

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 February 20, 2003 in Room 245-N of the Capitol.

All members were present.:

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

Conferees appearing before the committee: Meryl Dye, Special Assistant to City Manager, Hutchinson
Kim Gulley, League of Municipalities
Senator Derek Schmidt
James Clark, Assistant Attorney General; State Fire
Marshall's Office
Senator William Bunten
Don Moler, League of Municipalities

Others attending: see attached list.

Hearing on

SB 178 - Cities; payment for certain improvements

Chairperson Allen opened the hearing by announcing the distribution of a fiscal note on this bill.

Chairperson Allen then recognized Meryl Dye, Special Assistant to City Manager, Hutchinson, to begin testimony of proponents. Ms. Dye testified in support of **SB 178** (Attachment 1).

Kim Gulley, Director of Policy Development & Communications; League of Kansas Municipalities, also appeared briefly on behalf of **SB 178** (Attachment 2).

Although not present, written testimony in favor of **SB 178** was distributed from: Jeff Allen, President of USD Board of Education and Wynona Winn, Superintendent of USD 308 Board of Education (Attachment 3), and also from David Corliss, Assistant City Manager and Director of Legal Services for Lawrence(Attachment 4).

There were no opponents present.

Chairperson Allen announced the closing of the hearing on **SB 178** after there were no responses for additional comments.

SB 209 - Allows counties to seek reimbursement from prisoners for cost of fire district response to fire

Chairperson Allen opened the hearing for **SB 209**. Chairperson recognizes the first proponent of the bill, Senator Derek Schmidt. Senator Schmidt addressed the committee spoke briefly in support of **SB 209** (Attachment 5).

James Clark, Assistant Attorney General; Kansas Fire Marshal presented testimony in favor of **SB 209** (Attachment 6) which also offered proposed amendments to the bill which he believed would A fiscal note on this bill was distributed to members.

Although not present, written testimony was distributed from Jim Keating, President of Kansas State Firefighters Association, favoring the passage of **SB 209** (Attachment 7).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT at on February 20, 2003 in Room 245-N of the Capitol.

Chairperson Allen announced the closing of the hearing on **SB 209**.

SB 172 - Elections; changing the date of April primary elections to August

A fiscal note on this bill was distributed to members.

Chairperson Allen recognized Senator Bill Buntin, who provided testimony in support of **SB 172** (Attachment 8).

Don Moler, Executive Director for League of Kansas Municipalities, testified in opposition to **SB 172** (Attachment 9).

Chairperson Allen announced the closing of the hearing on **SB 172**.

Action on previously heard bills SB 77, SB 167, and SB 238.

Sheila Frahm, Executive Director KACCT, distributed a fiscal impact statement on **SB 77** (Attachment 10) for community colleges, which was previously requested by Chairperson Allen.

Don Moler, Executive Director for League of Kansas Municipalities, distributed a balloon for **SB 77** as discussed during the previous meeting and options for wording changes (Attachment 11), which were previously requested by Chairperson Allen, and Mr. Moler also briefed the committee on these proposed changes. Rick Thames, Editor of Wichita Eagle and Legislative Director for Kansas Press was recognized by Chairperson Allen to respond to requests by committees for clarifications on **SB 77**.

Senator Clark moved to table, **SB 77** and the motion was seconded by Senator Schmidt, motion carries; Senator Buhler requested to be recorded as a no vote on the motion to table **SB 77**.

Whitney Damron, acting on behalf of the City of Topeka, distributed clarifications to testimony delivered on February 18, 2003 and amendment recommendations for **SB 167** (Attachment 12).

Senator Clark moved to amend **SB 167** on line 31 by adding *initial* between *the* and *notice* - to read *the initial notice*; also on line 40 inserting *second* between *give* and *notice* - to read *give second notice*. This motion was seconded by Senator Schmidt.

Senator Clark moved to amend his original motion for the amendment of **SB 167** to include the striking of the term *first class*, throughout the bill and in its place inserting *regular* and to favorably pass **SB 167**; Senator Schmidt seconds the motion and motion carries.

Senator Clark made motion to pass **SB 238** favorably, Senator Buhler seconds the motion and the motion carries for passage of **SB 238**. Senator Jackson requested to be recorded as a NO vote on **SB 238**.

Adjournment

Chairperson Allen announces the next meeting to be on Monday, February 24, 2003 at 1:30 p.m. and the meeting adjourned at 2:30 p.m..

SENATE
ELECTIONS AND LOCAL GOVERNMENT
GUEST LIST

Date Thurs 9/20

<u>Andy Shaw</u>	<u>KPA</u>
<u>Will Kennedy</u>	<u>Topeka Capital Journal</u>
<u>John Fish</u>	<u>" " "</u>
<u>Meryl Dye</u>	<u>City of Hutchinson</u>
<u>Sheela Yakow</u>	<u>Community Colleges Assoc</u>
<u>Kathy Damon</u>	<u>City of Topeka</u>
<u>Rick Thames</u>	<u>Wichita Eagle</u>
<u>DAVID CORUSS</u>	<u>CITY OF LAWRENCE</u>
<u>Peggy Mooney</u>	<u>Topeka Metro News</u>
<u>Fanny Sharp</u>	<u>Ottawa Herald</u>
<u>John Montgomery</u>	<u>The Hays Daily News</u>
<u>Caroline Trowbridge</u>	<u>The Mirror newspaper of Tonganoxie</u>
<u>Jeff Burkhead</u>	<u>Kansas Press Assoc.</u>
<u>David PowlS</u>	<u>Holton Recorder</u>
<u>Pat Lehman</u>	<u>KS Fire Service Alliance</u>



P.O. Box 1567 / Hutchinson, KS 67313 1567

Telephone:

Office Of: 620.694.2608

CITY
MANAGER

TESTIMONY OF THE CITY OF HUTCHINSON, KANSAS
BEFORE THE KANSAS SENATE
COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT
(S.B. 178)

FEBRUARY 20, 2003

Kansas law now requires all entities in a benefit district to be assessed for improvements within that district. There are times when one entity is willing to pay the entire cost of an improvement that also benefits others.

The City of Hutchinson supports legislation that would amend the special assessment law under K.S.A. 12-6a01 et seq. to allow a municipality or any one or more persons or entities who or which are willing to pay the cost of a proposed improvement, even though the proposed improvement district would not include all properties which may be deemed to benefit from the proposed improvement.

Presented by:

Meryl Dye, Special Assistant to the City Manager
meryld@hutchgov.com

Senate Elections & Loc Gov
02-20-03
Attachment 1



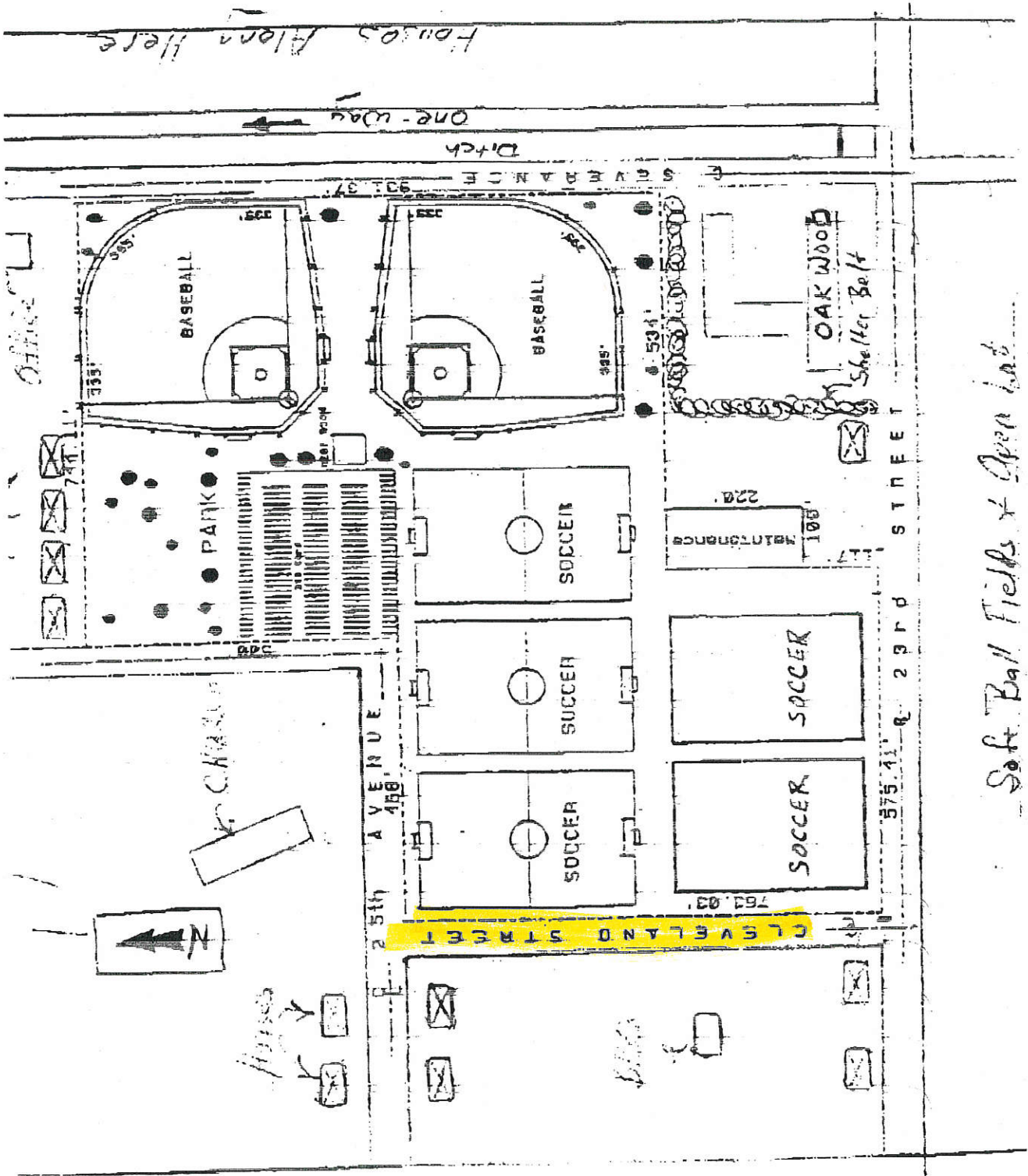
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Central Purchasing Fax 620-694-1971
Fire Fax 620-694-2875

Flood / Refuse Fax 620-694-2650
Inspection Fax 620-694-2691
Municipal Court Fax 620-694-2858

Police Fax 620-694-2859
Public Works Fax 620-694-1980
Waste Water Plant Fax 620-694-2604

TOTAL P.04



Soft Ball Fields & Open lot



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

League of Kansas Municipalities

To: Senate Elections and Local Government
From: Kim Gulley, Director of Policy Development & Communications
Date: February 20, 2003
Re: Support for SB 178

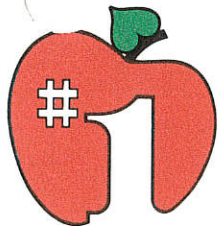
Thank you for the opportunity to appear before you today on behalf of the League of Kansas Municipalities (LKM) and our 556 member cities. We appear today in support of SB 178.

The 12-6a special improvement law currently requires that all properties that would benefit from a particular project, must be included within the benefit district, and must, therefore, contribute to the financing of the project. While we support this general concept, there is a legitimate question as to whether this requirement should apply when there is a particular landowner who petitions the city for the project and is willing to foot the entire bill.

In short, we believe that if there is a landowner who is seeking the public improvement and who volunteers to pay for the project, we should let them pay. SB 178 accomplishes this common sense goal and we respectfully request that the Committee report the bill favorably for passage.

Thank you and I would be happy to stand for questions at the appropriate time.

Senate Elections & Loc Gov
02-20-03
Attachment 2



Hutchinson Public Schools

USD 308 ADMINISTRATION CENTER
1520 NORTH PLUM, BOX 1908
HUTCHINSON, KANSAS 67504-1908
TELEPHONE (620) 665-4400
1-800-665-4560
FAX NUMBER (620) 665-4410

DR. WYNONA WINN
SUPERINTENDENT

February 17, 2003

Chairperson and Members
Senate Committee on Elections and Local Government

Re: Senate Bill 178

On behalf of U.S.D. 308 and the Hutchinson public schools, we urge you to support passage of Senate Bill 178 to amend certain provisions of the Kansas General Improvement Law, K.S.A. 12-6a01 *et seq.* The amendments are necessary to resolve ambiguities in the existing statutes in light of Attorney General's Opinion 2000-13.

We believe the Attorney General's interpretation of the existing law as expressed in Opinion 2000-13 unnecessarily limits the broad authority the Legislature granted to local governments under the General Improvement Law to fashion and carry out plans for needed public improvements in cooperation with other willing political subdivisions and property owners. An improvement project proposed by U.S.D. 308 to the City of Hutchinson in 1999 illustrates clearly the need for the proposed legislation.

U.S.D. 308 owns a tract of land generally bounded by Severance Street on the east, by 23rd Avenue on the south and by Cleveland Street on the west. To the north are platted residential subdivisions. Several years ago the District began improving the tract to provide additional baseball and soccer practice fields and an off-street parking area. Access to the athletic fields is via Cleveland Street from 23rd Avenue and via 25th Avenue. Cleveland street presently is an unimproved gravel road that extends from 23rd Avenue north to 25th Avenue. Both 23rd Avenue and 25th Avenue are improved streets. A diagram showing the location of Cleveland Street and the surrounding properties is attached for illustration.

Nearby homeowners began to complain of the dust and dirt that resulted from the increased traffic using Cleveland Street for access to the new athletic fields. The increased traffic also resulted in the need for additional road maintenance work by City crews.

The properties abutting Cleveland Street on the west all are family residences which front on either 23rd or 25th Avenues or on Eastwood Street. None of the properties have frontage on Cleveland Street. The District's property abuts the entire length of Cleveland Street on the East.

To address the problems associated with the increased usage of Cleveland Street U.S.D. 308 submitted a petition to the City of Hutchinson pursuant to the General Improvement Law. The Petition proposed that the City install curbs and gutters and pave Cleveland Street from 23rd Avenue north to 25th Avenue

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Committee on Elections and Local Government
Re: SB 178
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and that the cost of such improvements be assessed against property in an improvement district that included the property owned by U.S.D. 308 but did not include the properties abutting Cleveland Street on the west. The District's Board of Education believed it unfair to burden the owners of the residential properties on the west side of Cleveland Street with the costs of improving access to the District's athletic facilities.

The District later was informed by City staff personnel that the City's bond counsel and the Attorney General interpreted the General Improvement Law to require that all property benefitted by the proposed improvement must be included in the proposed improvement district and assessed a portion of the costs of the improvement. Since the District was not willing to impose on the other adjoining property owners the costs of improving access to the District's facilities, the District withdrew its improvement petition and Cleveland Street remains unimproved.

The Attorney General's view regarding the extent to which property that may be deemed to benefit from a particular improvement project must be included in an improvement district under the General Improvement Law later was expressed in Opinion 2000-13. The Attorney General's opinion may, in part, be the result of ambiguities in the existing statutes. However, we believe the Attorney General's opinion misconstrues the General Improvement Law and is inconsistent with the Kansas Supreme Court's 1986 decision in *Garvey Elevators, Inc. v. City of Wichita*, 238 Kan.682.

Clearly, cities may not legally impose assessments for improvements upon property which is not benefitted by an improvement or levy assessments which are grossly disproportionate to the benefit conferred by an improvement project. However, when one or more property owners agree to assume the entire cost of a particular improvement, there is no constitutional or other legal mandate that requires that all other property benefitted by an improvement be assessed a portion of the improvement costs.

The General Paving Law, another act providing for street improvements, refers to "benefit districts" (rather than "improvement districts") which were defined by the statute's mechanical requirement that assessments to pay the costs of an improvement be levied "upon the property on each side of the street or avenue to the middle of the block." The General Paving Law was difficult to apply in all situations and sometimes produced inequitable results. Other public improvement statutes included similar specific requirements that sometimes were inappropriate or difficult to apply in particular instances.


The General Improvement Law was enacted in 1957 to provide cities and property owners greater latitude in defining the boundaries of improvement districts and providing more options for allocating costs in the financing of needed public improvements than were available under then existing laws. In fact, K.S.A. 12-6a02 recites that the Act is intended to provide a "complete alternative to all other methods provided by law" for making public improvements that confer special benefits on property

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Page 3


within a defined area. The Attorney General's recent interpretation of the General Improvement Law, in our view, seriously limits the broad authority and flexibility the Legislature intended.

We believe passage of SB 178 will resolve any ambiguities that may exist in the existing provisions of the General Improvement Law in light of the Attorney General's Opinion and will restore to cities the flexibility to address needed public improvements that was envisioned by the legislature when it enacted the General Improvement Law. U.S.D. 308 continues to be willing to assume responsibility for payment of the costs of the Cleveland Street project to improve access to the District's athletic facilities without burdening the owners of the other abutting properties who will derive little or no real benefit from the improvements.

Thank you for your consideration.



Jeff Allen, President
U.S.D. 308 Board of Education



Wynona Winn, Superintendent
U.S.D. 308.



City of Lawrence KANSAS

CITY COMMISSION

MAYOR
SUE HACK

COMMISSIONERS
DAVID M. DUNFIELD
JAMES R. HENRY
MARTIN A. KENNEDY
MIKE RUNDLE

MIKE WILDGEN, CITY MANAGER

CITY OFFICES 6 EAST 6th
BOX 708 66044-0708 785-832-3000
TDD 785-832-3205 FAX 785-832-3405
www.lawrenceks.org

To: Senate Committee on Elections & Local Government
From: David Corliss, Assistant City Manager & Director of Legal Services
Date: February 20, 2003
Re: Senate Bill 178 - Clarification to City Special Assessment Laws

The City of Lawrence supports Senate Bill 178 that would clarify important provisions of the special assessment laws. The use of special assessments as a financing tool to build public infrastructure is very important to the City of Lawrence. At the end of 2002, the City of Lawrence had over \$9million in outstanding special assessment general obligation bonds. Property developers and homebuilders frequently petition the City to use the special assessment process to finance and build the necessary streets, sewers, sidewalks and other public facilities necessary for a growing community.

Of assistance to Lawrence, Senate Bill 178 would clarify the special assessment law to provide that benefit districts can proceed with 100% of the property owners in agreement with the benefit district even though some property that may be deemed to benefit is not included in the benefit district. This provision is particularly important for improvements and development bordering older neighborhoods that are not likely to seek special assessments but may benefit from the proposed improvements.

Your support of this important change to the special assessment laws is urged.

Senate Elections & Local Gov
02-20-03
Attachment 4



Capitol Office
State Capitol, Room 143-N
Topeka, Kansas 66612
(785) 296-7398

District Office
304 North Sixth Street
P.O. Box 747
Independence, Kansas 67301
(620) 331-1800



Senator Derek Schmidt
15th District

Committee Assignments

Agriculture (Chairman)
Judiciary
Reapportionment
Natural Resources
Elections and Local Government
Legislative Post Audit

Message Only (800) 432-3924
During Session

Testimony in support of Senate Bill 209
Senate Elections and Local Government Committee
By Senator Derek Schmidt
February 20, 2003

Madam Chairman, thank you for scheduling this hearing on Senate Bill 209, which this committee introduced at my request.

The idea for Senate Bill 209 came to me from a constituent who serves as a rural firefighter. He expressed concern about the cost imposed on taxpayers when a tax-financed fire department must expend resources to respond to an arson fire. My constituent believes that there should be a mechanism in law for the taxpayers to seek reimbursement of their expense from the person who ultimately is convicted of the arson.

I share that view. Senate Bill 209 proposes to allow the taxing authority that incurs cost from responding to an arson fire to seek reimbursement from the arsonist. The concept is similar to legislation enacted into law last year, which allows counties to seek reimbursement from prisoners for medical expenses incurred while the prisoner is in county custody.

Admittedly, the provisions in Senate Bill 209 will only be useful in a limited number of circumstances. They can only help when an arsonist is caught and convicted and when that arsonist has resources to pay restitution to the taxpayers. But in those cases in which these circumstances exist, Senate Bill 209 would provide an important tool.

I have worked with Jim Clark from the state fire marshal's office in crafting this legislation. Some amendments are necessary to ensure that the legislation fulfills its purpose, and Mr. Clark will be presenting that proposed amendment.

Thank you for your consideration.

Senate Elections & Loc Gov
02-20-03
Attachment 5



OFFICE OF THE

KANSAS STATE FIRE MARSHAL

700 SW JACKSON ST, SUITE 600, TOPEKA, KS 66603-3714
PHONE (785) 296-3401 / FAX (785) 296-0151

Gale Haag
Fire Marshal

Kathleen Sebelius
Governor

Testimony in Support of

SB 209

By

The Office of the Kansas State Fire Marshal
James W. Clark, Assistant Attorney General

Presented to the Senate Elections and Local Government Committee
February 20, 2003.

The Kansas State Fire Marshal appears in support of SB 209, which allows the cost of a county fire district's response to a fire to be added to the restitution obligation of persons convicted of intentionally setting the fire. Such districts, like every other governmental entity in Kansas, are constantly in a fiscal crisis, and any monies recovered from any source are always welcome.

However, the bill does not cover all the fire districts in Kansas, and the KSFMO can find no rationale for failing to include other kinds of fire districts within the provisions of the bill. If the Legislature intends for the bill to apply to all fire districts across the state, the bill needs to be amended to say that.

If the bill is also intended to make a strong statement to sentencing judges, language also needs to be added to the sentencing statute showing that the Legislature means for a sentencing court to specifically include fire district costs in the determination of the amount of restitution.

The Kansas State Fire Marshal's Office has prepared an amendment to SB 209, which is attached to this testimony, which would include all fire districts in the restitution award, and would amend the sentencing statute to specifically include fire district response costs in the determination of restitution.

We would urge the Committee to adopt the proposed amendments, and pass the bill out favorably as amended.

*Senate Elections & Local Gov
02-20-03*

"Where fire safety is a way of life." Attachment 6

Proposed Amendment to
SENATE BILL NO. 209

By
The Office of the Kansas State Fire Marshall

1. By striking "K.S.A. 2002 Supp. 19-3601a is hereby repealed" from Section 2, and adding the following language:

21-4603d. Authorized dispositions, crimes committed on or after July 1, 1993.

(a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense;

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567 and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence and up to 60 days in a county jail upon each revocation of the probation sentence, or community corrections placement;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502 and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape, as defined in K.S.A. 21-3809 and amendments thereto or aggravated escape, as defined in K.S.A. 21-3810 and amendments thereto; or repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction. Such repayment of the amount of any such costs and expenses incurred by a law enforcement agency or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the law enforcement agency;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 2001 Supp. 22-4529 and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 2001 Supp. 20-369, and amendments thereto;

(11) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10); or

(12) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime *and expenses incurred by fire district*s by responding to a fire which has been determined to be arson from the person convicted of such crime under K.S.A. 2002 Supp. 21-3718 and K.S.A. 2002 Supp. 21-3719*, unless the court finds compelling circumstances which would render a plan of restitution unworkable. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 2000 Supp. 60-4301 et seq. and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719 and amendments thereto to collect the restitution on behalf of the victim. The administrative judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502 and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole or conditional release.

(f) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony or while the offender is on probation, assignment to a community correctional services program, parole, conditional release, or postrelease supervision for a felony, a new sentence shall be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, a new sentence may be imposed pursuant to the consecutive sentencing requirements of K.S.A. 21-4608 and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to

incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H, 3-I, 4-E or 4-F of the sentencing guidelines grid for drug crimes, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H, 3-I, 4-E or 4-F of the sentencing guidelines grid for drug crimes, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendment thereto or a community intermediate sanction center. Pursuant to this paragraph the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or a community intermediate sanction center and the defendant meets all of the conservation camp's or a community intermediate sanction center's placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or a community intermediate sanction center.

(h) The court in committing a defendant to the custody of the secretary of corrections shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) Dispositions which do not involve commitment to the custody of the secretary of corrections shall not entail the loss by the defendant of any civil rights. Placement of offenders in a conservation camp established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, as a nonimprisonment disposition shall not entail the loss by the defendant of any civil rights.

(k) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(l) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(m) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate: (1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, or for an offense which is classified in grid blocks 5-H, 5-I, or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H, 3-I, 4-E, or 4-F of the sentencing guidelines grid for drug crimes; and (2) otherwise meets admission criteria of the camp. If the inmate successfully completes a conservation camp program, the secretary of corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by

the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 21-4611 and amendments thereto.

(n) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

2. By renumbering the remaining sections accordingly.

*Fire districts are either formed or are given authority under the following statutes:
K.S.A. 12-3902, 12-3911, 12-3913, 13-797, 2002 Supp. 19-3601a, 19-3612, 19-3613, 19-3614, 19-3614a, 2002 Supp. 19-3616, 19-3619, 2002 Supp. 19-3620, 19-3902, 19-3914, 80-1512, 80-1547, 80-1555.

Kansas Fire Service Alliance

Ω Kansas State Fire Fighters Association

Ω Kansas State Association of Fire Chiefs

Ω Kansas Professional Fire Chiefs Association

TESTIMONY

REFERENCE SB 209

Presented to

SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

Presented by

JIM KEATING, President
KANSAS STATE FIREFIGHTERS ASSOCIATION

I provide testimony today on behalf of the Kansas Fire Service Alliance. The Alliance consists of the Kansas State Firefighters Association, Kansas State Association of Fire Chiefs, and the Kansas State Association of Professional Fire Chiefs, which represents 16,000 Kansas firefighters.

The Alliance appreciates your time for review and accepting comments on this proposed legislation. We strongly support this legislative effort. Fire suppression can be costly in materials used, equipment wear and damage and for wages or wage reimbursements paid to those called to suppress a fire.

This legislation would allow a fire department to assess these costs against a person or persons convicted with the crime of arson for that specific property. This legislation would serve as an additional deterrent for the crime of arson and provide the opportunity for cost reimbursement. This reimbursement would prove valuable especially to departments where outside assistance was required to control a fire and costs were involved with that assistance.

It is our understanding an amendment, or substitute bill, will be required to properly cover all statutes involved. We also support that effort and do want to assure that this ability would be offered to a city, township or district fire department.

Again, we thank you for your efforts and sincerely encourage the Committee's support for this legislation.

Senate Elections & Local Gov
02-20-03
Attachment 7

Home Address:
SW 30TH STREET
TOPEKA, KANSAS 66611
(785) 266-6514

Capitol Office:
STATE CAPITOL, ROOM 460-E
TOPEKA, KANSAS 66612
(785) 296-7374
bunten@senate.state.ks.us

STATE OF KANSAS



SENATOR BILL BUNTEN

COMMITTEE ASSIGNMENTS:

Member: COMMERCE
EDUCATION
LEGISLATIVE POST AUDIT
WAYS AND MEANS

SENATOR BILL BUNTEN

Testimony before the
Elections and Local Government Committee

Regarding

Senate Bill 172

on

February 20, 2003

ELECTIONS AND LOCAL GOVERNMENT
2/20/03

*Senate Elections & Loc Gov
02-20-03
Attachment 8*

Madam Chairperson and members of the committee, thank you for this opportunity to appear before you regarding Senate Bill 69.

In the winter and spring of 2001 I was a candidate for the office of Mayor of the city of Topeka. The primary election that year involved four candidates including the mayor, a former mayor, and another gentleman.

That campaign followed the general election campaign of 2000 which didn't end until early December due to the problem of determining which Presidential candidate won the Florida electoral votes.

The campaign for most local, state and federal offices was and remains expensive, with lots of money raised, and that made it very difficult to raise funds for my campaign for Mayor. People were pretty much tapped out, tired of politics and not eager to make more campaign contributions and I understood that. But, we began our effort, which started in mid December, with my announcement and that was followed by two months of campaigning that culminated with the primary in late February with the selection of two of the four candidates to participate in the general election on April 3rd.

It was very difficult for city and school board candidates to generate any real interest in these spring campaigns simply because people were tired of politics, yet there is no doubt that the election of a Mayor for the capital city of our state, city council members, and school board members are extremely important elections. My campaign ended in a 1,000 vote loss, and elation by my wife, JoAnn, who was last seen that night toasting my opponent.

Upon my election to the Senate, I had a number of issues that I was interested in and one of them was to try and change these important spring time elections to the fall when national, state, and county elections are held. The purpose of such a change is to increase participation in the election process that determines who will govern our cities and who will lead our schools.

The figures that we have received from the Election Commissioner's office indicates that in the winter primary election held February 27, 2001 - 19.7% of the eligible voters actually voted. In the August 2002 primary, although still disappointing, 32.1% cast their votes. Even more disturbing was that in the 2001 spring general election 29.67% of eligible voters voted while in the November 2002 general election 63.9% voted.

What these figures could mean is that in a winter primary election 10% of the voters could determine who qualifies for the general election, and 15% could determine the winner of Mayoral, City Council or School Board elections.

If we are serious about encouraging people to vote we should hold our elections at a time when there would be the greatest interest and at the most convenient time for citizens to vote. To make that possible I am proposing that we no longer have winter and spring elections but that all voting be done in the autumn of even numbered years.

Additionally I have authored a bill to bring the August primary elections closer to the

November elections by changing the statutes that deal with primary elections so that voting takes place on the 1st Tuesday after the 4th Monday in August rather than the 1st Tuesday after the 1st Monday.

Times have changed, school now begins in early August and many parents are busy getting children enrolled and in class, additionally, many voters are still on vacation so perhaps with the primary date moved back by three weeks this is another way we could increase voter participation.

ELECTIONS	ELIGIBLE VOTERS	TURNOUT
1999 PRIMARY ELECTION - March 2, 1999	45,673	14.9%
1999 GENERAL ELECTION - April 6, 1999	98,761	16.88%
2000 PRIMARY ELECTION - August 1, 2000	100,660	29.5%
2000 GENERAL ELECTION - November 10, 2000	105,113	72.68%
2001 PRIMARY ELECTION - February 27, 2001	74,491	19.7% Snow Storm
2001 GENERAL ELECTION - April 3, 2001	105,480	29.67%
2002 PRIMARY ELECTION - August 6, 2002	97,002	32.1%
2002 GENERAL ELECTION - November 5, 2002	99,271	63.9%



League of Kansas Municipalities

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

To: Senate Elections and Local Government Committee
From: Don Moler, Executive Director
Re: Opposition to SB 172
Date: February 20, 2003

First I would like to thank the Committee for allowing the League to testify today in opposition to SB 172. SB 172 completely changes the electoral cycle for city elected officials and as a result would cause a tremendous amount of chaos in the state electoral system. It would require the changing of local elections for 626 cities as well as 304 school districts. In my 18 years of service to the League of Kansas Municipalities, and the cities of Kansas, I have never had an inquiry from a city official concerning the electoral cycle. To put this in perspective, I estimate that I have answered at least 2,000 legal inquiries per year while a League attorney. Using my 18 years times that number would indicate that I have answered in excess of 36,000 inquiries on virtually every aspect of local government law in Kansas. During that period of time not a single local official has asked this question.

Functionally, this is a can of worms which I would suspect the Committee, and the Legislature, does not want to open. The simple fact of the matter is that most cities in Kansas have charter ordinated the election statutes as they pertain to local governments to allow for a stagger of terms of the governing body as well as modifying the length of term for governing body officials. Some cities have city elections only on odd number of years, while some have elections in both even and odd numbered years. For this statute to be changed would throw the entire local government electoral process into chaos. The powers of the state to change this in such a fashion are at best unclear to the League. We would believe you would end up with a large lawsuit involving the power of the legislature to modify state election laws as that power interacts with the constitutional home rule authority of cities in the state.

Finally we would like to raise a philophical issue having to do with the fact that city elections in Kansas are nonpartisan in nature. City and school elections in Kansas are non partisan affairs. We believe it is wrong to marry partisan elections with non partisan elections in Kansas as a matter of public policy. We continue to believe that city elections and school elections have been held at a separate time and year in large part to separate them from partisan county and state elections. Since we believe the system is working well, and there is no real substantive reason to change it, we would urge this Committee to reject SB 172.

Senate Elections & Loc Gov
02-20-03
Attachment 9



MEMO

TO: Senator Barbara Allen, Chair Elections & Local Government

From: Sheila Frahm, Executive Director KACCT

Date: February 20, 2003

RE: Fiscal Impact - Publication Costs – SB 77

Senator Allen, Thank you for your continued interest in considering recommendations that would provide for local boards to make decisions affecting their local communities. Notice to the public is very important and having the opportunity to consider alternative methods of notification may be a valuable decision making tool for the 19 locally elected community college boards of trustees.

A quick survey of available Chief Financial Officers indicates that the required annual budget publication for a typical college runs between \$50 - \$100. Additionally, each time it is necessary to inform the public regarding a bond issue, capitol outlay or similar board activity, the cost would be similar. It can be expected that colleges with notifications required in large metropolitan newspapers may experience significantly higher costs. Individual colleges may provide this notification in more than one community newspaper.

Assuming each of the nineteen community colleges run the routine annual budget notifications and even half of the colleges have an additional financial notification, the savings for community colleges could be \$2000 to \$3000.

We look forward to continuing to work with your committee.

A handwritten signature in cursive script that reads "Sheila Frahm".

Senate Elections & Local Gov
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Attachment 10

Option 1. A specific statement adequately describing the content of the ordinance, resolution or notice shall be published.

Option 2. The summary shall contain sufficient information so that a reader may understand the content of the notice or action of the governing body.

Senate Elections & Loc Gov
02-20-03
Attachment 11

SENATE BILL No. 77

By Committee on Elections and Local Government

1-28

AN ACT concerning municipalities; pertaining to using the inte
official publications; amending K.S.A. 12-1651 and K.S.A. 200
64-101 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. ~~K.S.A. 12-1651 is hereby amended to read as follows: 12-
1651. (a) The governing body of each city of the second and third class
shall designate by resolution a newspaper or internet web site to be the
official city newspaper publication source for such city. Once designated
the newspaper or internet web site shall be the official city newspaper
publication source for such city until such time as the governing body
designates a different newspaper or internet web site.~~

~~(b) If a newspaper is selected for the official publications of cities
as the official publication source for a city of the second and third class
such newspaper shall be one which has have the following qualifications:~~

~~(1) It Such newspaper must be published at least weekly 50 times
each year and have been so published for at least one year prior to the
publication of any official city publication.~~

~~(2) It Such newspaper must be entered at the post office of publi-
cation as second-class mail matter.~~

~~(3) More than 50% of the circulation of such newspaper must be sold
to the subscribers either on a daily, weekly, monthly or yearly basis.~~

~~(4) It Such newspaper shall have general paid circulation on a daily,
weekly, monthly or yearly basis in the county and shall not be a trade,
religious or fraternal publication.~~

~~(c) If an internet web site is selected as the official publication source
for a city of the second or third class, such internet web site shall have
the following qualifications:~~

~~(1) Such internet web site shall not be password protected;~~

~~(2) such internet web site shall be accessible to members of the general
public; and~~

~~(3) no fee shall be associated with or charged for access to such in-
ternet web site.~~

~~(d) The publication of a city legal notice, advertisement, ordinance or
resolution pursuant to the provisions of this act shall comply with any~~

Delete Section 1 which applies to cities of the second and third class.

~~statutory requirement for the official publication of such city legal notice, advertisement, ordinance or resolution as may be required by law, including any requirement for the publication of such city legal notice, advertisement, ordinance or resolution in the official city newspaper.~~

~~(c) For the purposes of this section, "internet" means the international network of interconnected government, educational and commercial computer networks.~~

Sec. 2. K.S.A. 2002 Supp. 64-101 is hereby amended to read as follows: 64-101. (a) The governing body of each city of the first class shall designate by resolution a newspaper ~~or internet web site~~ to be the official city newspaper publication source for such city. Once designated, the newspaper ~~or internet web site~~ shall be the official city newspaper publication source for such city until such time as the governing body designates a different newspaper ~~or internet web site~~.

No legal notice, advertisement or publication of any kind required or provided by any of the laws of the state of Kansas, to be published in a newspaper shall have any force or effect unless the same is published in a newspaper which the official publication source for such city.

(b) If a newspaper is selected as the official publication source for such city of the first class, such newspaper shall have the following qualifications:

(1) ~~It~~ Such newspaper shall be published at least weekly 50 times a year and has been so published for at least one year prior to the publication of any official city publication;

(2) such newspaper is entered at the post office as periodical class mail matter;

(3) such newspaper has general paid circulation on a daily, weekly, monthly or yearly basis in the county in which the city is located and is not a trade, religious or fraternal publication; and

(4) ~~is~~ such newspaper shall be published in the county in which the city publishing the official publication is located. If there is no newspaper published in the county, the newspaper shall be published in Kansas and shall have general paid circulation in the county.

(c) If an internet web site is selected as the official publication source for a city of the first class, such internet web site shall have the following qualifications:

(1) Such internet web site shall not be password protected;

(2) such internet web site shall be accessible to members of the general public; and

(3) no fee shall be associated with or charged for access to such internet web site.

(d) ~~The publication of a city legal notice, advertisement, ordinance or resolution pursuant to the provisions of this act shall~~ comply with any

Add the following language to the beginning of subsection (d).

Whenever a city selects an internet web site as the official publication source for the city, and where state law requires publication in a newspaper pursuant to subsection (b), the city shall publish in such newspaper a heading, brief summary, and the URL address where a complete copy of the notice can be obtained.

be deemed to

1 statutory requirement for the official publication of such city legal notice,
2 advertisement, ordinance or resolution as may be required by law, in-
3 cluding any requirement for the publication of such city legal notice, ad-
4 vertisement, ordinance or resolution in the official city newspaper.

5 ~~(b)~~ (e) The board of county commissioners of each county shall des-
6 ignate by resolution a newspaper or internet web site to be the official
7 ~~county newspaper~~ publication source for such county. Once designated
8 the newspaper or internet web site shall be the official ~~county newspaper~~
9 publication source for such county until such time as the board designates
10 a different newspaper or internet web site. ~~The newspaper selected for~~
11 ~~the official publications of a county shall be a newspaper which~~

, or in the case of counties with a population over 50,000, an

12 (f) If a newspaper is selected as the official publication source for such
13 county, such newspaper shall have the following qualifications:

14 (1) ~~It~~ Such newspaper shall be published at least weekly 50 times
15 each year and has been so published for at least one year prior to the
16 publication of any official county publication;

17 (2) such newspaper is entered at the post office in the county of
18 publication as periodical class mail matter, which county shall be located
19 in Kansas;

20 (3) such newspaper has general paid circulation on a daily, weekly,
21 monthly or yearly basis in the county and is not a trade, religious or
22 fraternal publication; and

23 (4) such newspaper is published in the county publishing the official
24 publication. If there is no newspaper published in the county, the news-
25 paper shall be printed in Kansas and have general paid circulation in the
26 county.

Add to the beginning of subsection (h).
Whenever a county selects an internet web site as the official publication source for the county, and where state law requires publication in a newspaper pursuant to subsection (e), the county shall publish in such newspaper a heading, brief summary, and the URL address where a complete copy of the notice can be obtained.

27 (g) If an internet web site is selected as the official publication source
28 for a county, such internet web site shall have the following qualifications:

29 (1) Such internet web site shall not be password protected;

30 (2) such internet web site shall be accessible to members of the general
31 public; and

32 (3) no fee shall be associated with or charged for access to such in-
33 ternet web site.

34 (h) The publication of a county legal notice, advertisement, ordinance
35 or resolution pursuant to the provisions of this act shall comply with any
36 statutory requirement for the official publication of such county legal no-
37 tice, advertisement, ordinance or resolution as may be required by law,
38 including any requirement for the publication of such county legal notice,
39 advertisement, ordinance or resolution in the official county newspaper.

be deemed to

40 ~~(i)~~ (i) Whenever the board of education of a school district is required
41 to publish a legal notice, advertisement or other publication in a news-
42 paper having general circulation in the school district, such newspaper
43 shall be one which:

1 (1) Is published at least weekly 50 times each year and has been so
2 published for at least one year prior to the publication of any school
3 district publication;

4 (2) is entered at the post office in the school district of publication
5 as periodical class mail matter;

6 (3) has general paid circulation on a daily, weekly, monthly or yearly
7 basis in the school district and is not a trade, religious or fraternal pub-
8 lication; and

9 (4) is published in the school district publishing the official publica-
10 tion. If there is no newspaper published in the school district, the news-
11 paper shall be published in Kansas and shall have general paid circulation
12 in the school district.

13 ~~(d)~~ (j) Nothing contained in this section shall invalidate the publica-
14 tion in a newspaper which has resumed publication after having sus-
15 pended publication all or part of the time that the United States has been
16 engaged in war with any foreign nation and six months next following the
17 cessation of hostilities if such newspaper resumes publication in good faith
18 under the same ownership as it had when it suspended publication. Noth-
19 ing in this section shall invalidate the publication in a newspaper which
20 has simply changed its name or moved its place of publication from one
21 part of the county to another part, or suspended publication on account
22 of fire, flood, strikes, shortages of materials or other unavoidable accidents
23 for not to exceed 10 weeks within the year last preceding the first pub-
24 lication of the legal notice, advertisement or publication. All legal
25 publications heretofore made which otherwise would be valid, that have
26 been made in a newspaper which, on account of flood, fire, strikes, short-
27 ages of materials or other unavoidable accident, has suspended publica-
28 tion for a period of not exceeding 10 weeks, are hereby legalized.

29 (k) For the purposes of this section, "internet" means the international
30 network of interconnected government, educational and commercial com-
31 puter networks.

32 Sec. 3. ~~K.S.A. 12-1651~~ and K.S.A. 2002 Supp. 64-101 are hereby
33 repealed.

34 Sec. 4. This act shall take effect and be in force from and after its
35 publication in the statute book.

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New subsection (j), then renumber as appropriate.

As an alternative to the newspaper requirement in this act, school districts in counties with a population over 50,000 may designate an internet web site as the official publication source for the school district. If an internet site is selected by a school district, it shall be one which has the following qualifications:

- (1) The internet site must not be password protected;
- (2) It must be accessible to members of the general public; and
- (3) There must not be a fee associated with accessing the site.

Publication pursuant to this section shall be deemed to comply with any statutory requirement for publication.

Whenever a school district selects an internet web site as the official publication source for the district, and where state law requires publication in a newspaper pursuant to subsection (b), the school district shall publish in such newspaper a heading, brief summary, and the URL address where a complete copy of the notice can be obtained.

is

WHITNEY B. DAMRON, P.A.
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ADDITIONAL COMMENTS ON SB 167

TO: The Honorable Barbara Allen, Chair
And Members Of The
Senate Elections and Local Government Committee

FROM: Whitney Damron
On Behalf Of The
City of Topeka

RE: SB 167 – Cities; Notice of Nuisance Abatement by Regular Mail

DATE: February 20, 2003

On behalf of the City of Topeka, I would like to clarify a few points from the hearing held on Tuesday, February 18 on SB 167.

Included with this memorandum you will find copies of E-mail sent between Mr. Mike McGee of the City of Topeka Public Works Department (who testified in support of the bill on behalf of the City) and Mr. Darrel Eklund, President of the Shawnee County Landlords Association. From that exchange of E-mail, it would seem clear that this organization has taken no formal position on SB 167. That may not have been clear from the testimony on that day. There is also dialogue in the attachments that would indicate the statewide association of landlords either supports SB 167 or does not oppose its enactment (they did not appear on the bill).

I would also note there was no other formal opposition to this bill other than from a Topeka landlord (who does not represent the Shawnee County Landlords Association) and I will let his testimony speak for itself.

The City of Topeka supports SB 167. We are not opposed to clarifications in the bill, if needed and would suggest the following areas for consideration:

1. Initial notice to property owner or agent by First Class mail.
2. Prior to any remediation by the City that would include the assessment of costs and/or a fine, notice shall be sent by Registered Mail or sent with a Certificate of Mailing.

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02-20-03
Attachment 12

Senate Committee on Elections and Local Government
Page Two of Two
February 20, 2003

The City of Topeka will continue to utilize means of communications currently in use such as door hangers, postings and other means of communication with property owners. It is incumbent on the City to properly notify property owners of their obligations and the City believes these changes in state law will increase notification and response.

In summary, we stand ready to work with the Committee to adopt meaningful changes to the nuisance abatement notice statutes that will assist the City and its citizens in their efforts to maintain safe and adequately maintained neighborhoods.

Thank you for consideration of this additional information.

Whitney Damron

Attachments

Subj: FW: SB 167
Date: 2/19/2003 9:02:05 AM Central Standard Time
From: mmcgee@Topeka.org
To: wbdamron@aol.com
CC: blong@Topeka.org, gprice@Topeka.org
Sent from the Internet (Details)

As a follow-up to our presentation yesterday the attached information is provided from Darrel Eklund, President of the Shawnee County Landlords Assn (SCLA). In a separate email Darrel indicated that the SCLA had taken no formal position on the bill but relied on TALK to represent their interests. As you can see below TALK supports SB167. Unfortunately they did not speak yesterday. Can you see if they provided any testimony to the committee or get them to do so? They also have a good idea with the certificate of mailing. I would suggest that a first letter go out 1st Class and if we received no response we send the second notice w/certificate of mailing and proceed to publish at the same time in preparation for abatement. Might be a good compromise if there isn't support for as is. Also Don Moler was talking about the Topeka process but he had it confused. There aren't two mailings as he described but this would fit what he was proposing. Our process typically involves leaving a door hanger saying there is a violation. If upon recheck it is not corrected we send the certified letter. We also typically send a last chance letter (1st Class) prior to abatement at the owners expense.

With regard to Mr. DeLapp, he obviously misrepresented the SCLA. Hopefully that point can somehow be made with the committee. I am also forwarding the other email from Mr. Eklund stating that the SCLA Board had taken no position. Please advise on what you might need to further support the passage of this bill as amended. We do believe that the billing requirement for certified mail should also be reduced to 1st Class in the amended bill. Thanks for your assistance.

-----Original Message-----

From: Darrel Eklund [mailto:deklund@cox.net]
Sent: Tuesday, February 18, 2003 7:48 PM
To: Mike McGee; JoAnn Peavler
Cc: Darrel and Margie Eklund
Subject: Fw: SB 167

Mike and JoAnn,

TALK is the statewide association of landlords in Kansas. Ed Jaskinia is the President of TALK and is at the Legislature about every day to monitor and testify on legislative bills impacting Kansas landlords. Bob Ebey is a TALK member who keeps me up to speed on the various legislative bills. Today I asked him about SB 167, after I talked to both of you. Bob has indicated in the e-mail I am forwarding to you that TALK supports (goes along with) SB 167.

----- Original Message -----

From: Robert E. Ebey
To: Darrel Eklund
Sent: Tuesday, February 18, 2003 7:40 PM
Subject: Re: SB 167

TALK goes along with the bill as the Legislature is now and have been for the past couple of years taking out all requirements for certified mail and replacing it with first class mail.

Not only are they doing this for the reasons you list but KU Legal Section brought forth the law that if a person does not pick up a certified piece of mail, it is the same as not sending it. They have been putting this out to all tenants.

We are recommending that a Landlord send all mail with a certificate of mailing to prove that you did mail the item. The cost on it that way is about \$1.55. Cheaper than certified mail. By getting the certificate of mailing from the post office will prove to any judge you did send the mail.

Darrel Eklund wrote:

Bob, I appreciate the frequent updates on legislative bills. SB 167 pertains to nuisance abatement. It allows the City to send letters to the owner or agent of the owner by "first class mail", rather than "certified mail". I believe the City of Topeka supports this bill, primarily because some individuals refuse to pick up the certified mail and this causes a delay in the process. A slight reduction in the cost is a secondary reason that the City supports the bill. Has TALK taken a position on SB 167? Darrel Eklund, PresidentSCLA

Subj: **FW: SB 167**
Date: 2/19/2003 8:58:40 AM Central Standard Time
From: mmcgee@Topeka.org
To: wbdamron@aol.com
Sent from the Internet (Details)

As per my other email ---

-----Original Message-----

From: Darrel Eklund [<mailto:deklund@cox.net>]
Sent: Tuesday, February 18, 2003 8:12 PM
To: Mike McGee; JoAnn Peavler
Cc: Darrel and Margie Eklund
Subject: SB 167

Mike and JoAnn,

In regard to your question about the position of the Shawnee County Landlord's Association (SCLA) in regard to SB 167, I can't immediately respond because neither our Association nor our Board of Directors have studied SB 167.

I can tell you that I have read the bill and am personally in agreement with it. Also, based on my communication this evening with Mr. Bob Ebey, who monitors legislative bills for The Associated Landlords of Kansas (TALK). It is my understanding that TALK is **not** opposed to this bill. TALK is the statewide organization of landlords that the SCLA is a member of.

Darrel Eklund