

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 1, 1991 in room 531-N of the Capitol.

All members were present except:

Sen. Gaines

Committee staff present:

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

Conferees appearing before the committee:

Dennis Schwartz, Kansas Rural Water Association
Gary H. Hanson, Counsel for Kansas Rural Water Association

SB 318 - Concerning rural water districts; relating to the attachment of certain land.

Dennis Schwartz, Kansas Rural Water Association, gave testimony in support of the bill. (Attachment 1).

Gary H. Hanson, counsel for Kansas Rural Water Association, testified in further detail in support of the bill. (Attachment 2).

Mr. Hanson noted that, due to his mistake, SB 318 needs to be changed in two places. The first necessary change is on page 3, line 15 of the bill where "registered" before "office" should be deleted. A second deletion needed is located at the end of of line 16 through the first word on line 19.

Sen. Burke began a discussion regarding the 3/4 majority required in the bill. He felt that this may be requiring too strong of a majority over the more common 2/3 majority. The chairman determined that if this is changed in this statute, it will have to be done in others. Therefore, it would be best not to act on this question at this time.

Sen. Daniels made a motion to amend SB 318 as suggested by Mr. Hanson, Sen. Langworthy seconded, and the motion carried.

This concluded the hearing on SB 318.

HB 2026 - Concerning rural water districts; relating to the dissolution thereof.

The Chairman noted that this is an emergency bill due to problems with IRS and a problem in Coffey County, Leavenworth District No. 9 and other counties. It is also causing problems in the ability to sell tax exempt bonds.

Dennis Schwartz testified in support of the bill. (Attachment 3). He recommended passage of the bill as soon as possible.

Gary H. Hanson, testified further in support of the bill, saying that it is a simple problem with complicated and technical results. (Attachment 4).

Rep. Jeff Freeman had submitted written testimony in support of the bill as he was not able to attend the meeting. (Attachment 5).

Sen. Steineger made a motion to recommend HB 2026 favorable for passage, Sen. Burke seconded, and the motion carried.

The Chairman called the committee's attention to a balloon of SB 25, previously heard, and dealing with home rule powers. (Attachment 6). The proposed amendments were suggested by the League of Municipalities as a compromise with Sara Corliss of the Home Builders Association of Greater Kansas City.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on March 1, 1991

Sen. Lee made a motion to so amend SB 25, Sen. Frahm seconded, and the motion carried.

Sen. Lee made a motion to recommend SB 25 favorable for passage as amended, Sen. Frahm seconded, and the motion carried.

The Chairman distributed copies of a proposed amendment to SB 258 which had been heard regarding sprinkler systems in small county museums and which had been introduced by Sen. Doyen. (Attachment 7). Ms. Kiernan had researched further and found that the Fire Marshal does have the discretion to exempt these museums from having the sprinkler system, therefore, there is a need for the bill. A proposed amendment would allow townships, which cannot find a record of a charter or document when organized, to come under the Firemen's Relief Fund.

Sen. Burke noted that the question of leaving "shall" in the original bill had not been settled as to the liability in such a case where a small museum may be located between other buildings, have a fire, resulting in property loss in the block.

Upon further discussion it was suggested that Section (b) be stricken from the bill, and the proposed amendment for Sumner County be inserted. The Fire Marshall could then solve the problem involved in Sen. Doyen's original bill. Sen. Frahm noted that if the Fire Marshal is not able to help, the bill can be considered in the House.

Sen. Burke made a motion to strike subsection (b) of SB 258 and insert the language of the suggested amendment for Sumner County and to recommend the bill favorable for passage as amended, Sen. Langworthy seconded, and the motion carried.

Attention was turned to SB 94 involving voluntary payment of service charges or payments in lieu of taxes which was introduced by Sen. Petty. Sen. Petty explained a Substitute for SB 94. (Attachment 8). She said it clarifies the difference between service charge and in lieu of payment. It also explains the distribution of service chages.

The Chairman asked the committee to look over the substitute bill this weekend and be prepared to further consider it at Monday's meeting.

Jim Kaup, League of Kansas Municipalities, questioned "adjoining" and "supplemental" as used in the bill. He is of the opinion that it is not consistent with present language in the statutes. He distributed copies of 12-147. (Attachment 9).

The minutes of February 28 were approved.

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



KANSAS
RURAL
WATER
association

Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

March 1, 1991

TO: SENATE LOCAL GOVERNMENT COMMITTEE
RE: Statement of Support for Senate Bill No. 318

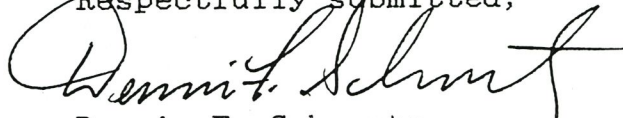
The Kansas Rural Water Association works continuously to promote high quality service to the residents of rural Kansas. We also encourage our members to expand their systems as required in order to provide their vital services to those outside their existing boundaries when it is feasible. Rural water districts generally try to be responsive to the needs of their neighbors.

The Kansas Water Office and Kansas Rural Water Association are currently involved in a project to map all rural water districts in Kansas. Since this was last done in 1974, there not only have been many new districts formed but there have also been many changes in the service territory of the then existing districts. Many of these changes have been made subject to KSA 82a-623. Some were not. Some were made in order to respond to emergency conditions; and due to the rather cumbersome nature of the existing attachment provisions, these attachments simply never became legitimate.

Senate Bill No. 318 would clarify the intent of KSA 19-270 and simplify the requirement for attachment pursuant to KSA 82a-623.

The Kansas Rural Water Association encourages your favorable consideration of Senate Bill No. 318.

Respectfully submitted,



Dennis F. Schwartz
KRWA President

Senate L.G.
3-1-91
Attachment 1

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TOM R. BARNES II

March 1, 1991

TO: SENATE LOCAL GOVERNMENT COMMITTEE
RE: STATEMENT OF SUPPORT FOR SB No. 318

**TESTIMONY OF GARY H. HANSON TO
SENATE COMMITTEE ON LOCAL GOVERNMENT**

Rural water districts are authorized by K.S.A. 82a-612 et seq. Generally, rural water districts are created by the county commissioners upon petition by the owners of land within the proposed district.

Following creation, adjoining land can later be attached to the water district under the procedures outlined in K.S.A. 82a-623. In general, this involves owners of land in the area to be attached filing a petition addressed to the county commissioners. Then, following notice and a hearing as prescribed by K.S.A. 82a-623, and upon finding that the lands are without an adequate supply of water, the county commission enters an order attaching the lands to the rural water district and thereby redefining the boundaries of the district.

Attachments of lands to rural water districts should be encouraged. Unnecessary restrictions to complicate the process should be avoided. We believe current procedures for attaching lands to rural water districts are unduly complicated and tend to discourage proper attachments of lands. Senate Bill 318 significantly reduces these complications and, therefore, we support its enactment.

Specifically, SB 318 simplifies the attachment process in the following respects:

- a) it eliminates the requirement for publication of the notice (except where required by K.S.A. 19-270);
- b) it eliminates the reference back to 82a-615 for the procedure on hearing the attachment petition (82a-615 concerns hearings on creation of a rural water district, and is confusing in the context of attachment of lands to an existing water district);

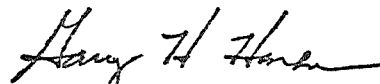
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Attachment 2*

- c) mailing of all notices of hearing may be made by regular mail. It is unclear in existing 82a-623, and many county clerks have concluded that, out of caution, notices should be by certified mail;
- d) it provides for written notice to be sent to the water district office, not to the homes of each director of the district.

SB 318 further addresses problems in the attachment process by amending K.S.A. 19-270. This section deals with the creation or expansion of special benefit districts (defined to include rural water districts) within three miles of any city. Currently, that statute can be interpreted to mean that whenever lands are to be attached to a rural water district that has any part of its territory within the three mile fringe area of a city, the procedures of 19-270 must be followed. Arguably, this is true whether or not any part of the lands sought to be attached are within that three mile fringe area. We do not believe this was the legislatures intent with K.S.A. 19-270, nor do we believe that such interpretation is good public policy. SB 318 makes clear that K.S.A. 19-270 must be complied with only if some part of the territory to be attached is located within the fringe area.

For the reasons above, we request the committee's favorable consideration of Senate Bill No. 318.

Respectfully submitted,


GARY H. HANSON



KANSAS
RURAL
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association

Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

March 1, 1991

TO: SENATE LOCAL GOVERNMENT COMMITTEE
RE: Statement of Support for House Bill No. 2026

The Kansas Rural Water Association represents nearly 300 rural water districts across the state, serving approximately 70,000 households. Rural water districts play a key role in providing safe drinking water and improving the quality of life in our rural areas.

House Bill No. 2026 repeals a provision which was added to KSA 82a-629 during the Session of 1985, in an effort to allow for the dissolution of one incorporated rural water district in Reno County, which had not proven to be a feasible project. While it seemed to be appropriate at the time, the Internal Revenue Service has now used that provision to question the political sub-division status of all Kansas rural water districts. Among the more serious consequences of their interpretation is the inability for rural water districts to issue tax-free revenue bonds in order to finance system improvements and system expansions.

There are several districts currently involved in developing improvements and expansions which are being stalled due to this situation. We know that they would implore your favorable and expeditious action on this bill.

The Kansas Rural Water Association strongly supports the passage of House Bill No. 2026.

Respectfully submitted,

Dennis F. Schwartz
KRWA President

Senate L.G.
3-1-91
Attachment 3

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March 1, 1991

TO: SENATE LOCAL GOVERNMENT COMMITTEE
RE: STATEMENT OF SUPPORT FOR HB 2026

**TESTIMONY OF GARY H. HANSON TO
SENATE COMMITTEE ON LOCAL GOVERNMENT**

The Legislature enacted the statutory scheme creating Kansas rural water districts in 1957. This statute is now found at K.S.A. 82a-612 et seq. A number of rural water districts have been organized since 1957, serving thousands of Kansas households, farms and businesses.

In 1985, the Legislature effected a change to K.S.A. 82a-629 concerning what would happen in the event of dissolution of a rural water district. Prior to that amendment, the statute had provided that upon dissolution, the district's property, consisting of maps, charts and records, was to be delivered to the county clerk. The 1985 amendment was apparently made in response to an isolated instance in which a rural water district was created, monies collected, and then the project found unfeasible. Amended 82a-629 provides that upon dissolution, district monies shall be apportioned among the patrons of the district, with the maps, charts and records to then be delivered to the county clerk.

In at least two separate Internal Revenue Service audits begun in 1989, the IRS focused on this amendment to assess federal unemployment tax (FUTA) on the basis that rural water districts were not entitled to the exemption from payment of FUTA provided for political subdivisions of the state under IRC §3306(c)(7). Similarly, the audit held that rural water districts were not entitled to opt out of mandatory social security tax (FICA) under the exemption provided for political subdivisions of the state under IRC §3121(b)(7).

The rural water districts asked for technical advice on this issue from the Internal Revenue Service National Office. These rural water districts, Rural Water District No. 2, Coffey County, and Rural Water District No. 9, Leavenworth County, filed briefs with the IRS, as did the IRS Regional Office in Oklahoma City. I attended a meeting in Washington, D.C. on behalf of Coffey County Rural Water District No. 2 and the Kansas Rural Water Association in order to discuss this issue with the IRS technical staff.

The National Office filed a Technical Advice Memorandum on November 8, 1990, which was later published. This advice concludes that Kansas rural water districts are not political subdivisions of the state for purposes of exemption from FICA and FUTA. The IRS noted that its rulings and federal court decisions have required that to qualify as a political

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STUMBO, HANSON & HENDRICKS

subdivision, an entity must have more than an insubstantial amount of the three acknowledged sovereign powers of states: the power to tax, the power of eminent domain, and the police power. Of these powers, Kansas rural water districts have only the power of eminent domain. The IRS went on to state that when an entity has less than all of these powers, it will not qualify as a political subdivision if it is allowed to distribute any of its assets to private interests. Citing the provisions of K.S.A. 82a-629 as amended in 1985, the IRS concluded that Kansas rural water districts can transfer assets to private interests and accordingly, are not political subdivisions for purposes of the exemption to FUTA and FICA.

Most rural water districts were already participating in FICA. FUTA is taxed at a relatively low rate of wages paid and does not present an extreme burden on either of the districts that were the subject of this audit.

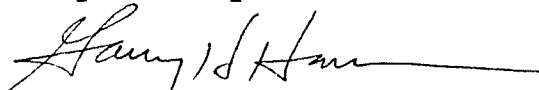
The more significant issue presented by the technical advice concerns rural water districts' ability to issue tax free debt under IRC §103. This section permits political subdivisions to issue tax free debt. The definition of political subdivisions for purposes of §103 appears to be the same as the definition used for the exemptions from FUTA and FICA.

Section 103 interest free debt financing has become an increasingly common way for rural water districts to obtain financing of projects at reasonable cost. In light of the Technical Advice Memorandum, we believe that it is not possible for Kansas rural water districts to issue tax free debt at this time.

Kansas rural water districts' status as political subdivisions of this state, and thus their ability to exempt themselves from FUTA, FICA and most importantly to issue tax free financing, turns on this seemingly innocuous provision of K.S.A. 82a-629. Although we have not done a precise calculation, we would expect that rural water district costs of operation statewide could be increased by thousands, indeed hundreds of thousands of dollars, as a result of this provision.

At the meeting with the IRS technical staff in Washington on October 31, 1990, the staff all agreed that if K.S.A. 82a-629 was changed to eliminate this possibility of assets being distributed to private interests upon dissolution, and provided instead that assets would be transferred to another political subdivision, it would be their opinion that Kansas rural water districts would once again qualify as political subdivisions of the state for purposes of the Internal Revenue Code. We urge that this change, contained in HB 2026, be enacted as soon as possible.

Respectfully submitted,



GARY H. HANSON

Jeff Freeman

STATE REPRESENTATIVE
P.O. Box 60
BURLINGTON, KS 66839



TOPEKA

HOUSE OF
REPRESENTATIVES

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AMERICAN LEGISLATIVE EXCHANGE COUNCIL
MEMBER: TRANSPORTATION COMMITTEE

TESTIMONY ON HB 2026
Senate Local Government Committee
Senator Don Montgomery, Chairperson

March 1, 1991

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE FOR THE OPPORTUNITY TO APPEAR IN SUPPORT OF HB 2026. HB 2026 IS SPONSORED BY MYSELF AND SIX OTHER HOUSE MEMBERS.

I HAVE WITH ME TODAY DENNIS SCHWARTZ, PRESIDENT OF THE KANSAS RURAL WATER ASSOCIATION AND GARY HANSON, COUNSEL FOR THE KANSAS RURAL WATER ASSOCIATION.

THE PROBLEM

RECENTLY, THE INTERNAL REVENUE SERVICE HAS RULED THAT COFFEY COUNTY RURAL WATER DISTRICT #2 AND LEAVENWORTH RURAL WATER DISTRICT #9 ARE NOT A LOCAL UNIT OF GOVERNMENT AND THEREFORE SUBJECT TO FEDERAL TAXES, PENALTIES AND FINES. IN ADDITION, COFFEY COUNTY RURAL WATER DISTRICT #3 WILL HAVE TO PAY FEDERAL UNEMPLOYMENT INSURANCE PREMIUMS FOR ITS WORKERS AND PARTICIPATE IN SOCIAL SECURITY EMPLOYEE PAYMENTS.

THE IRS HAS ALSO COMPLICATED THIS ISSUE FURTHER BY ITS RULING ON THE ISSUANCE OF TAX-EXEMPT FINANCING.

THERE ARE CURRENTLY PROPOSALS FOR CREATION OF NEW RURAL WATER DISTRICTS IN MANY COUNTIES THROUGHOUT THE STATE WHICH REMAIN ON HOLD BECAUSE OF THE IRS RULING.

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HB 2026

IN SHORT, THIS ACTION BY THE IRS HAS EXTREME CONSEQUENCES FOR THE OVER 300 RURAL WATER DISTRICTS IN KANSAS.

WHY THE IRS HAS CHOSEN TO AUDIT AND HARASS THESE THREE DISTRICTS I DO NOT KNOW, BUT LET ME MAKE IT PERFECTLY CLEAR THAT THIS HAS STATE-WIDE IMPLICATIONS.

THE IRS HAS SAID THAT CHANGES THE LEGISLATURE MADE IN 1986 TO DISSOLVE A RURAL WATER DISTRICT IN RENO COUNTY BEFORE IT WAS EVER BUILT HAVE TAKEN AWAY THE GOVERNMENT STATUS.

THE SOLUTION

HB 2026 WOULD SIMPLY MAKE IT CLEAR TO THE IRS THAT RURAL WATER DISTRICTS AREN'T PROFIT-MAKING ORGANIZATIONS.

THE BILL WOULD RETURN TO THE ORIGINAL LANGUAGE PRIOR TO THE 1986 CHANGE.

THANK YOU AGAIN FOR THE OPPORTUNITY TO APPEAR AND I WOULD APPRECIATE YOUR FAVORABLE CONSIDERATION OF HB 2026.

JEFF FREEMAN, REPRESENTATIVE

SENATE BILL No. 25

By Special Committee on Local Government

Re Proposal No. 24

12-28

10 AN ACT concerning cities and counties; relating to the exercise of
11 home rule powers; amending K.S.A. 12-137 and 19-117 and re-
12 pealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 12-137 is hereby amended to read as follows:

16 12-137. ~~Where, under the power of cities granted by paragraph (b)~~
17 ~~of section 5 of article 12 of the constitution of Kansas, the governing~~
18 ~~body of any city by ordinance proposes to levy for revenue purposes~~
19 ~~any tax, excise, fee, charge or other exaction other than user fees,~~
20 ~~service charges, permit fees or license fees for regulatory purposes,~~
21 ~~which is not limited or prohibited or a procedure for the levy of~~
22 ~~which is not otherwise prescribed by enactment of the legislature~~
23 ~~as provided by said paragraph (b) of section 5 of article 12 of the~~
24 ~~constitution of Kansas, such ordinance shall require a two-thirds~~
25 ~~2/3) 2/3 vote of the members-elect of the governing body and shall~~
26 ~~be published once each week for two (2) consecutive weeks in the~~
27 ~~official city newspaper.~~

28 No such ordinance shall take effect until ~~sixty (60)~~ 60 days after
29 its final publication, and if within ~~sixty (60)~~ 60 days of its final
30 publication a petition signed by a number of electors of the city
31 equal to not less than ~~ten percent (10%)~~ 10% of the number of
32 electors who voted at the last preceding regular city election shall
33 be filed with the county election officer of the county in which such
34 city is entirely or primarily located demanding that such ordinance
35 be submitted to a vote of the electors, it shall not take effect until
36 submitted to a referendum and approved by a majority of the electors
37 voting thereon. The governing body of any city may submit any
38 ordinance providing for such levy to a referendum without petition.
39 Ordinances authorizing such levies submitted to referendum without
40 petition may be passed by a majority vote of the governing body
41 and shall be published once in the official city newspaper.

42 Sec. 2. K.S.A. 19-117 is hereby amended to read as follows: 19-

117. (a) Where the board of county commissioners of a county by

(a)

or

(b) Any financial payment required of an owner or developer of land for the cost of public facilities or improvements shall be levied in the same procedure required for the levying of a tax, excise or other exaction under subsection (a).

(c) Nothing in this section shall be construed to authorize the imposition of a service charge or user fee which exceeds the cost of providing such service, facility or improvement.

* Similar amendments to K.S.A. 19-117

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Attachment 6

Proposed Amendment to Senate Bill No. 258

On page 1, following line 28, by inserting:

"Sec. 2. K.S.A. 1990 Supp. 80-1919 is hereby amended to read as follows: 80-1919. (a) The provisions of this act shall apply only to townships which are located in Barton, Crawford, Douglas, Geary, Jackson, Labette, Leavenworth, Lyon, Montgomery, Reno, Riley and, Saline and Sumner counties, but, except as otherwise provided by subsection (b), the provisions of this act shall not apply to any such township unless and until a petition is presented to the township board, signed by not less than 51% of the qualified electors of the township as determined by the vote for secretary of state at the last preceding election. As used in this act, the phrase "township board" means the township trustee, township clerk, and the township treasurer acting as a board.

(b) The township board of any township located in any such county which has been levying a tax for the support of a township fire department for a period of not less than 15 years is hereby authorized to adopt a resolution designating such fire department as the regularly organized fire department of the township without the presentation of a petition. Such fire department shall be operated under the control of the township board in the manner prescribed by K.S.A. 80-1921, and amendments thereto, and the township board is hereby authorized to provide for the organization, operation, equipping and maintenance of such department pursuant to K.S.A. 80-1920 and 80-1921, and amendments thereto, and to levy taxes for such purposes as therein authorized.";

By renumbering sections accordingly;

Also on page 1, in line 29, by striking "is" and inserting "and K.S.A. 1990 Supp. 80-1919 are";

In the title, in line 8, by striking all after "safety"; by striking all in lines 9 and 10 and inserting "and fire prevention; relating to the powers and duties of the fire marshal and certain township fire departments; amending K.S.A. 31-136 and K.S.A. 1990 Supp. 80-1919 and repealing the existing sections."

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Attachment 7

Substitute for SENATE BILL NO. 94

AN ACT concerning cities and counties; relating to the voluntary payment of service charges or payments in lieu of taxes.

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

Section 1. The governing body of each county and city may enter into voluntary agreements with the owner of any property exempt by law from the payment of ad valorem taxes for the annual or periodic payment of service charges or payments in lieu of taxes. The governing body of each city and county shall establish, by adoption of an appropriate ordinance or resolution, published in its official newspaper, a statement of policy concerning such service charges or payments in lieu of taxes. The ordinance or resolution shall establish policies and recommended voluntary payment practices which distinguish between service charge contributions made to cover some or all of the costs of direct services provided to tax-exempt property, such as for police or fire protection or for the maintenance of highways, and payments in lieu of taxes which are made as contributions to the cost of local government, such as for education, public health, parks and recreation and other general government services benefiting the general public as well as tax-exempt property.

Sec. 2. Any service charge payment made by the owner of tax-exempt property shall be credited to the appropriate fund of the receiving county or city in order to secure its use for the intended purposes. All payments in lieu of taxes contributed for general government services shall be paid to the treasurer of the county in which the property is located, and periodically shall be distributed by the treasurer to all taxing units, other than the state, which levy taxes in the area immediately adjoining the

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3-1-91

Attachment 8

exempt property. Such distribution shall be in the proportion that the taxes levied by each such taxing unit in the area bears to the total taxes levied by all such units. All revenues received from such payments and contributions shall be budgeted and expended in the manner provided by law.

Sec. 3. The provision of this act shall be supplemental to the provisions of K.S.A. 12-137 to 12-149, inclusive, and amendments thereto, relating to contractual payments by the owners of tax-exempt property, and shall also be supplemental to the provisions of K.S.A. 12-1742, and amendments thereto, relating to payments by the lessees of property financed by the issuance of economic development revenue bonds. Nothing in this act shall be construed to limit or restrict the authority of counties and cities to impose any user fees and service charges on tax-exempt property to the extent such fees and charges may be lawfully required. It is the intent of this act to encourage cities and counties to promote payments and contributions by the owners of tax-exempt property towards the cost of governmental services, and to encourage the owners of such exempt property to voluntarily contribute towards the cost of such services.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

12-147. Tax subdivisions authorized to enter into agreements with owners of tax exempt property for payments in lieu of taxes. Every taxing subdivision of the state of Kansas is hereby authorized and empowered to enter into contracts for the payment of service charges in lieu of taxes, with the owner or owners of property which is exempt from the payment of ad valorem taxes under the laws of the state of Kansas and is further authorized to receive and expend revenue resulting therefrom in the manner hereinafter provided.

History: L. 1969, ch. 81, § 1; July 1.

Law Review and Bar Journal References:

"Differential Assessment of Agricultural Land in Kansas: A Discussion and Proposal," Bryan E. Nelson, 25 K.L.R. 215, 239 (1977).

12-148. Same; contract provisions; apportionment of revenues. Contracts for the payment of service charges in lieu of taxes shall provide for the making of payments thereunder to the county treasurer of the county receiving such payments or the county in which any other taxing subdivision receiving such payments is located. The county treasurer shall apportion and pay moneys from such payments in the following manner: (1) If the contract under which such payment is made with a single taxing subdivision and designates the fund or funds to which such revenue shall be applied, the county treasurer shall place such revenue in the designated fund or funds of such subdivision;

(2) if the contract is made with a single taxing subdivision but does not specify the fund or funds to which the revenue shall be applied the county treasurer shall apportion such revenue among the tangible property tax supported funds of the taxing subdivision, except bond and interest funds, in the proportion that the tax levy for each such fund bears to the total of all tax levies made for all such funds;

(3) if the contract provides for the allocation of such revenue to more than one taxing subdivision but designates the particular funds of such subdivisions to which the same shall be applied, the county treasurer shall allocate such funds in the manner provided in the contract;

(4) if the contract provides for the allocation of such revenue to more than one taxing subdivision but does not designate the fund or funds to which the same shall be applied the county treasurer shall apportion and pay moneys from such payments into the several tangible property tax supported funds of such taxing subdivisions, other than bond and interest funds, in the proportion that the tax levy for each of such funds bears to the total of the tax levies made for such funds of such subdivisions.

History: L. 1969, ch. 81, § 2; July 1.

12-149. Same; budgeting of revenues. All revenues received under contracts authorized under the provisions of this act shall be budgeted and expended in the manner provided by law.

History: L. 1969, ch. 81, § 3; July 1.

12-1742. Conditions of agreement; origination fee; apportionment of payments in lieu of taxes; administrative costs; valuation excluded from adjusted valuation of school districts. Such agreements shall provide for a rental sufficient to repay the principal of and the interest on the revenue bonds. Such agreements also may provide that the lessee shall

reimburse the city or county for its actual costs of administering and supervising the issue. The city or county may charge an origination fee. Such fee shall not be deemed a payment in lieu of taxes hereunder. Such fee shall be used exclusively for local economic development activities but shall not be used to pay any administrative costs of the city or county. Except for the origination fee, all other fees paid in excess of such actual costs and any other obligation assumed under the contract shall be deemed payments in lieu of taxes and distributed as provided herein. If the agreement provides for a payment in lieu of taxes to the city or county, such payment, immediately upon receipt of same, shall be transmitted by the city or county to the county treasurer of the county in which the city is located. Payments in lieu of taxes received pursuant to agreements entered into after the effective date of this act shall include all fees or charges paid for services normally and customarily paid from the proceeds of general property tax levies, except for extraordinary services provided for the facility or an extraordinary level of services required by a facility. Payments in lieu of taxes may be required only upon property for which an exemption from ad valorem property taxes has been granted by the state board of tax appeals. The county treasurer shall apportion such payment among the taxing subdivisions of this state in the territory in which the facility is located. Any payment in lieu of taxes shall be divided by the county treasurer among such taxing subdivisions in the same proportion that the amount of the total mill levy of each individual taxing subdivision bears to the aggregate of such levies of all the taxing subdivisions among which the division is to be made. The county treasurer shall pay such amounts to the taxing subdivisions at the same time or times as their regular operating tax rate mill levy is paid to them. Based upon the assessed valuation which such facility would have if it were upon the tax rolls of the county, the county clerk shall compute the total of the property taxes which would be levied upon such facility by all taxing subdivisions within which the facility is located if such property were taxable. The valuation of the facility shall not be included in the computation of the adjusted valuation of a school district under the provisions of K.S.A. 72-7040, and amendments thereto.

Senate L. G.
3-1-91

Attachment 9