

MINUTES OF THE SENATE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Roger Reitz at 9:30 a.m. on February 2, 2010, in Room 144-S of the Capitol. Senator Kultala introduced her pages for the day.

All members were present.

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

Conferees appearing before the Committee:

Carolyn Applegate, Norton County Commissioner
Whitney Damron, City of Topeka
Karen Hiller, Councilwoman, District 1, City of Topeka
Ed Jaskinia, President, The Associated Landlords of Kansas

Others attending:

See attached list.

The hearing opened for **SB 463 - Counties; bonded debt limit; Norton County**. Mike Heim, Revisor, read and gave a brief summary of the bill.

Senator Ostmeyer introduced Carolyn Applegate, Norton County Commissioner, she testified in favor of **SB 463 (Attachment 1)**. The bill would provide regionalizing and consolidating of services for health and law enforcement. She explained that the projects Norton County would undertake would help ease the burden on the state budget by facilitating more efficient delivery of public services.

There were no opponents.

The hearing opened for **SB 465 - Cities; nuisance abatement notice**. Mike Heim, Revisor, explained that the bill amends statues dealing with nuisance notices.

Whitney Damron, on behalf of the City of Topeka, stated that the bill amends the way a city is allowed to provide notice to the responsible party for a nuisance citation (Attachment 2).

Karen Hiller, Councilwoman, District 1, City of Topeka, gave the following reasons to support this bill: save money; good customer service; and improve speed and success of communication and abatement. She also reviewed the estimated cost savings and answered questions (Attachment 3).

Erik Sartorius, City of Overland Park, submitted written testimony in favor of the bill (Attachment 4).

Ed Jaskinia, President, The Associated Landlords of Kansas, testified in opposition of the bill (Attachment 5).

The hearing on **SB 465** will be continued on Monday, February 8.

The next meeting is scheduled for February 8, 2010.

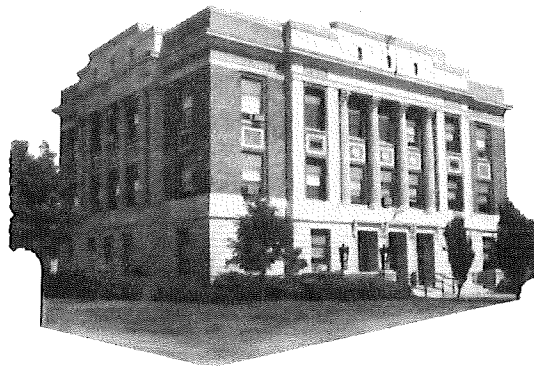
The meeting was adjourned at 10:34 a.m.

LOCAL GOVERNMENT GUEST LIST

DATE: February 2, 2010

NAME	REPRESENTING
Nathan Eberline	LKM
Doug Smith	Norton County
Whitby Jamm	City of Topeka
Ed JASKINIA	TALK

NORTON COUNTY, KANSAS



NORTON, KANSAS

Senate Committee on Local Government Senate Bill No. 463

Testimony by: Carolyn Applegate, Norton County Commissioner
February 2, 2010

Mr. Chairman and members of the committee, thank you for the opportunity to present Norton County's position on SB463.

As a bit of background, current state statute limits county bond indebtedness to 3% and city bond indebtedness to 30%. Wyandotte County was the first to be granted the ability to issue bonds at the same level as cities and, four years ago, Franklin County was granted this same authority.

With the demand for new models of government to reduce costs at all levels and the trend toward regionalization and consolidation to meet this demand, it is important to have adequate options to finance more capital-intensive projects in small counties.

In planning for Norton County's future, we quickly recognized that financing is an obstacle to completing larger projects. Examples of projects we have been unable to consider under the current limitation are a joint law enforcement center, public health and infrastructure to accommodate business growth. Looking to the future, a higher limit is even more important as we consider innovative solutions to consolidating and regionalizing services.

Raising the limit for bond indebtedness in Norton County will not affect the state budget. Ideally, the projects we would be able to accomplish would help ease the burden on the state budget by facilitating more efficient delivery of public services.

- The current valuation of Norton County is \$38,980,437.00.
- At 3%, our bond indebtedness limitation is \$1,169,413.10.
- If increased to 30%, our limit would be \$11,694,131.00.

Thank you for this opportunity to offer testimony and I ask for your favorable support of Senate Bill No. 463. I'm pleased to answer any questions.

Senate Local Government

2-2-2010

Attachment 1



TESTIMONY

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

FROM: Whitney Damron

RE: SB 465 - An Act concerning cities; relating to certain nuisance
abatement procedures.

DATE: February 2, 2010

Good morning Chairman Reitz and Members of the Senate Committee on Local Government. I am Whitney Damron and I appear before you today in support of SB 465 on behalf of the City of Topeka.

With me today is Topeka City Council Member Karen Hiller, who will also provide comments to you following my presentation. Also in attendance are several representatives of the City who will be available to respond to your questions at the appropriate time.

At the outset of this hearing, I would like to take a moment to discuss what this bill does and what it does not do. First of all, this bill does not change current law or otherwise impact what is and what is not a public nuisance. The state under K.S.A. 12-1617e and other statutes has granted authority to cities to bring actions against responsible parties for the remediation of such problems. We are not here today to ask for changes in public nuisance law in regard to what constitutes a public nuisance. We believe those issues are best left to be decided at the local level. What this bill does is simply amend the way a city is allowed to provide notice to the responsible party for a nuisance citation.

As requested for introduction, SB 465 would allow a city to provide notice to a property owner or agent for a nuisance by first class mail rather than by certified mail, return service requested.

In the City's experience, certified mail, return service requested is not necessarily the best way to notify a property owner or agent of a nuisance violation. Oftentimes a property owner will refuse to accept delivery or fail to pick up a certified letter at the post office when provided notice through that means.

There is also the cost factor for this type of mailing: .44 cents first class mail; \$2.80 for certified mail; and, \$2.30 for return receipt = \$5.54 per mailing + envelope and labor costs).

The City's experience has found that first class mail can be a more effective way to provide notice to a property owner or agent and actually obtain compliance than utilizing certified mail, return service requested.

In 2008, the City of Topeka sent 8,215 pieces of certified mail at a cost of \$45,511.10 (+/-) plus labor and envelope costs. That same mailing volume would have cost \$3,614.60 for first class mail for postage.

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Senate Local Government

2-2-2010

Attachment 2

By way of information, in 2008, the City had a 22% rate of return for certified mail and in 2009 that number was 12% (i.e., refused to accept or pick up).

Certified mail requires more expensive envelopes and labor charges incurred by the City are greater as well.

Due process and notice are required under law and important. The City has found that for the most part, property owners are responsive to the City's request for remediation of a nuisance. However, in some instances, the repeat offenders simply ignore the City's request for accepting responsibility for the care and maintenance of their property and ignore the notices from the City, leading to the City having to clean up the problem and attempt to recover from the property owner.

Nuisance violations are one of the most common complaints of our citizens. The kinds of nuisances we are dealing with are a threat to public safety, diminish property values and lead to the overall deterioration of neighborhoods.

In summary, the City wants to provide notice to the responsible party and would support continuing to use certified mail if it believed it was the most effective tool available. However, given their experience, they believe first class mail will be more cost-effective and actually result in improved notice to the responsible party, which will better address the situation.

This change in notice would save cities hundreds of thousands of dollars annually, of not more. During these challenging times, cities should be afforded the opportunity to adopt efficiencies wherever and whenever possible, particularly where the results will increase compliance and still maintain appropriate notice to the responsible party.

Before I ask councilmember Hiller to speak about this matter, I would like to point to an oversight in our bill draft relating to the timing of a notice.

Page two of the bill, lines 18-19 should be amended to read "...30 days from the date of mailing" rather than "30 days following receipt of such notice."

A balloon amendment is provided with my testimony.

On behalf of the City of Topeka, I would like to thank you for the opportunity to provide testimony in support of SB 465 and would now ask for the opportunity for councilmember Hiller to provide comments as well.

Thank you.

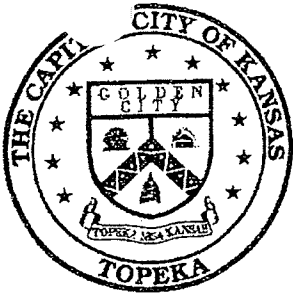
Whitney Damron

Attachment

1 the governing body of a city may provide notice of the issuance of any
 2 further orders to abate or remove a nuisance from such property in the
 3 manner provided by subsection (b) or as provided in this subsection.
 4 Except as specifically provided in this subsection, the governing body may
 5 provide notice of the order by such methods including, but not limited
 6 to, door hangers, conspicuously posting notice of such order on the prop-
 7 erty, personal notification, telephone communication or first class mail.
 8 If the property is unoccupied and the owner is a nonresident, notice
 9 provided by this section shall be given by telephone communication or
 10 first class mail.

11 (d) (c) If the owner or agent fails to comply with the requirement of
 12 the order for a period longer than that named in the order, the city shall
 13 proceed to have the things described in the order removed and abated
 14 from the lot or parcel of ground. If the city abates or removes the nui-
 15 sance, the city shall give notice to the owner or agent by certified mail,
 16 return receipt requested, first class mail of the total cost of such abate-
 17 ment or removal incurred by the city. Such notice also shall state that
 18 payment of such cost is due and payable within 30 days following receipt ~~receipt~~ the date of mailing
 19 of such notice. The city also may recover the cost of providing notice,
 20 including any postage, required by this section. If the cost of such removal
 21 or abatement and notice is not paid within the thirty-day period, the cost
 22 shall be collected in the manner provided by K.S.A. 12-1,115, and amend-
 23 ments thereto, or shall be assessed and charged against the lot or parcel
 24 of ground on which the nuisance was located. If the cost is to be assessed,
 25 the city clerk, at the time of certifying other city taxes to the county clerk,
 26 shall certify such costs, and the county clerk shall extend the same on the
 27 tax roll of the county against the lot or parcel of ground, and it shall be
 28 collected by the county treasurer and paid to the city as other city taxes
 29 are collected and paid. The city may pursue collection both by levying a
 30 special assessment and in the manner provided by K.S.A. 12-1,115, and
 31 amendments thereto, but only until the full cost and any applicable in-
 32 terest has been paid in full.

33 (e) (d) Any city may remove and abate from property other than pub-
 34 lic property or property open to use by the public a motor vehicle deter-
 35 mined to be a nuisance. Disposition of such vehicle shall be in compliance
 36 with the procedures for impoundment, notice and public auction pro-
 37 vided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amend-
 38 ments thereto. Following any sale by public auction of a vehicle deter-
 39 mined to be a nuisance, the purchaser may file proof thereof with the
 40 division of vehicles, and the division shall issue a certificate of title to the
 41 purchaser of such motor vehicle. If a public auction is conducted, but no
 42 responsible bid received, the city may file proof thereof with the division
 43 of vehicles, and the division shall issue a certificate of title of such motor



CITY OF TOPEKA

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TESTIMONY

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

FROM: Karen Hiller, Councilwoman, District 1, City of Topeka

DATE: February 2, 2010

RE: Senate Bill 465 – An Act concerning cities; relating to certain nuisance abatement procedures

I appear before you in support of Senate Bill 465.

I am proud today to represent the City of Topeka and, in particular, districts like mine, the First District. The First District is one of the oldest in Topeka, a collection of thirteen precincts including and near the City's downtown, populated by fabulous people. I also speak to you with years of experience because, in the 35 years prior to my election to the City Council, I was executive director of Housing and Credit Counseling, Inc. as well as involved extensively in neighborhood revitalization. Issues of code compliance, neighborhood issues and even credit and collections, are not only close to my heart, but issues on which I can provide Topeka, and hopefully you, some assistance.

I want to also give credit to Patty Burkholder, Manager of our Code Enforcement Unit. She and other staff have provided a lot of background research that supports the numbers here and those of our lobbyist Whitney Damron.

Citizens of Topeka are passionate about cleaning up our city. We want it to look good and be safe for those of us who live here. And, we want it to look attractive to visitors and people who are considering moving here.

Three reasons to make the change...and make it this session....follow:

Save Money Being forced to use certified mail instead of first class mail is unnecessarily costly to cities. First class mail is reliable and is used successfully in almost all other public and private sector billings, credit and collections. Courts respect the "mailbox rule." Total cost of abatement and all fees in most of these cases typically does not exceed \$300 to the consumer. In the unlikely event someone would challenge service, the savings to the cities overall would far outweigh the possible costs of settling a claim.

Senate Local Government

2-2-2010

The City of Topeka would have saved **\$179,462 in 2008 alone** if this bill had been passed. See attachment for a breakdown of detail

Good Customer Service People report that they are inconvenienced and overwhelmed by certified mail. They say, **“Why didn’t you just tell me?”** Citizens get mad and say that cities are doing overkill and wasting money. First class mail allows notices to arrive timely and easily. Staff reports previous experience in both the District Attorney’s and City Attorney’s offices with better response to first class mail than certified.

Improve Speed and Success of Communication and Abatement First class mail is delivered the next day in Topeka. Certified mail can take an extra day to get out, then up to three weeks to get picked up or returned. Recall we are talking about grass and weeds here, which are already 12” or more tall when the letter is sent. Topeka has an expedited appeals process that gives every citizen 10 days to contest an order.

We will, then, be able to secure citizen **abatement within 12 days of mailing instead of 15 to 40 days.**

Aside from tightening up the process, what we know from prior experience is that as soon as we tighten up the process, we will get more timely compliance, and violations will correspondingly go down when it becomes clear that it is not worth getting written up.

I appreciate so much your attention to this issue. I am happy to stand for questions. Staff from the City is here to assist if needed. We would be happy to seek answers to any questions that we cannot answer today.

Detail on cost savings for City of Topeka – generalized and estimated using 8,215 items mailed in 2008

Personnel time

\$30 per hour, all direct and indirect costs of personnel included

Extra time per mailing demanded by certified mail process

10 min – additional labor to prepare a certified letter for mailing over a first class letter

10 min – additional labor to mail a certified letterassuming that they would go in batches, but that they would have to be taken to the post office or somewhere in the city system for special handling rather than be set in a box for regular outgoing mail

10 min – average additional labor needed to scan and file return documents when items are certified, as there will be a return that has to go into the file for each – the number may not be set high enough to include the additional labor to check and make sure all files had receipts documented and to track down documentation on any that did not have returns

$$30 \text{ minutes (.5 hour)} \times \$30 \text{ per hour} \times 8,215 \text{ items} = \$123,225 \text{ over-expense}$$

Envelope Expense

$$\text{Regular envelope } \$0.05 \times 8,215 = \$120.75$$

$$\text{Certified envelope - } \$0.59 \times 8,215 = \$4,846.85$$

$$= \$4,726.10 \text{ over-expense}$$

Mailing Expense

$$\text{First Class Mail } \$0.44 \times 8,215 = \$3,614.60$$

$$\text{Certified Mail } \$0.44 \text{ postage} + \$2.80 \text{ to certify} +$$

$$\$2.30 \text{ return receipt} = \$5.54 \times 8215 = \$45,511.10 \text{ over-expense}$$

Publishing Expense

These figures do not include the cost of either the staff time or direct cost of publishing notices when citizens do not pick up their mail. In 2008 publishing costs for Nuisances in Topeka were \$4,599.01 and in 2009 they were \$6,275.02. We know that there will still be some people who will not pick up their mail, but expect that costs could be cut at least in half by use of only first class mail, thereby saving the City at least \$3,000 in direct costs and \$3,000 (300 estimated x 20 minutes each x \$30 per hour) in personnel costs

$$= \$6,000 \text{ additional savings.}$$

$$\text{Total estimated savings, per year, for Topeka alone} = \$179,462$$

Imagine that amount multiplied statewide, with improved service instead of diminished.

OVERLAND PARK

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Overland Park, Kansas 66212
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Testimony before the Senate Local Government Committee
Regarding Senate Bill 465
By Erik Sartorius

February 2, 2010

The City of Overland Park appreciates the opportunity to offer testimony in support of Senate Bill 465. This legislation would allow cities to continue to conduct nuisance abatement efforts, while reducing unnecessary expenses.

Under current law, cities are required to provide notice to abate nuisance via certified mail, return receipt requested. This currently costs the City of Overland Park \$5.54 per letter (\$.44 postage, \$2.80 for certified mail, \$2.30 for a return receipt). We do not believe the extra \$5.10 provides any better notice to residents than first class mail.

We believe changing these statutes to require first class mail rather than certified mail may actually result in nuisances being abated more quickly. Certified mail does not arrive more quickly than first class mail; in fact, it may take longer as it is processed. Furthermore, there can be a significant delay should the addressee not have the inclination to go to the post office to pick up and sign for the certified letter.

Again, the City of Overland Park appreciates the opportunity to support this legislation, and encourages the committee to recommend SB 465 favorably for passage.

Senate Local Government

2-2-2010

Attachment

4

Ed Jaskinia
President
(913) 207-0567



Doris Nelson
Vice President (Zone2)
(785) 223-7226

James Dunn
Vice President (Zone1)
(785) 843-5272

P.O. Box 4221 • Topeka, Kansas 66604-0221

Kevin Kimmel
Vice President (Zone3)
(316) 265-7977

The Associated Landlords of Kansas (TALK) was created in 1981 by a group of people from across Kansas to "Promote a strong voice in the legislature, a high standard of ethics, and provide educational opportunities for landlords." Some of our members helped create The Residential Landlord-Tenant Act of 1975, a model of fair law for both landlords and tenants. Our organization consists of members in 18 chapters across the state.

In this 2010 legislative session, we will continue to work for fair and decent housing for all.

TESTIMONY ON SENATE BILL No. 465

This Bill would remove from local municipalities the requirement of using certified mail, return receipt requested, to notify owners of code violations on their property. We're sure that the reasons are threefold.

- 1)Property owner sometimes refuse, or are unable to sign for the certified mailing. The current law correctly deals with that situation by allowing the municipality to then provide notice by other methods, including first class mail.(See page 1, lines 41-43,and page 2, lines 1-10).
- 2)Time. Waiting up to 10 days for the acceptance of the letter can be frustrating to all who want the problem solved. However, the property owner may be out of town on business, incapacitated due to illness or injury, or working long hours to provide for their families. Is it not worth a few extra days to ensure that they have a chance to be properly notified?
- 3)Money. Sending a notice by first class mail is less expensive. While we sympathize with that position, it should be remembered that several years ago the law required that the notices go out by registered mail, which was much more expensive. We met with several Senators and Representatives, along with the municipalities Lobbyist. We ALL agreed to a reasonable compromise, which is the current requirement of certified mail, return receipt requested.

In short, the law as it exists protects the right of the municipalities to address problems in a timely fashion at a modest cost, and protects them from accusations that the notice was not mailed. It also protects the right of the property owner to be given proper notice and to deal with the problem.

We respectfully request that this bill be denied in its entirety.

If we can be of help to you area concerning property rights, tenants, or landlords, please feel free to contact us at your convenience.

Ed Jaskinia, President

ZONE 1

- Landlords of Lawrence Inc.
- Landlords of Johnson County, KS Inc.
- K.C.KS. Landlords Inc., serving Wyandotte Co.
- Eastern Kansas Landlords Assc., serving Miami Co.
- Franklin Co. Landlords Assc.
- Osage Co. Landlords Assc.

ZONE 2

- Landlords of Manhattan Inc.
- Labette County Landlords Assc.
- Geary County Landlords Inc.
- Shawnee County Landlords Assc.
- Salina Rental Property Providers Inc.
- South Central Kansas Landlord Assc.
- Serving Sumner County

ZONE 3

- Central Kansas Landlords Assc.
- Bourbon County Landlords Assc.
- Cherokee County Landlords Assc.
- Crawford County Landlords Assc.
- Montgomery County Landlords Assc.
- Rental Owner Inc., serving Sedgwick County

Senate Local Government

2-2-2010

Attachment 5