

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:08 a.m. on March 14, 1996, in Room 531-N of the Capitol.

All members were present except: Senator Tillotson

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

Conferees appearing before the committee: Representative Daniel Thimesch
Representative Vaughn Flora
Ernie Mosher, City of Topeka

Others attending: See attached list

HB 2980: Concerning drainage districts; relating to the apportionment of certain costs.

Staff explained that **HB 2980** expands a drainage district law to cover man-made as well as natural watercourses and to permit maintenance of these watercourses in situations where the law now applies when two or more drainage districts discharge into the same natural watercourse and it becomes necessary to deepen or enlarge the watercourse. Each district is required to pay for the cost of the work in the same ratio as their discharge.

Representative Thimesch testified in support of **HB 2980**, explaining that the bill adds the language of "man-made" and clarifies what type of work can be performed. (Attachment 1)

Brief committee discussion followed regarding the provisions in K.S.A. 24-601 in the drainage district statute which allows drainage districts to expand their areas after going to court. With this the hearing on **HB 2980** was concluded.

Senator Downey moved to report **HB 2980** favorable for passage, seconded by Senator Feleciano. The motion carried.

HB 2923: Concerning abandoned property; relating to the rehabilitation thereof.

Representative Flora testified in support of **HB 2923** which expands current law to allow the governing body of a city to either act as the decisive body in determining abandonment of property or to allow the district court to fulfill that role. (Attachment 2)

The Chairman recalled that when the law was passed in 1994 creating the Kansas Unsafe or Dangerous Structures and Abandoned Property Act, representatives of cities preferred that the city be the one to declare property abandoned rather than the court. He requested that Whitney Damron, representing the City of Kansas City, report to the committee next week as to if the city would now support the court making the abandonment determination.

Ernie Mosher, City of Topeka, submitted written testimony in support of **HB 2923**, noting that the Topeka City Attorney's office believes there is potential for liability for a city under the current law. This potential liability could discourage cities from using the law which has good potential for converting abandoned housing into sound, affordable residences. (Attachment 3)

Staff commented that there is no precedent in the statutes where a process is decided by the city or a court. If the city can determine the property abandoned, there is no need to have the option to allow the court to do so. The option would tend to add confusion to the issue. This concluded the hearing on **HB 2923**. Committee action was scheduled for the March 19 meeting.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on March 14, 1996.

Attention was turned to HB 2830, amending the general bond law regarding bonds offered at a public sale, which was heard at the March 12 meeting. The Chairman said that Senator Langworthy, who had expressed some concern with the bill, no longer had a concern.

Senator Reynolds moved to report HB 2830 favorable for passage, seconded by Senator Gooch. The motion carried.

The meeting was adjourned at 9:36 a.m.

The next meeting is scheduled for March 19, 1996.

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TOPEKA
 HOUSE OF
 REPRESENTATIVES

HB 2980

COMMITTEE ASSIGNMENTS

EDUCATION
 LOCAL GOVERNMENT

Thank you Committee Chairman Parkinson 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.

Dan Thimesch

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 Attachment 1*

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".

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TOPEKA

HOUSE OF
REPRESENTATIVES

March 14, 1996

HB2923 As Amended

Testimony Before The Senate Committee on Local Government.

The City of Topeka has not used the present law allowing abandon housing stock to be transferred to an organization as a non-profit 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, or cities, 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.

The bill was further amended on the House floor on page 4, lines 16 through 22 to make organizations aware of property which might be considered abandon and available for rehabilitation.

I urge you to pass HB2923 out of committee favorable for passage.

Vaughn L. Flora

Rep. Vaughn L. Flora

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3-14-96
Attachment 2*



CITY OF TOPEKA

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LEGISLATIVE TESTIMONY CITY OF TOPEKA HOUSE BILL 2923

TO: Chairman Parkinson and Members, Senate Local Government Committee

FROM: Jim Kaup, City of Topeka

DATE: March 14, 1996

RE: **HB 2923 -- Amending the Procedure Under the Abandoned Property Act for Transfer of 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. While the House amendments were not requested by the City, we do support HB 2923 as amended.

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

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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 under the Illinois model than the Kansas model. 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.

TOPEKA'S PROPOSED AMENDMENT: By introducing HB 2923 it was 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. The House Committee on Local Government amended the bill to require the court proceeding in all cases, i.e. the Committee recommended removing the current law's procedure for city governing body transfer of possession and replacing it with a procedure involving the district court.

New subsections (b):(f), lines 20:43 on page 3 and 1:22 on page 4 of HB 2923, set out the procedures by which 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 procedure, a person with an interest in the property, if located, can file a rehabilitation plan with the court, and would be granted at least 90 days by the court to bring the property up to code compliance.

OTHER AMENDMENTS: The City can offer no explanation for the House floor amendment found at lines 16:22, page 4. The mandate that rehabilitation organizations be listed and notified by a city using this law seems to be unnecessary micro-management. The mandate as to how demolition is to be carried out is contrary to Home Rule and also unnecessary.

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