

Approved: 1/28/97
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Janice Hardenburger at 1:40 p.m. on January 27, 1997 in Room 529-S of the Capitol.

All members were present.

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Bonnie Fritts, Committee Secretary

Conferees appearing before the committee: Don Moler, General Counsel, League of Kansas Municipalities
Senator Tim Emert, Senate Majority Leader
Eileen King, Pres., Kansas Association of County Treasurers

Others attending: See attached list

Chairperson Hardenburger asked for approval of the minutes of January 22, 1997, and January 23, 1997.

Senator Steineger moved to approve the minutes. Senator Becker seconded the motion. The motion passed.

Don Moler appeared before the committee to recommend introduction of a bill that would amend weed abatement statutes, specifically K.S.A. 12-1617f (Attachment 1).

Senator Becker moved to introduce the bill. Senator Steineger seconded the motion. The motion carried.

Don Moler also asked for a bill modifying the state fire insurance proceeds statute, lifting the \$5000 cap (Attachment 2).

Senator Steineger moved to introduce the bill. Senator Becker seconded the motion. The motion passed.

Chairperson Hardenburger asked the committee to recommend a bill that would ban the use of mailing lists for purposes of soliciting gifts or donations.

Senator Lawrence made a motion to introduce the bill as requested. Senator Becker seconded the motion. The motion carried.

Chairperson Hardenburger opened the hearing on **SB 24**. Senator Emert explained the bill.

SB 24 **An act concerning the county treasurer; relating to the commencement of the term of office**

Eileen King testified before the committee as an opponent of the bill stating several fiscal and legal reasons why the term of office differs from other elected officials and should not be changed (Attachment 3). She testified that it is vital to ensure customer service to the citizens of Kansas, and that continuity and integrity remain in all County Treasurer's offices throughout the state.

Randy Allen also testified in opposition of the bill stating the current term is intended to coincide with the tax collection cycle so that each tax year is completely handled by one treasurer and not two (Attachment 4). The proposed change would have the new term begin just a few days prior to the largest tax distribution of the fiscal year.

Members asked if other County Treasurers were aware of these proposed changes. Eileen King stated her office had notified all 125 County Treasurers by telefacsimile, an association meeting had been held regarding the matter, and she was speaking in their behalf as president of the Kansas Association of County Treasurers.

Chairperson Hardenburger closed the hearing on SB 24 and opened the hearing on SB 33. Senator Emert explained the bill.

SB 33 **An act concerning municipalities; relating to the bonding of certain officers**

There were no conferees. Chairperson Hardenburger closed the hearing on the bill.

There was discussion on the definition of municipalities. The definition from the Kansas Torte Claims Act was noted for reference.

Senator Lawrence made a motion to expand the definition of municipalities to include any district that requires bonding. Senator Becker seconded the motion. The motion carried.

Senator Praeger made a motion to move the bill out favorably as amended. Senator Lawrence seconded the motion. The motion passed.

The meeting was adjourned at 2:25 p.m.

The next meeting is scheduled for January 28, 1997.

SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: 1/27/96

NAME	REPRESENTING
Kelly Kuntala	City of Overland Park
Nancy Weeks	Haskell Co. Treasurer
Ellen King	Riley Co. Treas. & President K7. Co. Treas. Assn.
Nancy Hempen	Douglas County Treas.
Marilyn Brown	Jackson County Treas.
Jo Ann Raaf	Coffey County Treas.
Randy Allen	Kansas Association of Counties
Don Moler	League of KS Municipalities
Brad Bryant	Sec. of State



**League
of Kansas
Municipalities**

LEGAL DEPARTMENT • 300 S.W. 8TH TOPEKA, KS 66603 • TELEPHONE (913) 354-9565 • FAX (913) 354-4186

LEGISLATIVE TESTIMONY

TO: Senate Elections and Local Government Committee

FROM: Don Moler, General Counsel

RE: Amendment to Weed Abatement Statutes

DATE: January 27, 1997

First let me thank the Committee for allowing the League to appear before you to suggest legislation to amend the weed abatement statutes of the State of Kansas. Specifically, K.S.A. 12-1617f requires that a city using a weed abatement ordinance publish the ordinance on a yearly basis. We are unaware of any other statute which requires an ordinance of a city to be republished year after year which contains the same information. We are suggesting a change removing the yearly publication requirement as a method to reduce the costs to Kansas cities and Kansas taxpayers for this needless publishing on a yearly basis. The League estimates that between \$40,000 and \$50,000 is wasted each year needlessly republishing ordinances as required under this statute. We would request that the Senate Elections and Local Government Committee introduce this legislation and this modification as a committee bill.

Thank you very much for allowing the League to make this request of the Committee.

SENATE ELECTIONS + LOCAL GOVERNMENT
1-27-97
ATTACHMENT 1

(a) The governing body of any city is hereby authorized to provide for and require the cutting or destruction of all noxious weeds on lots or pieces of land within the city. Except as provided by subsection (b), the city clerk shall issue a notice to the owner, occupant or agent by restricted mail or by personal service to cut or destroy such noxious weeds. The notice shall state that before the expiration of the waiting period provided herein the recipient thereof may request a hearing before the governing body or its designated representative. If the occupant, owner or agent fails to request a hearing or refuses to cut or remove such noxious weeds, after five days' notice by the city clerk, or in cases where the owner is unknown or is a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city paper, the city shall cut or destroy such weeds and shall keep an account of the cost of same and report to the city clerk. Except as provided by subsection (b), the city shall give notice to the owner, occupant or agent by restricted mail of the total cost of such cutting or removal incurred by the city. The city also may recover the cost of providing notice, including postage, required by this section. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. If the cost of such removal or abatement is not paid within the thirty-day period, the city may levy a special assessment for such cost against the lot or piece of land in the same manner as provided in K.S.A. 12-1617e, and amendments thereto, or the city may collect the cost in the manner provided by K.S.A. 12-1,115, and amendments thereto. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

(b) In lieu of giving notice as provided by subsection (a), a city may give notice as provided by this subsection. ~~Each year~~ [T]he governing body shall adopt an ordinance which states its weed removal policy and notification procedure. Such procedure shall provide for a minimum one-time yearly written notification by mail or personal service to the owner, occupant or agent. Such notice shall include the same information required by subsection (a). In addition, such notice shall include a statement that no further notice shall be given prior to removal of weeds.

If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section.

History

History: L. 1915, ch. 144, S. 1; L. 1917, ch. 112, S. 1; R.S. 1923, S. 12-1642; L. 1975, ch. 66, S. 2; L. 1985, ch. 73, S. 2; L. 1986, ch. 74, S. 2; L. 1992, ch. 266, S. 1; July 1.

Case Annotations

Research and Practice Aids:

Agriculture §YKY 8.

C.J.S. Agriculture S. 24 et seq.

Attorney General's Opinions:

Abatement of nuisances in municipalities; assessment of costs. 81-273.



**League
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Municipalities**

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LEGISLATIVE TESTIMONY

TO: Senate Elections and Local Government Committee
FROM: Don Moler, General Counsel
RE: Modification of the State Fire Insurance Proceeds Statute
DATE: January 27, 1997

First of all thank you for allowing the League to suggest an amendment to the fire insurance proceeds statute found at K.S.A. 40-3901 et seq. Specifically, the fire insurance proceeds statute currently allows cities to attach 10% or \$5,000, whichever is less, of fire insurance proceeds when a structure within a city or county burns. This money is forwarded to the city and kept until such time as the landowner cleans up the burned out structure and makes the site safe. If the landowner fails to do this, the city or county may utilize the fire insurance proceeds which have been forwarded from the fire insurance policy on the structure to clean the site and make it safe for the community. This statute was originally passed in 1982 and has remained essentially unchanged since that time. As part of the original law, a cap of \$5,000 was placed on the amount of fire insurance proceeds which could be withheld from a policy.

We believe the time has come to remove the \$5,000 cap. Quite frankly, most structures in this day and age, especially in urban areas, cost significantly more to remove and to make the appropriate site modifications for taking care of a burned out structure problem. If the structure is a downtown multi-story brick building it will cost tens of thousands of dollars to make the site safe. This is also true of large buildings such as manufacturing plants, grain elevators, etc. It is a basic policy issue of whether the landowner who has received insurance proceeds for the burned out structure should be allowed to escape their civic duty of making the site safe or whether the public at-large, essentially the widows and orphans, should bear the cost of cleaning up the site. This is the case in many communities because once the building has burned, the lot is not valuable enough to make it an economically pleasant experience for a landowner to make the site safe. Thus if they are not good civic citizens, they will simply take their insurance money and run. This has been a great law for the cities and counties of Kansas and we would suggest that to strengthen it we need to remove the arbitrary \$5,000 cap and simply allow 10% of the proceeds to be withheld. We would ask the Senate Elections and Local Government Committee to recommend introduction of this bill as a committee bill.

Thank you very much for allowing the League to suggest this legislation.

SENATE ELECTIONS + LOCAL GOVERNMENT
1-27-97
ATTACHMENT 2

Article 39.--CITIES AND COUNTIES, PAYMENT OF PROCEEDS OF FIRE INSURANCE POLICIES *Title Cities; payment of proceeds of fire insurance policies; procedure; release of proceeds.*

(a) The governing body of any city is hereby authorized to establish, by ordinance, a procedure for the payment of ~~of \$5,000 or 10%, whichever is less,~~ of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, caused by or arising out of any fire or explosion. The ordinance shall apply only to a covered claim payment which is in excess of 75% of the face value of the policy covering a building or other insured structure.

(b) The insurer shall first pay all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment the sum of ~~\$5,000 or 10% of the covered claim payment, whichever is less,~~ and shall pay such moneys to the city to deposit into an interest-bearing account, unless the city has issued a certificate pursuant to K.S.A. 40-3905.

(c) The city shall release the insured's proceeds and any interest which has accrued on such proceeds received under subsection (b) within 30 days after receipt of such moneys, unless the city has instituted legal proceedings under the provisions of K.S.A. 12-1752. If the city has proceeded under the provisions of K.S.A. 12-1752, all moneys in excess of that necessary to comply with the provisions of K.S.A. 12-1750 et seq. for the removal of the building or structure, less salvage value, shall be paid to the insured.

History

History: L. 1982, ch. 192, § 2; July 1.

Case Annotations

Research and Practice Aids: Insurance §YKY 590.

C.J.S. Insurance S.S. 1179, 1184.

Chapter 40.- JURANCE

Article 39.--CITIES AND COUNTIES, PAYMENT OF PROCEEDS OF FIRE INSURANCE POLICIES *Title Counties; payment of proceeds of fire insurance policies; procedure; release of proceeds.*

(a) The governing body of any county is hereby authorized to establish, by resolution, a procedure for the payment of ~~\$5,000 or 10%, whichever is less,~~ of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, caused by or arising out of any fire or explosion. This resolution shall not apply to cities which have adopted an ordinance under the provisions of K.S.A. 40-3901. The resolution shall apply only to a covered claim payment which is in excess of 75% of the face value of the policy covering a building or other insured structure.

(b) The insurer shall first pay all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment of the sum of ~~\$5,000 or 10% of the covered claim payment, whichever is less,~~ and shall pay such moneys to the county to deposit into an interest-bearing account, unless the city has issued a certificate pursuant to K.S.A. 40-3906.

(c) The county shall release the insured's proceeds and any interest which has accrued on such proceeds received under subsection (b) within 30 days after receipt of such moneys, unless the county has instituted legal proceedings, using the procedure under K.S.A. 12-1752 insofar as same can be made applicable. If the county has instituted legal proceedings, all moneys in excess of that necessary for the removal of the building or structure, less salvage value, shall be paid to the insured.

History

History: L. 1982, ch. 192, & 4; July 1.



KANSAS COUNTY TREASURERS' ASSOCIATION

OFFICERS:

EILEEN KING
RILEY COUNTY
President

GARY WATSON
TREGO COUNTY
Vice President

LARRY TUCKER
RENO COUNTY
Secretary

KATHY TREMONT
GEARY COUNTY
Treasurer

To: The Honorable Janice Hardenburger Chairperson,
Senate Elections and Local Government Committee

From: Eileen King, President Kansas County Treasurer's Association

Date: January 27, 1997

Re: Senate Bill 24

Madam Chairperson and members of the committee. Thank you for allowing me the opportunity to speak to you today.

My name is Eileen King, Riley County Treasurer and President of the Kansas County Treasurer's Association. I appear before you today on behalf of the Kansas County Treasurers' Association in opposition of Senate Bill 24 which will change the term of office for County Treasurers.

There are many fiscal as well as legal reasons why the term of office for County Treasurers differs begins in October rather than January as other elected officials. Treasurer's are elected for four years, but assume the duties at a later period in the same year.

1. Fiscal tax year ends on October 31, and the new tax year begins on November first of each year. Passage of Senate Bill 24 will make two County Treasurers responsible for collecting and distributing one fiscal years taxes.

2. A special audit would need to be conducted to account for tax revenue collected to date, of the outgoing Treasurer before the new Treasurer assumed his/her duty.

3. Sixty percent of the tax roll has been collected by January 1, of each year. Many times after a volatile election, employees leave and therefore, no expertise is left to aid the incoming Treasurer as to how distributions are made. The first major distribution must be made by January 20th, which could result in confusion and monies due taxing entities not distributed in a timely manner.

4. Many times, newly elected officials have had no experience in record keeping or rule making. Coming into a new environment at the busiest time of the year in the Treasurer's office, could create problems for administering county functions.

SENATE ELECTIONS + LOCAL GOVERNMENT
1-27-97
ATTACHMENT 3

5. Knowledge and availability of invested tax monies made by the former treasurer could create problems for the new treasurer, especially if the election was unfriendly. A problem of liquidity of funds would make the immediate distribution very difficult.

6. If the tax roll does not balance and discrepancies are found, which Treasurer is responsible?

7. Large volumes of mail are received at this time of year which could result in mail being worked up in February. If mail were misplaced or lost, again, who would be responsible?

As this bill is drafted, it would take away 10 months from the term of office that County Treasurers were elected to. On November 5, 1996 Treasurers were elected to serve for a four year term beginning October 14, 1997 and ending the second Tuesday in October 2001. Some Treasurers ran for re-election with the intention of retiring at the end of this term. By shortening the term of office, these Treasurers will be forced to run for one more term to make up the 10 months needed to retire.

Madam Chairperson, member of the committee, most of all we feel that it is vital to ensure customer service to the citizens of Kansas, and that continuity and integrity remain in all County Treasurer's offices throughout the state.

Therefore, we ask for your serious consideration before passing Senate Bill 24. I would stand for questions at this time.

TESTIMONY
concerning Senate Bill No. 24
Senate Committee on Elections and Local Government
Presented by Randy Allen,
Executive Director, Kansas Association of Counties
January 27, 1997

Thank you, Chairperson Hardenburger, for the opportunity to provide comments on Senate Bill No. 24 on behalf of the Kansas Association of Counties.

Last November, county treasurers were elected for a four-year term beginning October 14, 1997. The term for these county treasurers will begin eleven months after the general election at which they were elected. The term is intended to coincide with the tax collection cycle so that each tax year is completely handled by one treasurer and not two treasurers. This logic has merit and is well-intended.

SB 24 would change the term of the county treasurer to begin on the second Monday in January. This is the same term of office for other elected county officials. With the term to begin in January following the November election, only two months would elapse between the election and the commencement of the treasurer's term of office. This proposed change has some merit, despite serious concerns of county treasurers about the term beginning just a few days prior to the largest tax distribution of the fiscal year.

Our most immediate and serious concern about SB 24, however, is that the end of the term (i.e. Sunday before the second Monday in January) would apply retroactively to treasurers who were just elected or re-elected in November, 1996. As such, the terms for these treasurers would be approximately three years and three months rather than four years as was intended when they ran for office. If the committee desires to change the term of office so that it begins closer to the time of election, we would ask that this change be made prospectively and apply to the four-year term of treasurers who will be elected in November, 2000.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (913) 233-2271.

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SENATE ELECTIONS + LOCAL GOVERNMENT
1-27-97
ATTACHMENT 4