

Approved January 24, 1990
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 January 23, 1990 in room 531-N of the Capitol.

All members were present except:

Sen. Steineger - Excused

Committee staff present:

Mike Heim, Legislative Research
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Barbara Butts, Municipal Accounting Section, Dept. of Administration
Ernie Mosher, League of Kansas Municipalities
Pat Baker, Kansas Association of School Boards

The Chairman began the meeting by informing the committee that a briefing on lease-purchase agreements would be presented by Barbara Butts, Municipal Accounting Section, for Bill Ervin as was discussed at the last meeting held on January 17 regarding Attachment V to the minutes of that meeting which had been previously distributed to committee members. The purpose of the briefing is to determine if these agreements are circumventing the opportunity to vote by the public. Mrs. Butts presented her testimony. (See Attachment I). Mrs. Butts confirmed that the budget form which was attached to her written testimony does not guarantee that full information will be given and that there is no way to verify the dates and information on the list that was sent earlier.

The Chairman noted that originally the intent was for equipment and asked Mrs. Butts if this is now broadened to include buildings. Mrs. Butts said that the Attorney General has looked at this issue, and the intent was for equipment, but the statute (1116-B) does not say equipment. Sen. Petty asked if Mrs. Butts has data as to if it has tended to be applied to buildings. Mrs. Butts had no data on this. Sen. Gaines questioned as to if the agreements are done by city ordinances which require public notification or by the minutes where no notification is required. Mrs. Butts could not say, and staff noted that this would apply only to cities, not counties.

The Chairman called on Ernie Mosher, League of Kansas Municipalities, for his opinion. Mr. Mosher said he would question the reliability of the interest figures on some of the data. He noted that the greatest volume of agreements are for computers, copiers and telephone systems and usually are not for long term, although some are. He reviewed the suggestions of the Special Committee on Local Government of which he was a member. It is important that local governments have this authority, and it was felt this authority should be continued with two suggested guidelines: (1) Lease agreements for more than a year should be done by ordinance or resolution and passed by a governing body and (2) If the proposed agreement exceeds a certain number of years (such as 3 or 5) and the amount exceeds a certain percentage (such as 5%), there should be a cooling off period, a ten day notice of public hearing. He would recommend that this be applied to significant dollar amounts over extended periods of time and not for routine things like office equipment.

Sen. Gaines discussed the method of using a certificate of participation for these agreements where no debt is being created. He expressed concerns for spending in the smaller cities and counties and suggested a three week waiting period for lease-purchase agreements.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

room 531-N, Statehouse, at 9:00 a.m. ~~XXXX~~ on January 23, 1990.

Mr. Mosher noted that lease-purchase agreements are not a violation of the cash basis law. He recommended that a public hearing be held if a certain percentage of a local operating budget is exceeded. The main concern here is for unusual situations, not routine cases. The Chairman expressed his feeling that public hearings are of no value if the public is not allowed an opportunity to vote. The public hearing would not prevent the governing body from entering into the lease-purchase agreement. Mr. Mosher was in agreement with this, but he feels it is appropriate to have a cooling off period and public notice.

Sen. Petty had questions as to if there is a distinction between real estate and equipment agreements and referred to a situation that had occurred in Topeka. Mr. Mosher said that he knows of no other cases like the one which occurred in Topeka and feels it is not likely to occur again. Sen. Allen added that a public meeting would not be effective insofar as the public having a say. Mr. Mosher reiterated that a public notice could offer a cooling off period.

Pat Baker, Kansas Association of School Boards, testified as to how this would relate to schools. She stated that schools operate under different statutes (72-8225) and are given no authority for lease-purchase agreement contracts. Financial institutions have solicited schools to do work possibly to their detriment as schools have the option to get out of a lease agreement and cannot lease in excess of ten years. She emphasized that there is a definite distinction between city or county issues and USD issues. Staff asked if there is a court case construing these together or an Attorney General's opinion. Ms. Baker said there are none.

There being no further time, the Chairman continued the discussion until the committee meets tomorrow.

The minutes of January 17 were approved.

The meeting was adjourned at 10:00 a.m.

TESTIMONY FOR THE SENATE LOCAL GOVERNMENT COMMITTEE

BARBARA BUTTS, TRAINING SUPERVISOR, MUNICIPAL ACCOUNTING SECTION

JANUARY 23, 1990

On September 6, 1988, Bill Ervin, Chief of the Municipal Accounting Section, was a conferee at the Special Committee on Local Government hearing concerning lease-purchase authority for municipalities. In its summary report, the Committee recommended that we change the municipal budget forms to include a schedule for reporting lease-purchase agreements. We initiated this change to the budget forms that we distributed to the county clerks in mid-May 1989, see attachment.

We have gathered the lease-purchase information from the schedules included with budgets prepared last fall. Attached is a summary of the information we compiled. We did not verify/correct the data except where it appeared to be clearly erroneous. We can provide any details to support this summary that you may want to see.

Providing the financing for the lease purchase payments has a major impact on tax levies, tax lids, and budgets of municipalities. These payments must be made from an operating fund, such as the General Fund, which is usually subject to the tax lid. There is no authority to make these payments from the bond and interest fund (which is exempt from the tax lid).

Lease-purchase agreements do not require voter approval as do most bond issues. Thus, some view lease-purchase agreements as loopholes because, while the long term obligations they create are similar to those of bond issues, the lease-purchase agreements can be used without voter approval.

We do not have specific recommendations on what should be done legislatively with regard to the use of lease-purchases agreements.

I would be happy to respond to questions from the Committee.

Attachments

*Senate Local Gov't
1-23-90
Attachment I*

STATEMENT OF CONDITIONAL LEASE, LEASE-
 PURCHASE AND CERTIFICATE OF PARTICIPATION

Item/Service Purchased	Date of Contract	Term of Contract	Int. Rate %	Amount of Contract	Amount Outstanding 1-1-89	Amount of Payments Due 1989	Amount of Payments Due 1990

I-2

SUMMARY OF LEASE PURCHASE TRANSACTIONS

Equipment

Number of Transactions	Range of Contract Amounts	Interest Rate	Term	Total Contract Amount	Budgeted Payment
742	\$ 412- 99,999	3.3-20.4	8 mo-7 yrs	\$21,700,019	\$ 4,988,577
81	100,000-999,999	3.3-27.4	3-21 yrs	21,142,702	3,799,874
4	over \$1,000,000	6.24-8	5-7yrs	<u>8,681,238</u>	<u>1,353,431</u>
<u>827</u>	Total Equipment			<u>\$51,523,959</u>	<u>\$10,141,882</u>

Buildings

60	\$1,600-52,505,000	5.5-11.5	3-21 yrs	92,372,093	\$ 4,909,795
----	--------------------	----------	----------	------------	--------------

Land

7	\$12,500-2,380,000	7.49-9.28	5-25 yrs	3,807,432	\$ 487,620
---	--------------------	-----------	----------	-----------	------------

Other

Certificate of Participation	4.75-7.875	239 mo	3,000,000		
2-Maintenance Contracts	10	5 yrs	30,144		
Water Purchase Rights		40 yrs	843,600		
Phone Project Data	6.37	6 yrs	651,749		
Energy Maintenance System		7 yrs	152,566		
TV Agreement		10 yrs	85,685		
Debt Refinancing	7.1-7.5	10 yrs	2,440,000		
Distribution System		40 yrs	<u>730,680</u>		
<u>9</u>	Total Other			<u>\$ 7,934,424</u>	<u>\$ 746,025</u>
<u>903</u>	Grand Total			<u>\$155,637,908</u>	<u>\$16,285,322</u>