

Approved March 31, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE M. J. JOHNSON at
Chairperson

1:35 XX a.m./p.m. on MARCH 26, 19⁹² in room 521-S of the Capitol.

All members were present except:
Representative Gomez, excused

Committee staff present:
Mike Heim, Legislative Research Dept.
Theresa Kiernan, Revisor of Statutes
Connie Smith, Committee Secretary

Conferees appearing before the committee:

Sally Thompson, State Treasurer
Paul Shelby, Assistant Judicial Administrator
Representative Walker Hendrix
E. A. Mosher, League of Kansas Municipalities
Gerry Ray, Johnson Co.

Chair opened hearings on SB 714.

SB 714 - Remittance of money to state treasurers for municipal judge training fund.

Staff gave a brief overview of SB 714.

Chair recognized Paul Shelby, Assistant Judicial Administrator, who said he would yield to the State Treasurer Sally Thompson but did provide written testimony for committee. (Attachment 1)

Sally Thompson, State Treasurer, testified in support of SB 714 and said it would allow the municipal courts to remit the fees on a more efficient and reasonable basis. (Attachment 2)

There were no opponents to SB 714 and the Chair closed the hearing.

Chair opened hearings on HB 3187.

HB 3187 - Planning & zoning unexpended township zoning money transferred to county.

Representative Walker Hendrix requested this legislation and appeared in support of HB 3187. He said he has four townships in his county some he represents and some Representative Teagarden represents. They have kept in their budgets money appropriated under K.S.A. 19-2911 for zoning purposes and don't have the ability to spend that money since they are under county-wide zoning. The county administrator advised him that they needed some mechanism to transfer that money someplace because at this point they really couldn't use it. His recommendation was to have it transferred back to the county to be used for planning and zoning purposes. There are four townships in his county affected and that is the reason for this legislation.

Representative Brown asked if he had talked to the Division of Council of Reports to see if it could be transferred as is. Representative Hendrix said it was based on contact from the county and he did not pursue it any further than with the conversation he had with the person in the Public Works Department. Representative Brown asked if he would object for her to see if there is an easier way to do it. Representative Hendrix said he would not object.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S, Statehouse, at 1:35 ~~XX~~ p.m. on MARCH 26, 1992.

There were no opponents and the Chair closed the hearing on HB 3187.

Chair opened hearings on SB 25 and said a hearing was held on March 26, 1991, last year on this same bill.

SB 25 - City & county home rule revenue authority; user fees & service charges. Re Proposal No. 24.

E. A. Mosher, League of Kansas Municipalities, presented the committee with a memorandum and gave background and intent of SB 25. He said the League supports the passage of SB 25 and offered an explanation of suggested amendments. (Attachment 3)

Mr. Mosher responded to questions from the committee.

The Chair gave Mr. Mosher permission to introduce the new Executive Director of the League, Chris McKenzie. The Chair welcomed Mr. McKenzie to the committee.

Gerry Ray, Johnson County, appeared in support of SB 25 and said they support it as a means to impose user fees in a less complicated manner than the current statute allows.

The Chair closed the hearing on SB 25.

Chair called for discussion or action on the following bills:

SB 563 - Municipalities; consolidation of functions; petitions

Staff gave a review of SB 563.

Representative Macy moved to put SB 563 on the consent calendar. The motion was seconded by Representative Brown. The motion carried.

SB 564 - Municipalities; interlocal services contracts.

Staff gave a review of SB 564.

Representative Sluiter moved to place SB 564 on the consent calendar. The motion was seconded by Representative Thompson and the motion carried.

SB 727 - Townships; board of county commissioners to serve as governing body.

Representative Brown offered an amendment with three parts. 1) Make it for county road unit system only; 2) Extend publication from 30 days to 60 days because 30 days is not very long for any opposition and; 3) Require a copy of the resolution to be sent by a certified letter to the township board. She said SB 727 was requested by Johnson county.

Discussion followed on defining inactive. Representative Brown said she defined inactive as one which has turned its roads over to the city.

Representative Brown made a motion for the committee to consider her three amendments. The motion was seconded by Representative Wempe.

Discussion followed and staff repeated the proposed amendments.

Chair called for a vote on Representative Brown's amendments. The motion carried.

Discussion followed and Chair called for a motion on the bill.

CONTINUATION SHEET

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room 521-S, Statehouse, at 1:35 XX a.m./p.m. on MARCH 26, 1992.

Representative Stephens offered a conceptual amendment that the Board of County Commissioners may adopt a resolution to take over powers, duties and functions of any township having a population less than 200. If over 200 in population, it has to be done by a petition from the township residents.

There was discussion among committee if the amendment would affect Senator Lee's township and Johnson county.

The conceptual amendment was seconded by Representative Wempe.

Chair asked if there was further discussion on Representative Stephen's amendment and called for a vote. The motion carried on the amendment.

Chair called for action on SB 727.

Representative Brown moved to pass SB 727 favorably as amended. The motion was seconded by Representative Harder and the motion carried.

HB 2954 - Incorporation of cities; territory located near other cities

The Chair said this was Representative Smith's and Hamilton's bill.

Representative Brown moved to pass HB 2954. The motion was seconded by Representative Cornfield. The Chair called for discussion.

Representative Harder said the League opposed the bill. Representative Wempe suggested putting a population requirement in the bill that only areas of a certain size could to it with a majority of the county commissioners.

The Chair called for a vote on the bill. The motion to pass HB 2954 carried. Representatives Holmes and Wempe wanted to be recorded as voting "no".

Meeting was adjourned at 2:45 p.m.

Senate Bill No. 714
House Local Government Committee
March 27, 1992

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Madam Chairperson and members of the committee:

I thank you for the opportunity to discuss with you Senate Bill No. 714 which sets out a procedure to be followed by municipal courts in remitting collections of fees for municipal court training fund to the State Treasury. This is a proposal from the State Treasurer which we support.

Senate Bill 714 permits municipal courts to delay the monthly remittal of municipal training fund assessments to the State Treasurer in any month where assessments are less than \$250.00 and until that amount is accumulated. Regardless of whether the \$250.00 amount is reached or exceeded remittal of moneys on hand is required on December 31 which provides for an end-of-the-year clearing of the account which is good governmental accounting practice.

Thank you for your kind attention. I urge you to adopt this proposal favorably to assist some small city municipal courts to economize on check writing.

PS
3-26-92
attach. 1



STATE OF KANSAS

Sally Thompson
TREASURER

900 JACKSON, SUITE 201
TOPEKA, KANSAS 66612-1235

TELEPHONE
(913) 296-3171

Testimony on SB 714 presented
by State Treasurer Sally Thompson
before House Local Government Committee
March 26, 1992

Madam chairperson, Rep. Johnson, and members of the committee.
I appreciate the opportunity to briefly discuss SB 714 which amends
KSA 12-4116 regarding the remittance of fees to the state treasurer
for the municipal judge training fund. We are finding that a number
of the municipal courts have very small remittances:

Municipal Court Judge's Fees

Collections per QTR in Dollars	1st QTR '92		2nd QTR '92	
	#	Amt	#	Amt
\$ 00 - \$ 50	303	\$ 2,159*	307	\$ 2,352*
\$ 51 - \$100	25	\$ 1,879	22	\$ 1,607
\$100 - \$250	23	\$ 3,575	23	\$ 3,558
\$251 - \$999	17	\$ 7,668	19	\$ 9,939
> \$1,000	8	\$24,113	5	\$18,251

* average amount per check per month: \$2.40

As amended by the Senate committee, SB 714 provides improved
language to allow the municipal courts to remit the fees on a more
efficient and reasonable basis: "If the amount of assessments
collected in a month are less than \$250, the municipal court may
delay remitting its assessments until a month in which the
cumulative amount of assessments collected equals or exceeds \$250.
If the cumulative amount of assessments collected never equals or
exceeds \$250 for the year, the amount of assessments collected and
on hand on December 31 of the year shall be remitted to the state
treasurer."

If you have any questions I will be happy to answer them.

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Attach 2



THE LEAGUE
OF KANSAS
MUNICIPALITIES

Municipal
Legislative
Testimony

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Local Government
FROM: E.A. Mosher, Research Counsel, League of Kansas Municipalities
RE: SB 25--City and County Home Rule Fees and Charges
DATE: March 26, 1992

The League supports passage of SB 25. Most of the arguments for its passage are set forth in the 1991 report of the interim study of the Special Committee on Local Government. For your convenience, the Committee's conclusions are set forth below:

"The Committee encourages local governments to expand the use of service charges and user fees at the local level as one means of relieving pressure on ad valorem property taxes. The Committee likewise recommends that cities and counties review existing service charges and user fees to determine if the fees are set at an adequate level to reimburse the costs of the program or service."

"The Committee recommends that both K.S.A. 12-137 and K.S.A. 19-117 be amended to clarify that protest petition and election procedures do not apply when cities and counties establish or raise service fees or user charges. The recommendation is included in S.B. 25. The Committee believes that to make all user charge or service fee decisions of a local governing body subject to a protest and election procedure would be disruptive to the operation of their governments. The Committee simply believes local governing bodies should be able to set local swimming pool admission charges, softball participation fees, meeting hall rentals, and other similar matters without subjecting these everyday decisions to the protest petition and election procedures."

Background

Some confusion now exists as to the procedural requirements for the exercise of home rule powers by cities and counties when levying service fees and charges. Part of this confusion is whether a user fee or service charge, not specifically authorized by statute, is levied under home rule powers (and thus subject to K.S.A. 12-137 and 19-117) or under inherent, governmental "police" or "implied" powers. **SB 25 would clarify the matter by simply removing normal user fees and service charges from the special procedures of K.S.A. 12-137 and 19-117, in the same manner that permit or license fees for regulatory purposes are now specifically excluded.** This special procedure requires a two-thirds vote of the governing body, two newspaper publications, and makes the ordinance or resolution subject to a petition for a referendum. Under SB 25, only an ordinary home rule ordinance or county resolution would be required for such non-tax fees and charges when levied by an elected governing body.

Some examples of user fees and service charges which may be affected by this bill include swimming pool admission fees, golf course green fees, auditorium rentals, and fees for using city parking lots. Attached is a list of various fees and service charges used by cities.

Subsection 1 (b) beginning on page 1, and subsection 2 (e) on page 3, were added to the bill by the Senate Local Government Committee in an effort to make certain that mandated payments required of a land developer, commonly called "impact fees", could only be enacted in the same manner that a home rule tax may be levied. **However, we think further changes**

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attach 3

are needed to this subsection--see attached amendments.

Explanation of Amendments

The absence of a reference to the home rule authority in the proposed new subsections (b) as to cities and (e) as to counties could lead to some future confusion and misinterpretation of the intent. For example, it could be interpreted to mean that a payment required of a land owner as a special assessment for a public improvement must be levied in the same manner as a home rule-based tax, even though the special assessment is levied in accordance with an existing statute. The purpose of K.S.A. 12-137 and 19-117 is to establish a procedure for enacting home-rule based ordinances and resolutions for revenue purposes, "a procedure for the levy of which is not otherwise prescribed by enactment of the legislature." (line 23 on page 1 and line 12 on page 2.) The amendment carries out this intent.

Explanation of Bill as Amended.

The intent of SB 25 is to clarify certain home rule procedural requirements. If passed, there would be three types of home rule-based revenue measures:

- (1) Service fees and user charges which do not exceed the costs, which would require an ordinary ordinance or county resolution;
- (2) Permit or license fees for regulatory purposes, which would require an ordinary ordinance or county resolution; and
- (3) Taxes, excises and other exactions, including development impact charges, which would require a special ordinance or resolution, passed by a two-thirds vote of the governing body, with two publications and subject to a petition for a referendum. **Further**, any home-rule based revenue measure that may be called a user fee or service charge, but exceeds the cost, must be levied as if it were a tax.

In conclusion, we suggest your position on SB 25 depends heavily on (1) whether you think user fees and service charges should be used more, as an alternative to increased property taxes, and (2) whether you think locally elected governing bodies can be trusted to make these decisions, without the need for a two-thirds vote, two publications, and the possibility of a petition for a referendum.

The League suggests that the existing procedural requirements tend to discourage the use of service charges or revising existing amounts to cover costs, and that local governments can be trusted to make appropriate local decisions. It seems to us that the procedure for levying a service charge should not be more difficult than the levying of a property tax--which does not even require an ordinance or resolution. Thus, we support passage of SB 25.

SENATE BILL No. 25

By Special Committee on Local Government

Re Proposal No. 24

12-28

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

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

Section 1. K.S.A. 12-137 is hereby amended to read as follows: 12-137. (a) Where, under the power of cities granted by paragraph (b) of section 5 of article 12 of the constitution of Kansas, the governing body of any city by ordinance proposes to levy for revenue purposes any tax, excise, fee, charge or other exaction other than user fees, service charges, or permit fees or license fees for regulatory purposes, which is not limited or prohibited or a procedure for the levy of which is not otherwise prescribed by enactment of the legislature as provided by said paragraph (b) of section 5 of article 12 of the constitution of Kansas, such ordinance shall require a two-thirds (2/3) vote of the members-elect of the governing body and shall be published once each week for two (2) consecutive weeks in the official city newspaper.

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

(b) Any financial payment required of an owner or developer of

under the authority of section 5 of article 12 of the constitution of Kansas,

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.

Sec. 2. K.S.A. 19-117 is hereby amended to read as follows: 19-117. (a) Where the board of county commissioners of any county by resolution proposes to levy for revenue purposes any tax, excise, fee, charge or other exaction other than user fees, service charges, permit fees or permit or license fees for regulatory purposes, a procedure for the levy of which is not otherwise prescribed by enactment of the legislature, such resolution shall require a two-thirds (2/3) vote of the members of the board and shall be published once each week for two (2) consecutive weeks in the official county newspaper.

election officer demanding that such resolution be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. The board of county commissioners of any county may submit any resolution providing for such levy to a referendum without petition. Resolutions authorizing such levies submitted to referendum without petition may be passed by a majority vote of the board of county commissioners and shall be published once in the official county newspaper.

(b) Any county election called under the provisions of this act shall be called within thirty (30) 30 days and held within ninety (90) 90 days after the filing of a petition demanding such election. The board of county commissioners shall pass a resolution calling the election and fixing the date, which resolution shall be published once in the official county newspaper. The sufficiency of the number of signers of any petition filed under this act shall be determined by the county election officer. Every election held under this act shall be conducted by the county election officer. The county election officer shall publish a notice of such election once each week for three (3) consecutive weeks in the official county newspaper, the first publication to be not less than twenty-one (21) 21 days prior to such election. Said Such notice shall state the time of the election and the proposition which shall appear on the ballot. The proposition

shall be: "Shall revenue resolution No. _____ entitled (title of resolution) take effect?"

(c) The board of county commissioners shall be required to submit to a referendum the question of levying any tax or other revenue measure, authorized by the provisions of this act or other enactment referring to this act, upon the receipt of a petition signed by not less than five percent (5%) 5% of the qualified electors of such county, or upon receiving resolutions requesting such an election passed by the governing body of each of one or more cities within such county which contains a population of not less than twenty-five percent (25%) 25% of the entire population of the county. If a majority of the electors voting thereon at such election shall approve the proposed tax or other revenue measure, the board of county commissioners of such county shall then provide by resolution for the levy of such tax or other revenue measure. An election held under the provisions of this section shall be scheduled and conducted in the same manner as if a resolution was being submitted to the electors, except that the proposition shall state the nature of the tax or revenue measure, the proposed rate and the date it would take effect.

(d) Any county tax or other revenue measure adopted under the provisions of this section shall continue in effect until amended or repealed by a resolution of the board of county commissioners which has also been adopted under the provisions of this section.

(e) Any financial payment required of an owner or developer of

under the authority of K.S.A. 19-101a as amended

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 this section.

(f) 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.

Sec. 3. K.S.A. 12-137 and 19-117 are hereby repealed.

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

Examples of Fees and Service Charges Levied by Kansas Cities

Note: Some of those are covered by a statute or are levied for regulatory purposes, and thus exempt from the procedures of K.S.A. 12-137.

Airport. Lease payments by operator or for hangers, restaurant concessions, space rental, land rental for crops, sale of fuel, etc.

Ambulance Service. Charges, based on cost for service.

Animal Impounding. Most cities which provide for the impounding of animals running-at-large in violation of an ordinance make various impounding charges against the person who redeems the animal.

Auditorium. Cities with auditoriums usually have a schedule of charges for the use of facilities.

Bicycle Licenses. A number of cities require the payment of a small annual fee by the owners of bicycles. A license tag is usually furnished.

Boxing and Wrestling. Gross receipts fees for professional matches. See K.S.A. 12-5102.

Building Demolition and Removal Fee. Used mostly by larger cities.

Building Inspection Fees. For services.

Building Rental. Sometimes there are city owned buildings or space to rent.

Cat Licenses. Used by a few cities.

Cemetery. Sale of grave spaces or lots and charges for digging graves.

Dog License Fees. For regulatory purposes.

Eating Establishments. License fees are common if there is a regulatory ordinance.

Electrical Inspection Fees. For services.

Electrician Examination Fees. Many cities license electricians.

Fire Inspection Fees. Not common.

Fire Fighting Service Outside City. Several statutes provide for contracts by individuals, corporations and fire districts and a city.

Gas Inspection Fees. For services.

Golf Course Fees. For services.

Hospital. City-owned hospitals make charges for services provided.

Lakes. Cities which have lakes for parks or reservoirs often make charges for fishing, hunting, boating, shelter house rental, camping, etc.

Library. Rental of books and other library material, charges for overdue books and nonresident user fees.

License Fees. These are related to regulations pertaining to certain businesses and occupations such as pool halls, video games, bowling alleys, circuses, etc. The fee must bear some relationship to the cost of regulations.

Machinery and Equipment. Rental of.

Maps. Some cities sell maps of the city.

Mobile Home. Fees for mobile home park permits.

Motor Vehicle Accident Reports. Copying charges.

New Goods, Public Auction. License fee of \$25 a day. See K.S.A. 58-1020.

Nuisance Abatement. The cost may be assessed against the property.

Ordinances. Cities which have adopted codes of ordinances usually charge for a copy. Charges for copies of individual ordinances are often made.

Parking Charges--Off-Street. For services.

Parking Meter Charge. For regulatory purposes.

Parks. The income from a city park depends upon the chargeable facilities. Concessionaires usually must pay the city for the privilege. Fees are often charged for using the swimming pool, golf course, cabin site rentals, hunting and fishing permits on city property, zoo admission, tennis courts, etc. Additional fees are sometimes imposed for nonresidents.

Pawnbrokers. License fee under K.S.A. 16-707.

Personal Property, Unclaimed, Lost or Stolen. Periodic sales.

Plans for Public Works. Usually a prospective bidder on a public works project is required to pay a stated charge for a copy of the plans and specifications or to make a deposit which is forfeited in case the plans and specifications are not returned.

Plumbers Fees. Some cities charge for examinations given to plumbers and for license fees.

Plumbing Inspection Fees. For services.

Police. Charges for funeral and money escorts and other special services.

Precious Metal Dealers. License fee under K.S.A. 16-707.

Recreation. Fees for services, use of facilities.

Refuse Collection Charges. For services.

Refuse Disposal Charges. For services.

Rentals. Auditoriums, real estate, etc.

Royalties. Oil, gas and other minerals.

Scales. Fees for use of public scales.

Sewage. Sale of sewage and sludge for fertilizer, irrigation.

Sewerage Service Charges. Commonly used.

Sewer, Connection Charge. Often substantial.

Signs On Buildings. Permit fee.

Street Privileges. Permit fees, either as a single charge or annually, and other charges, are made by some cities for special street privileges such as: overhanging signs, areas under sidewalks, scales or truck docks and loading platforms, crossings over streets, tanks under streets, etc.

Street Charges. Permit fees or charges for cutting pavement, replacing trenches, cutting curb, marking driveways, etc.

Subdivision Plans. Charge for processing and reviewing.

Swimming Pool Admissions. For services.

Taxis. Annual license fee.

Trees. Charges for removal from right-of-way.

Transient Merchants and Peddlers. License regulatory fee.

Water, Connection Charge. Both initial hook-up and reconstructions.

Weeds. Assessment for destruction, mowing.

Weights and Measures Inspections. For services.

Zoning Fees. Charge, based upon costs for publications and processing.

Zoo Admissions. For services.