

Approved Ivan Sand 2/4/86
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at
Chairperson

1:30 ~~xxx~~/p.m. on JANUARY 30, 1986 in room 313-S of the Capitol.

All members were present except:

Rep. Arthur W. Douville, excused
Rep. L. V. Roper, excused
Rep. George R. Dean, excused

Committee staff present:

Mike Heim, Legislative Research Department
Mary Hack, Revisor of Statutes Office
Gloria Leonhard, Committee Secretary

Conferees appearing before the committee:

Rep. Ginger Barr, HB 2724
Mr. Clyne E. Foust, Citizens Against
Unilateral Action, HB 2724
Rep. Charles Laird, HB 2724
Rep. Marvin E. Smith, HB 2724, HB 2725, HB 2727
Mr. Ernest Mosher, League of Kansas Munic., HB2724
Rep. Nancy Brown, HB 2724, HB 2725
Mr. Richard Maginot, Soldier Twp. Fire Dept. HB2725
Mr. Karl W. McNorton, Kansas State Fire Marshall
Office, HB 2725
Mr. Bob McDaniel, Dept. of Health and Environment,
HB 2725
Mr. R. E. "Tuck" Duncan, Medivac Mid America,
HB 2725
Mr. Dana Hummer, Topeka resident, HB 2727
Mr. Bill Ramsey, City of Olathe, HB 2727

Chairman Sand called for hearings on the following bills:

HB 2724, concerning cities; relating to the incorporation thereof;

Rep. Ginger Barr, a co-sponsor of HB 2724 urged the committee to support the bill. (See Attach. I.)

Mr. Clyne E. Foust, Co-Chairman of Citizens Against Unilateral Annexation, appeared in favor of HB 2724. (See Attach. II.) Mr. Foust questioned the fairness of the "unanimous vote" requirement.

Rep. Charles Laird, a co-sponsor of HB 2724, urged support of the bill. Mr. Laird said the current law is outmoded; that a simple majority should suffice.

Rep. Marvin E. Smith, sponsor of HB 2724, requested favorable action on the bill by the Committee. (See Attach. III.)

Mr. Ernest Mosher, Secretary, League of Kansas Municipalities, appeared and presented various city data. (See Attach. IV.) Mr. Mosher said the League has no formal position on HB 2724 at this time; that the League was the sponsor of the original law in 1963.

Rep. Nancy Brown, a co-sponsor of HB 2724, urged support of the bill. (See Attach. V.)

See Staff Overview for HB 2724. (Attach. VI.)

The hearing on HB 2724 was closed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
room 313-S, Statehouse, at 1:30 ~~xxx~~ p.m. on JANUARY 30, 19 86

HB 2725, concerning certain township fire departments; relating to rescue service and emergency care;

Rep. Marvin Smith, Chief sponsor of HB 2725, appeared to give background and intent of the bill and to request the committee's support. (See Attach. VII.)

Rep. Nancy Brown, a co-sponsor of HB 2725, urged the committee to support the bill. (See Attach. VIII.)

Mr. Vern Evans, Treasurer, Soldier Township, introduced Mr. Richard Maginot, Chief, Soldier Township Fire Department, who said the Department supports HB 2725. Mr. Maginot offered an amendment to the definition of "Qualified Personnel" on Lines 32-36 of HB 2725 to read as follows: "Qualified Personnel" means any individual who has been trained to provide emergency medical care and meets the minimum standards of health care as defined in K.S.A. 65-2891, K.S.A. 65-2891a and amendments thereto." (See Attach. IX.)

Mr. Karl W. McNorton, Fire Information Systems Manager, Kansas State Fire Marshall Department, testified that the Department supports HB 2725 and supports the amendment offered by the Fire Department. (See Attach. X.)

Mr. Bob McDaniel, Ambulance Licensure Administrator, Department of Health and Environment, appeared on behalf of Mr. Lyle Eckert, Director, Bureau of Emergency Medical Services, Department of Health and Environment. Mr. McDaniel testified in support of HB 2725.

Mr. R. E. "Tuck" Duncan, Attorney for Medivac Mid-America, testified in support of HB 2725. (See Attach. XI.)

See Staff Overview for HB 2725. (Attach. XII.)

The hearing on HB 2725 was closed.

HB 2727, concerning public building commissions; relating to leases by political subdivisions and state agencies;

Rep. Marvin E. Smith, Chief sponsor of the bill, appeared to give background and intent of the bill and to urge the committee's favorable consideration. (See Attachment XIII.)

Mr. Dana Hummer, Topeka resident, urged the committee to support HB 2727.

Mr. Bill Ramsey, Attorney for the City of Olathe, appeared in opposition to HB 2727 in its present form. Mr. Ramsey said he believes the proposed legislation is somewhat confusing; that if there is a local problem, he would urge keeping the legislation local and not statewide.

See Staff Overview for HB 2727. (Attach. XIV.)

The hearing on HB 2727 was closed.

The minutes of the meeting of January 28, 1986 were approved as presented.

The meeting adjourned.

STATE OF KANSAS

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P O BOX 58
AUBURN, KANSAS 66402-0058



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
MEMBER ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

ATTACHMENT I
1-30-86

Testimony by Rep. Ginger Barr on House Bill 2724 before the House
Local Government Committee -----January 30, 1986

Mr Chairman and members of the Committee:

I stand before you today in regards to House Bill 2724, which relates to the incorporation of cities. Basically, what this particular legislation does is delete the requirement beginning with line 37 through 40, which would make it possible that when a city incorporates it would not, and I repeat, not be necessary to have a unanimous vote of the county commissioners concerning this matter.

The purpose of this bill is to provide uniformity in our laws.

As many of you know, I as well as the sponsors of this bill, have been very active concerning annexation laws. It seems strange to us that it only takes a simple majority of the county commissioners to decide whether an area should be annexed or not, but it takes a unanimous vote concerning incorporation. To the best of my knowledge, this is the only particular procedure or one of the few with the county commissioners that state you have to have a unanimous vote. Therefore, I feel if it only takes a simple majority of the county commissioners to decide upon annexation, it should only take a simple majority of the county commissioners to decide upon incorporation.

You will also see on Page 2 of the bill, in lines 53-57, that the unanimous vote of the county commissioners would also be stricken if you would have a situation where a city is involved with two counties.

Attachment I 1-30-86
Hs. Local Gov.

It's a simple bill, and I've been quite explicit as far as what the bill does. I would be happy to answer any questions that you might have.

TOPIC

IN FAVOR OF HOUSE BILL 2724

SPEAKER

CLYNE E. FOUST (SHERWOOD)

Topeka, Ks. 273-5550

Co-Chairman of Citizens Against Unilateral Annexation

ATTACHMENT II
1-30-86

JUST ANOTHER BARRIER TO FAIRNESS

I listened to the opponents this last Tuesday A.M. on Senate bill 427. I was confident that these gentlemen were sincere and never intentionally abuse their use of the present laws relating to unilateral annexation. However, none of those gentlemen offered a solution for persons involved in a unilateral annexation which is irresponsible both to the parties being annexed and the city residents who have some long term financial obligation to those annexed parties.

We know that the city council under unilateral annexation needs only a majority vote to adopt the ordinance of annexation and those involved may within 30 days bring the city to district court for the court to judge the authority of the city in using those statutes. The very statutes relating to unilateral annexation are their authority and few persons are successful in challenging them. Who judges the plan for the extension of public services as to it's fairness, credibility or long term benefit to the city? If a city council's motives are not the best, the results of poorly planned annexations are not known for sometime and all parties involved lose. Please remember a majority vote is all that's needed in unilateral annexation.

If the city finds it in the city's interest to annex property owned by the county, it must ask permission of the county commissioners to annex that property. The county commissioners may allow the city to annex this county property by a majority vote only.

As a person involved in a case of unilateral annexation in Topeka, I have learned a great deal lately. I have learned that I have no vote on whether or not my property could be annexed! I have learned that my opinion and others of the plan for annexation really doesn't matter! I have learned that the prospect of my right to vote on such issues may burden the growth of Topeka and of Kansas! I have learned that deficit spending as proposed in this annexation plan although not allowed under the Kansas Cash Basis law is OK! According to the city, there is no tax increase expected nor reduction in services expected. When you propose to spend 2.4 million annually but can only receive \$582,000 in tax revenues, something has to give! I have learned that you can annex one-half of a neighborhood street and leave the township to maintain the other half. A majority vote of city councilmen approved this plan.

Once the people in my particular area decided to incorporate so that we could do our own planning, I learned that the city doesn't think that as an individual that I should have the right to enjoin them! And then I learned that for the county commissioners to approve our incorporation, that we needed a unanimous vote. It takes a majority vote to annex unilaterally, a majority vote of the county commissioners to allow the city to annex county land and now a unanimous vote to allow an area to incorporate as a third class city.

Please consider what your job would be like if you had a policy of requiring a unanimous vote on any issue! Could you function? Would you be somewhat frustrated? Is it fair or is this just another barrier to limit people of their fundamental rights?

Attachment II
1-30-86 Hs. Local Gov.

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ASSESSMENT AND TAXATION
EDUCATION
TRANSPORTATION

ATTACHMENT III
1-30-86

January 30, 1986

TO: HOUSE LOCAL GOVERNMENT COMMITTEE
RE: HOUSE BILL 2724 REQUIRING ONLY MAJORITY VOTE OF
COUNTY COMMISSIONERS

Mr. Chairman and Members of the Committee:

Truly this is a statute that needs to be amended. County Commissioners make dozens of decisions annually in each of our counties. It is ironic that in this isolated situation pertaining to "incorporation of a city" that a unanimous vote is required.

I believe it would be in the best interest of the citizens and the State of Kansas to amend the KSA 15-123.

Your favorable action would be appreciated.

Attachment III
1-30-86
Hs. Local Gov.

RESEARCH / INFORMATION BULLETIN

published by league of kansas municipalities / 112 west seventh street / topeka, kansas 66603 / 913 354-9565

Vol. VIII, No. 398
January 30, 1986

ATTACHMENT IV
1-30-86

NUMBER OF CITIES IN KANSAS

The trend of new city incorporations in Kansas has declined sharply during the past 20 years. Since January 1, 1966, there have been five newly formed cities. This is the lowest number for any 20-year period during the history of the state.

The number of Kansas cities, now totaling 627, has increased by a net of four since 1966. While five new cities were formed, the city of Wellsford was disincorporated in 1975.

The slow down in the rate of municipal incorporations in recent years may be contrasted with the incorporation of 28 new cities in the 15-year period of 1946 through 1960. Several of the cities formed during this period were located in the rapidly expanding Johnson county area. In 1963, the Kansas legislature adopted a new law governing the incorporation of cities which establishes factors to be considered by the board of county commissioners in determining the advisability of ordering an incorporation on petition of the residents of the area. Under K.S.A. 15-123, a unanimous vote of the board of county commissioners is necessary for incorporation of an area within five miles of an existing city. Since the law took effect in 1963, six new cities have been formed.

Presented later in this report is a table which shows the number of cities incorporated by five-year periods since 1855. The table below shows the date and other information as to cities incorporated since 1930.

City Incorporations Since 1930

<u>City</u>	<u>Co. Where Located</u>	<u>Date Incorporated</u>	<u>Approx. Pop. When Incorp.</u>
Timken	Rush	June 16, 1930	
Radium	Stafford	January 1, 1934	
Leona	Doniphan	April 1934	
Damar	Rooks	February 26, 1935	
Bogue	Graham	March 21, 1935	
Schoenchen	Ellis	September 1935	
Liebenthal	Rush	August 5, 1935	
Eastborough	Sedgwick	June 1, 1937	
Hollenberg	Washington	July 14, 1937	
North Newton	Harvey	September 20, 1938	
Susank	Barton	May 7, 1940	
Gorham	Russell	April 10, 1941	
Zurich	Rooks	August 20, 1946	

Attachment IV
1-30-86 Hs. Local Gov.

<u>City</u>	<u>Co. Where Located</u>	<u>Date Incorporated</u>	<u>Approx. Pop. When Incorp.</u>
Overbrook	Osage	March 8, 1948	386
Glade	Phillips	October 7, 1947	127
Leawood	Johnson	November 30, 1948	900
Fairway	Johnson	May 21, 1949	1,695
Westwood Hills	Johnson	June 6, 1949	449
Westwood	Johnson	June 7, 1949	1,541
Mission Hills	Johnson	June 10, 1949	544
Mission Woods	Johnson	July 22, 1949	175
Park	Gove	February 13, 1950	215
Merriam	Johnson	October 23, 1950	1,600
Prairie Village	Johnson	February 19, 1951	1,500
Countryside	Johnson	July 2, 1951	358
Mission	Johnson	July 2, 1951	1,852
Roeland Park	Johnson	July 2, 1951	1,373
Haysville	Sedgwick	July 3, 1951	102
Goessel	Marion	March 10, 1952	270
Willowbrook	Reno	July 10, 1952	50
Raymond	Rice	December 6, 1954	213
Rose Hill	Butler	February 7, 1955	250
Provence Village	Johnson	September 19, 1955 to February 1, 1960	
Andover	Butler	February 4, 1957	166
Kechi	Sedgwick	April 29, 1957	204
Lansing	Leavenworth	June 22, 1959	1,102
Bentley	Sedgwick	November 12, 1959	225
Rush Center	Rush	December 7, 1959	265
Cassoday	Butler	April 4, 1960	125
Overland Park	Johnson	May 20, 1960	28,085
Holcomb	Finney	May 1, 1961	280
Burdett	Pawnee	November 28, 1961	359
Smolan	Saline	April 30, 1962	284
Auburn	Shawnee	June 27, 1963	235
Grandview Plaza	Geary	March 4, 1963	450
Basehor	Leavenworth	June 11, 1965	641
Ozawkie	Jefferson	September 15, 1967	86
New Strawn	Coffey	May 18, 1970	164
Lake Quivira	Johnson & Wyandotte	May 11, 1971	959
Park City	Sedgwick	November 24, 1979	3,700
Bel Aire	Sedgwick	November 19, 1980	2,166

City Consolidations

There have been at least 10 consolidations of cities in Kansas since 1867. The following information is from records of the League of Kansas Municipalities.

- 1867--Eugene consolidated with Topeka (April 11)
- 1886--Armourdale consolidated with Kansas City (By state law)
- Wyandotte consolidated with Kansas City (By state law)
- 1887--South Topeka consolidated with Topeka (May 10)
- 1899--Potwin Place consolidated with Topeka (April 13)
- 1907--Empire City consolidated with Galena (July 10)
- 1910--Argentine consolidated with Kansas City (January 1; state law)
- 1922--Rosedale consolidated with Kansas City
- 1926--Oakland consolidated with Topeka (February 28; state law)
- 1960--Provence Village consolidated with Olathe (February 1)

There have been at least four city consolidation proposals which have failed, all in Johnson county. Voters of Mission on September 26, 1953 rejected a proposal to merge with the city of Roeland Park, the vote being 116 yes and 608 no. Voters in Countryside twice turned down merger proposals with the city of Mission. On June 2, 1959 the vote was 57 yes and 140 no. At the August 9, 1960 election the vote was 58 yes and 158 no. At an election held on January 23, 1973, a referendum proposal to consolidate the cities of Westwood and Westwood Hills was defeated.

City Dissolutions

Accurate information is not available as to the number of Kansas cities which have been disincorporated or dissolved (excludes consolidations). Part of the uncertainty results from lack of information as to whether some communities which called themselves a "city," were ever actually and legally incorporated. For example, the territorial legislatures during territorial days provided for the incorporation of numerous cities, towns and villages, many of which no longer exist and some of which probably never existed as an operating city.

Records of the League of Kansas Municipalities indicate there was at one time an Army City located in Geary county. In 1961 the city of Irving was disincorporated as a result of the area being inundated by the Tuttle Creek dam reservoir. In 1975, the city of Wellsford, located in Kiowa county, was dissolved; Wellsford was incorporated in 1917 and had a population of 17 when disincorporated in 1975.

Dormant Cities

During the history of Kansas, some cities became dormant and were later reactivated. For example, the city of Hugoton was dormant for a number of years and reorganized in 1911. The city of Wallace in Wallace county was reorganized in 1931 after being dormant for 33 years. In 1957, Richfield (Morton) was reactivated after being dormant for over 60 years. In 1964, Roseland (Cherokee) became an active city.

The Chanute Area

A century ago, a situation in the Chanute area of Neosho county, while not considered a consolidation, came close to being one. The city of New Chicago was incorporated in 1870 and in the same year the city of Tioga was also incorporated. Voters in New Chicago dissolved the city with the following result: "For a city" one; "against a city" 91. The city of Tioga was also dissolved and this entry appeared in the Revised and Compiled Ordinances of the city of Chanute, 1911, page viii: "The above officers held their position until the 9th day of December 1872, when the town of Tioga was dissolved as a corporated body by an election held on said date for the purpose of uniting with New Chicago to be incorporated as the city of Chanute." Chanute was incorporated as a city of the third class in January 1873, and encompassed the former cities of Tioga and New Chicago.

City Incorporations by 5-Year Periods

The list below presents the approximate number of city incorporations in each five-year period, and the cumulative totals, since 1855. The figures are approximate up to 1930 since it is based on the incorporation dates of existing cities. Accurate information as to legally incorporated cities in earlier days is unavailable.

<u>Period</u>	<u>Number</u>	<u>Cumulative Total</u>	<u>Period</u>	<u>Number</u>	<u>Cumulative Total</u>
1855-61	16	16	1921-25	24	550
1861-65	1	17	1926-30	28	580**
1866-70	24	41	1931-35	6	586
1871-75	48	89	1936-40	4	590
1876-80	43	132	1941-45	1	591
1881-85	75	207	1946-50	11	601
1886-90	111	318	1951-55	10	612
1891-95	11	329	1956-60	7	618*
1896-1900	18	347	1961-65	6	623*
1901-05	56	403	1966-70	2	625
1906-10	64	467	1971-75	1	625*
1911-15	30	497	1976-80	0	625
1916-20	29	526	1981-85	2	627

**Net number of active cities at end of 1930

*Net of consolidations and disincorporations

Cities Incorporated Since 1930

The list above excludes Piper in Wyandotte county, incorporated by action of the board of county commissioners on October 1, 1971 but ruled invalid by the Kansas Supreme Court on January 26, 1974 (213 Kan. 777). Also excluded are three cities which were reactivated since 1930 (see Dormant Cities, above). The list includes Provence Village, incorporated in 1955, but consolidated with Olathe in 1960.

City Incorporation Laws

15-115. Incorporation of cities; purpose of act. It is the purpose of this act to provide by general law for the incorporation of all cities, as required by section 5 of article 12, of the state constitution.

History: L. 1963, ch. 509, § 1; June 30.

Source or prior law:

15-102, 80-2309 to 80-2323.

Research and Practice Aids:

Municipal Corporations ¶10.

C.J.S. Municipal Corporations § 15.

Law Review and Bar Journal References:

"City Home Rule in Kansas," Wright W. Crummett, 9 W.L.J. 1, 9, 10 (1969).

"State Control of Local Government in Kansas: Special Legislation and Home Rule," Barkley Clark, 20 K.L.R. 631, 657 (1972).

CASE ANNOTATIONS

1. Act cited in appeal by city aggrieved by decision to incorporate nearby area; order incorporating held invalid. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 518 P.2d 403.

2. Denial of petition for incorporation of city upheld; decision not arbitrary or unreasonable. *In re Reincorporation of Piper City*, 220 K. 6, 12, 551 P.2d 909.

15-116. Incorporation of cities; petition; enumeration; affidavit; map; statement of assessed valuation. (a) When a petition for the incorporation of a city, signed by 50 or more electors of the territory described therein, and containing the information hereafter required, is filed with the county clerk if all the territory is within one county, or the county clerk of the county in which the greater or greatest area lies if the territory lies in two or more counties, the requirements and proceedings shall be as hereinafter stated.

The petition shall: (1) Be addressed to the board of county commissioners, or where the territory lies in two or more counties, to the board of commissioners of the county having the greater or greatest area; (2) describe the territory by metes and bounds; (3) request the incorporation of the territory as a city by the name of "the city of _____

_____ " (giving name).

Each page of signatures shall bear the following heading:

"I, whose name appears as one of the signers below, state that I reside in and am an elector of the territory petitioned to become the city of _____; that I signed my name in my own handwriting; that I read the description of the metes and bounds of said territory or saw the map of the territory attached as an exhibit to the petition.

Signatures

Addresses"

If registration for voting purposes is required in all or any part of the area, signers in the registration area must sign their names the same as they are shown on the registration books. The signatures of signers in registration areas shall be checked against the registration books by the officer in charge of registration. Where all or a part of the territory is not in a registration area, an elector who signs the petition shall make an affidavit that to the best of the elector's knowledge and belief, the persons who signed the petition and who are not in a registration area are electors of the territory. The affidavit shall be attached to the petition before the petition is filed. Any person desiring to withdraw their name from the petition may do so by filing in person with the county clerk of the county where the petition will be filed, and before the petition is filed, a statement substantially as follows: "I the undersigned, hereby withdraw my name as a signer of the petition for the incorporation of the territory proposed to be called the city of _____."

The county clerk shall sign and endorse on the face of the statement the month, day, year and hour of the filing and, if and when the petition is filed, shall attach such withdrawal statement thereto.

The sufficiency of the number of peti-

tioners shall be determined as of the day of the filing of the petition by registration books, if any, and as of the date of the affidavit as to persons in nonregistration area.

(b) No territory shall be incorporated as a city except as provided in subsection (d)(2) unless it has 300 or more inhabitants or has 300 or more platted lots each of which is served by water and sewer lines owned by a nonprofit corporation. The number of inhabitants shall be determined by an enumeration by a qualified signer of the petition who shall make an affidavit that an enumeration has been made of the inhabitants of the territory after the beginning of the circulation of the petition, and stating the number of inhabitants found, and specifying the dates when it was begun and when completed. The number of platted lots served by water and sewer lines owned by a nonprofit corporation shall be determined by the county engineer, who shall state the findings by affidavit. Such affidavits shall be attached to the petition before it is filed. The board of county commissioners may cause another enumeration to be made if it believes the number of inhabitants may be less than 300.

(c) The petition shall have attached thereto a statement containing the following information regarding the proposed city: (1) Quantity of land embraced, platted and unplatted; (2) a brief description of existing facilities and services currently received by the area, including water supply, sewage disposal, fire and police protection; (3) reasons for desiring city government and services.

There shall also be attached to the petition a map of the territory showing the location of the proposed city within the county or counties and the more densely built-up area or areas and designating in general the platted and unplatted areas.

There shall also be attached a statement of the assessed valuation of the platted real property and improvements and unplatted real property and improvements and the assessed valuation or an estimate thereof of the tangible personal property for each county in which any area lies, certified by the county clerk or county assessor.

(d) No territory shall be incorporated as a city unless: (1) The inhabitants of the territory number 300 or more or the territory

contains 300 or more platted lots each served by water and sewer lines owned by a nonprofit corporation, and 50 or more electors of the territory have signed a petition; or (2) the territory has been designated a national landmark by the congress of the United States.

History: L. 1963, ch. 509, § 2; L. 1967, ch. 113, § 1; L. 1981, ch. 86, § 1; July 1,

Research and Practice Aids:

Municipal Corporations—7, 12(2-4).

C.J.S. Municipal Corporations §§ 9, 17.

CASE ANNOTATIONS

1. Mentioned in appeal by city aggrieved by decision to incorporate nearby area; order incorporating held invalid. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 778, 518 P.2d 403.

15-117. Same; duties of county clerks; hearing. The county clerk shall examine the petition, if such a petition is required, signatures and attached matter as prescribed by K.S.A. 15-116, as amended, and if it appears the petition is in proper form, that the inhabitants of the territory number 300 or more or that the territory contains 300 or more platted lots each served by water and sewer lines owned by a nonprofit corporation, and that 50 or more electors of the territory have signed the petition, or that the territory has been designated as a national landmark, the county clerk shall so report to the board of county commissioners at its next regular meeting and it shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 90 days from the date the petition was filed. The place of the hearing shall be at a place convenient for most of the inhabitants of the territory.

History: L. 1963, ch. 509, § 3; L. 1967, ch. 113, § 2; L. 1981, ch. 86, § 2; July 1.

Research and Practice Aids:

Municipal Corporations—12(7).

C.J.S. Municipal Corporations § 22.

15-118. Same; notice of hearing; publication; posting. The county clerk shall cause a copy of the petition, without the signatures, and a notice of the time and place of the hearing to be published once in the official county newspaper of each county in which any of the territory lies and the publication shall be not less than fifteen (15) days before the hearing. Notice of the hearing shall also be posted in not less than three (3) public places in the territory not

less than fifteen (15) days before the hearing.

History: L. 1963, ch. 509, § 4; June 30.

Research and Practice Aids:

Municipal Corporations § 12(6).

C.J.S. Municipal Corporations §§ 18, 19.

CASE ANNOTATIONS

1. Cited; notice of hearing requirements for incorporation of cities discussed. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 782, 783, 784, 518 P.2d 403.

15-119. Same; notification of certain other persons and agencies. The county clerk shall, not less than fifteen (15) days before the hearing, send notices of the hearing with a copy of the petition, without the signatures, to the county clerk of any other county in which any part of the territory lies, to the clerk, secretary or chairman of any duly constituted city, county, regional or metropolitan planning commission exercising planning authority over all or part of the territory, to the director of the division of planning of the state department of economic development, and to the city clerk of any city, any portion of whose area is with five (5) miles of the nearest boundary of the territory as described in the petition.

History: L. 1963, ch. 509, § 5; June 30.

Research and Practice Aids:

Municipal Corporations § 12(6).

C.J.S. Municipal Corporations §§ 18, 19.

CASE ANNOTATIONS

1. Cited; notice of hearing requirements for incorporation of cities discussed. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 778, 780, 782, 783, 784, 786, 518 P.2d 403.

15-120. Same; conduct of hearing. The hearing shall be conducted in such manner as the board of county commissioners deems best suited to the occasion. Where the territory is in two or more counties the county commissioners of the counties involved shall sit as a joint board with the chairman of the board of the county having the greater or greatest area presiding: *Provided*, That if he or she be not present, all of the commissioners present shall choose one of their number as presiding officer. All persons residing within the territory, owners of property within the territory whether residing there or not, all persons, agencies, and representatives of governmental units notified as provided in K.S.A. 15-119, shall be entitled to be heard and to present documen-

tary information and briefs. The hearing may be adjourned from time to time.

History: L. 1963, ch. 509, § 6; June 30.

Research and Practice Aids:

Municipal Corporations § 12(7).

C.J.S. Municipal Corporations § 22.

CASE ANNOTATIONS

1. Mentioned in appeal by city aggrieved by decision to incorporate nearby area; order incorporating held invalid. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 780, 518 P.2d 403.

15-121. Same; factors considered in determining advisability of incorporation. As a guide in determining the advisability of incorporating the territory, the board or joint board of county commissioners shall consider the following factors, among others:

(1) Population and population density of the area within the boundaries of the territory;

(2) Land area, topography, natural boundaries, and drainage basin;

(3) Area of platted land relative to unplatted and assessed value of platted land relative to assessed value of unplatted areas;

(4) Extent of business, commercial, and industrial development;

(5) Past expansion in terms of population and construction;

(6) Likelihood of significant growth in the area, and in adjacent areas, during the next ten (10) years;

(7) The present cost and adequacy of governmental services and controls in the area and the probable effect of the proposed action and of alternative courses of action on the cost of adequacy of local governmental services and regulation in the area and in adjacent areas;

(8) Effect of the proposed action, and of alternative actions, on adjacent areas, and on the local governmental structure of the entire urban community.

If the territory or any part thereof is within five (5) miles of an existing city, the board or joint board of county commissioners shall take into consideration [:]

(1) The size and population of such city;

(2) Its growth in population, business and industry during the past ten (10) years;

(3) The extension of its boundaries during the past ten (10) years;

(4) The probability of its growth toward the territory during the ensuing ten (10) years, taking into consideration natural bar-

riers and other reasons which might influence growth toward the territory;

(5) The willingness of the city to annex the territory and its ability to provide city services in case of annexation;

(6) The general effect upon the entire community, should there be additional cities in the area; all of these and other considerations having to do with the over-all orderly and economic development of the area and to prevent an unreasonable multiplicity of independent municipal governments.

History: L. 1963, ch. 509, § 7; June 30.

Research and Practice Aids:

Municipal Corporations 12(1).

C.J.S. Municipal Corporations §§ 12, 16 et seq.

CASE ANNOTATIONS

1. Mentioned in appeal by city aggrieved by decision to incorporate nearby area; order incorporating held invalid. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 780, 784, 518 P.2d 403.

2. Applied; petition for incorporation of city denied; upheld on appeal. *In re Reincorporation of Piper City*, 220 K. 6, 13, 551 P.2d 909.

15-122. Same; consultants; witnesses; records; expense, how paid. The board or joint board of county commissioners shall have authority to hire expert consultants to provide information and assistance and gather information as required; to issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents; and to cause a stenographic or other record made of the proceedings. The expense shall be a proper charge against the county general fund and, when there are two or more counties involved, the expense shall be prorated to the counties in proportion to area.

History: L. 1963, ch. 509, § 8; June 30.

Research and Practice Aids:

Counties 158; Witnesses 1, 8.

C.J.S. Counties § 234; Witnesses §§ 2 et seq., 13, 19 et seq.

CASE ANNOTATIONS

1. Applied; petition for incorporation of city denied; upheld on appeal. *In re Reincorporation of Piper City*, 220 K. 6, 13, 551 P.2d 909.

15-123. Same; consideration of matter after hearing; denial of petition, when; order; unanimous vote for incorporation, when; election of city officers, procedure. After the hearing has been adjourned *sine die*, the board or joint board of county commissioners shall consider the matter. It may

request the director of the division of planning of the state department of economic development to make a study of the general area in which the territory is located, information in possession of the county board and other sources; and render an opinion as to the advisability of the proposed incorporation. The petition for incorporation shall be denied if it is determined that present or future annexation to an adjacent city, or the creation of an authorized special service district, or districts, would better serve the interest of the area or that the proposed incorporation would be otherwise contrary to the public interest. If the board or joint board determines that the territory should not be incorporated, it shall make an order so stating. In addition to other requirements, if any of the territory wholly within one (1) county is within five (5) miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners. If the board or joint board determines that the territory should be incorporated, it shall prepare an order or joint order incorporating the territory as a city by the name of "the city of _____" as stated in the petition, and describing the metes and bounds thereof; and when said order has been adopted, the inhabitants within such bounds and such further territory as from time to time may be lawfully added thereto shall be a body politic and corporate by that name, and they and their successors (except such corporation be lawfully dissolved) shall have perpetual succession. The order shall be adopted at the next regular meeting of the board: *Provided*, That where two counties are involved, the board of each county shall adopt the joint order at its next regular meeting and not less than two (2) commissioners of each county shall vote in favor thereof except that in addition to other requirements, if any of the territory is within five (5) miles of an existing city, the territory shall not be incorporated except by the unanimous vote of the commissioners of each county involved. The order or joint order so incorporating the said city shall order the first election in the said city for city officers. Such order or joint order shall forthwith be entered at length upon the journal of the proceedings of the said board or boards of county commissioners and shall be published once in some newspaper printed or in general circulation

in said city at least one week before such city election. Nomination papers for candidates for city office shall be filed with the county election officer of the county where the petition for incorporation was filed and he or she shall conduct such election.

History: L. 1963, ch. 509, § 9; L. 1965, ch. 143, § 1; L. 1968, ch. 274, § 43; April 30.

Research and Practice Aids:

Municipal Corporations—12(9).

C.J.S. Municipal Corporations § 23.

CASE ANNOTATIONS

1. Mentioned in appeal by city aggrieved by decision to incorporate nearby area; order incorporating held invalid. *City of Kansas City v. Board of County Commissioners*, 213 K. 777, 780, 784, 518 P.2d 403.

2. Applied; petition for incorporation of city denied; upheld on appeal. *In re Reincorporation of Piper City*, 220 K. 6, 12, 13, 551 P.2d 909.

15-124. Same; operation as mayor-council city upon incorporation. The city, regardless of the number of inhabitants (three hundred (300) or more) at the time of incorporation, shall operate as a mayor-council city of the third class and the statutes relating thereto and home rule powers under the constitution until such time as by proper proceedings the class is changed or form of government changed.

History: L. 1963, ch. 509, § 10; June 30.

Research and Practice Aids:

Municipal Corporations—64½.

C.J.S. Municipal Corporations § 188.

15-125. Same; expenses and costs from county general fund; proration, when. The expense of publications, notices, mailing charges, first city election and other costs incurred shall be paid from the county general fund, and if the city lies in two (2) or more counties, the expense shall be prorated to the counties in proportion to area.

History: L. 1963, ch. 509, § 11; June 30.

Research and Practice Aids:

Counties—158.

C.J.S. Counties § 234.

15-126. Incorporation of cities; appeals to district court from commissioners' deci-

sion; reversal of decision; duties of board.

(a) Any person who has an interest in and is aggrieved by the decision of the board of county commissioners under the provisions of K.S.A. 15-115, *et seq.*, and amendments thereto, may appeal to the district court of the same county in the manner provided by K.S.A. 19-223, and amendments thereto. Upon appeal the district court shall have jurisdiction to affirm or, if the court is of the opinion that the decision of the board was arbitrary, unlawful or capricious, to reverse the decision complained of or direct the county commissioners to take proper action. Neither the filing nor the pendency of any appeal of the decision of the board of county commissioners incorporating the territory to the district court, or any appeal therefrom, shall limit in any way the exercise of the corporate powers of the city by its officers, employees and agents.

(b) In the event the appellate court enters an order pursuant to subsection (a) reversing the decision of the board of county commissioners incorporating the territory, the board shall take immediate responsibility for the administration of the assets, debts and obligations of the former city. In doing so, the board, by resolution, shall create and serve as officers of a special taxing district covering the territory of the former city. If the proceeds of the sale of the property and the remaining assets of the former city are insufficient to pay its debts and obligations, the board shall provide for the levy of taxes on the tangible taxable property within the limits of the special taxing district sufficient to pay the remaining debts and obligations.

History: L. 1967, ch. 117; § 1; L. 1984, ch. 81, § 1; July 1.

CASE ANNOTATIONS

3. Order of board of county commissioners incorporating city upheld; authority of board considered; scope of judicial review. *City of Wichita v. Board of Sedgwick County Comm'rs*, 232 K. 149, 150, 151, 652 P.2d 717 (1982).

Pertinent Annexation Statutes and Cases

Excerpts from K.S.A. 12-519, the first section of the annexation laws:

"As used in this act: (a) "Tract" means a single unit of real property under one ownership, outside the corporate limits of a city, platted and/or unplatted, title to which is publicly or privately held by an owner as defined by subsection (c) herein.

"(b) "Land" means a part of a tract or one or more tracts."

Excerpt from K.S.A. Supp. 12-520a, part of the annexation laws, showing amendment added by Ch. 66, L. of 1984:

"(f) Any resolution, adopted pursuant to this section which includes territory subsequently incorporated pursuant to K.S.A. 15-115, et seq., and amendments thereto, shall be invalid."

City of Wichita v. Board of Sedgwick County Comm'rs

No. 54,336

THE CITY OF WICHITA, KANSAS, A Municipal Corporation, *Appellee*, v. THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, *Appellant*, v. FREDERICK J. DODDS, III, DOROTHY F. LOWEN, CAROL A. CONNIE, VONDA J. BLANTON, VIRGINIA BROOKHOUSER, and 795 PETITIONERS OF BEL AIRE, SEDGWICK COUNTY, KANSAS, *Intervenors/Appellants*.

(652 P.2d 717)

SYLLABUS BY THE COURT

1. APPEAL AND ERROR—*Order of Board of County Commissioners in City Incorporation Matter—Scope of Judicial Review*. The scope of judicial review of an order of the board of county commissioners in a city incorporation matter under K.S.A. 15-126 is limited to a determination of whether the action by the board was arbitrary, unlawful or capricious.
2. SAME—*Order of Board of County Commissioners in City Incorporation Matter—Appellate Court Cannot Reweigh Evidence*. The courts, in an appeal as described in syllabus 1, are not at liberty to reweigh evidence or substitute their judgment for that of the board of county commissioners.
3. CITIES AND MUNICIPALITIES—*Municipal Corporation—Legislative Control*. The power to create municipal corporations is a legislative power.
4. ADMINISTRATIVE LAW—*Appellate Review of Agency Order—Finding of Unlawfulness*. It is generally held that a finding of unlawfulness under the various appeals statutes applies to the procedural aspects of the proceedings before the agency and the determination of whether the action taken was within the authority of the agency.
5. COUNTIES—*Board of Commissioners—City Incorporation Petition—Consideration of Matters outside Evidence Presented*. The members of a board of county commissioners when considering an incorporation petition may consider matters not necessarily touched on by the evidence.
6. SAME—*Board of Commissioners—City Incorporation Petition—Statutory Requirements for Board*. A board of county commissioners when considering an incorporation petition are required to consider the factors set forth in K.S.A. 15-121 and whether the members of the board consider any one or a combination of factors weightier than others in any given incorporation case is a matter left solely to the board in the performance of its legislative function.
7. PUBLIC OFFICERS AND EMPLOYEES—*Presumption of Good Faith Discharge of Duties*. It is presumed that public officials acted faithfully and properly in the discharge of their functions.

NANCY BROWN
 REPRESENTATIVE 27TH DISTRICT
 15429 OVERBROOK LAKE
 STANLEY KANSAS 66124



TOPEKA

HOUSE OF
 REPRESENTATIVES

TESTIMONY - LOCAL GOVERNMENT COMMITTEE

January 30, 1986

COMMITTEE ASSIGNMENTS
 MEMBER COMMUNICATIONS COMPUTERS AND
 TECHNOLOGY
 GOVERNMENTAL ORGANIZATION
 TRANSPORTATION

ATTACHMENT V
1-30-86

Re: HOUSE BILL 2724 - An Act Concerning Cities Incorporation

I am Nancy Brown, a co-sponsor of H.B. 2724 and I am here for the obvious reason of showing support of the bill.

I would like to say H.B. 2724 is a "simple" bill which merely deletes the language regarding the unanimous vote of the commissioners to incorporate a city. However, we all know there is no simple bill, and most certainly the issue of incorporation is not simple, as can be attested by the number of people who have shown interest in this subject.

Incorporation of a city is a major undertaking that must be considered with deliberation and thoughtfulness. The current statutes provide for that important process. The process will not be changed by H.B. 2724.

The only change is the vote by the board from unanimous to majority.

Think about the voting process for a minute. What if a unanimous vote was required on major issues in the legislature? Could all 125 of us ever agree? What about a unanimous vote in the Local Government Committee? Could it take place?

Why then are we requesting a unanimous vote for incorporation? Think about a unanimous vote in the legislature, in committee, and then you will understand why I support this bill!

I urge your support also!

Nancy Brown

Attachment V
1-30-86
Hs. Local Gov.

MEMORANDUM

January 28, 1986

TO: House Local Government Committee Chairman
FROM: Kansas Legislative Research Department
RE: H.B. 2724

*ATTACHMENT VI
1-30-86*

H.B. 2724 strikes provisions in the incorporation of cities statutes requiring the unanimous consent of the county commission if the proposed city is located within five miles of an existing city.

The bill would address an incorporation effort by the Lake Sherwood area southwest of Topeka, although it has statewide impact.

MH/jar

*Attachment VI
1-30-86
Hs. Local Gov.*

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ASSESSMENT AND TAXATION
EDUCATION
TRANSPORTATION

ATTACHMENT VII
1-30-86

January 30, 1986

TO: HOUSE LOCAL GOVERNMENT COMMITTEE
RE: HOUSE BILL 2725

Mr. Chairman and Members of the Committee:

Last summer our township fire department was confronted with the question of whether they legally could provide rescue service. One board member could not find that authority in the statute book.

A month later, the board, by a vote 2 to 1, voted to continue the service if the volunteer would agree to continue without pay.

Legislative Research indicated that counties and cities do have statutory authority, but not townships and fire districts.

Your support of HB 2725 would be appreciated. "Rescue service" is very important to the township's fire departments.

Attachment VII
1-30-86
Hs. Local Gov.



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER COMMUNICATIONS COMPUTERS AND
TECHNOLOGY
GOVERNMENTAL ORGANIZATION
TRANSPORTATIONNANCY BROWN
REPRESENTATIVE 27TH DISTRICT
15429 OVERBROOK LAKE
STANLEY KANSAS 66224

TESTIMONY - LOCAL GOVERNMENT COMMITTEE

January 30, 1986

ATTACHMENT VIII
*1-30-86*Re: HOUSE BILL 2725 - Township Fire Departments and Rescue Service

As one involved with township governmental issues on a state and national basis, I frequently am called upon to aid township. In this particular case, involving a township in Shawnee County, the concern about statutory authority for a township to operate a rescue service was brought to my attention by the trustee. It appeared through her research that there was some question regarding the legality of Soldier Township providing rescue service. After inquiries to the attorney general, her concerns appeared to be valid.

This bill is actually a clarifying piece of legislation which will provide townships, without a doubt, the authority to do what many of them are already doing.

I urge your support of the bill, and am here to answer any questions you may have.

Nancy Brown

Attachment VIII
1-30-86
Hs. Local Gov.

Testimony on HB 2725 offered by Richard Maginot, Chief
Soldier Township Fire Department

ATTACHMENT IX
1-30-86

In 1939, when Statue #80-1903, under which the Soldier Township Fire Department was organized, was written, fire protection was the main purpose for a fire department. Over the years, the public has come to expect more and better services from the fire department. Even the National Fire Protection Association has re-defined the objectives and purposes of a fire department.

Among the services offered by a modern-day fire department are: fire suppression; fire prevention; education; hazardous materials incidents; rescues from wrecks, floods, tornadoes; emergency medical services.

Our Emergency Medical First Responder Program consists of sending trained personnel with equipment to the scene of an incident. There they provide rescue and basic life support services to those in need until an ambulance arrives. At that time, our personnel assist the paramedics as they begin advanced life support and prepare the patient for transport.

For more than eight years our fire department has had an Emergency First Responder Program. Recently a question has arisen over whether or not we have the legal authority to run such a program.

This is a vital service to our community. At the present time, the ambulance service in Shawnee County must meet a 12-minute response time for an emergency run in the county. They have met this requirement since they began serving Shawnee County. However, a patient often must receive help within the first few minutes of an incident. With a First Responder Program, we endeavor to fill the gap that exists and provide life-saving service to the patient.

Cost to our community would be approximately \$100,000 or more per year to staff and equip an ambulance full-time. In 1984, our department spent less than \$5,000 on our First Responder Program.

Attachment IX
1-30-86
Hs. Local Gov.

With these reasons in mind, we offer our support to HB 2725. We feel that this bill will clearly give us the legal authority to continue to provide these services to our citizens.

We would, however, like to offer an amendment to this bill. Approximately 50% of our department personnel are Emergency Medical Technicians. All of the rest of our personnel are trained in First Aid and CPR. In order to fully utilize all of our personnel, we would like to amend the definition of "Qualified Personnel" on lines 32-36 of HB 2725 to read as follows:

(3) "Qualified Personnel" means any individual who has been trained to provide emergency medical care and meets the minimum standards of health care as defined in K.S.A.65-2891, K.S.A. 65-2891a and amendments thereto."

This would allow our department to use all available personnel in the event of a major disaster or other emergency.

I wish to thank the members of this committee for listening to my testimony and I would be glad to answer any questions you might have.

HOUSE BILL No. 2725

By Representatives Smith, Barr, Brown and Laird

1-23

0017 AN ACT concerning certain township fire departments; relating
0018 to rescue service and emergency care; amending K.S.A. 80-
0019 1903 and repealing the existing section.

0020 Be it enacted by the Legislature of the State of Kansas:

0021 New Section 1. (a) As used in this section:

0022 (1) "Rescue service" means a service which provides emer-
0023 gency care by qualified personnel through a township fire de-
0024 partment.

0025 (2) "Emergency care" means the services provided after the
0026 onset of a medical condition manifesting itself by acute symp-
0027 toms of sufficient severity such that the absence of immediate
0028 medical attention could reasonably be expected to: (A) Place the
0029 patient's health in serious jeopardy; (B) seriously impair bodily
0030 functions; or (C) result in serious dysfunction of any bodily organ
0031 or part.

0032 (3) "Qualified personnel" means any individual who holds a
0033 certificate as a crash injury management technician, an emer-
0034 gency medical technician, an emergency medical technician-in-
0035 termediate or a mobile intensive care technician, as these terms
0036 are defined in K.S.A. 65-4301, and amendments thereto.

0037 (4) "Township" means any township which has established a
0038 fire department pursuant to K.S.A. 80-1901 et seq., and amend-
0039 ments thereto.

0040 (b) The township board may authorize the township fire
0041 department to provide rescue service as a township function,
0042 within or without the township, or may contract with any person
0043 or governmental entity for the furnishing of rescue service and
0044 upon such terms and conditions, and for such compensation as
0045 may be agreed upon which shall be payable from the township

0046 general fund or the fire fund.

0047 (c) The township board may establish charges to persons
0048 receiving rescue service inside or outside of such township. The
0049 charges so made and received shall be deposited in the general
0050 funds of the township, and the same may be used in addition to
0051 funds received under the tax levies authorized by K.S.A. 80-
0052 1903, and amendments thereto.

0053 (d) Qualified personnel providing rescue service shall be
0054 compensated in the same manner as other fire department em-
0055 ployees and volunteers as provided by K.S.A. 80-1904, and
0056 amendments thereto.

0057 Sec. 2. K.S.A. 80-1903 is hereby amended to read as follows:
0058 80-1903. The township board of any such township shall have
0059 power to levy a tax not exceeding the limitation prescribed by
0060 K.S.A. 79-1962, and amendments thereto, upon all taxable tan-
0061 gible property within such township, for the purpose of paying
0062 the expense of providing rescue service and equipping, operat-
0063 ing, and maintaining such fire department or contracting with
0064 another fire department for the furnishing of rescue service or
0065 fire protection; and which said. Such tax levy shall be in addition
0066 to all other tax levies authorized or limited by law. In any county
0067 having a population of more than one hundred fifty thousand
0068 (150,000) 150,000 and less than two hundred fifty thousand
0069 (250,000) 250,000 the township levy herein authorized shall not
0070 exceed the limitation prescribed therefor by K.S.A. 79-1962, and
0071 amendments thereto, on all taxable tangible property of the
0072 township, for the purposes specified in this section. Said The tax
0073 levy shall be in addition to all other tax levies authorized or
0074 limited by law.

0075 Sec. 3. K.S.A. 80-1903 is hereby repealed.

0076 Sec. 4. This act shall take effect and be in force from and
0077 after its publication in the statute book.

PROPOSED AMENDMENT

Proposal for HB 2725, HB 2726

Proposal for qualified personnel in bills to authorize
rescue services in townships.

(3) "Qualified personnel" means any individual who has been trained to provide emergency medical care and meets the minimum standards of health care as defined in K.S.A. 65-2891, K.S.A. 65-2891a and amendments thereto.

sual fields, and intraocular pressure.

(c) A person who is licensed to practice medicine and surgery and who has completed an approved postgraduate training program in ophthalmology or who is practicing as a fulltime ophthalmologist on the effective date of this act may utilize not

healing arts act."

History: L. 1957, ch. 343, § 90; July 1.

EMERGENCY CARE

65-2801. Emergency care or assistance at scene of an emergency or accident by certain person; liability; standards of care

256

TREATMENT OF MINORS

65-2892

applicable. (a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by his or her family or by his or her guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" shall mean any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, registered podiatrist, registered pharmacist and registered physical therapist, and any physician's assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physicians' assistants of the American board of medical examiners, any person who has

successfully completed an approved emergency service program as defined by K.S.A. 65-2891a, any mobile intensive care technician who has successfully completed an approved training program required by K.S.A. 65-4308, any person who holds a valid certificate for the successful completion of a course in first aid offered by the American red cross, by the American heart association or by the mining enforcement and safety administration of the bureau of mines of the department of interior and any person engaged in a postgraduate training program approved by the state board of healing arts.

History: L. 1965, ch. 385, § 1; L. 1969, ch. 300, § 1; L. 1971, ch. 214, § 1; L. 1973, ch. 252, § 1; L. 1975, ch. 326, § 1; L. 1976, ch. 277, § 1; L. 1977, ch. 220, § 1; July 1.

Law Review and Bar Journal References:

"The 1965 Legislature and the Law," Glee S. Smith, 34 J.B.A.K. 185, 188 (1965).

1963-65 survey of law of torts, William A. Kelly, 14 K.L.R. 377, 386 (1965).

Survey of Kansas tort law (1965-1969), 18 K.L.R. 458, 462 (1970).

"1971 Legislative Synopsis," Robert F. Bennett, 40 J.B.A.K. 307, 358 (1971).

"Good Samaritan Act," 78 J.K.M.S. 31 (Aug. 1977).

"Medical Malpractice—The Kansas Law," Wayne T. Stratton, J.D., 81 J.K.M.S. 505, 508, (1980).

"The Kansas Perspective—Countering Frivolous Malpractice Suits," John C. Peck, J.D., and Carl C. Peck, M.D., 81 J.K.M.S. 512, 517 (1980).

"Physician-Patient Relationship—The Legal Ramifications," Clarence L. King, Jr., J.D., and Daniel C. Zook, J.D., 81 J.K.M.S. 521, 524 (1980).

"Survey of Kansas Law: Juvenile Law," Sheila Reynolds, 32 K.L.R. 371, 376 (1984).

65-2891a. Same; emergency service program defined. As used in this act, emergency service program means a program of instruction, approved by the university of Kansas school of medicine, consisting of eighty-one (81) clock hours or the equivalent thereof, of preliminary emergency medical care and at least eight (8) clock hours annually of supplemental instruction.

History: L. 1973, ch. 252, § 2; L. 1978, ch. 253, § 1; May 11.

Law Review and Bar Journal References:

"Good Samaritan Act," 78 J.K.M.S. 31 (Aug. 1977).

TREATMENT OF MINORS

65-2892. Examination and treatment of persons under 18 for venereal disease; liability. Any physician, upon consultation by any person under eighteen (18) years of age as a patient, may, with the consent of such

RELATED STATUTES

65-2891. Emergency care or assistance at scene of emergency or accident by certain person; liability; standards of care applicable. —

(a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by his or her family or by his guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" shall mean any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, registered podiatrist, registered pharmacist and registered physical therapist, and any physician's assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physicians' assistants of the American board of medical examiners, any person who has successfully completed an approved emergency service program as defined by K.S.A. 1977 Supp. 65-2891a, any mobile intensive care technician who has successfully completed an approved training program required by K.S.A. 1977 Supp. 65-4308, any person who holds a valid certificate for the successful completion of a course in first aid offered by the American red cross, by the American heart association or by the mining enforcement and safety administration of the bureau of mines of the department of interior and any person engaged in a postgraduate training program approved by the state board of healing arts.

65-2891a. Same; emergency service program defined. As used in this act, emergency service program means a program of instruction, approved by the university of Kansas school of medicine, consisting of eighty-one (81) clock hours or the equivalent thereof, of preliminary emergency medical care and at least eight (8) clock hours annually of supplemental instruction.

Recommendations for the Organization for Fire Services

NFPA 1201-1984

NOTE: Information on referenced publications can be found in Chapter 18 and in Appendix B.

Chapter 1 Purpose of a Fire Department

1-1 Control of Combustibles, Fire Prevention, and Preservation of Life.

1-1.1 Control of the Community Complex of Combustibles.

1-1.1.1 Purpose. The fundamental purpose of an "Organization for Fire Services" is the protection of people and property in an intricate society. The fire department program should be aimed at controlling the community complex of combustibles with which modern man surrounds himself and the preservation of life.

Society has long recognized its responsibility for extinguishment once combustibles are ignited. The responsibility of today's fire department has expanded beyond the extinguishment of combustibles to include a widening range of purposes which include the investigation of situations which result in fires and providing emergency medical services for on-scene patient stabilization, control of hazardous materials and the preservation of life in disasters or major emergencies.

1-1.1.2 Inspection Program. Every fire department should have a program under which its personnel should be constantly examining every part of the community where a fire problem may develop. The personnel should regularly inspect all property in the community with emphasis on identified high hazard occupancies.

1-1.1.3 Enforcement. Fire chiefs are required through state or provincial and local statutes to safeguard the public and its property from the dangers of fire and panic through prudent code enforcement. Case law has made it very clear that the fire chief, any authorized representatives, and other governmental agencies, must discharge the duties of their positions and are liable for not carrying out their legal obligations for fire prevention. It is essential that all members of the fire service realize that this is an important part of their activity. Many fire departments have developed a combination fire inspector and fire company inspection organization to accomplish their inspection goals. This approach has gained wide acceptance because it allows for both the technical expertise and the necessary personnel to maintain a regular inspection program throughout the community.

1-1.1.4 Consultation. A service of the fire department should be to consult with local individuals and organizations who have fire problems and assist in their solution. The availability of a fire protection engineer and other firesafety specialists would greatly assist in consultations

with developers, architects, contractors and other engineers. In addition, such availability of expertise would enhance the on-going program of continued improvement of the fire defense system within the community. A number of fire departments have employed fire protection engineers on a full-time status.

The fundamental way to prevent large fires is to keep at one location only as much material as can be controlled if it catches fire. Concentration of too much combustible material at one location may make control of fire difficult or impossible. Many of these matters involve more than simple law enforcement and must be solved by a process of consultation among the representatives, agencies and individuals involved.

1-1.1.5 Education. Recent studies indicate that the majority of building fires are caused by carelessness and ignorance, and are preventable primarily through educational and motivational efforts. Reducing the number of life losses, casualties, dollar losses and fire incidents in this category is dependent on the fire department developing ongoing, comprehensive firesafety programs targeted at "high risk" populations. Public firesafety education is becoming an increasingly important and cost-effective element in the community fire protection system. It must be a planned program including needs assessment, determination of objectives, evaluation and allocation of sufficient resources.

1-2 Fire Suppression Services.

1-2.1 Scope of Services. The fire department should be organized to perform fire prevention and control and related emergency services to protect life and property. Other services demanded of the fire department, because of its availability and specialized training, should be undertaken only to the extent that they do not interfere with the department's basic purpose and are activities justifiably related to it.

1-2.2 Fire Suppression Capability. The fire department goal should be to prevent the propagation of fires. Except for fires in buildings, vehicles, aircraft, trains, ships and boats, the individual losses involved in calls answered by the fire department are often negligible. The majority of fires in buildings are held to small losses without requiring much more than first-aid fire fighting service because of early discovery and prompt response. A few large fires cause most of the total loss.

1-2.2.1 Pre-Fire Planning. One purpose of an inspection program should be to evaluate the potential fire conditions it finds and to plan how the fire department is to deal with these conditions. Plans should be developed as to how fires in specific properties are to be handled. Decisions should be made on the potential severity of the fire emergency, response to be provided, positions the fire companies may take, and on phases of personnel operations at fires. Such activities are necessary components for tactical training.

Effective fulfillment of operations as preplanned, requires serious and comprehensive training of all personnel concerned in the operations and frequent practice under critical direction. Fire emergencies are usually escalating situations.

1-2.2.2 Master Planning. Long-range planning should be undertaken to determine how a community can best meet its fire and emergency management needs. Master planning is a process by which this can be accomplished. It utilizes a systematic approach to evaluating and selecting technical options that best meet a community's fire and emergency management needs, given the available resources and involves community leaders in making fire and emergency management decisions. The process examines four areas to determine the options for fire and emergency management delivery systems. These areas are prevention, suppression, emergency response and administration. Each community is unique and must devise its own program by working through the analysis of its data and the master planning steps.

1-2.2.3 Mutual Aid Agreements. Every fire department should enter into agreements with its neighboring jurisdictions to provide additional resources to combat major fire and other emergencies. These "mutual aid" agreements should be in writing and need to include specifics on the empowering authority, resources to be made available and the designation of incident command. This will allow aid to be quickly mobilized and reduce misunderstandings. Having the agreement in writing will also aid in insurance and liability questions should any personnel be injured or equipment damaged while fighting fires outside a fire department's primary response district.

1-2.3 Other Emergency Services.

1-2.3.1 Hazardous Materials. The rising incidences of illegal disposal and accidental spillage of hazardous chemicals and the discovery of their many harmful effects on human beings has brought the hazardous materials problem into sharper focus. The responsibility for establishing control over hazardous material emergencies varies from one jurisdiction to another. In many communities it is the fire department that has primary responsibility over such incidents.

In order to deal effectively with this type of incident, the fire department must be well prepared. Quick response, communication capabilities, evacuation plans, reference data and materials, specialized protective clothing, breathing apparatus, and other necessary safety equipment must be available.

Expertise in the area of dealing with hazardous materials may be available in both the private and public sectors. The ability to remove and transport the hazardous substances are capabilities that the fire service usually does not have. Many private companies can provide this service and should be contacted in advance. Fire departments having the resources to do so should utilize specialized apparatus equipped to deal with hazardous materials and should provide specialists who can identify and evaluate the unknown substances. Jurisdictions must also establish "chemical spill response plans" to address the question of which agency has responsibility in the various places where an incident could occur.

1-2.3.2 Rescue Work. Preservation of human life should be a primary responsibility of the fire department in connection with fires and other emergencies. Departments also should be prepared to do rescue work and pro-

vide emergency care for the injured in connection with such incidents as traffic accidents, train wrecks, aircraft crashes, floods, windstorms and earthquakes.

All personnel in any fire department should complete the Department of Transportation Emergency Medical Technician (EMT) course in emergency care and transportation. Because of this specialized rescue capability and the EMT capability, the fire department is the logical agency to carry out the emergency medical care function.

1-3 Emergency Medical Services. It was the intent of the U.S. Emergency Medical Services Systems Act (1973) to address Emergency Medical Services (EMS) on a regional level. It is a comprehensive approach that, by design, involves all of the component resources available to contribute to an effective EMS system. These resources, comprised of any combination of both public agencies and private entities cooperate to reduce the frequency of death and injury within their respective regions.

One of the most readily available component resources in all regions is the fire department. With a sizable body of reliable, trained and disciplined personnel, operating within an existing command structure, possessing vehicles and communications located throughout the community, the local fire department is a natural source of medical aid responsibility.

Fire department involvement in EMS can vary greatly from one region to another. It can include: operation of the communications and dispatch network; training of personnel in basic life support; operation of Emergency Medical Technician-staffed, first-responder pumper and/or ladder companies; basic life support units with or without patient transportation; advanced life support units involving fire fighters or civilian paramedics; and public education through blood pressure screening and training the public in cardiopulmonary resuscitation (CPR).

1-4 Disaster Planning. Disaster planning activities include responses for everything from the small incident to the major disaster. Response plans should be in writing and provide for control and coordination of all public and private services called into action in such cases as explosions, air crashes, floods, building collapses, earthquakes and radiological incidents. Disaster coordination is a state or province responsibility and may be delegated to a municipal level.

1-5 Governmental Purpose.

1-5.1 Municipality or Local Agency.

1-5.1.1 Municipality. The term "municipality" is here and elsewhere used as a general term for units performing local government functions. It includes cities, towns, incorporated villages, and other terms which are defined by statute law of the various states and provinces. NFPA 1202, *Organization of a Fire Department*, provides discussion on the legal basis for a fire department and the establishment of a governing body for a fire department and should be used to clarify the fire department's role in the community.

ATTACHMENT X
1-30-86

Testimony from Karl W. McNorton, Manager January 30, 1986
Kansas Fire Information System
Kansas State Fire Marshal Department

The State Fire Marshal Department wishes to support H.B. 2725 to allow funding for the township fire departments organized under K.S.A. 80-1903 to provide emergency medical services. Last September, when the controversy arose as to whether Soldier Township could provide E.M.S. we were asked how many fire departments were providing this type of service. According to the incident reports received by this office, approximately 33% of the fire departments reporting were responding to some type of medical emergency. Also noted at this time was that 43% of the overall responses made by the fire departments were E.M.S. related.

The Fire Marshal Department also wishes to support the proposed change in qualified personnel presented by Chief Maginot of Soldier Township. The original bill as it now stands for qualified personnel would create a financial hardship for those fire departments organized under K.S.A. 80-1903. The costs for training an individual to the CIMT or EMT level is very expensive. The minimum qualifications are already outlined in K.S.A. 65-2891, more commonly known as the Good Samaritan Act, which establishes that an individual providing emergency health care be certified to the level of first aid by the American Red Cross, the American Heart Association, or by the Mining Enforcement and Safety Administration of the Bureau of Mines of the Department of the Interior. First aid is what is necessary to initially treat a patient and stabilize until more qualified help arrives and takes over.

It was my pleasure to have the opportunity to testify before the Local Government Committee. I will be pleased to answer any questions you may have.

Attachment X
1-30-86
Hs. Local Gov.

R. E. "TUCK" DUNCAN
ATTORNEY AT LAW

1416 MERCHANTS NATIONAL BANK BUILDING
800 JACKSON
TOPEKA, KANSAS 66612

AREA CODE (913) 233-2265

February 11, 1986

TO: House Committee on Local Government
FROM: R.E. "Tuck" Duncan
RE: HB 2725

On behalf of Medevac MidAmerica, Inc., the private ambulance operator under contract for Shawnee County, Kansas, I submit the following for the Committee's consideration.

Medevac supports HB 2725. First responder programs are a critical element in the coordinated community emergency care program. In Shawnee County the first responder program has been very effective in providing that extra element of emergency care which can be the difference in saving a life.

We do suggest that the bill be amended at the end of line 41 to provide ". . . as a township function, consistent with resolution of the county."

We would also support HB 2726.

By allowing fire departments to work with ambulance services in providing first responder programs, the quality of emergency medical care in Kansas will be improved. Therefore, your favorable action on these proposals is requested.

Thank you for your attention to and consideration of these matters.

Attachment XI
1/30/86
Hs. Local Government

MEMORANDUM

ATTACHMENT XII

January 28, 1986

TO: House Local Government Committee Chairman
FROM: Kansas Legislative Research Department
RE: H.B. 2725

H.B. 2725 authorizes townships which have established a fire department under K.S.A. 80-1901 et seq., to also operate a rescue service as a township function. K.S.A. 80-1903 is amended to permit taxes to be levied for both rescue and fire fighting services. K.S.A. 79-1962 authorizes a tax of 2 mills except for those township fire departments in counties between 150,000 and 250,000 wherein not to exceed 4 mill is authorized.

MH/jar

Attachment XII
1-30-86
Hs. Local Gov.

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N E 82ND STREET
TOPEKA, KANSAS 66617



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER, ASSESSMENT AND TAXATION
EDUCATION
TRANSPORTATION

ATTACHMENT XIII
1-30-86

January 30, 1986

TO: HOUSE LOCAL GOVERNMENT COMMITTEE

RE: HOUSE BILL 2727 PUBLIC BUILDING COMMISSION

Mr. Chairman and Members of the Committee:

1. May 23, 1978, Ordinance 14250, creating a public building commission; creation, composition was ordained by the governing body of the City of Topeka, Kansas.
2. December 22, 1981, The City of Topeka adopted Charter Ordinance 55 exempting the City of Topeka from KSA 12-1767 relating to revenue bonds, laws applicable, resolution, protest petition, and election in conjunction with public building commissions financing and providing substitute provisions therefor.

Section 2. Before any revenue bonds shall be authorized or issued under the provisions of this act, the PBC shall adopt a resolution specifying the amount of such bonds, the purpose of issuance thereof and stating that if within thirty (30) days after the last date of publication of such notice, a petition in opposition to the same, signed by not less than seven (7%) percent of the electors of such county within which the city is located, is filed with the county clerk, the board shall submit the question to the voters at an election called for such purpose or at the next general election. Such resolution shall be published once a week for three (3) consecutive weeks in the newspaper having circulation in such county.

3. November 18, 1981, Resolution 81-205 was passed and approved by the Shawnee County Commissioners by a vote of 2 to 1. In essence, the resolution stated the Board of County Commissioners intends to utilize the Topeka-Shawnee County Building Public Commission as the funding mechanism for construction of a new jail. NOTE: the inclusion of Shawnee to the TOPEKA PUBLIC BUILDING COMMISSION!
4. August 4, 1983, The Topeka Public Building Commission adopted Resolution #1 and gives notice TO ALL CITIZENS OF SHAWNEE COUNTY, KANSAS, of its intention to acquire a site and construct and equip a jail facility at a total estimated cost not to exceed \$15,937,000.00.
5. In the summer of 1985, when the bids for the jail project were opened, there was a \$2.4 million shortfall. Feeble attempts were made to alter plans to monies available.

Attachment XIII
1-30-86
Hs. Local Gov.

6. August 2, 1985, the Topeka Public Building Commission adopted Resolution 85-3 to an issue additional \$3,988,000.00 and again gave notice to ALL CITIZENS OF SHAWNEE COUNTY.

7. Subsequently, a protest petition for an election drive delivered 12,323 signatures on September 19, 1985, to the Shawnee County Clerk. Approximately 5,500 signatures were needed.

8. A Brown County judge, on August 1, 1985, ordered the county to begin construction on the jail by September 15, 1985.

9. Then the legal counsel for Shawnee County Commission requested, from the Attorney General's office, an opinion if the election should be called by the Shawnee County Commission or the Public Building Commission; also, who is entitled to vote and who would pay for the election.

10. The Attorney General's opinion stated only citizens in the City of Topeka were eligible to vote since the PBC was a creation of the City.

THUS TAXATION WITHOUT REPRESENTATION for Shawnee County taxpayers outside of the city.

11. The question of entering any such lease shall be submitted to and approved by a majority of the qualified voters of the county voting at an election thereon. All persons within the county in which the public building commission has been created shall be eligible to vote at such election. The election shall be called by the county election officer and held in the manner provided by the general bond law. Any amendment to such lease which would increase the amount of the lease payments also shall be submitted for approval as provided by this section.

This would have prevented the confusion that has evolved in the adult detention facility (jail) here in Shawnee County. County officials have admitted publicly that it was to make an end run on the debt limit statute for the county.

Your favorable consideration is needed to assure future taxpayer participation.

PUBLIC NOTICES

No. 471

(First Published in The Topeka Capital-Journal, August 18, 1983)

RESOLUTION NO. 1

A RESOLUTION DECLARING THE INTENTION OF THE TOPEKA PUBLIC BUILDING COMMISSION TO ACQUIRE A SITE AND CONSTRUCT AND EQUIP A JAIL FACILITY; TO ISSUE JAIL FACILITY REVENUE BONDS, SERIES 1983, IN A PRINCIPAL AMOUNT NOT EXCEEDING \$15,937,000.00 TO PAY THE COSTS THEREOF; AND DIRECTING AND PROVIDING FOR THE GIVING OF NOTICE THEREOF.

WHEREAS, The Topeka Public Building Commission (the "Commission") is a duly organized municipal corporation created by the City of Topeka, Kansas, under Ordinance No. 14250 (the "Ordinance") pursuant to K.S.A. 12-1757 to 12-1768, inclusive, as amended (the "Act") and Charter Ordinance No. 55 of said city (the "Charter Ordinance"); and

WHEREAS, the Commission is authorized by the Ordinance, the Charter Ordinance and the Act to acquire a site and construct and equip a facility for municipal and/or county law enforcement agencies, to rent said facility to such agencies and to issue revenue bonds to pay the costs thereof; and

WHEREAS, the Charter Ordinance requires the Commission to adopt and publish a resolution containing certain information to be given to the public before authorizing or issuing revenue bonds pursuant to the Act;

NOW THEREFORE, BE IT RESOLVED by the Topeka Public Building Commission of Topeka, Kansas:

1. The Commission hereby gives NOTICE TO ALL CITIZENS OF SHAWNEE COUNTY, KANSAS, of its intention to acquire a site and construct and equip a jail facility (the "Facility") of a total estimated cost not to exceed \$15,937,000.00 and to issue Jail Facility Revenue Bonds, Series 1983 in a principal amount not to exceed \$15,937,000.00 (the "Bonds") for the purpose of paying the costs of the Facility, with principal and interest on the Bonds payable solely from the rents and revenues to be derived from the Facility or other facilities acquired by the Commission.

2. Before authorizing or issuing the Bonds, this Resolution shall be published once a week for three consecutive weeks in a newspaper having general circulation in Shawnee County, Kansas, and if within thirty (30) days after the last date of publication of this Resolution, a petition in opposition to the same, signed by not less than seven percent (7%) of the electors of Shawnee County, Kansas, is filed with the Shawnee County Clerk, the Commission shall submit the question to the voters of said County at the next general election or at an election called for such purpose. If sufficient protest is not filed, then the Commission will proceed with its intentions as hereinbefore declared.

3. The Chairman of the Commission is hereby directed to publish this Resolution in accordance with the aforesaid instruction.

ADOPTED by the Topeka Public Building Commission, Topeka, Kansas, this 27th day of August, 1983.

HARRY L. FELKER, III
Chairperson
VELMA PARIS
Vice-Chairperson
BERNARD WANNER
Member
(absent) BEN BLAIR
Member
(absent) THOMAS WRIGHT
Member
ED CARMONA
Secretary
Public Buildings
Commission

PUBLIC NOTICES

No. 443

(First Published in The Topeka Capital-Journal, August 6, 1985)

**TOPEKA PUBLIC BUILDING COMMISSION
RESOLUTION NO. 85-3**

A RESOLUTION DECLARING THE INTENTION OF THE TOPEKA PUBLIC BUILDING COMMISSION TO ISSUE ADDITIONAL JAIL FACILITY REVENUE BONDS IN A PRINCIPAL AMOUNT NOT EXCEEDING \$3,988,000.00 TO PAY THE ADDITIONAL COSTS TO ACQUIRE A SITE AND TO CONSTRUCT AND EQUIP A JAIL FACILITY.

WHEREAS, The Topeka Public Building Commission (the "Commission") is a duly organized municipal corporation created by the City of Topeka, Kansas, under Ordinance No. 14250 (the "Ordinance") pursuant to K.S.A. 12-1757 and 12-1768, inclusive, as amended (the "Act") and Charter Ordinance No. 55 of the City of Topeka (the "Charter Ordinance"); and

WHEREAS, the Commission is authorized by the Ordinance, the Charter Ordinance and the Act to acquire a site and construct and equip a facility for municipal and/or County law enforcement agencies, to rent said facility to such agencies and to issue revenue bonds to pay the costs thereof; and

WHEREAS, the Charter Ordinance requires the Commission to adopt and publish a resolution containing certain information to be given to the public before authorizing or issuing revenue bonds pursuant to the Act; and

WHEREAS, the Commission adopted Resolution No. 1 on August 4, 1983, and duly published the same without protest, which authorized the issuance of Jail Facility Revenue Bonds in a principal amount not to exceed \$15,937,000.00 for the purpose of paying the costs of acquiring a site, constructing and equipping a jail facility for use and occupancy by Shawnee County, Kansas; and

WHEREAS, the Commission has acquired a site, designed a jail facility and received bids for the construction of the facility; and

WHEREAS, the bids received, as well as the architect's estimate, all exceed the amount of unexpended funds available under the Commission's original \$15,937,000 budget for the project.

NOW, THEREFORE, NOTICE TO ALL CITIZENS OF SHAWNEE COUNTY, KANSAS, IS HEREBY GIVEN BY THE TOPEKA PUBLIC BUILDING COMMISSION, AND IT IS HEREBY RESOLVED, AS FOLLOWS:

1. The Commission intends to issue additional Jail Facility Revenue Bonds in an additional amount not to exceed \$3,988,000.00 over, above and in addition to the \$15,937,000.00 previously authorized on August 4, 1983, by Commission Resolution No. 1 for the purpose of paying the costs to acquire a site, construct and equip a jail facility for the use and occupancy of Shawnee County, Kansas. The principal and interest on said additional bonds shall be payable solely from the rents and revenues to be derived from said facility or other facilities acquired by the Commission.

2. Before authorizing or issuing the additional bonds, this resolution shall be published once a week for three consecutive weeks in a newspaper having general circulation in Shawnee County, Kansas, if, within thirty (30) days after the last date of publication of this resolution, a petition in opposition to the same, signed by not less than seven percent (7%) of the electors of Shawnee County, Kansas, is filed with the Shawnee County Clerk, the Commission shall submit the question to the voters of said County at the next general election or at an election called for such purpose. If sufficient protest is not filed, then the Commission will proceed with its intentions as hereinbefore declared.

3. The Chairman of the Commission is hereby directed to publish this resolution in accordance with the aforesaid instruction.

ADOPTED by the Topeka Public Building Commission, Topeka, Kansas, this 2nd day of August, 1985.

Harry L. Felker, III, Chairman
Tom Hanna, Vice-Chairman
Bernard Wanner, Member
Ben Blair, Member (absent)
Charles Clinkenbeard, Member (absent)

ATTEST:
Darold D. Main, Secretary

RESOLUTION NO. 81-205

WHEREAS, local jails are a vital part of the system of criminal justice and law enforcement, and necessary for the public safety of a community; and,

WHEREAS, the Shawnee County Jail has been cited for non-compliance with both State and Federal standards; and,

WHEREAS, the Shawnee County Jail can no longer adequately serve its primary purpose of providing facilities for safe, secure incarceration of persons who must be removed from society; and,

WHEREAS, the Board of County Commissioners of Shawnee County, Kansas, recognizes the need for adequate jail facilities and accepts the responsibility to move toward a solution to this community problem.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Shawnee County, Kansas, as follows:

1. That the Board of County Commissioners of Shawnee County, Kansas, intends to utilize the Topeka-Shawnee County Public Building Commission as the funding mechanism for construction of a new jail.

2. That the Board of County Commissioners of Shawnee County, Kansas, and jail authorities will work with the Topeka-Shawnee County Public Building Commission to proceed with additional planning and development studies, and to formulate a proposed jail design and construction cost estimates which will be subject to periodic and final review and authorization by the Board of County Commissioners of Shawnee County, Kansas.

RESOLUTION NO. 81-205 WAS PASSED AND APPROVED by
the Board of County Commissioners of Shawnee County, Kansas,
on this 18th day of November, 1981.

BOARD OF COUNTY COMMISSIONERS
SHAWNEE COUNTY, KANSAS

Velma Paris
Velma Paris, Chair

Richard A. Maner
Richard A. Maner, Member

"No"
Dennis R. Taylor, Member

ATTEST:

Winifred L. Kingman
Winifred L. Kingman, County Clerk

MEMORANDUM

ATTACHMENT XIV

January 28, 1986

TO: House Local Government Committee Chairman
FROM: Kansas Legislative Research Department
RE: H.B. 2727

H.B. 2727 amends a public building commission statute to provide that the question of entering into a lease with the building commission by any school district, city, state agency, or department or county shall be subject to a vote of electors of the county. Any amendment to the lease which would increase the amount of lease payments would also need voter approval. The county home rule statute is amended to add a 21st exception to these powers thus prohibiting any exemption or change in the above provisions.

MH/jar

Attachment XIV
1-30-86
Hs. Local Gov.