

Approved Ivan Sand 3/18/86
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

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

1:30 ~~am~~/p.m. on MARCH 6, 1986 in room 521-S of the Capitol.

All members were present except: Rep. Martha Jenkins, excused

Committee staff present:

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

Conferees appearing before the committee:

Ms. Kelle Roesch, Kansas Trial Lawyers, HB 2939
Mr. Jerry Palmer, Kansas Trial Lawyers, HB 2939
Mr. Bill Curtis, Asst. Exec. Dir., Kansas
Assn. of School Boards, HB 2939
Mr. Fred Allen, Kansas Assn. of Counties, HB 2939
Mr. Jim Kaup, League of Kansas Municipalities,
HB 2939
Ms. Gerry Ray, Johnson County, HB 2939
Rep. Nancy Brown, HB 2939
Rep. George Dean, HB 2930
Mr. Fred Allen, Kansas Assn. of Counties, HB 2930
Rep. Harold Guldner, HB 3086
Mr. Phil Elwood, Kansas Hospital Assn., HB 3086
Mr. Denny Senseney, Chm., Derby Library Board,
HB 3054
Mr. James C. Meidinger, Derby City Councilman,
HB 3054
Mr. Ron Gaches, Boeing Military Airplane Co.,
HB 3054
Ms. Terry Humphrey, Kansas Manufactured Housing
Institute, HB 2862
Ms. Janet Stubbs, Home Builders Assn. of Kansas,
HB 2862
Mr. Jim Kaup, League of Kansas Municipalities,
HB 2862
Ms. Sue Seltsam, State Treasurer's Office, HB 3012

Chairman Sand called for hearings on the following bills:

HB 2912, amending the Kansas tort claims act; concerning exceptions from liability;

Chairman Sand explained that since committee action had been taken on HB 2912 on 3/5/86, testimony this date would be directed to HB 2939, a similar bill.

HB 2939, amending the Kansas tort claims act; providing certain exceptions from liability;

Ms. Kelle Roesch, Kansas Trial Lawyers Association, introduced Mr. Jerry Palmer, Kansas Trial Lawyers Association, who spoke in opposition to HB 2912 and 2939. Mr. Palmer said the changes to federal law which HB 2912 and HB 2939 propose would cause confusion. Mr. Palmer urged the committee to not act on either bill.

Mr. Bill Curtis, Assistant Executive Director, Kansas Association of School Boards, appeared in support of HB 2912 and HB 2939. (See Attachment I.)

Mr. Fred Allen, Kansas Assn. of Counties, said there is a concern and need

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 ~~a.m.~~/p.m. on MARCH 6, 1986

to establish where liabilities are regarding obtaining insurance for elected officials; that the Kansas Assn. of Counties supports making HB 2912 and HB 2939 into acceptable pieces of legislation.

Mr. Jim Kaup, League of Kansas Municipalities, said the League is a proponent of HB 2912 and 2939 but agrees with Mr. Palmer regarding the Tort Claims Act; that some effort must be made to focus into the intent of the bill sponsors.

Ms. Gerry Ray, representing the Johnson County Board of County Commissioners, said the liability issue is a major concern at the local level; that Johnson County supports and asks the committee to support any legislation addressing the problem.

Rep. Nancy Brown, sponsor of HB 2939, appeared and distributed materials related to research done on the liability insurance crisis. (See Attachment II.) Rep. Brown urged the committee to support the proposed legislation.

The hearing on HB 2939 was closed.

HB 2930, concerning inmates of county or regional jails; relating to reimbursement costs of maintenance.

Rep. George Dean, sponsor of HB 2930, gave background and intent of the bill.

A committee member questioned the 15% provision. Rep. Dean pointed out some discretion is left up to the judge.

Mr. Fred Allen, Kansas Association of Counties, said his Association would support the concept of HB 2930.

The hearing on HB 2930 was closed.

HB 3086, relating to counties; concerning the issuance of no-fund warrants for certain hospitals.

Rep. Harold Guldner, who had requested HB 3086, appeared to explain background and intent of the bill.

Mr. Phil Elwood, representing the Kansas Hospital Association, said the Hospital Association supports passage of HB 3086; that the bill puts county hospitals on the same footing as district hospitals.

The hearing on HB 3086 was closed.

Chairman Sand called for committee action on HB 2939 and HB 3086.

HB 2939

Rep. Robert D. Miller made a motion that HB 2939 be passed. Rep. Carl Holmes seconded the motion. The motion carried.

HB 3086

Rep. Dorothy Nichols made a motion to amend HB 3086 so that the reference to "Commission" would be changed to "Board of County Commissioners." Rep. Samuel Sifers seconded the motion. The motion to amend carried.

Rep. Dorothy Nichols made a motion that HB 3086 be passed as amended. Rep. Clinton Acheson seconded the motion. The motion carried.

Chairman Sand called for follow-up testimony on HB 3054 which had been heard on 3/4/86.

Rep. Elizabeth Baker, who had requested the legislation, introduced Mr. Denny Senseney, Chairman of the Derby Library Board, who spoke in support of HB 3054.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
 room 521-S, Statehouse, at 1:30 ~~am~~/p.m. on MARCH 6, 1986

Mr. Senseney introduced Mr. James C. Meidinger, Derby City Councilman, who said the city fully supports HB 3054; that the City Council and School Board vote was unanimous on the issue.

Rep. Kenneth Francisco made a motion to amend HB 3054 by requiring a "vote of that portion of the school district outside the city limits of Derby."
 Rep. Mary Jane Johnson seconded the motion.

Mr. Ron Gaches, representing Boeing Military Airlplane Co., said Boeing would continue to oppose HB 3054, regardless of the adoption of the Francisco Amendment, as most of the funding for the project would be derived from Boeing.

Rep. Mary Jane Johnson made a motion that HB 3054 be passed as amended.
 Rep. Samuel Sifers seconded the motion. The motion carried.

Chairman Sand called for presentation of amendments and action on the following bills:

HB 2862, relating to cities and counties; concerning the zoning regulation of certain types of housing;

Ms. Terry Humphrey, Kansas Manufactured Housing Institute, presented proposed amendments to HB 2862, as set out in balloon bill prepared by Staff. (See Attachment III.)

Rep. Dorothy Nichols made a motion that HB 2862 be amended as proposed.
 Rep. L. V. Roper seconded the motion. The motion to amend carried.

Rep. Dorothy Nichols made a motion that HB 2862 be passed as amended. Rep. L. V. Roper seconded the motion.

Discussion followed. Ms. Janet Stubbs, Home Builders Association of Kansas, briefly summarized testimony submitted opposing HB 2862 from the Topeka-Shawnee County Metropolitan Planning Agency and the International Conference of Building Officials. (See Attachments IV and V.)

Mr. Jim Kaup, League of Kansas Municipalities, noted that the League opposes HB 2862. (See Attachment VI.)

Ms. Terry Humphrey, Kansas Manufactured Housing Institute, explained that a modular home must be built to conform with local building codes.

A voice vote on the motion to pass HB 2862 as amended was inconclusive. A division was called for. A show of hands indicated four in favor; therefore, the motion failed.

HB 3012, concerning the countywide retailers' sales tax; relating to the apportionment thereof;

Ms. Sue Seltsam, State Treasurer's Office, said the State can work with the amendments approved for HB 3012; that the legislation would enable the State Treasurer to pay to the cities the monies the counties are presently receiving and paying.

Rep. Rick Bowden made a motion that HB 3012, which had been amended on 3/3/86, be passed as amended. Rep. Carl Holmes seconded the motion. The motion carried.

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

Ms. Mary Hack, Staff, explained amendments proposed in balloon bill. (See Attachment VII.)

A committee member questioned which cities would be covered by HB 2725. Mr. Mike Heim, Staff, explained that the bill involves cities with populations of 60,000 to 200,000 which would limit it to Shawnee and Wyandotte Counties.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
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Rep. Gayle Mollenkamp made a motion to amend HB 2725 as proposed by Staff. Rep. Clinton Acheson seconded the motion. The motion to amend carried.

Rep. Clinton Acheson made a motion to localize HB 2725 to Shawnee County and pass as amended. Rep. Dorothy Nichols seconded the motion. Discussion followed. Rep. Acheson withdrew his motion to localize HB 2725.

Rep. Clinton Acheson made a motion to pass HB 2725 as amended. Rep. Robert D. Miller seconded the motion. The motion carried.

HB 2659, concerning public and governmental buildings; relating to handicapped accessibility standards;

Rep. Robert D. Miller made a motion that HB 2659 be passed. Rep. Mary Jane Johnson seconded the motion. The motion carried.

HB 2877, concerning water districts; relating to the qualifications of the manager thereof;

Rep. Phil Kline made a motion that HB 2877 be passed. Rep. Arthur Douville seconded the motion. The motion carried.

HB 3006, concerning the employment security law; relating to the definition of certain terms;

Rep. Phil Kline made a motion that HB 3006 be passed. Rep. Kenneth Francisco seconded the motion. The motion carried.

HB 3052, concerning libraries; authorizing the establishment of a special accruing fund.

Rep. Kenneth Francisco made a motion that HB 3052 be passed. Rep. Clyde Graeber seconded the motion. The motion carried.

HB 2930, concerning inmates of county or regional jails; relating to reimbursement of costs of maintenance.

Rep. George Dean made a motion to amend HB 2930 by conceptually clarifying the 15% requirement. Rep. L. V. Roper seconded the motion. The motion to amend carried.

Rep. George Dean made a motion to pass HB 2930 as amended. Rep. L. V. Roper seconded the motion. The motion carried.

The meeting was adjourned.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

TESTIMONY ON HB 2912
before the
HOUSE LOCAL GOVERNMENT COMMITTEE
by
Bill Curtis, Assistant Executive Director
Kansas Association of School Boards

March 6, 1986

Mr. Chairman and members of the Committee, we appreciate the opportunity to present the concerns of the 303 member boards of education of the Kansas Association of School Boards. HB 2912 adds to the list of actions or functions by a governmental entity that are exempt from liability. KASB supports HB 2912.

As I am sure you all know, it is very difficult for governmental entities to purchase liability insurance in today's market. Premiums are increasing at an alarming rate and coverage is declining. Most insurance companies cite the unpredictable nature of liability coverage when explaining the rising costs and declining coverage. Consequently, the Kansas Association of School Boards has supported legislation which expands immunity, clarifies statutes, or limits liability. Obviously, HB 2912 fits into that list. We urge your support for the bill. Thank you for your attention.

HS. LOCAL GOV.
ATTACHMENT I
3-6-86

THE WHITE HOUSE

WASHINGTON

December 20, 1985

Dear Ms. Brown:

Thank you for sharing with me your thoughts on the liability insurance crisis. Your letter confirms that America's cities and towns have been placed in an untenable position.

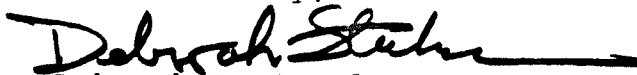
Easing the liability insurance crunch will require a cooperative effort among local, state, and federal officials. The vast majority of officials with whom I have communicated have indicated that the solutions fall predominantly within the province of our state legislatures. Several states are contemplating measures to tighten insurance regulations, and at least eight states have established off-market insurance pools for their cities. Many have proposed capping the damages and attorneys' fees that can be assessed against municipalities. Twenty-eight states have already done so as a matter of their own law.

Several of your colleagues suggested that the federal government can complement these efforts by placing reasonable limits on the awards that may be assessed against state and local officials under § 1983 and other federal statutes. The Administration already supports legislation now before the Senate that would sharply limit attorneys' fees awarded against state and local governments under federal statutes; rates would be limited to \$75 per hour, and fees would in many instances be satisfied at least in part out of the damages giving rise to the attorneys' fees.

The Attorney General has formed a Working Group to propose further reforms in federal law that would alleviate this insurance crisis. Your thoughtful comments will enable me to ensure that state and local concerns are adequately taken into account in the Working Group's deliberations.

Again, thank you for taking the time to write, and I look forward to a continuing dialogue as we tackle this problem in the year ahead.

Sincerely,



Deborah L. Steelman

Deputy Assistant to the President
Director, Office of Intergovernmental Affairs

Ms. Nancy Brown
Member of the House of Representatives
of the State of Kansas
15429 Overbrook Lane
Stanley, Kansas 66224-9744

HS. LOCAL GOV.
ATTACHMENT II
3-6-86

THE WHITE HOUSE

WASHINGTON

January 31, 1986

Dear Mr. Russell:

On behalf of Mitch Daniels, Assistant to the President for Political and Intergovernmental Affairs, I would like to thank you for participating in the Federal Issues Roundtable sponsored by the National Association of Towns and Townships on January 14. The Roundtable confirmed that the liability insurance crisis has placed America's cities and towns in an untenable position.

Prior to the Roundtable, the majority of officials with whom I had communicated indicated that measures to ease the insurance crunch fall predominantly within the province of our state legislatures. In light of the panel's discussion, I would be grateful for your thoughts on exactly what role the federal government might play to complement these efforts.

The Administration already supports legislation now before the Senate that would strictly limit attorneys' fees awarded against state and local governments under many federal statutes; rates would be limited to \$75 per hour, and fees would in many instances be satisfied at least in part out of the damages giving rise to the attorneys' fees. As one possible approach, would you and others in the intergovernmental community support efforts to place similarly reasonable limits on the awards that may be assessed against state and local officials under § 1983 and other statutes?

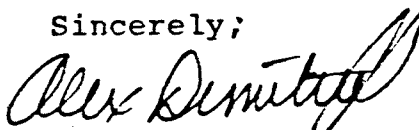
As you know, the Attorney General has formed a Working Group to examine recent developments and make appropriate policy recommendations in several areas involving tort law, including the liability insurance problem. Your comments will enable our office to ensure that state and local concerns are adequately taken into account in the Working Group's deliberations.

I look forward to a continuing dialogue as we tackle this problem in the year ahead. In the meantime, I thought you

Page Two
January 29, 1986

might like to take a look at a pertinent memorandum Mitch has already sent to the Working Group.

Sincerely;



Alex Dimitrief

Special Assistant to the Assistant to
the President for Political and Intergovernmental Affairs

Enclosure

Mr. Barton D. Russell
President, National Center
for Small Communities
University of Hartford
Barney School of Business and
Public Administration
West Hartford, Connecticut 06117

THE WHITE HOUSE

WASHINGTON

January 21, 1986

MEMORANDUM FOR MEMBERS OF THE WORKING GROUP
ON TORT LAW

FROM: MITCHELL E. DANIELS, JR. *mitch D.*
ASSISTANT TO THE PRESIDENT FOR
POLITICAL AND INTERGOVERNMENTAL AFFAIRS

SUBJECT: Municipal Liability Insurance Crisis

Local governments approaching their next budget cycles are finding it especially difficult to secure adequate liability insurance. One official reports that the market for public entities is "extremely limited" and "diminishing to nothing." Those cities able to secure bids are finding insurance companies' offers prohibitively expensive. Generally, renewal rates have climbed by as much as 400 percent -- and often for lower coverages with higher deductibles.

In Indianapolis, for example, the cost of Mayor Hudnut's vehicle insurance is up 40 percent to over \$1 million; the city's Hoosierdome policy has risen 300 percent in cost. Des Moines, Iowa has always carried a \$50 million umbrella liability policy that cost \$187 thousand in 1985. But last summer, the Mayor learned that while the city's premium would be increased to \$800 thousand, its coverage would be reduced twenty-fold to just \$2.5 million. Rather than renew, Des Moines has chosen to risk foregoing any insurance coverage.

Smaller cities unable to chance what for them would be bankruptcy-inducing court judgments have had to swallow similarly distasteful offers. Cities unable to cough up premium payments have been forced to reevaluate and sometimes limit the services they provide to their citizens. Finally, in the wake of policy cancellations, a number of city and county officials have resigned, fearing personal exposure to lawsuits stemming from their official duties.

To be sure, cities do not stand alone in facing an insurance crisis. The general insurance crunch plaguing both the private and public sectors can be traced in part to investment and premium practices that have always caused the industry to be especially cyclical. But the principal reason insurance companies are steering clear of local governments in particular is their uniquely broad exposure to costly civil suits. Twenty years ago, the doctrine of "sovereign immunity" generally protected cities from actions for damages even if their employees were guilty of negligence. The erosion of this shield has sent the pendulum swinging violently in the other direction.

Today, thousands of suits are pending against cities, prompted by routine services such as police and fire protection, schools, prisons, waste treatment, and mass transit. And as local governments offer greater services to their community, municipalities' exposure to legal damages and costly settlements grows more and more. Furthermore, increasingly clever plaintiffs' attorneys have exploited ingenious legal theories and the joint and several liability doctrine to transform tort law into a type of social insurance system and thereby enable their clients to turn to municipalities as defendants with "deep pockets."

States and cities have already begun to try to fight their way out of the insurance dilemma. Municipal managers are demonstrating an increased appreciation of conscious risk management; as a result, some communities have actually found it most efficient to provide for "self-insurance" out of their own budgets. Several states are contemplating tightening insurance regulations so that premiums will better reflect the risk of the insured rather than the investment needs of the insurer. Others are considering following the example set by eight states that have established off-market insurance pools for their cities and counties.

But, as one might expect, most local officials contend that the only lasting solution to the insurance dilemma would involve tort reforms narrowing cities' liability. Most favor placing a reasonable cap on damages and attorneys' fees that can be assessed against municipalities. Twenty-eight states have already placed caps on punitive and other non-economic damages that can be awarded against local governments under common law. A variety of other approaches are being considered across the country, including

- limiting attorneys' fees to reasonable rates,
- eliminating pre-judgment interest awards,
- curtailing the applicability of the joint and several liability doctrine to local governments,
- offsetting damage awards by payments received from collateral sources such as workers' compensation;
- penalizing those who bring frivolous suits, and
- reasserting parts of the traditional sovereign immunity doctrine.

Federal courts, of course, remain beyond the reach of any such state reforms. Accordingly, state and local officials believe that the federal government should complement their efforts by affording cities relief in the federal courts akin to the special defenses they enjoy before state tribunals. Numerous bills have already been introduced in Congress to limit reasonably claims made pursuant to § 1983 and other federal statutes.

A bill introduced by Senators Hatch and Thurmond, for instance, would (a) limit § 1983 statutory actions to those pertaining to

equal rights, (b) extend the good-faith defense presently enjoyed by officials to local governments themselves, (c) require all claims to be filed within eighteen months of the alleged violation, and (d) require that the plaintiff first exhaust all other administrative and judicial remedies, including those available at the state level.

As for court costs, the Administration already supports legislation now before the Senate that would sharply limit attorneys' fees awarded against state and local governments under various federal statutes, including § 1988; rates would be limited to \$75 per hour, and fees would in many instances be satisfied at least in part out of the damages giving rise to the attorneys' fees.

Finally, indirect efforts by the federal government to pave the way for insurance pools or other insurance reform could be patterned after a bill recently introduced by Senator Hatch to provide "incentive grants" to encourage states ultimately to reduce the malpractice premiums presently paid within the medical profession.

As the Task Force continues its consideration of possible reforms in federal law that would alleviate this insurance crisis, I trust the particular concerns of our cities and counties will be adequately taken into account. Measures along the lines discussed above would not only offer immediate relief for cities in federal courts, but also serve as models after which states could pattern similar reform efforts. In any event, the practitioners in what the President likes to call "our laboratories of democracy" are eagerly awaiting your report to the Domestic Policy Council.

I have attached highlights from relevant correspondence and clippings my office has received.

SELECTED HIGHLIGHTS FROM LIABILITY INSURANCE
CORRESPONDENCE AND CLIPPINGS

(93 letters)

Lois Pohl
Coordinator,
Intergovernmental
Relations State of
Missouri

"Every meeting that I attend has this problem on their agenda. Our cities and counties are getting very paranoid."

Don A. Zimmerman
Executive Director,
Arkansas Municipal
League

"[O]ur suggestion would be a federal limit on attorney's fees under Section 1983. This approach would tend to reduce the number of frivolous lawsuits being filed and those in which the plaintiff's lawyer is simply trying to prevail on some point in order to be entitled to an award of attorney's fees."

Edwin L. Griffin, Jr.
Executive Director,
Kentucky Municipal
League

"The White House can be of great assistance by recommending to Republican legislators that they cooperate and assist in the passage of some limiting liability legislation not only designed to hold down costs, but also to provide an environment in which a pooled liability insurance program, independent from the private sector, can be established of those local government entities.

"A second means by which the White House could assist local governments in this area is to assist with the development of standards for the federal courts regarding the '1983 issue' which would have an effect on local government agencies."

Eric W. Oyer
Assistant Borough
Manager
Chambersburg,
Pennsylvania

"Either state or federal governments may have to assist local governments in either providing mechanisms for pooling insurance or federal or state monies to assist in catastrophic claims. In the long term, either the federal or state governments must legislate caps on liability awards (including attorneys fees) against local governments and local governments must make every effort to reduce their exposures."

Michael D. Antonovich
Board of Supervisors
County of Los Angeles

"Because the State Legislature has failed to pass remedial legislation, efforts are being made to place an initiative on the 1986 ballot. The so-called Deep Pockets Initiative would limit intangible judgments against public agencies."

Victor Rojas
National League
of Cities
Nation's Cities
Weekly
November 25, 1985

"Pooling offers smaller communities the opportunity to become involved in self-insurance or self-funding, something which they might not be able to do on their own. Among the benefits afforded small to medium size communities via pooling are spreading of risk, spreading direct costs over more buyers, group purchase of excess insurance, data collection, and analysis.

"Many state and federal regulators and lawmakers believe that the only real long-term solution is revising the system of liability law to limit damages."

William Gill
Mayor of Northfield,
Minnesota

"Set guidelines where the courts must stay within the legislative guidelines. Strong penalties need to be levied for frivolous lawsuits. All lawsuits should be filed within three months of the alleged injury and be brought to court and settled within one year. A guideline should also be set where an attorney can only receive ten percent of the settlement or an hourly rate based on standard rates."

Shirley F. Heintz
Mayor of Centerville,
Ohio

"Although a [state] bill [limiting damages] will be helpful, it is no guarantee that liability insurance rates will decline. Anything you can do on the federal level will be very much appreciated by cities throughout the United States."

Patricia Killoren
Mayor of Crestwood,
Missouri

"Most local government elected leaders receive virtually no financial compensation for serving their cities and now many of them are facing potentially destructive lawsuits and damage awards without any insurance coverage. If some relief is not forthcoming, it will be impossible to find responsible persons willing to serve our local communities."

William K. Springer
City of Cheyenne Risk
Manager
Cheyenne, Wyoming

"One area of concern in the State of Wyoming is the potential liability exposure in the federal civil rights area, 42 U.S.C. Section 1983. Consideration at the federal level regarding this would be most appropriate."

Richard J. Gross
Governor's Counsel
State of North Dakota

"The North Dakota Insurance Commissioner is currently working on a pool concept in order to make such coverage attainable and affordable by our political subdivisions. The Western Governors Association may be looking at the possibility of an insurance pool for all of the western states."

William J. Althaus
Mayor of York
York, Pennsylvania

"I believe action should be taken to change the tort system to eliminate punitive damages in most litigation, limit the use of contingency fee arrangements, limit "joint and several" liability and establish caps on the amount of damage awards against municipal governments."

Frank Fasi
Mayor of Honolulu

"An effort is ongoing to restrict the exposure the City now experiences, as a result of the application of the doctrine of joint and several liability. Hawaii is a comparative negligence state, and the City is frequently required to pay for the entire amount of judgments, even though found by a jury to be only 10% or less responsible."

Robert R. Cantine
Wyoming Association
of Municipalities

"The Joint Judiciary Interim Committee is considering bills that would: (a) restore certain aspects of sovereign immunity, (b) impose limitation on liability judgments for governmental entities, (c) restore comparative negligence as the legal framework for liability actions instead of joint and several liability, (d) self insure the state's general liability policy, and (e) self insure for peace officers' liability policy."

Florence Shapiro
Council Member
Plano, Texas

"First, the erosion of governmental immunity must be stopped. Re-establishment of public entities' immunity is essential if cities are to gain relief from the current explosion in areas of liability. Second, tort law reforms are needed at both the state and federal level."

Michael N. Castle
Governor of Delaware

"There are several areas in which the federal, state, and local governments can contribute towards this healing process:

1. The federal government may be of assistance in helping to create and financially support an environmental liability insurance pool similar to the nuclear energy insurance pools that were created approximately 20 years ago;
2. On the state level, insurance officials will be considering the creation and extension of statutory limits or caps on liability for tortious conduct; and
3. Representatives of local governments in Delaware have entered into discussions with Delaware's insurance commissioner for the purpose of exploring the possibility of creating a self-insured pool."

Mark White
Governor of Texas

"Members of my staff are reviewing the possibility of developing legislation that would limit settlements."

Elton Gallegly
Mayor of Simi Valley
California

"Alternatives being considered at this time include forming a statewide insurance pool for reinsurance and lobbying at the state level for a state financed "Super Fund" to insure victim compensation in cases involving the uninsured."

A. Starke Taylor, Jr.
Mayor of Dallas

"Twenty-eight states have passed laws limiting a municipal government's liability. These efforts, however, have not helped in the current crisis because state laws do not affect federal constitutional issues. A uniform cap or limit that would apply in all 50 states for constitutional torts would help municipalities manage the lawsuits that affect cities today. At the state level, joint and several liability, punitive damages and non-economic damage awards need to be capped or barred in their entirety. Binding arbitration or mediation and mandatory structured settlements will also help not only the City of Dallas but all local governments to escape the dips and swings of the insurance marketplace."

TO: Folks "In The Loop" *BR*
FROM: Bart Russell; Rob Hebler
RE: National Small Town Risk Management Symposium
DATE: January 24, 1986

Background

The Nation's 39,000 towns, townships, cities and counties are facing a liability insurance crisis. The crisis has three primary elements: First, some jurisdictions are unable to get general liability insurance at all; second, for those who have been able to get it, the costs have been sky-rocketing with no end in sight; third, those that have been fortunate enough to obtain some general coverage are nevertheless part of a national universe of local governments that are unable to get pollution liability coverage.

While the consequences of this crisis fall upon all jurisdictions, it hits hardest on the thousands of smaller local governments which cannot afford to self-insure and generally do not have the opportunity to organize insurance pools. And, furthermore, it is the small towns that will be the hardest hit if sued and they are uninsured. A judgement against an uninsured or under-insured municipality can place the community's very existence at risk. The case of South Tucson, Arizona (pop. 8,000) makes this point eminently well. When a multi-million dollar verdict was awarded against the town, South Tucson was nearly forced to file for bankruptcy. Ultimately it agreed to a structured settlement that nevertheless put the community under enormous fiscal stress.

Absent adequate liability insurance coverage, towns have really only one alternative if they are to reduce the chance of a catastrophic lawsuit: that is, to minimize their exposure and reduce the potential of liability claims through risk management.

Risk Management: A National Symposium

The vast majority of America's small towns have neither the funds to hire a risk manager nor the current capability to adapt and implement a risk management plan. In order to achieve the objective of loss control and minimization of financial risk, it would make great sense for the Nation's smaller jurisdictions to develop a risk-management capacity.

In order to investigate the feasibility of the adoption of risk-management strategies by small municipalities on a large scale, it is proposed that a national risk-management symposium be convened. The purpose of the symposium would be to bring together senior representatives from government, industry, trade groups and small town officials to improve their knowledge about the current level of risk management in small communities and develop strategies for undertaking risk management.

Such a symposium would offer numerous benefits. With anticipated media coverage (local press, NATAT publications, etc.) it is expected that such a meeting would help enlighten local governments generally about the value of risk management. Furthermore, such a symposium could very well produce interest in, and support for, follow-up risk-management training and other educational activities. Both the University of Hartford and the National Association of Towns and Townships would gain valuable, positive public visibility. The Department of Public Administration specifically would gain sorely needed recognition among its prospective clients as a leading public sector training institution.

Invited participants and symposium presentors would be selected from the following agencies, organizations and companies: University of Hartford - Department of Public Administration, Connecticut Council of Small Towns (Executive Director), National Association of Towns and Townships, Risk Science International, New York Towns Association, Pennsylvania Township Association, Insurance Information Institute, Public Risk Insurance Management Association, Risk Information Management Society, The Aetna, Travelers, The Hartford, CIGNA, All-Industry Research Advisory Council, Professor John Pine (LSU), Connecticut Insurance Commissioner, Crum and Foster, et.al.

Action Needed

Please review this memo and note your ideas, reactions, suggestions for improvement, etc. Once you have had a chance to think this through, please call me (no later than 1/31) with your comments. After I've heard from you, I'll schedule and plan a meeting of interested principles.

Once we've settled on more of the specifics and adequately refined the symposium proposal, I will begin soliciting insurance companies for support. Thanks for your help in strengthening the plan for this meeting.

ISSUES TO BE RESOLVED:

Agenda Development:

Budget Preparation and Fundraising:

Site Selection: (Possibilities include the A.S.K. House, Insurance Company Training Facility, Hotel)

Date and Time (Mid-March to Mid-April preferred):

Sponsors: NATaT - National Center for Small Communities, University of Hartford, in corporation with select insurance companies

Participants (Need to develop refined list of attendees and presentors):

Logistics (Caterer, Menu, Room Set-Up, etc.):

Media (Public information strategy, press packets, etc.):

Invitation Letter (and follow-up resource materials):

Staffing (Assignment of responsibilities for effective symposium management):

Meeting Management (How moderated, recorded):

TORT LIABILITY - INSURANCE

STATE	TORT LAW REVISION	INSURANCE REGULATION	SPECIAL PROBLEMS	NOTES
	* Joint/Several Liability.	* Insolvency - Guaranty Fund	State/Local Gov'ts.	
	* Collateral Source	Admin. Action to Promote Access	Medical Malpractice	
	* Prejudgement Interest		Day Care Centers	
	* Caps on Damages		Environ. Impairment	
	* Structured Awards		Schools	
	* Frivolous Suits		Non Profit/Voluntrs.	
	* Sovereign Immunity		* Dram Shop	
			AIDS Epidemic	
ALABAMA				May consider revision of Insurance Code
ALASKA	x x x x x x x			
ARIZONA	x x	x		Special commission on property/casualty insurance set up
ARKANSAS				
CALIFORNIA	x x x x x x x	x		
COLORADO	x x x x x x x	x		
CONNECTICUT			*****	Unisex rates--abol. Coll. Source rule MedMal'85
DELAWARE				Unisex rates--has authority for joint underwriting
FLORIDA	x			
GEORGIA	*****			Uninsured motorists a priority
HAWAII		x		Insurance code scheduled for revision 1987
IDAHO	*****			
ILLINOIS	*****			
INDIANA		x		May propose citizen advocate for Insurance Board
IOWA	x x x x x x x			
KANSAS				Capped punitive damages in MedMal'85
KENTUCKY				Insurance for grain elevators major problem
LOUISIANA				Awaiting court test of cap on damage awards
MAINE				
MARYLAND				Medical Malpractice/Liability insurance task forces
MASSACHUSETTS				
MICHIGAN	x x x			
MINNESOTA		x		
MISSISSIPPI				
MISSOURI				

****Study in Progress

INSURANCE AND NEEDS SURVEY

Township Name Junction Township Population _____ County Osage

Township Official's Name, Address and Phone Number:
Trustee: Allen Kettler Vassat, Kans 913-828-4819

Clerk: _____

Treasurer: _____

Does Your Township Operate Under: Township Unit Road System County System

What Responsibilities/Activities Are Handled By Your Township?

<input checked="" type="checkbox"/> Road/Bridge Maintenance	<input type="checkbox"/> Cemetery Maintenance	<input type="checkbox"/> Fire Protection
<input type="checkbox"/> Prairie Dog Eradication	<input type="checkbox"/> Sewer Plant	<input type="checkbox"/> EMT Service
<input checked="" type="checkbox"/> Noxious Weed Control	<input type="checkbox"/> Water Facilities	<input type="checkbox"/> Zoning/Planning

Other (please describe): _____

Property: Do you own or lease any of the following? If leased, please list payment.

Item	Own	Lease	Est. Value or	Lease Payment
Office/Township Building	_____	_____	_____	_____
Fire Station	_____	_____	_____	_____
Vacant Land	_____	_____	_____	_____
Cemetery	_____	_____	_____	_____

If there is any other stationary property (tanks, water towers, plants, machinery), please list below and use additional sheet if more space is needed. Please list if owned or leased.

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Office/Computer Equipment (typewriter, copying machine, computer, etc.) Use additional sheet if needed.

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Mobile Equipment (Include number and value. Use additional sheet if more space is needed):

\$ <u>100,000</u> Motor Grader (1)	\$ _____ Snow Plow ()	\$ _____ Truck (/)	
\$ <u>15,000</u> Tractor with (1) backhoe and trailer	\$ _____ Mower ()	\$ _____ Ambulance ()	
\$ _____ End Loader ()	\$ _____ Two-Way Radios ()	\$ _____ Fire Vehicle ()	

Automobiles (Include the following information for above mobile equipment as well):

Make	Model	Year	Owned	Leased	Value or Lease Payment
<u>1976</u>	<u>GMIC Dump Truck</u>	<u>76</u>	<input checked="" type="checkbox"/>	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Workers Compensation (Describe duties, number of employees, estimated annual payroll):

Job Description	No. Employees	Annual Est. Payroll
<u>grade roads fix bridges haul rocks of 12,000 lbs</u>	_____	_____
<u>clean truck from road</u>	<u>1</u>	<u>\$ 12,000</u>
_____	_____	_____

Insurance Information: (If more than one insurance company is involved, please list)

Type of Insurance (Annual Premium)	Insurance Company (Not Your Agent)	Expiration Date	Premium
A. Liability	<i>United Fire</i>	<i>1-10-86</i>	\$ -
1. Public Official D&O (E&O)	<i>Tudor Insurance Co</i>	<i>1-29-86</i>	\$ 750
2. General Liability	<i>United Fire</i>	<i>1-10-86</i>	\$ 622
3. Other			\$
B. Property			\$
1. Buildings/Other Real Property			\$
2. Office/Computer/Equipment			\$
3. Other			\$
C. Vehicles			\$
1. Automobiles	<i>United Fire</i>		\$ 134
2. Other <i>Inland Marine</i>	<i>United Fire</i>		\$ 1150
D. Workers Compensation	<i>United Fire</i>		\$ 791
TOTAL			\$ 3347

Insurance Information: Please list any comments or concerns you have regarding your current insurance coverage and needs for the future. Use additional sheet if more space is needed.

We need public official insurance that is cheaper. If we don't get some relief we won't have anyone to run for public office.

Claim/Loss Information: Please list any pending claims, insured claims, and uninsured losses including payment information, for the last three years.

Date	Nature of Claim	Open	Settled	Dollar Amount
<i>April 85</i>	<i>Wrist neck & shoulder</i>		✓	\$ 259
<i>1-16-85</i>	<i>Thorn in his hand</i>		✓	\$ 38.50

Miscellaneous: Please include any additional information you think may be helpful to us in helping you with your insurance needs.

Return To: Kansas Insurance Department, Attn: Dick Brock, 420 SW 9th, Topeka, Kansas 66612

THANK YOU FOR HELPING US HELP YOU!

Fletcher Bell
Commissioner of Insurance
(913) 296-3071

RECEIVED

Kansas Association of
Townships
(913) 897-3186

Independent Insurance
Agents of Kansas
(913) 232-0561

APR 29 1985

INSURANCE AND NEEDS SURVEY

Township Name BUFFALO Population _____ County CLOUD

Township Official's Name, Address and Phone Number:

Trustee: RAYMOND A. HANSON

Clerk: DEAN PIXLEY

Treasurer: GLENN H. LARSEN

Does Your Township Operate Under: _____ Township Unit Road System County System

What Responsibilities/Activities Are Handled By Your Township?

_____ Road/Bridge Maintenance	_____ Cemetery Maintenance	_____ Fire Protection
_____ Prairie Dog Eradication	_____ Sewer Plant	_____ EMT Service
_____ Noxious Weed Control	_____ Water Facilities	_____ Zoning/Planning

Other (please describe): MAINTAIN TOWNSHIP COMMUNITY BUILDING

Property: Do you own or lease any of the following? If leased, please list payment.

Item	Own	Lease	Est. Value or	Lease Payment
Office/Township Building	<input checked="" type="checkbox"/>		_____	_____
Fire Station			_____	_____
Vacant Land			_____	_____
Cemetery			_____	_____

If there is any other *stationary property* (tanks, water towers, plants, machinery), please list below and use additional sheet if more space is needed. Please list if owned or leased.

<u>1- PROPANE TANK (NOT INSURED)?</u>	<input checked="" type="checkbox"/>			

Office/Computer Equipment (typewriter, copying machine, computer, etc.) Use additional sheet if needed.

_____				<u>NONE</u>

Mobile Equipment (Include number and value. Use additional sheet if more space is needed):

\$ _____ Motor Grader ()	\$ _____ Snow Plow ()	\$ _____ Truck ()
\$ _____ Tractor ()	\$ _____ Mower ()	\$ _____ Ambulance ()
\$ _____ End Loader ()	\$ _____ Two-Way Radios ()	\$ _____ Fire Vehicle ()

Automobiles (Include the following information for above mobile equipment as well):

Make	Model	Year	Owned	Leased	Value or Lease Payment
_____	_____	_____			
_____	_____	_____			
_____	_____	_____			

Workers Compensation (Describe duties, number of employees, estimated annual payroll):

Job Description	No. Employees	Annual Est. Payroll
_____	<u>NONE</u>	

Insurance Information: (If more than one insurance company is involved, please list)

Type of Insurance (Annual Premium)	Insurance Company (Not Your Agent)	Expiration Date	Annual Premium
A. Liability	FARM Bureau INS CO.	3-08-86	\$97.00
1. Public Official D&O (E&O)	None		\$
2. General Liability	CL & T		\$ Incl.
3. Other	Premies Med.		\$ Incl.
B. Property	Farm Bureau Ins Co	3-08-86	\$124.56
1. Buildings/Other Real Property			\$
2. Office/Computer/Equipment	None		\$
3. Other			\$
C. Vehicles			\$
1. Automobiles			\$
2. Other			\$
D. Workers Compensation	None		\$
TOTAL			\$

Insurance Information: Please list any comments or concerns you have regarding your current insurance coverage and needs for the future. Use additional sheet if more space is needed.

Claim/Loss Information: Please list any pending claims, insured claims, and uninsured losses including payment information, for the last three years.

Date	Nature of Claim	Open	Settled	Dollar Amount
	NONE			

Miscellaneous: Please include any additional information you think may be helpful to us in helping you with your insurance needs.

Perhaps it would help to reduce our liability insurance if there could be a penalty applied to a person and/or their attorney where they sue for a huge amount and then they settle out of court or awarded just a small fraction they sued for damages.

WE WILL APPRECIATE ANY INFORMATION CONCERNING INSURANCE

Return To: Kansas Insurance Department, Attn: Dick Brock, 420 SW 9th, Topeka, Kansas 66612

THANK YOU FOR HELPING US HELP YOU!

Fletcher Bell
Commissioner of Insurance
(913) 296-3071

Kansas Association of
Townships
(913) 897-3186

Independent Insurance
Agents of Kansas
(913) 232-0561

11:44 2 000 00

HOUSE BILL No. 2862

By Committee on Local Government

2-7

0017 AN ACT relating to cities and counties; concerning the zoning
0018 regulation of certain types of housing; amending K.S.A. 19-
0019 2938 and repealing the existing section.

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

0021 Section 1. K.S.A. 19-2938 is hereby amended to read as fol-
0022 lows: 19-2938. Neither the board of county commissioners nor
0023 the planning board of any county shall, in the exercise of any of
0024 the powers and duties conferred under article 29 of chapter 19 of
0025 Kansas Statutes Annotated, regulate the occupancy or location of
0026 dwelling units in such a way as to effect an arbitrary exclusion of
0027 manufactured housing adopt any zoning regulation which pro-
0028 hibits the installation, on a foundation system, of any manufac-
0029 tured home certified under the national mobile home construc-
0030 tion and safety standards act (42 U.S.C. sec. 5401 et seq.),
0031 modular home, or other forms of prefabricated housing in any
0032 zoning district in the county on lots zoned for single family
0033 dwellings. The board of county commissioners or the planning
0034 board of any county may subject any such manufactured home,
0035 modular home or other form of prefabricated housing and the
0036 lot on which it is placed to any or all of the same development
0037 standards to which a conventional single family residential
0038 dwelling on the same lot would be subject, including, but not
0039 limited to, building setback standards, side and rear yard re-
0040 quirements, standards for enclosures, access and vehicle park-
0041 ing and architectural, aesthetic requirements. However, any
0042 architectural requirements imposed on such manufactured
0043 home, modular home or other form of prefabricated housing
0044 shall be limited to its roofing material and siding material. In no
0045 case may the board of county commissioners or the planning

permanent

, minimum width requirements

and any developmental standards imposing a minimum width requirement on such manufactured home, modular home, other form of prefabricated housing shall not impose a minimum width requirement greater than 23 feet

*Hs. Local Gov.
ATTACHMENT III
3/6/86*

0046 board of any county apply any development standard in a man-
 0047 ner which will have the effect of totally precluding manufac-
 0048 tured homes, modular homes or other forms of prefabricated
 0049 housing from being installed as permanent dwellings on lots
 0050 zoned, in any zoning district, for single family dwellings.

0051 New Sec. 2. Neither the governing body nor the planning
 0052 commission of any city shall adopt any zoning regulation which
 0053 prohibits the installation, on a foundation system, of any man-
 0054 ufactured home certified under the national mobile home con-
 0055 struction and safety standards act (42 U.S.C. sec. 5401 *et seq.*),
 0056 modular home, or other form of prefabricated housing in any
 0057 zoning district in the city on lots zoned for single family dwell-
 0058 ings. The governing body or the planning commission of any city
 0059 may subject any such manufactured home, modular home or
 0060 other form of prefabricated housing and the lot on which it is
 0061 placed to any or all of the same development standards to which
 0062 a conventional single family residential dwelling on the same lot
 0063 would be subject, including, but not limited to, building setback
 0064 standards, side and rear yard requirements, standards for enclo-
 0065 sures, access, and vehicle parking and architectural, aesthetic
 0066 requirements. However, any architectural requirements im-
 0067 posed on such manufactured home, modular home or other form
 0068 of prefabricated housing shall be limited to its roofing material
 0069 and siding material. In no case may the governing body or the
 0070 planning commission of any city apply any development stan-
 0071 dard in a manner which will have the effect of totally precluding
 0072 manufactured homes, modular homes or other forms of prefabri-
 0073 cated housing from being installed as permanent dwellings on
 0074 lots zoned, in any zoning district, for single family dwellings.

0075 Sec. 3. K.S.A. 19-2938 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.

permanent

, minimum width requirements

and any developmental standards imposing a minimum width requirement
 on such manufactured home, modular home, other form of prefabricated
 housing shall not impose a minimum width requirement greater than
 23 feet



Topeka-Shawnee County

Metropolitan Planning Agency
820 S.E. Quincy, Suite 320
Topeka, Kansas 66612
Phone 913-234-2103



06 March 1986

Chairman Sands and
House Committee on Local Government
State of Kansas

Re: House Bill #2862

Dear Chairman Sands and Members of the Committee:

House Bill #2862 introduces a new dimension of discontinuity and inconsistency in the application of uniform codes, ordinances, and standards currently applied by the City of Topeka and most other cities in Kansas.

Permanent housing structures of all types, whether they be constructed on the site, or be modular, manufactured, component, prefabricated, etc., shall meet the requirements and standards of the Uniform Building Code, as adopted by the Governing Body. Compliance to this adopted code is enforced through the issuance of a building permit and periodic inspections by the Code Enforcement Officials.

House Bill #2862 in effect would create an additional set of standards and would eliminate the inspection and compliance provisions for those structures which are constructed elsewhere and are transported to locations in local communities.

Local building, safety and fire codes are not concerned with the appearance architecturally, but with the safety aspects in the protection of life and property. Based upon the review of the "other" standards imposed by House Bill #2862, there are substantial deviations from the adopted minimum standards of the Uniform Building Code which applies to the structural design and safety aspects.

One major objective of the City of Topeka is to apply uniform and consistent codes, ordinances, standards and policies for the health, safety and general welfare of all its citizens. House Bill #2862, if enacted, would be a substantial departure to that objective.

Respectfully,


James H. Schlegel, II
Planning Director

lca

HS. LOCAL GOV.
ATTACHMENT IV
3/6/86



Heart of America Chapter

International Conference of Building Officials



REFERENCE MANUFACTURED HOUSING WITHIN SINGLE FAMILY DWELLING DISTRICTS

THE MEMBERS OF THE HEART OF AMERICA CHAPTER HAVE A CONCERN ABOUT THE PROPOSED ALLOWANCE OF MANUFACTURED HOUSING IN SINGLE FAMILY DWELLING DISTRICTS. OUR PRIMARY CONCERN IS THE CONSTRUCTION OF THESE UNITS. A VAST MAJORITY OF THE JURISDICTIONS ADMINISTERING A CODE ARE USING THE UNIFORM BUILDING CODE AS PUBLISHED BY THE INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS. THE UNIFORM BUILDING CODE STATES, "BUILDINGS OR STRUCTURES MOVED INTO OR WITHIN THE JURISDICTION SHALL COMPLY WITH THE PROVISIONS OF THIS CODE FOR NEW BUILDINGS OR STRUCTURES".

WE REALIZE THAT SOME MANUFACTURED HOUSING UNITS HAVE QUALITY CONSTRUCTION AND MATERIALS, OUR CONCERN ARE THOSE UNITS THAT DO NOT. WITHOUT PROPER REVIEW, INSPECTION AND QUALITY CONTROL MANUFACTURED HOUSING UNITS SHOULD NOT HAVE "BLANKET" APPROVAL TO BE MOVED WITHIN ANY JURISDICTION ENFORCING A MODEL CODE.

HOWARD UHL
VICE PRESIDENT

WILLIAM A. BEASLEY
PRESIDENT

JIM CRANFORD
SECRETARY

HEART OF AMERICAN CHAPTER

*Hs. LOCAL GOV.
ATTACHMENT II
3/6/86*



League of Kansas Municipalities

Rep R. D. Miller
183-w

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

TO: House Committee on Local Government
FROM: Kevin R. Davis, Attorney
DATE: March 6, 1986
SUBJECT: HB 2862

As you may recall, I testified on February 20, 1986 that the League of Kansas Municipalities had no official policy position on House Bill 2862. Since that time, the League has taken a position in opposition to this bill. Our primary concern is the home rule authority of cities and the federal preemption of local building standards.

The issue in this bill is not zoning, but rather the code requirements of the community. The prohibitions which many communities may have against manufactured housing, or mobile homes, are due not to the use, but rather to the code and construction standards of the structure. This bill attempts to solve a code problem with a zoning land use solution. The reason for the problem is that the federal government has imposed standards on manufactured housing, or mobile homes, which preempt local authority for code review. The federal government has used the interstate commerce powers, to regulate business which crosses state lines for the purpose of improving the quality and durability of manufactured homes. While there's no question that these federal standards have improved the overall quality of manufactured housing, there is no proof that these codes are equivalent to local codes or standards which a community may feel are most appropriate. Therefor, it is because of the federal preemption and standards

President: Ed Eilert, Mayor, Overland Park • Vice President: John L. Carder, Mayor, Iola • Past President: Peggy Blackman, Mayor, Marion
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 VI
3/6/86

that a distinction can be made between a manufactured structure using a federal code and a site-built structure using a local code, irrespective of the use of the structure.

Because of this federal preemption, the home rule power is the only manner in which municipalities have in order to address the distinction between manufactured housing and site-built structures. Municipalities are still obligated to deal with manufactured housing as they are with all types of structures in a reasonable and nondiscriminatory manner.

It should be pointed out that the League's position relates only to housing which does not meet a local code. That is, manufactured housing, or mobile homes, which fall under the federal requirements are those which are distinguishable and should be regulated on the local level. Other types of housing, such as prefabricated or component homes which must meet a local code, are not of concern to the League.

House Bill 2862 has a number of problems as it exists today. My testimony of February 20 pointed out a number of these problems and I have attached that testimony for your review. I would like to point out, however, that the architectural review requirements are specifically limited to "roofing material and siding material." Therefor, such architectural requirements as the pitch of the roof, number of stories and garages are not requirements which could be imposed by the local community. This makes the architectural requirements provision almost meaningless to control the aesthetics of the structure.

Another concern which is not addressed is the provision for the connection of the manufactured house to the "foundation system," and the utilities, such as water, sanitary sewer, natural gas, electric and other utilities. The bill does not provide for the exclusive use of the manufactured structure for residential purposes only. That is, many zoning districts allow for single family residences within the business or commercial zoning districts. These heavier or more intense zoning uses would probably not be appropriate in a manufactured housing structure which, under the federal guidelines, is constructed to a residential standard. With this possibility, local officials will have no control over the possible use of a manufactured structure being used for business or commercial purpose.

There has been much discussion about the use of restrictive covenants in prohibiting certain types of manufactured housing from various residential neighborhoods. Frequently, restrictive covenants only last for a specified number of years. For example, 20 years is a common time period for the life of a restrictive covenant. Therefor, after the 20 years had elapsed, any restrictive covenant prohibiting mobile homes, for example, would no longer be in effect. This would then allow for the intrusion of mobile homes in a neighborhood which previously had had restrictive covenants prohibiting them. Many of the older and established neighborhoods would probably never have had a prohibition against mobile homes in the first place, and those that had the restriction would now have expired. In any event, judicial review of such a prohibitive covenant would consider the public policy which

would allow mobile homes in an area. This certainly would make restrictive covenants a precarious way in which to try and restrict mobile homes in any given neighborhood.

The League understands the problems of the placement of manufactured housing in cities. But we believe that the regulations which are in effect are reasonable and responsible to deal with this problem. That is, constitutional home rule authority exercised in a reasonable manner is the most appropriate way to deal with this issue.

We urge your opposition to HB 2862.

HOUSE BILL No. 2725

By Representatives Smith, Barr, Brown and Laird

1-23

_____ and fire district

0017 AN ACT concerning certain township fire departments; relating
0018 to rescue service and emergency care; amending K.S.A. 80-_____ 80-1546 and
0019 1903 and repealing the existing sections.

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- _____ or fire district
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.

(5) "Fire district" means any fire district which has established a fire department pursuant to K.S.A. 80-1540 et seq. and amendments thereto.

0040 (b) The township board may authorize the township fire _____ or governing body of the fire district

0041 department to provide rescue service as a township function, _____ or fire district

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

HS. LOCAL GOV.
ATTACHMENT III
3/6/86

0046 general fund or the fire fund. _____ or the fire district fund
_____ or governing body of the fire district

0047 (c) The township board may establish charges to persons
0048 receiving rescue service inside or outside of such township. The _____
_____ or fire district

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. _____ and K.S.A. 80-1546 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. _____ and by K.S.A. 1985 Supp. 80-1544 and 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.

4

Insert new section (See attached)

80-1546 and

are

Kansas register

5

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.

Sec. 3. K.S.A. 80-1546 is hereby amended to read as follows: 80-1546. The governing body of the fire district shall have the power to levy a tax not to exceed three (3) mills upon the dollar of the assessed valuation of all property, real and personal, having a tax situs in the district, for the purpose of paying the expenses of providing rescue service and operating and maintaining a fire department and other legal expenses of the fire district which tax levy shall be in addition to all other tax levies authorized or limited by law, but no other levies for fire department purposes shall be made on such property.

In any such fire district located in any county having a population of not less than ~~one-hundred-fifty-thousand--(150,000)~~ 150,000 and not more than ~~one-hundred-eighty-thousand-(180,000)~~ 180,000, such tax levy may be made in an amount not to exceed seven (7) mills on such property, but no levy in excess of three (3) mills shall be made under the authority of this section until the governing body of the fire district shall have adopted a resolution authorizing the making of the levy in an amount not to exceed seven (7) mills. Such resolution shall be published once each week for two (2) consecutive weeks in a newspaper of general circulation in the township or townships in which ~~said~~ the fire district is located. If, within ~~sixty-(60)~~ 60 days following publication of the resolution, a petition in opposition thereto, signed by not less than ~~five-percent-(5%)~~ 5% of the registered voters of the fire district, is filed with the county election officer, no levy in excess of three (3) mills shall be made unless and until the authority to levy the tax in an amount not to exceed seven (7) mills is approved by a majority of the electors voting thereon at the next primary or general election, or if such primary or general election does not take place within ~~sixty--(60)~~ 60 days after the date the petition was filed, at a special election to be called by the governing body of the fire district by resolution. Such election shall be held at the usual place of holding elections and shall be conducted by the officers or persons provided by law for holding elections in such township or townships. If no petition in opposition to the resolution authorizing the making of the levy in an amount not to exceed seven (7) mills is filed in accordance with the foregoing provisions of this paragraph, or if ~~said~~ the petition is filed and a majority of the electors vote in favor of ~~said~~ the levy, the governing body of the fire district shall be authorized to make an annual levy under the provisions of this section in an amount not to exceed seven (7) mills thereafter.