

MINUTES OF THE House COMMITTEE ON Local GovernmentThe meeting was called to order by Representative Ivan Sand at
Chairperson1:30 a.m./p.m. on March 24, 1983 in room 521-S of the Capitol.

All members were present except:

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:

Senator Montgomery
Wayne Stallard, Onaga Community Hospital
Earl Cordell, Jackson County taxpayer
Wayne Stratton, Kansas Hospital Association
Chris McKenzie, League of Kansas Municipalities
Senator Norvell
Glennis Heldenbrand, Reno County Clerk
Louis O'Reardon, Reno County
Mike Billinger, Ellis County Treasurer
Fred Allen, Kansas Association of Counties
Emery Rome, Ellis County Clerk
Virginia Herzog, Ellis County Register of Deeds
Larry Scheller, Leavenworth County
Jim Clark, Director of Kansas District and County Attorneys Association
Senator Francisco
Kim Dewey, Sedgwick County Commission
Fred Allen, Kansas Association of Counties

Chairman Ivan Sand called the meeting to order.

SB 302 - AN ACT concerning counties; relating to the powers and duties of the board of county commissioners; amending K.S.A. 1982 Supp. 19-101a and repealing the existing section.

Staff gave a brief overview of the bill. Senate Bill 302 amends the statute which authorizes the exercise of county home rule to prohibit any county from exercising home rule to exempt from or change any statute prescribing the procedure for establishing a hospital or health-related facility.

Senator Montgomery was present to give background and intent. He requested this legislation be introduced by the Senate committee. He stated the bill's main thrust is to prevent double taxation. It is a protection measure so two hospital districts cannot be formed in one area.

Wayne Stallard, Onaga Community Hospital, appeared in support. See Attachment I for a copy of his testimony.Earl Cordell, Jackson County taxpayer, appeared in support (See Attachment II).

Wayne Stratton, Kansas Hospital Association, appeared to request the Committee hold SB 302 this session for further study. Mr. Stratton responded to questions.

SB 303 - AN ACT concerning sheriffs; relating to the powers and duties thereof; amending K.S.A. 12-2908 and repealing the existing section.

Staff gave overview and clarified existing law.

Chris McKenzie, League of Kansas Municipalities, appeared to request Section 1, subsection (a) be a section by itself.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government,
room 521-S, Statehouse, at 1:30 ~~xx~~ a.m./p.m. on March 24, 1983

SB 46 - AN ACT concerning the powers and duties of certain county officers; amending K.S.A. 19-302, 19-502b, 19-503, 19-805 and 19-1202 and K.S.A. 1982 Supp. 19-101a and repealing the existing sections.

Senator Norvell, sponsor, appeared to give background and intent (See Attachment III).

Glennis Heldenbrand, Reno County Clerk, appeared in support (See Attachment IV).

Louis O'Reardon, Reno County, appeared to support Glennis Heldenbrand's comments.

Mike Billinger, Ellis County Treasurer, appeared in support of SB 46 (See Attachment V). Mr. Billinger responded to questions.

Fred Allen, Kansas Association of Counties, referred to Item 21 in their county platform and endorsed the bill.

Emery Rome, Ellis County Clerk, appeared in support. See Attachment VI for his comments.

Virginia Herzog, Ellis County Register of Deeds, appeared in support (See Attachment VII).

Larry Scheller, Leavenworth County, appeared but declined to comment and concurred with previous remarks.

Jim Clark, Director of Kansas District and County Attorneys Association, appeared to say they are opposed to New Section 7. They request this section be left out.

SB 253 - AN ACT concerning counties; relating to the powers and duties thereof; amending K.S.A. 1982 Supp. 19-101a and repealing the existing section.

Staff gave a brief overview. This bill requires members of boards of county commissioners to submit all claims for mileage and expenses on vouchers signed by the claimant and the claim must be submitted for approval as provided by K.S.A. 12-105b.

Senator Francisco, sponsor, appeared in support. He provided further information from the Attorney General on this bill (See Attachment VIII). He also submitted a more recent Attorney General Opinion (See Attachment IX). The sponsor asked the Committee to hold this bill until next session.

Kim Dewey, Sedgwick County Commission, appeared in opposition and said they feel the present travel policy complies with present statutes.

Fred Allen, Kansas Association of Counties, appeared to explain that travel expense is required in many counties as commissioners must live in their district and travel to the county seat. The following counties are presently paying a mileage allowance instead of so much per mile: Elk, Lincoln, Price, Shawnee, Pratt, and Sedgwick.

Meeting adjourned.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE Mar 24, 1983

NAME

ADDRESS


REPRESENTING

NAME	ADDRESS	REPRESENTING
Emory J. Rome	Hays	Ellis County Clerk
Virginia Henry	Hays	Ellis Co Reg. of Needs
Glenn Seldersbrand	Percy-Hutchinson	Percy Co Clerk
Annabel Muller	" "	Percy Co Treas
Spencer J. Jeter	Lewersworth	Co Treas
Larry E. Schiller	"	Co. Clerk
Alfred Riedesel	Oskaaloosa	Co Clerk Jefferson Co.
Virginia Kerby	"	Jefferson Co. Treasurer
Kevin Braunton	"	" " Reg. of Deeds
Betty M. Bude	Columbus, Mo.	County Treasurer
Mike Billinger	HAYS	COUNTY TREASURER
Gerry Ray	Clathea Co	Johnson Co Board
Earl Corbett	Soldier Kan	Soldier Pay Payor Jackson Co.
Jayne M. Hatfield	Onaga, KS	Atty. Community Hospital Onaga, KS
Jayne Stahn	Topeka, KS	Atty, Kan, Hosp Assoc
Fred Allen	Topeka	K. H. C.
Joe Engelken	Onaga, KS	Community Dist. Hospital
Hal Falkenstein	Onaga, KS	Community Hospital Dist #1

1. Necessity for SB 302 amending K.S.A. 19-101a--Home Rule Statute and Purpose therefor.
 - a. SB 302 in effect keeps control of the establishment of new county hospitals in the legislature.
 - b. HB 2002 and HB 2003, which are attempts to codify all laws for county and district hospitals, are likely to be passed over this session without further action; and SB 302 is needed for the legislature to hold its control over establishing new county hospitals within statutes already in effect.
 - c. Prevent double taxation by new county hospitals of taxpayers residing in hospital districts.
2. No tangible home rule rights are taken from any existing and operating county hospital by SB 302.
 - a. To meet original objections SB 302 was modified to present form so only establishing a county hospital or health related facility is covered by restriction. No restriction is placed on an operating county hospital as it is already established.
 - b. Modification in bold black print starting at Line 0076 to 0081 was made by Bradley J. Smoot, Deputy Attorney General, to make it clear as to its limited application.
3. SB 302 is a part of the Bill of Rights for district hospitals.
 - a. District hospitals provide equal and comparable services as county hospitals.
 - b. Taxpayers of district hospitals have built and now maintain comparable facilities as county hospitals.
 - c. New hospitals are not prohibited but where district hospitals are already operating in a county, any new hospital should be established using district laws rather than county laws.
4. Double Taxation.

Kansas has approximately twenty-two operating hospital districts, and if SB 302 is not adopted amending K.S.A. 19-101a there will be at least 22 and more possible situations within the state where double taxation can arise.
5. In the absence of any district hospital association, Community Hospital District No. 1 of Pottawatomie and Jackson Counties, Kansas, sent on March 7, 1983, a questionnaire to the district hospitals and received seven written responses which were filed with the Senate Public Health and Welfare Committee. In addition we received several oral responses. In summary, district hospitals desire protection for their taxpayers against double taxation.
6. Community Hospital District No. 1 of Pottawatomie and Jackson Counties, comprises about one-third of Pottawatomie County and one-eighth of Jackson County. It maintains a 25 bed hospital. Since formation in 1955 it has completed two building programs and a third building program is about to be completed. The district facilities have a value of between 2½ to 3 million dollars.

Our Jackson County taxpayers are presently concerned that they will be included in a new Jackson County hospital proposal.


Wayne M. Stallard, Attorney for Community
Hospital District No. 1, Pottawatomie and
Jackson Counties, Kansas.

Attachment II

March 24, 1983

To: House Committee on Local Government:

I am a life-long resident of Jackson County, Kansas. I have been a resident in Community Hospital District which has its hospital at Onaga ever since the district was formed. The Onaga hospital has provided good service to our community.

My neighbors and I have helped pay for the Onaga hospital which serves our needs. We do not feel that we should be taxed for any new hospital in Holton.

In 1957 a proposal for a Jackson County hospital was defeated by election. We hear rumors that another Jackson County hospital proposal is being considered.

I have built a new house on my farm and the valuation has been placed higher than I ever expected. Now will I have to pay double hospital taxes? If the law allows such double taxation it shouldn't. I speak for our community when I say don't tax us double.



Earl Cordell

Rural Route

Soldier, Kansas 66540

Attch. II

S.B. 46 IS MEANT TO CLARIFY THE POWERS OF VARIOUS ELECTED COUNTY OFFICIALS, AND HOPEFULLY PROMOTE MORE HARMONY IN THE COURT HOUSE. THE BILL SPECIFICALLY DEALS WITH THE POWERS OF COUNTY COMMISSIONERS, COUNTY CLERKS, COUNTY TREASURERS AND COUNTY REGISTERS OF DEEDS, *Sheriff office, and County attorney*.

SECTION 1 OF THE BILL AMENDS THE COUNTY HOME RULE STATUTE, (K.S.A. 1982 SUPP. 19-101A) TO ADD A FIFTEENTH (15) LIMITATION ON COUNTY HOME RULE POWERS. THE NEW LIMITATION PROHIBITS COUNTIES FROM EXEMPTING THEMSELVES, OR AFFECTING CHANGES, TO THE STATUTES WHICH ARE AMENDED BY THIS BILL. (~~THIS APPEARS IN LINES 81 AND 82 OF THE BILL AT THE TOP OF PAGE 3.~~) THE OTHER AMENDMENTS IN SECTION 1 ARE MERELY CLEANUP.

SECTION 2 OF THE BILL (AMENDS K.S.A. 19-302) DEAL~~ING~~^S WITH THE POWERS OF COUNTY CLERKS. THE BILL CLARIFIES THAT A COUNTY CLERK HAS THE POWER TO APPOINT, PROMOTE, DEMOTE AND DISMISS ADDITIONAL DEPUTIES AND ANY ASSISTANTS NECESSARY TO CARRY OUT THE DUTIES OF THE OFFICE. THE AMENDMENTS PROVIDE THE COUNTY CLERK SHALL SUPERVISE ALL ASSISTANTS IN THE PERFORMANCE OF THEIR DUTIES. AND FURTHER, THE COUNTY CLERK MAY ATTEND, AND MAY REQUIRE THE DEPUTIES AND ANY ASSISTANTS, TO ATTEND ANY MEETINGS OR SEMINARS, WHICH THE CLERK DETERMINES WILL BE BENEFICIAL TO THE OPERATION OF THE CLERK'S OFFICE.

FINALLY, THE CLERK SHALL SUBMIT A BUDGET, FOR THE FINANCING OF THE OPERATION OF THE CLERK'S OFFICE, TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR APPROVAL.

SECTIONS 3 AND 4 OF THE BILL DEAL WITH COUNTY TREASURERS, ~~AND~~ SECTION 5 OF THE BILL, DEALS WITH COUNTY REGISTERS OF DEEDS. THE SAME CLARIFYING LANGUAGE IS ADDED IN REGARD TO THESE COUNTY OFFICERS AS WAS ADDED FOR COUNTY CLERKS. THESE ELECTED OFFICIALS ARE ALSO GIVEN POWER TO APPOINT, PROMOTE, DEMOTE AND DISMISS THEIR OWN DEPUTIES AND ASSISTANTS, TO ATTEND MEETINGS OR SEMINARS AS THESE ELECTED OFFICIALS DEEM APPROPRIATE, AND TO SUBMIT BUDGETS FOR THEIR RESPECTIVE OFFICES.

THIS BILL, AS I HAVE STATED, IS MEANT TO CLARIFY THE POWERS AND RELATIONSHIPS AMONG THESE ELECTED COUNTY OFFICIALS. THE CURRENT STATUTES DO NOT PROVIDE ADEQUATE GUIDELINES. MY BILL WOULD FILL THIS VOID.

Section 6 deals with Sheriff, and
New Section 7 deals with County Attorneys.

S.B. 46 IS PROMPTED IN PART BY SEVERAL ATTORNEY GENERAL'S OPINIONS IN RECENT YEARS, WHICH HAVE DEALT WITH THE POWERS OF OUR ELECTED COUNTY OFFICIALS.

Attorney General
FOR EXAMPLE, OPINION No. 81-287 SAID THE BOARD OF COUNTY COMMISSIONERS HAS THE POWER TO ESTABLISH HIRING AND FIRING PROCEDURES FOR NONDEPUTY PERSONNEL, IN THE COUNTY CLERK'S OFFICE, PURSUANT TO COUNTY HOME RULE POWERS, SINCE THE STATUTES ARE OTHERWISE SILENT ON THIS MATTER. THE OPINION RECOGNIZED THAT THE COUNTY CLERK HOWEVER, HAD THE POWER TO HIRE AND FIRE DEPUTIES. THE ISSUE OF CLERKS, AND THEIR DEPUTIES ATTENDING MEETINGS, WAS ALSO RAISED IN THIS OPINION. THE OPINION SAID THE CLERK HAD THE AUTHORITY TO ATTEND MEETINGS, AND AUTHORIZE OTHER PERSONNEL TO ATTEND MEETINGS, AS LONG AS SUFFICIENT PERSONNEL REMAINED AT THE COURT HOUSE, FOR THIS OFFICE TO FUNCTION IN AN ORDERLY MANNER.

Attorney General
OPINION No. 80-69 WHICH DEALT WITH SHERIFFS, BUT RELATED TO OTHER COUNTY ELECTED OFFICIALS AS WELL, SAID THAT COUNTY OFFICIALS MAY PURCHASE EQUIPMENT AND SUPPLIES, WHICH ARE DIRECTLY NECESSARY, IN ORDER FOR THE OFFICIAL, TO PROPERLY PERFORM DUTIES, ESTABLISHED BY STATE LAW, AND COUNTY COMMISSIONERS MAY NOT DISALLOW THESE EXPENDITURES.

A THIRD EXAMPLE IS OPINION No. 81-205 WHICH STATED THAT A COUNTY MAY NOT REQUIRE A SHERIFF, TO ENFORCE CITY ORDINANCES, UNDER INTERLOCAL COOPERATION AGREEMENTS. THE RATIONALE OF THE OPINION WAS, IN PART, THAT IT IS THE SHERIFF'S STATUTORY RESPONSIBILITY TO KEEP THE PEACE, AND THE SHERIFF HAS DISCRETION AS TO HOW BEST TO FULFILL THIS DUTY, IN THE UTILIZATION OF HIS LAW ENFORCEMENT PERSONNEL.

THESE OPINIONS ARE OFFERED MERELY TO SHOW THE DIFFERENT AND OFTEN COMPETING INTERESTS, OF COUNTY ELECTED OFFICIALS. MY BILL IS DESIGNED TO CLARIFY SOME OF THESE COMPETING INTERESTS IN REGARD TO CLERKS, TREASURERS AND REGISTER OF DEEDS.

S.B. 46

THE NEED FOR SB 46 IS QUITE APPARENT. LAST YEAR A DISTRICT JUDGE, RULED IN FAVOR OF THE REGISTER OF DEEDS, SAYING THE COMMISSION'S AUTHORITY IS LIMITED TO BUDGETARY MATTERS.

THE COURT CASE COST THE TAXPAYERS OF ELLIS COUNTY \$5,000 TO PAY COURT COSTS AND ATTORNEY FEES. IF SB 46 IS ENACTED TO CLARIFY SOME OF THESE COMPETING INTEREST IN REGARD TO CLERKS, TREASURERS AND REGISTERS OF DEEDS, IT WILL PROVIDE GUIDELINES WHICH ARE NOT IN THE CURRENT STATUTES. DURING THESE ECONOMIC TIMES, I DO NOT BELIEVE THAT THE CITIZENS OF THIS STATE, CAN AFFORD LEGITIMATION TO DETERMINE THE POWERS AND DUTIES OF THE VARIOUS OFFICES. THIS PIECE OF LEGISLATION WILL CLARIFY ANY QUESTIONS PERTAINING TO DUTIES AND POWERS; AND WILL AVOID OTHER EXPENSIVE COURT CASES, WHICH MUST BE PAID BY THE CITIZENS OF THE COUNTY INVOLVED.

IN ADDITION, LAST YEAR THE 1982 LEGISLATURE PASSED SB 832 WHICH GAVE THE COUNTY APPRAISER THE SAME POWERS AND DUTIES AS IS PROVIDED IN SB 46 FOR THE CLERKS, TREASURERS AND REGISTERS OF DEEDS. SB 832, WHICH THIS BILL IS MODELED AFTER, WAS PASSED BY THE HOUSE OF REPRESENTITIVES 123 IN FAVOR AND 1 AGAINST AND WAS PASSED BY THE KANSAS SENATE 35 TO 0. ~~I HOPE THAT WE WILL APPROVE SB 46 IN THE SAME OVERWHELMING MANNER.~~

Representative Ivan Sand
Chairman of The Local Government Committee

Committee Members

I am Glenis Heldenbrand, Reno County Clerk from Hutchinson
Kansas.

I would like to express my support in the passage of S.B. 46.
This bill is just a clearer interpretation of the duties I have
assumed since I was elected in 1972. I have always hired and fired
my employees. I had a discrimination charge filed against me during
my first year in office. I was the one responsible for defending my
decision and won the case.

This bill is almost identical to the one passed for the appraisers
last year. I don't believe section C, as amended by the Senate, was
included in the appraisers bill. This concerns me since they are
appointed in most counties and we are elected officials.

We have personnel policies and procedures in our County and the
elected officials, I would say, follow it more closely than some
appointed employees. Our policies and procedures are not uniform as
there are some slight differences between some departments.

The question was asked if we have already been assuming these
duties why do we need such a bill as S.B. 46. I would like to address
that question with this answer. As I've said this bill leaves no
doubt as to my responsibilities. Counties are appointing County
administrators and as new Commissioners are elected, the present
statutes have been interpreted differently. This was the reason for
the Court Case in Ellis County. S.B. 46 would eliminate further costly
court cases.

Last summer I attended the I.A.C.R.E.O.T. convention in Ft.
Lauderdale, Florida. This is the International Association of Clerks,
Recorders, Election Officials and Treasurers. One of the topics was
"Elected Officials An Extinct Breed" This movement seems to be all
over the country to have appointed and not elected officials. If
this bill does not pass, I fear this may be the first step. There
will be more court cases to clarify interpretations of the Statutes
and I feel Elected Officials must take a stand now.

I hope as elected representatives you feel as strongly as I do,
that we should be elected and be responsible for ourselves, our
employees, and to the people that elected us.

Thank you for letting me express my support of S.B. 46.

Attachment V

STATEMENT
OF
MIKE BILLINGER
ELLIS COUNTY TREASURER
BEFORE THE
HOUSE LOCAL GOVERNMENT COMMITTEE

Mr. Chairman and members of the House Local Government Committee.
My name is Mike Billinger, and I am the County Treasurer of Ellis
County.

I would like to express my appreciation to the Committee for the time
they have granted me for my brief presentation. Senate Bill 46 is
important to me, as well as to all County Treasurers in the State of
Kansas, because it would effectively make us the administrators of
our employees.

As elected officials it is necessary for us to be responsive to public
needs and opinions. The staffs in our offices are an extension of our
personal philosophies in dealing with the public. If they, the staff,
question our authority as their employers versus the authority of others
in the courthouse structure then whose philosophy are they to follow?
And another question, who is best qualified to determine promotions,
demotions and hiring qualifications? Not to belabor the obvious,
but just who is the employer of our employees? These and other questions
are answered in Senate Bill 46, which if passed would clearly address
this in the Kansas Statutes.

Based on the considerable testimony given in the Senate by the opponents
to Senate Bill 46 describing their uncertainty as to the effects this bill
would have on the now existing budgetary procedures for counties, I felt
a responsibility to contact the Department of Administration, Division
of Accounts and Reports and request their analysis of Senate Bill 46 as
it relates to county budgets.

Atch. V

I discussed Senate Bill 46 in great detail with William L. Ervin, Chief of the Municipal Accounting Section of the aforementioned department and in his opinion, the language of this bill in the sections which generally set out that "County Officials shall submit a budget for the financing of the operation of the official's office to the Board of County Commissioners for their approval", does not appear to be inconsistent with the existing budget laws.

Briefly summarizing Mr. Ervin's conversation, he stated that the budget authority ultimately does rest with the Governing Board and that the language in this bill does not abridge or circumvent this authority. "They, the Governing Board, can set budgets irregardless of the amount submitted by the elected officials simply by setting the percentage of increase or decrease to be used for budgetary purposes." For example, if the budget is set for no increase over the previous year's budget and that budget was sufficient for that year, then the elected officials may not increase their expenditures, be that in the form of hiring more employees or making promotions for existing employees, or for that matter, any expenditures that were not included in the official adopted county budget. These offices are within the General Fund and are subject to the Tax Lid Law, K.S.A. 79-5001, et.seq., and the Cash Basis Law.

At this point I would like to make a personal observation, that Treasurers are indeed elected officials, elected to a statutory office, which dictates statutory duties and responsibilities. For example I personally manage for the residents of Ellis County approximately 16 million dollars annually, a direct endproduct of my statutory responsibilities as tax collector. A byproduct of this responsibility requires me to be the investment officer and invest these monies as wisely as possible, earning last year approximately \$600,000.00 to \$700,000.00 in interest. Not only this but I am required by statute to collect and remit hundreds of thousands of dollars to the State of Kansas in the form of Motor Vehicle Registration fees and State Sales Tax. I welcome these statutory responsibilities, but in order to assure the public that these duties are administered in the proper manner, it is explicitly important that I, and all Treasurers, have administrative control over our offices.

Before I conclude my presentation I would like to interject that a survey taken of County Treasurers revealed that 91 counties supported the proposed legislation, 2 opposed and the remaining took no stand. Please find an attachment showing visually these results. It might also interest you to know that the wording of this survey was patterned after Senate Bill 832 which last year passed the House 123 to 1 and the Senate 35 to 0. At that time no opposition was expressed regarding the same language for appraisers as is being presented for elected officials. So it would be safe to assume that those prerogatives granted to appointed officials should be not greater than those of elected officials who are responsible to all the voters. And in the event that a misuse of these prerogatives should occur than the voters would sit in judgement on election day and should this abuse become blatant then there would be the ouster process.

In conclusion, the intent of this legislation is to explicitly define what is generally set out in various statutes, Attorney General Opinions and court decisions, making County government more sensitive to the public and at the same time more efficient administratively. Once again, on behalf of all County Treasurers I request your favorable consideration of Senate Bill 46.

Thank you,

Mike Billinger
Ellis County Treasurer

Attachments:

- 1) Results of County Treasurers survey
- 2) Senate Bill 832

The exempt personal property roll shall include all personal property that is exempt from ad valorem taxation except those specific types of property set forth in K.S.A. 79-201c. The exempt personal property roll shall consist of all exempt personal property forms rendered by taxpayers to the county appraiser and other records prepared by the county appraiser for the listing and appraisal of all exempt personal property within the county.

New Sec. 15. On or before January 15 of each year, the county clerk shall prepare and furnish to the county appraiser a taxing unit map showing the number and metes and bounds of every taxing unit or any portion of a taxing unit located within the county as the same exists on December 31 of the preceding year. In any year that such map would be identical to the most recent map previously furnished to the county appraiser, the county clerk shall certify such fact on or before January 15 to the county appraiser in lieu of furnishing such map.

New Sec. 16. The county appraiser shall show on each appraisal record, the aggregate of which constitutes the appraisal roll, the taxing unit number corresponding to the location of the property appraised. In determining such taxing unit numbers, the county appraiser shall use the taxing unit map or maps furnished and constructed for the current taxing year by the county clerk.

New Sec. 17. In any year during the month of April for real property and the month of May for personal property, the county appraiser may request the county board of equalization to order a change in the classification or the appraised valuation of property on the certified appraisal rolls. The county appraiser shall utilize the appraised value appeal form when making such requests.

New Sec. 18. The county appraiser shall submit a budget to the board of county commissioners for their approval.

The county appraiser shall appoint and dismiss any assistants necessary to carry out the duties of the office. The county appraiser shall supervise all such appointees in the performance of their duties.

The county appraiser shall be required to attend and may require others under such appraiser's supervision to attend appraisal schools conducted or prescribed by the director of property valuation.

New Sec. 19. The county appraiser or the appraiser's designee shall attend meetings of the county board of equalization for the purpose of aiding such board in matters involving the appraisal of property, and the county appraiser shall make all records concerned therewith available to the county board of equalization. The absence of the county appraiser or the appraiser's designee from any meeting of such board shall not affect

Attachment U1

STATEMENT
OF
EMERY ROME
ELLIS COUNTY CLERK
BEFORE THE
HOUSE LOCAL GOVERNMENT COMMITTEE

Mr. Chairman, members of the Local Government Committee. I am Emery Rome, Ellis County Clerk and Vice-Chairperson of the County Clerks Legislative Committee. On behalf of myself and the Clerks' Association I would like to express my sincere appreciation for this opportunity to appear before this committee asking for your consideration of the passage of Senate Bill 46.

Senate Bill 46 concerns itself with several different subjects but the one area which I would like to address today is that of section 2, amending K.S.A. 19-302. In this section the Clerk is given the authority to appoint a dupty and hire and/or fire any additional help the Clerk might deem necessary. Presently there is not a statute which addresses this subject. Consequently this very matter was tested in district court in Ellis County and it was reasoned that in order to maintain the unity and stability of a properly functioning office this authority would have to be that of the elected official rather, as some might argue, the County Commissioners. It would be impossible to maintain organization in an office if the employee were to show their loyalties to someone other than the elected official for which they were hired to work for. Not only this but the situation could be such that an elected official would be forced to hire unqualified staff, or staff incapable of handling the various responsibilities of the position. Would it not be reasonable to assume that someone who works day in and day out with employees be more capable of evaluating their performance rather than someone who might be exposed to the employees only once or twice weekly? The assumption would be that the elected official would be more qualified to evaluate the production of the staff if for no other reason than daily exposure to the work of the staff. Not only this but an elected official is elected by his or her constituents and is expected to do the best job possible, an impossibility if the loyalties of the staff would be to someone other than the elected official

Emery Rome

In order to make this presentation I initiated a survey to all the Clerks of the Clerks' Association and the results were decisively conclusive. 105 surveys were mailed out, 95 were returned showing that 89 were in favor of having this situation addressed in a statute and 6 did not take a stand on the matter. Please find an attachment listing county by county results. Also of interest was the fact that the majority of Clerks surveyed indicated that they presently operate their offices in this manner. However for the sake of uniformity they felt it should be addressed in the Kansas Statutes.

In conclusion I would like to once again take this opportunity to thank you for the time you have allowed me to make my presentation and should you have any questions I would be more than happy to answer them at this time.

Thank you,

Emery Rome
Ellis County Clerk
Vice-Chairperson County Clerks Legislative Committee

Attachments:
Results of County Clerks Survey

IN A SURVEY CONDUCTED LAST SUMMER OF ALL 105 COUNTY CLERKS THE FOLLOWING IS A RESULT OF THAT SURVEY SHOWING THE RESULTS REGARDING THE LANGUAGE CONTAINED IN SENATE BILL NO. 46 WHICH IS PATTERNED AFTER SENATE BILL NO. 832 ADOPTED BY THE 1982 KANSAS LEGISLATURE.

COUNTIES IN SUPPORT
OF SENATE BILL 46

Mitchell
Montgomery
Morris
Morton
Osborne
Ottawa
Pawnee
Phillips
Pottawatomie
Pratt
Reno
Republic
Rice
Rooks
Rush
Russell
Saline
Sedgwick
Shawnee
Sheridan
Sherman
Stafford
Stanton
Stevens
Thomas
Trego
Wabaunsee
Wallace
Washington
Barton
Cherokee
Ellis
Finney
Greenwood
Harvey
Jackson
Lyon
Ness
Norton
Osage
Seward
Scott
Smith
Wyandotte
Allen
Anderson
Atchison
Bourbon
Barber

COUNTIES IN SUPPORT
OF SENATE BILL 46

Chase
Chautauqua
Cheyenne
Clark
Clay
Cloud
Coffey
Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Edwards
Ford
Franklin
Gove
Graham
Grant
Gray
Hamilton
Hodgeman
Jefferson
Jewell
Johnson
Kiowa
Labette
Leavenworth
Lincoln
Linn
Logan
Marion
Marshall
McPherson
Meade
Miami
Wichita
Wilson
Woodson
Geary (except budget responsibility)

COUNTIES THAT
TOOK NO STAND

Comanche
Ellsworth
Harper
Haskell
Kingman
Nemaha

COUNTIES OPPOSED

None

COUNTIES THAT DID
NOT REPLY

Rawlins
Greeley
Lane
Kearney
Brown
Neosho
Elk
Riley
Butler
Summer

Attachment VII

STATEMENT
OF
VIRGINIA HERZOG
ELLIS COUNTY REGISTER OF DEEDS
BEFORE THE
HOUSE LOCAL GOVERNMENT COMMITTEE

Honorable Chairman and Members of the House Local Government Committee. Please accept my sincere appreciation for the valuable time this committee has granted me for my presentation.

On behalf of Register of Deeds across the State: I Virginia Herzog, Ellis County Register of Deeds, would like to express my feeling concerning Senate Bill 46. In order not to repeat much of the Testimony presented by Clerk Rome and Treasurer Billinger, I will concur with their presentations and agree in principle with them 100%. In addition I too have the results of a survey taken of Register of Deeds across the State which was also very conclusive: 94 supported this concept, none opposed, and 8 took no stand.

With the above information in mind I will conclude my presentation and ask your favorable passage of Senate Bill 46.

Thank You

Virginia Herzog
Virginia Herzog
Ellis County Register of Deeds

Atch. VII

JAMES L. FRANCISCO
 SENATE, DISTRICT TWENTY-SIX
 SEDGWICK COUNTY
 217 E ENGLISH
 MULVANE, KANSAS 67110



TOPEKA

SENATE CHAMBER
 March 21, 1983

COMMITTEE ASSIGNMENTS
 MEMBER FEDERAL AND STATE AFFAIRS
 GOVERNMENTAL ORGANIZATION
 JOINT COMMISSION ON STATE BUILDING
 CONSTRUCTION
 LEGISLATIVE AND CONGRESSIONAL
 APPOINTMENT
 PUBLIC HEALTH AND WELFARE
 INTERSTATE COOPERATION
 NATIONAL CONFERENCE OF STATE
 LEGISLATURES

The Honorable Robert Stephan
 Attorney General of the State of Kansas
 Judicial Center
 Topeka, Kansas 66612

Dear Mr. Stephan:

On January 14, 1983, your office issued Attorney General's Opinion 83-4, which answers two questions regarding county commissioners and the manner in which they are compensated. On page four of that opinion, the documentation necessary for claims presented by commissioners is discussed.

Another question regarding this subject has come to my attention. Some counties give their commissioners what is termed an "allowance" for mileage. This allows a commissioner to be reimbursed for mileage without requiring any documentation.

My question is this: Is there any difference, statutorily or otherwise, between a "claim", as used in K.S.A. 12-105b, and the allowance that is given to some commissioners? I posed this question to Bruce Kinzie of the Revisor of Statutes office. He, in turn, asked the Municipal Accounting Board the same question, and was told that these two terms have different procedures. I feel the use of the "allowance" term, in this instance, is being used to circumvent the requirements of K.S.A. 12-105b.

I would like to request an opinion from your office on this subject. Hearings will be held on this subject in the House Local Government Committee on Thursday, March 24, at 1:30 p.m., so I would appreciate any correspondence on this matter as soon as possible.

Thank you,



James L. Francisco
 Senator, District Twenty-six

JLF:jk

Atch. VIII



Attachment ^{II}

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

January 14, 1983

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 83- 4

The Honorable James L. Francisco
State Senator, Twenty-Sixth District
604 North First Street
Mulvane, Kansas 67110

Re: **Counties and County Officers -- County Commissioners**
-- Salaries and Expenses

Synopsis: The establishment of and expenditure of moneys for salaries of county commissioners are statutorily within the exclusive province of a board of county commissioners and there is no expressed or implied statutory authority permitting such salaries to be fixed pursuant to an initiative or referendum process.

Payment of expense claims made by county commissioners must be consistent with the standards set forth in K.S.A. 10-801 and K.S.A. 1981 Supp. 12-105a and 12-105b (Uniform Procedure for Payment of Claims and Other Indebtedness by Municipalities). Cited herein: K.S.A. 10-801, K.S.A. 1981 Supp. 12-105a, 12-105b, 12-3013, K.S.A. 19-101a (as amended by L. 1982, ch. 115, §1), 19-212, 19-229, 45-201.

* * *

Dear Senator Francisco:

You have requested an opinion as to whether an election may be held to determine whether the Sedgwick County Board of County Commissioners may be restricted to a "part-time status" and to specify the amount of compensation a county commissioner receives. Although your question appears to present two issues, there is, in actuality, but one, i.e., whether an election may be

held in Sedgwick County to limit the compensation of county commissioners. We are prompted to this conclusion by the fact that a public officer holds office at all times during his or her term of office, even though less than full-time may be devoted to the duties thereof. For example, a state senator holds his or her office throughout the four-year term of office, even though a state senator's compensation is limited to particular times and circumstances. Thus, since a public officer cannot hold his or her office on a "part-time" basis, we must construe your inquiry regarding the "part-time status" of commissioners as pertaining to the basis for compensating county commissioners for the performance of official duties.

Our research indicates that no statutory authority presently exists for an election to be conducted pursuant to initiative or referendum for the purpose of fixing the county commissioners' salaries. However, the lack of statutory authority in this regard suggests the possibility of enacting local legislation pursuant to county home rule powers, codified at K.S.A. 19-101b, to allow an initiative petition and election. See Clark, State Control of Local Government in Kansas, 20 Kan.L.Rev. 631, 658 (1972) (city home rule powers) and Cf. Missouri Pacific Railroad v. Board of Greeley County Comm'rs., 231 Kan. 225 (1982) (county home rule powers). Notwithstanding legislative silence, we believe such legislation to be beyond the scope of these powers.

In reaching this conclusion, we note that the legislature has not statutorily prescribed the amount of county commissioners' salaries. Rather, by general legislation uniformly applicable to all counties (K.S.A. 19-212 and 19-229), the legislature has vested control over this matter in the various boards of county commissioners. K.S.A. 19-229 states:

"The boards of county commissioners of the several counties of this state shall have exclusive control of all expenditures accruing, either in the publication of the delinquent tax lists, treasurer's notices, county printing, or any other county expenditures." (Emphasis added.)

When K.S.A. 19229 is read in conjunction with K.S.A. 19212, which sets forth the general powers of a county commission, one may conclude that matters relating to financial affairs of the county are the exclusive province of the county commission. See Hackler v. Board of County Commissioners, 189 Kan. 697 (1962) and Att'y Gen. Op. No. 82-85. Therefore, legislation by a board of county

commissioners that would abrogate the board's control over the expenditure of moneys for commissioners' salaries would be contrary to these uniformly applicable statutes. Hence, such local legislation is beyond the scope of county home rule powers, since K.S.A. 19-101a(a) First (as amended by L. 1982, ch. 115, §1) precludes exercise of county home rule powers when such would conflict with an act of the legislature uniformly applicable to all counties.

Your next inquiry states:

"Who is responsible for auditing the Commissioners' expense accounts . . . to include mileage allowance claims? To whom beside the voters, at election time, are the Commissioner's [sic] responsible, and accountable? Who determines what documentation is required for the claims made by the Commissioners?"

We have inquired of the Sedgwick County Controller and have determined that all claims for expenses (including mileage claims) made by commissioners are submitted to the purchasing department. The purchasing department in turn audits such claims and prepares a list of county warrants (warrant register) to satisfy same. This warrant register is then submitted to the board for approval pursuant to K.S.A. 19-212 Second and Sixth, and such approval constitutes the authorization to pay the claims. In our judgment this process is consistent with the requirements set forth in K.S.A. 10-801 et seq. and K.S.A. 1981 Supp. 12-105a and 12-105b (Uniform Procedure for Payment of Claims and Other Indebtedness by Municipalities).

The response to your inquiry regarding the accountability of county commissioners is suggested by the foregoing discussion pertaining to payment of claims made by commissioners. We find no distinction in the relevant statutes between county commissioners and other county officers vis a vis submission of expense claims for payment from county moneys. We would also observe that any individual county commissioner's expense claims are also subject to the scrutiny of the other county commissioners. Moreover, documents and records related to expense claims submitted for payment by county commissioners are official public records which are open to public inspection under K.S.A. 45-201 et seq., thereby facilitating an assessment of commissioners' accountability to their constituencies.

The Honorable James L. Francisco

Page 4

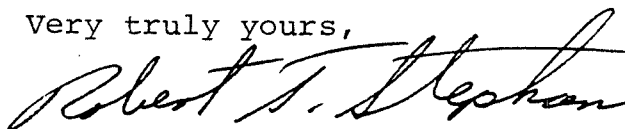
We believe that the response to your inquiry regarding "what documentation is required for claims made by the Commissioners" is provided by K.S.A. 1981 Supp. 12-105b(a) which states:

"All claims against a municipality must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information."

In our judgment the requirements of K.S.A. 1981 Supp. 12-105b(a) provide the standards for the documentation which is required before a claim for expenses may be satisfied.

In conclusion, it is our opinion that the establishment of and expenditure of moneys for salaries of county commissioners are within the exclusive province of a board of county commissioners, and there is no expressed or implied statutory authority permitting such salaries to be fixed pursuant to an initiative or referendum process. It is our further opinion that payment of expense claims made by county commissioners must be consistent with the standards set forth in K.S.A. 10-801 and K.S.A. 1981 Supp. 12-105a and 12-105b (Uniform Procedure for Payment of Claims and Other Indebtedness by Municipalities).

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Robert Vinson Eye
Assistant Attorney General

RTS:BJS:RVE:hle

cludes the board of county commissioners, the governing body of a city, the township board (trustee, clerk and treasurer), board of education or other governing body of a school district, board of trustees of a community junior college, board of regents of a municipal university, the body of a special district (such as a drainage, cemetery, fire or other) which has the power to create indebtedness and is charged with the duty of paying the same, and the board, bureau, commission, committee or other body of an independent agency of a parent unit.

(c) "Claim" means the document relating to and stating an amount owing to the claimant by a municipality for material or service furnished to the municipality, or some action taken by or for the municipality and for which the municipality may or may not be responsible in a liquidated or an unliquidated amount. A claim is liquidated when the amount due or to become due is made certain by agreement of the parties or is fixed by law.

(d) "Warrant" means an instrument ordering the treasurer of a municipality to pay out of a designated fund a specified sum to a named person or party who or which has filed a claim against the municipality.

(e) "Check" means an ordinary check drawn on a depository bank of a municipality by the treasurer of such municipality and payable to the holder of a warrant or warrants issued by the municipality.

(f) "Warrant check" means a combination of warrant and check. It is a negotiable instrument which orders a depository bank to pay to the order of the payee therein named. A warrant check authorizes the bank upon which drawn to charge the municipality's account with the amount stated therein.

(g) For the purposes of this act the term "audit" shall be construed to mean to examine and render an opinion as to allowance or rejection in whole or in part.

History: L. 1968, ch. 375, § 1; L. 1970, ch. 67, § 2; L. 1979, ch. 186, § 17; July 1.

Law Review and Bar Journal References:

Definition of the term "claim" expanded to include both liquidated and unliquidated amounts, Robert F. Bennett, 39 J.B.A.K. 107, 109 (1970).

"Governmental Liability: The Kansas Tort Claims Act [or The King Can Do Wrong]," John A. Hageman and Lee A. Johnson, 19 W.L.J. 260, 265, 282 (1980).

CASE ANNOTATIONS

1. Notice provisions of 12-105 not applicable to other

governmental units hereunder. *Murphy v. City of Topeka*, 6 K.A.2d 488, 492, 630 P.2d 186 (1981).

12-105b. Same; presentation of claims; actions; payments in advance of approval; auditing; approval. (a) All claims against a municipality must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.

(b) Claims for salaries or wages of officers or employees need not be signed by the officer or employee, if a payroll claim is certified to by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the municipality under authority of law, that the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named.

(c) No costs shall be recovered against a municipality in any action brought against it for any claims allowed in part, unless the recovery shall be for a greater sum than the amount allowed, with the interest due. Subject to the terms of applicable insurance contracts, judgments and settlements obtained for claims recoverable pursuant to the Kansas tort claims act shall be presented for payment in accordance with this section or in such manner as the governing body may designate.

(d) Claims submitted by public utilities, as defined in K.S.A. 66-104, may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any claim made against the municipality by a public utility in advance of its presentation to and approval by the governing body if the amount of such claim becomes due and owing before the next scheduled regular meeting of the governing body. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at

the next claims by a municipality are valid to had been a by the gov

(e) Claim municipal be authori approval ther claims sha tive officer

(f) Exc any claim or before a employee tion (d), i secretary, committee officer or claims affe ernment, a in part as

History: ch. 67, § 3 ch. 59, § 1
Law Review "Government Act [or The and Lee A. J

12-106
History: L. 1963, c
Source or pr
See "Sour

1. Section prosecution K. 713, 261
2. Section injury at dur K. 13, 16, 27
3. Cited in city limits. F. leum Corp.,
4. Ordinal and proratin 32 F.2d 134

12-107
History 104, § 1; June 30.
Source or pr
See 13-18

1. Section

the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(e) Claims submitted by members of a municipality's self-insured health plan may be authorized to be paid in advance of approval thereof by the governing body. Such claims shall be submitted to the administrative officer of such insurance plan.

(f) Except as otherwise provided, before any claim is presented to the governing body or before any claim is paid by any officer or employee of the municipality under subsection (d), it shall be audited by the clerk, secretary, manager, superintendent, finance committee or finance department or other officer or officers charged by law to approve claims affecting his, her or its area of government, and thereby approved in whole or in part as correct, due and unpaid.

History: L. 1968, ch. 375, § 2; L. 1970, ch. 67, § 3; L. 1979, ch. 186, § 18; L. 1980, ch. 59, § 1; L. 1982, ch. 62, § 1; April 22.

Law Review and Bar Journal References:
"Governmental Liability: The Kansas Tort Claims Act [or The King Can Do Wrong]," John A. Hageman and Lee A. Johnson, 19 W.L.J. 260, 282 (1980).

12-106.

History: R.S. 1923, § 12-106; Repealed, L. 1963, ch. 69, § 1; June 30.

Source or prior law:
See "Source or prior law," under 13-434.

CASE ANNOTATIONS

1. Section considered in action to enjoin criminal prosecution hereunder. *Ramsey v. City of Oxford*, 124 K. 713, 261 P.2d 572.
2. Section cited in considering liability of city for injury at dumping grounds. *Bruce v. Kansas City*, 128 K. 13, 16, 276 P. 284.
3. Cited in determining power to regulate mining in city limits. *Helmerich & Payne, Inc., v. Roxana Petroleum Corp.*, 136 K. 254, 258, 14 P.2d 663.
4. Ordinance permitting one oil well to city block and prorating royalty upheld. *Marrs v. City of Oxford*, 32 F.2d 134.

12-107.

History: L. 1925, ch. 99, § 1; L. 1927, ch. 104, § 1; Repealed, L. 1959, ch. 64, § 17; June 30.

Source or prior law:
See 13-1811, 14-1801.

CASE ANNOTATIONS

1. Section cited in determining validity of election

called to vote bonds for public improvements. *Smith v. Fuest*, 125 K. 341, 263 P. 1069.

2. Initiative and referendum does not apply to cooperation by city with highway authorities. *State, ex rel., v. Morton*, 128 K. 125, 276 P. 62.

3. Franchise ordinance initiated by petition held void. *City of Manhattan v. United Power & Light Corp.*, 129 K. 592, 283 P. 919.

4. Petition against bond issue for municipal gas plant upheld. *State, ex rel., v. Charles*, 136 K. 875, 877, 18 P.2d 149.

5. Amendment to ordinance must be submitted to vote of electors. *State v. City of Wichita*, 151 K. 390, 391, 396, 405, 99 P.2d 812.

6. Proposed ordinance held administrative in character; initiatory petition properly ignored. *Lewis v. City of South Hutchinson*, 162 K. 104, 123, 124, 174 P.2d 51.

7. Discussed; petition for election under 12-2001 need not be verified. *State, ex rel., v. City of Walnut*, 165 K. 205, 209, 210, 211, 193 P.2d 712.

8. Inapplicable to administrative ordinances; flood-control project ordinance held administrative. *State, ex rel., v. Salome*, 167 K. 766, 767, 768, 771, 773, 774, 781, 208 P.2d 198.

9. Referendum to repeal city resolutions unavailable where repeal impairs obligation of contracts. *State, ex rel., v. Salome*, 169 K. 585, 587, 588, 589, 590, 592, 220 P.2d 192.

12-108, 12-109.

History: L. 1927, ch. 103, §§ 1, 2; Repealed, L. 1974, ch. 54, § 1; July 1.

12-110.

History: L. 1935, ch. 101, § 1; L. 1941, ch. 102, § 1; Repealed, L. 1947, ch. 108, § 2; June 30.

12-110a. Purchase, repair or replacement of certain equipment, apparatus or machinery; no-fund warrants or bonds; procedure; limitations. (a) Whenever the governing body of any city, the board of county commissioners of any county or any township board shall deem that an emergency exists and that in order properly to protect and service or insure and provide for the health and convenience of the public it is necessary to purchase, repair or replace equipment, apparatus or machinery necessary for the operation of law enforcement, for the disposal of refuse, for fire protection, for street, road and bridge construction, repair or maintenance, for sewer treatment, for water service or for ambulance service, and such city, county or township is without funds for the purchase, repair or replacement of such equipment, apparatus or machinery, the governing body of the city, the board of county commissioners of the county or the township board shall have power to issue and sell no-fund warrants or

CASE ANNOTATIONS

1. Issuing of such duplicate bonds does not increase indebtedness. *National Bank v. City of St. John*, 117 K. 339, 342, 230 P. 1038.

2. Section does not include detached coupons. *Commerce Trust Co., v. Paulen*, 126 K. 777, 271 P. 388.

10-705. Record of duplicates. Any officer issuing duplicates under this act shall keep a record, showing the numbers, dates and amounts of such mutilated, lost or destroyed bonds or warrants, and the number of coupons thereto attached, together with the date of issuance of the duplicate therefor, and the names of the persons to whom issued.

History: G.S. 1868, ch. 15, § 5; Oct. 31; R.S. 1923, § 10-705.

Source or prior law:

L. 1862, ch. 158, § 2; L. 1864, ch. 8, § 5; L. 1865, ch. 4, § 5.

10-706. Lost or destroyed warrant; issuance of duplicate; statement of facts; stop payment procedure. A duplicate for a lost or destroyed warrant or a warrant which is not received by the payee thereof may be issued by the officer who issued the original warrant or his or her successor. Before any such duplicate warrant is issued, the issuing officer shall have on file a statement of some person knowing the facts and setting forth the description of such warrant and the fact that the same has been lost or destroyed or was not received by the payee thereof. When an issuing officer receives notice that a warrant he or she has issued has been lost or destroyed or was not received by the payee thereof, such officer shall initiate the stop payment procedure by issuing the appropriate orders to stop payment on such warrant.

History: L. 1970, ch. 65, § 2; L. 1979, ch. 46, § 2; April 5.

Article 8.—WARRANTS

Revisor's Note:

Definitions, see 12-105a.

Cross References to Related Sections:

Cash-basis law, see ch. 10, art. 11.

10-301. Terms; combination warrant checks; preparation. All warrants shall be drawn to the order of the person or party entitled to receive the same, and shall specify the nature of the claim or service for which they were issued and out of what

fund payable: *Provided*, That any governing body may by resolution authorize and require the use of a combination warrant check. Warrants or warrant checks shall be prepared by the clerk, auditor, secretary, director of finances or finance department of the municipality or other officer or agency authorized by the governing body.

History: L. 1891, ch. 249, § 1; R.S. 1923, § 10-801; L. 1939, ch. 93, § 1; L. 1968, ch. 375, § 3; July 1.

Revision note, 1923:

"Laws 1887, ch. 241, an act of similar nature was superseded and repealed by this act."

Research and Practice Aids:

Municipal Corporations—898.

C.J.S. Municipal Corporations §§ 1893, 1894, 1896.

CASE ANNOTATIONS

1. Authority of mayor and council to contract indebtedness considered. *The State, ex rel., v. City of Neodesha*, 3 K.A. 319, 327, 45 P. 122.

2. Warrants shall be issued in accordance with this act. *The State, ex rel., v. City of Neodesha*, 3 K.A. 319, 328, 45 P. 122.

3. Priority of payment of warrants considered. *Thorpe v. Cochran*, 7 K.A. 726, 52 P. 107.

4. Receiving warrant in payment of taxes is payment of warrant. *Thorpe v. Cochran*, 7 K.A. 726, 52 P. 107.

5. Warrants are simply drafts on anticipated revenue under this statute. *Schoenhoeft v. Kearny County*, 76 K. 883, 885, 92 P. 1097.

6. Sections cited in determining validity of act providing for use of county funds for state highway purposes. *State, ex rel., v. Saline County Comm'rs*, 128 K. 437, 441, 278 P. 54.

7. School treasurer without right to issue warrant except for lawful claim. *Joint Consolidated School Dist. No. 2 v. Johnson*, 163 K. 202, 210, 181 P.2d 504.

8. School district payments to teachers in defense bonds condoned. *Joint Consolidated School Dist. v. Johnson*, 166 K. 636, 640, 203 P.2d 242.

10-302. Authority for issuance; claims, when. No warrants or warrant checks shall be issued except under due authority as provided by law; and no warrants or warrant checks shall be issued or authorized by any governing body except on claims as provided by K.S.A. 12-105b: *Provided*, That claims shall not be required for the payment of bonds, bond coupons, temporary notes, scrip or no-fund warrants issued by the municipality.

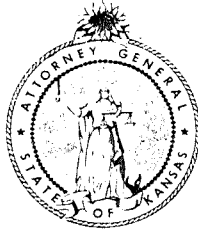
History: L. 1891, ch. 249, § 2; R.S. 1923, § 10-802; L. 1949, ch. 116, § 1; L. 1957, ch. 80, § 1; L. 1968, ch. 375, § 4; July 1.

Research and Practice Aids:

Municipal Corporations—897.

C.J.S. Municipal Corporations § 1893.

Claim against county, affidavit, *Vernon's Kansas Forms* § 541.



Attachment IX

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

March 24, 1983

The Honorable James L. Francisco
State Senator, Twenty-Sixth District
Room 136-N, Statehouse
Topeka, Kansas 66612

RE: OR 60-83

Dear Senator Francisco:

Attorney General Stephan has asked that I respond to your correspondence dated March 21, 1983, wherein you raise questions regarding whether the practice of paying a mileage allowance to county commissioners comports with the statutes governing the uniform procedure for payment of claims and other indebtedness by municipalities (K.S.A. 12-105a et seq.). Please understand that my treatment of this matter is limited due to the lack of details regarding the practice in question contained in your request and the brief time allowed for analysis.

According to my research and understanding of this subject, some counties allow specified mileage expense amounts to be paid to certain county officials irrespective of whether such mileage expenses are actually incurred. Therefore, to that extent, there is a distinction between a "claim," as such term is defined and utilized in K.S.A. 12-105a et seq., and the sum certain mileage expense allowance paid to some officials or employees irrespective of actual expenses incurred. Arguably, the allowance paid to such county officials may be characterized as a portion of the official's regular compensation. If the mileage allowance is properly characterized as compensation then it may be controlled by K.S.A. 12-105b(b) which specifies the method by which claims for salaries are processed. However, I am unable to conclude such as a matter of law because I do not know the actual accounting procedures utilized to effectuate this practice.

Atch. IX

James L. Francisco
Page Two
March 24, 1983

Finally, I note that Senate Bill No. 253 may be in contra-
vention of Section 16 of Article 2 of the Constitution of
the State of Kansas which requires that no legislative bill
contain more than one subject. One may view the out-district
tuition provisions as separate and distinct from the provi-
sion relating to commissioner's claims for mileage and ex-
penses. See State ex rel. Stephan v. Carlin, 230 Kan. 252
(1981).

I hope this information is helpful to you in your delibera-
tions. Please contact our office if I may be of further
assistance.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

A handwritten signature in black ink, appearing to read "Robert Vinson Eye", written in a cursive style.

Robert Vinson Eye
Assistant Attorney General

RVE:hle