

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Sen. Don Montgomery at  
Chairperson

9:15 a.m./~~p.m.~~ on February 3, 1989 in room 531-N of the Capitol.

All members were present except:

Sen. Daniels - Excused

Committee staff present:

- Mike Heim, Legislative Research
- Emalene Correll, Legislative Research
- Theresa Kiernan, Revisor of Statutes
- Shirley Higgins, Committee Secretary

Conferees appearing before the committee: None.

The meeting began with a discussion of the amendments offered by the League of Kansas Municipalities to SB 14 dealing with privatization which had been previously heard. (See Attachment I). With regard to Amendment No. 1, Sen. Steineger explained that the interim committee concluded that it did not want to further weaken the cash basis law and, thus, decided not to have the bill be this broad. The question was, "Do you sacrifice the principal for perhaps a perceived problem." Sen. Steineger said he personally opposes further eroding of the sanctity of the cash basis law.

Sen. Gaines began a discussion as to why street maintenance had not been included. The Chairman recalled that at the hearing on the bill, street maintenance was not put in the bill. Sen. Burke stated that he supposed that the addition of street maintenance would open the door for dishonest activity although he does not feel it necessarily would happen.

Sen. Gaines made a motion to amend SB 14 on page 1, lines 27-28, as suggested by the League of Kansas Municipalities, Sen. Burke seconded, and the motion carried with 8 yes votes and one no vote.

As to Amendment No. 2 offered by the League of Kansas Municipalities, Sen. Steineger made a motion to amend SB 14 to "20 year contracts", Sen. Gaines seconded. A short discussion began regarding the 30 year provision in the bill. Sen. Steineger said 20 years is kind of a general rule although there are exceptions. Sen. Burke wondered if the 30 year provision could apply to the more costly, high tech projects. He also noted that the committee is substituting its judgements for those decisions of those in local government who better know the needs of municipalities. On a call for a vote on the motion made by Sen. Steineger, the motion failed with four yes votes and 5 no votes.

With regard to amendment No. 3 offered by the League, Ernie Mosher with the League briefly explained it and noted that it is clean up language. Sen. Frahm made a motion to amend SB 14 as suggested in No. 3 by the League of Municipalities, Sen. Petty seconded, and the motion carried.

Sen. Langworthy made a motion to recommend SB 14 favorable for passage as amended, Sen. Allen seconded, and the motion carried.

Attention was turned to SB 54 relating to budgets of municipalities which had been previously heard. The Chairman reminded the committee that a question had been raised as to if the bill would affect school districts or community colleges. He told the committee that Sen. Frahm had received a letter from the Kansas Association of Community Colleges asking that community colleges be amended out of the bill due to the uncertainty of what the passage would mean to community colleges. (See Attachment II). Mike Heim had a report from Ben Barrett of the Research Department stating that the bill would have no impact on school districts or community colleges and their budgeting practices in his opinion.

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.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

room 531-N, Statehouse, at 9:00 a.m./p.m. on February 3, 1989

Sen. Steineger made a motion that Mr. Heim's comments be recorded and to report SB 54 favorable for passage as amended, Sen. Petty seconded.

Sen. Steineger and Sen. Petty withdrew the previous motion. Sen. Frahm made a motion to exclude community colleges along with school boards, Sen. Ehrlich seconded, and Sen. Frahm's motion carried.

Sen. Steineger made a motion to incorporate Mr. Heim's remarks in the record and recommend SB 54 favorable for passage as amended, Sen. Petty seconded, and the motion carried.

Discussion of SB 17 concerning zoning for group homes for the mentally ill began. The Chairman had a balloon of the bill which he confirmed is agreeable with both the mental health and mental home people. (See Attachment III). With regard to (c) (1), Sen. Steineger began a discussion as to if the "provider" is the one who determines who is placed in the group homes. The Chairman said "provider" refers to those listed in (4). Sen. Steineger felt it might be a case of "a fox in charge of the coup". Paul Klotz, Association of Community Health Centers, stood to clarify. He said the key word is "licensed" provider. Licensed providers involve a relatively limited number of people, and "licensed" involves a considerable number of rules and regulations. Group homes have supervisors who do not make decisions as to who is admitted, however, a situation could exist where it could happen, although very unlikely. If a group home could fall under all the rules and regulations and admit a person, they would be trapped by the court if they should place an unqualified person in that home. Mr. Klotz assured Sen. Steineger that a group home as a "licensed provider" is usually a part of a license, and the fact that they are licensed will not allow them to admit people to increase the bed count; they would lose their license if they did.

Sen. Ehrlich felt follow-up legislation will be needed to indicate that the definition of "mentally retarded" is not the same as "mentally ill". The Chairman said this would not be necessary because mentally ill persons can be placed in group homes licensed only for mentally ill, not retarded. Mr. Klotz suggested that the words "who provides mental health services" in (4) solves this. Jim Kaup, League of Kansas Municipalities, stood to present a balloon of the bill which has an amendment relating to this. (See Attachment IV). Subsection (c) specifically prohibits a mentally ill person from being put in any group home except for the mentally ill. The Chairman asked if (c) could be added to the bill. Mr. Klotz said he was not "wild" about the idea but would agree to it. The Chairman asked Sen. Ehrlich to study this suggestion and report back to the committee next week.

The minutes of February 2 were approved.

The meeting was adjourned.





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

January 31, 1989

To the Senate Committee on Local Government

The purpose of this letter is to restate certain amendments proposed to SB 14 -- the privatization bill.

Amendment No. 1:

On page 1, lines 27:28, amend as follows:

(b) "public service" means (1) the collection, transportation, processing, recycling or disposal of solid wastes; (2) collection, treatment or disposal of sanitary sewage or wastewater; or (3) the acquisition, treatment or distribution of water;

Explanation. The primary interest of the League in SB 14 is to secure an alternative method for local governments to provide essential public services which are (1) capital intensive, (2) highly technology-oriented, and/or (3) highly regulated. The three functions of refuse, sewage and water, all EPA and KDHE regulated, meet these objectives. In addition to their probable increasingly costly construction costs, there are indications that the management and operation of these public services will require increasing levels of sophistication, not readily available to many municipalities, but perhaps obtainable through contractual arrangements with a private contractor that might serve a number of municipalities.

Possible Amendment No. 2:

The present bill authorizes 30 year contracts. The reference to "30" appears in Section 3 on page 2, in lines 55 and 59. The committee may want to consider reducing this term to a maximum of 20 years.

Explanation. We have no strong objections to reducing the term to 20 years. This is the normal period for which municipal bonds would be issued if the improvements was bond-financed instead of contracted for with a private contractor.

Amendment No. 3:

On page 5, Section 12, in line 166, after the word "bonds", insert the words "or temporary notes".

Explanation. Since a part of the cash basis law is being amended by Section 12, it appears advisable to clean it up to recognize that temporary notes as well as bonds are exceptions. Adoption of this amendment is not vital, since there are other statutes which effectively "amend" this part of the cash basis law. However, the addition of "temporary notes" would recognize in K.S.A. 10-1116 one of the more prevelant exceptions.

2-3-89  
Senate  
Local Govt

Attachment I

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 Ellert, Mayor, Overland Park \* Greg Ferris, Councilmember, Wichita \* Frances J. Garcia, Commissioner, Hutchinson \* William J. Goering, City Clerk/Administrator, McPherson \* Jesse Jackson, Commissioner, Chanute \* Richard U. Nienstedt, City Manager, Concordia \* David E. Retter, City Attorney, Concordia \* Judy M. Sargent, City Manager, Russell \* Joseph E. Steineger, Mayor, Kansas City \* Bonnie Talley, Commissioner, Garden City \* Executive Director: E.A. Mosher

# KANSAS ASSOCIATION OF COMMUNITY COLLEGES

Columbian Title Bldg., 820 Quincy • Topeka 66612 • Phone 913-357-5156

W. Merle Hill  
Executive Director

February 2, 1989

Senator Sheila Frahm  
The Capitol  
Topeka, Kansas 66612

Dear Sheila,

Thank you very much for calling Senate Bill No. 54 to my attention. Seeing that it was an act concerning municipalities, I neglected to read the first sentence closely and, thus, missed the "governing body of each taxing sub-division."

As I expected, and as the Committee no doubt heard from Bill Curtis, we are not quite certain what passage of the bill might mean to community colleges. However, the four community college business officers with whom I discussed the bill all agree that an attempt should be made to have the community colleges amended out of the bill.

The major reason for concern is that limiting to 10 percent the permissible cash reserve appears to be bad management. The timing of expenditures and keeping good faith with suppliers depends upon sufficient reserves, especially at a college like Johnson County Community College which has more than 100 different accounts. The limit would especially hamper smaller accounts.

Also, the Division of Accounts has stipulated that the colleges should use the funding accounting system made popular and standardized by the National Association of College and University Business Officers. All of the community college utilize the NACUBO system, a system that is significantly different from systems, probably not standardized, used by municipalities.

The community college business officers and the KACC would appreciate it very much if you would make a motion to amend the community colleges out of SB 54.

Cordially,



W. Merle Hill

2-3-89  
Senate Local Gov't  
Attachment II

**SENATE BILL No. 17**

By Special Committee on Ways and Means and Appropriations

Re Proposal No. 47

12-21

18 AN ACT concerning zoning; relating to group homes for mentally  
19 ill persons; amending K.S.A. 1988 Supp. 12-736 and repealing the  
20 existing section.

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

22 Section 1. K.S.A. 1988 Supp. 12-736 is hereby amended to read  
23 as follows: 12-736. (a) It is hereby declared to be the policy of the  
24 state of Kansas that physically handicapped, *mentally ill*, mentally  
25 retarded or other developmentally disabled persons shall not be  
26 excluded from the benefits of single family residential surroundings  
27 by any municipal zoning ordinance, resolution or regulation. It is  
28 also declared to be the policy of the state of Kansas to encourage  
29 the dispersion of group homes within areas zoned exclusively for  
30 single family residences.

31 (b) For the purpose of this act:

32 (1) "Group home" means any dwelling occupied by not more  
33 than 10 persons, including eight or fewer physically handicapped,  
34 *mentally ill*, mentally retarded or other developmentally disabled  
35 persons who need not be related by blood or marriage and not to  
36 exceed two staff residents who need not be related by blood or  
37 marriage to each other or to the physically handicapped, *mentally*  
38 *ill*, mentally retarded or other developmentally disabled residents of  
39 the home, which dwelling is licensed by a regulatory agency of this  
40 state;

41 (2) "municipality" means any township, city or county located in  
42 Kansas;

43 (3) "developmental disability" means a severe chronic disability

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Senate Local Gov't  
Attachment III

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Senate 49  
III - 2

44 of a person, ~~other than mental illness~~, which:

45 (A) Is attributable to a mental or physical impairment or com-  
46 bination of mental and physical impairments;

47 (B) is manifested before the person attains age 22;

48 (C) is likely to continue indefinitely;

49 (D) results in substantial function limitations in three or more of  
50 the following areas of major life activity: (i) Self-care, (ii) receptive  
51 and expressive language, (iii) learning, (iv) mobility, (v) self-direction,  
52 (vi) capacity for independent living and (vii) economic self-sufficiency;  
53 and

54 (E) reflects the person's need for a combination and sequence of  
55 special, interdisciplinary, or generic care, treatment or other services  
56 which are of lifelong or extended duration and are individually  
57 planned and coordinated.

58 (d) ~~(c)~~ Except as hereinafter provided, no municipality shall prohibit  
59 the location of a group home in any zone or area where single family  
60 dwellings are permitted. Any zoning ordinance, resolution or reg-  
61 ulation which prohibits the location of a group home in such zone  
62 or area in violation of this act is invalid. Notwithstanding the pro-  
63 visions of this act, group homes may be required to procure a special  
64 or conditional use group home permit and shall be subject to all  
65 other regulations applicable to other property located in the zone  
66 or area that are imposed by any municipality through its building  
67 regulatory codes, subdivision regulations, special or conditional use  
68 group home permit regulations or other nondiscriminatory regula-  
69 tions. For the purpose of preserving the single family residential  
70 character of the area, the governing body of the municipality may  
71 require the physical structure of the group home to be generally  
72 compatible with other physical structures in the surrounding neigh-  
73 borhood. In order to avoid excessive concentration of group homes,  
74 from and after the effective date of this act, no such group home  
75 may be located within 1,000 feet of another such group home in  
76 areas zoned exclusively for single family dwellings, unless the gov-  
77 erning body of the municipality approves a closer location by a  
78 majority vote thereof. A special or conditional use group home permit  
79 shall be issued upon a determination by the governing body of the  
80 municipality that the establishment of the group home is in com-

(4) "licensed provider" means a person or agency licensed by the department of social and rehabilitation services, the behavioral sciences regulatory board or physician licensed by the state board of healing arts who provides mental health services.

(c)(1) No mentally ill person shall be eligible for placement in a group home unless such person has been evaluated by a licensed provider and such provider determines that the mentally ill person is suitable for group-home placement.

(2) No person shall qualify for placement in a group home if such person is assigned to a community corrections program or a diversion program or is on parole from a correctional institution or on probation for a felony offense.

81 pliance with the provisions of this section.  
82 Sec. 2. K.S.A. 1988 Supp. 12-736 is hereby repealed.  
83 Sec. 3. This act shall take effect and be in force from and after  
84 its publication in the statute book.  
85

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Senate L.G  
III - 3



**SENATE BILL No. 17**

By Special Committee on Ways and Means and Appropriations

Re Proposal No. 47

12-21

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26 excluded from the benefits of single family residential surroundings  
27 by any municipal zoning ordinance, resolution or regulation. It is  
28 also declared to be the policy of the state of Kansas to encourage  
29 the dispersion of group homes within areas zoned exclusively for  
30 single family residences.

31 (b) For the purpose of this act:

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33 than 10 persons, including eight or fewer physically handicapped,  
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35 persons who need not be related by blood or marriage and not to  
36 exceed two staff residents who need not be related by blood or  
37 marriage to each other or to the physically handicapped, *mentally*  
38 *ill*, mentally retarded or other developmentally disabled residents of  
39 the home, which dwelling is licensed by a regulatory agency of this  
40 state;

41 (2) "municipality" means any township, city or county located in  
42 Kansas;

43 (3) "developmental disability" means a severe chronic disability

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Senate Local Gov't  
Attachment IV

44 of a person, ~~other than mental illness~~, which:

45 (A) Is attributable to a mental or physical impairment or com-  
46 bination of mental and physical impairments;

47 (B) is manifested before the person attains age 22;

48 (C) is likely to continue indefinitely;

49 (D) results in substantial function limitations in three or more of  
50 the following areas of major life activity: (i) Self-care, (ii) receptive  
51 and expressive language, (iii) learning, (iv) mobility, (v) self-direction,  
52 (vi) capacity for independent living and (vii) economic self-sufficiency;  
53 and

54 (E) reflects the person's need for a combination and sequence of  
55 special, interdisciplinary, or generic care, treatment or other services  
56 which are of lifelong or extended duration and are individually  
57 planned and coordinated

58 (e) ~~(b)~~ Except as hereinafter provided, no municipality shall prohibit  
59 the location of a group home in any zone or area where single family  
60 dwellings are permitted. Any zoning ordinance, resolution or reg-  
61 ulation which prohibits the location of a group home in such zone  
62 or area in violation of this act is invalid. Notwithstanding the pro-  
63 visions of this act, group homes may be required to procure a special  
64 or conditional use group home permit and shall be subject to all  
65 other regulations applicable to other property located in the zone  
66 or area that are imposed by any municipality through its building  
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69 tions. For the purpose of preserving the single family residential  
70 character of the area, the governing body of the municipality may  
71 require the physical structure of the group home to be generally  
72 compatible with other physical structures in the surrounding neigh-  
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75 may be located within 1,000 feet of another such group home in  
76 areas zoned exclusively for single family dwellings, unless the gov-  
77 erning body of the municipality approves a closer location by a  
78 majority vote thereof. A special or conditional use group home permit  
79 shall be issued upon a determination by the governing body of the  
80 municipality that the establishment of the group home is in com-

(4) "mentally ill" means any person who (a) is suffering from a severe mental disorder to the extent that such person is in need of treatment; (b) lacks capacity to make an informed decision concerning treatment; (c) does not suffer from a mental disorder resulting from drug or alcohol dependence; and (d) is not serving a sentence, or on parole from a sentence, imposed by any court for any crime, or in a state mental institution following a finding of not guilty by reason of insanity pursuant to K.S.A. 22-3426, and amendments thereto.

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(c) No mentally ill person shall be placed in a group home under this act unless such dwelling is licensed as a group home for the mentally ill by a regulatory agency of this state.

(d) No mentally ill person shall be placed in a group home until he or she has first been recommended for such placement by a licensed physician specializing in psychiatry or a licensed psychologist following a determination that the person is not dangerous to himself or herself or others. Any mentally ill person, so recommended, who has a history of violence against persons shall not be placed in a group home until the recommending physician or psychologist has notified, in writing, the chief of police of the city wherein the group home is located or, if the group home is not located within the corporate limits of any city, the sheriff of the county within which the group home is located. Such notification shall consist of the name of the mentally ill person and records pertaining to that person's acts of violence against persons.

)  
61 pliance with the provisions of this section.

82 Sec. 2. K.S.A. 1988 Supp. 12-736 is hereby repealed.

83 Sec. 3. This act shall take effect and be in force from and after  
84 its publication in the statute book.

85

2-3-89  
Senate LG  
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