

Approved

Juan Sand 2/17/86  
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 FEBRUARY 12, 19 86 in room 521-S of the Capitol.

All members were present except: Rep. Arthur Douville, excused  
Rep. Clinton Acheson, excused

Committee staff present: Mike Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes Office  
Gloria M. Leonhard, Committee Secretary

Conferees appearing before the committee:

Mr. Don Moler, League, HB 2194  
Mr. E. A. Mosher, League, HB 2194  
Rep. Marvin Smith, HB 2762  
Mr. Jim Davidson, HB 2762  
Rep. Joe Knopp, HB 2769  
Ms. Wendy Schiappa, Manhattan Chamber, HB 2769  
Mr. E. A. Mosher, League, HB 2769  
Mr. Bill Ramsey, Olathe, HB 2769  
Mr. Fred Allen, Kansas Assn. of Counties, HB 2769  
Rep. Nancy Brown, HB 2680, HB 2690

The minutes of the meetings of February 5, 1986, and February 6, 1986, were approved as presented.

Chairman Sand called for hearings on the following House bills:

HB 2194, concerning cities; relating to the designation of an official city newspaper;

Mr. Dan Moler, League of Kansas Municipalities, urged the committee to support the bill. (See Attachments I and II.)

Mr. E. A. Mosher, Secretary, League of Kansas Municipalities, said the support of the Kansas Press Association offered last year still stands.

Rep. Rick Bowden made a motion that HB 2194 be passed. Rep. Clyde Graeber seconded the motion. The motion carried.

HB 2762, concerning municipalities; relating to certain public building commissions.

Rep. Marvin Smith urged the committee to support HB 2762. (See Attachment III.)

A committee member asked if the County Commissioners want the title. Rep. Smith said at least one Commissioner had indicated this to the delegation.

Mr. Jim Davidson, County Counselor, affirmed that the Public Building Commission has title to the jail site; that it had been owned by several owners; that the Public Building Commission got it through condemnation; that the amount was not agreed upon and a jury trial was requested.

A committee member asked how approval of HB 2762 would affect HB 2727 and HB 2728. Rep. Smith said the latter bills would apply to the future.

Mr. Jim Davidson said he cannot support HB 2762 as is and suggested an amendment to Section 2 of the bill. (See Attachment IV.)

Mr. Mike Heim, Staff, asked if a transfer of title is needed. Mr. Davidson

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

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,  
room 521-S, Statehouse, at 1:30 XX a.m./p.m. on FEBRUARY 12, 1986

said since the Public Building Commission owes \$16 million, if their security is removed, they have no collateral.

Chairman Sand said that he would announce a sub-committee the following day to study several related bills.

HB 2769, relating to counties; concerning economic development programs;

Rep. Joe Knopp gave background and intent of HB 2769 and urged the committee to support the bill.

Ms. Wendy J. Schiappa, Manhattan Chamber of Commerce, said HB 2769 is needed for clarification of state's intent. (See Attachment V, related testimony re SB 494, Senate Local Govt. Committee.)

A committee member asked if a provision should be added re working with the university.

Mr. Ernest Mosher, League of Kansas Municipalities, said the League believes the state is not ready for a bill like HB 2769. (See Attachment VI.)

Mr. Bill Ramsey, City of Olathe, said they are not in opposition to the bill per se, but that the bill will allow the county to act independently of the city in the economic development business; that the county might not coordinate with the city at all.

Mr. Fred Allen, Kansas Association of Counties, said at the county level it was felt that authority was the same as for the cities; that the Association would favor clarification if necessary.

The hearing on HB 2769 was closed.

Chairman Sand called for action on bills previously heard.

HB 2680, concerning townships; relating to tax levies for township halls;

Rep. Nancy Brown, sponsor of the bill, briefly reviewed the bill.

Rep. Clyde Graeber made a motion that HB 2680 be passed. Rep. Carl Holmes seconded the motion. The motion carried.

HB 2690, concerning municipalities; relating to public recreation and playgrounds;

Rep. Nancy Brown, sponsor of the bill, briefly reviewed the bill, and made a recommendation for amendments to the bill. (See Attachment VII.)

Rep. Carl Holmes made a motion to accept the two proposed amendments. Rep. Robert D. Miller seconded the motion. The motion to amend HB 2690 carried.

Rep. George Dean made a motion to pass HB 2690 as amended. Rep. Clyde Graeber seconded the motion. The motion carried.

HB 2656, concerning municipalities; relating to the cooperation of municipalities in the exercise of the powers thereof;

Rep. Dorothy Nichols made a motion that HB 2656 be passed. Rep. Gayle Mollenkamp seconded the motion. The motion carried.

HB 2723, concerning cities; relating to the annexation of land thereby.

Rep. Marvin Smith, chief sponsor of the bill, proposed an amendment to HB 2723. (See Attachment VIII.)

Rep. LeRoy Fry made a motion to amend HB 2723 as proposed. Rep. Phil Kline seconded the motion to amend.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,  
room 521-S, Statehouse, at 1:30 ~~XXX~~ a.m./p.m. on FEBRUARY 12, 19 86

Rep. Phil Kline made a substitute motion to amend HB 2723 as proposed and to change the stated date of August 15, 1985 to September 1, 1985.

Rep. George Dean seconded the motion.

The motion to amend HB 2723 carried with Rep. Elizabeth Baker being recorded as voting "no."

Chairman Sand said he would call for action on HB 2723, as amended, at a later date.

The meeting adjourned.



# League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

**TO:** Members of the House Local Government Committee  
**FROM:** Don Moler, Research Attorney  
**DATE:** February 12, 1986  
**SUBJECT:** HB 2194, Designation of Official City Newspaper

1. HB 2194 will take care of a number of problems with K.S.A. 12-1651 and 1651a--both relating to the designation of official city newspapers in cities of the second and third class.
2. K.S.A. 12-1651a. This statute would be repealed. In its current form it is poorly worded, but more importantly, as is noted in the handout, the Kansas Supreme Court, in 1983, said that its requirement of annual designation of an official newspaper was directory, not mandatory.
3. K.S.A. 12-1651. The requirement now in K.S.A. 12-1651a of designating an official newspaper will be kept in the law by simply adding the language in lines 22:26 of the bill to K.S.A. 12-1651. This amendment would do three things:
  - (1) Requires a city to designate, by resolution, one time, an official newspaper.
  - (2) Removes annual designation requirement.
  - (3) Provides for establishing newspaper when the governing body so declares. Until then, the previously-designated newspaper is the official city newspaper.

ATTACHMENT I  
2/12/86  
Hs. Local Gov.

4. What remains unchanged are:

- (1) Requirement to have an official city newspaper.
- (2) All existing statutory requirements to publish certain acts, notices, etc. in the official city newspaper (e.g., ordinances, budgets).
- (3) Statutory qualifications to be met in order to be an official city newspaper.

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NOTE: K.S.A. 12-1420, which provided for official newspapers for 1st class cities, was repealed in 1981.

To the House Local Government Committee  
February 12, 1986  
RE: HB 2194

**12-1651a.** Same; annual designation. At the first meeting of the newly elected city governing body it shall designate a newspaper to be the official city newspaper for the ensuing year. The official city newspaper shall thereafter be designated annually.

**History:** L. 1959, ch. 79, § 1; March 27.

**Revisor's Note:**

Title to L. 1959, ch. 79, refers to cities of second and third class.

VOL. 233

JANUARY TERM, 1983

1039

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Cook v. City of Enterprise

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No. 55,252

R. W. COOK, *Appellant*, v. CITY OF ENTERPRISE, KANSAS,  
*Appellee*.

(666 P.2d 1197)

SYLLABUS BY THE COURT

1. CITIES AND MUNICIPALITIES—*Official Newspaper—Statutory Designation for Second- and Third-Class Cities.* K.S.A. 12-1651a, requiring an annual designation of the official city newspaper of cities of the second and third class, is directory rather than mandatory.
2. SAME—*Official Newspaper.* A newspaper formally designated by resolution of the city's governing body as the official city newspaper, and utilized as such over a long period of years, remains the official city newspaper.

K.S.A. 12-1651a was enacted by the legislature in 1959, and has not since been amended or repealed. It was in full force and effect at the time the Home Rule amendment was adopted in 1960. The statute does not require designation of an official city paper by ordinance; it does not state how designation is to be effected. We read the statute as directory rather than mandatory. Here, where the City officially designated the newspaper as its official city newspaper and then continued to utilize it for local publication of its ordinances over a period of many years, the purpose of the statutes requiring publication of ordinances, and of K.S.A. 12-1651a requiring designation of an official city newspaper, are fully accomplished.

ATTACHMENT II

2/12/86  
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

February 12, 1986

TO: HOUSE LOCAL GOVERNMENT

RE: HOUSE BILL 2762

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before the committee in support of House Bill 2762.

The intent of this proposed legislation is to transfer title of the property for the Shawnee County Adult Detention facility to the Shawnee County Commission.

As the jail financing has become the total responsibility of the Shawnee County Commission, it appears they should have and hold title to the property; therefore, they may exercise all options for financing and/or re-financing.

Your favorable consideration for passage would be appreciated.

ATTACHMENT III  
2/12/86  
Hs. Local Gov.

SUGGESTED AMENDMENT TO H.B. 2762

Section 2.

At the time of the transfer Shawnee County shall agree to perform the obligations and responsibilities of the Topeka Public Building Commission with respect to the outstanding Series 1985 bonds in the aggregate principal amount of \$15,937,000 issued by the commission to pay the cost of the facility as if said bonds were issued by Shawnee County.

ATTACHMENT *IV*  
2/12/86  
Hs. Local Gov.



13 February 1986

Senate Local Government Committee  
Senator Don Montgomery, Chairman

I am testifying today in support of SB 494 concerning the applicable uses of industrial mill levies by counties. The Manhattan Chamber of Commerce supports this legislation which we believe will enhance the abilities of local governments to attract new employers to the State of Kansas.

The current statute outlines four uses of economic development program funds: 1) to conduct studies and prepare plans; 2) to inventory services, facilities and resources; 3) to promote, stimulate and encourage growth and development; and 4) to otherwise promote the general economic welfare and prosperity of the area.

The first two uses of these funds are clear and specific, the latter are vague. We have found that when we approach the counties with suggested uses of these funds, they are hesitant to act. County attorneys have questioned what are appropriate uses of this mill levy.

Specifically, we have the following questions:

1. May a county loan money to an organization that will in turn build a new building and create new jobs?
2. May a county grant any of these funds to a business for the purpose of site preparation, utility extension or other similar uses?
3. May a county use any of these funds as part of an incentive package to attract industrial prospects?

Manhattan recently lost two plants (Sundstrand to Grand Junction, Colorado and Kimberly-Clark to Thomasville, North Carolina) because we were unable to put financial packages and incentives together to compete with other states. We believe it is imperative that the state legislature take actions that will make the state more competitive in industrial development. Clarification of the uses of economic development program funds is one such action.

We believe that the legislature must take a clear position defining "public use of public funds" for the purposes of economic development. County attorneys are reluctant to define for what purposes industrial development funds may be used. In a time when the need to diversify the state's economy is urgent, the Manhattan Chamber believes that broadening the tax base and creating jobs is indeed a public purpose. If you agree that this is a public purpose, then you should so define it by statute and not leave the definition up to attorneys and the courts. If you choose not to clarify the applicable uses of industrial development mill levies, then local economic development programs will continue to be handicapped by uncertainty and hesitancy on the part of county commissions.

We therefore urge you to favorably pass out SB 494.

Wendy J. Schiappa

ATTACHMENT IV  
2/12/86  
Hs. Local Gov.



# League of Kansas Municipalities

**PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565**

**TO:** House Committee on Local Government  
**FROM:** E.A. Mosher, Executive Director  
**DATE:** February 12, 1986  
**SUBJECT:** HB 2769--County Economic Development

I appear before you today with a somewhat fuzzy message. The League's Finance and Taxation Committee has reviewed the provisions of HB 2769, and its identical Senate counterpart, SB 494, and acted to recommend an interim legislative study of this important matter. The League's State Legislative Committee at its meeting last Friday took a position against the specific provisions of the bill. These actions occur with a recognition that increased county government involvement and regional approaches to economic development may well be necessary. And on top of all this, we have some questions as to whether the legislature may even authorize counties to do as much as the bill attempts to authorize.

There are at least 28 Kansas counties which now levy a special tax under this statute, of not to exceed .50 mills, for economic development. However, a separate tax levy is not required. K.S.A. 19-4102 authorizes the use of general operating fund money for this purpose. As a result, other county revenue sources, such as countywide sales tax revenue, could be used, not just the tax levy proceeds.

As you know, we have long had a fundamental rule of common law that public funds may not be used for private purposes. Like a nuisance, this is primarily a judicial determination.

There is, we think, some question as to whether a county board

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**Directors:** Robert C. Brown, Mayor, Wichita • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Donald L. Hamilton, City Clerk/Administrator, Mankato • Carl D. Holmes, Mayor, Plains • Paula McCreight, Mayor, Ness City • Jay P. Newton, Jr., City Manager, Newton • John E. Reardon, Mayor, Kansas City • David E. Retter, City Attorney, Concordia • Arthur E. Treece, Commissioner, Coffeyville • Dean P. Wiley, City Manager, Garden City • Douglas S. Wright, Mayor, Topeka • **Executive Director:** E.A. Mosher

*Hs. Local Gov.*

*ATTACHMENT VII 2/12/86*

may award a grant of money to a specific industry "as inducements to locate in the county." We suspect that the existing statute and the statutory home rule powers of counties, may be adequate to accomplish this kind of action--assuming it is a public purpose for which public funds may be used.

As an aside, I should note that the League has never requested statutory authority for cities to specifically do the kind of thing specified by HB 2769. Our reason has been that if it's permissible to do so--if it is a public purpose--then cities probably have the power to do so constitutionally.

Finally, I would note that some city officials are concerned as to how countywide tax moneys would be used for specific development purposes, and when and where. For example, a city would not be very happy with a situation where there is an industrial park in existence with a full set of public facilities, but the county government wants to open up a new and competitive facility for the limited growth that might occur in the area. On the other hand, cities and counties might want to jointly finance some improvements of special need for industrial prospects. Many cities are devoting considerable energy and public resources in promoting the economic development of their city and the area. At the very minimum, it would seem that some kind of a coordinated approach should be required to avoid duplication and conflicting objectives.

It seems to us that we are not yet ready for a statewide bill like HB 2769. The existing powers in lines 30 and 31--"to promote, stimulate and encourage the growth and development"--seem to us to be adequate at this time. We suggest more thought and study is necessary before such specific subsidy authority as contained in the bill is enacted.



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER COMMUNICATIONS, COMPUTERS AND  
TECHNOLOGY  
GOVERNMENTAL ORGANIZATION  
TRANSPORTATION

NANCY BROWN  
REPRESENTATIVE, 27TH DISTRICT  
15429 OVERBROOK LANE  
STANLEY, KANSAS 66224

January 30, 1986

Memo:

To: Rep. Ivan Sand, Chairman, and members of Local Government  
From: Rep. Nancy Brown  
Subj: H.B. 2690: Concerning municipalities; relating to public  
recreation and playgrounds

In order to alleviate any questions and concerns regarding alteration of powers granted to a city, a school district, or a recreation commission, it is my recommendation that the bill be amended as follows:

delete lines 78 and 79 of the bill  
which read "and shall have the same powers granted to a city or school district pursuant to K.S.A. 12-1901, and amendments thereto."

The second request is to change line 0092 and 0093, section 5 to read:

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I have talked with Richard Funk of the Kansas Association of School Boards and Ernie Mosher of the League of Municipalities about this. Both individuals indicated their support of the bill without lines 78 and 79 and are willing to testify in favor of the bill, if necessary.

Your reconsideration of this bill will be most appreciated.

I thank you for your patience!

cc: Ernie Mosher  
Richard Funk  
Dr. Mike Sampson

*Nancy*

ATTACHMENT VII  
2/12/86  
Hs. Local Gov.

Proposed Amendment to House Bill No. 2723

Be amended:

On page 1, in line 21, by striking "12-520c or 12-521" and inserting "12-520";

ATTACHMENT VIII  
2/12/86  
Hs. Local Gov.