

Approved February 15, 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./~~XXXX~~ on February 13, 1989 in room 531-N of the Capitol.

All members were present except:

Sen. Gaines - Excused

Committee staff present:

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

Conferees appearing before the committee: None.

The meeting began with the continued hearing on SB 577 relating to real estate brokers and salespersons, exemptions from licensure. The Chairman reminded the committee of two possible amendments previously discussed, one restricting the bill to residential property and the other setting aside earnest money in an escrow account with a title company. Staff advised that both of these could be simply accomplished.

Sen. Petty made a motion to amend SB 577 to require contractors to set aside earnest money received in an escrow account with a title company, Sen. Burke seconded, and the motion carried.

Sen. Allen made a motion that SB 577 be restricted to residential property builders, Sen. Daniels seconded, and the motion carried.

Sen. Petty began a discussion as to the possible need for language in the bill clarifying that the contractor is responsible for his employees who sell for him. Staff added that if an agent goes out of the scope of his authority, the principal would not be liable. Sen. Burke asked if Sen. Petty was asking that a higher level of responsibility apply to contractor's agents than to the same level of responsibility for a real estate agent. Sen. Petty said she feels perhaps a higher standard for a contractor's agent may be needed because they may not have the training of a real estate agent. Staff concurred with Sen. Burke that it can be assumed that an agent for a homebuilder would be under the same responsibility as a real estate broker.

Sen. Steineger noted that when a broker signs off a final document, he ratifies everything the agent did. Staff felt there is no problem with the contractor's responsibility. Sen. Steineger continued by giving background information on out-of-state agents selling for contractors in large developments in connection with the Interstate Land Sales Act. He feels the bill could open up the door that was closed by the Interstate Land Sales Act because there is no restriction on who the contractor hires to sell for him. The Chairman noted that it was not the intent of the bill to do this and that it could be tightened up if necessary. Sen. Burke noted that it is still the builder's responsibility to make the sale under this bill. Staff added that the bill could be clarified by stating that the owner has to be the final party to the sale. Staff was not familiar with the Interstate Land Act and could add no comments on this aspect.

The Chairman asked that staff draft the amendments and work on tightening up the bill. Sen. Petty recalled that there had been a question regarding KBI checks on real estate agents. Staff said there is no statutory basis for realtors to do this. This concluded the discussion at this time. It will be taken up at a later time.

Attention was turned to SB 579 relating to issuance of revenue bonds by

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 13, 1990.

cities and counties. Sen. Petty had requested the bill and explained that its intent is to clear up an ambiguity in the IRB law as to when a city or county has a priority lien. This has sometimes required litigation for clarification. The League of Municipalities has no problem with the bill. She felt it was noncontroversial and could be put on the Consent Calendar.

Sen. Petty made a motion to place SB 579 on the Consent Calendar, Sen. Allen seconded, and the motion carried with Sen. Steineger passing, declaring a conflict of interest.

The Chairman called attention to SB 478 concerning the limitation on bonded indebtedness for cities. It is a clean-up bill requested by the Revisor of Statutes. The time will expire June 30, 1990, and an extension of time is not wanted. Sen. Langworthy made a motion to report SB 478 favorable for passage, Sen. Allen seconded, and the motion carried with Sen. Steineger passing.

The Chairman noted that he had a bill request from Sen. Karr dealing with benefit fire districts. (See Attachment I.) Sen. Lee made a motion to introduce the bill, Sen. Frahm seconded, and the motion carried.

The Chairman said he had another bill request from Dave Malone of Wichita regarding public wholesale water supply districts, but there is a similar bill in the House. The Chairman had thought that perhaps this could be amended into SB 533, but it was concluded that it is too controversial to amend into another bill, and the committee would wait for the House Bill.

The minutes of February 8 were approved.

Sen. Langworthy made a motion to report SB 533 favorably, Sen. Frahm seconded, and the motion carried.

The meeting was adjourned at 9:50 a.m.

Proposed Amendment to Senate Bill No. 533

On page 4, following line 41, by inserting:

"Sec. 4. K.S.A. 19-3557 is hereby amended to read as follows: 19-3557. (a) The provisions of this section shall apply to public wholesale water supply districts No. 4, No. 11 and No. 12.

(b) The governing body of any public wholesale water supply district ~~No. 4~~ created pursuant to K.S.A. 19-3545 et seq., and amendments thereto, to which this section applies may issue general obligation bonds of the district to finance the cost of acquisition, construction, reconstruction, alteration, repair, improvement, extension or enlargement of the district. All general obligation bonds of the district shall be authorized, issued, registered and sold in the manner provided by the general bond law and shall bear interest at a rate not to exceed the maximum rate prescribed by K.S.A. 10-1009, and amendments thereto. The authorized and outstanding bonded indebtedness of the district shall not exceed 20% of the assessed value of all taxable tangible property located within the district, as certified to the county clerk on the preceding August 25.

No bonds may be issued under this subsection until the question of issuing such bonds has been submitted to and approved by a majority of the qualified electors of the district voting at an election called thereon. Such election shall be called and held in the manner provided by the general bond law. If a majority of the voters voting on the question vote in favor thereof, the bonds may be issued.

(b) (c) The governing body of any public wholesale water supply district ~~No. 4~~ to which this section applies may issue, from time to time, general obligation bonds, in the manner prescribed by K.S.A. 10-427, et seq., and amendments thereto, to refund any previous issue or part thereof of its outstanding revenue bonds, including the principal amount thereof and all

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Attachment I

accrued outstanding interest thereon, if such revenue bonds are callable in accordance with their terms or the holders thereof are willing to surrender them to the district. Such general obligation bonds shall not be issued until a resolution adopted by the governing body of the district stating the purpose for which such bonds are to be issued, the total amount of the bonds proposed to be issued, and the total cost to the district of the refunding project, is published once each week for two consecutive weeks in the official newspaper of such district. After publication, such bonds may be issued unless a petition requesting an election on the proposition, signed by electors equal in number to not less than 5% of the electors of the district who voted for the office of secretary of state at the last preceding general election of such office, is filed with the clerk of such district within 20 days following the last publication of such resolution. If such a petition is filed, the governing body of the district shall submit the proposition to the voters at an election called for such purpose and held within 90 days after the last publication of the resolution and no bonds shall be issued under this subsection unless such proposition shall receive the approval of a majority of the votes cast thereon. Such election shall be called and held in the manner provided by the general bond law.

(e) (d) The governing body of any public wholesale water supply district ~~No. 4~~ to which this section applies shall have the power to levy a tax against all taxable, tangible property in the district for the purpose of paying any bonds, and the interest thereon, issued pursuant to this section. Any bonds issued pursuant to this section shall not be included in computing the total bonded indebtedness of any city or county located within such water supply district.";

By renumbering sections 4 and 5 as sections 5 and 6;

Also on page 4, in line 42, by striking "and 19-3520" and inserting ", 19-3520 and 19-3557";

In the title, in line 10, following the semicolon, by

inserting "relating to the issuance of bonds;"; in line 11, by striking "and 19-3520" and inserting ", 19-3520 and 19-3557";