

Approved March 21, 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 March 20, 1990 in room 531-N of the Capitol.

All members were present except:

Sen. Allen - 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:

Jim Kaup, League of Kansas Municipalities

The hearing began on HB 2966 which would authorize the Board of County Commissioners of Wichita County to convey certain property subject to foreclosure for delinquent taxes to the City of Leoti. Sen. Frahm informed the committee that the Commissioners of Wichita County are in agreement on the bill. The bill passed the House on the Consent Calendar.

Sen. Frahm made a motion to recommend the bill favorably and place it on the Consent Calendar, Sen. Burke seconded, and the motion carried.

Attention was turned to HB 2982 concerning abatement of nuisances in cities. Jim Kaup, League of Kansas Municipalities, testified in support of the bill. (See Attachment I).

The Chairman determined that the original owner of the abandoned vehicle could purchase the vehicle back and return it to his property. He also began a discussion as to if a currently registered tag and title could be forcibly taken from the owner of the abandoned vehicle without issuing a refund to him and the possibility that it may be difficult to make the owner surrender the vehicle.

Sen. Daniels stated that she is reluctant to do things that infringe on private property and that caution would need to be exercised in determining if the vehicle is a nuisance. Mr. Kaup noted that there are safeguards. The owner has a right to challenge the order that the car is a nuisance. Also, he reminded the committee that at present the vehicle can be removed from the property, but the title cannot be obtained without the owner's consent. The Chairman felt that there should be no action taken on the bill until staff could do research on the forceful surrender of a current title, registration and tag.

The Chairman called the committee's attention to a new bill referred to the committee, HB 3077, relating to planning and zoning. This bill has an amendment that is the same language as in SB 773 which was passed March 19 and requested by Sen. Thiessen.

Sen. Gaines began a discussion of HB 2702 which would permit Butler County to use moneys received from the local alcoholic liquor fund for the establishment of a women's crisis program for battered women. Sen. Gaines told the committee that Butler County does not operate state parks; cities have their own parks. The Recreation and Park Association has opposed the bill, but Butler County feels that the excess money allotted for parks could be better used to establish a home for battered women. Eldorado has the money now that could be used for this purpose.

Sen. Langworthy asked wher the money from the alcoholic liquor fund goes

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,  
room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on March 20, 1990.

at present. Sen. Gaines answered that it goes to city parks and the county general fund. The hearing was continued until its scheduled time tomorrow when action will be taken. Sen. Gaines will be in a subcommittee at the time of the regular hearing and thanked the committee for allowing him time to speak in support of the bill.

The minutes of March 19 were approved.

The meeting was adjourned at 9:35 a.m.



**League  
of Kansas  
Municipalities**

**Municipal  
Legisla  
Testimony**

An Instrumentality of its Member Cities. 112 West Seventh Street, Topeka, Kansas 66603 913-354-9565 Fax 354-4186

To: Senate Committee on Local Government  
From: Jim Kaup, General Counsel  
Re: **HB 2982: Disposal of Motor Vehicles as Public Nuisances**  
Date: March 20, 1990

The League requested introduction of HB 2982 in order to address a simple problem faced by most cities in Kansas--while current statutory law provides the means for cities to ultimately dispose of motor vehicles abandoned on public property, current state law does not provide the means for ultimate disposal of motor vehicles that are junked or abandoned on private property and declared to be public nuisances. These vehicles create health and safety dangers for the public, as well as lower the value of surrounding properties. HB 2982 passed the House by a vote of 114-11 on March 7.

**Nuisance Abatement and City Home Rule.** Cities in Kansas do have the power to abate public health and safety nuisances by the exercise of the police power. Most cities do have ordinances for the abatement of public nuisances on private property which provide for the bringing of a complaint, notice and hearing for the property owner and abatement of the nuisance. However, the abatement of motor vehicle nuisances on private property creates special problems for cities. Kansas law requires anyone who dismantles, disassembles, or recycles an abandoned vehicle to have a certificate of title to establish ownership (K.S.A. 1989 Supp. 8-135). Cities cannot use Home Rule to require either the vehicle owner or the state to transfer title of a vehicle, abated as a nuisance, to the city because such authority needs to be found under state law, directing the appropriate state officer to transfer the vehicle title. Because of this "gap" in existing state law, once a city abates a motor vehicle nuisance (i.e. removes the vehicle from the premises) the city must store the vehicle for an indefinite period of time. In short, while current law allows cities to remove vehicle nuisances from private property, it does not allow for final disposition of the vehicle. Consequently, cities are sometimes reluctant to abate motor vehicle related nuisances.

**HB 2982.** The solution to this problem offered by HB 2982 is to amend the current nuisance abatement statute (K.S.A. 1989 Supp. 12-1617e) by providing that the same procedure cities now must follow when disposing of motor vehicles abandoned upon public property can also be used when removing vehicles, as nuisances, from private property. That procedure, Supp. 8-1102 (a)(2), has been attached to this testimony. HB 2982 would allow title to an abandoned vehicle to pass when it has been (1) declared to be a public nuisance, (2) impounded by the city for at least 30 days, (3) certified mail notice has been given to the vehicle owner and any lienholder that he or she has 15 days to claim the vehicle and pay the removal and storage charges and (4) upon failure to so claim and pay the vehicle will be sold at public auction. Under the provisions of HB 2982, if this procedure is followed the state will then transfer title to the vehicle to the purchaser at public auction, or to the city if no bid is received at the auction.

The League respectfully asks for your favorable consideration of HB 2982.

President: **Irene B. French**, Mayor, Merriam \* Vice President: **Frances J. Garcia**, Mayor, Hutchinson \* Directors: **Ed Ellert**, Mayor, Overland Park \* **Harry Felker**, Mayor, Topeka \* **Greg Ferris**, Councilmember, Wichita \* **Idella Frickey**, Mayor, Oberlin \* **William J. Goering**, City Clerk/Administrator, McPherson \* **Judith C. Hollnsworth**, Mayor, Humboldt \* **Jesse Jackson**, Mayor, Chanute \* **Stan Martin**, City Attorney, Abilene \* **Richard U. Nienstedt**, City Manager, Concordia \* **Judy M. Sargent**, City Manager, Russell \* **Joseph E. Steineger**, Mayor, Kansas City \* **Bonnie Talley**, Mayor, Garden City \* Executive Director: **E.A. Mosher**

Senate Local Gov't  
3-20-90  
A + attachment I

**K.S.A. 1989 Supp. 8-1102 (a)(2):**

**8-1102.** Motor vehicle abandoned on public highway or property open to use by public; public agency may impound; disposition; motor vehicle abandoned on private property; criminal trespass; impounding and disposition of vehicle.

(2) Any motor vehicle which has been impounded as provided in this section for 30 days or more shall be disposed of in the following manner: If such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with the division, the public agency or its designated agent shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state, stating that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, that it will be sold at public auction to the highest bidder for cash. The public agency shall use reasonable diligence in determining the title owner, or if from a nontitle state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lienholders of record.

After 15 days from date of mailing notice, the public agency or designated agent shall publish a notice once a week for two consecutive weeks in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, serial number, and owner, if known, and stating that it has been impounded by the public agency and that it will be sold at public

auction to the highest bidder for cash if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the public agency. If the motor vehicle does not display a registration plate issued by the division of vehicles and is not registered with the division, the public agency or designated agent after 30 days from the date of impoundment, may publish a notice in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state that it has been impounded by said public agency and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges incurred by the public agency.

When any public agency or its designated agent has complied with the provisions of this section with respect to an abandoned motor vehicle and the owner thereof does not claim it within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the public agency on such motor vehicle, the public agency or its designated agent may sell the motor vehicle at public auction to the highest bidder for cash.