

Approved

Ivan Sand

Date 2/22/88

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at  
Chairperson

1:30 a/m./p.m. on February 16, 1988 in room 521-S of the Capitol.

All members were present except:  
Representative Holmes, excused  
Representative Larkin, excused

Committee staff present:  
Mike Heim, Legislative Research Dept.  
Bill Edds, Revisor of Statutes' Office  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:  
Richard Funk, Kansas Association of School Boards

Representative Brown requested legislation be introduced on sewers and sewers districts and on emergency vehicles.

A motion was made by Representative Miller and seconded by Representative Dean to introduce legislation relating to sewers and sewer districts. The motion carried. (Attachment 1)

A motion was made by Representative Rezac and seconded by Representative Francisco to introduce a bill concerning authorized emergency vehicles of certain fire departments; concerning right of way on highways. The motion carried. (Attachment 2)

Representative Bowden requested legislation to amend KSA 79-5108 to clarify the identification of taxing districts on the tax situs of motor vehicles.

A motion was made by Representative Schauf and seconded by Representative Miller to introduce the legislation on identification of taxing districts requested by Representative Bowden. The motion carried.

Mike Heim gave an overview of SB 245.

Richard Funk testified on SB 245, stating that legislation be enacted that clarifies that the failure of newspapers to fully publish a legal notice of a board of education not invalidate an election nor invalidate the action of any board of education when such board of education documents that it has fully complied with every other aspect of legal requirements. (Attachment 3)

A motion was made by Representative Schauf and seconded by Representative Baker to insert in line 70 of SB 245 "Nothing in this section shall invalidate the legal action of a governing body if the publication in a newspaper is due to any technical irregularity or accidental oversight on the part of the newspaper." The motion failed.

A motion was made by Representative Patrick and seconded by Representative Francisco to pass SB 245 not amended. The motion carried.

A motion was made by Representative Sawyer and seconded by Representative Patrick to place SB 245 on the Consent Calendar. The motion carried.

Chairman Sand opened the hearing on HB 2667 and the committee discussed HB 2667.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government,  
room 521-S, Statehouse, at 1:30 ~~a.m.~~/p.m. on February 16, 1988

A motion was made by Representative Patrick and seconded by Representative Francisco to delete the italicized words in lines 255 through 258 of HB 2667. The motion carried with Representatives Dean, Schauf, Baker and Kennard dissenting.

A motion was made by Representative Francisco and seconded by Representative Patrick to make the effective date for HB 2667 January 1, 1989. The motion carried.

A motion was made by Representative Dean and seconded by Representative Baker to adopt the balloon on HB 2667. The motion carried.

A motion was made by Representative Francisco and seconded by Representative Patrick to strike in lines 50 and 51 of HB 2667, the words "beautification of the district" and "signs." The motion carried.

A motion was made by Representative Patrick and seconded by Representative Bowden to strike in HB 2667, line 233, the word "but" and replace it with "and;" strike in line 234 the words "the city or;" strike all of line 235, and strike in line 236 the sentence ending with the word "thereto." The motion carried.

It was the consensus of the committee to add in section 1 of HB 2667, for the definition of the District, the terminology used in KSA 12-17-100.

A motion was made by Representative Dean and seconded by Representative Baker to pass HB 2667 as amended. The motion carried.

The meeting adjourned.



HOUSE BILL NO. \_\_\_\_\_

By Representative Brown

AN ACT concerning counties; relating to sewers and sewer districts; amending K.S.A. 1987 Supp. 19-101a, 19-27,170, 19-27,171, 19-27,172 and 19-27a26 and repealing the existing sections.

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

Sec. 1. K.S.A. 1987 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions: (1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271--74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of

*Attachment 1*  
*2-16-88*

county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. ~~1985~~ 1987 Supp. 19-4601 to 19-4625, inclusive, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 to 12-1,109, inclusive, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto. Any charter resolution adopted by a county prior to July 1, 1983, exempting from or

effecting changes in K.S.A. 19-430, and amendments thereto, is null and void.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto. Any charter resolution adopted by a county, prior to the effective date of this act, exempting from or effecting changes in K.S.A. 13-13a26, and amendments thereto, is null and void.

(17) Counties may not exempt from or effect changes in K.S.A. 71-301, and amendments thereto. Any charter resolution adopted by a county, prior to the effective date of this act, exempting from or effecting changes in K.S.A. 71-301, and amendments thereto, is null and void.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto. Any charter resolution adopted by a county prior to the effective date of this act, exempting from or effecting changes in such sections is null and void.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225 and 12-1226 and K.S.A. 1985 Supp. 12-1225a, 12-1225b and 12-1225c, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto, K.S.A. ~~1986~~ 1987 Supp. 19-4002a or 19-4002b, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may

not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in the provisions of K.S.A. 1987 Supp. 19-27,170, 19-27,171, 19-27,172 and 19-27a01 to 19-27a27, inclusive, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

Sec. 2. K.S.A. 1987 Supp. 19-27,170 is hereby amended to read as follows: 19-27,170. ~~(a) As used in this section--and--in K.S.A.--1982--Supp.--19-27,171--and--19-27,172,--county--means--Finney county.~~

~~(b)~~ (a) As a complete alternative to all other methods provided by law, the board of county commissioners of a any county which has created or has received a petition seeking to create main sewer districts, lateral sewer districts, or joint sewer districts pursuant to the provisions of article 27 or 27a of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, may ~~by resolution~~ determine, by resolution, that all or a portion of the cost of acquiring, constructing, reconstructing, enlarging or extending the storm or sewage systems and related disposal works, pumping stations, pumps or other apparatus for handling and disposing of sewage be borne by the county-at-large

and paid out of the general revenue fund or by the issuance of general obligation improvement bonds of the county as the board of county commissioners may determine, in the manner provided by law. The proportionate share of the costs of such sewer improvements not borne by the county-at-large shall be assessed against the property within the sewer district in accordance with the provisions of article 27 or 27a of chapter 19 of the Kansas Statutes Annotated, and amendments thereto. Where the county shall issue bonds to pay the costs of sewer improvements in accordance with this act, and all or a portion of such costs shall be borne by the county-at-large, such bonds shall be general obligations of the county, shall be issued in accordance with the general bond law, and shall be in addition to and may exceed the limits of bonded indebtedness of such county.

(c) The board of county commissioners shall have the power to establish a schedule of charges for the use of such sewer improvements financed in accordance with this act. Such charges may be based on the use required and shall include consideration of, but not limited to the quantity, quality and rate of sewage or waste water contributed to the system. Any such service charge shall become a lien on the property against which the service charge is made from the date such charge becomes due. Funds generated by such service charges shall be used for the purpose of paying all or any portions of the costs of constructing or reconstructing the sewer improvements, for the costs of operation and maintenance thereof, or for the payment of principal and interest on general obligation bonds issued in accordance with this act.

Sec. 3. K.S.A. 1987 Supp. 19-27,171 is hereby amended to read as follows: 19-27,171. All notices or publications for the establishing or financing of sewer districts required by the provisions of article 27 or 27a of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, shall state the proportionate share of the project costs borne by the county-at-large.



Sec. 4. K.S.A. 1987 Supp. 19-27,172 is hereby amended to read as follows: 19-27,172. Notwithstanding any provision of article 27 or 27a of chapter 19 of Kansas Statutes Annotated, and amendments thereto, any property located in a sewer district ~~created-in-the-county~~, which in the discretion of the board of county commissioners, is not benefited by the sewer improvements financed by this act shall not be apportioned and assessed pursuant to the provisions of this act until the property is so benefited. At such time, the governing body shall reapportion and reassess all property in the district.

Sec. 5. K.S.A. 1987 Supp. 19-27a26 is hereby amended to read as follows: 19-27a26. The board of county commissioners of Sedgwick any county may delegate to the county controller the responsibility of administering and coordinating the planning, development, construction and maintenance of the sewer system. The cost and expenses of the county controller for administration of any sewer project shall be included in the cost of the project and assessed against the lots and pieces of property contained within the district in which the same is located.

Sec. 6. K.S.A. 1987 Supp. 19-101a, 19-27,170, 19-27,171, 19-27,172 and 19-27a26 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL NO. \_\_\_\_\_

By Representative D. Miller

AN ACT concerning authorized emergency vehicles of certain fire departments; concerning right of way on highways; amending K.S.A. 80-1518 and 80-1906 and repealing the existing sections.

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

Section 1. K.S.A. 80-1518 is hereby amended to read as follows: 80-1518. An authorized emergency vehicle of a district fire departments department shall have the right of way on public highways, both inside and outside city limits, when going to or returning from a fire when operating under this act: Provided, ~~The~~ if such vehicle is equipped with a fire siren in good working order and the siren is sounded at frequent intervals and always ~~two--hundred~~ 200 feet before reaching any intersection of highways: ~~And--provided-further,~~ and such vehicle is painted red or other appropriate color which has been approved by the state fire marshal. Such right of way shall also extend to the use of the highway when fighting fires.

Sec. 2. K.S.A. 80-1906 is hereby amended to read as follows: 80-1906. An authorized emergency vehicle of a township fire departments department shall have the right of way on public highways, both inside and outside city limits, when going to or returning from a fire when operating under this act: Provided, ~~The~~ if such vehicle is equipped with a fire siren in good working order and the siren is sounded at frequent intervals and always ~~two---hundred~~ 200 feet before reaching any intersection of highways: ~~And--provided-further,~~ and such vehicle is painted red or other appropriate color which has been approved by the state fire marshal. Such right of way shall also extend to the use of the highway when fighting fires.

Sec. 3. K.S.A. 80-1518 and 80-1906 are hereby repealed.

*Attachment 2  
2-16-88*

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

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



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

TESTIMONY ON S.B. 245

by

Richard S. Funk, Assistant Executive Director  
Kansas Association of School Boards

February <sup>16</sup>15, 1988

Mr. Chairman and members of the committee, we appreciate the opportunity to appear today on behalf of the 302 members of the Kansas Association of School Boards. KASB wishes to amend the provisions found in S.B. 245.

The Delegate Assembly of the Kansas Association of School Boards adopted a resolution that states in part: "...that legislation be enacted that clarifies that the failure of newspapers to fully publish a legal notice of a board of education not invalidate an election nor invalidate the action of any board of education when such board of education documents that it has fully complied with every other aspect of legal requirements."

Attached you will find: 1) a copy of 1987 S.B. 245 that has passed the Senate, 2) a copy of proposed language to amend into S.B. 245 at line 0070 that meets the decisions of KASB's membership, and 3) a copy of a statute amended in 1987 that has the same effect for county election officers as KASB's proposed amendment does for boards of education and/or local units of government.

I will review with you the reason for our request, the history of S.B. 245, and our discussions with the Senate Committee on Local Government.

Thank you for your consideration on this matter.

*Attachment 3*  
*2-16-88*

## SENATE BILL No. 245

By Committee on Local Government

2-13

0017 AN ACT concerning publications; relating to official newspa-  
0018 pers; amending K.S.A. 1986 Supp. 64-101 and repealing the  
0019 existing section.

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

0021 Section 1. K.S.A. 1986 Supp. 64-101 is hereby amended to  
0022 read as follows: 64-101. (a) Except as provided by K.S.A. 12-1651,  
0023 and amendments thereto, the governing body of each city shall  
0024 designate by resolution a newspaper to be the official city  
0025 newspaper. Once designated, the newspaper shall be the official  
0026 city newspaper until such time as the governing body designates  
0027 a different newspaper.

0028 (b) The board of county commissioners of each county shall  
0029 designate by resolution a newspaper to be the official county  
0030 newspaper. Once designated, the newspaper shall be the official  
0031 county newspaper until such time as the board designates a  
0032 different newspaper.

0033 (c) *Except as provided by K.S.A. 12-1651, and amendments*  
0034 *thereto*, no legal notice, advertisement or publication of any kind  
0035 required or provided by any of the laws of the state of Kansas, to  
0036 be published in a newspaper shall have any force or effect as  
0037 such unless the same be published in a newspaper having the  
0038 following qualifications:

0039 (1) It must be published at least weekly 50 times a year and  
0040 have been so published for at least five years prior to the  
0041 publication of any official publication;

0042 (2) it must be entered at the post office of publication as  
0043 second class mail matter;

0044 (3) it shall have general paid circulation on a daily, weekly,  
0045 monthly or yearly basis in the county and shall not be a trade,

0046 religious or fraternal publication; and  
0047 (4) it must be printed in the state of Kansas and published in  
0048 the county publishing the official publication, or if there is no  
0049 newspaper published in the county, then in a newspaper printed  
0050 in Kansas and having general paid circulation in the county. The  
0051 provisions of this section requiring publication for at least five  
0052 years prior to the publication of any official publication shall not  
0053 apply to any newspaper which is qualified to publish official  
0054 publications under the provisions of this section. Nothing con-  
0055 tained in this section shall invalidate the publication in a news-  
0056 paper which has resumed publication after having suspended  
0057 publication all or part of the time that the United States has been  
0058 engaged in war with any foreign nation and six months next  
0059 following the cessation of hostilities if such newspaper resumes  
0060 publication in good faith under the same ownership as it had  
0061 when it suspended publication. Nothing in this section shall  
0062 invalidate the publication in a newspaper which has simply  
0063 changed its name or moved its place of publication from one part  
0064 of the county to another part, or suspended publication on  
0065 account of fire, flood, strikes, shortages of materials or other  
0066 unavoidable accidents for not to exceed 10 weeks within the year  
0067 last preceding the first publication of the legal notice, advertise-  
0068 ment or publication. Nothing in this section shall apply to coun-  
0069 ties wherein no newspaper has been published the requisite  
0070 length of time. All legal publications heretofore made which  
0071 would be otherwise valid, that have been made in a newspaper  
0072 which, on account of flood, fire, strikes, shortages of materials or  
0073 other unavoidable accident, has suspended publication for a  
0074 period of not exceeding 10 weeks, are hereby legalized.  
0075 Sec. 2. K.S.A. 1986 Supp. 64-101 is hereby repealed.  
0076 Sec. 3. This act shall take effect and be in force from and  
0077 after its publication in the Kansas register.

83  
Proposed language for 1987 S.B. 245

Inserting at Line 0070:

Nothing in this section shall invalidate the publication in a newspaper due to any technical irregularity or accidental oversight on the part of the newspaper, such that any legal action of a governing body is unnecessarily or unduly delayed.



H-6

subsection. The county election officer shall keep a record of each replacement ballot provided under this subsection.

(e) A ballot shall be counted only if: (1) It is returned in the return identification envelope; (2) the envelope is signed by the elector to whom the ballot is issued; and (3) the signature has been verified as provided in this subsection. The county election officer shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration records and may commence verification at any time prior to the canvass of the election. If the county election officer determines that an elector to whom a replacement ballot has been issued under subsection (d) has voted more than once, the county election officer shall not count any ballot cast by that elector.

(f) The county election officer shall supervise the procedures for the handling and canvassing of ballots to insure the safety and confidentiality of all ballots properly cast.

(g) The names of voters whose mail ballot envelopes are returned to the county election officer as "undeliverable" shall be subject to removal from the voter registration book and party affiliation list in the manner provided in subsection (d) of K.S.A. 25-2316c, and amendments thereto.

Sec. 2. K.S.A. 25-433 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 15, 1987.

CHAPTER 126

Senate Bill No. 160

AN ACT concerning elections; relating to irregularities in the notice and conduct of elections; amending K.S.A. 25-702 and repealing the existing section.

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

New Section 1. (a) Notwithstanding the fact that the provisions of law may not have been fully complied with in noticing and conducting a question submitted election and so that the real will of the people may not be defeated by any technical irregularity of any officer, whenever the greater number of votes were in favor of a question submitted, the question shall be deemed to have carried and likewise if the greater number of votes were against a question submitted, the question shall be deemed not to have carried.

3-4

(b) "Question submitted election" means any election at which a special question is to be voted on by the electors of the state or a part of them.

Sec. 2. K.S.A. 25-702 is hereby amended to read as follows: 25-702. (a) In all elections for the choice of any officer, except the offices of governor and lieutenant governor, unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed to have been elected to that office; and whenever it shall satisfactorily appear that any person has received the highest number of votes for any office, such person shall receive the certificate of election, notwithstanding the provisions of law may not have been fully complied with in noticing and conducting the election, so that the real will of the people may not be defeated by any ~~informality~~ *technical irregularity* of any officer.

(b) In all elections for the choice of governor and lieutenant governor, the pair of candidates having the highest number of votes shall be deemed to have been elected. Whenever it shall satisfactorily appear that any pair of candidates has received the highest number of votes for governor and lieutenant governor, such candidates shall receive certificates of election, notwithstanding the provisions of law may not have been fully complied with in noticing and conducting the election, so that the real will of the people may not be defeated by any ~~informality~~ *technical irregularity* of any officer.

Sec. 3. K.S.A. 25-702 is hereby repealed.

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

Approved April 11, 1987.

#### CHAPTER 127

House Bill No. 2267

AN ACT relating to elections; providing for the copies of registration records; amending K.S.A. 25-2320 and repealing the existing section.

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

Section 1. K.S.A. 25-2320 is hereby amended to read as follows: 25-2320. The county election officer shall allow access to any person at any time during regular business hours, under supervision of the county election officer for the purpose of examining the voter registration books. Any person may make a

3-5

A  
B  
lo  
by  
sh  
ab  
or  
va  
co  
co  
the  
ne  
anc  
ma  
acc  
sha  
cou  
ope  
quir