

Approved February 26, 1991  
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 February 20, 1991 in room 531-N of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee: None.

Committee discussion on SB 23 - Concerning planning and zoning.

The Chairman called the committee's attention to the balloon of SB 23 prepared by the revisor and distributed at the February 6 meeting. He asked for the committee's opinion of New Section 1.

Sen. Allen made a motion to adopt New Section 1 as requested by the League of Municipalities, Sen. Langworthy seconded, and the motion carried.

Sen. Allen distributed copies of a balloon of the bill with an amendment of subsection (h) giving a definition of "residential-design manufactured home". (Attachment 1). Sen. Allen made a motion to so amend SB 23, Sen. Lee seconded, and the motion carried.

The Chairman noted a technical amendment on page 3, line 30, changing "shall" to "may". Sen. Ehrlich made a motion to so amend, Sen. Lee seconded, and the motion carried.

Sen. Daniels reminded the committee that she feels the bill needs to be amended to insure the elected governing body gets final approval of the comprehensive plans in Section 6 on page 4 of the balloon.

The Chairman noted that there is a technical amendment on lines 10-11 on page 4, "Unless otherwise provided by this act, no". It was the consensus of the committee to adopt this technical change.

Ms. Kiernan noted that subsection (c) on page 5 would need to be changed if it was the consensus of the committee that the elected governing body should have final approval of comprehensive plans. Sen. Daniels made a conceptual motion to so amend SB 23, Sen. Burke seconded, and the motion carried.

With regard to the 15 days notice of public hearing to be given by the planning commission, Sen. Daniels stated she has concerns about reducing this from 20 days, especially for those areas where there is only a weekly newspaper. She feels uniformity is not that important in this case and that it is important to have 20 days notice. Sen. Daniels made a motion to strike "15 days" in all appropriate places in the bill and insert "20 days" minimum, Sen. Ehrlich seconded, and the motion carried.

The Chairman noted the clean-up language in Section 8, and it was the consensus of the committee to adopt it. Sen. Burke questioned if it would be necessary to amend Section 8, page 6, regarding the rule making authority of the planning commission with regard to Sen. Daniels motion concerning the governing body having final authority. Mr. Heim explained that this is covered on page 7, lines 23-25.

The technical correction on page 8, line 26 of New Section 9 was adopted.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,  
room 531-N, Statehouse, at 9:00 a.m.~~p.m.~~ on February 20, 1991

It was the consensus of the committee to adopt the technical corrections and clarification on pages 9 and 10, Sections 11 and 12.

It was the consensus of the committee to adopt the revisor's language regarding FEMA.

The committee also adopted the revisor's clarifications on pages 12, 13, 15 and lines 4 and 5 of page 16.

With regard to New Section 19, the Chairman informed the committee that he had received a letter from FEMA indicating acceptance of the second copy of the revised language for SB 23. The Chairman said FEMA has suggested using the language that Missouri adopted relating to the agricultural exemption. Unless federal language is adopted, flood plain insurance will not be possible. The Chairman noted that this would affect approximately 40 counties. Kansas has until July 1 to adopt this change. Staff suggested that the flood plain language could be made effective July 1 and the remainder of the bill January 1.

In response to questions from Sen. Gaines as to if agriculture must comply to FEMA provisions, Mr. Heim read a portion of a letter from FEMA addressed to Governor Hayden in October of 1990 explaining the need of Kansas to comply with the requirements of FEMA, which would include agriculture, in order to get flood insurance. The Chairman told the committee he had received a letter from FEMA regarding the minimum requirements for national flood insurance programs. Section 19 meets with FEMA's approval. (Attachment 2).

Technical changes on lines 26, 27 and 28 on page 16 were adopted. The committee considered a second amendment on line 30 offered by Sen. Allen (Attachment 1). Sen. Allen made a motion to so amend New Sec. 20, subsections (a), (b) and (c), Sen. Lee seconded. Sen. Langworthy reminded the committee she had made a similar motion at another meeting but would withdraw her motion. She feels the bill should be amended to prevent further erosion of home rule. Sen. Langworthy made a substitute motion to insert "entire" after "the" and before "zoning", Sen. Ehrlich seconded.

Sen. Allen asked what the effect of her amendment would be. Sen. Langworthy answered that it is intended to protect local control by the use of Home Rule Statutes. It essentially says that manufactured housing cannot be excluded from the entire zoning jurisdiction by home rule. Sen. Lee feels that there will be a consistency between the cost of the lot and the cost of the home put on the lot, therefore, a \$10,000 manufactured home is not likely to be placed in a neighborhood with a \$50,000 lot. Sen. Steineger had an example in another state where very nice manufactured homes were placed on expensive lots.

On a call for a vote on Sen. Langworthy's substitute motion, the motion failed.

The Chairman called for a vote on Sen. Allen's motion. Sen. Steineger requested that the minutes reflect that the defeat of Sen. Langworthy's motion would not change the effect of Sen. Allen's proposed language. Her language would have been a clarification but not a change in effect. Sen. Daniels began a discussion as to her feeling that not all members of a governing body would agree on what is aesthetically acceptable, and she is uncomfortable with this.

The Chairman again called for a vote on Sen. Allen's motion to amend, and the motion carried.

There being no further time, committee discussion on SB 23 was continued until tomorrow's meeting.

The minutes of February 19 were approved.

The meeting was adjourned at 10:01 a.m.



# SENATE BILL No. 23

By Special Committee on Local Government

Re Proposal No. 22

12-28

AN ACT concerning planning and zoning; amending K.S.A. 24-126 and K.S.A. 1990 Supp. 19-101a and repealing the existing sections; also repealing K.S.A. 12-701 to 12-704, inclusive, 12-704a, 12-705, 12-705a, 12-705b, 12-705c, 12-706, 12-706a, 12-707 to 12-715, inclusive, 12-715a, 12-717 to 12-735, inclusive, 19-2901, 19-2902, 19-2902a, 19-2902b, 19-2902c, 19-2903, 19-2904, 19-2905, 19-2905a, 19-2906 to 19-2914, inclusive, 19-2916, 19-2916a, 19-2918, 19-2918a, 19-2918b, 19-2918c, 19-2919, 19-2921, 19-2924, 19-2925, 19-2925a, 19-2926, 19-2926a, 19-2926b, 19-2927 to 19-2934, inclusive, 19-2934a, 19-2935 to 19-2938, inclusive, and K.S.A. 1990 Supp. 12-716, 19-2915 and 19-2920.

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

New Section 1. When used in this act:

- (a) "Base flood" means a flood having a 1% chance of being equaled or exceeded in any one year;
- (b) "floodway fringe" means those portions of a flood plain outside of the boundaries of a regulatory floodway and within stream reaches where such a floodway has been established;
- (c) "flood plain" means land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%;
- (d) "governing body" means the governing body of a city in the case of cities and the board of county commissioners in the case of counties;
- (e) "manufactured home" means a structure which ~~is transportable in one or more sections which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and designed to be used as a dwelling, with permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, and is subject to the federal manufactured home construction and standards established pursuant to 42 U.S.C. § 5403;~~

New Section 1. This act is enabling legislation for the enactment of planning and zoning laws and regulations by cities and counties for the protection of the public health, safety and welfare, and is not intended to prevent the enactment or enforcement of additional laws and regulations on the same subject which are not in conflict with the provisions of this act.

(League)

Senate L.G.  
 2-20-91  
 Attachment 1

1 (f) "planning commission" means a city, county, regional or met-  
2ropolitan planning commission;

3 (g) "regulatory floodway" means the channel of a river or other  
4water course and the adjacent land areas that must be reserved in  
5order to discharge the base flood without cumulatively increasing  
6the water surface elevation more than designated height;

7 ~~(h) "subdivision" means the division of a lot, tract or parcel of~~  
8land into two or more parts for the purpose, whether immediate or (i)  
9future, of sale or building development, including resubdivision;

10 ~~(i) "subdivision regulations" mean the lawfully adopted subdivi-~~  
11sion ordinances of a city and the lawfully adopted subdivision res- (j)  
12olutions of a county;

13 ~~(j) "zoning" means the regulation or restriction of the location~~  
14and uses of buildings and uses of land; (k)

15 ~~(k) "zoning regulations" mean the lawfully adopted zoning or-~~  
16dinances of a city and the lawfully adopted zoning resolutions of a (l)  
17county.

18 New Sec. 2. (a) Before any city adopts a comprehensive plan or  
19part thereof, subdivision regulations, zoning regulations or building  
20or setback lines affecting property located outside the corporate limits  
21of such city, written notice of such proposed action shall be given  
22to the board of county commissioners of the county in which such  
23property is located. Such notice also shall be given to the township  
24board of the township in which such property is located if the town-  
25ship is located in a county not operating under the county unit road  
26system. Such notice shall be given at least 15 days prior to the  
27proposed action.

28 (b) Before any county adopts a comprehensive plan or part  
29thereof, subdivision regulations, zoning regulations or building or  
30setback lines affecting property located within three miles of the  
31corporate limits of a city, written notice of such proposed action  
32shall be given to the governing body of such city. In any county  
33not operating under the county unit road system, before any county  
34adopts a comprehensive plan or part thereof, subdivision regulations  
35or building or setback lines, written notice of such proposed action  
36shall be given to the township board of such township in which the  
37affected property is located. The notice required by this subsection  
38shall be given at least 15 days prior to the proposed action.

39 New Sec. 3. (a) The governing body of any city, by adoption of  
40an ordinance, may create a planning commission for such city and  
41the board of county commissioners of any county, by adoption of a  
42resolution, may create a planning commission for the county. Any  
43such planning commission shall be composed of not less than five

\* (h) "residential-design manufactured home"  
means a manufactured home on permanent foundation  
which has minimum dimensions of 22 body feet in  
width, has a pitched roof and has siding and  
roofing materials which are customarily used on  
site-built homes.

1-3

1 public hearing pursuant to the publication notice, signed by the  
 2 owners of record of 20% or more of any real property proposed to  
 3 be rezoned or by the owners of record of 20% or more of the total  
 4 area required to be notified of the proposed rezoning of a specific  
 5 property, the ordinance or resolution adopting such amendment shall  
 6 not be passed except by at least a three-fourths vote of all of the  
 7 members of the governing body.

8 (f) Zoning regulations may provide additional notice by providing  
 9 for the posting of signs on land which is the subject of a proposed  
 10 rezoning, for the purpose of providing notice of such proposed  
 11 rezoning.

12 New Sec. 19. (a) Regulations adopted under authority of this act  
 13 shall not apply to the existing use of any building or land, but shall  
 14 apply to any alteration of a building to provide for a change in use  
 15 or a change in the use of any building or land after the effective  
 16 date of any regulations adopted under this act. If a building is  
 17 damaged by more than 50% of its fair market value such building  
 18 shall not be restored if the use of such building is not in conformance  
 19 with the regulations adopted under this act.

20 (b) Except for flood plain zoning regulations in areas designated  
 21 as a flood plain, regulations adopted by a city pursuant to K.S.A.  
 22 12-715b, and amendments thereto, or a county pursuant to this act  
 23 shall not apply to the use of land for agricultural purposes, nor for  
 24 the erection or maintenance of buildings thereon for such purposes  
 25 so long as such land and buildings are used for agricultural purposes  
 26 and not otherwise. No plat or dedication of such land for public  
 27 purposes may be made except as provided by this act.

28 New Sec. 20. (a) The governing body shall not adopt or enforce  
 29 zoning regulations which have the effect of excluding manufactured  
 30 homes

31 New Sec. 21. (a) Any governing body which has enacted a zoning  
 32 ordinance or resolution shall create a board of zoning appeals by  
 33 adoption of the appropriate ordinance or resolution. Such board shall  
 34 consist of not less than three nor more than seven members. If a  
 35 city enacts zoning regulations which affect land outside the corporate  
 36 limits of such city, at least one member of the board shall be a  
 37 resident of the area outside the city's limits. The members first  
 38 appointed shall serve respectively for terms of one, two and three  
 39 years, divided equally or as nearly equally as possible among the  
 40 members. Thereafter the terms of the members may be changed to  
 41 either three or four years, whichever is deemed to be in the best  
 42 interest of the city or county. Vacancies shall be filled by appointment  
 43 for the unexpired terms. The members of such board shall serve

\*

(a)

from the zoning jurisdiction of the governing body,  
 and the governing body shall not adopt or enforce  
 zoning regulations which have the effect of excluding  
 residential-design manufactured homes from single-  
 family residential districts solely because they are  
 manufactured homes

(b) Nothing in this section shall be construed  
 as precluding the establishment of architectural or  
 aesthetic standards applicable to manufactured  
 homes so as to ensure its compatibility with site-  
 built housing in the same zoning district.

(c) Nothing in this section shall be construed  
 to preempt or supersede valid restrictive covenants  
 running with the land.



## Federal Emergency Management Agency

Region VII  
911 Walnut Street, Room 200  
Kansas City, MO 64106

February 11, 1991

The Honorable Don Montgomery  
Kansas State Senate  
State Capitol  
Topeka, Kansas 66603

Dear Senator Montgomery:

This is to confirm that both FEMA's Office of Loss Reduction and Office of General Counsel are in agreement that the second copy of the revised language for Senate Bill No. 23 - February 7, 1991, will satisfy the minimum requirements for the National Flood Insurance Program (NFIP).

The only concern is that the revised Kansas statutes, Section 30, would not be in effect until January 1, 1992. For the purposes of the NFIP, the Kansas counties should be allowed to fully enforce their local floodplain management ordinances as soon as the legislation is passed and approved by the Governor. We recommend that the effective date for the revised Kansas statutes be ninety days from the close of the 1991 legislative session - April 14, 1991. This time period would allow for necessary notifications of the changes in the State statutes. It is our understanding that the new statutes could be in effect as early as July, 1991.

If you should have any questions regarding this letter, please do not hesitate to call our office at (816) 283-7002. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "S. R. Mellinger".

S. R. Mellinger  
Regional Director

Senate L.G.

2-20-91

Attachment 2