exempt from bonded debt limits. Furthermore, the authority and procedures for the sale by municipalities of their bonds in small denominations directly to individuals and businesses should be clarified to encourage citizens to invest in their communities (League of Kansas Municipalities Statement Section E-3). The specific required date for the public sale of municipal bonds should be flexible in order that municipalities can take advantage of market conditions.

The 1986 Comprehensive Federal Tax Act and subsequent tax legislation has made it necessary for states and municipalities to take progressive steps making their bonds more attractive to potential investors.

ACTION & COMMENTS:

Have bill introduced if necessary

1-31-89
ATTACH. VI

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony before the House Local Government Committee

by

Bill Curtis, Assistant Executive Director
Kansas Association of School Boards

January 31, 1989

Mr. Chairman and members of the committee, we appreciate the opportunity to testify on HB 2081. Although lacking a specific legislative policy endorsing the concepts found in this bill, the Kansas Association of School Boards supports HB 2081. We believe it provides flexibility in some extreme situations.

It is not likely that school districts will use the authority in this bill except in unusual situations such as prolonged delays in obtaining grant money or where the state cuts budgets due to drastic drops in revenue. Nevertheless, this bill would help school districts deal with emergency situations. Thank you for listening to our testimony and we urge your support on HB 2081.

11-31-89
ATTACH. VII.