

Approved February 19, 1992  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE M. J. JOHNSON at  
Chairperson

1:35 ~~am~~/p.m. on FEBRUARY 18, 1992 in room 521-S of the Capitol.

All members were present except:

Representative Stevi Stephens, excused  
Representative Darlene Cornfield, excused

Committee staff present:

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

Conferees appearing before the committee:

Representative Barbara Allen  
Representative Judith Macy  
Honorable Janette Sheldon, District Judge in the Tenth Judicial  
District of Kansas  
Gerry Ray, Johnson County  
Representative Carl Holmes  
Doug Bach, City of Kansas City, Kansas  
Karleen Novak, City of Emporia  
Kirk Suther, Director of Operation Brightside, Inc.  
Ernie Mosher, League of Kansas Municipalities

The Chair called for hearings on HB 2805.

HB 2805 - Johnson county law library.

Representative Barbara Allen, chief sponsor of HB 2805, appeared to  
give background and intent. (Attachment 1)

The Chair said all questions would be held until all conferees had  
presented their testimony.

Representative Judith Macy voiced her support on HB 2805 and asked  
the committee's favorable consideration.

Judge Janette Sheldon testified in support of HB 2805 and gave  
historical incite on the bill. HB 2805 was drafted by Judge Sheldon.  
She said the bill does two things. 1) Changes makeup of board and  
2) Changes the way two employees get paid.

Gerry Ray, Johnson County, appeared and expressed the support of the  
Johnson County Commissioners for HB 2805. (Attachment 2)

There were no opponents to HB 2805.

Judge Sheldon responded to questions from the committee.

The Chair closed the hearing on HB 2805.

The Chair called for a hearing on HB 2833.

HB 2833 - Fire districts; powers of governing body.

Representative Carl Holmes testified in support of HB 2833 and  
suggested a clarification amendment be made to K.S.A. 19-3610 to  
clearly state what these tax moneys may be used for. (Attachment  
3)

There were no opponents to HB 2833 and no questions from committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S Statehouse, at 1:35 ~~am~~ <sup>XX</sup> p.m. on FEBRUARY 18, 1992

The Chair closed the hearing on HB 2833.

The Chair called for a hearing on HB 2851.

HB 2851 - Cities; notice procedure prior to mowing weeds.

Doug Bach, City of Kansas City, Kansas appeared as a proponent to HB 2851 and provided written testimony. (Attachment 4)

Karleen Novak, City of Emporia, appeared in support of HB 2851 and provided written testimony. (Attachment 5)

Kirk Suther, Director of Operation Brightside, appeared in support of HB 2851 and provided written testimony. (Attachment 6)

Ernie Mosher, League of Kansas Municipalities, endorsed HB 2851 and said it is also needed by small cities.

Doug Bach responded to questions from the committee.

Representative Robert Watson said he is in favor of the bill.

There were no opponents to HB 2851 and the Chair closed the hearing.

The Chair called for action or discussion on HB 2809 (Electronic funds transfer for redemption of bonds).

A motion was made by Representative Gwen Welshimer to pass HB 2809 favorably; seconded by Representative Tom Thompson. The motion carried.

The Chair called for action or discussion on HB 2786 (Property tax work-off programs authorized for the elderly).

The Chair called the committee's attention to a letter from Representative Jo Ann Pottorff answering the concerns which the KASB had brought to her attention. (Attachment 7)

The Chair asked Bev Bradley to make a comment. Bev Bradley said the KAC was opposed to this bill as counties can do this anyway.

A motion was made by Representative Judith Macy to table HB 2786; seconded by Representative Gayle Mollenkamp. The motion carried.

A motion was made by Representative Robert Watson to approve the minutes of February 11, 12, and 13; seconded by Representative Jack Sluiter. The motion carried.

A motion was made by Representative Jack Sluiter to remove SCR 1628 (Kechi, Ks, the Antique Capital of Kansas) off the table. It was seconded by Representative Richard Lahti. The motion carried.

Representative Jack Sluiter moved to amend SCR 1628 by adding Secretary of Commerce. (Attachment 8) The motion was seconded by Representative Tom Thompson. Committee discussion followed.

Staff said the amendment will not do anything.

Representative Jack Sluiter moved to withdraw his motion to amend SCR 1628. Representative Tom Thompson withdrew his second.

A motion was made by Representative Gwen Welshimer to pass SCR 1628 favorably; seconded by Representative Jack Sluiter. The motion carried.

The meeting was adjourned at 2:37 p.m.



BARBARA P. ALLEN  
 REPRESENTATIVE, TWENTY-FIRST DISTRICT  
 JOHNSON COUNTY  
 P.O. BOX 8053  
 PRAIRIE VILLAGE, KANSAS 66208  
 (913) 642-1273  
 STATE CAPITOL, ROOM 155-E  
 TOPEKA, KANSAS 66612  
 (913) 296-7640



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 MEMBER: FEDERAL AND STATE AFFAIRS  
 JUDICIARY  
 PENSIONS, INVESTMENTS AND BENEFITS  
 RULES AND JOURNAL

February 18, 1992

Madame Chairman, Members of the Committee:

Thank you for the opportunity to appear before you today on 1992 H.B. 2805, Johnson County Law Library legislation. This bill is the result of meetings which took place in Johnson County this summer and fall, after our Administrative Judge received a letter from the Chief Justice of the Kansas Supreme Court stating that our two Johnson County law library positions would no longer be funded out of the state judicial budget. Thus, a new method of funding the salaries of our law library employees has become necessary.

The bill does three things:

1. It requires the law library board of trustees to be composed of five members, two of whom are judges of the district court, and three of whom are members of the Johnson County Bar Association;

2. It allows the board of county commissioners to appoint a librarian, and assistants as are necessary, to administer the law library. The librarian and any assistants will be employees of the county, but will receive compensation established by the law library board of trustees. Compensation will be payable from the general fund of the county, from funds made available by the law library board of trustees through the collection of fees.

The purpose of this arrangement is to allow law library employees to be employed by the county for purposes of benefits, yet have their salaries paid by the law library, which can better afford such an expense.

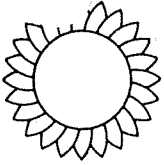
3. It allows the clerk of the district court in Johnson County to increase the library filing fee up to a maximum of \$10 in all cases commenced pursuant to Chapter 60 and in all felony criminal cases, and up to a maximum of \$7 in all other cases. Under current law, Johnson County can charge a maximum fee of \$5 and \$4 respectively, and the fee is currently set at \$5 and \$3 respectively.

*LS*  
*2-18-92*  
*attach. 1*

The need for an increase in the maximum amounts Johnson County can charge for library filing fees is obvious. Since the law library will now be funding the salaries of its employees, an expense formerly born by the state, it may need the ability to raise its revenues through the collection of fees.

The bill before you was drafted by the Honorable Janette Sheldon, District Judge in the Tenth Judicial District of Kansas. She is currently President of the Johnson County Bar Foundation Board of Trustees, and Chairman of the Johnson County Law Library Board of Trustees. I think it is fair to say that this is a compromise proposal supported by the Johnson County Bar, the Johnson County Law Library Board of Trustees, and the Johnson County Board of County Commissioners.

Judge Sheldon is here to testify before you today regarding H.B. 2805. If I can answer any questions, I will be happy to do so.



February 18, 1992

HOUSE LOCAL GOVERNMENT COMMITTEE

HEARING ON HOUSE BILL 2805

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR  
JOHNSON COUNTY BOARD OF COMMISSIONERS

Madam Chairman, members of the Committee, my name is Gerry Ray, representing the Johnson County Board of Commissioners. I am appearing today to express the support of the Johnson County Commissioners for House Bill 2805.

The purpose of the bill is to clarify the statute governing the operation of the County Law Library. When the State requested that the Law Library employees be reclassified into the Court system the Board of Trustees for the Library reviewed the situation and concluded that K.S.A. 20-3137 was a more appropriate statute under which to operate. The purpose of House Bill 2805 is to clarify the statute pertaining the status of the employees of the library; increase the amount of certain fees and the expand size of the Board of Trustees.

The bill stipulates that the employees will come the supervision of the Board of County Commissioners and are subject to the County's personnel and compensation policies. In addition it increases the Library fees to help support the cost of the Library and sets the membership for the Board of Trustees at five members.

The Board of Commissioners supports the modifications made in House Bill 2805 to the extent that such changes were designated as one of the County's top legislative priorities for 1992. The defining of the employees status clears up problems of liability and responsibility for the Library staff and the increased fees will assist the County in funding those positions. We believe the bill will be beneficial to all parties and urge the Committee to recommend it favorably.

*LR*  
*2-18-92*  
*attach. 2*

CARL D. HOLMES  
REPRESENTATIVE, 125TH DISTRICT

P.O. BOX 2288  
LIBERAL, KANSAS 67905  
(316) 624-7361



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER: ENERGY AND  
NATURAL RESOURCES  
MEMBER: ADMINISTRATIVE RULES AND  
REGULATIONS  
LOCAL GOVERNMENT  
NATIONAL CONFERENCE OF STATE  
LEGISLATURES—ENERGY COMMITTEE

STATE CAPITOL, RM. 156-E  
TOPEKA, KANSAS 66612  
(913) 296-7670

H.B. 2833 clarifies and expands the general powers of fire districts created by counties. The bill adds the power to acquire and dispose of personal property, to pay compensation and salaries to fire district employees, and to pay the operating and maintenance expenses of fire districts.

Recently a problem arose in one of my fire districts over the payment of firefighter training expenses and salaries for firefighters. The auditor for the fire district did not believe that fire district tax moneys could be used for that purpose in light of Attorney General Opinion No. 80-89. That opinion states that there is no specific statutory authority providing for the payment of salaries and salary-related expenses of fire district personnel in fire districts created pursuant to K.S.A. 19-3601, and the proceeds from the levy authorized by K.S.A. 19-3610 may not be used for the payment of salaries and salary-related expenses. It also states that home rule resolution by which the board of county commissioners had provided for the levy of a tax (in addition to the aforesaid levy) on the property in a fire district created pursuant to K.S.A. 19-3601 was beyond the scope of "county business" and "local legislation and administration," and was therefore invalid and ineffective.

H.B. 2833 merely lets fire districts spend moneys for training and salaries which many fire districts apparently are already doing despite the above Attorney General's opinion.

I am also suggesting a clarification amendment be made to K.S.A. 19-3610 to clearly state what these tax moneys may be used for. Further, the Committee may want to consider making similar clarifications to the law which provides for township fire districts.

Attached is a letter from an attorney from Liberal commenting on the need to clarify K.S.A. 19-3610 and a copy of Attorney General Opinion No. 80-89.

*Ly*  
*2-18-92*  
*Attach. 3*



LAW OFFICES OF  
SMITH & MILES, CHARTERED  
ONE NORTH WASHINGTON  
LIBERAL, KANSAS 67055-0249

TOM R. SMITH  
ROBERT M. MILES  
LICENSED BY  
KANSAS AND OKLAHOMA

TELEPHONE  
(316) 624-0125  
P.O. BOX 249

February 4, 1992

Honorable Carl Dean Holmes  
Kansas House of Representatives  
Room 327 West  
State Capitol Building  
Topeka, Kansas 66612-2591

In Re: House Bill 2833

Dear Representative Holmes:

Mr. Robert Hadsell, Fire Chief of Seward County Rural Fire Department, presented me with a photocopy of House Bill #2833 which is before the Committee on local government that I understand is going to be considered.

Chief Hadsell inquired as to whether or not I felt this amendment in K.S.A. 19-3601a would resolve any questions that arise over the powers of Fire Districts to expend monies.

I believe that the House Bill 2833, as written, is helpful to define the powers of a Fire District Board of Trustees in their expenditure of funds.

As to section (e) of the proposed bill "issue bonds as provided in this act" I personally am a great believer in the fact that all bonds should be issued only by County Governments, and I do not think the Fire Districts should have that particular power.

Everything else in House Bill 2833 is satisfactory and workable.

However, I think the Revisor of Statutes Office, or the Committee should be alerted to the potential conflict that is created with K.S.A. 19-3610.

A portion of K.S.A. 19-3610 that pertains to a levy of Ad Valorem Taxes provides as follows:

"All proceeds of such levy shall be used for the purpose and maintenance of fire fighting materials, equipment and apparatus and the maintenance and equipping of the buildings belonging to the district and for the payment to any City for fire protection services under contract with the district."

Therefore, it would appear that K.S.A. 19-3610 which deals with tax levies would seem to imply that there is a limitation on the use of tax

levies only for the purchase and maintenance of fire fighting materials, equipment, apparatus and maintenance and equipping of buildings etc., and it appears that there is some conflict with the proposed House Bill 2833.

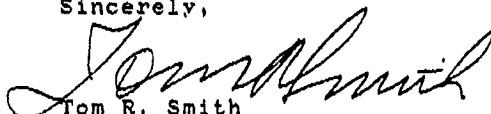
I would suggest that the way to solve this would be to have the following amendment of K.S.A. 19-3610 to wit:

"All proceeds of such levy shall be used in accordance with the provisions of K.S.A. 19-3601a as amended."

That then would obviously resolve any conflict that now exists in this particular statute.

I hope this has been of some benefit to you in the Committee Hearing.

Sincerely,

  
Tom R. Smith

TRS/ds  
cc: Robert Hadsell





STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

WALTER T. STEPHAN  
ATTORNEY GENERAL

April 9, 1980

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 80-89

Mr. Joseph O'Sullivan  
Reno County Attorney  
Law Enforcement Center  
210 West First Street  
Hutchinson, Kansas 67501

Re: Counties and County Officers--Fire  
Protection--Exercise of Home Rule  
Authority to Raise Revenue for Salaries  
of Fire Fighters

Synopsis: There is no specific statutory authority providing for the payment of salaries and salary-related expenses of fire district personnel in fire districts created pursuant to K.S.A. 1979 Supp. 19-3601, and the proceeds from the levy authorized by K.S.A. 19-3610 may not be used for the payment of salaries and salary-related expenses.

A home rule resolution by which the board of county commissioners has provided for the levy of a tax (in addition to the aforesaid levy) on the property in a fire district created pursuant to K.S.A. 1979 Supp. 19-3601 is beyond the scope of "county business" and "local legislation and administration," and is therefore invalid and ineffective.

Statutes and constitutional provisions cited herein: K.S.A. 19-3610, 19-3612a, 19-3613, 19-3620 and 19-3622; K.S.A. 27-315 et seq.; K.S.A. 1979 Supp. 19-101a, 19-101a et seq., 19-117, 19-3601, 19-3601a and 19-3601b; Article 2, Section 21, Kansas Constitution; Article 3, Section 1, Kansas Constitution.

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Mr. Joseph O'Sullivan  
Page Two  
April 9, 1980

Dear Mr. O'Sullivan:

You have asked for our opinion on two questions relating to the authority of the board of county commissioners to produce revenue for the payment of salaries of full-time fire fighters working for a fire district located in Reno County, which district was organized pursuant to K.S.A. (now 1979 Supp.) 19-3601.

First, you ask whether proceeds of the tax levied pursuant to K.S.A. 19-3610 may be used for the payment of salaries and salary-related expenses for full-time employees of the district. You state that it is your opinion that such proceeds may not be so used since the statute provides that

"[a]ll proceeds of such levy shall be used for the purchase and maintenance of fire fighting materials, equipment and apparatus and the maintenance and equipping of buildings belonging to the district and for the payment to any city for fire protection services under contract with the district." K.S.A. 19-3610.

We concur in your interpretation of the above-quoted statute. As you have correctly noted, there is no specific statutory authority providing for the payment of salaries of fire district personnel in counties the size of Reno County. In contrast, fire districts created pursuant to K.S.A. 19-3613, in any county with a population of more than 90,000 containing a city of the first class with a population less than 50,000, have specific authority for the payment of compensation of district employees, under K.S.A. 19-3620 and 19-3622.

Accordingly, you state that you advised the county commissioners that they could adopt a resolution to establish a tax levy to produce revenue for the payment of salaries and salary-related expenses of employees of the fire district by exercise of the Board's home rule authority under K.S.A. 1979 Supp. 19-101a et seq. You further state that the Board adopted Home Rule Resolution VI in June, 1979, establishing an eight-mill levy in the district for that purpose. You have asked for our opinion whether the Board properly exercised its home rule authority in the adoption of the resolution providing for the aforesaid levy for salaries.

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K.S.A. 1979 Supp. 19-101a provides, in pertinent part:

"(a) Counties are hereby empowered to transact all county business and perform such powers of local legislation and administration as they deem appropriate, subject only to [certain enumerated] limitations, restrictions, or prohibitions."

The threshold question which must be addressed to answer your second inquiry is whether the exercise of power to establish the aforesaid levy comes within the meaning of "county business and . . . local legislation and administration" and thus within the scope of the county's home rule powers. In our opinion, it does not, and we conclude that Reno County Home Rule Resolution VI is invalid and ineffective.

Importantly, it is our judgment that the question of payment of salaries of fire district personnel is not a matter of "county business" but rather a matter of business of the fire district and its governing body. Certainly, as the statutes in question expressly provide, the board of county commissioners may serve as the fire district's governing body (as is the case in Reno County) or the board may appoint a fire district board of trustees. See K.S.A. 1979 Supp. 19-3601 and K.S.A. 19-3612a. However, the authority of the county commissioners, serving both as the governing body of the county and as the governing body of the fire district, is not coextensive. A fire district is a separate and distinct political or taxing subdivision of the state, vested with certain governmental powers as prescribed by the legislature. Under K.S.A. 1979 Supp. 19-3601a,

"the governing body [of the fire district] shall have the authority to enter into contracts, operate and maintain fire fighting equipment, to acquire and construct buildings to house the same, to buy, sell and dispose of real property, and . . . shall have the right of eminent domain." (Emphasis added.)

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Under K.S.A. 1979 Supp. 19-3601b, the fire district's governing body has authority to issue general obligation bonds and no-fund warrants for fire district purposes. In short, as they are described in Antieau's Local Government Law, Vol. 3A, Independent Local Government Entities, §30D.00, fire protection districts are "separate entities with independent corporate life." Hence, county commissioners serving as the governing body of both the county and the fire district wear two different hats. Wearing the "hat" as the governing body of the fire district, the board of county commissioners has no home rule power, but may only exercise the authority granted to the district by the legislature. But, thus considered, your question may be rephrased: May the board of county commissioners, wearing the "county hat," exercise the county's home rule power to establish a tax levy in the district for fire district purposes? We think not, for the following reasons.

The question you have raised is very much analogous to the question considered in Attorney General Opinion No. 79-262. In that opinion (attached hereto for your consideration) we determined that a city had no home rule authority to dissolve a public airport authority created pursuant to state law (the Surplus Property and Public Airport Authority Act, K.S.A. 27-315 et seq.), and that such an authority may only be dissolved as provided by the state law. We noted that while the airport authority could only come into existence by some action of the city, action to "trigger" the process of creation of the authority, the authority was nonetheless a creature of state law, "an agent of the law," empowered to function as prescribed by state law. Accordingly, we concluded that "once created, the Authority is subject only to such control by the City as the latter is given by the Act" and that "the matter is no longer a 'local affair' over which the City has power." Attorney General Opinion No. 79-262, p. 5.

Likewise, a fire district, which may only come into existence by action of the board of county commissioners and whose governing body is the board of county commissioners pursuant to state law, is "an agent of the law," a creature of state law empowered to function only as prescribed by state law. Therefore, once the board of county commissioners "triggers" the process of creation of a fire district, the matter of fire protection in the district thus created is no longer a matter of "county business" upon which home rule powers

Mr. Joseph O'Sullivan  
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may be exercised, but is only the business of the fire district. The fire district is empowered to levy a tax, pursuant to K.S.A. 19-3610, but, as noted above, the proceeds of that tax may not be used for the payment of salaries and salary-related expenses. Since the matter of fire protection in the district is beyond the scope of "county business," once a fire district is established in accordance with state law, the county thereafter has no power to provide for an additional tax levy in the district for fire protection purposes.

A similar question was considered by the Kansas Supreme Court in Russell State Bank v. Steinle, 159 Kan. 293 (1944). The question presented in that case was whether the board of county commissioners was empowered to abolish a county court which the county itself established in accordance with an act of the legislature. The board argued that under Article 2, Section 21 of the Kansas Constitution (since amended), the legislature conferred legislative power upon the board of county commissioners to create the court and that "the power conferred to create the court includes by implication the power to abolish it." 159 Kan. at 296. The Court disagreed, stating, in pertinent part:

"It will be observed the powers of the legislature which may be conferred upon county tribunals are only powers ' . . . of local legislation and administration. . . .' (Emphasis supplied.) We have held that under this constitutional provision only such local legislative and administrative powers as pertain to the transaction of county business can be conferred. . . . Manifestly the county court was not created for the purpose of transacting the business affairs of Russell county or any other county. The court is a judicial tribunal vested with powers and jurisdiction prescribed by law. . . . The mere fact this particular court was located within the physical boundaries of Russell county did not make it a tribunal for transacting the business affairs of the . . . county. . . ." (Emphasis in original.) 159 Kan. at 296.

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The Court determined that the constitutional provision relied upon by the board did not authorize the legislature to confer upon county commissioners legislative power to create the court, but that only the legislature was empowered to provide for additional courts, under Article 3, Section 1 of the Kansas Constitution. Contrary to the board's assertion,

"the county court . . . was not created by any single board of county commissioners but by an act of the legislature. . . . The legislature prescribed the jurisdiction of the court it created. The legislature designated its officers and provided for their compensation. The legislature regulated the practice and the procedure in such courts. . . . The legislature therefore left nothing for any board of county commissioners to do with respect to the establishment of a county court in any county except to determine whether it wanted the newly created court. If it did it was merely required to adopt the provisions of the act which created the court." 159 Kan. at 297-298.

Analogously, in consideration of the instant question, the legislature has provided the means by which fire districts may be established by boards of county commissioners, and the legislature has prescribed the authority such boards, acting as the governing bodies of fire districts, may exercise. To be sure, a fire district thus created occupies territory within the territorial boundaries of the county creating it, but, as in the Steinle case, that fact does not make the district a tribunal or political subdivision created for the transaction of county business, nor does it mean that the board of county commissioners may exercise its powers to control or otherwise affect such district, except as authorized by the statutes by which fire districts are established. Acting as the governing body of a fire district, the board of county commissioners conducts the business of the fire district, a separate and distinct political and taxing subdivision of the state, and as noted above, its authority therefor is not coextensive with its authority as the governing body of the county under K.S.A. 1979 Supp. 19-101a et seq.

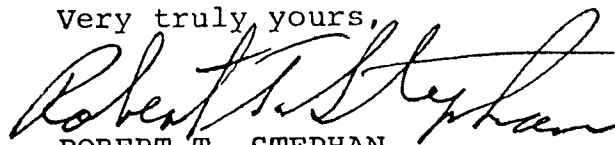
Mr. Joseph O'Sullivan  
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Finally, in our judgment, the county's home rule taxing authority, as limited by the provisions of K.S.A. 1979 Supp. 19-101a and 19-117, only empowers the county to levy a countywide ad valorem tax. Since the county may only levy such tax for the transaction of "county business," within the scope of "local legislation and administration," the county therefore has no authority to levy a tax which will burden only the property lying within the territory of a fire district created pursuant to state law, the proceeds from which will only be used for fire protection within said district.

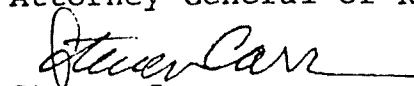
We think it important to distinguish here between the levying of an ad valorem property tax pursuant to the county's home rule power, and the exercise of the county's home rule power to establish a special benefit district and to levy special assessments on the property benefited, when not otherwise authorized by state law. We have no doubt that the creation of such special benefit districts within the county would be a permissible exercise of the county's home rule authority, and nothing in the foregoing opinion should be construed to suggest to the contrary. However, it is our judgment, as more fully explained above, that once the board of county commissioners has established separate political or taxing subdivisions, such as fire districts, as provided by state law, and acts as the governing body of such districts or subdivisions, the board may not exercise its home rule authority in so doing because the business of such districts or subdivisions is not "county business" within the contemplation of the home rule statutes.

In summary, we conclude that there is no specific statutory authority providing for the payment of salaries and salary-related expenses of fire district personnel in fire districts created pursuant to K.S.A. 1979 Supp. 19-3601, and that the proceeds from the levy authorized by K.S.A. 19-3610 may not be used for the payment of salaries and salary-related expenses. Secondly, we conclude that a home rule resolution by which the board of county commissioners has provided for the levy of a tax (in addition to the aforesaid levy) on the property in a fire district created pursuant to K.S.A. 1979 Supp. 19-3601 is beyond the scope of "county business" and "local legislation and administration" and is therefore invalid and ineffective.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Steven Carr  
Assistant Attorney General

RTS:WRA:gk

Enclosure: Attorney General Opinion No. 79-262

3-9





# CITY OF KANSAS CITY, KANSAS

## INTERGOVERNMENTAL & PUBLIC AFFAIRS



EXECUTIVE CHAMBER  
ONE MCDOWELL PLAZA

KANSAS CITY, KANSAS 66101  
PHONE (913) 573-5038

February 18, 1992

Representative Mary Jane Johnson and  
Members of the House Local Government Committee  
State Capital, Room 521-S  
Topeka, KS 66612

### HOUSE BILL 2851

Chairwoman Johnson and Members of the House Local Government Committee,

The City of Kansas City, Kansas would like to show its support for H.B. 2851 which improves the notification process for local units of government to property owners when mowing weeds on abandoned or neglected lots in their community. Over the past decade the City of Kansas City, Kansas has witnessed an increasing number of vacant lots within the city limits, and with this has come an increase in the number of negligent property owners. Many of these property owners apparently believe that the city should remove trash and mow overgrown weeds on these properties as a service to the lot owners. In the past year the city has tried to deter this impression by billing property owners for the work done to clean up their property, and placing liens on their property if they do not pay the bill. (During prior years the city attempted to use the court system to recoup its cost.)

While the billing concept is popular among residents who take care of their property, existing state regulations governing the notification process by the city to property owners is proving to make the billing procedure cost prohibitive for us to use. Last year the city sent out 3,273 certified letters informing property owners that their property was overgrown and needed to be cut, costing the city and its taxpayers over \$7,495 in certified mailing cost alone. Additionally, and of greater impact, the city spent over \$26,000 in publication cost to provide proper notification to property owners without known addresses. Over half of these cost were for second or third notifications for the same property.

The city is not trying to get around its responsibility to notify its residents of the law, but with the existing procedures it is cost prohibitive for the city to try to bill its residents for the cost it incurs while cutting their weeds. This is a result of the fact that at this time few citizens pay the bills sent by the city, and many who own these lots are delinquent on their

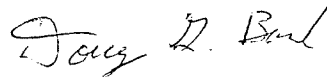
*2-18-92  
Attach. 4*

taxes. We do not want to establish a policy of mowing lots in the city for free; however, with the existing state laws we cannot afford to follow all of the procedures necessary to bill our negligent property owners.

The over \$34,000 in notification expenses which we have presented to you today is minimal in comparison to our entire city budget, however each division of each department must provide a complete justification for its expenditures. In its existing state, the billing process for mowing overgrown weeds cannot be justified by our Parks Department due to the city's current financial conditions, thus it will be cut unless the procedure can be changed. Please help us clean up the bureaucratic paper shuffle we now have so we can clean up our city, and pass House Bill 2851.

Thank you for allowing the City to present our case to your committee.

Respectfully submitted,



Douglas G. Bach,  
Intergovernmental Coordinator



THE CITY OF  
**EMPORIA**

Civic Center / 522 Mechanic / P.O. Box 928 / Emporia, KS 66801 / 316-342-5105

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February 17, 1992

**HOUSE LOCAL GOVERNMENT COMMITTEE**

The City of Emporia actively enforces its weed ordinance. All state laws are followed in the enforcement activities, and our local ordinance is based on KSA 12-1617.

We have found that many of our violators of the weed ordinance are repeat offenders. The current law requires that we spend a considerable amount of time and money notifying the same people about the same property two or three times per season. This expenditure is only reimbursed if the property owner ultimately refuses to obey the ordinance and the city orders the lot mowed by a contractor.

The proposed amendment by HB 2851 will allow us to provide more efficient service to our tax payers. It will reduce the costs of enforcing our ordinance through reduced postage, and more importantly, reduced man-hours of the enforcement and clerical staff.

Administration of a public agency is an expensive, complex task. Changes such as this bill would allow make it easier to provide the services our citizens want and need. The only people that would not benefit from this change are those that take care of their property only when the local government issues an order to them. The rest of us deserve the increase in efficiency that is proposed.

I urge you to pass this bill on to the house with your recommendation for passage.

Thank you for your consideration.

*LD*  
*2-18-92*  
*Attach. 5*

# OPERATION BRIGHTSIDE

## GOOD NEIGHBORS TEAMED-UP TO KEEP-UP KANSAS CITY, KANSAS

### MEMORANDUM

**DATE:** FEBRUARY 18, 1992

**TO:** MARY JANE JOHNSON AND  
MEMBERS OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

**FROM:** KIRK SUTHER *Kirk Suther*

**RE:** HOUSE BILL NO. 2851

Operation Brightside Inc. is a non-profit 501 (c) 3 corporation working to clean, beautify and redevelop Kansas City, Kansas.

In working to maintain and expand community and economic development, a clean and attractive city is vital.

Current economic realities are that all levels of government are pinched for money. Government options are to increase taxes, decrease services, reduce costs of implementing services, or a combination of the above.

The City of Kansas City, Kansas currently has a situation, primarily in the older part of town, where many property owners have not maintained their vacant properties.

The City has notified these negligent property owners and has to cut many of these properties. In turn, the City bills these property owners.

The proposed House Bill No. 2851 would help every city in Kansas to decrease costs in implementing the above services.

*JS*  
*2-18-92*  
*attach 6*

JO ANN POTTORFF  
 REPRESENTATIVE, EIGHTY-THIRD DISTRICT  
 6321 E. 8TH STREET  
 WICHITA, KANSAS 67208-3611

STATE CAPITOL  
 ROOM 183-W  
 TOPEKA, KANSAS 66612



TOPEKA

HOUSE OF  
 REPRESENTATIVES

February 11, 1992

COMMITTEE ASSIGNMENTS  
 MEMBER: APPROPRIATIONS  
 EDUCATION  
 TAXATION  
 JOINT COMMITTEE ON SPECIAL CLAIMS  
 AGAINST THE STATE  
 NCSL ASSEMBLY ON THE LEGISLATURE  
 TASK FORCE ON EDUCATION  
 EDUCATION CONSOLIDATION AND  
 IMPROVEMENT ACT (ECIA) ADVISORY  
 COMMITTEE  
 CHILDREN AND YOUTH  
 ADVISORY COMMITTEE

Hon. Mary Jane Johnson  
 Chairperson  
 Local Government Committee

The following are answers to some concerns pertaining to HB 2786 - Senior Tax Employment Plan (STEP) - which the Kansas Association of School Boards had brought to our attention.

The first concern of KASB regards the extent to which the taxing entity would be subject to workers compensation and unemployment compensation by taking part in this program. The participants of STEP would be treated as employees. Kansas law says that statutory employees are the responsibility of the employer. If injured on the job, the employee can file a claim against the employer. The courts have ruled that there are two options. The first is to require the employee to provide proof of insurance. In this instance, the employee would be responsible for any medical costs. The second option is to cover the employee by the employer's insurance. The fee is then passed on to the employee as part of the contract.

Regarding unemployment compensation, there would be no opportunity for seniors to receive this because they are temporary help.

The second concern of KASB pertained to whether seniors would receive assurance from the IRA that compensation in the form of tax forgiveness would not be treated as subject to federal income tax. Because the seniors would be treated as employees, their pay checks would go directly to the employee. The only deduction from their check would be FICA. Therefore, it would be up to employers to file a 1099 tax report with the IRS.

The third concern was whether general liability and errors and omissions insurance policies would cover the activities of persons taking part in STEP. The only coverage that would be provided to the seniors would be workers compensation. As explained previously, insurance would either be provided by the district with a fee passed onto the employees, or the employees would provide insurance for themselves.

I hope that all of your concerns have been sufficiently answered by this information.

Jo Ann Pottorff  
 State Representative  
 Eighty-Third District

*JS*  
 2-18-92  
 Attach. 7

Proposed Amendment to Senate Concurrent Resolution No. 1628

On page 1, following line 37, by inserting:

"Be it further resolved: That the Secretary of Commerce shall maintain a listing of all city, county or other community designations as an area of uniqueness, quality or character. Requests for special designations shall be filed with the Secretary of Commerce who shall approve or disapprove such requests. The Secretary of Commerce shall resolve any disputes concerning conflicting or duplicate requests. Requests for special designation shall be published in the Kansas register at least 30 days prior to designation by the Secretary of Commerce. Any protest to such designation shall be filed with the Secretary of Commerce; and";

Also on page 1, in line 41, by striking "and to" and inserting a comma; in line 42, before the period, by inserting "and to the Secretary of the Department of Commerce";

LY  
2-18-92  
attach. 8