

Approved February 19, 1990  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE ROBERT D. MILLER at  
Chairperson

1:38 a.m./p.m. on FEBRUARY 14, 1990 in room 521-S of the Capitol.

All members were present except:

Representative Russell, excused

Committee staff present:

Mike Heim, Legislative Research Dept.  
Theresa Kiernan, Revisor of Statutes  
Connie Smith, Committee Secretary

Conferees appearing before the committee:

Doug Martin, Shawnee County Counselor  
Beverly Bradley, Kansas Association of Counties  
Elizabeth Phelps, Legal Advisor for Shawnee Co. Sheriff's Dept.  
Ed Ritchie, Sheriff of Shawnee County  
Sheriff Harris G. Terry, representing Sheriffs' Assn.  
Mike Billinger, Ellis Co. Treasurer representing the Kansas County  
Treasurers' Association  
Gary Watson, Treasurer from Trego Co. and representing the Kansas  
Treasurers' Association

Chairman Miller called for hearings on the following bills:

HB 2821 - Act concerning sheriffs; relating to the powers thereof.

Chairman Miller called on Doug Martin, Shawnee County Counselor. Mr. Martin testified in support of HB 2821. Mr. Martin suggested adding at the end of subsection (b) in section 1 and any other civil case. (Attach. I)

Staff informed Chairman Miller that the Senate has a bill very similar to this and there is another bill in the House Judiciary Committee. Chairman Miller stated that this bill goes further than the scope of the Local Government Committee. He suggested that the bill should be in Judiciary in order that the two bills could be dealt with at one time.

Beverly Bradley, Kansas Association of Counties, stated that this bill was requested by Kansas Association of Counties for Doug Martin, Shawnee County Counselor. The Kansas Association of Counties supports HB 2821 as an option for counties to consider.

Chairman Miller recognized Elizabeth Phelps, Legal Advisor for Shawnee County Sheriff's Department, who testified as an opponent to HB 2821. She urged the Committee to reject the proposal embodied in HB 2821. Ms Phelps submitted written testimony by her and Ed Ritchie, Sheriff. (Attachment II)

Sheriff Ed Ritchie was available for questions.

The Chairman stated that Sheriff Harris G. Terry of the Kansas Sheriffs' Association was unable to appear and provided written testimony in opposition to HB 2821. (Attachment III)

Chairman Miller closed the hearings on HB 2821.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S, Statehouse, at 1:38 a.m./p.m. on FEBRUARY 14, 1990

Chairman Miller called for hearing on HB 2823.

HB 2823 - Act concerning the collection of delinquent property taxes.

Mike Billinger, representing the Kansas County Treasurers' Association testified in support of HB 2823. Mr. Billinger stated the County Treasurers feel the implementation of HB 2823 would provide the means for collecting seemingly unprofitable delinquent oil personal property taxes and provides the collection of delinquent taxes on leases in which the lease holder's interest can be traced back to the tax warrant in arrears. (Attachment IV) Discussion followed.

Gary Watson, Treasurer from Trego County and a representative of the Kansas County Treasurers' Association, testified in support of HB 2823 stating the passage of this bill would provide much aid, to the counties, for the collection of delinquent taxes. (Attachment V)

Beverly Bradley, Kansas Association of Counties, stated that this bill was requested by the Kansas County Treasurers' Association. The Kansas Association of Counties put together a committee to study delinquent tax issues.

The Chairman stated that Judith Corley, County Treasurer from Russell County and Jan Hallmark, Treasurer from Barton County, submitted written testimony in support of HB 2823. (Attachment VI and VII)

Since there were no opponents to testify the Chairman closed the hearing on HB 2823.

The Chairman called for hearing on HB 2847.

HB 2847 - Act concerning the collection of delinquent property taxes.

Doug Martin, Shawnee County Counselor, testified in support of HB 2847. (Attachment I, last paragraph) Discussion followed.

Beverly Bradley, Kansas Association of Counties, stated that this bill was for the big counties. It is an item in their 1990 platform and was approved by the convention in November.

There were no opponents and the Chairman closed the hearing on HB 2847.

The meeting was adjourned.

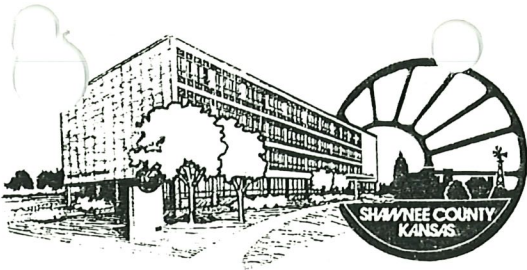


Service of process and other civil documents is one of the many mandatory services that the Kansas Legislature has placed on county governments. Pursuant to K.S.A. 60-2001(c), the docket fees that are paid in connection with civil lawsuits are distributed according to the guidelines set forth in K.S.A. 20-362. Shawnee County receives \$10 for each docket fee paid for Chapter 60 cases, and \$5 or \$10 for each docket fee paid for Chapter 61 cases. These fees do not at all cover the expenses that Shawnee County government is required to spend to carry out this state-mandated service.

In order to make every attempt to reduce the cost of these services that must be subsidized by tax payers, Shawnee County and the Kansas Association of Counties is requesting that they be given the option of contracting out these services to private companies. Obviously, these services should not be contracted out if there can be no savings to the taxpayers. However, in the event a case can be made for this privatization at the local level, local government officials should be allowed this option. We think this option is good government at its best. There will be many groups and individuals who might oppose this option, however, in most cases they are not the ones who have to make the final decisions on the county budget. Without exploring this option, none of us will ever know how much can be saved, or how efficiently these documents can be served.

One of the alternatives this committee might consider is an adjustment to docket fees and the distribution formula under K.S.A. 20-362 so as to more appropriately reflect the costs of these services. The fixed amounts established by the Legislature to reimburse county governments for these services have not been revised since 1982. Inflation has made these figures outdated.

With regard to the amendment to K.S.A. 79-2017, again this local option would allow county governments to clear personal property tax judgments from their records when collection is not worth the costs involved. Shawnee County government receives, depending on the taxing unit, only around 17% of these taxes. When you consider all the expenses to re-execute on these delinquent personal property tax warrants, and the expenses of carrying them on the District Court judgment system, it is not very cost efficient to continue attempts to collect after they are delinquent for seven years. The law of diminishing returns rapidly overtakes any gains that could be realized for these taxes. Once again, however, any county government could continue to collect these taxes if it so chooses.



# Shawnee County Sheriff's Dept.

200 East 7th, Topeka, KS 66603-3973

ED RITCHIE  
SHERIFF  
291-4047

DALE COLLIE  
UNDERSHERIFF  
291-4050

## TESTIMONY BEFORE THE HOUSE COMMITTEE ON LOCAL GOVERNMENT CONCERNING H.B. 2821 (2/14/90; 1:30 P.M.)

SUBMITTED BY ED RITCHIE, Sheriff and ELIZABETH PHELPS, Legal Advisor  
SHAWNEE COUNTY SHERIFF'S DEPARTMENT

On behalf of the Shawnee County Sheriff's Department, we present the following testimony in opposition to H.B. 2821 pending before this Committee. We are not here to debate the theoretical values of "privatization" versus "nationalization" of services; nor to engage in a territorial dispute. We are here to advise the committee of information and knowledge we have about these matters, based upon years of practical experience. This bill as drafted would give boards of county commissioners the authority to undertake a course that could negatively alter a broad range of time-honored Sheriff's duties in a manner that is poor public policy.

The proposed modification is poor public policy primarily because there are numerous "civil process" duties that are best conducted by deputies with law enforcement authority. Deputies are trained professionals; they are in the business of avoiding, deflecting and mediating potentially volatile disputes; serving under an elected Sheriff and dealing closely with the judicial system, they are responsive -- to the public generally, and to the attorneys, litigants and courts they serve; and, empowered with the authority to arrest, deputies are particularly effective in carrying out the many important and delicate duties that come under the phrase "service and execution of all civil process, writs, precepts and orders."

In 1989, our Department carried out 60,000 items of "civil process." Included in that number:

- \* 460 Protection from Abuse Act cases were brought. These are actions filed (under KSA 60-3101) by people who have been subject to or fear physical or sexual abuse. Victims are allowed to file pro se, and get immediate protective orders, such as restraining orders and custody/residence orders. These actions must be promptly served and effected by law enforcement, including the hands-on removal of the offending party from the victim's residence.
- \* 1,798 Divorce actions were filed. Various subjects and forms of relief are sought in these cases, and anytime such emotional issues are involved there is a potential for heated disruption. In connection with these cases, for

*L.S.*  
*2-14-90*  
*attach. II*

example, we receive orders directing us to effect the change of physical custody of children.

- \* 371 evictions were carried out. This requires the complete removal of people from their residences, and the peaceable restoration of property to others. There is always the potential for violence in carrying out these matters.
- \* 466 tax warrants were executed, and 371 general executions were fulfilled. In these situations, we are essentially required to identify and seize property from people, and properly see to its disposition in the payment of judgments, tax debts, etc.
- \* Some 200 real estate sales -- including the specific identification, publication and execution of Sheriff's Deeds -- were conducted.

These are some of the day-to-day "civil process" duties our Department carries out. Further, these officers are able to perform other law enforcement services, such as the execution of criminal warrants, assisting in times of emergency, and so on. In each of these areas, and others, critical interests in the safety and welfare of people and their property are involved. These are the types of duties that must be performed by professional, trained, restrained, responsive deputies with the authority conferred upon them by their law enforcement status. These are not the kinds of things anyone, as a public policy matter, should have carte blanche ability to turn over to private entities.

For those civil actions where more routine service of summons and petition are involved, litigants already have the statutory option of having a special process server appointed to privately effect such service. Nothing further is needed from this legislature for those situations. The provisions of this bill go both too far (in the scope of items covered) and not far enough (in treating other specific statutes that direct the Sheriff alone to carry out sensitive duties, and allow the Sheriff's services alone to be included in the docket fee paid by litigants).

In Shawnee County, at the request of our Board of County Commissioners, a Process Privatization Committee was formed last year. The Committee consisted of the Administrative District Court Judge, the District Court Clerk, the District Attorney, two members of the County Counselors' office, a member from the Sheriff's Department, and a private attorney. The Board solicited any proposals for private process service; only one was received. After considering the matter generally, as well as the specific bid received, the Committee voted to reject it. Even on the limited duties that the private entity could perform, the bid simply was not cost effective.

We urge this Committee to reject the proposal embodied in H.B. 2821. Thank you for considering our comments.



## McPherson County, Kansas

February 14, 1990

HB 2821

### TESTIMONY BEFORE THE COMMITTEE ON LOCAL GOVERNMENT

The Office of Sheriff is the oldest known law enforcement agency being established over one thousand years ago under Alfred the Great of England. The Shire-reeve (Keeper and Chief of his County), as he was known then, was later to become known as sheriff. In those by gone years, and to this day, the sheriff is recognized as the Chief Law Enforcement Officer of the county. This recognition includes the United States Supreme Court.

The duties of the sheriff then, as now, include among other duties, civil process. The sheriffs of the United States and of this great state of Kansas pride themselves in the services provided to the citizens of their respective counties. The services provided in civil process in no less important to Kansas sheriffs.

The Kansas Sheriffs Association has continued to work on improving the level of professionalism of law enforcement in Kansas. We have done this through training programs within our association and supporting the Kansas Law Enforcement Training Center. We were instrumental in requiring mandatory training for all newly elected sheriffs. Because we recognize the importance of civil process as part of our duties, we include this training in the sheriffs curriculum.

KSA 19-812 describes the duties of the sheriff in serving civil process. The legislators who passed this statue realized how important civil process is. The sheriffs of Kansas also realize the importance! It is important that proper process be followed in order for our courts to proceed with the actions filed, but it is also important because of potential civil liability against the sheriff and county. Improper process can lead to civil judgement.

The sheriffs of Kansas have the experience and training necessary for proper civil process. We know what the responsibilities are! We have the desire to continue providing professional civil process that our judicial system expects and has come to know.

House Bill 2821 could expose our counties to additional and unnecessary civil liability. HB 2821 would also create a duplication of service that is completely unnecessary!

Just as criminal process should be left in the hands of professionals, so should civil process. The sheriffs of Kansas have those professional hands in civil process, not county commissioners. Therefore, I respectfully request you do not approve HB 2821.

Harris G. Terry  
Sheriff

McPherson County Sheriff  
Box 426 \* 119 N. Maple  
McPherson, KS 67460  
(316) 241-2720

Dean D. Krell  
Undersheriff

*24*  
*2-14-90*  
*attach III*

M "MICKEY" BILLINGER  
TREASURER

JERRY SCHMIDT  
DEPUTY TREASURER

OFFICE OF  
ELLIS COUNTY TREASURER  
DRAWER 520  
HAYS, KANSAS 67601

TAX OFFICE 913-628-8249  
MOTOR VEHICLE REGISTRATION OFFICE 913-628-2034

February 14, 1990

To: Members of the House Committee on Local Government  
From: Mike Billinger,  
Ellis County Treasurer  
RE: House Bill #2823

Good afternoon, I'm Mike Billinger, Ellis County Treasurer and representative of the Kansas County Treasurer's Association.

House Bill #2823 addresses the problems associated with the collection of delinquent oil personal property tax. With the shrinkage of the ad valorem tax base resulting in increased delinquencies, local units of government are forced to find a more equitable and cost effective method of collecting such delinquencies.

County Treasurers feel the implementation of H.B.#2823 would provide the means for collecting seemingly unprofitable delinquent oil personal property taxes. Under current statutes the collection of many such taxes expends more tax dollars than it realizes in collections. This because of marginal production and the necessity of legal counsel.

H.B.#2823 provides the collection of delinquent taxes on leases in which the lease holder's interest can be traced back to the tax warrant in arrears. In so doing such taxes would be garnisheed from the sale of oil and gas production from current lease holders interest until such taxes, penalties and fees are satisfied. Upon redemption of such delinquent taxes the purchasing oil company would then resume payments to the current interest holder(s). In addition if a warrant is returned to the Treasurer, the Sheriff may request garnishment of the proceeds of the sale of oil or gas from such leases for a period not to exceed five (5) years.

In conclusion, this committee can enhance the tax collection capabilities of County Officials by favorably considering H.B.#2823 which amends K.S.A. 79-2101. Thank you for your time and considerations. If there are any questions I will attempt to answer them at this time.

Sincerely,

  
Mike Billinger  
Ellis County Treasurer

LY.  
2-14-90  
Attach - IV



Dear Committee Members:

My name is Gary Watson. I am the Treasurer from Trego County and a representative of the Kansas County Treasurer's Association.

H.B.2823 addresses a problem facing all oil producing counties. That problem is the collection of taxes on royalty interest that has transferred ownership after being assessed but prior to the collection of the taxes. There is no way of garnishing a run check when the name listed on the tax roll isn't the same as the owner of record.

Currently, in Trego County, we have thousands of dollars in unpaid oil taxes. Most of these are due to change in ownership or simply changing the names of record.

Passage of this bill would provide much needed aid, to the counties, for the collection of these delinquent taxes.

Your support of this Bill would be very important to all oil producing counties in the state. The ability to collect any delinquent taxes is a benefit to all taxpayers in the county.

If you have any questions I would be happy to answer them.

Sincerely,  
Gary Watson  
Trego County Treasurer

LS  
2-14-90  
Attachment V

State of Kansas

# BARTON COUNTY COURTHOUSE

P.O. Box 1130  
Great Bend, Kansas 67530

Office of JENNETH HALLMARK  
County Treasurer

PHONE 316-792-4731

February 13, 1990

TO: House Committee on Local Government  
FROM: Jan Hallmark, Barton County Treasurer  
RE: House Bill No. 2823

This correspondence is in support of House Bill 2823 as it amends K.S.A. 79-2101.

County Treasurers statewide are generally experiencing difficulty in the collection of delinquent taxes. This is particularly true with regard to oil and gas lease taxes.

Given the current climate relative to taxation in the State of Kansas, it is important that the collection of delinquent taxes become more efficient and effective. Hopefully, by collecting those taxes that are delinquent in a more effective fashion, the burden on those who faithfully pay their taxes would be reduced.

I respectfully request that as a member of the House Committee on Local Government you act to make House Bill 2823 law.

Sincerely,



Jenneth Hallmark  
County Treasurer

LD  
2-14-90  
Attach. VI

JUDITH A. CORLEY  
COUNTY TREASURER

OFFICE OF THE  
RUSSELL COUNTY TREASURER  
RUSSELL, KANSAS 67665

TREASURER 913-483-2251  
MOTOR VEHICLE 913-483-5314

February 9, 1990

TO: Members of House Local Government Committee  
FROM: Judith A. Corley, Russell County Treasurer  
RE: House Bill #2823

Mr. Chairman and Members of the Committee:

I am here in support of House Bill #2823. I feel that this bill would be very beneficial in enabling Russell County and other counties with Oil and Gas taxes to collect Oil and Gas Revenues that are difficult, if not impossible to collect.

The Russell County Commissioners, Dean Boxberger, Warren Cooksey and Larry Hickman, also support this bill.

Your consideration and approval of this bill will be greatly appreciated.

Thank you.

Sincerely,

*Judith A. Corley*

Judith A. Corley

*L. S.  
2-14-90  
Attach III*