

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 207**

As Agreed to May 3, 2012

Brief*

SB 207 would amend law relating to various types of municipalities in these ways:

- Allow counties to accept a credit or debit card for any payment, including those for taxes and utility fees;
- Authorize the conversion of an existing school district recreation system to a city recreation system under specified stipulations and procedures;
- Allow county treasurers to accept partial payments on delinquent personal property taxes and repeal an outdated statute regarding affidavits related to personal property taxes; and
- Grant city governing bodies the authority to cause the repair or removal of unsafe or dangerous commercial real estate.

***Credit or Debit Card Payments to Counties
(Section 1)***

Along with authorizing counties to accept a credit or debit card for any payment, including those for taxes and

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utility fees, the bill would authorize a county to add a fee to each transaction equal to the charge to the county for a payment made using the card. The bill also would require a county to provide notice of any such fee. The bill would exempt any such transaction from a provision in the Consumer Credit Code that prohibits a seller or lessor from adding a surcharge on a payment made by credit or debit card.

***Conversion of an Existing Recreation System
(Section 2)***

This portion of the bill deals with recreation systems and commissions. The bill would create a new section of law allowing the governing body of a school district, which previously established a recreation system, to take joint action with the governing body of the city in which the school district is located, to initiate the conversion of the existing recreation system to a city recreation system under the following stipulations and procedures:

- The school district would have to be located completely inside the boundaries of the city.
- A joint ordinance and resolution would be required, proposing to change the existing school district system to a city recreation system, and the joint ordinance and resolution must authorize publication of a notice of intent. The notice must be published once a week for two consecutive weeks in the official city newspaper.
- A protest petition could be filed which, if it met the criteria established in the bill, would subject the measure to an election.

If a new city recreation system is established pursuant to the new law, the following stipulations would apply:

- The mill levy rate of the new system would not be subject to the one-mill levy limitation for a new recreation system established in KSA 12-1927.
- The conversion to the new system must provide for the transfer of assets of the existing school district system to the city system, as well as the assumption of liabilities from one to the other.
- The members of the school district recreation system would be required to serve the balance of their respective terms in office as members of the new, city system, at which time the members of the city recreation commission must be appointed by the city governing body.

***Partial Payments on Delinquent Personal Property Taxes
(Sections 3 and 5)***

The bill would allow county treasurers to accept partial payments as a part of a payment plan for delinquent personal property taxes. Language also would be added to clarify that nothing in the statute is to be construed to modify the consequences of untimely payment of delinquent real or personal property tax.

The bill also would repeal KSA 79-2102, which allows the filing of an affidavit of poverty related to the nonpayment of personal property taxes and thereby stopping the issuance of a warrant.

***Commercial Abandoned Property
(Section 4)***

The bill would add commercial real estate property to the set of statutes dealing with unsafe or dangerous structures and abandoned property, thereby granting city governing bodies the power to cause the repair or removal of

commercial properties which have become unsafe or dangerous. This would be accomplished by expanding the definition of abandoned structures to include commercial real estate property for which the taxes are delinquent for the preceding two years and which has a blighting influence on surrounding properties.

Commercial real estate would be defined as any real estate for which the present use is other than one to four residential units or for agricultural purposes.

The bill would define "blighting influence" as conditions in the structure which are dangerous or injurious to the health, safety, or morals of the building occupants or other residents of the municipality, or which have an adverse impact on properties in the area. The bill lists a number of such conditions in the definition, such as defects increasing the hazards of fire.

Conference Committee Action

The Conference Committee receded from the amendment adopted by the House, which would have moved the effective date of SB 207 to January 1, 2013. The Conference Committee further amended the bill by adding the contents of the following bills:

- Sub. for HB 2555, relating to conversion of existing recreation systems;
- HB 2548, as introduced, relating to partial payment of delinquent taxes and affidavits related to personal property taxes; and
- HB 2646, as amended by the House Committee on Local Government, relating to abandoned commercial property.

Background

SB 207—The Riley County Counselor and a representative from the Kansas Association of Counties testified in support of the bill. Written proponent testimony was received from the Riley County Board of Commissioners.

The bill mirrors language for city acceptance of credit and debit cards in KSA 12-16,125.

The House Committee on Local Government amended the bill to delay its effective date to January 1, 2013. (Note: This amendment was not included in the Conference Committee report.)

Sub. for HB 2555—The original bill was sponsored by Speaker of the House Mike O'Neal, and Speaker O'Neal requested the substitute bill language as a better way to address the issue. Before the House Committee on Local Government, Speaker O'Neal and the Superintendent of USD 308 in Hutchinson testified in favor of the bill. No neutral or opposing testimony was received. Testimony indicated that the boundaries of the City of Hutchinson had grown beyond the boundaries of USD 308, a situation quite different than when the Hutchinson Recreation Commission was founded as a school-sponsored commission in 1947. A study commission, formed to consider the situation, recommended expansion of the tax base to the city, as this would allow services to expand as the city continues to expand.

The House Committee on Local Government adopted the substitute bill as requested by Speaker O'Neal.

HB 2548—Current law requires that delinquent personal property tax payments be made in full, while delinquent real property taxes can be paid on a payment plan. This bill would make payments for these two types of taxes consistent.

Before the House Committee on Local Government, Representative Hineman appeared in support of the bill, as

did a representative of the Kansas Association of Counties and two county treasurers. There were no opponents or neutral testimony.

Testimony indicated current law requires personal delinquent property taxes be paid in full, but allows for a payment plan for delinquent real property taxes. The testimony indicated that allowing a payment plan for delinquent personal property taxes would reduce the overall tax burden by allowing the county to recoup some of the taxes owed on personal property, as treasurers already can do for real property taxes.

The testimony also indicated that KSA 79-2102 was outdated and seldom used. The statute first came into effect in the 1800s and has not been amended since the 1920s. It allowed delinquent taxpayers to avoid having a warrant issued for unpaid taxes by submitting an affidavit of poverty. However, there was no mechanism in the statute for determining the existence of poverty. In Lane County an oil company submitted an affidavit of poverty to avoid paying taxes on producing oil wells within the county.

HB 2646—Current law on unsafe and abandoned structures does not include provisions regarding commercial property or a definition for commercial property.

Representatives from the City of Lenexa, the City of Topeka, and the League of Kansas Municipalities appeared in support of the bill. Each of the proponents expressed that, with the downturn in the economy, more and more commercial property was being abandoned, and the blighting influence on surrounding property was damaging property values.

A representative from the Associated Landlords of Kansas appeared with a potential amendment to the bill, requesting that the definition of abandoned residential property due to tax delinquency be changed to three years to match the definition of commercial property in Kansas

statutes.

The House Committee on Local Government amended the bill in two ways. The Committee amended the definition of the term "blighting influence." The Committee also changed the definition of abandoned property as it relates to tax delinquent commercial property, by reducing the number of years for which taxes must be delinquent from three to two.

The Senate Committee on Local Government amended the bill to change the definition of abandoned property regarding residential real estate and to allow the governing body of a city to file a petition with the district court for an order for temporary possession of property that is abandoned and will be rehabilitated as housing. (Note: These amendments were not included in the Conference Committee report.)

Fiscal Effects. According to the fiscal note for **SB 207** prepared by the Division of the Budget, the bill would have no effect on state revenues or expenditures. The note also states that, according to the Kansas Association of Counties, the bill would have no net effect on counties.

The fiscal note on **HB 2555** states passage of the original bill would have no fiscal effect on state government. However, the recreation commissions that call the elections would incur costs, charged to the recreation commissions, that would depend on the size of the recreation district, the number of voters, and the number of polling places required.

According to the fiscal note on **HB 2548**, the fiscal effect of this bill is unknown. Although county treasurers indicate that personal property taxes would be collected at a higher rate and the process of seizing and auctioning personal property to satisfy delinquent taxes would be avoided, it is not known how many taxpayers would make partial payments on personal property to satisfy their tax obligations.

According to the fiscal note prepared by the Division of

Budget on the original version of **HB 2646**, the League of Kansas Municipalities states that the fiscal effect on cities cannot be determined because the number of properties affected is unknown.

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property tax, abandoned property, blight, credit card, debit card, affidavit, recreation, commission