

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, 1991 in room 531-N of the Capitol.

All members were present except:

Senators Allen and Gaines

Committee staff present:

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

Conferees appearing before the committee:

Representative Rick Bowden
Lee Harp, Mayor of the City of Goddard
Joe L. Norton, Bond Counsel for the City of Goddard
Jim Kaup, League of Kansas Municipalities
Bev Bradley, Kansas Association of Counties

HB 2110 - Concerning cities; relating to the payment of costs of public improvements.

Representative Rick Bowden testified in support of the bill. (Attachment 1).

Lee Harp, Mayor of the City of Goddard, followed with more testimony in support. (Attachment 2).

Joe L. Norton, bond counsel for the City of Goddard, followed with his testimony in support. (Attachment 3).

Final testimony in support was given by Jim Kaup, League of Kansas Municipalities. (Attachment 4).

Sen. Daniels made a motion to report HB 2110 favorable for passage as amended by the House, Sen. Lee seconded, and the motion carried.

HB 2015 - Concerning counties and townships; relating to township roads.

Bev Bradley, Kansas Association of Counties, testified in support of the bill. (Attachment 5).

Sen. Frahm made a motion to report HB 2015 favorable for passage as amended by the House, Sen. Lee seconded, and the motion carried.

The minutes of March 19 were approved.

Ms. Correll distributed copies of information regarding vehicle registrations by county as was requested at yesterday's meeting. (Attachment 6).

The meeting was adjourned at 9:28 a.m.

STATE OF KANSAS

RICK BOWDEN
REPRESENTATIVE, NINETY-THIRD DISTRICT
433 WALNUT
GODDARD, KANSAS 67052



COMMITTEE ASSIGNMENTS
CHAIRMAN: EDUCATION
MEMBER: GOVERNMENTAL ORGANIZATION

TOPEKA

HOUSE OF
REPRESENTATIVES

MEMORANDUM

From: Rick Bowden
Subject: HB 2110
Date: March 13, 1991

HB 2110 was requested by the city of Goddard - certain residents of the town. This bill was requested in order to remedy an inequity in assessing certain public improvement projects in the city. The city was prepared to proceed to implement its own delay in payment guidelines for such projects pursuant to its home rule powers as had other cities in similar situations. However, prior to adoption of such home rule ordinance, the decision of the Kansas Supreme Court in the case of Blevins vs. Douglas County was rendered. The language in the Blevins decision has caused Bond Counsel and the Attorney General to advise the city that adoption of such an ordinance would not be proper: legislation would be needed.

HB 2110 will grant to cities of the 2nd and 3rd class the same ability cities of the 1st class presently have regarding the delay in payment of special assessments. Without the ability to delay these specials until a future date (after certain property is developed) present landowners will face truly unbearable assessments.

Amendments offered by the League of Municipalities were adopted by the House Local Government Committee. The League supports the bill. The bill passed the House on a vote of 116-7.

Senate L.G.
3-20-91
Attachment 1

MR. OR MADAM CHAIR (PERSON OR MAN) , AND DISTINGUISHED MEMBERS OF THIS COMMITTEE, GREETINGS FROM THE CITIZENS OF THE CITY OF GODDARD, AND THE GODDARD CITY COUNCIL. MY NAME IS LEE HARP, MAYOR OF THE CITY OF GODDARD. WE APPRECIATE THIS OPPORTUNITY TO TESTIFY.

AS POLICY DIRECTOR, AND SPOKESMAN FOR THE CITY OF GODDARD, I WOULD LIKE TO PRESENT THE OPINION OF THE GODDARD CITY COUNCIL CONCERNING THIS PROPOSED LEGISLATION.

ON 7-13-90 THE GODDARD CITY COUNCIL PROPOSED AN ORDINANCE, UNDER AUTHORITY OF HOME RULE, THAT WOULD ALLOW FOR DEFERRED PAYMENT OF SPECIAL ASSESSMENTS TO AGRICULTURAL PROPERTIES INCLUDED IN A BENEFIT DISTRICT. THE PROPOSED ORDINANCE MIRRORED A STATE STATUTE WHICH CURRENTLY AFFORDS FIRST CLASS CITIES THIS SAME LUXURY, WITH A MINOR CHANGE IN MINIMUM ACREAGE REQUIREMENTS. THIS PROPOSED LEGISLATION WAS THEN SENT TO THE ATTORNEY GENERALS OFFICE FOR AN OFFICIAL OPINION AS TO ITS LEGALITY. IN RESPONSE, WE RECEIVED A PHONE CALL FROM THE A.G.'S, INDICATING THAT THEY FOUND NO PROBLEMS WITH THE PROPOSED LAW AND THAT THEY WOULD FOLLOW UP WITH AN OFFICIAL WRITTEN OPINION. THIS WRITTEN OPINION WAS NEVER RECEIVED, AND UPON ADDITIONAL INQUIRES WE WERE INFORMED THAT THE KANSAS SUPREME COURT HAD RECENTLY ISSUED A DECISION THAT QUESTIONED THE AUTHORITY OF HOME RULE, AND THAT, AS A RESULT, THE ATTORNEY GENERAL'S OPINION HAD BEEN REVERSED.

*Senate L.G.
3-20-91
Attachment 2*

THIS BACKGROUND EXPLAINS TO YOU WHY WE ARE BEFORE YOU TODAY. THE GODDARD CITY COUNCIL STRONGLY BELIEVES THAT OUR CURRENT DRAINAGE AND STREET PROJECTS ARE JUST AS IMPORTANT AS THOSE OF ANY FIRST CLASS CITY. WE ALSO STRONGLY BELIEVE THAT PROPERTY OWNERS IN THE CITY OF GODDARD SHOULD BE AFFORDED THE SAME RIGHTS AND PRIVILEGES AS PROPERTY OWNERS IN FIRST CLASS CITIES.

WE CURRENTLY HAVE TWO PROPERTIES IN OUR BENEFIT DISTRICT THAT QUALIFY UNDER THIS PROPOSAL. THE FIRST ONE IS A FAMILY FARM RESIDENCE, AND GROUNDS, USED FOR LIVESTOCK. IT COMPOSES APPROX. 2.75 ACRES OF THE BENEFIT DISTRICT.

THE SECOND PARCEL OF LAND BELONGS TO THE GRACE SOUTHERN BAPTIST CHAPEL. IT COMPOSES APPROX. 9.5 ACRES OF THE BENEFIT DISTRICT, OF WHICH OVER EIGHT ACRES IS ACTIVE WHEAT GROUND. A REPRESENTATIVE OF THE CHURCH IS PRESENT TO INFORM YOU OF THEIR DILEMMA, HOWEVER I WILL STATE THAT THE GODDARD ENGINEER ESTIMATES THAT THE CHURCHES TOTAL COMMITMENT ON THE UPCOMING BOND ISSUES TO BE APPROX. \$70,000.00.

AN ASSOCIATION OF MAYORS IN SEDGWICK COUNTY, WHICH REPRESENTS 18 CITIES OF THE SECOND AND THIRD CLASS, SUPPORTS THIS BILL, AS DOES THE KANSAS LEAGUE OF MUNICIPALITIES, AND THE KANSAS HOUSE OF REPRESENTATIVES.

IN CONCLUSION, WE BELIEVE THAT THIS PROPOSED LEGISLATION WILL BE AN ASSET TO ALL SECOND AND THIRD CLASS CITIES, SOME OF WHICH MAY HAVE BEEN PREEMPTED IN THE PAST IN THE AREAS OF INFRASTRUCTURE IMPROVEMENT AND ECONOMIC DEVELOPMENT. WE DO NOT BELIEVE THAT WE ARE ASKING FOR PREFERENTIAL TREATMENT, RATHER THAT WE ARE MERELY ASKING FOR EQUAL TREATMENT, VIA STATUTE SUPPORT.

I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE REGARDING THIS IMPORTANT ISSUE.

THANK YOU FOR YOUR CONSIDERATION.

3-19-91

STINSON, MAG & FIZZELL
(GILMORE & BELL)

ONE MAIN PLACE

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March 15, 1991

Sen. Donald L. Montgomery
Chairperson
Senate Committee on Local Government
State Capitol
Topeka, KS 66612

Re: House Bill No. 2110

Dear Senator Montgomery:

On Wednesday, March 20, 1991 the Senate Committee on Local Government (the "Committee") will conduct a hearing on House Bill No. 2110 (the "Bill"). At that time the undersigned, as Bond Counsel to the City of Goddard, Kansas (the "City") proposes to testify with respect to certain technical and legal matters relating to the Bill. The purpose of this correspondence is to summarize the comments made to be made to the Committee.

The Bill proposed to amend certain sections of an act relating to delay in payment of special assessments, K.S.A. 13-10,135 (the "Act"). The Act, in its present form relates only to cities of the first class. The Act provides that such cities may provide for the delay of payment of special assessments to be levied for any public improvement previously authorized by the governing body of such city for undeveloped property [13-10,135]. The delay is for a period of not to exceed 15 years, and may, under certain circumstances be extended for an additional 10 year period [13-10,136]. In order to be eligible for such delay, the undeveloped property must be in excess of four acres, be primarily used for agricultural purposes, have a population density of less than one family per acre and not be served by such public improvement [13-10,138]. In the event that delay is granted by the governing body of such a city, the city at large would provide payment on any bonds issued to finance the improvements

Senate L.G.
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Attachment 3

Senator Montgomery
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until such delay expired; thereafter the property owner benefitted by the delay must repay the city the same amount that was originally specially assessed [13-10,139].

The Bill, as amended by the House Committee on Local Government, proposes to amend the Act to allow any city to utilize the delay in payment of special assessment procedures [section 1] following a financial analysis [section 2]. The Bill also reduces the size limitation of undeveloped properties from four acres to two and one-half acres and removes the requirement that the undeveloped property not be served by the public improvement [section 3]. All other provisions of the Act would remain intact.

The Bill was requested by the City in order to remedy a perceived inequity in assessing a certain public improvement project in the City. The City was prepared to proceed to implement its own delay in payment guidelines for such project pursuant to its home rule powers granted in Article 12, Section 5 of the Kansas Constitution, as had other cities in similar situations. However, prior to adoption of such home rule ordinance, the decision of the Kansas Supreme Court in the case of Blevins vs. Douglas County, et al. ("Blevins") was rendered. The language in Blevins has caused Bond Counsel and the Attorney General to advise the City that adoption of such an ordinance would not be proper; legislation would be needed.

It is important for the Committee to note that the Bill and the Act do not authorize any city to commence any public improvement project. Specific other authority must be followed to initiate projects. The Act, as amended by the Bill, only authorizes governing bodies of cities to consider delay in payment of special assessments along the guidelines set forth in the legislation following a financial analysis of the impact of such delay on the city; the Act is discretionary not mandatory. It is also important to note that the Bill, if adopted in its present form, would make the Act uniform and not subject to charter ordinance under the Constitutional provisions mentioned above.

During the course of a similar hearing in the House Committee on Local Government, Mr. Mosier of the League of Municipalities requested that the Bill be amended in several respects. The City concurred with Mr. Mosier's request and the House Committee subsequently amended the Bill to its present form.

Senator Montgomery
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The undersigned appreciates the opportunity to appear before the Committee. Should you or any other Committee members or staff have any questions concerning this matter, please feel free to contact the undersigned.

Very truly yours,

STINSON, MAG & FIZZELL



Joe L. Norton

JLN:rrb

cc Representative Bowden
City of Goddard, Kansas



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: Senate Committee on Local Government
FROM: Jim Kaup, League General Counsel
RE: House Bill No. 2110--City Deferment of Special Assessments
DATE: March 20, 1991

The League is in support of HB 2110, as amended by the House, which would authorize the governing bodies of all cities to extend special assessments under certain circumstances.

Most city special assessments in Kansas are undertaken pursuant to the K.S.A. 12-6a procedure. Under K.S.A. 12-6a10, the maximum period of time for which a city may permit the payment of special assessments is 20 equal annual installments. Usually, the bonds necessary to finance a local public improvement, covering both the city's share of the cost and the share to be paid by the benefiting property, are issued for 10 or 15 years, and the annual installments are set so that the payments equal the principal and interest due each year.

In some instances, such as for the extension of water or sanitary sewer mains, some property within the benefit district may be undeveloped, and the owners of such property may object to the payment of special assessments until the time when they can make actual use of the improvement, even though the value of the property is enhanced by the improvements. Further, the owners of such undeveloped property occasionally permit their taxes and special assessments to become delinquent. In these situations, the ability to defer specials may be of benefit to the general public as well as the affected property owner.

The League respectfully asks for your favorable consideration of HB 2110.

Senate L.G.,
3-20-91
Attachment 4



"Service to County Government"

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Topeka, Kansas 66603
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FAX (913) 233-4830

EXECUTIVE BOARD

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Edwards County Commissioner
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NACo Representative

Keith Devenney
Geary County Commissioner
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Executive Director

John T. Torbert

To: Senator Don Montgomery
Members Senate Local Government Committee

From: Bev Bradley, Deputy Director
Kansas Association of Counties

Re: HB 2015 Maintenance of Township Roads

We understand this bill is the result of an interim study which addressed the problem of maintenance and construction of township roads by counties and the concern of liability resulting from providing this service. A problem exists in some counties that are not under the county unit road system.

When a township has voted to turn the maintenance, repair and construction of the township roads to the county as provided in KSA 68-560 and 68-561, the statute allows the township board to turn over road equipment and unused road money to the county to provide the maintenance service. The township board then sets the amount for the levy each year. Many times the agreements have been in affect 25 or more years and the township board does not levy enough money to provide adequate maintenance. Another problem is that in many rural townships the valuation has gone down the past several years with the removal of livestock and farm machinery from the tax roles. The county is stuck with providing the maintenance and must spend money levied for other projects to keep the roads in safe condition or face the liability if proper care is not taken.

As we understand this bill, the agreements that have been in place would be negated and any new agreements would be in writing and must specifically state the duration of such agreement. I have spoken to a Decatur County Commissioner at the time of the hearing in the House Local Government committee and they think this bill will satisfy their concern. The Kansas Association of Counties is in support of HB-2015.

Senate L.G.
3-20-91
Attachment 5

Total Vehicle Registrations by County, CY 1999

COUNTY	AUTO	TRUCK	TRAILER	MOTOR CYCLE	MOTORIZED BIKE	* SPECIAL REGISTRATIONS	TOTAL
ALLEN	8,492	5,180	771	453	225	383	15,504
ANDERSON	5,127	3,303	496	238	95	300	9,559
ATCHISON	10,123	4,860	605	386	46	464	16,484
BARBER	3,716	2,866	442	168	53	159	7,404
BARTON	20,707	9,829	1,847	789	126	856	34,154
BOURBON	9,087	4,923	652	399	119	339	15,519
BROWN	6,968	3,630	662	359	108	302	12,029
BUTLER	28,544	14,780	2,287	1,281	386	2,058	49,336
CHASE	1,765	1,464	204	91	10	120	3,654
CHAUTAUQUA	2,375	2,474	320	99	19	191	5,478
CHEROKEE	10,647	6,162	732	414	100	857	18,912
CHEYENNE	2,115	1,705	287	128	12	72	4,319
CLARK	1,624	1,221	175	101	13	106	3,240
CLAY	6,034	3,582	463	266	62	268	10,675
CLOUD	6,820	3,764	614	381	42	246	11,867
COFFEY	5,411	3,647	506	317	80	315	10,276
COMANCHE	1,418	1,214	164	54	2	102	2,954
COWLEY	21,876	11,276	1,547	977	263	1,194	37,133
CRAWFORD	19,361	8,693	1,138	817	303	1,238	31,550
DECATUR	2,430	1,905	414	146	10	113	5,018
DICKINSON	12,903	7,252	761	571	161	593	22,241
DONIPHAN	4,664	2,890	540	243	17	308	8,662
DOUGLAS	40,792	12,643	1,639	1,773	645	2,704	60,196
EDWARDS	2,596	2,066	299	150	43	137	5,291
ELK	2,232	1,868	249	65	24	79	4,517
ELLIS	16,801	7,004	1,126	674	138	785	26,528
ELLSWORTH	3,606	2,363	468	244	53	202	6,936
FINNEY	17,029	8,552	1,275	844	113	1,134	28,947
FORD	14,331	7,316	1,043	641	85	746	24,162
FRANKLIN	13,780	6,989	1,093	748	323	742	23,675
GEARY	18,506	5,563	504	840	118	1,307	26,838
GOVE	2,169	1,791	343	158	38	113	4,612
GRAHAM	2,247	1,765	322	112	26	88	4,560
GRANT	3,922	2,778	672	273	37	266	7,948
GRAY	3,037	2,688	418	173	16	190	6,522
GREELEY	989	1,020	209	43	0	102	2,363
GREENWOOD	4,434	3,331	587	180	48	296	8,876
HAMILTON	1,513	1,507	243	81	12	90	3,446
HARPER	4,987	3,453	486	223	33	286	9,468
HARVEY	19,610	8,152	1,299	1,102	283	1,019	31,465
HASKELL	2,110	1,795	366	139	12	210	4,632
HODGEMAN	1,495	1,724	200	77	0	62	3,558
JACKSON	7,655	4,686	684	290	38	359	13,712
JEFFERSON	10,775	6,642	1,023	534	74	647	19,695
JEWELL	2,611	2,209	559	153	15	145	5,692
JOHNSON	257,035	41,644	5,462	5,696	1,566	18,183	329,586
KEARNEY	2,211	1,954	365	153	22	250	4,955
KINGMAN	5,697	4,273	697	311	29	268	11,275
KIOWA	2,282	1,793	255	133	13	178	4,654
LABETTE	14,088	7,514	758	585	153	517	23,615
LANE	1,532	1,283	272	74	18	120	3,299
LEAVENWORTH	32,013	13,068	1,793	1,291	230	2,225	50,620
LINCOLN	2,090	1,569	274	118	26	120	4,197
LINN	5,213	3,573	744	205	57	389	10,181
LOGAN	2,097	1,472	287	147	25	124	4,152
LYON	18,719	8,411	1,094	862	220	777	30,083
MARION	8,283	4,985	608	469	94	368	14,807
MARSHALL	7,872	4,623	804	304	79	253	13,935
MCPHERSON	17,301	9,411	1,398	1,023	225	892	30,250

Total Vehicle Registrations by County, CY 1989 (cont.)

COUNTY	AUTO	TRUCK	TRAILER	MOTOR CYCLE	MOTORIZED BIKE	* SPECIAL REGISTRATIONS	TOTAL
MEADE	2,897	2,215	302	130	20	205	5,769
MIAMI	14,894	8,452	1,495	661	149	825	26,476
MITCHELL	4,214	2,804	563	223	25	207	8,036
MONTGOMERY	20,939	10,128	1,306	946	354	1,010	34,683
MORRIS	4,159	2,886	388	166	26	200	7,825
MORTON	1,964	1,867	243	108	22	150	4,354
NEMAHA	7,282	4,041	648	395	48	302	12,716
NEOSHO	10,669	6,098	979	597	223	688	19,254
NESS	2,657	2,405	487	136	17	155	5,857
NORTON	3,591	2,081	421	197	20	166	6,476
OSAGE	10,236	5,886	1,127	498	254	622	18,623
OSBORNE	3,090	2,169	490	192	15	167	6,123
OTTAWA	3,399	2,541	403	121	39	144	6,647
PAWNEE	4,759	2,784	470	260	39	232	8,544
PHILLIPS	4,349	2,351	697	272	78	205	7,952
POTTAWATOMIE	11,104	6,310	915	501	91	606	19,527
PRATT	6,801	3,871	730	301	40	353	12,096
RAWLINS	2,179	1,788	268	124	15	112	4,486
RENO	38,309	16,766	2,664	2,319	246	2,274	62,578
REPUBLIC	4,265	2,782	563	193	38	206	8,047
RICE	6,960	3,992	756	397	101	480	12,686
RILEY	25,793	7,237	977	1,092	258	1,382	36,739
ROOKS	3,879	2,701	581	233	27	222	7,643
RUSH	2,383	1,679	283	93	5	113	4,556
RUSSELL	5,226	3,301	722	233	76	358	9,916
SALINE	30,733	10,735	1,821	1,573	291	1,952	47,105
SCOTT	3,054	2,225	508	200	16	277	6,280
SEDGWICK	258,082	78,826	9,459	9,496	1,819	13,879	371,561
SEWARD	10,667	4,995	931	556	190	692	18,031
SHAWNEE	96,919	27,810	3,623	3,833	779	7,326	140,290
SHERIDAN	1,900	1,523	367	106	87	135	4,118
SHERMAN	3,954	2,607	492	244	55	261	7,613
SMITH	3,294	2,378	565	129	6	171	6,543
STAFFORD	3,603	2,456	477	160	13	126	6,835
STANTON	1,287	1,147	196	86	5	121	2,842
STEVENS	3,059	2,069	706	173	26	264	6,297
SUMNER	15,766	9,159	1,258	766	232	961	28,142
THOMAS	4,732	3,113	629	260	29	310	9,073
TREGO	2,549	1,734	408	128	19	99	4,937
WABAUNSEE	4,403	2,898	403	169	32	285	8,190
WALLACE	1,068	1,000	220	69	8	52	2,417
WASHINGTON	4,156	2,866	532	200	12	126	7,892
WICHITA	1,580	1,309	241	113	0	81	3,324
WILSON	6,508	4,119	539	323	97	360	11,946
WOODSON	2,436	1,878	302	132	56	182	4,986
WYANDOTTE	86,870	27,253	3,851	2,749	344	6,020	127,087
TOTAL	1,518,485	611,333	91,551	61,419	13,525	92,021	2,388,334

Kansas Based I.R.P. Registrations in 1989	28,183
Kansas Based Plates Issued Under Proration in 1989	28,606
Kansas 72-Hour Permits	30,433
Kansas 30-Day Permits	2,829

*Includes Personalized, National Guard, Amateur Radio, Disabled, Antique, Special Interest (Street Rods, ect.), Veteran, Ex-POW.

The above figures reflect registrations sold in the counties and reported to the Department of Revenue, Division of Vehicles, and should not be construed to be an exact number on the highways of the state.