

MINUTES OF THE Senate COMMITTEE ON Local Government

The meeting was called to order by Senator Gaar at
Chairperson

9:00 a.m./p.m. on February 24, 1983 in room 531-N of the Capitol.

All members were present except: Senators Roitz, Gaines and Daniels, who were excused.

Committee staff present: Emalene Correll
Mike Heim
Theresa Kiernan
Joan Mullins

Conferees appearing before the committee: Commissioner Robert Bacon, Johnson County, KS
Commissioner William Franklin, Johnson County, KS
Mr. Kim Dewey, Sedgwick County, KS
Mr. Mark Anson, Overland Park, Kansas
Mr. Phil Harris, City Attorney, Overland Park, KS
Mr. Fred Allen, Association of Counties
Mrs. Hazel Ball, Stanley Citizens Committee
Ms. Lillian Dale, Stanley, KS
Mr. Ernie Mosher, League of Municipalities

Senator Gaar opened the hearing on S.B. 155, concerning creation of sewer districts in counties. All of the conferees listed above spoke in support of the intent of the bill; however, the following suggestions for improvement were offered:

1. Suggestions of Commissioner Bacon and Commissioner Franklin are contained in written testimony which was submitted and is attached hereto (Attachment I).
2. Mr. Dewey asked the committee to be sure the bill allowed for powers of eminent domain and requested the bill be amended to pertain to all counties. (See Attachment II)
3. Mrs. Hazel Ball requested the committee to consider the following changes:
 - a. Remove the provision from Section 4(d) which would allow a governing body to create by resolution a lateral sewer district on its own motion.
 - b. Add language to Section 5 to require a board of commissioners to notify landowners of its intent to direct the preparation of a preliminary survey and plan.
 - c. Amend Section 6(a) to require notice be given by certified mail, return receipt requested, 30 days prior to the date of the hearing.
 - d. Expand Section 8 to clearly state the circumstances which would permit a governing body to proceed with the project at its own discretion.
 - e. Expand Section 16(a) to provide for better notice to landowners of an engineer's recommendation for creation of a joint sewer district.
 - f. Define in Section 28 "abnormal delinquency in the payment of special assessments".

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government
room 531-N, Statehouse, at 9:00 a.m./~~p.m.~~ on February 24, 1983

4. Mr. Mosher expressed opposition to the levy of a countywide tax to pay the cost of improvements in a special benefit district.
5. Ms. Dale asked the committee to consider establishment of a state board to review proposals of county commissioners with respect to creation of sewer districts and assessment of costs.

Senator Mulich moved to approve the minutes of the February 23, 1983 meeting as distributed. Senator Allen seconded the motion and it carried.

The meeting was adjourned to February 28, 1983.

Recorded - J. Mullins - 2/24/83.



Board of County Commissioners / Johnson County Courthouse / Olathe, Kansas 66061

William E. Franklin
Commissioner, 1st District
(913) 782-5000 Ext. 501

February 23, 1983

The Honorable Norman E. Gaar, Chairman
Senate Local Government Committee
Kansas State Senate
State Capital
Topeka, Kansas 66612

Subject: Senate Bill No. 155

Dear Norman:

The Board of County Commissioners of Johnson County, Kansas, would like to share some thoughts with you with regard to the proposed legislation known as Senate Bill No. 155. Our Board has given considerable attention to this proposed Bill, and we want you and your Committee to know that we support the concept of the subject Bill and do oppose any other sewer bills, whether originating in the Senate or the House.

The repeal of numerous laws presently on the books concerning sewers and replacement by one statute as proposed under Senate Bill No. 155, is an extremely complex task. In order to assure that the new law will meet the needs of the citizens that it is designed to serve, our Board would strongly recommend that Senate Bill No. 155 be carried over to an interim committee for in depth study. By so doing, we all can be assured that this Bill, so vital to urban counties such as ours, will be as carefully thought out as possible.

Our Board also recommends that any references in the Bill to countywide funding or cost sharing refer to Unified Wastewater District-wide instead.

In several places, the Bill does not clearly state the intent of your Committee, as to the petition requirements for district formation. Even if you do intend that creation require fifty-one per cent (51%) of the land and fifty-one per cent (51%) of the landowners, Johnson County feels that this can, in some instances, severely limit desirable development or district enlargement. We would recommend that creation petitions remain as in the present law, thus requiring only the signatures of landowners comprising at least fifty-one per cent (51%) of the area petitioned for creation.

Atch. I

Senator Norman E. Gaar
February 23, 1983
Page Two

Senate Bill No. 155 addresses itself to both storm and sanitary sewers. Because most of the Bill relates to sanitary sewers only and because the mechanisms and the creation of the two different types are not necessarily compatible, we recommend that the Bill pertain to sanitary sewers only.

Bill No. 155 has omitted some twenty-seven (27) existing statutes or parts of statutes that Johnson County feels have great importance in any codified bill. A list of those statutes, with a short description, is appended.

Existing law and the new proposed Bill No. 155, do not define with any degree of precision how the size of a proposed sewer district is to be determined. Clarification would help in assuring the public that gerrymandering, in order to create a district, would not be feasible.

Throughout Senate Bill No. 155, there seems to be an inadvertent mixing of the terms "governing body", "body", and "board of county commissioners". Johnson County feels that reference to the "board of county commissioners" can properly be made only with regard to the sale of bonds, or in the passage of charter resolutions. Any other actions with regard to sanitary sewers, must be undertaken as the Governing Body of the Unified Wastewater District.

We have attached a number of recommended changes to the Bill as it now exists, which either clarify existing language or reflect the considered recommendation of our Board.

The Board of County Commissioners of Johnson County, Kansas, would be pleased to supply any information that will assist you and your Committee in the perfection of Senate Bill No. 155. Thank you for your consideration of our thoughts.

Sincerely,



William E. Franklin
Chairman of the Board

WEF:ssm

Attachments

cc: Members Senate Local Government Committee
Johnson County Legislative Delegation
Board of County Commissioners
David B. Collier, County Administrator
Douglas L. Smith, Division Director,
Health and Wastewater Division

BOARD OF COUNTY COMMISSIONERS

JOHNSON COUNTY, KANSAS

REVIEW OF SENATE BILL NO. 155

Existing statutes not included which should be included:

- #1. 19-2704a - That part which addresses sewer connection charges.
- #2. 19-2712 - That part which addresses establishing service charges.
- #3. 19-2714 - Provides for protest period. Should be amended to provide for any facilities, and notice be published once a week for two (2) consecutive weeks.
- #4. 19-2745a - 19-2745d - Specifically provides for easement to Mission Township Main Sewer District No. 1.
- #5. 19-2793 - Assessment law for lateral sewer districts in Turkey Creek Main Sewer District No. 1.
- #6. 19-27,100- Interest on funds; where credited; levy for deficit.
- #7. 19-27,112- General obligation bonds for main district improvements and additional facilities.
- #8. 19-27,116 - 19-27,119 - Second class city petition - BOCC.
- #9. 19-27,120- (Part Only) - Revenue bonds.
- #10. 19-27,122- District board rules and regulations.
- #11. 19-27,126- Drainage into plant of other jurisdictions.
- #12. 19-27,140- Area-wide districts; two or more counties.
- #13. 19-27,141 - 19-27,149 - Area-wide district - rules and regulations.
- #14. 19-27,157- Board of County Commissioners local authority.
- #15. 19-27,160- District board's water pollution control authority.
- #16. 19-27,161- (User Charge)
- #17. 19-27,162- (Project Administration Fee Law)
- #18. 19-27,166- District board's plan/study authority.
- #19. 19-27,167- (Pretreatment)

- #20. 19-27,168- District board's enforcement/penalties.
- #21. 19-2707 - Creation of sewer districts; eminent domain; contracts.
- #22. 19-2715 - Creation of sewer districts; eminent domain; contracts.
- #23. 19-27,110- Sewer districts in counties with townships of 5000 or more; tax levies on land of privately built joint or lateral sewer district.
- #24. 19-27,118- Same; Powers of district.
- #25. 19-27,170- (1982 Supp.) Financing cost of district.
- #26. 19-27,111- County clerk as clerk.
- #27. 19-27,125- Sewer connection charges.

Donald Z. Smith
2-22-83

RECOMMENDED CHANGES TO
SENATE BILL NO. 155
BY BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY

<u>Lines</u>	<u>Changes</u>
33 - 34	Limit scope by deleting "storm sewers".
46	Delete "assessed", and substitute "created".
50	Delete "or county" and substitute "or Unified Wastewater District".
61	After "joint", add "subdistrict or ...".
67	Add "grit and sludge" after "sewage".
93	Add after "and", "acting as the governing body".
119 - 121	Use wording of the existing law. Majority of Board is in favor of 51% of land area. K.S.A. 19-2704 - rewrite this Section.
126	Change "assessed" to "created".
129	Delete "the county at large" and insert the "Unified Wastewater District".
137	Eliminate reference to "storm", and insert " <u>main</u> sewer district" when referring to sewer districts.
150	Delete the words "or on its own motion".
155	Delete "or developer".
156 - 157	Delete those three lines.
161 - 164	After "therein", add the words "upon a fifty-one per cent (51%) petition of the land/ownership, provided a construction contract has not been awarded and provided all costs incurred up to that point will be assessed against the full lateral district".

<u>Line</u>	<u>Changes</u>
165	After "sewer", add the word "sub (district)".
175	Add a new sentence: "The cost of the survey and plan shall be borne by the petitioners".
182 - 188	Delete entire sentence: "If the engineers ...".
191	Change "county clerk" to "Unified Wastewater District".
194	Delete the word "sewer".
208 - 211	Delete from: "If the Board ... to ... not feasible". Sentence starts: "All the costs ...".
222	Change to "In order to create a sewer sub-main or lateral district, ...".
224	Delete "a", and substitute "the".
243	Add a new section (c) to read: "For joint and main districts, public notice shall be given of intent to create a joint district or to provide treatment facilities".
271	Delete "Board of county commissioners" and substitute "the governing body".
283	Add: ", and must be in existence at the time of the apportionment resolution".
284 - 293	Delete.
306	Delete the word "proposed".
318	Delete "completion" and substitute "and prior to award of a construction contract...".
321	Delete the word "initial".
325	Delete "and dissolve the sewer district" and substitute "or".
345 - 350	Delete the entire section.
351 - 354	Delete the entire section.

<u>Line</u>	<u>Changes</u>
357	Change "7 mills" to "10 mills". Johnson County is all ready at 8.39 mills for 1983.
361 - 364	Delete the whole section, starting "If the landowners...".
380	Delete the words "below a designated point" and insert the word "may (be divided)".
391	Delete "county" and substitute "Unified Waste-water District".
392 - 393	Delete the words "out of the county general fund or".
395 - 401	Delete entire section. We have hundreds of properties not connected now in both old and new districts. Grossly unfair.
405	Change the word "purchase" to "accept".
411 - 412	Delete "sewer district engineer" and substitute "Unified Wastewater District".
420	Delete "board of county commissioners" and substitute "governing body".
428	Add a sentence "Public notice shall be given of the governing body's intent"
432 - 435	Delete the sentence beginning "If the sewer enlargements...".
439 - 442	Delete the sentence beginning "if only a part...".
447	Delete "board of county commissioners" and substitute "governing body".
452	Delete "board of county commissioners" and substitute "governing body".
475 - 477	Delete the sentence: The joint sewer district ...".
489 - 496	Delete the words "include the sewer district in a joint sewer district in".

<u>Line</u>	<u>Changes</u>
491 - 506	Delete everything from "No resolution ..." to end of Section C. Substitute: "Public notice shall be given of the governing body's intent".
510 - 513	Alter wording so that 51% applies to land area to be added only.
522 - 524	Delete entire sentence starting: "No area may be ...".
525	Change "shall" to "may".
573	Strike "a competent consulting" and substitute "the Unified Wastewater Chief".
588 & 599	Substitute "board of county commissioners" for "governing body".
592	Add sentence: "Public notice shall be given of board of county commissioners intent".
633	Delete entire section.
671	Add "or ad valorem levies" after "assessments".
686	Delete "board of county commissioners" and substitute "governing body".
689	Delete "board of county commissioners" and substitute "governing body".
695	Delete "county sewer district" and substitute "Unified Wastewater District".
700	Delete "board of county commissioners" and substitute "governing body".
702	Delete "county sewer district" and substitute "Unified Wastewater District"
705	Delete "board of county commissioners" and substitute "governing body".
710	Delete "county sewer district" and substitute "Unified Wastewater District".

<u>Line</u>	<u>Changes</u>
711	Delete "county sewer district" and substitute "Unified Wastewater District".
714	Delete "county sewer district" and substitute "Unified Wastewater District".
717	Delete "county sewer district" and substitute "Unified Wastewater District".
740	Add the words "operation and" before the word "maintenance".
753 - 794	Section 33: Substitute whole Section with "governing body" where "board of county commissioners" is stated.
786 - 794	Delete.
788	Delete "qualified electors" and substitute "landowners".
804 - 854	Delete Section 35 in its entirety. This was repealed by PL 96-483 and 10-21-80.



SEDGWICK COUNTY, KANSAS

DEPARTMENT OF ADMINISTRATION

FOREST TIM WITSMAN
COUNTY ADMINISTRATOR

COUNTY COURTHOUSE, • 525 N. MAIN, • WICHITA, KANSAS 67203-3703 • TELEPHONE 268-7575

Testimony of Kim C. Dewey - Sedgwick County
Senate Governmental Organization Committee - SB 46
February 24, 1983

The Board of Sedgwick County Commissioners are very concerned with the impact of SB 46 in its present form. The heart of the issue is one responsibility and authority. In effect, SB 46 removes all personnel authority from the governing body of the county, yet leaves the county commission with full responsibility and liability for the personnel actions of other elected officials.

We have an established personnel policy for all elected and appointed department heads in Sedgwick County. We feel that the Commissioners have the right to establish such guidelines pursuant to their budgetary authority and responsibility contained in K.S.A. 19-229 and K.S.A. 19-212. We know that the Commissioners are responsible for the actions of the elected officials pursuant to the Tort Claims Act, K.S.A. 75-6101. In effect, we are saying that the decision of the Ellis County District Court and various Attorney General Opinions are misdirected in not recognizing that personnel authority is a vital and integral part of effective budgetary control. We do, however, concur that this is somewhat of a gray area, lacking a specific statutory reference to personnel authority of the county commission.

SB 46 would certainly remove any doubt, but in its present form it would do so to the detriment of the efficient and effective operation of the county organization. We offer a suggested amendment to SB 46 which would clearly establish the authority of the county commission to establish and enforce reasonable personnel policy, for all county officials. The suggested amendment is attached, and would be inserted following Lines 108, 140, and 156.

Personnel policies are not designed to dictate to any elected or appointed official who they may hire or dismiss in pursuit of the effective operation of their office. They are meant to establish basic guidelines and procedures for personnel actions, which minimize the potential liability of the taxpayers for wrongful or improper actions. We urge the Committee to amend SB 46 as suggested and report the Bill favorably.

Atch. II

The appointments, promotions, demotions and dismissals of
all deputies and assistants shall be made in accordance with
federal and state civil rights laws and reasonable personnel
policies which have been established by the Board of County
Commissioners for all county employees.