

MINUTES OF THE HOUSE ELECTIONS AND GOVERNMENTAL ORGANIZATION COMMITTEE

The meeting was called to order by Chairman Mike Burgess at 3:30 P.M. on February 7, 2008 in Room 784 of the DSOB.

All members were present except:

Representative Metsker- Excused  
Representative Peterson- Excused

Committee staff present:

Martha Dorsey, Legislative Research Department  
Cindy Lash, Legislative Research Department  
Mike Heim, Revisor of Statutes Office  
Dianne Rosell, Assistant Revisor of Statutes  
Piper Cameron, Committee Assistant

Conferees appearing before the committee:

Representative Anthony Brown  
Sandy Jacquot, League of Kansas Municipalities  
Eric Sartorius, Assistant City Manager/Director of External Affairs, Overland Park  
Dale Goter, Government Relations, City of Wichita  
Ryan Carpenter, Assistant Attorney, City of Lenexa  
Cheryl Beatty, City of Eudora  
Marvin Rainey, City of Shawnee (Written testimony only)  
Tom Glinstra, City of Olathe City Attorney (Written testimony only)

Others attending:

See attached list.

The Chairman called for bill introductions:

Ranking Minority Leader Sawyer. Requested a bill for same day voter registration. Chairman Burgess moved the introduction, seconded by Vice Chair Powers. The motion carried.

Chairman Burgess introduced a bill aiding motorists in turning left, while at a traffic light. This bill is dealing solely with traffic signals. Chairman Burgess moved the introduction, seconded by Minority Leader Sawyer. The motion carried.

Representative Brunk requested the introduction of a bill that would change campaign accounts, and the transfer of funds. Chairman Burgess moved the motion, seconded by Vice Chair Powers. The motion carried.

**HB 2631-Cities, arbitration of claim by individual person**

Cindy Lash briefed the Committee on the history of the bill. The bill requires relevant documents be presented when bringing action against a municipality . The Amendment states that written statement be presented when requesting arbitration.

The Chairman opened the public hearing.

Representative Anthony Brown, appeared in support of **HB 2631**. Representative Brown spoke on the behalf of Viola Brown, a Eudora, Kansas resident. In Representative Brown's testimony he states that, Viola owns a small farm and the growing city of Eudora have now grown to completely encompass her property. The growth of the city has increased the amount of water that runs off through the creek on her property. The increased water has left a great deal of trash and debris on the property. Viola is convinced that this run-off is sewage. No official report has ever indicated that sewage was present. The only option for Viola is to hire an attorney, and sue the city. This is a n alternative to the existing court system. This bill would be binding arbitration. Representative Brown is requesting an amendment be made to **HB 2631**. This amendment would read: by submitting a written statement requesting arbitration and explaining in detail the

CONTINUATION SHEET

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nature of the claim within one year

of the date the cause of action arose. **(See Attachment 1)**

Sandy Jacquot, Director of Law/General Counsel, stood in opposition to **HB 2631**. She stated that the process set forth in **HB 2631**, would allow the claimant to choose binding arbitration, but not allow a city to seek judicial review of the arbitrator's decision. It further allows the arbitrator to order compensation to the claimant and issue "mandatory orders," and issue restraining orders. Tort liability in Kansas is governed by Kansas Tort claims Act and could award up to \$500,000 per occurrence. This bill also does not take into account any liability insurance contract insurance that the city may have in place that would require a vastly different way of handling claims. It is certainly possible that this bill could impair the contracts that cities already have in place and make it difficult for cities to get liability insurance in the future. Allowing the claimant to choose the arbitration procedure and requiring the city to pay for the arbitration, regardless of the merit of the claim, will absolutely encourage the filing of frivolous claims. There is no disincentive to filing a false or frivolous claim. **(See Attachment 2).**

Cheryl Beatty, City of Eudora, is opposed to **HB 2631**. She stated in her testimony, that the Eudora City Officials are concerned about all citizen complaints. Cheryl explained, that there is a Eudora resident with two major complaints involving two issues for a local citizen for which this bill was drafted. The first issue of "not running storm water across my land," is not an accurate statement and the city has very limited ways to control storm water tributary to the drainage area. The storm water that is referenced here is natural water tributary to the Wakarusa river. The citizen has requested that the city move the tributary off her property. It is not her property and this would be a multimillion dollar task that would create many environmental issues. The second issue on these complaints states "I want the tank of ---- to be moved off my land." This is reference to a middle interceptor lift station that lies next to the complainants's property. The city has owned and maintained this lift station at this site many years. Lift stations are located at the wastewater system's lowest point by necessity. The location is not arbitrary and is not located on her land. The legislation would cause an unjustified burden on cities and transfer already stretched tax dollars being spent on resolving issues and customer complaints to arbitration dollars being spent that would resolve nothing. (See Attachment 3).

Eric Sartorius, City of Overland Park, is in opposition to **HB 2631**. He stated that the legislation would expose communities to unwarranted claims, increasing the cost of government. Nothing in current law prevents two parties from agreeing to utilize arbitration as a means of settling a dispute. Furthermore, the bill would require all costs of the arbitration process to be paid for by the municipality. This becomes a very expensive proposition if the individual and the municipality. This becomes a very expensive proposition if the individual and the municipality cannot agree on an arbitrator, as then each party would select an arbitrator to choose a third arbitrator. The city would bear all of these costs. The City of Overland Park believes **HB 2631**, will needlessly increase the cost of government to the taxpayer without bringing any improvement to the functioning of municipalities. **(See Attachment 4).**

Dale Goter, Government Relations Manager, City of Wichita, provided written testimony only. (See Attachment 5).

Marvin Rainey, City of Shawnee Attorney, provided written testimony only. **(See Attachment 6).**

Tom Glinstra, City of Olathe Attorney, provided written testimony only. **(See Attachment 7).**

Being no other conferees, the Chairman closed the public hearing. The meeting was adjourned at 5:15 p.m. the next meeting is scheduled for Monday, February 11, 2008.