

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Representative Gerry Ray at 3:30 p.m. on February 5, 2002 in Room 519 -S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Research Dept.  
Theresa Keirnan, Revisor  
Kay Dick, Committee Secretary

Conferees appearing before the committee:

Proponents:  
Gary Anderson, Gilmore & Bell, Attorneys at Law  
Randy Allen, Kansas Association of Counties  
Don Moler, Kansas League of Municipalities  
William Massen, Land Acquisition Planning & Development Manager  
Michael Meadors, Director, Park & Recreation  
Dorothea Riley, District Bond Council  
Ashley Sherard, Intergovernmental Relations Manager

Others attending: See attached list.

Hearing was opened on:

**HB 2709** - an act concerning the uniform commercial code; relating to the secured transactions; relating to certain financial transaction of municipalities.

Gary Anderson, Gilmore & Bell Attorneys at Law, gave testimony stating that back in 2000 the legislature amended the Uniform Commercial Code ("UCC") specifically dealing with Article 9. Article 9 is the section that governs the creation, perfection and priority of security interest in personal property collateral. This is a technical amendment that we would like to make in the title of HB 2709 to change municipalities to governmental entities, since the bill applies to more than just municipalities. (Attachment #1)

Randy Allen, Kansas Association of Counties, expressed support of the change as it relates to counties in **HB 2709**. (Attachment #2)

Don Moler, League of Kansas Municipalities, testified in support of the bill as a matter of good government and reducing unnecessary costs to the taxpayers. (Attachment #3)

Mike Heim, Research Department gave the committee the UNIFORM ACT containing Article 9 Uniform Commercial Code Revised. (Attachment #4)

Conferee responded to questions asked by committee members.

The Chair closed the hearing on **HB 2709**.

Chair opened the hearing on **HB 2708** -concerning Johnson county parks and recreation districts; relating to the acquisition of property and the issuance of bonds.

William Massen, Land Acquisition Planning & Development Manager, **HB 2708** would allow the Park district to operate under rules similar to other governmental units for acquiring land for parks. Through

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT at on February 5, 2002 in Room 519 -S of the Capitol.

utilization of the school district boundaries as "county planning areas," the Johnson County Park and Recreation District will be able to place language on a ballot that clearly identifies for voters where parkland will be acquired, while at the same time, allowing flexibility in the acquisition process. This will lead to a more efficient use of taxpayer dollars and limit the concerns related to speculation on land targeted by the District for future parkland acquisition. (Attachment #5)

Michael Meadors, Director of Parks and Recreation testified in favor of **HB 2708** stating that in the 47 years history of acquiring parkland the District has used the power of eminent domain for less than three percent (3%) of its acreage purchased. Mr Meadors went on to say that the District's current statutory requirement of describing each tract of land to be acquired would drastically effect the District's success in implementing these future land acquisition strategies necessary to meet park acreage standards. (Attachment #6)

Dorothea Riley, Logan Riley Carson & Kaup, Bond Council to Johnson County Park and Recreation District, provided the committee with a summary of a survey of Kansas statues providing authority for public jurisdictions to issue general obligation bonds for the purpose of providing fund to acquire park land. Their survey identified 10 statues (in addition to the District's statute)that authorize public entities in Kansas to issue bonds for the purpose of acquiring park land. (Attachment #7)

Ashley Sherard, Government Relations Manager appeared before the committee on behalf of Johnson County Commission concerning **HB 2708**. She states that this bill would provide the Park & Recreation District with authority similar to that currently enjoyed by school districts statewide, by allowing Johnson County Park & Recreation District bond positions to identify 1) the purpose for which the bonds are being issued and 2) the school district(s) in which the real state to be acquire is located.

She further went on the say that the Johnson Count Commission believes this statutory change would benefit local taxpayers by minimizing the costs of land speculation, while still providing voters with information about where within the County proposed parks are to be located. (Attachment #8)

There was no discussion nor questions from the committee.

The Hearing on **HB 2709** was closed by the chair.

The Chair announced that there were minutes from Jan. 29 for the committee to read. If there were any change to contacts the secretary for changes before next meeting. She also advised the committee, that on Thursday we would be hearing a bill pertaining to the Wyandotte County Library.

Rep. Campbell made a motion for Local Government to introduce a bill that relates to a school district that has established a recreation system or is part of a joint system and consolidates with another school district that is not part of a recreation system. Rep. Hermes seconded the motion.

Rep. Miller made a motion that the Local Government Committee sponsor a bill relating to county wide zoning. Rep. Gilbert seconded the motion.

Chair adjourned the meeting at 4:15 p.m.

# HOUSE LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: TUESDAY FEB 5, 2002

NAME	REPRESENTING
Dorthea Selig	Johnson County Parks & Recreation Dist.
Bill Maasen	Johnson County Parks & Rec Dist.
Kathy Olsen	KS Bankers Assn.
GARY ANDERSON	GILMORE & BELL, P. C.
Michael O'Meadows	Mo Co Parks & Recreation District

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February 5, 2002

Madame Chairman and Committee Members, my name is Gary Anderson and I am a shareholder with the municipal bond counsel firm of Gilmore & Bell. Gilmore & Bell is bond counsel on more bond financings in Kansas and Missouri than any other law firm. In addition, I am a Johnson County Commissioner.

Thank you for your attention to this important issue for Kansas local governments. Revisions made in 2000 by the Legislature to Article 9 of the Uniform Commercial Code ("UCC") will significantly affect local governments in Kansas. The revisions will potentially increase both the costs incurred and administrative duties required in connection with the issuance of revenue bonds by local governments (including bonds already outstanding). I would like to provide the committee with some background on Article 9 of the UCC as it has historically related to local governments, the effect of the recent revisions to Article 9 and Gilmore & Bell's support on behalf of many of our governmental entity clients supporting HB 2709.

The UCC is a uniform law promulgated by the American Law Institute ("ALI") and the National Conference of Commissioners on Uniform State Laws ("Commissioners"). The purpose of the UCC is to standardize the treatment of certain commercial transactions from state to state. The UCC is in effect in all states, although there are some differences from state to state.

Article 9 of the UCC governs the creation, perfection and priority of security interests in personal property collateral. Article 9 sets forth the rules about the manner in which such security interests are created, what filings must be made (or other steps taken) to give notice to others of the security interest and the relative priorities of security interests if there are more than one security interest in the same collateral.

A situation in which local governments often grant security interests (or their equivalent) occurs in connection with the issuance of municipal revenue bonds. In most states, including Kansas, the previous version of Article 9 did not apply "to a transfer by a government or governmental subdivision or agency." As a result, neither the municipality issuing the bonds nor the bondowner was required to comply with the provisions of Article 9 in connection with such pledge of revenues.

Revised Article 9 was adopted during the 2000 legislative session by Senate Bill 366 and became effective July 1, 2001. Revised Article 9 as it currently exists in Kansas will subject local governments and other governmental units of all types to its provisions whenever such entities issue bonds secured by personal property, such as the revenues of a utility system.

One result of such application will be that UCC financing statements will have to be filed in connection with each issuance of revenue bonds and, if the final maturity of a bond issue is less than 20 years, such financing statements would have to be re-filed (continued) every five years during the life of the bonds. The more serious problem created by the requirement is that the financing statement must include the names and addresses of the secured parties. The secured parties in this case would be the

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bondowners. It is clearly not practical to list the names and addresses of potentially hundreds of bondowners. The only apparent solution to this problem would be to name a trustee to act as a fiduciary for the bondowners as the secured party. Most conduit bond issues (e.g. bonds issued by the Kansas Development Finance Authority for the benefit of a nonprofit hospital or college) use trustees. Few traditional municipal revenue bond issues, however, currently use trustees.

Local governments generally appoint banks to serve as paying agents for their bond issues. A typical fee paid by a municipality to a bank for serving as paying agent on a \$500,000 bond issue would be approximately \$250 - \$500 each year. A typical fee paid to a trustee (which has additional fiduciary duties) for the same size issue would be approximately \$1,500 - \$2,000 each year. For a 20 year bond issue, then, using a trustee could increase the administrative out of pocket cost to the municipality as much as \$30,000 over the life of the bonds. The difference in cost would, of course, be more for larger bond issues.

To compound the problem, this provision will be retroactive. By July 1, 2002, financing statements will have to be filed for all outstanding bond issues, which will be expensive and an administrative nightmare for local governments and their attorneys.

Although most of the provisions of Revised Article 9 appear to be improvements and to further the policy of certainty in commercial transactions, there does not appear to be any public policy reason for including governmental transactions within Article 9. In addition, local governments do not have the power or authority to grant security interests (or otherwise pledge revenues) except where specifically authorized by law.

We are not aware of any group that is opposing these proposed amendments **since municipal finance transactions have never been included under Article 9.**

This problem is not unique to Kansas and amendments either have been adopted or are in the process of being adopted in more than 20 states where the revised Article 9 has been adopted to remove public finance transactions from the jurisdiction of Article 9.

Gilmore & Bell has been working with The Kansas League of Municipalities and the Kansas Association of Counties. **Both entities have endorsed these technical amendments to the revised Article 9.**

**We would like to make one suggestion and that the title of HB 2709 to change municipalities to governmental entities, since the bill applies to more than just municipalities.**

I ask your support of HB 2709. Thank you for your consideration of this important matter affecting local governments.



**KANSAS  
ASSOCIATION OF  
COUNTIES**

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**TESTIMONY**  
concerning House Bill No. 2709  
**re. the Uniform Commercial Code**  
House Local Government Committee

Presented by Randy Allen, Executive Director  
Kansas Association of Counties  
February 5, 2002

Chairman Ray and members of the committee, my name is Randy Allen, Executive Director of the Kansas Association of Counties. I am here today to express our support for House Bill No. 2709.

It is our understanding that SB 366, adopted by the Legislature in 2000, has an unfortunate negative financial impact on local governments, without any offsetting public policy reason to justify additional costs. Holders of municipal revenue bonds are able to access information about the local government issuing debt and the obligations of a city or county through means short of requiring local governments to maintain a list of the names and addresses of all bond-owners in a financing statement. Requiring UCC financial statements to be filed by a local government each time revenue bonds are issued, and requiring continual re-filing of such statements every five years over the life of the bonds, represents an administrative nightmare and unnecessary cost which is ultimately borne by citizens in the form of higher public project costs.

At the annual conference of the Association last November, the membership voted unanimously to support legislation which repeals language in the 2000 amendments to the UCC law relating specifically to governmental bond financing. As such, we urge your support of HB 2709 and request that you recommend the bill favorably for passage. Thank you for this opportunity to comment on this bill.

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 Randy Allen or Judy Moler by calling (785) 272-2585.

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email kac@ink.org

HOUSE LOCAL GOVERNMENT

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Attachment 2



League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

**To:** House Local Government Committee  
**From:** Don Moler, Executive Director  
**Date:** February 5, 2002  
**Re:** Support for HB 2709

First I would like to thank the Committee for allowing the League to testify today in support of HB 2709. This issue was brought to the League's attention by bond council who deal professionally with cities and counties in the issuance of bonds. They identified that significant costs would be imposed upon cities and counties, and ultimately the tax payers, should this technical amendment to Article 9 of the Kansas Uniform Commercial Code not be enacted. As a result, the League is here today to support this effort as a matter of good government and reducing unnecessary costs to the taxpayers. As we understand current law and the revised Article 9, it would subject local governments to its provisions whenever a local governmental entity had issued bonds secured by personal property. This inclusion would result in additional costs to local governments by requiring additional financial statements and the utilization of trustees on municipal revenue issues. As a result of the retroactive nature of the current law, by July 1, 2002, financing statements would have to be filed on all outstanding bond issues. This would be both an administrative nightmare and an expensive undertaking for local governments and their taxpayers. We feel that this is an unnecessary burden to be placed on local governments and local taxpayers and as a result provide our full support to HB 2709. I will be happy to answer any questions the Committee may have.

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**Article 9 Uniform Commercial Code Revised**

**SB 366** incorporates major revisions to Article 9 of the Uniform Commercial Code as recommended in 1998 by the National Conference of Commissioners on Uniform State Laws.

**Scope Expanded.** The bill expands the "scope" of Article 9 by increasing the kinds of property in which a security interest can be taken by a creditor. New kinds of collateral that are

included in revised Article 9 include: sales of payment intangibles and promissory notes; security interests created by governmental debtors; health insurance receivables; consignments; and commercial tort claims.

**Perfection.** Filing a financing statement remains the dominant way to perfect a security interest in most kinds of property under the bill. It is made clear in the bill that filing a financing statement will perfect a security interest, even if there is another method of perfection. In regard to certificates of deposit, perfection is accomplished by taking possession. The time frame for automatic perfection for a purchase money security interest is increased from ten days to 20 days.

**Choice of Law.** The bill selects the state law that is the location of the debtor and if the debtor is an entity created by registration in a state, the location of the debtor is the location in which the entity is created by registration.

**The Filing System.** The bill in its definitions and provisions allow the transition from paper to electronic filing without further revision of the law. The bill also makes filing office operations more ministerial since the office that files financing statements has no responsibility for the accuracy of information on the statements and is absolved from any liability for the contents of any statements received and filed. Married debtors jointly engaged in a business when it is unclear whether a partnership exists may file financing statements in the names of individual debtors. Finally, there is no signature requirement for a financing statement.

**Consumer Transactions.** The bill makes a clear distinction between transactions in which the debtor is a consumer. Enforcement of a security interest that is included in a consumer transaction is handled differently in certain respects as a result. Examples of consumer provisions are: a consumer cannot waive redemption rights in a financing agreement; a consumer buyer of goods who prepays, in whole or in part, has an enforceable interest in the purchased goods and may obtain the goods as a remedy; a consumer is entitled to disclosure of the amount of any deficiency assessed against him or her, and the method for calculating the deficiency; and, a secured creditor may not accept collateral as partial satisfaction of a consumer obligation, so that choosing strict foreclosure as a remedy means that no deficiency may be assessed against the debtor. Although it governs more than consumer transactions, the good faith standard becomes the objective standard of commercial reasonableness under the bill.

**Default and Enforcement.** The bill includes new rules dealing with "secondary" obligors (guarantors), special rules for some of the new kinds of property subject to security interests, new rules for the interests of subordinate creditors with security interests in the same property, and new rules for aspects of enforcement when the debtor is a consumer debtor. Some of the new rules include: a secured party (creditor with security interest) is obliged to notify a secondary obligor when there is a default, and a secondary obligor generally cannot waive rights by becoming a secondary obligor; a secured party who repossesses goods and sells them is subject to the usual warranties that are part of any sale; junior secured creditors (subsequent in priority) and lienholders who have filed financing statements, must be notified when a secured party repossesses collateral; and, if a secured party sells collateral at a low price to an inside buyer, the price that the goods should have obtained in a commercially reasonable sale, rather than the actual price, is the price that will be used in calculating the deficiency.

**Agricultural Liens.** A number of statutory agricultural liens are exempted from provisions of Article 9.

**Immunity for Filing Officer; Fee Fund.** Immunity provisions for filing officers are contained in current law. Further, the Committee established a fee fund for the operation of the Uniform Commercial Code Division within the Secretary of State's Office to continue current practice.

**Bogus Liens.** The bill expands the location of the court to seek an expedited review of the lien where a person who believes a fraudulent lien has been filed against their property to include the district court of the county where the property is situated as well as the county where the purported lien was filed. Another change allows a court to enter an order to set aside the lien and to direct the filing officer to nullify the lien. Under the UCC, the court order will act as a termination statement.





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TESTIMONY

to

KANSAS HOUSE OF REPRESENTATIVES  
LOCAL GOVERNMENT COMMITTEE

William R. Maasen, Manager  
Land Acquisition Planning and Development  
Johnson County Park and Recreation District  
February 5, 2002

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Dr. Marvin E. Wollen

DIRECTOR

Michael D. Meadors

NATIONALLY  
ACCREDITED



HOUSE BILL NO. 2708

Honorable Chairperson Ray and Committee Members:

Thank you for the opportunity to appear before you today with regard to House Bill 2708, a modification to the enabling statutes of the Johnson County Park and Recreation District (District). I am Bill Maasen, Land Acquisition, Planning, and Development Department Manager for the District. This department is responsible for researching what land is appropriate for future parks, planning how those properties will be developed for public utilization, and then acquiring the land on behalf of the citizens of Johnson County.

Background

For any ballot question related to the issuance of general obligation debt for the purposes of land acquisition, under existing statutory requirements (K.S.A. 19-2874), the Johnson County Park and Recreation District is required to describe the real estate to be acquired and to define its location.

The most recent example of a general obligation ballot question, the 1998 Big Bull Creek Park referendum, is attached for your review and consideration. In this case, complying with this stringent statutory requirement should have been relatively simple because the parkland could be readily defined by the roads that bordered the area to be acquired. The published area included four (4) square miles, with a total of 1,400 acres or 55 percent of the area described as designated for acquisition. Through the course of the acquisition process, however, these statutory restrictions limited the District's ability to acquire available land that was adjacent to but just outside of the published boundaries. Accordingly, 100 percent of the funds could not be utilized for land acquisition.

Furthermore, the statutory restrictions reduced flexibility in negotiations with landowners and therefore increasing the expense of the purchase to the taxpayer. At the Big Bull Creek site, landowners with speculative interests went as far as to have the land annexed into city limits and to attempt to re-zone the property for commercial purposes to increase its value. The District was forced to oppose this re-zoning and expend funds oppose this process. The District reluctantly utilized its power of eminent domain to acquire this parcel. If the modification to the statute as

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requested would have been in place four (4) years ago, other properties could have been acquired outside of the specific boundaries with the funds and not spent on legal fees and other professional witness expenses. Ironically, the eminent domain process did not increase the amount of funds paid to the landowners, because the original offers extended matched the court appointed appraisers determination of value.

### Planning For The Future

As many of you are aware, Johnson County is growing at a rapid rate, and this growth is converting over 3,500 acres of land annually from open space or agriculture uses to residential, commercial, and office development. This conversion reduces wildlife habitat, contributes to environmental degradation, and reduces land availability for park, recreation, and open space. Critical habitats and natural areas are diminished every year, and the affordability for acquisition of parkland is diminished due to inflationary pressures of the local economy. Population growth is expected to increase from the current 460,000 to over 630,000 citizens by the year 2020.

With this rapid rate of growth in mind, the Johnson County Park and Recreation District recently created a comprehensive master action plan, "MAP 2020," to confront the challenges of its expanding population. Contrary to the large regional parks like Big Bull Creek Park, MAP 2020 recommends acquiring significant acreage adjacent to existing parks, along major streams throughout the county, and in areas currently underserved by parks (attached is a copy of Map 8 for your review). It is likely that a referendum would be required to acquire this parkland, and it would be virtually impossible to comply with existing statutes requiring a description of where the land to be acquired is located. In addition, this requirement would inevitably lead to land speculation and, therefore, increase the costs to taxpayers.

### Conclusion

The proposed change to the existing statute would allow the District to operate under rules similar to other governmental units for acquiring land for parks. Through utilization of the school district boundaries as "county planning areas," the Johnson County Park and Recreation District will be able to place language on a ballot that clearly identifies for voters where parkland will be acquired, while at the same time, allowing flexibility in the acquisition process. This will lead to a more efficient use of taxpayer dollars and limit the concerns related to speculation on land targeted by the District for future parkland acquisition.

For further comment or questions, do not hesitate to contact me at the following with your concerns:

William R. Maasen, Manager  
Land Acquisition, Planning and Development  
Johnson County Park and Recreation District  
7900 Renner Road  
Shawnee Mission, KS 66219  
913 438-7275  
[bill.maasen@jocoks.com](mailto:bill.maasen@jocoks.com)

JOHNSON COUNTY PARK AND RECREATION DISTRICT  
OFFICIAL BALLOT  
SPECIAL BOND ELECTION  
TUESDAY, NOVEMBER 3, 1998

Shall the following be adopted:

Shall the Johnson County Park and Recreation District issue general obligation bonds in an amount not exceeding Six Million Dollars (\$6,000,000.00) for the purpose of acquiring approximately but not more than One Thousand Four Hundred (1,400) acres of land for a fourth regional park within Johnson County, Kansas, such land to be acquired to be within the area bounded by 199th Street on the North, 215th Street on the South, Homestead Lane on the east and Sunflower Road on the West, that area described being generally within and along the general drainage area of Big Bull Creek, all pursuant to K.S.A. 19-2862j, K.S.A. 19-2874 and K.S.A. 10-101 et seq.?

\_\_\_\_\_ YES  
\_\_\_\_\_ NO



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TESTIMONY

to

KANSAS HOUSE OF REPRESENTATIVES  
LOCAL GOVERNMENT COMMITTEE

Michael D. Meadors  
Director of Parks and Recreation  
Johnson County Park and Recreation District  
February 5, 2002

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Dr. Marvin E. Wollen

DIRECTOR

Michael D. Meadors

NATIONALLY  
ACCREDITED



HOUSE BILL NO. 2708

Honorable Chairperson Ray and Committee Members:

Thank you for the opportunity to appear before you today to provide testimony on House Bill 2708.

Future Land Acquisition Strategies

MAP 2020, the 20-year Master Action Plan for the Johnson County Park and Recreation District (District), identifies capital improvement projects in land acquisition and park and recreation facility development to meet the demands of a growing population in Johnson County. The plan establishes a goal for park acreage of 22 acres of parkland per one thousand residents (down from an original national standard of 28 acres). The District's total acreage per one thousand residents is currently 14.1 acres.

Factoring current population growth trends in Johnson County, the population is estimated to reach more than 630,000 by 2020. MAP 2020 calls for acquiring the following acres of parkland in each of the County Planning Areas (CPAs) to reach the adopted park acreage standard. The CPA's are coterminous with the existing Johnson County school district boundaries as shown below.

	Park Land Acres <u>To Be Acquired</u>
• CPA 1 (Shawnee Mission) .....	162
• CPA 2 (Blue Valley) .....	2,033
• CPA 3 (Olathe).....	1,350
• CPA 4 (Spring Hill).....	950
• CPA 5 (De Soto/Eudora).....	1,000
• CPA 6 (Gardner/Edgerton-Antioch).....	0
<b>Total Acres</b>	<b>5,495</b>

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To meet this moderate increase in park acreage over the next 20 years, it is inevitable that at least one general obligation bond issue referendum (and possibly several) will be necessary. The majority of this new parkland will not be in large regional parks of 1,000+ acres. Instead, these future parks will be 100-200 acres each or along the linear park system. The District's current statutory requirements of describing each tract of land to be acquired would drastically effect the District's success in implementing these future land acquisition strategies necessary to meet MAP 2020 park acreage standards.

### Conclusion

The District's intent to request this statute change is not to negate our public notice responsibilities. We believe the recommended language requiring description notice within the specified CPA (school district boundary) will appropriately give voters notice of our intent. More importantly, however, it will allow the District the best opportunity to leverage the taxpayers' investment for the best land preservation return possible.

The District has a proud tradition in Johnson County. We believe we are more than an extension of local government. We are the neighbor to literally thousands of residents -- those living in apartments and single-family homes, farmers, ranchers, and our commercial neighbors. We hope to continue that neighborly tradition. In the 47-year history of acquiring parkland the District has used the power of eminent domain for less than three percent (3%) of its acreage purchased. We wish it was zero percent!

As future parkland becomes more and more difficult to acquire, we would prefer dealing with "interested sellers" desiring land preservation and park development. Individuals who can as easily seek us out as we can them. We have a great track record to date, but times are changing and we would rather be known as a good neighbor than big government.

Please help us achieve that goal!

For further comment or questions, do not hesitate to contact me at the following:

Michael D. Meadors  
Director of Parks and Recreation  
Johnson County Park and Recreation District  
7900 Renner Road  
Shawnee Mission, KS 66219  
913 438-7275  
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CATHERINE P. LOGAN\*  
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ALL OTHERS ADMITTED IN KANSAS

February 5, 2002

Chairperson and Members of  
the House Committee on  
Local Government  
State House  
Topeka, KS 66612

Re: House Bill No. 2708

Ladies and Gentlemen:

As bond counsel to the Johnson County Parks and Recreation District (the "District"), we strongly support the passage of House Bill No. 2708. House Bill No. 2708 repeals and replaces K.S.A. 19-2874 which contains the election requirements for the District to be used for the acquisition of real estate to improve the park system. The existing legislation provides that when the District seeks voter approval to issue general obligation bonds to provide funds to acquire real estate, the "proposition to acquire real estate shall describe any real estate to be acquired and the location thereof." The combined requirements of (a) holding an election and (b) identifying the location of the real estate in the election proposition limit the ability of the District to acquire real estate at fair market price, and, in our experience, place an unusual requirement on the District which is not required of other public jurisdictions acquiring park land.

We surveyed Kansas statutes providing authority for public jurisdictions to issue general obligation bonds for the purpose of providing funds to acquire park land (a copy of the survey is attached for your information). Our survey identified 10 statutes (in addition to the District's statute) that authorize public entities in Kansas to issue bonds for the purpose of acquiring park land. None of those statutes require the entity to both hold an election and identify the real estate to be acquired in the election proposition which is the requirement in the existing legislation for the District. Four of the ten statutes require the entity to obtain voter approval before issuing bonds for park land acquisition, and two of the statutes require voter approval only if the dollar amount of the bonds exceeds a particular amount, but none of those statutes requires the election proposition to include any description of the real estate to be acquired. Four of the statutes do not require an election before the issuance of bonds, but do require the entity to provide published notice of the intent to issue bonds which, if sufficiently protested, requires an election before the issuance of bonds.

Even this survey of information, however, is potentially misleading because eight of the ten statutes in the survey are subject to the exercise of home rule, which means that counties or cities subject to these statutes may "charter out" of the election, protest or other requirements of the statute under the authority provided in Article 12, Section 5, of the Kansas Constitution (cities) or K.S.A. 19-101 *et seq.*, (counties).

Under  
Home  
Rule  
Authority

HOUSE LOCAL GOVERNMENT

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Attachment 7


Chairperson and Members of  
the House Committee on  
Local Government  
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In our experience, for example, the election requirements in K.S.A. 13-1024a, which is one of the statutes providing authority for cities to issue bonds to acquire park land, has been chartered out of by numerous cities throughout Kansas and is commonly used as authority to issue general obligation bonds for park land.

House Bill No. 2708 still requires the District to obtain voter approval before issuing bonds for the purpose of acquiring park land but, rather than requiring the District to describe the real estate to be acquired and its location, the Bill requires the proposition to identify the purpose or purposes for which the bonds are to be issued and to identify the unified school district or districts within which any real estate proposed to be acquired is located. In our opinion, these requirements are still greater than what is customarily required of other jurisdictions in Kansas, but do provide the District and its taxpayers with a more economical means of financing the acquisition of park land.

If we may be of any assistance to the Committee on this matter, please let me know.

Very truly yours,



Dorothea K. Riley

DKR:mkr

**SURVEY OF KANSAS PARK LAND ACQUISITION STATUTES**

Included below is a survey of statutes authorizing the issuance of general obligation bonds for the acquisition of real estate to be used as a park. Statutes, other than those listed, may exist that authorize the issuance of bonds for park land acquisition. Many of the statutes contain specific limits relating to the amount of bonds that may be issued and may require procedures or conditions in addition to those listed.

<b>Statute</b>	<b>Type of Entity</b>	<b>Election Required</b>	<b>Property Description Required</b>	<b>Procedure If No Election Requirement</b>
19-2874	<i>Johnson County Park and Rec.</i>	yes	yes	n/a
12-1301 to 12-1302	cities	no	n/a	subject to notice and protest
13-1024a*	cities	yes, unless 1 <sup>st</sup> class city & bond amount \$100,000 or less	no	n/a
13-1346 to 13-1348a*	cities (pop. between 30,000 & 125,000 or >250,000)	yes	no	n/a
19-2801*	counties	no, if \$50,000 or less yes, if >\$50,000	n/a no	n/a n/a
19-2803c	counties	yes	no	n/a
19-2814 to 19-2818*	counties (pop. between 80,000 & 175,000)	no	n/a	subject to notice and protest
19-2819 to 19-2823c*	counties (pop. 35,000 or >)	no	n/a	subject to notice and protest

\* Statute may be chartered out of by city or county, as applicable to eliminate or change election or other requirements.



<b>Statute</b>	<b>Type of Entity</b>	<b>Election Required</b>	<b>Property Description Required</b>	<b>Procedure If No Election Requirement</b>
19-2834 to 19-2840*	counties (pop. between 11,000 & 14,000 & AV between \$18 & \$35 million)	yes	no	n/a
19-2841 to 19-2845*	counties (adjoining counties fitting various pop. & AV requirements)	no	n/a	subject to notice and protest
19-2897*	counties (pop. > 175,000 & < 250,000)	yes	no	n/a

\* Statute may be chartered out of by city or county, as applicable to eliminate or change election or other requirements.



Johnson County, Kansas

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**OFFICE OF THE COUNTY MANAGER**

To: The Honorable Gerry Ray, Chairman  
The Honorable Larry Campbell, Vice-Chairman  
Members, House Local Government Committee

From: Ashley Sherard, Government Relations Manager

Date: February 5, 2002

Subject: **HB 2708 – Johnson County Park & Recreation District Land Acquisition**

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Thank you for giving me the opportunity to appear before you today on behalf of the Johnson County Commission concerning HB 2708, a bill which would amend the Johnson County Park & Recreation District's land acquisition statute to allow bond propositions submitted to voters to include a more general description of the real estate to be acquired for parkland with bond proceeds.

K.S.A. 19-2874 – which applies only to the Johnson County Park & Recreation District – authorizes the District to issue bonds to acquire real estate, provided that the issuance is first approved by a majority of voters countywide. This statute further requires that the proposition submitted to voters must specifically describe the location of the real estate to be acquired.

Market values often increase, however, when the location of property to be acquired is known in advance. Such land speculation creates difficulty and adds expense in acquiring the property, a burden ultimately borne by Johnson County Park & Recreation District taxpayers. By not requiring the exact location to be specified and allowing for a more general description of property to be acquired, the impact of land speculation on negotiations and property values could be reduced or eliminated.

School districts are currently authorized to acquire land by bond sale anywhere within their district without having to identify specific tracts. **HB 2708 would provide the Park & Recreation District with authority similar to that currently enjoyed by school districts statewide, by allowing Johnson County Park & Recreation District bond propositions to identify 1) the purpose for which the bonds are being issued and 2) the school district(s) in which the real estate to be acquired is located.**

**The Johnson County Commission believes this statutory change would benefit local taxpayers by minimizing the costs of land speculation, while still providing voters with information about where within the County proposed parks are to be located. For this reason, the Johnson County Commission supports HB 2708 and urges you to recommend the bill favorable for passage.**

Thank you very much for your time and consideration.

HOUSE LOCAL GOVERNMENT

02/05/02

Attachment 8