

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Kent Glasscock at 1:30 p.m.. on February 20, 1996 in Room 521-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative John M. Toplikar
Representative Vaughn L. Flora
Ernest A. Mosher, City of Topeka
Representative Dan Thimesch
Eldon Smith, Sedgwick County, Greeley Township, Eagle
Drainage District
Wayland Anderson, Kansas Dept. Of Ag. DWR

Others attending: See attached list

Representative Miller moved that the minutes of the February 8, February 1, and February 15, 1996 meetings be approved. The motion was seconded by Representative Pettey. Motion passed.

Chairperson Glasscock called the Committee's attention to the letter from the office of the Attorney General in reply to his letter of February 9, 1996, regarding the application of home rule to reimburse members of a city or county planning commission for travel expenses. A written response was promised as soon as possible. (Attachment 1.)

The Chairperson opened the public hearing for:

HB 2831: Olathe library; election of library board members.

Chairperson Glasscock recognized Representative Toplikar who spoke as a proponent for **HB 2831** which he said was specific to the City of Olathe and its library board. He stated that this bill provides Olathe with another option on the governance of the city's library. (Attachment 2.)

During the questioning, Representative Pettey asked if this bill is similar to one in the past. Representative Toplikar said that it was similar to a bill two years ago, but the difference is that bill tried to apply the option state-wide to all first class cities. He stressed that **HB 2831** is specific to Olathe. Another difference from the bill passed out of Committee two years ago is that bill gave the library board a six mill taxing authority, and this bill limits it to four mills. Representative Pettey also wanted to know how this bill would affect the citizen's commission which is studying the issue as to whether Olathe wants to merge into the Johnson County system. Representative Toplikar said that it won't have any effect, and that both issues could be put on the ballot at the same time. Representative Becker questioned why this bill contained nine pages, and Representative Toplikar said the new law was amended and basically a large portion concerns the election of a library board and if they want an elected board. He assured the Committee that there is no state mandate in this bill whatsoever. This is an option which is enabling legislation to allow Olathe to tax itself. He pointed out a mistake in the fiscal note which should read up to four mills rather than six mills. Representative Petty asked the staff about how many local elected entities Kansas now has. Mike Heim of the Research Staff said that Kansas is about fifth in the nation in the number of local governments. In terms of the number of elected officials, a separate census report shows Kansas up at the top of that list, too, and he said that the trend is for an increase in the number of special district governments. Representative Luthi asked who really wants this bill since Representative Toplikar mentioned that the mayor and others were neutral. Representative Toplikar said that he was taking a little leadership in his community by asking for another option, and hopefully eliminate some of the squabbles concerning the community conflict and budget decisions. Representative Luthi commended Representative Toplikar for taking this leadership position.

Chairperson Glasscock closed the public hearing on **HB 2831.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 20, 1996.

Chairperson Glasscock asked the Committee to turn its attention to:

HB 2923: Rehabilitation of abandoned structures; organization receive transfer by action of the district court.

The Chair recognized Representative Flora who was a proponent for **HB 2923**. He said he felt this legislation was necessary since research indicates that cities have not used the present law allowing abandon housing stock to be transferred to an organization for rehabilitation and use by low to moderate income people. He believes that cities are reluctant to use the law in its present form because they are fearful of a lawsuit. **HB 2923** would allow the cities to serve as the decisive body in determining abandonment or allow the district court to fulfill that role.(Attachment 3.)

Chairperson Glasscock called Ernest Mosher, City of Topeka, who spoke as a proponent for **HB 2923**. He opened by asking the Committee to look at the bill itself, and he pointed out the changes being made. He said the **HB 2923** was requested by the City of Topeka and is sponsored by seven members of the Shawnee County legislative delegation, as well as other House members. The purpose is to create an alternative procedure for transfer of temporary possession of abandoned housing. He said the bill is simple and straightforward, and that the real issue is the hesitancy on the part of the City of Topeka to utilize the law. Originally the 1994 Kansas law was modeled after an Illinois law, but the versions differ in one important respect. "Under the 1994 Kansas act a finding of abandonment and the transfer of temporary possession to a housing organization are actions of the city governing body. Under the Illinois law such findings and actions are by the district court." He said that "the Topeka City Attorney's office believes there is less potential for liability for a city under the Illinois model than the Kansas model." Mr. Mosher also read from testimony prepared by Jim Kaup, City of Topeka. (Attachment 4.)

Since there was no additional testimony, Chairperson Glasscock closed the public hearing on **HB 2923**.

Chairperson Glasscock opened the public hearing on:

HB 2980: Drainage districts; apportionment of costs.

The Chair recognized Representative Thimesch who spoke as a proponent for **HB 2980**. Representative Thimesch said that this is a simple bill dealing with drainage districts. He said that since most watercourses were modified from natural watercourses over time, the first change to add the language of man-made is important. The second change deals with the work actually performed on the watercourse and needs the addition of the words maintain or otherwise improve. He said that when drainage districts level costs and expenses on work performed on these ditches, it is not clear as to what type of work can actually be performed, and this bill clarifies the work that is already being done. (Attachment 5.)

Chairperson Glasscock recognized Eldon Smith, a resident landowner in Sedgwick County, Greeley Township, Eagle Drainage District, who spoke in favor of **HB 2980**. He said that he supports this bill because it enhances the comprehensiveness of K.S.A. 24-628 and enhances the enforceability of same in the problem area below Hutchinson. He closed by asking the Committee to "Please lawmakers, give us this day our daily maintenance." (Attachment 6.)

During discussion, Representative Becker asked who is going to decide what work needs to be done and who is going to pay for it. He asked if the two drainage districts work together and how does the mechanics of that work? Representative Thimesch offered to try to answer the question with the help of staff. He said that it was already in the statute as to the way a district can levy those types of cases. He explained that there have been no changes in the law as to who is responsible for paying the costs. Representative Thimesch assured the Committee that this bill will provide more cooperation rather than creating additional problems. He also explained that the language was being changed to deepen the drainage ditches as well as widen them, thus the language to otherwise improve it. On Representative Powers' question of who is going to pay for it, the answer was that current statute says that right now any drainage district can levy an assessed value on anyone who contributes to the water ditch. All this bill is doing is instead of saying that we are going to deepen this ditch, we say we are going to improve it.

The Chair recognized Wayland Anderson, Kansas Department of Agriculture, who also spoke in favor of **HB 2980**. Chairperson Glasscock closed the public hearing on **HB 2980**.

Chairperson Glasscock asked the Committee to direct its attention back to **HB 2923.- Abandoned property bill.**

Representative Mays moved that **HB 2923** be marked favorable for passage. Representative Welshimer seconded the motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 20, 1996.

Representative Mays moved that **HB 2923** be amended to correct the error on page two, line 3 by changing the word extent to extend. Representative Welshimer seconded, and the Motion Passed.

The Chairperson asked the Committee to turn its attention back to **HB 2923** as amended. Representative Grant made a motion to amend **HB 2923** to clarify the constitutionality issue. Representative Sloan seconded. The motion passed.

Representative Ott made a motion to move **HB 2923** out marked recommended favorable for passage. Representative Grant seconded. Motion passed.

The Chair asked the Committee to turn to **HB 2980**-the drainage district bill. Representative Thimesch moved that **HB 2980** be passed out of the Committee marked favorable for passage and since it is non controversial, that it be put on the consent calendar. Representative Mays seconded. Motion passed.

Chairperson Glasscock next asked the Committee to direct its attention to **HB 2831**-the library bill.

Representative Toplikar made a motion to move **HB 2831** out of Committee marked favorable for passage. Representative Tomlinson seconded the motion.

Representative Pettey made a substitute motion to amend **HB 2831** on lines 28 through 30 where it speaks to a special election to eliminate the possibility of a special election and the costs involved. Representative Sloan seconded the amended substitute motion. Motion passed.

Representative Toplikar moved to pass out **HB 2831** as amended and marked favorable for passage. Representative Tomlinson seconded. Motion passed. Representative Pettey asked to be recorded as a "no" vote.

Chairperson Glasscock directed the Committee's attention to **HB 2230**. The Chair asked Mike Heim to give the Committee a brief summary of this bill. He said that basically the amendment to this bill would provide that any municipality if it is a county, school district or community college, and if the proposed agreement involves the acquisition of land or buildings, and is for a term exceeding the current fiscal year and provides for payments in excess of \$50,000, the government entity that plans to issue certificates of participation has to pass a resolution of intent and that resolution is subject to a 5% protest petition.

During discussion, Representative Pettey asked Representative Mays to explain the balloon. He said that it narrows down who is affected by this. It eliminates townships, cities, municipal universities, and drainage districts, but includes counties, community colleges, and school districts. He stressed that the real abuse occurs when a bond issue fails to pass and they can turn around and sign a lease purchase agreement.

Representative Pettey made a substitute motion to amend the balloon of **HB 2230** to only include community colleges, and language speaking to the amount of \$50,000, and to use terms of 3 or more years and in excess of 3% if the total budget is subject to a protest in an election. Representative Welshimer seconded.

Representative Tomlinson said that Representative Pettey's motion was to amend the balloon which really could not be done yet because it affects the original bill and not the amendment. Representative Sloan said that he believed the original bill amended the statute that Rep. Pettey was addressing. A vote was taken on the substitute motion to amend the balloon of **HB 2230** and it failed.

Representative Powers moved to approve the balloon on **HB 2230**. Representative Grant seconded. A vote was taken and division was called. Motion passed.

The Committee returned to the original Powers' motion, Part B. Representative Powers moved to pass out **HB 2230** as amended marked favorable for passage. Representative Ott seconded. Motion passed.

The meeting adjourned at 3:05 p.m.

The next meeting is scheduled for February 21, 1996.



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

February 15, 1996

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

The Honorable Kent Glasscock
State Representative, 62nd District
State Capitol, Room 115-S
Topeka, Kansas 66612

Re: OR 19-96

Dear Representative Glasscock:

Attorney General Stovall has asked me to acknowledge receipt of your letter of February 9, 1996, regarding the application of home rule to reimburse members of a city or county planning commission for travel expenses.

We will endeavor to provide a written response as soon as possible.

If you have or acquire knowledge of any legal or administrative proceedings pending or to be filed regarding the issues of your opinion request, please notify us immediately.

In any further correspondence with this office regarding your inquiry, please refer to the above-referenced opinion request number. Thank you for your continued cooperation in matters of mutual concern.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL

Mary Feighny
Assistant Attorney General

House Local Government
Attachment 1
2.20.96

MF: jm

This is a priority matter will put a rush on it. M.F.

STATE OF KANSAS

JOHN M. TOPLIKAR

REPRESENTATIVE, 15TH DISTRICT

507 E. SPRUCE
OLATHE, KS 66061



HOUSE OF REPRESENTATIVES

OFFICE: 155 EAST
TOPEKA, KS 66612
(913) 296-7683

February 20, 1996

TESTIMONY ON HB 2831

Mr. Chairman and members of the House Committee on Local Government:

This bill is specific to the City of Olathe and its library board. It provides Olathe with another option in the past and present debate on the governance of the city's library.

Over the last three years, two special citizen study commissions appointed by the current and former mayor, have failed to reach a consensus. Their mission was to debate a range of options such as recommending to the city council on whether or not to hold a referendum to merge with the Johnson County Library, to abolishing the library board itself and making it a department of the city.

No conclusions could be reached and no recommendation could be made to the city council by the study group.

Our current library was built about 1979 and meant to serve a population of about 35,000. We have more than doubled that population and still have the same capacity.

I served as a city councilman in Olathe beginning in 1989 and know that the city council and the library board have struggled consistently over the library's budget. One reason is because the library board can require the city council to levy the tax to support it, so it is in reality a "taxing subdivision" according to Attorney General opinion 87-167, even though it is an appointed board.

House Local Government
Attachment **2**
2.20.96

Currently, Kansas law allows third class cities and townships to elect library boards under KSA 12-1236 instead of being appointed. These cities budgets are small when compared to first class cities which can have million dollar budgets. Yet with their ability to elect library board members, they have a greater system of accountability and I believe that the accountability factor is the other problem besides our growth that we have in funding our system in Olathe.

If our citizens had the option of electing its library board and decided to take that option, then I believe they would be more comfortable in allowing the more accountable, elected board to expand the current services to the entire city.

As I mentioned earlier, this bill would only allow the city to elect its library as an option.

I hope the committee will favor allowing the city of Olathe another option to consider in the ongoing debate, and I ask for your support of HB-2831.

Thank you.



Rep. John Toplikar
15th District

VAUGHN L. FLORA
REPRESENTATIVE, 57TH DISTRICT
431 WOODLAND AVE.
TOPEKA, KANSAS 66607



COMMITTEE ASSIGNMENTS
MEMBER: BUSINESS, COMMERCE AND LABOR
ENERGY AND NATURAL RESOURCES
TRANSPORTATION

STATE CAPITOL
RM 278-W
TOPEKA, KANSAS 66612-1504
913-296-7658

TOPEKA

HOUSE OF
REPRESENTATIVES

HB2923

Testimony Before The House Local Government Committee

The City of Topeka has not used the present law allowing abandon housing stock to be transferred to an organization for rehabilitation and use by low to moderate income people. Calls were made 6 months ago and no other cities could be found who were using this law.

Governmental bodies are reluctant to use the law in its present form, as it designates the governmental body as the decisive body in determining abandonment, and they are fearful of a lawsuit. This bill would allow the governing body to either act as the decisive body in determining abandonment or to allow the district court to fulfill that role. I urge you to pass HB2923 out of committee favorable for passage.

A handwritten signature in cursive script that reads "Vaughn L. Flora".

Vaughn L. Flora

House Local Government
Attachment 3
2.20.96



CITY OF TOPEKA

Harry "Butch" Felker, Mayor
215 E. 7th Street Room 352
Topeka, Kansas 66603
Phone 913-295-3895
Fax Number 913-295-3850

LEGISLATIVE TESTIMONY CITY OF TOPEKA HOUSE BILL 2923

TO: Chairman Glasscock and Members, House Local Government Committee

FROM: Jim Kaup, City of Topeka

DATE: February 20, 1996

RE: **HB 2923 -- Creating an Alternative Procedure for Transfer of Temporary Possession of Abandoned Housing**

HB 2923 was requested by the City of Topeka. It is sponsored by seven members of the Shawnee County legislative delegation, as well as other House members.

BACKGROUND: The purpose of HB 2923 is simple and straightforward -- the bill proposes to amend a law passed in 1994 which created the Kansas Unsafe or Dangerous Structures and Abandoned Property Act. That 1994 Kansas law was modeled after an Illinois law which created a mechanism for rehabilitation of abandoned housing by not-for-profit private or public organizations without going through formal condemnation proceedings. Both the Illinois and Kansas laws provide for a process whereby temporary possession of abandoned residential properties is transferred, by government action, to organizations which would then undertake rehabilitation and leasing of the properties to low and moderate income persons. Both the Illinois and Kansas laws also provide a mechanism for the title owner of the property to reclaim possession and pay certain rehabilitation-related costs incurred by the housing organization which received temporary possession. Both laws also provide a means for the housing organization to acquire a judicial deed five years after acquiring temporary possession. That deed is held subject to the requirement that the housing organization use the property for low and moderate income housing for at least 10 years.

ISSUE: The Kansas and Illinois versions differ in one important respect, and that difference has led to some hesitancy on the part of the City of Topeka to utilize the law. Under the 1994 Kansas act a finding of abandonment and the transfer of temporary possession to a housing organization are

actions of the city governing body. Under the Illinois law such findings and actions are by the district court. The Topeka City Attorney's office believes there is less potential for liability for a city using the Illinois model than the Kansas model.

PROPOSED AMENDMENT: It is the City's desire to establish an alternative, not a substitute, procedure whereby a city can require a housing organization seeking temporary possession of abandoned residential property to petition the district court for such possession. Under the City's proposed amendment any city which feels comfortable in utilizing the 1994 law -- with determination of abandonment and grant of temporary possession by action of the governing body -- would continue to be able to do so. We have made some inquiry as to the use of the 1994 law and have yet to find any city which has so used it. We do not know if the lack of use of the law by other cities is a result of the same concerns Topeka has, but we suspect it may be that a similar fear of liability could be discouraging cities from using a law which has good potential for converting abandoned housing into sound, affordable residences.

New Section 1, lines 15:43 of page 1 and 1:25 of page 2, sets out the City's proposed alternative procedure whereby a housing organization petitions the district court for a finding that the property has been abandoned. The court must approve the organization's plan for rehabilitation before granting temporary possession. Under the district court "option" a person with an interest in the property, if located, can file a rehabilitation plan with the court, and would be granted time by the court to bring the property up to code compliance.

The amendments to Supp. 12-1756a and 12175b, sections 2 and 3 of HB 2923, make necessary reference to the fact that the rehabilitation law may be initiated by petitions to either the city governing body or the district court.

The City respectfully asks for your favorable consideration of HB 2923.

DAN THIMESCH
REPRESENTATIVE, 93RD DISTRICT
30121 WEST 63RD STREET SOUTH
CHENEY, KANSAS 67025
(316) 531-2995



TOPEKA

HOUSE OF
REPRESENTATIVES

HB 2980

COMMITTEE ASSIGNMENTS

EDUCATION
LOCAL GOVERNMENT

STATE CAPITOL
ROOM 278-W
TOPEKA, KANSAS 66612-1504
(913) 296-7680
1-800-432-3924
(DURING SESSION)

Thank you Committee Chairman Glasscock and the Local Government Committee.

This is a simple bill dealing with drainage districts.

The first change is to add the language of man-made. Since most watercourses were modified from natural watercourses over time, this addition is important.

The second change deals with the work actually performed on the watercourse. Adding the word maintain or otherwise improve is very important.

When drainage districts level costs and expenses on work performed on these ditches, it was unclear as exactly what type of work could be performed. Maintenance and improvements have to be done periodically.

This just clarifies the work that is already being done.

I would stand for questions but would rather give the conferees time to express their concerns.

Thank you.

Daniel J. Thimesch

House Local Government
Attachment 5
2-20-96

I am Eldon Smith, a resident landowner in Sedgwick County - Greeley Township - Eagle Drainage District. The Smiths have been at this location since 1869.

I support HB 2980 because:

1. It will enhance the comprehensiveness of KSA 24-628.
2. It will enhance the enforceability of KSA 24-628 in the problem area below Hutchinson.

There are two buzz words in HB 2980 that I consider most salient:

1. Maintain.
2. Man-made watercourse.

I can't believe that the lawmakers in 1911 intended to provide for construction and then ignore the inevitable maintenance factor. Drainage districts face a continuous maintenance problem that is most demanding.

The watercourse in question in the problem area below Hutchinson may be subject to interpretation. Prior to the intrusion of man it was in effect a wide flat grassed waterway that ran parallel to the Arkansas River from Hutchinson to Wichita. It was not a stream. It was not a natural watercourse with banks. In its present state (man-made ditches) it may not be readily identifiable; therefore subject to dispute. HB 2980 will solve this problem, and is consistent with Merriam Webster's Collegiate Dictionary Tenth Edition which defines watercourse "a natural or artificial channel through which water flows".

Eldon H. Smith
R.R. 2 Box 104
Sedgwick, Kansas 67135

House Local Government
Attachment **6**
2.20.96