

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairman Vickrey at 3:30 p.m. on February 4, 2003 in Room 519-S of the Capitol.

All members were present except: Rep. Gilbert

Committee staff present: Mike Heim, Legislative Research Department
Kathie Sparks, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

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| Rep. Dan Johnson | |
| Kirk Rogers | Kansas Sheriff's Association |
| Jerry Carson | Kansas County Commissioner's Association |
| Gene Merry | Coffey County |
| Don Moler | League of Kansas Municipalities |
| Randall Allen | Kansas Association of Counties |
| Jim Edwards | Kansas Association of School Boards |
| David Corliss | City of Lawrence |
| Mike Taylor | City of Wichita |
| David Cooper | City of Lenexa |
| Don Siefert | City of Olathe |
| Mike Pepoon | Sedgwick County |
| John Lewis | Sunshine Coalition |
| Doug Anstaett | Newton Kansas |
| Dan Simon | Olathe Daily News |
| Dane Hicks | Anderson Co. Review |
| David Powls | Holton Record |
| Patrick Lowry | Atchison Daily Globe |
| * Rep. McCreary | |
| * Danielle Noe | Johnson County |
| * Andy Taylor | Montgomery Co. Chronicle |
| * Mike Merriam | Kansas Press Association |
| * written testimony only | |

Others attending: See attached list

Don Moler, League of Kansas Municipalities, requested three bills by committee on the following proposed legislation:

- Gives local governments a local option income tax
- Gives local governments a local option motor vehicle fuels tax
- Takes the cap off of the local sales tax for cities and counties

Without objection, the bill requests were adopted as committee bills.

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Additional bill requests were then presented by Theresa Kiernan, Office of the Revisor of Statues.

A request for the following bill by committee on behalf of Rep. Minor:

- Amends the city and county planning and zoning law dealing with the membership of the city planning commission when the city decides to plan, zone, or administer subdivision regulations outside the city limits. The bill adds to the current provision that requires at least two members of the planning commission reside outside of but within three miles of the city to allow these persons who own property within the three-mile area and who reside within the unincorporated area to serve on the city planning commission.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. Ballou:

- Concerning cities and relating to the annexation of land located within water districts.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. O'Neal:

- Concerning fire and fire protection; relating to investigations of fires and explosions.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. Hill:

- Concerning municipal courts; relating to penalties for violations of an ordinance.

Rep. Hill was in attendance at the meeting and requested the bill by committee.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Mike Davis, Heart of America Chapter of the International Code Council:

- Concerning the licensure of plumbers; electricians and certain contractors.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. Gatewood:

- Concerning land to be incorporated as, or added to cities.

Without objection, the bill request was adopted as a committee bill.

Rep. Campbell requested the following bill by committee:

- Requires the seller to get written notification from a buyer that they have been made aware of special assessments that may exist on property.

Without objection, the bill request was adopted as a committee bill.

Chairman Vickrey opened the hearing on:

HB 2082 Personnel matters within the office of the county sheriff

Written testimony only from Rep. McCreary was distributed to the committee([Attachment 1](#)). He stated that the need for the legislation proposed in the bill was brought to his attention by Kirk Rogers, Harper County Sheriff. He explained that even the Supreme Court (88-844) decision ([Attachment 3](#)) issued on Friday,

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January 31, 2003 is concurrent with the intent of this bill, he thinks the state statutes need to be changed to conform with that decision.

Kirk Rogers, Sheriff, Harper County, presented testimony in support of the bill on behalf of the Kansas Sheriff's Association (Attachment 2). He explained the recent ruling by the Kansas Supreme Court (Attachment 3) essentially states that the authority to hire, fire, terminate, promote, demote, or dismiss any employee of the sheriff's office was the sole responsibility of the elected county sheriff, and was not a power that was vested in the boards of county commissioners. He encouraged the committee to support this legislative bill, or any other legislation, that changes or removes the language found in this particular statute, in order to ensure that the sheriff's office, and its employees remain under the control and authority of the individual that is elected by the voters of the county to serve as the Sheriff.

Rep. Dan Johnson, appeared as a proponent of the bill (Attachment 4). He requested that the bill be expanded to include all elected officials in the county. He believes elected officials should be able to run their offices as they wish.

Jerry Carson, Labette Co. Commissioner, appeared as an opponent of the bill (Attachment 5). He expressed deep concern over the proposed amendments to K.S.A. 19-805 which would empower the Sheriff of a county to establish personnel policies and procedures for employees of the Sheriff's department that remove the ability of a county commission to establish personnel policies and procedures that are uniform for all employees of a county.

Gene Merry, Coffey County Commissioner, testified in opposition to the bill (Attachment 6). He stated that the purpose of county government is to focus on and provide services to the citizens of the county and that the focus should not be on one part, or department of local government.

Randall Allen, Executive Director, Kansas Association of Counties, offered neutral testimony to the bill (Attachment 7). He stated that the Kansas County Commissioners Association and the Kansas Sheriff's Association, as well as nine other affiliate associations, are all member of the Kansas Association of Counties, each with representation on the Kansas Association Governing Board which hired him. He urged the committee to send the issues being discussed back to the counties and the respective associations with a charge to work the problems out locally.

The Chairman closed the hearing on **HB 2082**.

Chairman Vickrey opened the hearing on:

HB 2085 Cities and counties; legal publications on the internet

Don Moler, Executive Director, League of Kansas Municipalities, appeared as a proponent of the bill (Attachment 8). He stated the bill would allow cities and counties to, as a matter of local choice, publish legal notices, which are required by law, on the Internet as opposed to in a local newspaper. He testified that a conservative estimate, based upon a survey which was recently completed by the League, would suggest that a savings of up to \$3,000,000.00 per year could be realized by cities and counties in Kansas if they are allowed to publish on the Internet. He said the League of Kansas Municipalities believes the time has come for the State to recognize a commonly used technology which has a benefit to the Kansas taxpayer and which

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provides a far superior method of distributing the information.

Randall Allen, Executive Director, Kansas Association of Counties, testified in support of the bill ([Attachment 9](#)). He stated that the proposed legislation is a creative proposal to both improve the governance and decision making process of local government while reducing costs and saving tax dollars. He informed that by allowing boards of county commissioners the authority to designate internet sites as their official publication sites, counties can benefit the public in many ways, including the following:

- making information about county government accessible to the public on a 24/7 basis, enhancing the likelihood that citizens are better informed and aware of discussions that potentially affect their lives.
- saving county taxpayers significant money at a time when governments at all levels are looking for ways to trim costs while not jeopardizing services.

Written testimony in support of the bill was received from:

- Jim Edwards, Governmental Relations Specialist, Kansas Association of School Boards

He states that the bill, as written, does not include provisions for the legal notices of school districts being disseminated electronically. He testified that in conversations with the organizations requesting the bill, they found complete willingness to have school boards listed as one additional body of government that can use electronic means for legal notice distribution. He informed that a copy of the proposed amendment has been attached to his written testimony.

David Corliss, Assistant City Manager & Director of Legal Services, City of Lawrence, testified in support of the bill ([Attachment 11](#)). He stated the City of Lawrence supports legislation removing the unfunded State mandate to post legal notices, ordinances and resolutions in newspapers and allowing the option to publish on the Internet. He said that tight fiscal times require questioning all government expenses and that newspaper postings are an annual expense that can be reduced or eliminated.

Mike Taylor, Government Relations Director, City of Wichita, appeared as a proponent of the bill ([Attachment 12](#)). He stated that allowing the City of Wichita to publish legal notices on its own city government website will save taxpayers a significant amount of money and will improve public access to information. He said that in Year 2002, the City of Wichita spent more than \$234,375.00 publishing legal notices.

David Cooper, Senior Assistant City Attorney, testified in support of the bill ([Attachment 13](#)). He said that the net result for citizens, under **HB 2085**, would be easier access to government information at lower cost. He informed that last year, the City of Lenexa, spent almost \$19,000 to publish legal notices in traditional print sources.

Don Siefert, Policy Development Leader, City of Olathe, appeared as a proponent of the bill ([Attachment 14](#)). He said that the City of Olathe has spent more than \$80,000 in the last two years on legal publications. He explained that in our current fiscal environment, where cities face a \$1.5 million loss in state aid in Year 2004, we need to honestly examine all opportunities to save costs.

Mike Pepoon, Director, Government Relations, Sedgwick County, testified in support of the bill ([Attachment 15](#)). He stated that Sedgwick County spent over \$54,000 last year on publications in *The Derby Reporter*.

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He said the bill would allow Sedgwick County to save even more money while reaching a larger segment of the county with their publications.

Written testimony only in support of the bill was received from:

- Danielle Noe, Intergovernmental Relations Coordinator, Johnson County (Attachment 16)

She stated that Johnson County spend more than \$52,000 on official publication each year.

John Lewis, Past President, Kansas Sunshine Coalition for Open Government, appeared as an opponent of the bill (Attachment 17). He stated the bill would create judicial chaos, public confusion, a morass of inconsistent laws and a legislative mess.

Doug Anstaette, Immediate Past President, Kansas Press Association and Editor and Publisher, *The Newton Kansan*, testified in opposition to the bill (Attachment 18). He stated that the concept of public notice is as old as our republic.

Dan Simon, Publisher, *The Olathe News*, appeared as an opponent of the bill (Attachment 19). He said that newspapers provide government with a service and have been reliable partners. He stated that like all services government provides, legal advertising comes with a cost to residents.

Dane Hicks, Publisher, *The Anderson County Review*, testified in opposition to the bill (Attachment 20). He summarized that removing public notices from newspapers in a monumentally bad idea. He said that it doesn't work to inform people, it unfairly neglects senior citizens who are least likely to use the Internet, and it won't save any money.

David Pows, Publisher, *Holton Recorder* and *Sabetha Herald*, appeared as an opponent of the bill (Attachment 21). He stated that if a legislative body contemplates replacing newspaper publication of local government notices with any other method of giving constructive notice to the general population - in this case posting public notices at a government-controlled, remote web site - that method must meet the rigorous requirements of law that newspapers have already met.

Patrick Lowry, Publisher, *Atchison Daily Globe*, testified in opposition to the bill (Attachment 22). He emphasized that public notices are no less an option than other contracted municipal services. He believes that **HB 2085** would actually allow government to conduct its business behind closed doors, which flies in the face of our country's Founding Fathers.

Written testimony in opposition to the bill was received from:

- Andy Taylor, Editor, *Montgomery County Chronicle* (Attachment 23)

He informed that in the case of delinquent tax lists, the delinquent taxpayer is responsible for paying the publication fees. He said a publication fee is assessed to the delinquent taxpayer when he or she pays his or her taxes and that those taxpayers who pay their taxes in a timely manner do not pay for the publication of that list.

- Mike Merriam, Legal Counsel, Kansas Press Association (Attachment 24).

He gave the opinion that the bill would corrupt the definitional purpose of the existing language in K.S.A. 64-101 which serves as a reference for numerous other Kansas statutes that require notices not placed by city or county governments or school boards to be published in a qualified newspaper. He said these bills would

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result in references in those other statutes to statutory language in K.S.A. 64-101 that no longer exists because the qualifying definitions would only apply to cities, counties and school boards.

The Chairman closed the hearing on **HB 2085**.

HB 2044 **fire protection; powers and duties of certain municipalities**

Rep. Campbell made a motion to amend the bill to make it effective upon publication in the *Kansas Register*. Rep. Horst seconded the motion. The motion to amend the bill carried.

Rep. Campbell made a motion for the favorable passage of the bill as amended. Rep. Storm seconded the motion. The motion carried.

The meeting adjourned at 5:20 p.m.

Next meeting is scheduled for February 11, 2003.