

Approved

Ivan Sand  
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at  
Chairperson

1:30 ~~am~~ p.m. on February 14, 1983 in room 521-S of the Capitol.

All members were present except:  
Representative Dean

Committee staff present:  
Theresa Kiernan, Revisor of Statutes Office  
Mike Heim, Legislative Research Department  
Jeanne Mills, Secretary to the Committee

Conferees appearing before the committee:  
Representative Kenneth King  
Representative David Miller  
Representative Frank Buehler

Chairman Ivan Sand called the meeting to order.

Representative King was present to request the Committee introduce legislation to authorize Butler County to issue bonds payable by the county at large. Representative Francisco made the motion, seconded by Representative R. D. Miller, to introduce this request as a Committee bill. Motion carried.

Representative David Miller was present also to request the Committee to introduce legislation that would correct any irregularities in the Eudora Township Fire Department's organization and enable them to get on with the business of qualifying to participate in the Fireman's Relief Fund (See Attachment I). Representative Leroy Fry made the motion, seconded by Representative Wunsch, for the Committee to introduce this request as a Committee bill. Motion carried.

HB 2197 - AN ACT concerning cemetery corporations; authorizing the creation of special funds; amending K.S.A. 17-1336a and repealing the existing section.

Staff gave a brief overview of the bill (See Attachment II). Representative Buehler, a co-sponsor, appeared to give background and intent. A copy of his testimony is attached (See Attachment III). Discussion followed.

Representative Love made the motion, seconded by Representative Nichols, to amend HB 2197 in line 15 by removing the word "corporations" and inserting the word "districts." Motion carried. Representative Nichols made the motion, seconded by Representative Acheson, to report HB 2197 favorable for passage as amended. Motion carried.

Discussion followed on HB 2028 (Zoning; notification by mail of public hearing thereon.) Staff provided copies of the amended version of the bill (See Attachment IV). Representative Baker made the motion, seconded by Representative Schweiker, to report HB 2028 favorable for passage as amended. Motion carried.

The Committee's attention turned to HB 2168 (Codification or compilation of city ordinances.). Representative Nichols made the motion, seconded by Representative M. J. Johnson, to report HB 2168 favorable for passage. Motion carried.

Meeting adjourned.



Michael D. Heck

ATTACHMENT I

Attorney at Law

901 Kentucky Suite 306 Lawrence, Kansas 66044

Phone 913/843-5333

February 7, 1983

The Honorable David G. Miller  
House of Representatives  
State Capitol, 2nd Floor  
Topeka, Kansas 66612

RE: Eudora Township Fire Department

Dear David:

I will try to set out what information I have concerning the Eudora Township Fire Department and the mystery of its creation.

Township budget records indicate the fire department was first allocated funds in fiscal 1966 and has received appropriations ever since. Its current budget is in excess of \$11,000.00 annually. The money is raised by a township levy for fire protection presently set at two mills. The Fire Chief, Jerry Neis, has charge over the department's force of 19 volunteer firemen. The department makes an estimated 25-30 fire runs per year.

Despite Eudora Township Fire Department's 18 year existence, it appears the department is unable to document its origins. A diligent search by Assistant Fire Chief Terry Coover of the county and township records has failed to produce any resolution, petition, or other document relating to the lawful formation of a township fire department.

As a result of the lack of tangible evidence of its creation, the department has never been recognized by the state insurance commissioner for purpose of participation in the state Firemen's Relief Fund (K.S.A. 40-1701 et seq.). This law basically establishes a Firemen's Relief Fund by imposing a tax of \$2.00 on each \$100.00 of premiums on all fire and lightning insurance written in Kansas within the limits of any incorporated city, and that portion of any township, county, or fire district which is participating in the Firemen's Relief program. The funds so collected are held in trust and used by local firemen's relief associations for the purposes outlined in K.S.A. 40-1707(a),

*Atch. I*



The Honorable David G. Miller  
February 7, 1983  
Page Two

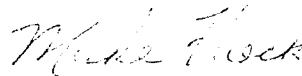
such as disability insurance, death benefits, and pensions for members of the fire department. The first requirement to participate in this program is to be a "regularly organized" department. Eudora Township Fire Department's inability to prove it is regularly organized precludes its participation in the fund and denies their firemen significant benefits.

Assuming the fire department was formed in either 1964 or 1965, I would point out there did exist at that time a statute under which the department could have been lawfully organized. K.S.A. 80-1919 applied to counties with populations between 29,000 and 40,000 (Douglas County population was 37,919 in 1965) and permitted a township within such county to establish a fire department by resolution upon receipt of a petition signed by 51% of the qualified electors in the township. However, as already indicated, no record of a resolution or petition has been found.

What Eudora Township seeks is some type of curative legislation correcting any irregularities in the fire department's organization and enabling them to get on with the business of qualifying to participate in the Firemen's Relief Fund.

I appreciate your help in this matter, David, and hope you will not hesitate to contact me if you have any questions.

Sincerely yours,



Michael D. Heck

MDH:ko

copy to: Terry Coover

## MEMORANDUM

TO: House Local Government  
FROM: Theresa Kiernan, Assistant Revisor of Statutes  
RE: House Bill No. 2197

K.S.A. 17-1336a is amended to authorize any cemetery created under article 13 of chapter 17 of the Kansas Statutes Annotated to transfer surplus money to a special fund to be used for the purchase of machinery and equipment for cemetery maintenance.

Similar authority currently exists under subsection (a). Cities and other local units of government also have similar authority under other statutes for these "carry over" funds.

FRANK BUEHLER

REPRESENTATIVE OF THE HOUSE OF REPRESENTATIVES

BARTON COUNTY

R-2 B-10

CLAFLIN R-2 B-10



1983

HOUSE OF  
REPRESENTATIVESStatement by Rep. Frank Buehler  
Monday, February 14, 1983 on HB 2197ATTACHMENT III  
COMMITTEE ASSIGNMENTS  
MEMBER: AGRICULTURE AND LIVESTOCK  
MEDICARY  
PUBLIC HEALTH AND WELFARE

Chairman Sands and members of this committee: I appreciate an opportunity to present HB 2197 to you and relate to you the purpose of this proposition.

Here-to-fore, as opposed to other units of Government, specifically, townships cities and counties, cemetery districts have not been permitted to carry over into another budget year, unused funds.

HB 2197 will allow cemetery districts to establish carry over funds just as other units of government can and now do.

Without this proposed legislation this unit of government would surely make an effort to spend all funds budgeted rather than to forfeit them. They should be encouraged to conserve, and to apply the results of that conservation toward necessities of the next budget year.

Example: Claflin cemetery district needs a new tractor. By saving \$500 from the current years budget, they can carry this amount over and by adding to it, a part of next years budget, they can purchase the tractor and not interrupt the purchase of the next years necessities.

We should be encouraging this type action. HB 2197 will accomplish this.

*Atch. III*

Statement by Buehler  
February 14, 1983  
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I must point out that HB 2197 does not alter the levy limits which are adequate.

I respectfully solicit your favorable consideration regarding HB 2197 and will be happy to attempt to answer any questions.

HOUSE BILL No. 2028

By Representative W. Fuller

1-3

0017 AN ACT concerning zoning; relating to notice thereof; amending  
0018 K.S.A. 1982 Supp. 19-2920 and repealing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 1982 Supp. 19-2920 is hereby amended to  
0021 read as follows: 19-2920. (a) Before any county creates any  
0022 zoning district or regulates or restricts the use of buildings or land  
0023 in the county, the board of county commissioners shall require  
0024 the planning board to recommend to the board of county com-  
0025 missioners the boundaries of districts and appropriate regulations  
0026 to be enforced in ~~such~~ the districts. All ~~such~~ regulations shall be  
0027 uniform for each class or kind of buildings or land uses through-  
0028 out each district, but the regulations in one district may differ  
0029 from those in other districts. The regulations shall be made in  
0030 accordance with a land use study and shall give reasonable  
0031 consideration to the existing character of the district, its suitabil-  
0032 ity for particular uses, conserving the value of buildings ~~and of,~~  
0033 existing development; and encouraging the most appropriate use  
0034 of land throughout the county. The planning board shall make  
0035 and develop tentative recommendations and shall hold one or  
0036 more public hearings on ~~such~~ the recommendations as deter-  
0037 mined by the board of county commissioners. The secretary of  
0038 the planning board shall publish a notice of each public hearing  
0039 in the official county newspaper. At least 20 days shall elapse  
0040 between the date of the publication and the date set for the  
0041 hearing. ~~Such~~ The notice shall fix the time and place for ~~such~~ the  
0042 hearing and shall describe in general terms the regulations and  
0043 zoning districts proposed, together with a brief statement regard-  
0044 ing the purpose of the zoning districts. ~~In addition to the publi-~~

Amendments:

1. Deletion of language in lines 44 to 48 ;
2. Addition of language on page 3 , concerning general revision of text; notice to those w/in 1000ft;
3. Effective date - Kansas register .

ATTACHMENT IV

Atch. IV



0045 cation notice, written notice shall be mailed to all owners of  
0046 property ~~within the county which is~~ located within 1,000 feet of  
0047 the area affected. Failure to receive such ~~the~~ notice shall not  
0048 invalidate any subsequent action taken. ~~Such~~ The hearings may  
0049 be adjourned from time to time and upon the conclusion of the  
0050 same, the planning board shall prepare and adopt its recommen-  
0051 dations in the form of a proposed zoning resolution and shall  
0052 submit the same, together with a record of the hearings on ~~such~~  
0053 ~~the~~ recommendations to the board of county commissioners. If a  
0054 written protest against the proposed zoning or rezoning of any  
0055 land lying within three miles of the city limits of any municipal-  
0056 ity having a zoning ordinance is received from the governing  
0057 body of the city, the county commissioners shall not adopt the  
0058 proposed zoning of ~~such~~ ~~the~~ land except by a vote of all members  
0059 which shall be recorded in the minutes of the meeting along with  
0060 a statement of the reasons for ~~such~~ ~~the~~ action.

0061 Upon the receipt of the recommendations of the planning  
0062 board, the board of county commissioners may adopt the same  
0063 with or without change or refer it back to the planning board for  
0064 further consideration; ~~and~~. After adoption of regulations by the  
0065 board of county commissioners, ~~they~~ ~~it~~ may from time to time  
0066 thereafter amend, supplement or change the boundaries or regu-  
0067 lations contained in ~~such~~ ~~the~~ zoning resolution.

0068 The procedure for the extension of the application of any ~~such~~  
0069 zoning regulations to any additional township, or the area lying  
0070 adjacent to any city or impoundment of water shall be the same as  
0071 that for the adoption of the original zoning resolution. A proposal  
0072 for an amendment or change in zoning may be initiated by the  
0073 board of the county commissioners, the planning board or upon  
0074 application of the owner of property affected. The board of  
0075 county commissioners may establish a scale of reasonable fees to  
0076 be paid in advance to the secretary of the planning board by the  
0077 owner of any property at the time of making application for a  
0078 change in zoning of the same. All proposed changes shall first be  
0079 submitted to the planning board for recommendation and report,  
0080 and no amendment or change shall be made without a hearing  
0081 before the planning board; Public notice of ~~which~~ ~~the~~ hearing

0082 shall be given and the procedure for the consideration and adop-  
 0083 tion of ~~which the amendment or change~~ shall be in ~~like the same~~  
 0084 manner ~~as that~~ required for the consideration and adoption of the  
 0085 original zoning resolution. In addition to the publication notice,  
 0086 written notice shall be mailed to all owners of property ~~within the~~  
 0087 ~~county~~ ~~which is~~ located within 1,000 feet of the area affected.  
 0088 Failure to receive ~~such the~~ notice shall not invalidate any sub-  
 0089 sequent action taken. If ~~such the~~ amendment affects the bounda-  
 0090 ries of any zoning district and the county has made provision for  
 0091 the fixing of the same upon an official map which has been  
 0092 incorporated by reference, the amending resolution shall define  
 0093 the change or boundary as amended, shall order the official map  
 0094 to be changed to reflect ~~such the~~ amendment and shall amend the  
 0095 section of the resolution incorporating the same and shall rein-  
 0096 corporate ~~such the~~ map as amended. If, ~~however, a protest against~~  
 0097 ~~such amendment, supplement or change is filed in the office of~~  
 0098 ~~the county clerk within 14 days after the date of the conclusion of~~  
 0099 ~~the hearing duly, a petition signed and acknowledged by the~~  
 0100 owners of 20% or more of any property proposed to be rezoned, or  
 0101 by the owners of 20% of the total area, ~~excepting except~~ public  
 0102 streets and ways ~~which is~~, located within 1,000 feet of the  
 0103 boundaries of the property proposed to be rezoned; ~~such is filed~~  
 0104 ~~in the office of the county clerk, the amendment shall not be~~  
 0105 passed except by unanimous vote of the board of county com-  
 0106 missioners.

0107 (b) If the board of county commissioners of Franklin county  
 0108 determines it is necessary to zone within the unincorporated areas  
 0109 of the county, the board of county commissioners shall submit  
 0110 the question of ~~such the~~ initial zoning for approval by a majority  
 0111 of the qualified electors of the unincorporated areas of ~~such the~~  
 0112 county voting at an election called and held on ~~such the~~ question.  
 0113 The election shall be called and held in the manner prescribed by  
 0114 the general bond law. If ~~such the~~ question of initial zoning is  
 0115 approved as provided in this subsection, any amendment or  
 0116 change in zoning shall be made as otherwise provided by law  
 0117 without requiring an election on the amendment or change.

0118 Sec. 2. K.S.A. 1982 Supp. 19-2920 is hereby repealed.

if the proposed amendment is not  
 a general revision of an existing  
 zoning resolution and will  
 affect specific property, such prop-  
 erty shall be designated by  
 legal description and

Sec. 3. Kansas Register