Approved January 31, 1989
Date

MINUTES OF THE House COMMITTEE ON Local Government.

The meeting was called to order by Representative R. D. Miller at
Chairperson

1:35 a.m./p.m. on January 19, 1989 in room 521-S of the Capitol.

All members were present except:
Representative Kerry Patrick, excused
Representative Hank Turnbaugh, excused
Representative Vern Williams, excused
Committee staff present:
Mike Heim, Legislative Research Dept.
Theresa Kiernan, Revisor of Statutes' Office
Connie Smith, Committee Secretary

Conferees appearing before the committee:

Gerry Ray, Johnson County Board of Commissioners
Ernie Mosher, League of Kansas Municipalities
Richard Jones, Executive Director, Kansas Association of Conservation District
Bob Orth, Chairman of Kansas Board of EMS

Gerry Ray made a request to the Committee to introduce 3 bills.

1. Township Budget Authority - County Commissioners given the ability to serve as township board for purpose of preparing and proving a budget. Proposal No. 3 (Attach. 1)

Motion was made by Representative Holmes to introduce the bill, seconded by Representative Bowden, and the motion carried.

2. Transfer of Township Funds - giving the counties ability to transfer money when a township is disorganized. Proposal No. 4 (Attach. 2.)

Motion was made by Representative Sawyer to introduce the bill, seconded by Representative Graeber, and the motion carried.

3. Protest Period and Publication Requirement for Bond Sale - Standardize the statutes pertaining to the number of publications required and the length of the protest period for all bond sales. Proposal No. 8. (Attach. 3)

Motion was made by Representative Bowden to introduce the bill, seconded by Representative Lane, and the motion carried.

Ernie Mosher appeared before the Committee to request the introduction of three bills.

1. Temporary Financing of State Assisted Municipal Improvements; relating to the temporary financing of public services or improvements in anticipation of state loans or grants. (Attach. 4)

Motion made by Representative Lane that the bill be introduced and seconded by Representative Mollenkamp, and the motion carried.

2. Investment of Inactive Public Funds; that the provision which now prohibits local units from investing in treasury bills or notes, but not exceeding 6 months be eliminated. (Attach. 5)

Motion made by Representative McClure that the bill be introduced, seconded by Representative Reinhardt, and the motion carried.

3. Recording of Delinquent Tax Sale Deeds - That it require the sheriff file the deed with Register of Deeds when there is a tax foreclosure on tax delinquent property. (Attach. 6)

Motion made by Representative Samuelson that the bill be introduced, seconded by Representative Lane, motion carried.

Richard Jones presented a copy of a bill draft. (Attach. 7)

Motion made by Representative Mollenkamp that the bill be introduced, seconded by Representative Bowden, and the motion carried.

Bob Orth presented 2 bill drafts: (1) Act concerning emergency medical services; relating to limitations on certain liability; relating to persons providing emergency care; (Attach. 8) (2) Act concerning certain health care providers; relating to regulation, risk management and peer review. (Attach. 9)

Motion made by Representative Baker that the bills be introduced, seconded by Representative Johnson, motion carried.

Legislation was requested to provide for EMS board members who are elected officials to forfeit their seat when they leave their elective office.

Motion made by Representative Baker that this legislation be introduced, seconded by Representative Johnson, and the motion carried.

The Committee was informed that there would probably be one or two meetings next week.

Meeting adjourned at 2:10 p.m.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE 1-19-89

NAME	ADDRESS	REPRESENTING
Catherine Holdeman	Wichita	Wichita
Jim Kaup	Topeka	League of Municipalities
Kevin Surbaugh	Topeka	— —
Bob McDaniel	"	Board of EMS
Kim C. Dewey	Wichita	Sedgwick County
William R. Shingber	Wichita	—
Ernie Mosher	Topeka	League of Ks Mun.
Nancy Denning (denning)	Manhattan	—

Johnson County
Kansas

January 19, 1989

TO: House Local Government Committee

FR: Gerry Ray, Intergovernmental Coordinator
Johnson County

RE: Introduction of Bills

The Johnson County Board of Commissioners respectfully requests the introduction, by the Local Government Committee, of the three attached proposals.

Two of the proposals pertain to Township statutes and one to the bonding laws affecting counties. There is another proposal that we feel needs further research and ask that we be given the opportunity to present it at a later time.

Thank you for your consideration of the Johnson County requests.

Gerry Ray

Gerry Ray

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1-19-89
ATTACH. 1

Office of County Administrator 100 E. Park, Suite 205 Olathe, Kansas 66061 (913) 782-5000 Ext 5251

PROPOSAL NO. 3

SUBJECT: TOWNSHIP BUDGET AUTHORITY

CHANGE REQUESTED: Adopt a statutory provision which would allow the Board of County Commissioners to act as and for a township governing body and officers for the purposes of preparing and adopting the annual budget when there are no residents of the township willing or available to serve as the officers and governing body.

EFFECT OF CHANGE: The proposed legislation would create an appropriate mechanism for the preparation and adoption of an annual budget in townships in which no residents are available or willing to serve in the capacity of township officers.

REASON FOR CHANGE: Due to recent annexations, the size and population of Monticello Township has been significantly reduced and has resulted in a limited number of residents qualified to serve as Township Officials. In the event that no one is willing or available to serve, the annual budget cannot practically be prepared. This change designates the Board of County Commissioners to prepare the budget when there is no township officers to do so.

PROPOSAL NO. 4

SUBJECT: TRANSFER OF TOWNSHIP FUNDS

CHANGE REQUESTED: Amend K.S.A. 88-1104 to grant authority to the Board of County Commissioners to transfer to the County General Fund moneys remaining in any special funds of a disorganized township. The County Commissioners may use this authority in cases where such moneys are not required to pay township obligations.

EFFECT OF CHANGE: The proposed legislation would eliminate the problem of remaining funds no longer needed after the disorganization of a township. It would provide a method of disbursement of such funds.

BACKGROUND: The Board of County Commissioners may disorganize a township when the population is 200 or less and pay any remaining township indebtedness from the township treasury. However, the statutes do not provide a mechanism for the disbursement or use of township funds after disorganization when they are not needed for township purposes. In Johnson County the problem arose in Shawnee Township where the only area remaining is occupied by a land fill and the township treasury has a balance of approximately $10,632 after all indebtedness was paid.

LG
1-19-89
ATTACH. 2

PROPOSAL NO. 8

SUBJECT: PROTEST PERIOD AND PUBLICATION REQUIREMENT FOR BOND SALE

CHANGE REQUESTED: Amend existing statutes to require two publications for all bond sales and provide that the time period for a protest petition to be filed on any proposed sale of bonds, is thirty (30) days.

EFFECT OF CHANGE: The proposed legislation would standardize the statutes pertaining to the number of publications required and the length of the protest period for all bond sales.

REASON FOR CHANGE: It is often advantageous to combine various types of bond issues into one bond sale. The existing statutes vary on the number of publications that are required and the length of the protest period. By having a uniform protest period of thirty days and standardizing publication requirements, the administrative procedures can be simplified and made more efficient.

LG
1-19-89
ATTACH 3

League
of Kansas
Municipalities

Municipal
Legislative
Testimony

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

January 19, 1989

Temporary Financing of State Assisted Municipal Improvements

The League requests the House Committee on Local Government to introduce a bill relating to the temporary financing of state assisted municipal improvements, similar to SB 513 (attached) considered at the 1988 Session.

In Brief. The proposed bill provides municipalities with a method of temporarily financing that portion of public services or improvements which will be permanently financed by state loans or grants. Passage is important for local implementation of the new state water pollution loan fund program and infrastructure loan program. Passage will also help prevent violations of the cash basis law where state-administered federal grants, like CDBG, are on a reimbursement basis. Passage is especially important for smaller local units which have little uncommitted cash or reserve funds.

1988 History. The attached bill, SB 513, was reported by the House Committee on Local Government on March 25, 1988 with a recommendation that it be passed and placed on the consent calendar. It was later withdrawn from the consent calendar and a floor amendment added which would restrict the authority of cities to impose franchise fees on utilities. At the end of the session, the amended bill remained in conference committee. Near the end of the session, SB 765, identical to the original SB 513, was passed by the Senate by a vote of 39 to 0. This bill died on House general orders at the adjournment of the 1988 session.

Background: Kansas municipalities may now issue temporary notes under K.S.A. 10-123 to temporarily finance improvements in advance of the issuance of bonds. Municipalities may also issue temporary notes or no-fund warrants under K.S.A. 12-1662 et seq. to temporarily finance the federal share of direct federally-assisted projects which are on a reimbursement basis. **But there is no similar authority to finance local expenditures in advance of the receipt of a state loan or grant, or state-administered federal aid.** The cash basis law (K.S.A. 10-1112 and 10-1116) prohibits a municipality from entering into a financial obligation in excess of funds actually on hand, with certain exceptions. There are now no exceptions for state loans or grants or for state-administered federal aid.

Chapter 320, 1988 Session Laws of Kansas, provides for a state revolving loan fund for local units for water pollution control purposes. Chapter 394, 1988 Session Laws of Kansas, provides for a state loan program for public infrastructure improvements for economic development purposes. However, these 1988 acts do not deal with the practical problem of how a municipality pays for the initial costs (e.g., planning and engineering) of a state assisted project, or how the contractor is to be paid, if the state assistance is on a reimbursement basis. There are now some practical (and legal) local problems in handling state-administered federal CDBG grants.

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ATTACH. 4

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It is also reported that the federal government is starting to use letters of credit, instead of cash payments in advance, for aid to state and local units. How will local units finance those services and improvements assisted by state-administered federal grants, if payments to local units are on a reimbursement basis?

Explanation. The bill proposes a general act, applicable to all municipalities, authorizing the temporary financing of the costs of services and improvements for which state assistance (including state-administered federal funds) will be later received, by the issuance of temporary notes or no-fund warrants. The notes or warrants may not be issued unless there is a written agreement providing for the state loan or grant, and for not to exceed the amount of the proposed loan or grant.

Some problems have occurred in the past with the timely receipt of federal loans and grants, and may well occur under a state-administered program. As a result, Section 3 of the bill permits the extension of the notes or warrants if the state assistance is not timely received. Further, Section 3 provides for the issuance of new notes or warrants if the state loan or grant actually received is less than agreed to, which would be retired by tax levies or other sources (e.g., service charges).

Objections. Only one objection to SB 513 was raised at the 1988 Session--an issue considered during Senate Committee of the Whole consideration of the bill. That issue relates to the fact that Section 2(b) provides that the issuance of no-fund warrants under this proposed act does not require approval of the State Board of Tax Appeals. The general no-fund warrants procedure does require approval of the State Board of Tax Appeals, since they involve either increasing the budget authority of the municipality and/or the borrowing of money to meet a cash problem within the existing budget. The provision in Section 2(b) was included to make it abundantly clear that Board of Tax Appeals action is not required for situations covered by this act, since it relates only to temporary financing where the state is involved. Secondly, the warrants could not be issued unless there was a written agreement with a state agency and the amount temporarily borrowed could not exceed the amount to be received by the loan or grant. It seems incongruous for one state agency--the Board of Tax Appeals--to approve the temporary financing of a program which has already been approved by another state agency, in writing, and by the locally elected governing body. What factors would the Board of Tax Appeals consider even if their approval was required?

Advantages. The bill would provide a practical means for local units to utilize state grant and loan programs which now exist or may be enacted in the future, and state-administered federal assistance programs on a reimbursement basis, and a legal means to meet the requirements of the cash basis law.

SENATE BILL No. 513

By Committee on Local Government

AN ACT concerning municipalities; relating to the temporary financing of public services or improvements in anticipation of state loans or grants.

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

Section 1. When used in this act:

(a) "Municipality" means any city, county, township, school district or other political subdivision of the state;

(b) "state agency" means any department, authority, office or other governmental agency of this state which is authorized by law to make state grants or loans to a municipality;

(c) "state grants or loans" means financial aid, gifts, grants or other payments to a municipality made pursuant to a written agreement by a state agency, including moneys loaned to a municipality, with or without interest, whether such money is derived from state or federal revenue sources or from moneys borrowed by the state or its agencies as authorized by law.

Sec. 2. (a) Any municipality which has entered into a written agreement with a state agency providing for a state grant or loan to the municipality for the performance of any public service or the construction of any public improvement, where such grant or loan constitutes a reimbursement for expenditures or obligations incurred by the municipality in undertaking such service or improvement, is hereby authorized to borrow money to temporarily finance such service or improvement. The amount borrowed under the provisions of this act shall not exceed the amount of the loan or grant to be received by the municipality under the terms of the agreement.

(b) Such borrowing in anticipation of a state grant or loan may be in the form of temporary notes or no-fund warrants, and shall be issued in substantially the same manner provided by law for the issuance of other temporary notes or no-fund warrants, but the approval of the state board of tax appeals shall not be required. The terms of such notes or warrants shall not exceed the scheduled date the municipality is to be reimbursed by the state loan or grant, as determined by the agreement.

Sec. 3. Any notes or warrants issued under the authority of this act by a municipality with the power to levy taxes shall constitute a general obligation of such municipality but shall not be within any debt limits of such municipality. Upon the failure of the municipality to receive timely payment of the loan or grant, it may extend the terms of the notes or warrants or may issue new notes or warrants. Upon the failure of the municipality to receive some or all of the loan or grant provided for in the written agreement, the municipality may provide for the issuance of new notes or warrants, for a term determined by the governing body thereof, in an amount sufficient to pay the principal and interest on such notes or warrants. Such notes or warrants may be paid from the levy of taxes, from any future revenue received from the public improvement or service financed in part or in whole by the loan or grant or from any other revenue source lawfully available for such purposes.

Sec. 4. Any money received by a municipality from a state loan or grant may be expended without regard to budget limitations and over, above or outside the budget, and such expenditures shall not be charged against the budget. If a municipality temporarily finances the service or improvement from budgeted funds and later is reimbursed by the state loan or grant, such expenditures shall not be charged against the budget. If a municipality temporarily finances the service or improvement from budgeted funds and later is reimbursed by the state loan or grant, such expenditure from budgeted funds shall be a reimbursed expense, and if received after the budget year, shall increase the current budget to the same amount unless the budget had anticipated and included the reimbursement as income.

Sec. 5. In addition to the temporary borrowing authorized by the provisions of this act, any municipality authorized by law to issue bonds for a public purpose or public improvement for which a state loan or grant may be received pursuant to a written agreement may include in any bond issue authorization an amount sufficient to temporarily finance any expenditures necessary in advance of the receipt of the state loan or grant as well as the amount of the municipality's share of the cost of the public service or public improvement, if any.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

League
of Kansas
Municipalities

Municipal
Legislative
Testimony

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

January 18, 1989

Investment of Inactive Public Funds

The League requests the Committee on Local Government to introduce a bill to amend K.S.A. 12-1675 to remove the present six-month's limit on the investment of public funds in United States treasury bills or notes.

Passage of this legislation is supported by the League's convention-adopted Statement of Municipal Policy, which provides "we recommend the general investment statute in K.S.A. 12-1675 be amended to eliminate the six-month limit on treasury bills or notes".

Background. K.S.A. Supp. 12-1675 is the general investment statute, applicable to all local governments. In the case of governmental units other than cities and counties, it is an authorization statute. In the case of cities and counties, which have home rule powers, it is in effect a limitation or restriction on the investment of public funds "which are not immediately required for the purposes for which the moneys were collected."

The authorization for the investment in U.S. treasury bills or notes, under this statute, is available only if a "local" bank, trust company or savings and loan association or bank will not make available to the investing unit a rate equal to the average yield received on 91-day treasury bills.

While the bill amends a lengthy statute, it simply strikes out the clause "but not exceeding six months" in subsection (b)(5) which reads: "United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding six months."

Purpose and Advantanges. The purpose of this bill is simply to authorize local governing bodies, when the option is available, to invest in treasury bills or notes for a period exceeding six months. With reasonably sophisticated cash management practices, investments in excess of six months are both practical and financially advantageous to municipalities.

It should also be noted that the general investment statute is available as an investment authorization for public funds other than current, general operating funds. For example, cemetery perpetual care endowment funds, under K.S.A. 12-1410, may be invested under K.S.A. 12-1675.

As a general rule, the investment return rate increases with the maturity of the investment. For example, on January 10, 1989, the U.S. Treasury Department's auction of three-month bills resulted in an average discount rate of 8.36%. The rate for six-month bills brought an average discount rate of 8.48%. On that same date, the Federal Reserve stated that the average yield for one year treasury bills was 9.17%.

For some local units, the bill will permit increased investment earnings, thus reducing the amount of taxes and charges otherwise necessary to finance local functions.

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ATTACH. 5

12-1675. Investment of public moneys by governmental subdivisions, units and entities. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only in:

(1) Temporary notes or no-fund warrants issued by such investing governmental unit;

(2) time deposit, open accounts or certificates of deposit: (A) In commercial banks or trust companies which have offices located in such investing governmental unit; or (B) if the office of no commercial bank or trust company is located in such investing governmental unit, then in commercial banks or trust companies which have offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if such appropriate eligible commercial banks or trust companies cannot or will not make deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, then in commercial banks or trust companies which have offices in the county or counties of the state of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;

(3) in time certificates of deposit: (A) With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit; or (B) if the office of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if such appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks cannot or will not make such deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties of the state of Kansas adjacent to the county or counties in which all or part of such investing governmental unit is located;

(4) repurchase agreements with: (A) Commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or (B) (i) if the office of no commercial bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or (ii) if no commercial bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract, then such repurchase agreements may be entered into with commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if no bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank which has its office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or higher than a rate equal to two percentage points below the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks, as fiscal agents of the United States, at its most recent offering of such bills prior to the inception of such contract then such repurchase agreements may be entered into with commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the state of Kansas; or

(5) United States treasury bills or notes with maturities as the governing body shall determine, ~~but not exceeding six months~~.

(c) The investment authorized in paragraph (5) of subsection (b) shall be utilized only if the appropriate eligible commercial banks or trust companies, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank or trust company has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraph (2) or (3) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to the inception of such deposit contract.

(d) In selecting a depository pursuant to paragraph (2) or (3) of subsection (b), if a commercial bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, and such financial institution otherwise qualifies for such deposit, the investing governmental unit shall select one or more of such financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit shall select for such deposits one or more commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States, at its most recent public offering of such bills prior to the inception of such deposit contract, and which otherwise qualify for such deposits. If no such financial institution qualifies for such deposits, the investing governmental unit may select for such deposits one or more commercial banks, trust companies, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties of the state of Kansas adjacent to the county or counties in which all or a part of the investing governmental unit is located.

History: L. 1968, ch. 217, § 1; L. 1969, ch. 80, § 1; L. 1973, ch. 63, § 6; L. 1975, ch. 68, § 1; L. 1976, ch. 79, § 2; L. 1977, ch. 55, § 1; L. 1982, ch. 52, § 6; L. 1983, ch. 47, § 7; L. 1986, ch. 76, § 7; April 17.

1-19-89
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League
of Kansas
Municipalities

Municipal
Legislative
Testimony

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

January 18, 1989

Recording of Delinquent Tax Sale Deeds

The League requests the Committee on Local Government to introduce a bill to amend K.S.A. 79-2804 to provide that a sheriff's deed from a property tax foreclosure sale be recorded at the time the deed is executed to the successful bidder.

The League's convention-adopted Statement of Municipal Policy provides: "All transfers of the ownership of property resulting from judicial foreclosures for delinquent taxes should be automatically recorded with the register of deeds."

Need for Legislation: Currently, the law places the responsibility for filing the sheriff's deed on the purchaser of property from the tax foreclosure sale of tax delinquent property. It is not uncommon for those purchasers to delay for an extended period the filing and recording of the sheriff's deed. The non-filing of the deed can cause significant interference with several important municipal functions that require accurate and up-to-date property ownership information. Special assessments, nuisance abatement, condemnation, rezoning, and annexation are among the municipal services which require identification and notification of property owners. Some statutes require a notice, hearing and protest opportunity for property owners, which is difficult to accomplish when the ownership is not recorded.

Proposed Bill. It is proposed that the following language (see attached) be added to K.S.A. 79-2804: "The deed shall be filed for record, by the sheriff at the time the deed is executed, in the office of the register of deeds of the county where such real estate is situated. Any fee or charge for filing shall be collected from the successful bidder at the time of recording."

Two factors exacerbate the problems associated with delayed filing. First, until the sheriff's deed is filed, the property owner of record is the delinquent property taxpayer who has just lost their property in a foreclosure sale and has no interest in the property. Thus, any required notice to that property owner is of little value in fulfilling the statutory intent behind notifying property owners that their local government is contemplating action which will affect their property. Second, much of the property in a tax foreclosure sale is typically of the type which is affected by government action: platted property which has not been developed (frequently subject to special assessments) and abandoned residences and buildings (which may be condemned or abated for health and safety reasons). Thus, the need for accurate and current property ownership information is essential to carry out important municipal services and functions.

LG
1-19-89

ATTACH. 6

79-[illegible]4. Order of sale; publication notice; auctioneer may be employed; procedure for bidding in behalf of county; deed, execution and recordation. After the rendition of such judgment there shall be issued by the clerk of the district court to the sheriff of the county an execution or order of sale, which shall describe each tract, lot or piece of real estate mentioned and described in such judgment or decree (on which the lien has not been paid), with the amount of lien charged to each tract, lot or piece of real estate, and the costs, charges and expenses of the proceedings and sale chargeable to each piece, lot, or tract, in such amount as the court may order, or if no order be made then a sum equal to five percent (5%) of the amount set forth in the petition as the lien for taxes, charges, interest and penalties chargeable to each tract, lot or piece of real estate, with the name of the ascertained owner thereof, as disclosed by the judgment or decree, with the command to advertise and sell the real estate described therein. Such order of sale shall be delivered to the sheriff of the county, who shall thereupon cause notice of sale to be published once each week for three (3) consecutive weeks in some newspaper of general circulation in the county, in accordance with the provisions of K.S.A. 64-101 and acts amendatory thereof. The notice shall describe each tract, lot or piece of real estate to be sold, and the lien for which it is to be sold, as determined by the judgment of the court, and fixing the date of sale, which shall not be less than thirty (30) days from the date of the first publication. The notice shall state that said sale will be held at the front door of the courthouse in said county or shall identify some other location in the county where the sale will be held, as selected by the administrative judge of the judicial district in which the county is located.

On the day fixed for the sale by such notice, the sheriff shall offer each such tract, lot or piece of real estate for sale, separately, and the same shall be sold at public auction for the highest and best bid obtainable therefor. The sheriff may employ an auctioneer for such reasonable compensation as may be determined by the court, to be allowed as a part of the costs and expenses of the proceedings and sale. The sheriff or such other person as may be authorized by the board of county commissioners may, if directed by the county commissioners, bid at such sale in the name of the county, such amount as the county commissioners authorize, but no bid in behalf of such county shall be accepted in excess of the amount of the judgment lien and interest thereon, as provided by law, plus the costs, charges and expenses of the proceedings and sale as set forth in the execution or order of sale. If the county is the successful bidder said costs, charges and expenses of the proceeding and sale set forth in the execution and order of sale shall be paid by the county to the clerk of the district court and charged to the county general fund. If such sale, for want of time, cannot be completed on the day fixed by the notice, it may be adjourned from day to day until completed.

The sheriff shall make return to the clerk and the same shall, as soon as practicable, be examined by the court, and if found by the court to be regular, it shall be confirmed, and the sheriff ordered to forthwith execute to the purchasers at such sale a good and sufficient deed therefor.

If one person or the county shall purchase more than one tract, lot or piece of real estate, the same may be included in one deed. Said deed shall be executed by the sheriff and acknowledged before the clerk of the district court. No particular form of deed shall be required. It shall be sufficient if it shows the date of sale, a description of the property conveyed, the amount for which each tract, lot or piece of real estate was sold, the name of the purchaser, the date such sale was confirmed by the court and the title of the suit in which said tax lien was foreclosed. When said deed is filed ~~for record in the office of the register of deeds of the county where such real estate is situated~~ it shall vest in the purchaser or grantee therein named, as against all persons, including, but not limited to, corporations and municipal corporations, parties to such proceedings, a fee simple title thereto, subject only to valid covenants running with the land and valid easement of record in use and subject to taxes and interest which have become a lien thereon, subsequent to the date upon which such judgment was rendered, and said deed shall be prima facie evidence of the regularity of all proceedings prior to the date of filing the same for record as aforesaid.

After the sale and confirmation thereof by the court, an execution shall issue, upon praecipe of the county attorney, county counselor or the purchaser, requiring the officer to deliver possession of the real estate, particularly describing it, to the parties entitled thereto, including the county. **When the deed is executed to the county by the sheriff, it shall be filed for record forthwith in the office of the register of deeds. Thereupon the assessed valuation of such real estate shall be eliminated from the assessment and tax rolls until such time as such real estate is sold as provided by K.S.A. 79-2804f.**

The deed shall be filed for record, by the sheriff at the time the deed is executed, in the office of the register of deeds of the county where such real estate is situated. Any fee or charge for such filing shall be collected from the successful bidder at the time of sale and deposited with the register of deeds at the time of recording.

1-19-89

6-1

2-1907b. County funds for supervisors; exceptions; tax levies; use of proceeds. The board of county commissioners, upon request of the board of supervisors of the conservation district, may pay to the district moneys from the county general fund for the supervisors to carry out their duties under this act. The amount authorized shall not exceed $10,000 annually, except that such limitation shall not apply to the board of county commissioners of Sedgwick and Johnson county. In addition to moneys from the county general fund, the board of county commissioners may levy an annual tax against the taxable tangible property within the district, not to exceed 2 mills or $55,000 whichever is less, to provide additional moneys for the operation of the conservation district.

The levy shall be sufficient to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, which levy may be in addition to all other tax levies authorized by law and not subject to or within any tax levy limit or aggregate tax levy limit prescribed by law. Funds appropriated or allocated under the provisions of this section and K.S.A. 2-1907c, and amendments thereto, shall be used ~~solely~~ to carry out the activities and functions of the district including cost of travel and expenses of supervisors and employees of the district incurred within the state and in no event shall be used for prizes, or incentives for achievements or attendance at meetings, or for travel or expenses for anyone other than supervisors and employees of the district.

History: L. 1953, ch. 6, § 1; L. 1959, ch. 5, § 2; L. 1963, ch. 7, § 1; L. 1969, ch. 8, § 1; L. 1972, ch. 5, § 5; L. 1976, ch. 7, § 4; L. 1979, ch. 7, § 1; L. 1979, ch. 8, § 1; L. 1981, ch. 9, § 1; L. 1985, ch. 11, § 1; L. 1987, ch. 9, § 1; July 1.

, and educational materials, conservation awards, annual meeting expenses and membership dues to conservation related organizations

1-19-89
ATTACH. 7-1

Section 2-1907d. Capital outlay fund. (1) There is hereby authorized to be established in every conservation district of the state a fund which shall be called the capital outlay fund. The fund shall consist of any monies deposited therein from funds received according to provisions of the conservation district law.

(2) Any monies in the capital outlay fund of the conservation district may be used for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing and equipping of buildings necessary for district operations, including architectural expenses incidental thereto and the acquisition of building sites and the acquisition of other equipment to carry out the activities and functions of the district.

(3) The conservation district board of supervisors is hereby authorized to invest any portion of the capital outlay fund, which is not currently needed, in investments authorized by K.S.A. 12-1675 as amended and in the manner prescribed therein. All interest received on any such investment shall be credited to the capital outlay fund.

division, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Land occupier" or "occupier of land" includes any person, partnership, trustee, corporation and legal representatives thereof, who shall hold title to, or shall be in possession of lands five (5) acres or more in extent lying within a district organized under the provisions of this act, outside the corporate limits of cities, whether as owner, lessee, renter, or tenant. [L. 1937, ch. 5, § 3; L. 1972, ch. 5, § 2; July 1.]

Law Review and Bar Journal References:

Mentioned in "Procedure in Formulating Watershed Districts," Arno Windscheffel, 36 J. B. A. K. 13, 14 (1967).

2-1904. State conservation commission; members; terms; records; seal; powers and duties; rules and regulations; compensation and expenses; employees; office and supplies. A. There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this act, the state conservation commission which commission shall succeed to all the powers, duties and property of the state soil conservation committee. The commission shall consist of nine (9) members. The following shall serve, ex officio, as members of the commission and shall hold office so long as they shall retain the office by virtue of which they shall be serving on the commission; the director of the ~~state~~ extension service (COOPERATIVE), and the director of the state agricultural experiment station located at Manhattan, Kansas (OR their designated representative). The commission shall invite the secretary of agriculture of United States of America to appoint one (1) person and the Kansas state board of agriculture to appoint one (1) person, each of whom shall be residents of the state of Kansas to serve with the above-mentioned members as a member of the commission. These members shall hold office for four (4) years and until a successor is appointed and qualifies, with terms commencing on the second Monday in January beginning in 1973. Five (5) members of the state commission shall be elected by the conservation district supervisors at a time and place to be designated by the state conservation commission. The method of electing members to be conducted as follows: The state is to be divided into five (5) sepa-

rate areas. Area No. I to include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris, Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery, Labette and Cherokee. Areas II and IV will elect in even years and Areas I, III and V shall elect in odd years for two (2) year terms. The elected commission members from Areas I, III and V shall take office ~~for the first time~~ on January 1, ~~1952~~. The remaining two (2) elected members of the state commission from Areas II and IV shall ~~not~~ take office ~~for the first time until the term of office of the two (2) present governor appointed commission members has expired.~~ The method of election is to be by area caucus of the district supervisors of each of the five (5) separate areas of Kansas. The commission shall give each district notice of the time and place of such annual election meeting by letter if a member is to be elected to the commission from that area that year. The selection of a successor to fill an unexpired term shall be by appointment by the commission. The successor who is appointed to fill the unexpired term shall be a resident of the same area as that of the predecessor. The commission shall keep a record of its official actions, shall adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings and adopt rules and regulations necessary for the execution of its functions under this act.

of the even years.

on January 1 of the odd years.

(Other method would be take office July 1)

B. The state conservation commission

pervisors of conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs; (2) to keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them; (3) to coordinate the programs of the several conservation districts organized hereunder; (4) to secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts and to contract with or to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of this act; (5) to disseminate information throughout the state concerning the activities and programs of the conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable; (6) to cooperate with and give assistance to watershed districts and other special purpose districts in the state of Kansas for the purpose of cooperating with the United States through the secretary of agriculture in the furtherance of conservation pursuant to the provisions of the watershed protection and flood prevention act, as amended; (7) to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state and maintain and improve the quality of such water resources; (8) to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts; and to facilitate arrangements under which conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of natural resources.

History: K.S.A. 2-1904; L. 1979, ch. 6, § 2; July 1.

2-1905. ~~**Petition for district; notice and hearing; record of findings; election; expenses; publication of election result; supervisors; application and statement to**~~ Repeal

Repeal

~~Secretary of state, certificate. A. Any~~ twenty-five (25) occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state conservation commission asking that a conservation district be organized to function in the territory described in the petition. Such petition shall set forth: (1) The proposed name of said district; (2) that there is need, in the interest of the public health, safety, and welfare, for a conservation district to function in the territory described in the petitions; (3) a description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate; (4) a request that the state conservation commission duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a conservation district in such territory; and that the commission determine that such a district be created. Where more than one petition is filed covering parts of the same territory the state conservation commission may consolidate all of any such petitions.

B. Within thirty (30) days after such a petition has been filed with the state conservation commission, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the ~~commission shall determine upon the facts~~

~~presented at such hearing and upon such~~ other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under the consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical and economic factors as are relevant, having due regard to the legislative determinations set forth in K.S.A. 2-1902. If the commission shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the commission has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon conservation districts in this act is administratively practicable and feasible. To assist the commission in the determination of such administrative practicability and feasibility, it shall be the duty of the commission, within a reasonable time ~~after entry of the finding that there is need~~

REPEAL

Repeal

~~for the organization of the proposed district~~ and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a conservation district of the lands below described and lying in the county(ies) of _____, and _____" and "Against creation of a conservation district of the lands below described and lying in the county(ies) of _____, and _____" shall be printed, with a square before each proposition and a direction to insert an × mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the commission. All occupiers of lands lying within the boundaries of the territory, as determined by the state conservation commission, shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote.

D. The commission shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. The commission shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the commission shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission shall determine that the operation of such district is

~~administratively practicable and feasible, it~~ shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the commission shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in K.S.A. 2-1902 except that the commission shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

F. If the commission shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) assistants to carry out the duties hereinafter set forth for completing the organization of the proposed conservation district. Such assistants shall serve until supervisors are elected as provided in K.S.A. 1976 Supp. 2-1906. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed assistants shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) That a petition for the creation of the district was filed with the state conservation commission pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public ~~body, corporate and politic, under this act,~~

~~and the commission has appointed them as~~ assistants; (2) the name and official residence of each of the assistants, together with a certified copy of the appointments evidencing their right to office; (3) the name which is proposed for the district; and (4) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said assistants before an officer authorized by the laws of this state to take and certify oaths. The application shall be accompanied by a statement by the state conservation commission, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the commission did duly determine that there is need, in the interest of the public health, safety, and welfare, for a conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the commission did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the commission.

The secretary of state shall examine the application and statement and, if the secretary finds that the name proposed for the district is not identical with that of any other conservation district of this state or so nearly similar as to lead to confusion or uncertainty, the secretary shall receive and file them and shall record them in an appropriate book of record in his or her office. If the secretary of state shall find that the name proposed for the district is identical with that of any other conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he or she shall certify such fact to the state conservation commission, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, ~~with the name so modified, in an appropriate~~

REPEAL

REPEAL

~~book of record in his or her office. When the~~ application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic, except that there shall be no official business conducted in the name of such district until the supervisors thereof are elected as provided in K.S.A. 1976 Supp. 2-1906. The secretary of state shall make and issue to the state conservation commission a certificate, under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state conservation commission as aforesaid, but in no event shall they include any area included within the boundaries of another conservation district organized under the provisions of this act.

G. After six (6) months shall have expired from the date of entry of a determination by the state conservation commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this act.

H. Petitions for including additional territory within an existing district may be filed with the state conservation commission, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusions. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than twenty-five (25), the petition may be filed when signed by not less than sixty-six and two-thirds percent (66⅔%) of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be ~~deemed to have been established in accord~~

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~~ance with the provisions of this act upon~~ REPEAL
proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be ~~proof of the filing and contents thereof.~~

History: K.S.A. 2-1905; L. 1976, ch. 7, § 1; July 1.

~~**2-1906. Nominating candidates for supervisors; elections; expenses.**~~ REPEAL
Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a conservation district, nominating petitions may be filed with the state conservation commission to nominate candidates for supervisors of such district. The commission shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the commission, unless it shall be subscribed by twenty-five (25) or more occupiers of lands lying within the boundaries of such district. Land occupiers may sign more than one (1) such nominating petition to nominate more than one (1) candidate for supervisor. The commission shall give due notice of an election to be held for the election of five (5) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an "×" mark in the square before any three (3) names to indicate the voter's preference. All occupiers of lands lying within the district shall be eligible to vote in such election. Only such land occupiers shall be eligible to vote. The five (5) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The commission shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof. The commission shall pay for the expense of publication of ~~all legal notices of all succeeding elections.~~

History: K.S.A. 2-1906; L. 1976, ch. 7, § 2; July 1.

2-1907. Supervisors; qualifications; terms; meetings; vacancies; chairperson; quorum; expenses; employees; powers and duties; bonds for employees; records; removal of supervisor. The governing body of the district shall consist of five (5) supervisors all of whom are land occupiers who are qualified electors residing within the district. The supervisors who are first elected shall serve for terms of ~~one (1),~~ two (2) and three (3) years according to the following plan: The ~~two (2)~~ person receiving the highest number of votes in the election held under K.S.A. ~~1976 Supp.~~ 2-1906 shall hold office for three (3) years; the ~~two (2)~~ person receiving the next highest number of votes shall hold such office for a term of two (2) years. ~~and the remaining elected supervisor shall hold office for a term of one (1) year.~~ In the event of a tie vote, such terms shall be decided by lot. An annual meeting of all land occupiers who are qualified electors shall be held in the month of January or February, ~~but not less than one (1) year following the first election of such supervisors, on a day to be designated by said supervisors~~. Notice of the time and place of such meeting shall be given by said supervisors by publishing a notice thereof in the official county paper once each week for two (2) consecutive weeks prior to the week in which such meeting is to be held. At such meeting the supervisors shall make full and due report of their activities and financial affairs since the last annual meeting and shall conduct an election by secret ballot of the land occupiers who are qualified electors there present for the election of supervisors whose terms have expired. From and after ~~July 1, 1976,~~ ~~any district organized prior to such date~~ shall elect at the next annual meeting ~~two (2)~~ supervisors ~~in addition to the supervisor~~ whose term shall expire that year. ~~Such two (2) additional supervisors shall replace the two (2) supervisors previously appointed by the state conservation~~ commission. ~~The terms for the three (3) supervisors elected at such annual meeting shall be as follows: The person receiving the highest number of votes shall hold office for a term of three (3) years; the person receiving the next highest number of votes shall hold office for a term of two (2) years and the remaining elected supervisor shall hold office for a term of one (1) year.~~ In the event of a tie vote, such terms shall be decided by lot.

and two supervisors to represent urban interests

two urban supervisors

as amended

or if no more than one nominated for a position, the election may be done by acclamation

July 1, 1989

directors

to replace the supervisors

~~Thereafter all five (5)~~ 5 supervisors shall ~~be elected as provided by this act and shall~~ serve for a term of three (3) years. ~~The~~ selection of successors to fill an unexpired term shall be by the remaining supervisors of the district. The supervisors shall designate a chairperson and may from time to time change such designation. A supervisor shall hold office until a successor has been elected or appointed and has qualified. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for services, but may be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties. The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the county attorney of the county in which a major portion of the district lies, or the attorney general for such legal services as they may require. The supervisors may delegate to their chairperson, to one (1) or more supervisors, or to one (1) or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the state conservation commission, upon request, copies of such rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts and receipts and disbursements. Any supervisor may be removed by the state conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason. The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the

supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

History: K.S.A. 2-1907; L. 1976, ch. 7, § 3; July 1.

2-1907b. County funds for supervisors; tax levies; use of proceeds. The board of county commissioners, upon request of the board of supervisors of the conservation district, may pay to the district moneys from the county general fund for the supervisors to carry out their duties under this act. ~~The amount authorized shall not exceed $7,500 annually.~~ In addition to moneys from the county general fund, the board of county commissioners may levy an annual tax against the taxable tangible property within the district, not to exceed 2 mills or $55,000 whichever is less, to provide additional moneys for the operation of the conservation district.

The levy shall be sufficient to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, which levy may be in addition to all other tax levies authorized by law and not subject to or within any tax levy limit or aggregate tax levy limit prescribed by law. Funds appropriated or allocated under the provisions of this section and K.S.A. 2-1907c, and amendments thereto, shall be used ~~solely~~ to carry out the activities and functions of the district including cost of travel and expenses of supervisors and employees of the district, ~~incurred within the state and in no event shall be used for prizes, or incentives for achievements or attendance at meetings, or for travel or expenses for anyone other than supervisors and employees of the district.~~

History: L. 1953, ch. 6, § 1; L. 1959, ch. 5, § 2; L. 1963, ch. 7, § 1; L. 1969, ch. 8, § 1; L. 1972, ch. 5, § 5; L. 1976, ch. 7, § 4; L. 1979, ch. 7, § 1; L. 1979, ch. 8, § 1; L. 1981, ch. 9, § 1; L. 1985, ch. 11, § 1; July 1.

need to include blanket statement for other organizations

, educational materials, conservation awards, district annual meeting and, dues to Kansas association of conservation districts and the national association of conservation districts.

The district may establish a capital outlay fund with monies from the operations funds or another authorized source for the purchase of equipment for district activities and functions.

(this needs further work)

2-1907e. Certification to state commission of amount to be furnished by county; state financial assistance; limitation; duties of state commission. Each conservation district shall on or before September 1 of each year submit to the state conservation commi[illegible] a certification of the amount of

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money to be furnished by the county commissioners for conservation district activities for the ensuing calendar year; this sum to be the same as authorized for such purposes in each approved county budget. For the purpose of providing state financial assistance to conservation districts, the state conservation commission shall then in their regular budget request, as a line item for the forthcoming fiscal year, submit a special request for an amount equal to the sum of the allocations of each county to each conservation district, but in no event to exceed the sum of ~~seven thousand five hundred dollars~~ ten thousand dollars ($7,500) per district. The state conservation commission shall as soon as practicable after July 1 of the following year disburse such moneys as may be appropriated by the state for this purpose to each conservation district to match funds allocated by the commissioners of each county. Distribution shall be prorated in proportion to county allocations in the event that appropriations are insufficient for complete matching of funds. Municipal accounting procedures shall be used in the distribution of and in the expenditure of all funds.

History: K.S.A. 2-1907c; L. 1979, ch. 7, § 2; April 25.

2-1907c. Technical Assistance, (This will need to be fully studied and looked at before submitting)

2-1908. Corporate powers. A conservation district organized under the provisions of this act shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion, flood damage and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures: *Provided, however,* That in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands, owned or controlled by this state or any of its agencies, with the cooperation of the agency adminis-

9 RS 0263

HOUSE BILL NO. 2019

By

AN ACT concerning emergency medical services; relating to limitations on certain liability; relating to persons providing emergency care; amending K.S.A. 1988 Supp. 65-6124 and 65-6135 and repealing the existing sections.

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

Section 1. K.S.A. 1988 Supp. 65-6124 is hereby amended to read as follows: 65-6124. (a) No person licensed to practice medicine and surgery or registered professional nurse, who gives emergency instructions to a mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages which may result from gross negligence in giving such instructions.

(b) No mobile intensive care technician or emergency medical technician-intermediate who renders emergency care during an emergency pursuant to instructions given by a person licensed to practice medicine and surgery or a registered professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of such mobile intensive care technician or emergency medical technician-intermediate rendering such emergency care.

(c) No attendant who renders emergency care shall be liable for civil damages as a result of rendering such emergency care, except for such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of the attendant rendering such care.

~~(c)~~ (d) No person certified as an instructor-coordinator shall be liable for any civil damages which may result from such

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instructor-coordinator's course of instruction, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor-coordinator.

(e) No person licensed to practice medicine and surgery or registered professional nurse who gives instruction to an attendant while they are a student during an approved course of instruction shall be liable for any civil damages as a result of giving such instruction, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of the person licensed to practice medicine and surgery or registered professional nurse who gives instruction.

~~(d)~~ (f) No medical adviser who reviews, approves and monitors the activities of attendants shall be liable for any civil damages as a result of such review, approval or monitoring, except such damages which may result from gross negligence in such review, approval or monitoring.

Sec. 2. K.S.A. 1988 Supp. 65-6135 is hereby amended to read as follows: 65-6135. (a) All ambulance services providing emergency care as defined by the rules and regulations adopted by the board shall offer service 24 hours per day every day of the year.

(b) Whenever an operator is required to have a permit, at least one person on each vehicle providing emergency medical service shall be an attendant certified as an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator or a mobile intensive care technician, a person licensed to practice medicine and surgery, a registered physician's assistant or a registered professional nurse.

Sec. 3. K.S.A. 1988 Supp. 65-6124 and 65-6135 are hereby repealed.

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

EMS

9 RS 0267

HOUSE BILL NO. 2086

By

AN ACT concerning certain health care providers; relating to regulation, risk management and peer review; amending K.S.A. 1988 Supp. 65-4915 and 65-4921 and repealing the existing sections.

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

Section 1. K.S.A. 1988 Supp. 65-4915 is hereby amended to read as follows: 65-4915. (a) As used in this section:

(1) "Health care provider" means: (A) Those persons and entities defined as a health care provider under K.S.A. 40-3401, and amendments thereto; and (B) a dentist licensed by the Kansas dental board, a dental hygienist licensed by the Kansas dental board, a professional nurse licensed by the board of nursing, a practical nurse licensed by the board of nursing, a mental health technician licensed by the board of nursing, a physical therapist assistant certified by the state board of healing arts, an occupational therapist registered by the state board of healing arts, an occupational therapy assistant registered by the state board of healing arts, a respiratory therapist registered by the state board of healing arts ~~and~~, a physician's assistant registered by the state board of healing arts, an attendant certificated by the emergency medical services board and a first responder certificated by the emergency medical services board.

(2) "Health care provider group" means:

(A) A state or local association of health care providers;

(B) the board of governors created under K.S.A. 40-3403, and amendments thereto;

(C) an organization of health care providers formed pursuant to state or federal law and authorized to evaluate medical and health care services;

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(D) a review committee operating pursuant to K.S.A. 65-2840b through 65-2840d, and amendments thereto;

(E) an organized medical staff of a licensed medical care facility as defined by K.S.A. 65-425, and amendments thereto, an organized medical staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto or an organized medical staff of a state psychiatric hospital or state institution for the mentally retarded, as follows: Larned state hospital, Osawatomie state hospital, Rainbow mental health facility, Topeka state hospital, Kansas neurological institute, Norton state hospital, Parsons state hospital and training center and Winfield state hospital and training center;

(F) a health care provider;

(G) a professional society of health care providers or one or more committees thereof; or

(H) a Kansas corporation whose stockholders or members are health care providers or an association of health care providers, which corporation evaluates medical and health care services.

(3) "Peer review" means any of the following functions:

(A) Evaluate and improve the quality of health care services rendered by health care providers;

(B) determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care;

(C) determine that the cost of health care rendered was considered reasonable by the providers of professional health services in this area;

(D) evaluate the qualifications, competence and performance of the providers of health care or to act upon matters relating to the discipline of any individual provider of health care;

(E) reduce morbidity or mortality;

(F) establish and enforce guidelines designed to keep within reasonable bounds the cost of health care;

(G) conduct of research;

(H) determine if a hospital's facilities are being properly

utilized;

(I) supervise, discipline, admit, determine privileges or control members of a hospital's medical staff;

(J) review the professional qualifications or activities of health care providers;

(K) evaluate the quantity, quality and timeliness of health care services rendered to patients in the facility;

(L) evaluate, review or improve methods, procedures or treatments being utilized by the medical care facility or by health care providers in a facility rendering health care.

(4) "Peer review officer or committee" means an individual employed, designated or appointed by, or a committee of or employed, designated or appointed by, a health care provider group and authorized to perform peer review.

(b) Except as provided by K.S.A. 60-437, and amendments thereto, and by subsections (c) and (d), the reports, statements, memoranda, proceedings, findings and other records of peer review committees or officers shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding. Information contained in such records shall not be discoverable or admissible at trial in the form of testimony by an individual who participated in the peer review process. This privilege may be claimed by the legal entity creating the peer review committee or officer, or by the commissioner of insurance for any records or proceedings of the board of governors.

(c) Subsection (b) shall not apply to proceedings in which a health care provider contests the revocation, denial, restriction or termination of staff privileges or the license, registration, certification or other authorization to practice of the health care provider.

(d) Nothing in this section shall limit the authority, which may otherwise be provided by law, of the commissioner of insurance, the state board of healing arts or other health care

provider licensing or disciplinary boards of this state to require a peer review committee or officer to report to it any disciplinary action or recommendation of such committee or officer; to transfer to it records of such committee's or officer's proceedings or actions to restrict or revoke the license, registration, certification or other authorization to practice of a health care provider; or to terminate the liability of the fund for all claims against a specific health care provider for damages for death or personal injury pursuant to subsection (i) of K.S.A. 40-3403, and amendments thereto. Reports and records so furnished shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding other than a disciplinary proceeding by the state board of healing arts or other health care provider licensing or disciplinary boards of this state.

(e) A peer review committee or officer may report to and discuss its activities, information and findings to other peer review committees or officers or to a board of directors or an administrative officer of a health care provider without waiver of the privilege provided by subsection (b) and the records of all such committees or officers relating to such report shall be privileged as provided by subsection (b).

Sec. 2. K.S.A. 1988 Supp. 65-4921 is hereby amended to read as follows: 65-4921. As used in K.S.A. ~~1987~~ 1988 Supp. 65-4921 through 65-4930, and amendments thereto:

(a) "Appropriate licensing agency" means the agency that issued the license to the individual or health care provider who is the subject of a report under this act.

(b) "Department" means the department of health and environment.

(c) "Health care provider" means: (1) Those persons and entities defined as a health care provider under K.S.A. 40-3401, and amendments thereto; and (2) a dentist licensed by the Kansas

dental board, a dental hygienist licensed by the Kansas dental board, a professional nurse licensed by the board of nursing, a practical nurse licensed by the board of nursing, a mental health technician licensed by the board of nursing, a physical therapist assistant certified by the state board of healing arts, an occupational therapist registered by the state board of healing arts, an occupational therapy assistant registered by the state board of healing arts ~~and~~, a respiratory therapist registered by the state board of healing arts, an attendant certificated by the emergency medical services board and a first responder certificated by the emergency medical services board.

(d) "License," "licensee" and "licensing" include comparable terms which relate to regulation similar to licensure, such as registration.

(e) "Medical care facility" means: (1) A medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto; (2) a private psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto; and (3) state psychiatric hospitals and state institutions for the mentally retarded, as follows: Larned state hospital, Osawatomie state hospital, Rainbow mental health facility, Topeka state hospital, Kansas neurological institute, Norton state hospital, Parsons state hospital and training center and Winfield state hospital and training center.

(f) "Reportable incident" means an act by a health care provider which: (1) Is or may be below the applicable standard of care and has a reasonable probability of causing injury to a patient; or (2) may be grounds for disciplinary action by the appropriate licensing agency.

(g) "Risk manager" means the individual designated by a medical care facility to administer its internal risk management program and to receive reports of reportable incidents within the facility.

(h) "Secretary" means the secretary of health and environment.

Sec. 3. K.S.A. 1988 Supp. 65-4915 and 65-4921 are hereby repealed.

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