

Approved \_\_\_\_\_

4/9/88  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at \_\_\_\_\_  
Chairperson

11:00 a.m. ~~xxx~~ on February 29, 19 88 in room 254-E of the Capitol.

All members were present. ~~except~~:

Committee staff present:

Mary Galligan, Legislative Research  
Emalene Correll, Legislative Research  
Mary Torrence, Assistant Revisor of Statutes  
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Mr. Matt Lynch, Research Associate, Judicial Counsel  
Mr. J. R. Maike, Alma, Kansas

The Chairman stated there had been a request Friday for someone to come before the Committee concerning the Administrative Procedures Act (APA) and its' application to SB563, concerning licensure and regulation of sellers of dogs and cats. The Chairman welcomed Mr. Matt Lynch, Research Associate for the Judicial Council, who was present to make a statement about the APA and to answer any questions. The question had been raised on Friday whether or not someone who wanted to appeal an order by the Commissioner would have to go to the District Court to get relief. Mr. Lynch said that under the APA they would have to exhaust their remedies within the agency before going to the Court. There was some discussion, and the Chairman thanked Mr. Lynch for appearing.

The Committee then continued on with the proposed amendments. (See Attachment #2 of February 26, 1988). Mr. J. R. Maike was again present to answer questions concerning the proposed amendments.

Senator Hoferer made the motion that the licensing fee be \$150 for those that are not USDA licensees and \$75 for those that are USDA licensees. The motion was seconded by Senator Bond. The motion carried.

A question was raised by a member whether or not the barbers and beauticians are assessed reinspection costs.

Senator Martin moved reinspection fees be stricken and that licensees be charged for reinspections only if the reinspection is requested by the licensee. The motion was seconded by Senator Daniels. The motion carried.

The matter of hobby kennels was discussed. Senator Martin moved that the number be moved to 30. The motion was seconded by Senator Bond. The motion carried.

Senator Hoferer moved that SB563 as amended be recommended favorably. The motion was seconded by Senator Strick. The motion carried.

The Committee then turned to SB515, concerning requiring sterilization of dogs and cats. Senator Morris moved, on line 0021, to add "or any duly appointed humane society". The motion was seconded by Senator Hoferer. The motion carried.

There was Committee discussion concerning various aspects of the bill. Senator Hoferer moved that SB515 be recommended favorably as amended. The motion was seconded by Senator Morris. The motion carried.

The Chairman directed the Committee to turn to SB518, concerning regulation of dangerous dogs. The Chairman said he was waiting to get more information

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on February 29, 1988

on the bill. The Chairman shared a letter from Mr. Ernie Mosher, of the League of Kansas Municipalities. (Attachment #1) Senator Hoferer had just received this letter from Mr. Mosher. It was suggested by the Committee that the proposed amendment be prepared by staff. (Attachment #2) Senator Hoferer said her problem is that as the law is now someone has to be attacked first. SB518 is to prevent those attacks from having to happen before there is a mechanism for people to keep their animals safely confined. Senator Hoferer mentioned the plight of Mr. Gerald Duree, of Topeka, who had appeared before this Committee on February 3, 1988, concerning this bill. Mr. Duree had been attacked by two pit bulls in Jefferson County. It was pointed out that it is unlikely that Jefferson County is going to pass an ordinance which will provide this from recurring. There was Committee and staff discussion concerning the matter. Senator Hoferer reiterated that the local ordinances she was aware of were more strict than this bill. Her thought was to provide a mechanism for people to complain, and that would require these certain dogs be restrained. The Chairman suggested the Committee visit with staff and other cities and counties. The Chairman said the Committee was not prepared to act on this at this time.

The Minutes of February 23, and February 24, 1988, were approved by a motion made by Senator Arasmith, and seconded by Senator Morris. The motion carried.

The meeting was adjourned.



**League  
of Kansas  
Municipalities**

518

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

February 29, 1988

Senator Jeanne Hoferer  
Kansas Senate  
State Capitol -- 143-N  
Topeka, Kansas 66612

Dear Jeanne:

I am writing in regard to your memo of February 25 concerning the proposed amendment to SB 518. As you will remember from my testimony before the Senate Federal and State Affairs Committee on February 3, the League had attempted to draw up an amendment to the bill which would have effectively provided that the provisions of SB 518 would not apply within any city or county which had enacted a comprehensive ordinance or resolution regarding dangerous dogs. Unfortunately, we were unsuccessful at drawing up an adequate amendment to this bill. The central problem with the proposed amendment you submitted for my review is the fact that we believe it to be unconstitutional as written. First of all, it would allow local ordinance or resolution to take precedence over a uniform state law. We can think of no other instance where a state law would mandate that if there is a local ordinance or resolution on the same subject, that the local ordinance or resolution would take precedence. For this reason, we believe it to be unconstitutional.

Secondly, the wording of the amendment appears to be overly vague. Specifically, the word "regulating" would seem to include any provision whatsoever dealing with pit bull dogs or other vicious dogs. It is not a solution to simply remove the word "regulating" because only a very limited number of cities and counties now prohibit pit bull dogs or other vicious dogs. Most cities and counties which regulate do so by putting further restrictions on these animals rather than banning them completely.

Given the problems we have mentioned above, and the fact that we do not believe an adequate amendment can be drawn for SB 518, we would suggest that you look at the alternative approach of strengthening the existing state laws relating to dangerous animals, thus leaving to local governments the enactment of more comprehensive and restrictive regulations to supplement the basic state law. We would suggest strengthening the penalty provisions in: K.S.A. 21-3418, permitting a dangerous animal to be at-large; K.S.A. 47-645, liability of dog owner for damages; and K.S.A. 47-646, killing dog lawful in certain circumstances. I believe that strengthening these laws may be a more workable method of achieving the goal of eliminating dangerous and vicious dogs from our state.

Sincerely,

E. A. Mosher  
Executive Director

EAM:bw

*February 29, 1988  
Senate FSA  
Attachment #1*

Nothing in this act shall be construed to invalidate any ordinance of a city or resolution of a county which defines and prohibits or imposes more stringent regulations on the keeping and control of a dangerous dog.

NOTE: This amendment still leaves some problems.

February 29, 1988  
Senate FSA  
Attachment #2