

Approved March 20, 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./~~p.m.~~ on March 16, 1989 in room 531-N of the Capitol.

All members were present except:

Senators Gaines and Steineger - 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:

Rep. Al Ramirez
Sen. B. D. Kanan
Rep. Mary Jane Johnson
Jim Lynch, Local 53, International Brotherhood of Electrical Workers
Linton Bartlett, City of Kansas City, Kansas
Hugh Taylor, Board of Public Utilities, Kansas City, Kansas

The hearing began on HB 2139 regarding fees and salaries of officers and employees of Wyandotte County. Rep. Al Ramirez testified in support of the bill. He said that because of the decline in population in Wyandotte County, it can no longer comply with the guidelines in the statutes. The sheriff there does not want to spend the money from fees for picking up prisoners because it would not be complying with the statutes. The bill affects only Wyandotte County. Rep. Ramirez said the bill was put on the consent calendar in the House and asked this committee to do the same.

Sen. B. D. Kanan explained further that the new sheriff had concerns about the fees collected and had visited with the Attorney General about it. Sen. Kanan added that the fees are for out-of-state warrants, and part of them goes into the general fund and part to the Sheriff's Department. The Attorney General suggested a change in the census, however, there is a legal question about doing this at present.

Sen. Ehrlich made a motion to put HB 2139 on the Consent Calendar, Sen. Langworthy seconded, and the motion carried.

Attention was turned to HB 2256 relating to the sale of property by the Board of Public Utilities. Rep. Mary Jane Johnson testified in support of the bill. She said the need for the bill arose from a situation in Kansas City involving the sale of a utility system. The people wanted to vote on it, but the election commissioner had no statutory authority to do it so it had to be done by the advisory commission which would not be a binding election. The people did not want this, thus, the need for HB 2256. She said the only opposition to the bill concerns the hiring of a consultant. Both the city council and the board of public utilities endorse the bill. The House passed the bill 123-0.

The Chairman asked for an explanation of the House amendment. Rep. Johnson explained that the city council and board of public utilities wanted to make sure that all bids were taken before the vote is taken to insure that all information is available at the time of voting.

The Chairman had questions about the intent of section (d). He felt that the intent of the bill was that the entire system be sold at once, not segments of it. Section (d) appears to reflect the opposite, that is, that segments could be sold without taking a vote of the people.

Sen. Allen asked why a mail-in ballot was not considered. Rep. Johnson said

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

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

this method was not considered because people perceive it as the city having control and would rather have it handled by the election commissioner with the balloting being held at polling places.

Jim Lynch, International Brotherhood of Electrical Workers, testified next in support of the bill. (See Attachment I.) The Chairman asked Mr. Lynch if he was in agreement with the amended version of the bill with regard to section (d). Mr. Lynch felt the amendment allows selling surplus property of a utility a piece at a time and had no problem with it.

Linton Bartlett, representing the city of Kansas City, Kansas, followed with testimony in support of HB 2256. (See Attachment II.) The Chairman asked Mr. Bartlett if he is in support of section (d). Mr. Bartlett said he would support allowing a utility to sell off surplus property of a particular plant. Sen. Allen asked Mr. Bartlett's opinion of the mail-in ballot. Mr. Bartlett said that due to a past experience with a mail-in ballot in Kansas City, it was felt that a mail-in ballot would not be binding. It was felt that they would rather it be a regular election.

Hugh Taylor, Board of Public Utilities of Kansas City, testified that major elements of a functioning system would not be sold without a vote, but those elements no longer needed and declared surplus by the board could be sold without a vote. Staff noted that section (d) could be worked on to narrow it down this way.

Sen. Burke began a discussion as to if the city council could be sued if it sold a utility without approval. He also noted that the sale of a utility piece by piece would not be advisable.

Sen. Johnson said she would be agreeable to amending the bill to clarify section (d) if the committee feels it is necessary. Senators Burke and Ehrlich asked the conferees if they were satisfied with the amendments. Mr. Bartlett said the majority of the city council supported the bill with amendments. Those who were not in support were not reelected at the last election of council members. Mr. Lynch felt the intent was not to sell piece by piece. However, the Chairman noted that the amendment allows this. Clarence DeGrafe, Vice-President of the Kansas City Board of Public Utilities, told the committee that the amendment had been approved by the full board. Mr. Taylor said there are buyers for pieces of utilities. He suggested that the bill be made to read that only surplus property as determined by the board be sold without the vote of the people. There being no further time, the Chairman asked that further work be done on the bill by the authors.

The minutes of March 15 were approved.

The meeting was adjourned.



ELECTRICAL WORKERS
LOCAL NO. 53
I. B. E. W.

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KANSAS CITY, MISSOURI 64106



March 16, 1989

Appearing before the

~~LOCAL GOVERNMENT COMMITTEE~~
~~HOUSE OF REPRESENTATIVES - STATE OF KANSAS~~
~~REPRESENTATIVE R. D. MILLER, CHAIRMAN~~

James F. Lynch, Business Representative of
Local 53, International Brotherhood of Electrical
Workers, on behalf of Lyle K. Querry, Business Manager.

In support of:

HOUSE BILL NO. 2256

Senate Local Gov't
3-15-89
Attachment I

~~Representative R. D. Miller~~
Chairman, Local Government Committee
~~House of Representatives~~
State of Kansas

Re: House Bill No. 2256

Chairman Miller and members of the Committee. First I want to thank you for allowing me this opportunity to share with you my views and the views of the employees of the Board of Public Utilities of Kansas City, Kansas.

House Bill No. 2256 contains two primary parts. The first part being the bill would require the governing body of the City to provide for a feasibility study of the proposed sale of the municipal waterworks and municipal electric light system of plants owned and operated pursuant to K.S.A. 13-1220 and amendments thereto.

I speak to you, not as an expert on determining the value of a utility, and certainly not as an expert on leverage buyouts which a transaction such as this most certainly would be. However, I do have the experience of being a participant in the construction of the employees' bid to purchase the Board of Public Utilities of Kansas City, Kansas.

In that instant case the City Council chose the option of determining the value of the Utility by advertising for and receiving bids from possible buyers. The problem with that approach which was absent a professional appraisal of the Utility, is the City Council knew only what two bidders were willing or able to pay, not what the actual value of the Utility was.

Senate Local Gov't
3-15-89
I-2

The Request For Proposal which the City sent to 90 prospective purchasers contained numerous requirements which, in effect, had an impact of lowering the value of the Utility. These requirements consisted of such items as free electricity and water for the City, residential rates frozen for five years and non-residential rates frozen for three years.

The end result was the City only knew what the bidders were willing to pay pursuant to the requirements in the R.F.P. and not what the value of the Utility really is.

It is my opinion that if a seller does not use whatever means is necessary to determine the price of that which he is selling, then he, the seller, will always wonder, "did I make a good deal or did I sell too cheap?"

The second part of the bill requires the sale and bid must be approved by a majority of the qualified electors.

At the time the City Council first began considering the idea of selling the B.P.U. voter approval became a dispute. The City Council's position based on the City's legal department's opinion was that a vote of the electors was not required to sell the B.P.U.

The City Council agreed to submit the issue of selling the B.P.U. to the voters only after a petition of over 7000 signatures opposing the sale was presented to them.

There are those including myself who disagree with the opinion that a vote of the electors is not required. I believe the selling of the B.P.U. constitutes a charter change and thereby could, pursuant to a petition, require a vote of the electors.

With this second part of House Bill No. 2256 the controversy of electors' approval is eliminated and such approval is required. I am in total agreement with this provision. I believe that an issue the magnitude of divesting the Utility from the City should be decided by those who own it - the voters.

In conclusion I urge you to support House Bill No. 2256 as amended.

Thank you.


Lyle K. Querry
Business Manager

Local 53, International Brotherhood
of Electrical Workers

1100 Admiral Blvd.
Kansas City, Mo. 64106

Senate Local Gov't

3-15-89

I-4

**Testimony of Linton H. Bartlett representing
the City of Kansas City, Kansas on HB 2256**

March 16, 1989

Last summer and fall, the governing body of Kansas City, Kansas contemplated the sale of its municipally owned and operated electric and water departments with an estimated value at the time of approximately \$650 million. The City Council went through a laborious process of study and finally prepared bid specifications asking that interested parties submit proposals. Two proposals were submitted to the City and were ultimately rejected.

During this process, the City Council took formal action stating their intention of placing any proposed sale before the voters of the City and abiding by the result of that vote. However, the City was advised by our legal staff that such an "advisory election" could not be held by the Wyandotte County Election Commissioner, because of the lack of statutory authority as established by various opinions of the Kansas Attorney General's office. Therefore, if the City Council had accepted one the two proposals, it would have had to hold its own election in order to fulfill its commitment to the voters. The City has held one previous such "advisory" election in 1985 when ballots were mailed to registered voters, and the vote was supervised and tallied by a local CPA firm.

It seems to my City Council, however, that when you are contemplating the sale of a \$650 million asset of the City that a "standard" election would be more appropriate, held under the auspices of the local election commissioner. There certainly would be less chance for voter fraud, and the election would have more validity if it was held by the County Election Commissioner.

In conclusion, the City Council of Kansas City, Kansas supports our citizens' right to vote on issues of community-wide importance. The potential sale of an asset the magnitude of our water and electric utility should warrant such a vote.

The City of Kansas City, Kansas supports HB 2256.

*Senate Local Gov 4
3-15-89
Attachment II*