

Approved: February 1, 2010

Date

MINUTES OF THE SENATE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Roger Reitz at 9:30 a.m. on January 25, 2010, in Room 144-S of the Capitol.

All members were present except:

Senator Susan Wagle- excused
Senator Oletha Faust-Goudeau-excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Noell Memmott, Committee Assistant

Others attending:

See attached list.

Chairman Reitz called the meeting to order and gave opening remarks.

Dotty Riley, Bond Attorney for the City of Lenexa, presented information seeking a committee hearing on a bill pertaining to Public Sale of Bonds.

Senator Petersen moved the bill be introduced in committee, motion seconded by Senator Huntington. The motion carried.

Whitney Damron, City of Topeka, requested a hearing on a bill changing nuisance notice requirements (Attachment 1).

Senator Kultala moved the bill be introduced, the motion was seconded by Senator Marshall. The motion carried.

Richard Samaniego, representing Kansas County Treasurers, presented "clean-up" legislation on status and due dates.

Senator Huntington moved the bill be introduced in committee, the motion was seconded by Senator Kultala. The motion carried.

The next meeting is scheduled for January 26, 2009.

The meeting was adjourned at 10:00 a.m.

LOCAL GOVERNMENT GUEST LIST

DATE: *January 25, 2010*

| NAME | REPRESENTING |
|-------------------------------|--|
| <i>Slatky Riley</i> | <i>Rufak Koch for Linn</i> |
| <i>Jay Peonett</i> | <i>Kansas Register of Deeds</i> |
| <i>Richard Spry</i> | <i>Kenny & Assoc.</i> |
| <i>Matt Shatto</i> | <i>City of Linn</i> |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |



REQUEST FOR BILL INTRODUCTION

TO: The Honorable Roger Reitz, Chair
And Members of the Senate Committee on Local Government

FROM: Whitney Damron
On Behalf of the City of Topeka

RE: Amendments to Notice Requirements for Abatement of Nuisances

DATE: January 25, 2010

Good morning Chairman Reitz and Members of the Senate Committee on Local Government. I am Whitney Damron and I appear before you today on behalf of the City of Topeka to request introduction of legislation that would allow a city to provide notice of a nuisance by first class mail instead of the current statutory requirement of notice provided by certified mail, return receipt requested.

Providing certified mail service to property owners cited under K.S.A. 12-1617e and K.S.A. 12-1617f is expensive and oftentimes not the most effective way to provide notice to the offending party.

The City of Topeka would respectfully request introduction of this bill that would provide cities with the opportunity to more effectively and economically address nuisance issues within our cities.

In closing, I would ask for the Committee's permission to work with the Revisor if any technical changes are needed for our bill draft, as when this document and the attachment was prepared, our City Attorney was unavailable to proof our proposed amendments.

Our proposed amendments are attached to this memorandum.

On behalf of the City of Topeka, I thank you for your consideration of our request.

Whitney Damron

Attachment

12-1617e

Chapter 12.--CITIES AND MUNICIPALITIES
Article 16.--MISCELLANEOUS PROVISIONS

12-1617e. Abatement of nuisances; notice; assessment and collection of costs; procedure; disposition of motor vehicles. (a) The governing body of any city may have removed or abated from any lot or parcel of ground within the city any and all nuisances, including rank grass, weeds or other vegetation. The governing body may have drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the city, county or joint board of health or other agency as may be designated by the governing body of the city files with the clerk of such city its statement in writing that such nuisance, rank vegetation or pond of water, describing the same and where located, is a menace and dangerous to the health of the inhabitants of the city, or of any neighborhood, family or resident of the city. The governing body of the city, by resolution, also may make such determination.

(b) Except as provided by subsection (c), the governing body of the city shall order the owner or agent of the owner of the property to remove and abate from the property the thing or things therein described as a nuisance within a time, not exceeding 10 days, to be specified in the order. The governing body of the city shall grant extensions of such ten-day time period if the owner or agent of the property demonstrates that due diligence is being exercised in abating the nuisance. The order shall state that before the expiration of the waiting period or any extension thereof, the recipient thereof may request a hearing before the governing body or its designated representative. The order shall be served on the owner or agent of such property by ~~certified mail, return receipt requested~~, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by ~~certified mail, return receipt requested~~, to the last known address of the owner.

first class mail
first class mail

(c) If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body of a city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (b) or as provided in this subsection. Except as specifically provided in this subsection, the governing body may provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(d) If the owner or agent fails to comply with the requirement of the order for a period longer than that named in the order, the city shall proceed to have the things described in the order removed and abated from the lot or parcel of ground. If the city abates or removes the nuisance, the city shall give notice to the owner or agent by ~~certified mail, return receipt requested~~, of the total cost of such abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The city also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement and notice is not paid within the thirty-day period, the cost shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify such costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

first class mail

Whitney B. Damron, P.A.
919 SOUTH KANSAS AVENUE
TOPEKA, KANSAS 66612-1210
(785) 354-1354 • (785) 354-8092 (Fax)
E-Mail: wbdamron@aol.com

(e) Any city may remove and abate from property other than public property or property open to use by the public a motor vehicle determined to be a nuisance. Disposition of such vehicle shall be in compliance with the procedures for impoundment, notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. Following any sale by public auction of a vehicle determined to be a nuisance, the purchaser may file proof thereof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of such motor vehicle. If a public auction is conducted, but no responsible bid received, the city may file proof thereof with the division of vehicles, and the division shall issue a certificate of title of such motor vehicle to the city. Any person whose motor vehicle has been disposed of pursuant to this subsection shall be eligible for a refund of the tax imposed pursuant to K.S.A. 79-5101 et seq., and amendments thereto. The amount of such refund shall be determined in the manner provided by K.S.A. 79-5107, and amendments thereto.

History: L. 1903, ch. 134, § 1; L. 1905, ch. 120, § 1; R.S. 1923, § 12-1641; L. 1959, ch. 77, § 1; L. 1975, ch. 66, § 1; L. 1985, ch. 73, § 1; L. 1986, ch. 74, § 1; L. 1987, ch. 70, § 1; L. 1990, ch. 72, § 1; L. 1998, ch. 80, § 1; L. 2003, ch. 120, § 18; L. 2004, ch. 44, § 1; July 1.

12-1617f

Chapter 12.--CITIES AND MUNICIPALITIES
Article 16.--MISCELLANEOUS PROVISIONS

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

first class mail

first class mail

first class mail

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

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

History: L. 1915, ch. 144, § 1; L. 1917, ch. 112, § 1; R.S. 1923, § 12-1642; L. 1975, ch. 66, § 2; L. 1985, ch. 73, § 2; L. 1986, ch. 74, § 2; L. 1992, ch. 266, § 1; L. 1997, ch. 186, § 1; L. 1998, ch. 80, § 2; July 1.