

Approved: 2-25-97
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Janice Hardenburger at 1:35 p.m. on February 12, 1997 in Room 529-S of the Capitol.

All members were present.

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

Conferees appearing before the committee: Don Moler, League of Kansas Municipalities
Laura McClure, State Representative, District 119
Ken Moore, Assistant City Attorney, Kansas City, KS

Others attending: See attached list

Chairperson Hardenburger asked the committee to take action on SB 79.

SB 79 **Concerning ethical conduct of state officers and employees**

An amendment was offered that would add the words "as an employee, independent contractor or subcontractor" after the word "business" on line 33 of the bill.

Senator Becker moved to adopt the amendment to the bill. Senator Lawrence seconded the motion. The motion carried.

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

Chairperson Hardenburger opened the hearing on SB 144.

SB 144 **Concerning cities; relating to the payment of the proceeds of fire insurance policies**

Staff gave an overview of the bill.

Don Moler, General Counsel, League of Kansas Municipalities, appeared before the committee in support of the bill. He testified the need to lift the \$5,000 cap is due to landowners failure to clean up after disasters (Attachment 1). He also submitted a letter from the Office of the City Manager of Independence, Kansas stating another reason for lifting the cap is due to the increasing costs for demolition (Attachment 2).

Representative Laura McClure also appeared in support of the bill and suggested an amendment by adding the word "windstorm" to line 19.

Ken Moore appeared before the committee in support of the bill and requested an amendment that would authorize withholding a higher percentage of the proceeds (Attachment 3). He testified that withholding this amount would protect cities by providing sufficient funds to demolish structures with low insured values. He stated the purpose of this statute is to prevent a property owner who suffers severe damage from taking the insurance proceeds and then not addressing the damaged structure, leaving it to the city to repair or demolish.

Chairperson Hardenburger closed the hearing on the bill and opened the hearing on SB 146.

SB 146 **Concerning cities; relating to the removal or destruction of weeds; relating to the assessment and collection of costs thereof**

Don Moler appeared in support of this bill and requested an amendment that would remove the yearly publication requirement currently in the ordinance (Attachment 4).

Committee discussed other possible methods of notifying property owners who might dispute the charges for mowing services saying they were not notified.

Ken Moore also appeared in support of the bill. He responded to comments about proper notification saying that probably 99% of lots in question have been abandoned by the owners and he stated there is no effective way to notify these property owners.

Chairperson Hardenburger closed the hearing on the bill and instructed the committee to discuss **SB 144**.

Senator Lawrence made a motion to adopt the amendment to add the words "or county" after the word "city" throughout the bill. Senator Gooch seconded the motion. The motion carried.

Senator Steineger made a motion to adopt the amendment to add the word "windstorm" to line 19 of the bill. Senator Petty seconded the motion. There was discussion on other possible amendments. No further action was taken on the bill.

Chairperson Hardenburger announced the committee would take action on the bill at the next scheduled meeting.

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

The next meeting is scheduled for February 13, 1997.



**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: Support for SB 144; Modification of the State Fire Insurance Proceeds Statute
DATE: February 12, 1997

First of all thank you for allowing the League to support SB 144, 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 favorably report SB 144.

SENATE ELECTIONS + LOCAL GOVERNMENT
2-12-97
ATTACHMENT 1

Office of the City Manager

City Hall - 120 North Sixth Street
Independence, Kansas 67301

February 11, 1997

Senator Janice Hardenburger
Chairperson
Senate Committee on Elections and Local Government
State House
Topeka, KS 66612

Dear Senator Hardenburger:

This letter is written in support of Senate Bill No. 144. The bill amends K.S.A. 40-3901 to eliminate the maximum amount of \$5,000 of insurance proceeds that a City may hold when a structure has been damaged by fire or explosion, when the insurance claim is in excess of 75% of the face value of the policy.

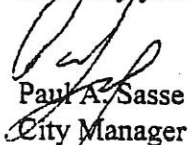
The City has utilized this statutory authority on several occasions. Our concern is that the current maximum amount is inadequate if the property owner of the damaged structure does not meet their legal obligation to remove the structure. We are sure you are aware that the City may not hold these insurance proceeds without meeting the due process requirements of K.S.A. 12-1752, under the dangerous and unsafe structures act. The funds retained by the City are only held until the property owner performs the necessary clean up and removal and then the funds are returned to them with interest.

The statute has worked well for our City since its adoption in 1982. It is our belief that maintaining the \$5,000 maximum due to increasing costs for demolition activities in the last 15 years is no longer adequate if the City is required to remediate the property.

A current example of this is a structure located in our downtown which was severely damaged by fire. The owner has not made an effort to repair or remove the structure and the structure is creating a safety, health and blighting influence in our City. The City, following the dangerous and unsafe structures act, has received bids for removal of the structure due to the inaction of the owner. The low bid that was received was a little over \$70,000, needless to say \$5,000 is a small portion of this amount. It is our belief that the taxpayers of the City will get stuck with funding the additional \$65,000. We do not believe this is fair and request you support Senate Bill No. 144.

Thank you for your consideration.

Sincerely yours,


Paul A. Sasse
City Manager

SENATE ELECTIONS + LOCAL GOVERNMENT
2-12-97
ATTACHMENT 2



LEGAL DEPARTMENT of KANSAS CITY, KANSAS



Ninth Floor - Municipal Office Building
701 North Seventh Street
Kansas City, Kansas 66101
Phone (913) 573-5060
Fax (913) 573-5243
February 12, 1997

City Attorney
Harold T. Walker

Deputy City Attorney
N. Cason Boudreau

Assistants:

Jody Boeding
Maurice J. Ryan
Wesley K. Griffin
Kenneth J. Moore
Mary Eileen Mallon
Robert P. Burns

Prosecutors:

Julie B. Tincknell
Angela J. Lawson
Maureen M. Mahoney

Senator Janice Hardenburger
Chairperson of the Senate Committee
on Elections and Local Government
300 S.W. 10th Avenue, Rm. 529-S
Topeka, Kansas 66612

Re: Senate Bill No. 144
Relating to the Payment of the Proceeds
of Fire Insurance Policies

Dear Senator Hardenburger
and Members of the Senate Committee
on Elections and Local Government:

The City of Kansas City, Kansas, would suggest amendments to Senate Bill No. 144 which amends K.S.A. 40-3901. In its present form, that statute requires that an insurer withhold 10% of insurance proceeds, or \$5,000.00, whichever is less, whenever a property is severely damaged by fire. The insurer then pays such money to the City to be returned to the owner once the property is repaired or demolished or else shall be applied to the cost incurred by the City to repair or demolish.

The purpose of this statute is to prevent a property owner who suffers severe fire damage from taking the insurance proceeds and then not addressing the damaged structure, leaving it to the City to repair or demolish. If the property owner refuses or neglects to repair or demolish the structure then the City can utilize these funds to do so.

Our experience has been that with respect to structures which the City of Kansas City, Kansas, has been required to demolish, the insurance proceeds paid to the City have averaged \$2,463.00. However, the average cost of demolishing those same structures is \$4,850.00. Over the last three (3) years Kansas City, Kansas, has paid \$170,000.00 over and above that covered by the insurance proceeds. That is \$170,000.00 of insurance proceeds which property owners have received but have not used to address their fire damaged property.

The City of Kansas City, Kansas, supports the amendments contained in Senate Bill No. 144 but in addition would request a further amendment to authorize a higher percentage withheld but only up to a certain amount, and then up to 10% of any amount in excess. The City would propose language to authorize withholding 20% of the first \$25,000.00 and 10% of any additional proceeds. Withholding this amount would protect cities by providing sufficient funds to demolish structures with low insured values.

SENATE ELECTIONS + LOCAL GOVERNMENT
2-12-97
ATTACHMENT 3

This additional amendment to K.S.A. 40-3901 would serve the purpose for which the statute was originally adopted, particularly concerning lower insured valued structures which the City of Kansas City, Kansas, is most often required to address.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth J. Moore". The signature is written in dark ink and is positioned above the printed name.

Kenneth J. Moore
Assistant City Attorney



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Municipalities**

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LEGISLATIVE TESTIMONY

TO: Senate Elections and Local Government Committee
FROM: Don Moler, General Counsel
RE: Support for SB 146; Amendment to Weed Abatement Statutes
DATE: February 12, 1997

First let me thank the Committee for allowing the League to appear before you to support SB 146, which is 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 to favorably report SB 146.

SENATE ELECTIONS + LOCAL GOVERNMENT
2-12-97
ATTACHMENT 4