

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 ~~XX~~ a.m./p.m. on FEBRUARY 13, 1986 in room 521-S of the Capitol.

All members were present except: Rep. Phil Kline, excused
Rep. Arthur Douville, 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. Mike Heim, Staff, New Legislation
Mr. Fred Allen, Kansas Assn. of Counties,
New Legislation
Rep. William M. Bryant, HB 2790
Rep. Kenneth D. Francisco, HB 2790
Mr. Ernest A. Mosher, League, HB 2790
Rep. Max Moomaw, HB 2794

Chairman Sand called for introduction of new legislation.

Mr. Mike Heim, Staff, gave background of proposed local legislation for Johnson County, Kansas, regarding letting of contracts by park/recreation districts. (See Attachment I.)

Rep. Samuel Sifers made a motion to accept the proposed legislation as a committee bill. Rep. Clinton Acheson seconded the motion. The motion carried.

Mr. Fred Allen, Kansas Assn. of Counties, requested legislation to amend K.S.A. 44-703, Employment Security Law, which would exempt judges and clerks. (See Attachment II.)

Rep. Dorothy Nichols made a motion to introduce the proposed legislation as a committee bill. Rep. Kenneth D. Francisco seconded the motion. The motion carried.

Chairman Sand called for hearings on the following bills:

HB 2790, concerning county and township roads; relating to city connecting links;

Rep. William M. Bryant, a co-sponsor of HB 2790, gave background and intent of the bill. (See Attachment III.)

Rep. Kenneth D. Francisco, a co-sponsor of HB 2790, said K.S.A. 68-506 is difficult to understand; that he is working with the Revisor for new legislation to clarify; that in cities of the third class, counties are going to maintain certain roads.

Mr. Ernest A. Mosher, League of Kansas Municipalities, said the League supports HB 2790.

The hearing on HB 2790 was closed.

Rep. Kenneth D. Francisco made a motion that HB 2790 be amended in Line 18 by changing the word "amending" to "repealing" and that the bill be passed as amended. Rep. Carl Holmes seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
room 521-S, Statehouse, at 1:30 xxx a.m./p.m. on FEBRUARY 13, 1986

HB 2794, concerning townships; relating to the limitation of tax levies;

Rep. Max Moomaw, co-sponsor of the bill, gave background and intent of HB 2794. (See Attachment IV and Attachment V.) Mr. Moomaw said the bill had been requested by the Finney County Clerk and officers of two townships. Mr. Moomaw urged the committee to support HB 2794.

The hearing on HB 2794 was closed.

Rep. Dorothy Nichols made a motion to make a technical amendment in Line 21, after K.S.A. by adding the words "1985 Supp." and that the bill be passed as amended. Rep. Gayle Mollenkamp seconded the motion. The motion carried.

Chairman Sand called for action on bills previously heard.

HB 2757, concerning improvement districts; relating to special assessments and the publication of notice thereof;

Rep. Don Rezac made a motion that HB 2757 be passed. Rep. George Dean seconded the motion.

Rep. Elizabeth Baker made a substitute motion that HB 2757 be amended in Line 63 by changing the word "may" to "shall" and in Line 120 by changing the word "may" to "shall" and the bill be passed as amended. Rep. George Dean seconded the motion. The motion carried.

HB 2781, concerning townships; relating to the construction and maintenance of township roads;

Rep. Clinton Acheson made a motion that HB 2781 be passed. Rep. George Dean seconded the motion. The motion carried.

HB 2784, concerning certain political subdivisions; relating to appointments made by governing authorities thereof;

Rep. Clinton Acheson made a motion that HB 2784 be passed. Rep. LeRoy Fry seconded the motion. The motion carried.

Chairman announced a sub-committee to study HB 2727, HB 2728, and HB 2762. Sub-committee members named were Rep. Carl Holmes, Chairman, Rep. Kenneth D. Francisco, and Rep. Elizabeth Baker.

The meeting was adjourned.

19-2881. Contracts by board; detailed plans and specifications; bids, advertisement; conditions; rejection or acceptance. Before the board of any park district created under K.S.A. 19-2859 to 19-2880 or any amendments thereto, shall let any contract for any improvement which is estimated to exceed one thousand five hundred dollars (\$1,500.00), it shall cause accurate detailed plans and specifications therefor, together with a detailed estimate, of the cost of same, to be made by some competent person and filed in the office of the secretary of such board, and thereafter, and before letting such contract, the board shall advertise for bids to do such work in accordance with such plans and specifications for at least one week in a newspaper of general circulation in such district. The purchase of materials, contracts for purchase of sale, lease contracts and other contractual services which are estimated to exceed one thousand five hundred dollars (\$1,500.00), shall be made upon competitive bids; provided, the district may enter into agreements with the county in which it is located, or with any municipalities to purchase materials for contractual services through said governmental units using the bidding procedures of said governmental units. All bids shall be made in writing and signed by the bidder, and presented by the bidder, his agent or attorney, to the board, at a meeting thereof, and all bids shall be considered and accepted or rejected immediately after their submission. The board may reject any bids and shall not accept a bid in excess of the estimated cost of the work, and a contract let at a price in excess of the estimated cost of the work shall be void.

ATTACHMENT I
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trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(iii) None of the criteria of (i) and (ii) above of this subsection (i)(3)(G) is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(H) An "American employer," for purposes of subsection (i)(3)(G), means a person who is:

(i) An individual who is a resident of the United States; or

(ii) A partnership if $\frac{2}{3}$ or more of the partners are residents of the United States; or

(iii) A trust, if all of the trustees are residents of the United States; or

(iv) A corporation organized under the laws of the United States or of any state.

(I) Notwithstanding subsection (i)(2) of this section, all service performed by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office, from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state.

(J) Notwithstanding any other provisions of this subsection (i), service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the federal unemployment tax act is required to be covered under this act.

(K) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of \$1,000 or more in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.

(4) The term "employment" shall not include: (A) Service performed in the employ of an employer specified in subsection (h)(3) of this section if such service is per-

formed by an individual in the exercise of duties:

(i) As an elected official;

(ii) as a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(iii) as a member of the state national guard or air national guard;

(iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) in a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position or as a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week;

(B) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(C) Service performed by an individual in the employ of such individual's son, daughter or spouse, and service performed by a child under the age of 18 years in the employ of such individual's father or mother;

(D) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this act, except that to the extent that the congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this state shall not be certified for any year by the federal security agency under section 3304(c) of the federal internal revenue code, the payments required of such instrumentalities with respect to such year shall be refunded by the secretary from the fund in the same manner and within the same period as is provided in subsection (f) of K.S.A. 44-717 and amendments thereto with respect to contributions erroneously collected;

(E) Service covered by an arrangement

WILLIAM M. BRYANT, D.V.M.
 REPRESENTATIVE SIXTY-THIRD DISTRICT
 WASHINGTON, REPUBLIC AND
 NORTHERN RILEY COUNTIES
 RURAL ROUTE 2
 WASHINGTON, KANSAS 66968



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER AGRICULTURE AND SMALL BUSINESS
 INSURANCE
 PUBLIC HEALTH AND WELFARE

Testimony for Local Government Committee - February 13, 1986

RE: House Bill 2790

A brief history of events leading to the drafting of this bill would include a dispute which has arisen between a small town and the county commissioner's from my home county, the name of which shall remain anonymous. The town population is around 300 people and the main street is a paved county road which is about one mile in length. To get from one side of town to the other without using this road would involve about a two or three mile detour in either direction. The county has maintained the center section of this road since the time it was paved with the exception of the past year. Being short of funds the commissioners opted to pay each of 7 of the small towns in the county \$250 as per K.S.A. 68-506e.

The town council feels that this amount is inadequate and beside the fact that they do not have adequate equipment to maintain a paved road of this nature.

This brings us to the heart of the matter.

Since:

1. According to the Attorney General K.S.A. 48-506e is no longer pertinent due to the abolishment of the "county and township road fund" as per K.S.A. 68-416(b).
2. The amount of \$250/mile is no longer a realistic figure.
3. K.S.A. 68-506 provides that the primary responsibility of maintaining such a road falls on the county.
4. K.S.A. 12-2901 et seq. allows cities to enter into agreements with counties to help maintain such a road.

I find it reasonable to repeal K.S.A. 68-506e to help clarify the intent of K.S.A. 68-506.

ATTACHMENT III
 2/13/86
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Page Two.

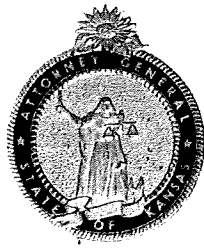
Testimony - House Bill 2790 - Representative Bryant

With 48-506e still on the books, at first glance it may look like an easy out for counties while it actually is an outdated, irrelevant statute.

I feel that the intent of K.S.A. 48-506 is fairly well stated and this will help clarify it.

I have supplied the partial opinion from the Attorney General on December 12, 1985.

Rep William M. Bryant



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

December 12, 1985

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

ATTORNEY GENERAL OPINION NO. 85- 172

The Honorable William M. Bryant, D.V.M.
State Representative, Sixty-Third District
Rural Route 2
Washington, Kansas 66968

Re: Roads and Bridges -- County and Township Roads --
Classification and Designation of Roads in a
Non-County Road System

Synopsis: A county is primarily responsible for the maintenance of main traveled highways which lie within a city and which connect county primary roads with the city, although a city is also empowered to aid in the maintenance of such roads. K.S.A. 68-506. Thus, in the event of a controversy over the maintenance of a county road which passes through a third-class city, and to ensure the most efficient use of public funds, an interlocal agreement apportioning the costs between the county and the city may be formed. Cited herein: K.S.A. 12-2901; 12-2904; 12-2905; 12-2907; 68-169; 68-506; 68-506e; 68-572; 79-2925; L. 1967, ch. 354.

* * *

Dear Representative Bryant:

As State Representative for the 63rd District, you request our opinion as to who is responsible for the maintenance of a public road. Specifically, you inquire as to which governmental entity has the primary responsibility for maintenance of a county road which passes through a third class city, and to what extent, if any, the county is responsible to the city for road maintenance.

You inform us that Washington County intends to pay the City of Haddam (a city of the third class) the amount of \$250 per mile per year for the maintenance of those streets in Haddam which are part of the county connecting link system. Initially, it may appear that this arrangement is authorized by K.S.A. 68-506e, which states:

"The board of county commissioners of each county shall annually apportion and distribute quarterly to each city on the county highway system from the fund known as the county and township road fund at the rate of two hundred fifty dollars (\$250) per mile for the maintenance of the streets in such cities used as connecting links in the system of county highways which are not connecting links in the state highway system, said moneys to be credited to the street and alley fund of such cities. In lieu of said apportionment the board of county commissioners may maintain in cities of the third class such streets and pay for such maintenance from the county and township road fund."

However, this statute is no longer meaningful to the issue at hand, in that K.S.A. 68-416(b)(1) provides: "The fund known as the 'county and township road fund' is hereby abolished" Thus, this provision of K.S.A. 68-506e is not relevant since the county and township road fund no longer legally exists. However, as you note in your letter, the county is authorized to pay a city \$250 per mile, or more or less, under the county's home rule authority. We agree with this interpretation.

A more applicable statute, K.S.A. 68-506, provides in relevant part:

"Whenever any main traveled highway is located partly within and partly without a city and connects a county primary road with a city, by and with the consent of the governing body, and with the final approval of the secretary of transportation, the board of county commissioners is hereby given power and authority and required to designate such

public highway as a part of the county primary road system, and it shall be improved and maintained as other parts of the county primary road system, except that the governing body of such city may aid in the construction, maintenance and improvement of such road as it would were the said highway wholly within the corporate limits of said city." (Emphasis added.)

As we interpret this statute, the county is primarily responsible for the maintenance of those "main traveled highways" which lie within a city and which connect a county primary road with the city. See, e.g. City of Independence v. Montgomery County Comm'rs, 140 Kan. 661 (1934). At the same time, however, under county home rule, a board of county commissioners has wide discretion as to how it will distribute its annual budget. Thus, in the event of a controversy over the maintenance of a county road which passes through a third class city, and to ensure the most efficient use of public funds, an interlocal agreement apportioning the costs between the county and the city may be formed. K.S.A. 12-2901 et seq.

68-506e. City connecting links; apportionment and distribution of county and township road fund to street and alley fund. The board of county commissioners of each county shall annually apportion and distribute quarterly to each city on the county highway system from the fund known as the county and township road fund at the rate of two hundred fifty dollars (\$250) per mile for the maintenance of the streets in such cities used as connecting links in the system of county highways which are not connecting links in the state highway system, said moneys to be credited to the street and alley fund of such cities. In lieu of said apportionment the board of county commissioners may maintain in cities of the third class such streets and pay for such maintenance from the county and township road fund.

History: L. 1929, ch. 230, § 1; April 1.

68-506. Classification and designation of roads in non-county unit road system counties. In counties which have not adopted the county unit road system, it shall be the duty of the boards of county commissioners with the approval of the county engineers in their respective counties, to classify and designate the roads as "county primary roads," "secondary road system roads," and "township or local service roads."

The "county primary roads" shall be the main traveled highways, and shall connect as nearly as possible the cities and principal market centers of each county with each other, and with state highways, as well as connect with county roads in adjoining counties.

"Secondary road system roads" shall be the roads designated in each county for inclusion in the secondary road system in accordance with the provisions of article 17 of chapter 68 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental thereto.

Other public highways shall be "township or local service roads."

Whenever any main traveled highway is located partly within and partly without a city and connects a county primary road with a city, by and with the consent of the governing body, and with the final approval of the secretary of transportation, the board of county commissioners is hereby given power and authority and required to designate such public highway as a part of the county primary road system, and it shall be improved and maintained as other parts of the county primary road system, except that the governing body of such city may aid in the construction, maintenance and improvement of such road as it would were the said highway wholly within the corporate limits of said city. When a road is being, or has been, improved by the county where state or federal aid has been extended in the improvement of such road, and such road terminates at the city limits, and where a road has been or shall be constructed with federal aid, which said road terminates at a state line, and the said state line is the

MAX MOOMAW
REPRESENTATIVE, 117TH DISTRICT
HODGEMAN, LANE AND
PARTS OF FINNEY AND
NESS COUNTIES
HC 2, Box 195
DIGHTON, KANSAS 67839



TOPEKA

HOUSE OF
REPRESENTATIVES

February 13, 1986

COMMITTEE ASSIGNMENTS
MEMBER: ASSESSMENT AND TAXATION
EDUCATION
TRANSPORTATION

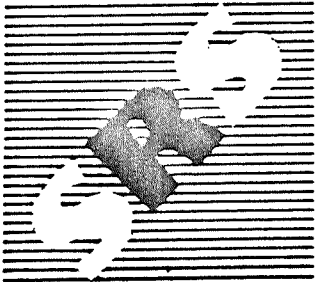
Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you on HB 2794. Garfield and Pierceville Townships in Finney County have their own fire department. These two townships are located in the eastern edge of Finney County approximately 15 miles from Garden City. They have been operating their rural fire department on a 1/2 mill levy out of their Township General Fund.

They have also been using some other money for this purpose. Their auditor, Mr. Dale Burney, told them they are operating illegally and the 1/2 mill is their only legal source of funds. Barbara Beina in the Municipal Accounting Department, Department of Administration, has looked into the matter and says as far as she can determine they do not fall within any statute that allows them access to money.

For these reasons we are asking for this localized legislation to allow these two townships to levy up to 3 mills to pay for rural fire protection.

ATTACHMENT IV
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REPORTS



Number of Aid to Dependent Recipients by County During November 1985

19 Cheyenne	8 Rawlins	45 Decatur	25 Norton	56 Phillips	33 Smith	47 Jewell	42 Republic	74 Washington	164 Marshall	148 Nemaha	407 Brown	349 Doniphan				
190 Sherman	70 Thomas	5 Sheridan	54 Graham	76 Rooks	83 Osborne	64 Mitchell	173 Cloud	159 Clay	Riley	Pottawatomie	719 Atchison	284 Jackson	249 Jefferson	Leavenworth	1,420 Wyandotte	
29 Wallace	28 Logan	2 Gove	17 Trego	257 Ellis	86 Russell	54 Lincoln	112 Ottawa	420 Dickinson	Gearry	87 Wabaunsee	Shawnee	1,408 Douglas	1,651 Johnson	6,108	12,398	
22 Greeley	44 Wichita	47 Scott	8 Lane	30 Ness	48 Rush	694 Barton	57 Ellsworth	295 Saline	119 Marion	121 Morris	453 Lyon	292 Osage	757 Franklin	420 Miami		
40 Hamilton	98 Kearny	501 Finney	24 Hodgeman	63 Pawnee	61 Stafford	1743 Reno	293 Rice	579 Harvey	35 Chase	80 Coffey	118 Anderson	209 Linn	80 Coffey	118 Anderson	209 Linn	
22 Stanton	147 Grant	10 Haskell	35 Gray	601 Ford	70 Klowa	81 Pratt	123 Kingman	15,473 Sedgwick	1,097 Butler	226 Greenwood	58 Woodson	459 Allen	540 Bourbon	349 Wilson	386 Neosho	1589 Crawford
94 Morton	71 Stevens	541 Seward	31 Meade	27 Clark	5 Comanche	39 Barber	136 Harper	443 Sumner	1304 Cowley	157 Elk	165 Chautauqua	1,885 Montgomery	967 Labette	1409 Cherokee		

The chart above shows the number of persons in each Kansas county who received Aid to Dependent Children cash grants during November 1985. These grants are provided to two categories of needy families. The ADC Regular category provides assistance to persons in families with limited resources where a child is deprived of support either by absence, disability, or incapacity of a parent. The ADC Unemployed Parent category supports persons in two parent families with limited resources due to parental unemployment.

ATTACHMENT II
3/13/86
H.S. Local Gov.