

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on March 14, 2002 in Room 245-N of the Capitol.

All members were present except: Senator Huelskamp

Committee staff present: Ken Wilke, Revisor of Statutes
Mike Heim, Legislative Research
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee: Robert Alderson, Attorney, Mid-States Port Authority
Bill Maasen, Johnson County Park & Recreation
Michael Meadors, Director, Jo Co Park & Recreation
Dotty Reilly, Bond Counsel, Jo Co Park & Recreation
Ashley Sherard, Johnson County Government

Others attending: See attached list

Hearing on HB 2747 - Port authority, refunding bonds

Robert Alderson, Attorney, Mid-States Port Authority, appeared as a proponent of the **HB 2747**. He testified the bill amends two sections of KSA 12-3402 and 12-3420 to change requirement to approval by cities and counties which "comprise such port authority" not those that "created the port authority" (Attachment 1).

There were no opponents to **HB 2747**.

With no other testimony on the bill, the hearing on **HB 2747** was closed by the Chair.

Hearing on HB 2708 - Johnson county park and recreation district; bond issues for land acquisitions

William Maasen, Planning and Development Manager, Johnson County Parks and Recreation District, appeared as a proponent of the bill. He testified the bill would allow language on the ballots to be more general and less limiting to the Parks and Receptions acquisition of land. Parks and Recreation have set a goal of acquiring 22 acres per 1,000 residents; they are currently at 14 acres per 1,000 (Attachment 2).

Michael Meadors, Director of Parks and Recreation, Johnson County Parks and Recreation District, appeared as a proponent of **HB 2708** (Attachment 3).

Dorothea Riley, Bond Counsel, Johnson County Parks and Recreation District, appeared in support of **HB 2708** (Attachment 4).

Ashley Sherard, Government Relations Manager for Johnson County testified as a proponent of **HB 2708** (Attachment 5).

There were no opponents to **HB 2708**.

With no other testimony on the bill, the hearing on **HB 2708** was closed by the Chair.

Action on bills previously heard: HB 2761, HB 2727

The Committee was provided with a letter as requested from Melissa Wangemann. The Kansas Sentencing Commission will work with the Secretary of State's Office to provide listings of felony convictions (Attachment 6).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT on March 14, 2002 in Room 245-N of the Capitol.

Senator O'Connor moved to pass **HB 2761** favorably out of committee. Seconded by Senator Jackson, the motion carried.

A motion by Senator Jackson to amend **HB 2727** with provision of **HB 2655** was seconded by Senator Brownlee. The motion carried.

Moved by Senator O'Connor to amend **HB 2727** with amendment proposed by Stuart Little on March 12, seconded by Senator Jackson. The motion carried.

Senator Clark made a motion to pass **HB 2727** favorably as amended. Seconded by Senator Brownlee, the motion carried.

Approval of minutes

A motion by Senator O'Connor to approve the minutes of January 22, 23; February 5, 6, 11, 12, 13, 19, 20, 26, and March 7, 2002. Senator Brownlee seconded the motion. The motion carried.

Adjournment

The meeting was adjourned by the Chair at 2:15 pm.

The next meeting is scheduled for Tuesday, March 19, 2002.

**ALDERSON, ALDERSON, WEILER,
CONKLIN, BURGHART & CROW, L.L.C.**
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KANSAS AND MISSOURI

**TESTIMONY OF BOB ALDERSON, GENERAL COUNSEL
OF MID-STATES PORT AUTHORITY,
BEFORE THE SENATE COMMITTEE ON
ELECTIONS/LOCAL GOVERNMENT
March 14, 2002**

My name is Bob Alderson, and I am appearing today in my capacity as General Counsel of Mid-States Port Authority (MSPA) in support of House Bill No. 2747. Initially, I should note that I have attached to this testimony a Memorandum providing background information on MSPA's formation, its purposes and objectives and its organization and operation, including the financing of its operations. Should the Committee need further information regarding MSPA, I trust you will not hesitate to contact me.

HB 2747 amends two sections of the port authority statutes, K.S.A. 12-3402 and 12-3420. Each of these statutes currently requires the involvement of the cities and/or counties which "created" a port authority in order for certain actions to be taken by the port authority. In order to amend the joint cooperative agreement which creates a port authority, K.S.A. 12-3402 requires that such action be taken by the governing bodies of the cities and counties which "executed such agreement." Similarly, K.S.A. 12-3420 requires that, in order to issue revenue refunding bonds, the bond issue must be approved by the cities and counties which "created" the port authority. Each of these statutes is amended in HB 2747 to require such action by the cities and counties which "comprise such port authority." The purpose for these amendments can be illustrated by the experience of MSPA in issuing its revenue refunding bonds in 1994.

As stated in the attached Memorandum, MSPA was formed by the joint cooperative agreement of 14 Kansas counties in 1980. However, effective September 1, 1985, Wabaunsee County withdrew from MSPA, and on June 1, 1990, Riley County also withdrew. In the resolutions effecting its withdrawal, the Board of Commissioners of each of these counties declared that none of the rail line acquired by MSPA from the Trustee in Bankruptcy for the Chicago, Rock Island and Pacific Railroad Company was situated in that county, and that there was no longer any public purpose for that county's participation in MSPA. In withdrawing, each of these counties relinquished any right, title or interest it may have had in MSPA's property in the event of MSPA's dissolution.

Senate Elec & Loc Gov
03-14-02
Attachment 1

Notwithstanding, in the fall of 1993, when MSPA began the proceedings leading to the issuance of revenue refunding bonds pursuant to K.S.A. 12-3420, MSPA's bond counsel advised that this statute required the approval of all 14 counties which "created" MSPA, including Wabaunsee and Riley Counties. While both of these counties eventually adopted resolutions approving the bond issue, such action was preceded by considerable correspondence and discussions in open sessions before each county commission, to explain why the commission should adopt a resolution approving a bond issue by MSPA, of which the county was no longer a member. Not unexpectedly, there was some reluctance among the county commissioners of these two counties, some of whom either had never heard of MSPA or knew very little about it.

In doing some long-range planning recently, MSPA's Board of Directors has recognized the possibility that MSPA might want to again issue revenue refunding bonds under K.S.A. 12-3420 at some point in the future. Thus, MSPA would like to avoid the necessity of having to obtain the approval to do so from counties which have withdrawn from the Authority and relinquished their right, title and interest in and to MSPA's property. It is respectfully suggested that it does not serve a useful public purpose to require approval of a port authority's actions by cities or counties which are no longer members of the port authority or have any involvement whatsoever in its operation. Rather, it would seem to make better sense to require such approval by the governmental entities which are currently involved in the port authority's operations, i.e., the cities and/or counties which "comprise such port authority."

As a somewhat parenthetical note, you also should be aware that, following abandonment of MSPA's rail line in Clay County, that county also withdrew from MSPA, effective June 21, 1999.

I appreciate very much the opportunity to appear before the Senate Committee on Elections/Local Government, to request that you recommend House Bill No. 2747 favorable for passage. If I can respond to any questions members of the Committee may have, I will be pleased to do so.

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KANSAS AND MISSOURI

MEMORANDUM

TO: Senate Committee on Elections/Local Government

FROM: W. Robert Alderson, General Counsel, Mid-States
Port Authority

RE: Background Information on Mid-States Port Authority

DATE: March 14, 2002

The purpose of this Memorandum is to acquaint the members of the Senate Committee on Elections/Local Government with the Mid-States Port Authority (MSPA), by providing a brief summary of MSPA's formation, its purposes and objectives and its organization and operation, including the financing thereof.

Formation

The MSPA is a public body corporate and politic, organized and existing under the authority of K.S.A. 12-3401 et seq. In a series of two abbreviated opinions and one formal opinion, the Kansas Supreme Court approved the validity of these statutes in State, ex rel. Tomasic v. Kansas City, Kansas Port Authority, 229 Kan. 538, 626 P.2d 209 (1981); 230 Kan. 19, 630 P.2d 692 (1981); 230 Kan. 404, 636 P.2d 760 (1981). Further challenges to these statutes and the operation of the Kansas City, Kansas, Wyandotte County Joint Port Authority were rejected in State, ex rel. Tomasic v. City of Kansas City, 237 Kan. 164, 696 P.2d 382 (1985); 237 Kan. 572, 701 P.2d 1314 (1985).

The MSPA was created by the Joint Cooperative Agreement entered into on May 29, 1980, by the following, 14 Kansas counties: Clay, Cloud, Decatur, Jewell, Norton, Phillips, Republic, Riley, Sheridan, Sherman, Smith, Thomas, Wabaunsee and Washington. The formation of MSPA was approved by the Attorney General of Kansas in Attorney General Opinion 80-95, issued April 23, 1980. Subsequent to MSPA's formation, Riley, Wabaunsee and Clay Counties withdrew from MSPA, relinquishing any right, title or interest they may have had in any MSPA property.

Purposes and Objectives

The exercise of MSPA's statutorily-conferred powers "will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions." K.S.A. 12-3418. Moreover, MSPA's activities and operations "constitute the performance of essential governmental functions." K.S.A. 12-3418.

The MSPA was created by counties in northwest and north central Kansas adversely affected by the loss of rail service in these counties, by reason of the bankruptcy and proposed liquidation of the Chicago, Rock Island and Pacific Railroad Company (Rock Island). The board of county commissioners of each of the counties affected determined there was a need for a joint port authority to function in the counties and region affected, in order to restore rail service and to insure the continued availability of rail service in the future. Therefore, consistent with the statutory requirement that the powers exercised by a port authority be for the benefit of the people of the state, the MSPA was created to serve the public purpose of restoring rail service to the affected counties.

In 1983, the Kansas Legislature agreed to guarantee a portion of a loan of \$18 million from the Federal Railroad Administration (FRA) to the MSPA, through the establishment of the Railroad Rehabilitation Loan Guarantee Fund (K.S.A. 75-5029) and by the authorization for payments from that fund to the FRA of not to exceed fifty percent (50%) of any loss resulting from default by the MSPA on any loan it obtained from FRA.

The rail line was acquired from the Rock Island's Trustee in bankruptcy on May 15, 1984, pursuant to an Amended Contract for Sale of Railroad Line (Limon-Hallam) dated April 11, 1984. Upon closing of the contract, the Trustee in bankruptcy executed two Quitclaim Deeds which were identical, except for the descriptions of the property being conveyed. One of these deeds conveyed the Trustee's interest (with certain exceptions) in and to the rail line in Clay, County, Kansas and the other conveyed the Trustee's interest (with certain exceptions) in and to the remainder of the line.

By virtue of these transactions, MSPA acquired a portion of Rock Island's right-of-way and track which runs from Limon, Colorado in the West to Belleville, Kansas, with lines running from that point to Clay Center, Kansas and to Hallam, Nebraska, being the eastern termination of MSPA's rail line. A map of the rail line acquired by MSPA is included herewith as Appendix I. Also acquired were various depots, switching and communication equipment, tools and other items useful to the provision of rail service.

The property acquired included approximately 465 miles of mainline track and right-of-way, approximately 40 miles of spur and siding track, 288 acres of real estate, depots, repair shops and bridges.

Organization and Operation

MSPA is governed by a Board of Directors comprised of one individual appointed by the board of county commissioners of each member county and eight individuals elected "at

large" collectively by the boards of county commissioners of the member counties. A list of the current members of the Board of Directors and their residence addresses is being submitted as Appendix II.

Pursuant to its duly adopted Rules and Regulations, the MSPA has created an Executive Committee, consisting of MSPA's Chairman, Vice Chairman, Secretary and Treasurer. Creation of the Executive Committee pursuant to rules and regulations is authorized by K.S.A. 12-3403(c). The rules and regulations authorize the Executive Committee to transact routine business and also to act upon such other matters as may be delegated to it by the Board of Directors.

The MSPA does not have any employees, but the Rules and Regulations provide for the Board's appointment of two special officers, a Deputy Treasurer and a General Counsel. Compensation for the services of these special officers is fixed by the Board of Directors.

The rail line acquired by MSPA from Rock Island's Trustee in bankruptcy is operated pursuant to two separate leases with rail carriers. It has a lease with Kyle to provide rail service along the MSPA's track in Kansas and Colorado. The other operating lease is with Union Pacific, which provides rail service on the segment of the line from Fairbury to Hallam, Nebraska. The facilities leased to Kyle actually include the segment of the line from the Kansas-Nebraska State line to Fairbury, Nebraska. However, there has been no traffic over this segment of the line since it was acquired by MSPA.

Under these lease agreements, Kyle and Union Pacific are responsible for providing freight service along their respective leased rail lines, and the interstate operating authority necessary to provide such service has been obtained by these carriers. MSPA does not have any authority to operate as a rail carrier itself, although MSPA is considered a railroad under various Kansas statutes, because of its ownership of railroad right-of-way.

Pursuant to both of these lease agreements, MSPA has retained control over the right-of-way and other property along the rail line that is not directly required for railroad operations, and a substantial portion of this "ancillary property" has been leased by MSPA to various lessees.

1989 Refinancing

Pursuant to Public Law 100-457 (the Federal Government's Deficit Reduction Program), the FRA was instructed to dispose of \$99 million of its assets. Among the assets FRA identified for disposal were the Notes issued by MSPA and guaranteed by the State of Kansas. As part of the effort to sell its assets, the FRA agreed to sell the MSPA's Notes back to MSPA for \$11 million. At that time, the face amount of the Notes plus accrued interest had a value of approximately \$20 million.

During the first five years of its operations, MSPA was able to accumulate nearly \$5,000,000.00 in cash. Thus, in 1989, after providing for reserves and closing costs, MSPA was able to apply a sizable portion of the cash on hand to the repurchase of its Notes from FRA, thereby reducing its need for refinancing to less than \$7 million.

However, because MSPA is a unique entity, as far as public bodies are concerned, ordinary bank financing of the balance of the monies necessary to repurchase the Notes from FRA was not available without the continued guarantee of the State of Kansas. Accordingly, the 1989 Kansas Legislature made the statutory changes necessary to perpetuate the State guarantee of MSPA's indebtedness. Section 1 of that act (now codified as K.S.A. 75-5031) authorized the Secretary of Transportation to guarantee the repayment of any amounts which may be in default on any loan obtained by MSPA for the refinancing of its obligations to FRA. Attorney General Opinion No. 89-45 clarified the Secretary of Transportation's authority under that law to guarantee the MSPA's obligation upon refinancing.

With the enactment of this legislation, the requisite financing was then provided by BANK IV Kansas, N.A. The financing arrangements with BANK IV included the bank's loan of \$6,575,000 to MSPA for the purpose of repurchasing its Notes from FRA. The loan was made pursuant to a Term Loan Agreement among MSPA, BANK IV and the Secretary of Transportation and various other "loan documents," including a Mortgage, Security Agreement, and Assignment of Leases between MSPA and BANK IV.

State Guarantee

The 1989 refinancing perpetuated the guarantee of MSPA's indebtedness by the State of Kansas, acting by and through the Kansas Secretary of Transportation. Under the Term Loan Agreement with BANK IV, the Secretary of Transportation, as Guarantor, was required to "include an appropriate amount in [KDOT's] budget request made each year to the Kansas Legislature to fund its remaining obligations" under the guarantee. The failure of the Kansas Legislature to make the required appropriation by May 15 in any year was deemed to be an "event of default." It is to be noted, however, that the Kansas Legislature has never failed to make the required appropriation to fund the State's guarantee, either as to the original financing with the FRA, the 1989 refinancing with BANK IV or the Revenue Refunding Bond Issue, as discussed subsequently.

Revenue Refunding Bonds

In 1993, MSPA's Board of Directors began exploring the possibility of re-financing its obligation to BANK IV. A re-financing proposal was submitted to BANK IV, and at the suggestion of then Secretary of Transportation Mike Johnston, the Board of Directors also considered the issuance of bonds pursuant to K.S.A. 12-3420, which authorizes a port authority to issue revenue bonds for the purpose of refunding any bonds or "other obligations" of the port authority. On the basis of the comparative funding analysis prepared by KDOT personnel and a comparison of the respective terms, provisions and conditions attending the BANK IV's re-financing proposal and the issuance of revenue refunding bonds pursuant to K.S.A. 12-3420, the MSPA Board of Directors concluded that it was advisable and in the best interests of the MSPA to proceed with the issuance of said bonds.

In compliance with statutory requirements, each of the original 14 counties which formed the MSPA adopted a resolution authorizing MSPA's Board of Directors to proceed with the

revenue refunding bond issue. Pursuant to such authorization, MSPA's Board of Directors issued Federally Taxable Revenue Refunding Bonds, Series 1994, dated May 1, 1994. On May 26, 1994, a single bond in the face amount of \$4,975,000 was issued to the Kansas Pooled Money Investment Board on behalf of the Kansas Department of Transportation. The bond proceeds were used to satisfy MSPA's obligations to BANK IV.

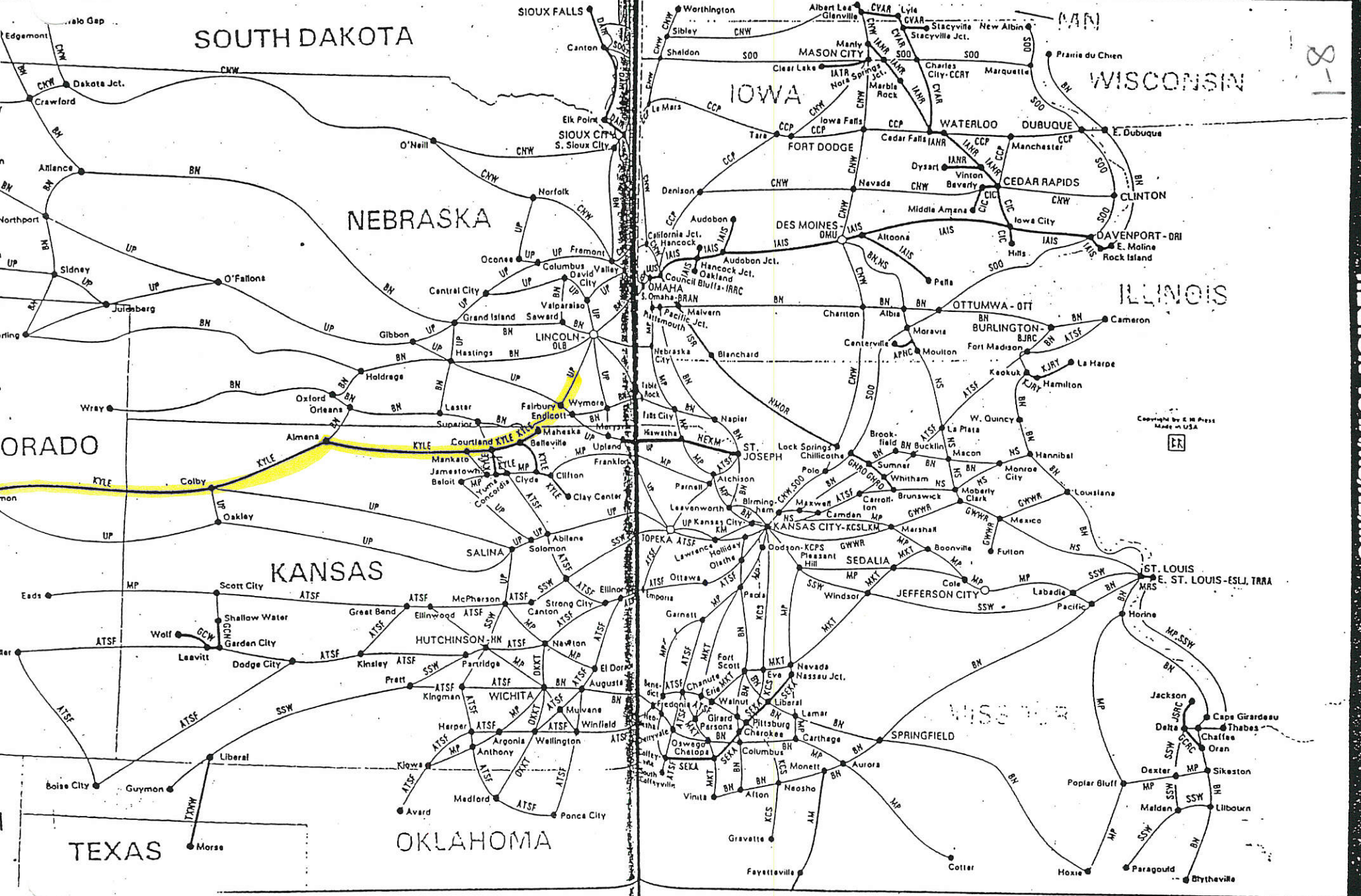
In connection with the revenue refunding bond issue, the Secretary of Transportation has continued to provide an Unconditional Guarantee of Payment, and in consideration thereof, MSPA executed a Mortgage, Security Agreement and Conditional Assignment of Leases in favor of the Secretary of Transportation. The terms and conditions of the revenue refunding bond issue are governed by an Indenture of Trust by and between the MSPA and the First National Bank and Trust, Phillipsburg, Kansas, as Trustee. Clarification of the "Reserve Requirement" under the Indenture was accomplished by the First Supplemental Indenture of Trust executed by the parties as of February 1, 1996.

On December 1, 1995, a partial redemption of the revenue refunding bonds was accomplished in connection with MSPA's abandonment of its rail lines between Belleville and Clay Center, Kansas, and between Fairbury and Thompson, Nebraska. The rail, ties, ballast and other track materials were salvaged on these segments of MSPA's rail line, and the net salvage proceeds of approximately \$1,400,000 were paid over to the bond holder (KDOT) pursuant to the Indenture's redemption provisions.

In addition to the partial redemption, throughout the term of the revenue refunding bonds, MSPA has made timely payments to the Trustee, as required by the Indenture, and the Trustee has made the required semi-annual interest payments and the annual principal payments to the bond holder. As a result, the outstanding principal balance on the bonds has been reduced to approximately \$2,340,000.00.

Conclusion

It is hoped that this Memorandum has provided members of the Senate Committee on Elections/Local Government with a better understanding of the MSPA and its role as a governmental entity. If any additional information or documents are needed to clarify or supplement this Memorandum, they will be provided on request.



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APPENDIX II

MSPA BOARD MEMBERS

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Glen Elder, KS 67446

Denis Sweat, Treasurer
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Cedar, KS 67628



TESTIMONY

to

KANSAS SENATE
ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

William R. Maasen, Planning and Development Manager
Johnson County Park and Recreation District
March 14, 2002

HOUSE BILL NO. 2708

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PARK & RECREATION
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Craig T. Kenworthy

Mark G. Stingley

Vickie Truitt

Dr. Marvin E. Wollen

DIRECTOR

Michael D. Meadors

NATIONALLY
ACCREDITED



Honorable Chairperson Allen 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, Planning and Development Manager for the District. The Planning and Development Department is responsible for researching what land is appropriate for future parks, planning how those properties will be developed for public utilization, and 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 is the 1998 Big Bull Creek Park referendum. The ballot question text 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 and affordable land that was adjacent to but just outside 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, increased the expense of some purchases to the taxpayer. At the Big Bull Creek site, landowners with speculative interests went so far as to have the land annexed into city limits and attempted to re-zone the property for commercial purposes to increase its value. The District was forced to expend funds to oppose this re-zoning. The District reluctantly utilized its power of eminent domain to acquire the parcel. If the requested modification to the statute had been

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Attachment 2

in place four (4) years ago, other properties could have been acquired outside those specific boundaries and funds would not have been 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 appraiser's determination of value and in once case, the offer extended was significantly higher than the court determined value. The net effect of the current process results in increased land costs to the District and taxpayers.

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 parks, recreation, and open space. Critical habitats and natural areas are diminished every year, and the affordability for acquisition of parkland is reduced due to inflationary pressures of the local economy. The current population of 460,000 county citizens is expected to increase 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 the county's 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 in parkland. (Attached is a copy of Map 8 for your review). It is likely that a referendum would be required to acquire this parkland, and by including a description of where the land to be acquired is located, speculative buyers would have the ability to contact landowners and purchase land in advance of the District's contact. This would inevitably lead to an increase in the costs to taxpayers for this parkland and make it much more difficult to complete the task of acquiring land for parks.

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 (CPAs)," 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, Planning and Development Manager
Johnson County Park and Recreation District
7900 Renner Road
Shawnee Mission, KS 66219
913 438-7275
bill.maasen@jocoks.com

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

Shall the following be adopted:

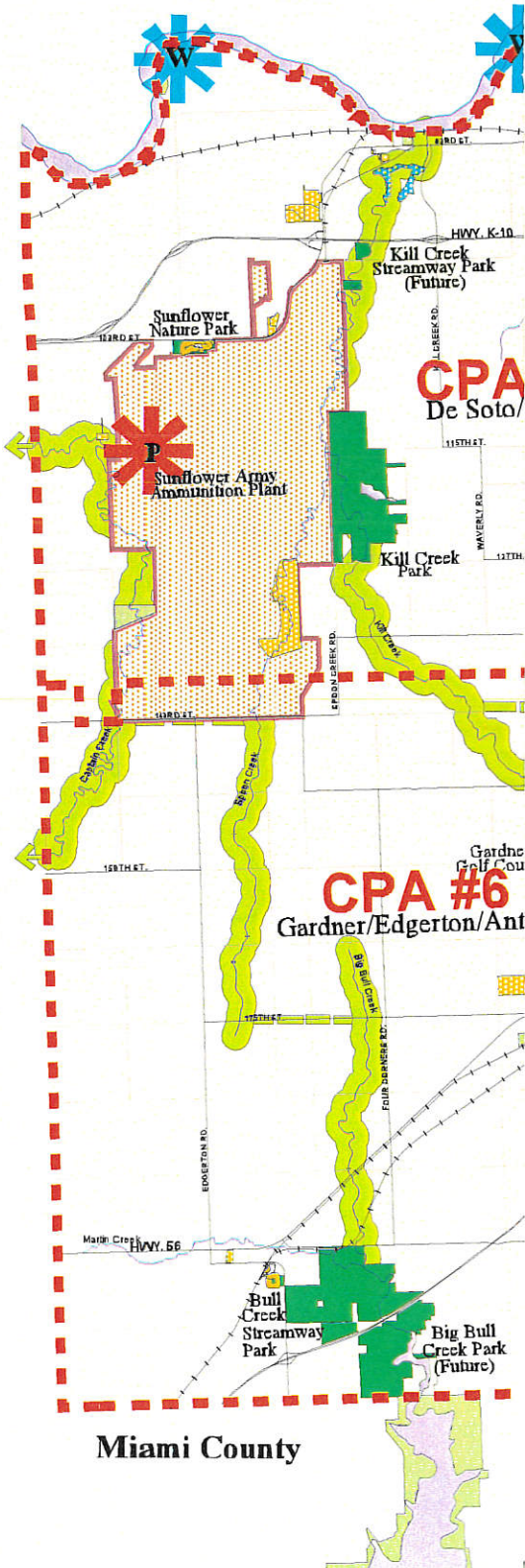
Shall the Johnson County Park and Recreation District issue general obligation bonds in an amount not exceeding Six Million Dollars (\$6,000,000.00) for the purpose of acquiring approximately but not more than One Thousand Four Hundred (1,400) acres of land for a fourth regional park within Johnson County, 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



Leavenworth County

Master Action Plan 2020



Legend

Existing

- JCPRD Parks
- Other Municipal Parks
- State of Kansas Wildlife & Park
- Public Golf Course
- Semi - Public Golf Course
- Private Golf Course
- School Property
- County Planning Area (CPA)
- JCPRD & Municipal Trailway
- Major Road
- Lake / River
- Railroad
- Stream

Proposed

- Potential Streamway Park Addition W/ Proposed Trail
- Streamway Trail Linkage
- Potential Park Site
- Proposed Wetland Bank & Restoration Site

Douglas
County

Miami County

	THOMPSON DYKE & ASSOCIATES, LTD.		
	<i>Land Planning</i>	899 Skokie Blvd, Suite 510	Telephone 847.272.6280
	<i>Landscape Architecture</i>	Northbrook, Illinois	E-Mail tda@interaccess.com
<i>Urban Planning</i>	60062.4025	Fax 847.272.9871	

Handwritten signature and date: 2-28



TESTIMONY

to

KANSAS SENATE
ELECTIONS & LOCAL GOVERNMENT COMMITTEE

Michael D. Meadors
Director of Parks and Recreation
Johnson County Park and Recreation District
March 14, 2002

HOUSE BILL NO. 2708

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Craig T. Kenworthy

Mark G. Stingley

Vickie Truitt

Dr. Marvin E. Wollen

DIRECTOR

Michael D. Meadors

NATIONALLY
ACCREDITED



Honorable Chairperson Allen 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.

	<u>Park Land Acres 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
Total Acres	5,495

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To meet this 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 affect 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. Our current means of acquiring land will not work to the advantage of the taxpayer or the District in acquiring the multiple, smaller tracts of land recommended in MAP 2020. 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:

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MARY F. CARSON
JAMES M. KAUP

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** ADMITTED IN MISSOURI
ALL OTHERS ADMITTED IN KANSAS

March 14, 2002

Chairperson and Members of
the Senate Committee on
Elections and Local Government
Statehouse
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).

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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.

Statute	Type of Entity	Election Required	Property Description Required	Procedure If No Election Requirement
<i>19-2874</i>	<i>Johnson County Park and Rec.</i>	<i>yes</i>	<i>yes</i>	<i>n/a</i>
12-1301 to 12-1302	cities	no	n/a	subject to notice and protest
13-1024a*	cities	yes, unless 1 st 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.

Statute	Type of Entity	Election Required	Property Description Required	Procedure If No Election Requirement
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

OFFICE OF THE COUNTY MANAGER

To: The Honorable Barbara Allen, Chairman
The Honorable Kay O'Connor, Vice-Chairman
Members, Senate Elections & Local Government Committee

From: Ashley Sherard, Government Relations Manager

Date: March 14, 2002

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

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 may create difficulty and add 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 potential 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.

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RON THORNBURGH
Secretary of State



First Floor, Memorial Hall
120 SW 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS
MEMO

TO: SENATOR BARBARA ALLEN
FROM: MELISSA WANGEMANN, LEGAL COUNSEL
RE: HB 2761
DATE: 13 MARCH 2002

At last week's hearing on HB 2761 I was asked to research whether the judicial districts could provide notification to the Secretary of State of felony convictions. The Secretary of State would in turn use this information to instruct county election officers to remove felons from voter registration records.

Our office discussed this matter with the Office of Judicial Administration and was informed that the 31 judicial districts do not have a statewide reporting system and therefore they are not in the best position to provide this information to our office. The 105 counties would have data on felony convictions and the clerk of the district court or the county/district attorney could provide us this information. However, the counties already report felony convictions to the Kansas Bureau of Investigation and the Sentencing Commission by sending copies of journal entries of judgment. It seems duplicative to require the counties to also send notice of felony convictions to the Secretary of State when two state agencies already have this information.

The idea of our office partnering with the KBI to obtain felony convictions was discussed when HB 2761 was heard in the House Ethics and Elections Committee. The KBI opposed this idea due to concerns of fiscal impact and the inaccuracy and incompleteness of their records. It's my understanding that the counties do not always provide complete and accurate information and therefore the KBI was concerned about sharing their database with our office.

I talked to Barbara Tombs, executive director of the Kansas Sentencing Commission this week. Barb was cooperative and said that the commission would be glad to work with the Secretary of State to provide a listing of felony convictions. She raised the same concern as did the KBI—that the counties do not always provide complete or timely copies of journal entries and therefore the Sentencing Commission's database would not be error-proof. Because Ms. Tombs was concerned about the Sentencing Commission's

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ability to furnish accurate and complete information, she would prefer that HB 2761 not contain a directive that the Sentencing Commission provide this information to the Secretary of State. Instead, the Secretary of State and the Sentencing Commission will work during the interim to draw up a plan to exchange the information. Both our offices need time to determine what data the Secretary of State needs, in what format the data may be shared, and how often we need to receive the information.

We recommend that the committee pass HB 2761 without any further amendments.