

Approved February 21, 1989
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

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

9:00 a.m./~~xxx~~ on February 16, 19 89 in room 531-N of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Susan Seltsam, State Treasurer's Office
Paul Klotz, Association of Community Mental Health Centers of Kansas, Inc.
Yo Bestgen, Kansas Association of Rehabilitation Facilities
Jim Kaup, League of Kansas Municipalities

The meeting began with the request for the introduction of a bill by Susan Seltsam of the State Treasurer's Office. (See Attachment I). The bill would allow for a municipal investment pool fund which would allow municipalities to increase their interest earnings.

Sen. Daniels made a motion to introduce the bill, Sen. Langworthy seconded, and the motion carried.

Discussion began on SB 17 concerning group homes for the mentally ill which had been previously heard. Paul Klotz, Association of Community Mental Health Centers of Kansas, Inc., had distributed copies of amendments to the bill which he feels would satisfy the concerns of both the cities and mental health groups. (See Attachment II). Sen. Petty asked if "licensed provider" refers to those who deliver services on an hourly basis. Mr. Klotz said it refers to community health centers where the ultimate decision is made by a physician or others qualified to make the decision. As the balloon reads, that person would have to be certified and also the home would have to be certified. There appeared to be a confusion over the term, "licensed provider", and it was explained that a group home is a provider, but the term, "provider", is not used in its license, however, they are licensed providers. Sen. Steineger asked if a group home would be in charge of admittance, and Mr. Klotz answered that they would, but there are strict guidelines for doing this, and group homes are almost always a sub-part of another agency.

Sen. Steineger felt the balloon does not address the problems expressed at the last meeting on the bill, that is, a definition of the difference between mental illness and retardation, as the amendments use only mental illness. Also, Sen. Steineger questioned as to why "not dangerous to himself" is omitted in (c). Mr. Klotz said many people in group homes are suicidal, and treatment in group homes is beneficial to them. Yo Bestgen, Kansas Association of Rehabilitation Facilities, added that the bill is addressing public safety, and those harmful to themselves are not a threat to public safety. Sen. Burke asked if there would be any objection to providing that an evaluation has to be made by someone other than the group home for admittance. Mr. Klotz said this is usually a combined decision, and group homes are part of it. Ms. Bestgen explained it is a combined decision of family, patient, and professionals. Sen. Burke then suggested that the bill be amended to require that whoever signs the commitment must be other than the group home. Mr. Klotz had no objection to this.

Sen. Allen asked if at present there are group homes that are not licensed by SRS. Mr. Klotz answered, "No", because a group home outside the licensure of SRS is not a group home and should not be operating. Action could be taken

CONTINUATION SHEET

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room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on February 16, 1989

against them if brought to the attention of SRS. There are probably some unlicensed group homes, but SRS would not use them. The Chairman suggested that "licensed by homes designed to handle mentally ill people" be added to (d). Mr. Klotz suggested "or admitted by licensed provider".

Sen. Langworthy asked what would prevent a non-licensed group home from existing. Mr. Klotz said it would not be a group home by the definition of SRS. The city or SRS could come in and stop it; this bill does no injury to the right to do this.

Sen. Daniels began a discussion as to what the penalty for operating an unlicensed home is. Mr. Klotz said the city would have the recourse that it currently has. Ms. Bestgen added that the purpose of the bill was to open zoning, and the penalties that are in effect now would remain the same. Sen. Daniels commented that with no penalties in (d), there is no reason for people not to operate non-licensed group homes if they are risk takers. Mr. Klotz stated that the same problem exists for any number of zoning laws that a city has. Sen. Daniels reiterated that unless there is a public disincentive such as a penalty or fine, there will be non-licensed homes. Ms. Bestgen said the incentive would be to require access funding, which requires licensing, to operate a home.

Sen. Ehrlich felt that language is needed to pin down who is responsible for putting persons in group homes and asked why "dangerous to himself" was deleted. Mr. Klotz said rules and regs would need to be put in the bill to pin down who can be responsible for putting a person in a group home. As to "dangerous to himself", Mr. Klotz said that some persons dangerous to themselves need the group home environment rather than institutional. Sen. Gaines commented that there is no 100% guarantee that anybody will be safe. He feels most people just want these group homes on the other side of the tracks. Sen. Steineger agreed with this and felt that perhaps local zoning laws should be done away with, and free enterprise should be allowed to take over.

Sen. Petty suggested that in (c) after "licensed provider" the words "who is other than the licensed facility" could be inserted. Mr. Klotz suggested that group home be separated from licensed provider in legal language for clarification. Staff suggested adding a sentence to (c) such as "A group home shall not be the provider for the admission of a person to a group home." Ms. Bestgen expressed a concern that in rural areas using group homes, professional people are often not available. Staff suggested that the psychologist for the group home be the one to sign off on an individual. Jim Kaup of the League of Kansas Municipalities stood to state that the bill needs to include what the qualifications of a "licensed provider" are and an identification of who is making the evaluations. The Chairman felt the word "services" needs to be clarified to show that it does not mean "facility". The bill will remain in committee until these problems can be resolved.

Attention was turned to amendments to SB 65 which had been previously heard. (See Attachment III). Sen. Daniels made a motion to adopt the proposed amendments, Sen. Allen seconded, and the motion carried.

Sen. Steineger said he knows of other counties who want this too. The Chairman said the bill would probably be beneficial statewide since it is not compulsory.

Sen. Daniels made a motion to eliminate the designation of certain counties, Sen. Gaines seconded and the motion carried. Action on the bill was held until the committee can review the amended bill.

The minutes of February 15 were approved.

The meeting was adjourned.

SENATE BILL NO. _____

By

AN ACT concerning the investment of public moneys; creating the municipal investment pool fund; amending K.S.A. 1988 Supp. 12-1675 and repealing the existing section.

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

Section 1. K.S.A. 1988 Supp. 12-1675 is hereby amended to read as follows: 12-1675. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only in:

(1) Temporary notes or no-fund warrants issued by such investing governmental unit;

(2) time deposit, open accounts or certificates of deposit:
 (A) In commercial banks or trust companies which have offices located in such investing governmental unit; or (B) if the office of no commercial bank or trust company is located in such investing governmental unit, then in commercial banks or trust companies which have offices in the county or counties in which all or part of such investing governmental unit is located; or
 (C) if such appropriate eligible commercial banks or trust companies cannot or will not make deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day

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 Attachment F

United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, then in commercial banks or trust companies which have offices in the county or counties of the state of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;

(3) in time certificates of deposit: (A) With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit; or (B) if the office of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if such appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks cannot or will not make such deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties of the state of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;

(4) repurchase agreements with: (A) Commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal

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and interest by, the United States government or any agency thereof; or (B) (i) if the office of no commercial bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or (ii) if no commercial bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract, then such repurchase agreements may be entered into with commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if no bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank which has its office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract then such repurchase agreements may be entered into with commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the state of Kansas; or

(5) United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding six months; or

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(6) the municipal investment pool fund created by section2.

(c) The investment authorized in paragraph (5) of subsection (b) shall be utilized only if the appropriate eligible commercial banks or trust companies, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank or trust company has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraph (2) or (3) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the inception of such deposit contract.

(d) In selecting a depository pursuant to paragraph (2) or (3) of subsection (b), if a commercial bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, and such

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financial institution otherwise qualifies for such deposit, the investing governmental unit shall select one or more of such financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit shall select for such deposits one or more commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, and which otherwise qualify for such deposits. If no such financial institution qualifies for such deposits, the investing governmental unit may select for such deposits one or more commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties of the state of Kansas adjacent to the county or counties in which all or a part of the investing governmental unit is located.

New Sec. 2. (a) The governing body of any municipality may deposit its idle funds with the state treasurer if such funds are available for investment for a period of less than 30 days. Such money shall be deposited in the municipal investment pool fund which is hereby created in the state treasury.

(b) The pooled money investment board may invest and reinvest funds in the municipal investment pool fund in repurchase agreements pursuant to subsection (d) of K.S.A. 75-4205, and amendments thereto, or in securities authorized for investment for local units of government. All interest earnings received from investments of money in the municipal investment pool fund shall be credited to the fund.

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(c) Interest earnings on investments due each participating municipality shall be prorated and credited to the individual accounts of the municipalities, maintained by the state treasurer, at least monthly.

A statement for each participating municipality showing deposits, withdrawals and earnings distributions shall be sent to the municipality at least monthly.

(d) The state treasurer may assess reasonable charges not to exceed 1% of the interest earned against the fund for reimbursement of expenses incurred in administering the fund. The amount of the assessment shall be transferred to the state general fund for use of the state treasurer in carrying out the provisions of this section.

(e) The state treasurer may adopt any rules and regulations necessary to carry out the provisions of this act.

Sec. 3. K.S.A. 1988 Supp. 12-1675 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

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Attachment II

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

(A) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

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

(C) is likely to continue indefinitely;

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

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

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

(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 not dangerous to others and is suitable for group-home placement.

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

(d) No person shall be placed in a group home under this act unless such dwelling is licensed as a group home by the department of social and rehabilitation services.

(e) Except as hereinafter provided, no municipality shall prohibit the location of a group home in any zone or area where single family dwellings are permitted. Any zoning ordinance, resolution or regulation which prohibits the location of a group home in such zone or area in violation of this act is invalid. Notwithstanding the provisions of this act, group homes may be required to procure a special or conditional use group home permit and shall be subject to all other regulations applicable to other property located in the zone or area that are imposed by any municipality through its building regulatory codes, subdivision regulations, special or conditional use group home permit regulations or other nondiscriminatory regulations. For the purpose of preserving the single family residential character of the area, the governing body of the municipality may require the physical structure of the group home to be generally compatible with other physical structures in the surrounding neighborhood. In order to avoid excessive concentration of group homes, from and after the effective date of this act, no such group home may be located within 1,000 feet of another such group home in areas zoned exclusively for single family dwellings, unless the governing body of the municipality approves a closer location by a majority vote thereof. A special or conditional use group home permit shall be issued upon a determination by the governing body of the municipality that the establishment of the group home is in com-

Proposed Amendment to Senate Bill No. 65

On page 3, in line 89, by striking all after the period; in line 90, by striking all before the period and inserting "Notice of the board's intent to sell such property shall be published at least once in the official county newspaper. Such notice shall include the time, place and conditions of such sale"; in line 97, by striking "with-"; in line 98, by striking all before the comma; in line 100, following the period, by inserting "Notice of the board's intent to sell such property shall be published at least once in the official county newspaper. Such notice shall include the time, place and conditions of such sale.";

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Attachment III