

Approved April 25, 1990  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

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

1:40 4 a.m./p.m. on MARCH 21, 1990 in room 521-S of the Capitol.

All members were present except:

Representative Patrick, excused  
Representative 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:

Bob McDanel, Administrator of the Emergency Medical Services Board, was present to answer questions from the Committee.

Chairman Miller called the Committee's attention to the Attorney General's opinion, No. 90-32, regarding House Bill 2943. The Chairman stated the bill is not needed. (Attachment I)

Chairman Miller called for discussion and possible action on the following bills.

SB 566 - Sheriff's fees

Chairman Miller asked staff to give a brief overview of SB 566.

Chairman Miller recognized Representative Russell who stated the bill was requested by the Montgomery County Sheriff's office and filed by Senator Johnston. Representative Russell stated the bill deals with the amount of fees collected by sheriffs for traveling, serving writs, etc. The present fee is nine cents and the bill requests an increase to 22½ cents. On the first of March, the federal and state rate was raised to 24 cents. Discussion followed.

Representative Reinhardt moved to conceptually amend SB 566 to apply the going state rate; seconded by Representative Russell. No discussion. Motion carried.

Representative Russell moved to pass favorably as amended SB 566; seconded by Representative Lane. Motion carried.

Chairman Miller recognized Representative Johnson for a point of discussion on SB 466 and SB 668.

SB 466 - Act concerning emergency medical services; relating to qualifications for certain classes of attendant's certificates.

Representative Johnson stated SB 466 changes the definition of EMTI to an individual who is currently certified as an EMT who has successfully completed an approved training course. Representative Johnson presented, as an amendment, Substitute for House Bill 2049, providing for the certification of emergency medical dispatchers, which was passed out in Committee last year and by the full House. (Attachment II)

Chairman Miller expressed concern that the bill had not been heard in the Senate.

Representative Johnson moved to amend Substitute House Bill 2049 into SB 466; seconded by Representative Bowden. Discussion followed. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S Statehouse, at 1:40 a.m./p.m. on MARCH 21, 1990

Representative Johnson moved to pass SB 466 favorably as amended; seconded by Representative Sawyer. The motion carried.

SB 668 - Act concerning the emergency medical services board; relating to the powers, duties and functions thereof;

Representative Johnson stated she had some clean-up amendments pertaining to the powers and duties of the board; also clarifying the definition of ambulances. Representative Johnson asked Bob McDaneld if there were any wheel-chair vans that had a life support system that they would be cutting out by changing the definition of ambulance. Mr. McDaneld could not think of any instances. Representative Johnson stated she was in favor of the bill as you see it here. Chairman asked for any questions? Representative Bowden asked if there was a court case pending dealing with the definition of ambulance. Mr. McDaneld stated there is one case pending in Shawnee county district court. It has been pending for 2 years. The Attorney General will not issue an opinion to help clarify the statutes while litigation is pending. The board is left in an extremely difficult position as to what entities it regulates. Discussion followed.

Representative Reinhardt moved to pass SB 668; seconded by Representative Johnson. Discussion followed. Representative Bowden stated he had notes to amend in section 6. Representative Reinhardt withdrew his motion.

Representative Bowden moved to amend SB 668 in section 6, line 18 after the word attendant add "or instructor coordinator"; seconded by Representative Johnson. The motion carried.

Representative Reinhardt moved to pass SB 668 favorably as amended; seconded by Representative Johnson. The motion carried.

Chairman Miller turned the Committee's attention to SB 584, act relating to fire department in certain townships.

Chairman Miller stated the bill filed by Senator Sallee deals with fire departments and townships and amends Jackson County in with the other counties that are listed.

Representative Sawyer moved that SB 584 be passed favorably and placed on the consent calendar; seconded by Representative Graeber. Representative Johnson stated she had an amendment for this bill. Representative Sawyer withdrew his motion.

Representative Johnson moved to conceptually amend SB 584 to localize it to Kansas City, Kansas and Wyandotte County that a firefighter shall not be required to be a resident of the city; seconded by Representative Bowden. Discussion followed. Staff stated it would be a new section applying only to Kansas City, Kansas. Motion carried.

Representative Sawyer moved to pass SB 584 favorably as amended; seconded by Representative Graeber. Motion carried.

Chairman Miller turned the Committee's attention to SB 697, act concerning cities and counties relating to unpaid property taxes.

Representative Sawyer moved to pass SB 697 favorably and place it on the consent calendar; seconded by Representative McClure. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,

room 521-S, Statehouse, at 1:40 ~~a.m.~~/p.m. on MARCH 21, 1990

Chairman Miller turned the Committee's attention to SB 478, act concerning cities; relating to the limitation on bonded indebtedness.

Representative Sawyer moved to pass SB 478 and place it on the consent calendar; seconded by Representative Johnson. Motion carried.

Chairman Miller turned the Committee's attention to SB 511, investment of interest of municipal utility security deposits.

Representative Sawyer moved to pass SB 511 favorably; seconded by Representative Watson. Discussion followed. Motion failed.

Representative Graeber made a request to staff to prepare for him an opinion as to whether or not Leavenworth County is included in SB 186. If so, are they included because of being contiguous to Wyandotte County, also would it still require a local vote for them to be brought into the compact. Chairman Miller suggested that staff work directly with Representative Graeber. Chairman Miller stated that he is planning to work the bill Monday.

Chairman Miller stated the subcommittee on HB 3058 met this morning and there are problems that need to be addressed. Chairman Miller suggested that maybe an ad hoc or blue ribbon committee should be appointed to assure a study. Representatives Brown, Bowden and Johnson stated they would rather have an interim study. Discussion followed. Chairman Miller stated we don't know if we can get an interim study and felt that if an ad hoc or blue ribbon committee was formed we would be assured of a clean bill to work with prior to the 1991 session.

Meeting adjourned at 2:35 p.m.





STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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March 16, 1990

ATTORNEY GENERAL OPINION NO. 90- 32

The Honorable R. D. Miller  
Chairman, House Local Government Committee  
State Representative, One Hundred Tenth District  
State Capitol, Room 183-W  
Topeka, Kansas 66612

Re: Drainage and Levees--Drainage Districts Within  
Counties or Cities; Drainage Act of 1905 and  
Amendments--Organization of Drainage Districts

Synopsis: K.S.A. 24-401 et seq. authorize a drainage  
district, organized pursuant to the act, to  
prohibit or limit discharges into a drainage ditch  
that prevent its maintenance. The drainage  
district is authorized by statute to maintain suits  
to enforce the reasonable orders of its directors  
and thus includes the ability to seek an injunction  
to this effect thus obviating the need for 1990  
House Bill No. 2623. Cited herein: K.S.A. 24-401  
et seq.; 24-407; 24-429; 24-434.

\* \* \*

Dear Representative Miller:

As representative of the one hundred tenth district you  
inquire whether current law authorizes a drainage district to  
prohibit or limit discharges into district drainage ditches by  
an order or an injunction to that effect, obviating the need  
for 1990 House Bill No. 2623.

You indicate the drainage district was organized pursuant to  
K.S.A. 24-401 et seq. and is currently unable to

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Attach. I

maintain a drainage ditch because a landowner refuses to schedule drainage from his commercial fish pond at intervals that would allow the ditch to dry, allowing for bulldozers to clean and maintain the ditch.

A drainage district is a quasi-municipal corporation, created by the legislature and deriving its authority from statute. State, ex rel., v. Drainage District, 123 Kan. 191 (1927). The powers and authority conferred on the drainage district generally are set out in K.S.A. 24-407. The board of directors of every drainage district incorporated under this article have the power:

"(4) To take charge of and exercise exclusive control of all natural watercourses within the district, and widen, deepen, establish, regulate and maintain the channels thereof, construct and maintain levees along the banks thereof and detention dams and. . . .

. . . .

"(9) To maintain in any court of competent jurisdiction suits to enforce the reasonable orders of its directors, enjoin the placing or maintenance in any natural watercourse of any unauthorized bridge, embankment, pier or other work or structure constituting to any extent whatever an obstruction to the flow of the water, restrain all other wrongful or unauthorized encroachments upon or interference with the channel of the watercourse and to have all obstructions wrongfully placed in the channel of natural watercourses adjudged public nuisances and abated as such.

. . . .

"(16) To do all other acts necessary to carry out and execute the general powers granted under the provisions of K.S.A. 24-401 et seq., and amendments thereto, although not specifically enumerated. . . ." (Emphasis added).

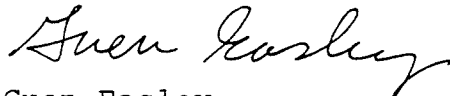
Subsections (4), (9) and (16) authorize the exclusive control of the maintenance of ditches, the issuance of reasonable orders and includes powers not specifically enumerated. Additionally, K.S.A. 24-429 charges the board of directors with the duty to keep the works and improvements (such as ditches ) in repair. Liberal construction of the act is mandated to encourage the improvement of watercourses and to protect lands from damage and injury by overflow. K.S.A. 24-434. See generally, Wolf v. Second Drainage District, 179 Kan. 655, 665 (1956) (discussing the act in question); 26 Am.Jur.2d Drains and Drainage Districts §36 (1966).

Given the powers clearly set out in the act and the duty imposed to maintain drainage ditches, it is our opinion K.S.A. 24-401 et seq. authorizes a drainage district, organized pursuant to the act, to prohibit or limit discharges that prevent the maintenance of the ditch as required by K.S.A. 24-429. The drainage district is authorized by statute to maintain suits to enforce the reasonable orders of its directors and thus includes the ability to seek an injunction to this effect, obviating the need for 1990 House Bill 2623.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Guen Easley  
Assistant Attorney General

RTS:JLM:GE:jm

Substitute for HOUSE BILL No. 2049

By Committee on Local Government

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Attachment II

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AN ACT concerning emergency medical services; providing for the certification of emergency medical dispatchers; and providing for the administration of the provisions of the act.

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

Section 1. As used in this act:

(a) "Emergency medical service" shall have the meaning ascribed to such term by K.S.A. 65-6101 *et seq.*, and amendments thereto.

(b) "Emergency medical services board" or "board" shall mean the board established by K.S.A. 65-6102, and amendments thereto.

(c) "Emergency medical dispatcher" means a person who is employed, primarily, as a dispatcher for emergency medical services provided pursuant to K.S.A. 65-6101 *et seq.*, and amendments thereto.

Sec. 2. (a) From and after July 1, 1991, no person shall be employed as an emergency medical dispatcher unless such person has been awarded a certificate attesting to satisfactory completion of a course of instruction approved by the emergency medical services board.

(b) Any person serving as a dispatcher for emergency medical services provided pursuant to K.S.A. 65-6101 *et seq.*, and amendments thereto, on July 1, 1991, shall be entitled to certification and employment as an emergency medical dispatcher upon making application therefor to the emergency medical services board upon forms prescribed and provided by the board without having completed the required course of instruction.

(c) From and after July 1, 1991, any person who does not hold a certificate as required by subsection (a) may be employed as an emergency medical dispatcher on a provisional basis for a period of



44 not more than one year. Any person employed as an emergency  
 45 medical dispatcher on a provisional basis who does not receive the  
 46 certificate required under subsection (a) within one year following  
 47 the date of original employment shall forfeit such position at the  
 48 end of such one-year period and shall not be eligible for employment  
 49 on a provisional basis within one year following the date on which  
 50 such person last served as an emergency medical dispatcher.

51 Sec. 3. The emergency medical services board shall develop an  
 52 emergency medical dispatcher training and certification program.

53 (a) To receive initial certification as an emergency medical dis-  
 54 patcher an individual shall:

55 (1) Successfully complete a course of instruction prescribed by  
 56 the board for such purpose;

57 (2) be currently certified in cardiopulmonary resuscitation,  
 58 through a course approved by the board; and

59 (3) successfully pass the written examination adopted by the  
 60 board for such purpose.

61 (b) To remain certificated an individual shall be recertificated  
 62 each year. To be recertificated as an emergency medical dispatcher  
 63 an individual shall:

64 (1) Make application to the emergency medical services board  
 65 on a form prescribed and provided by the board;

66 (2) provide evidence of a current certificate in cardiopulmonary  
 67 resuscitation through a course approved by the board; and

68 (3) successfully complete a course of continuing education as pre-  
 69 scribed and approved by the board.

70 (c) If a certificate is not renewed within 30 days following ex-  
 71 piration, such certificate shall be void.

72 Sec. 4. The emergency medical services board is hereby au-  
 73 thorized to adopt rules and regulations necessary for the adminis-  
 74 tration of this act. The board shall by rule and regulation prescribe  
 75 fees to be charged persons enrolled in courses of instruction, to  
 76 persons taking examinations and to persons making application for  
 77 certification or recertification pursuant to this act.

78 Sec. 5. The emergency medical services board may suspend,  
 79 revoke or deny the certification of an emergency medical dispatche  
 80 who fails to meet the requirements of this act or has met such

81 requirements by falsifying documents or failing to disclose infor-  
 82 mation required for certification. The procedure for suspension, re-  
 83 vocation and denial of certification shall be established by rules and  
 84 regulations of the board.

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

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