

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Rick Bowden at 3:30 p.m. on January 28, 1992 in room Room 519-S of the Capitol.

All members were present except:

Committee staff present:

- Ben Barrett, Legislative Research
- Avis Swartzman, REvisor of Statutes Office
- Shirley Wilds, Secretary to the Committee

Conferees appearing before the committee:

- Robin Nichols, Wichita Public Schools
- Representative JoAnn Pottorff
- Representative Elizabeth Baker
- Mark Tallman, KASB

The meeting was called to order by Vice-Chairman, Bill Reardon.

Discussion and action on SB 62:

Representative Gary Blumenthal moved that SB 62 be reported favorably, seconded by Representative Steve Wiard. Representative Al Lane made substitute motion to re-refer to the Judiciary Committee, seconded by Representative Lisa Benlon. The substitute motion lost. The motion carried to report favorably SB 62. Representative Al Lane voted Nay; Representative Lisa Benlon voted Nay. Representative Gene Amos abstained.

Hearing on HB 2655:

Representative Elizabeth Baker. Representative Baker feels, due to conflicts from the April school board elections in Wichita, HB 2655 will facilitate this continuing problem. She referred the committee to an editorial addressing this issue. She asked for favorable passage of the bill. (See Attachment #1.)

Robin Nichols. Speaking in support of HB 2655, Ms. Nichols said a review of the history of the original 1968 version of KSA 25-2023 and as amended in 1974 is helpful. She stated that the date lapse is a statutory "left-over" from another time. The current process does not further the educational interest of our children, but does threaten voter interest and the democratic process. (See Attachment #2.)

Representative JoAnn Pottorff. Representative Pottorf addressed Section 4 of HB 2655, allowing school board members to take office on May 1 following their election. She stated that the school board is perhaps the very best example of representative and participatory government, and they function as the connecting link between the public which supports the schools and the profession which conducts the schools. She urged the committee to favorably support this bill. (See Attachment #3)

Mark Tallman. Mr. Tallman said that KASB believes that any benefits a change of date may have in few communities each year would be outweighed in many more communities. He urged the committee to retain the current system. (See Attachment #4)

Representative Anthony Hensley is to be shown as present in the committee minutes for the January 15 committee meeting in committee minutes.

Representative Al Lane is to be shown as present in the committee minutes for the January 14 committee meeting.

The next meeting is scheduled for January 29, 3:30 p.m. in Room 519-S

Upon completion of its business, the meeting adjourned at 4:10 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

ELIZABETH BAKER
 REPRESENTATIVE, EIGHTY-SECOND DISTRICT
 SEDGWICK COUNTY
 601 HONEYBROOK LANE
 DERBY, KANSAS 67037



TOPEKA

HOUSE OF
 REPRESENTATIVES

CHAIR: SEDGWICK COUNTY
 LEGISLATIVE DELEGATION
 MEMBER: BOARD OF TRUSTEES
 WICHITA STATE UNIVERSITY
 REGIONAL OMBUDSMAN: KANSAS
 COMMITTEE FOR EMPLOYEE
 SUPPORT OF THE GUARD AND
 RESERVE
 COMMITTEE ASSIGNMENTS
 RANKING MINORITY MEMBER: FEDERAL &
 STATE AFFAIRS
 MEMBER: ECONOMIC DEVELOPMENT
 ELECTIONS

January 28, 1992

To: House Committee on Education

Re: HB 2655

**Sponsors: Representative Tom Sawyer
 Representative Elizabeth Baker**

The introduction of HB 2655 was in response to the actions taken by the Wichita Board of Education during the months of June and July of 1991. The following is a synopsis of the events that precipitated HB 2655's introduction.

The result of the April elections was the defeat of two incumbent board members that were perceived by the public to be aligned with the superintendent, Stuart Berger and their newly elected replacements were supposedly anti-superintendent, Stuart Berger. Prior to the new board taking office, the "lame-duck" board extended Superintendent Berger's contract from June 30, 1992 to June 30, 1993. This action on the part of the "lame-duck" board was viewed by some of the board members as contrary to the "will of the people" since the electorate had rejected the incumbents at the polls in April.

Upon immediately assuming office the new board majority hired a new law firm and ordered it to investigate whether a recent extension of Superintendent Stuart Berger's contract was legal and, in addition, made a series of other proposals which included opening their own offices. These

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proposals angered other factions of the community because of the impression that in order to have formed this agenda, certain board members must have been meeting secretly prior to July 1. The presumption was that even though the "letter" of the open meetings law had not been violated the "spirit" of the law had. These other factions believed that to make these sweeping changes in such a rapid manner there must have been considerable discussion in private and that those kinds of private discussions do not insure accountability to the electorate.

HB 2655 would facilitate settling this continuing conflict. During my tenure as an educator I have observed many school board's display a profound lack of understanding in regard to the "spirit" of the open meeting's law and in the same context as demonstrated by the Wichita Board of Education. It is my hope that this committee will resolve this issue by recommending favorably for passage HB 2655.

Thank you for your time and your thoughtful consideration!

Attain #1-2

School board to become secret regime?

Upon taking power Monday, the Wichita school board's new four-member majority wasted no time in slashing Superintendent Stuart Berger's authority and prestige. No shock there.

The board's new president, Jan Henrie Fry, and her cohorts, Debra Ferris, Darrel Thorp and Clark Beck, have made no secret of their dislike of the feisty, outspoken superintendent. They were understandably infuriated last month when the old board majority, in one of its last acts before disbanding, extended his contract one year.



DENNEY CLEMENTS

EDITORIAL WRITER

What is shocking about the new majority members' assault on Mr. Berger is the way they went about it. Ms. Fry, Ms. Ferris, Mr. Thorp and Mr. Beck apparently aren't going to let us voters and taxpayers in on their goals regarding Mr. Berger — though getting rid of him seems a good guess.

Like good little girls and boys, we are to wait patiently for the outcome of new school board lawyer Tom Powell's inquiry into whether the contract extension was valid. We are not to know what mistakes Ms. Fry and company think the old board may have made.

Nor are we to know what they'll do should Mr. Powell find the hoped-for contract flaw. We will be told what we need to know when Ms. Fry and company think we need to know it.

Secret meetings

Anyone who attended Monday's meeting — or who watched it on videotape on the school district's cable channel — could tell that the new board majority and Mr. Powell had worked out the details of their assault on Mr. Berger in advance. Ms. Fry told *The Eagle* that she, Mr. Thorp, Ms. Ferris and Mr. Beck "chose to meet two and two" to chart strategy for the meeting.

As she asserts, this was perfectly legal. Indeed, because Ms. Ferris and Mr. Beck didn't become board members until Monday — Ms. Fry and Mr. Thorp have been on the board since 1989 — all four could have met secretly to plan strategy, had they chosen to go that route.

The state's Open Meetings Law forecloses that last option now that Ms. Ferris and Mr. Beck are formally board members. But the law does allow members of a seven-member governing body such as the school board to meet in groups of two without notifying the public.

That means the new board majority could continue to plot strategy in secret — not only on the Berger question but also on any other question before the board, the future of magnet schools, for instance. If it wanted to use such sessions to deny minority board members Carol Rupe, Jean Schodorf and Joyce Focht a chance to shape board policy, to leave them groping in



Crowson

Richard Crowson/*The Wichita Eagle*

the dark, that would be perfectly legal, too.

Whether they love Mr. Berger and want him to stay, or hate him and want him to go, Wichitans need to understand why the board majority members are acting as they are. Until they do, they can only speculate about what's going on.

Does Ms. Fry, no shrinking violet, want to pursue her own agenda for improving the caliber of Wichita's schools — to be both board president and superintendent? Do Mr. Thorp and Mr. Beck, former school district employees who ran afoul of the superintendent, want to get even for perceived injustices?

Are the four hoping to find some loophole that would allow them to get rid of Mr. Berger without spending the \$200,000 or so it would take to buy out his contract? Do they want to make his job conditions so unbearable he'll quit of his own accord? Or do they merely want to make a lapdog of him?

Moral quicksand

By conspiring against Mr. Berger in secret, instead of developing their case against him in public, the four have turned their backs on the people they were elected to serve. They may be

on solid legal ground in doing so, but morally speaking, they're up to their ankles in quicksand and sinking fast.

Wichitans have a huge cultural and economic interest in the school system. They elect school board members to represent that interest. When members retreat behind closed doors to chart new directions for the school system, as Ms. Fry, Ms. Ferris, Mr. Thorp and Mr. Beck obviously have, it's natural for voters and taxpayers to fear that board members place their personal interests ahead of the public interest.

Whether this is really true scarcely matters. What matters, as any old pol will tell you, is perception.

Secrecy in school board activities isn't a new problem — as last month's off-agenda Berger contract extension demonstrates. The new board majority members aren't the first to discover the loopholes in the Open Meetings Law.

But if they intend to exploit that loophole, they and the people they represent are in for a difficult four years. Suspicion, cynicism and loathing will run rampant. And schoolchildren — in whose behalf the board supposedly operates — will become mere political footballs.

Attach #1-3



WICHITA
PUBLIC SCHOOLS

Public Affairs

**Testimony Before The House Education Committee
In Support Of House Bill 2655
By Robin Nichols, Wichita Public Schools
January 28, 1991**

Mr. Chairman Members of the Committee:

I am Robin Nichols of the Wichita Public Schools. Thank you for the opportunity to express our support for House Bill 2655 to move the date for office-taking of elected and qualified school board members from July 1 to May 1 following April elections.

A review of the history of the original 1968 version of K.S.A. 25-2023 and as amended in 1974 is helpful. The historical perspective reveals an intent to bring all school districts in line on a single date to enact unification over a three year period. July 1 was intended to coincide with the beginning of a district's fiscal year. Today, the lapse is debatable in light of annual budget cycle hearing and publication dates.

We request your favorable support to allow us to end the current ambiguities which naturally occur for three months following school board elections. Unanswerable questions of who is in control and what philosophies will prevail render education policy making futile when a clear voter mandate for change has emerged but cannot be enacted. The circumstance flies in the face of local control and voter accountability.

The desires of voters are at best delayed, and at worst controverted. The delay is uncomfortable for all parties: outgoing and incoming board members, district personnel, parents, students, and voters. The discomfort is heightened because the lapse occurs during the most critical portion of the calendar year for planning. Board and administrative dilemmas arise when timely budget, curriculum and organization decisions must be made for the coming year.

I am sure you are aware that Wichita's experience following our most recent board election set a tone of confusion throughout the district for three months prior and many months after the new board was seated. The pain was excruciating for the entire district, including 50,000 voters who turned out in record numbers and now wonder if their votes had any meaning.

The outgoing board proceeded on contract, budget, curriculum and reorganization decisions for the coming year. They believed there decisions to be made in the best interests of the district according to their own philosophies. Now, new board members are

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not only philosophically and fiscally bound to former board actions which they did not endorse, but are legally bound as well.

In some instances the new board will not have an opportunity to implement decisions they were elected to carry out for another year. In other instances hundreds of personnel hours went into efforts to reflect outgoing board decisions during the three month lapse, only to have to reinvest those hours to reflect the philosophies of the new board after July 1.

We realize that not all of the 2,100 locally elected school board members in Kansas have, or recognize the need to move up the date of office-taking. For many the date is no obstacle to a smooth transition. We recognize voters may express a single community voice in many districts in the state. However, democracy is poorly served by an assumption that an election process that works for a "one community" district will also work for a large and diverse one. We ask you to recognize that our school board is accountable to 127,000 voters of a city district comprised of literally dozens of communities.

Many questions surround the July 1 office-taking for which there are no answers. Who are the outgoing seated members accountable to during the three month lapse? What is the status of elected and qualified members prior to taking office? Do open meetings requirements apply to a newly elected majority when current seated members meet with elected and not yet seated members? The date lapse is a statutory "left-over" from another time. The current process does not further the educational interests of our children, but does threaten voter interest and the democratic process.

We ask you to support HB 2655 and let us get on with the business of policy setting and implementing at home in a timely, efficient and effective manner which reflects the will of the people.

Attach # 2-2

JO ANN POTTORFF
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TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

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 AGAINST THE STATE
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 EDUCATION CONSOLIDATION AND
 IMPROVEMENT ACT (ECIA) ADVISORY
 COMMITTEE
 CHILDREN AND YOUTH
 ADVISORY COMMITTEE

Thank you, Mr. Chairman and members of the committee. As you know I am a member of the House Education Committee but also a former school board member. I am speaking to the committee today in support of HB2655. The particular section that I wish to address is Section 4 allowing school board members to take office on May 1 following their election.

I have been supportive of this concept since I became a local school board member almost 15 years ago. There is a period of time between an April election until taking office in July that makes newly elected board members "in limbo" for almost a three month period of time. Our local city commissioners take office the meeting following their election in April. Why shouldn't school board members?

The school board is perhaps the very best example of representative and participatory government. Its members from the community serve at the public's pleasure and make decisions based on community needs, values, and expectations. The public has greater expectations for school board members than it does for any other elected officials. School board members carry out their duties as a volunteer job with whatever commitment of time and personal resources is necessary.

School board members occupy a unique position in public education. They have one purpose- to provide the highest type of education for the young people of Kansas. They function as the connecting link between the public which supports the schools and the profession which conducts the schools.

Certainly board members have to spend time training and learning about being a school board member-but almost 3 months is ridiculous. As legislators our training is an on going process and a continual understanding of the legislation brought before us each session.

I can remember after I got elected to the school board sitting and listening to board meetings until July but not being able to vote on issues. The "lame duck" board members were making all the decisions that were going to effect the education of the school children of my district. that I might not agree with, yet these board members wouldn't be around to listen to the public discontent regarding budget issues.

There are many other positive aspects of HB2655 that other conferees will address. I urge the committee to favorably support HB2655.

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 Attachment #3
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KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



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Testimony on H.B. 2655
before the
House Committee on Education

by

Mark Tallman, Coordinator of Governmental Relations
Kansas Association of School Boards

January 28, 1992

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to appear before you today. KASB opposes changing the date school board members take office, and therefore we oppose H.B. 2655.

This issue was discussed extensively this summer by our Legislative Committee. The Committee was aware of controversies in several communities resulting from the period of time between when board members are elected and when they assume office. However, the Committee overwhelmingly felt that in the vast majority of school districts, this time is invaluable for the education and orientation of newly elected members before they become voting members.

Therefore, KASB believes that any benefits a change of date may have in few communities each year would be outweighed in many more communities. No system will ever be perfect. We urge the Committee to retain the current system. On the whole, we believe it is working well.

Thank you for your consideration.

#4
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