Approved February 27, 1992
Date

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business.

The meeting was called to order by Alicia L. Salisbury, Chairperson at

1:30 ~~a.m.~~/p.m. on February 5, 1992 in room 254-E of the Capitol.

All members were present except:

Members present: Senators Daniels, Ehrlich, Feleciano, Martin, Morris Oleen, Petty, Salisbury, Sallee and Strick

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:
Jerry Marlatt, Kansas State Council of Fire Fighters
Don Zavodny, American Federation of State, County and Municipal Employees, AFL-CIO
Norm Wilks, Director of Labor Relations, Kansas Association of School Boards
Gerry Ray, Intergovernmental Officer, Johnson County Board of Commissioners
Anne Smith, Kansas Association of Counties

A motion was made by Senator Morris to approve the minutes of January 23, 1992, as corrected. Senator Daniels seconded the motion. The motion passed.

Continuation of Hearing on SB 276 - PEER ACT, local option provision repealed.

Jerry Marlatt, Kansas State Council of Fire Fighters, encouraged the passage of SB 276. He explained to the Committee a federal judge on Friday awarded a total of $3.6 million to a group of Emporia firefighters who had sued the city of Emporia for overtime pay. U. S. District Judge Saffels ruled that the city had not acted in good faith and that the plaintiffs were entitled to liquidated damages, see Attachment 1. He said this case is an example of accidents and costs that could be prevented under the PEER Act.

Don Zavodny, AFSCME, AFL-CIO, testified when a public employer refuses to come under the PEER Act they deny their employees the right to organize and speak in a collective voice. He urged the passage of SB 276 to give the public employees the rights most other citizens enjoy, see Attachment 2.

Norm Wilks, Director of Labor Relations, Kansas Association of School Boards, urged the continuation of current law that would retain the local option portions of the PEER Act. Mandating application of the PEER Act may increase costs at a time when funding is a prime concern for public schools. He suggested if SB 276 is to be passed, the PEER Act and the Professional Negotiations Act should be examined and a single procedure be created that would be appropriate to conduct negotiations with classified and professional employees. The ease of administration and the continuity of having one law far outweighs the benefit of splitting the law and having one set of rules apply to teachers and another set of rules apply to classified employees, see Attachment 3.

Gerry Ray, Intergovernmental Officer, Johnson County Board of Commissioners, testified in opposition to SB 276. She stated the bill removes the authority of a public employer to determine if it is in the best interest of the organization and the taxpayers to allow itself to be brought under the PEER Act. The Commissioners view this a home rule issue and believe that such authority should not be removed from the governing body, see Attachment 4.

Anne Smith, Kansas Association of Counties, stated SB 276 further erodes the Home Rule powers for the county governing board. She said

personnel decisions should be made by the locally elected board, see Attachment 5.

The Committee meeting was adjourned at 2:10 p.m.

GUEST LIST

COMMITTEE: LABOR, INDUSTRY & SMALL BUSINESS DATE: Feb 5, 1992

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Craig Grant	Topeka	KNEA
James A. Isch	Wichita	IBEW KS
Jerry Marlatt	Topeka	KSCSI
Harry O Nelson	Wichita	KS AFL-CIO
Jim De Hoff	Overland	" " "
Monty Bertelli	Topeka	Public Employee Relations Bd
Don BRUNER	TOPEKA	KDHR
Wayne Maichel	Top	KS. AFL-CIO
TERRY STEVENS	TOPEKA	KS. FRATERNAL ORDER OF POLICE
	Pittsburg, Ks.	City of Pittsburg
Tom McClain	Olathe Ks	City of Olathe
Don Seifert	Olathe Ks	City of Olathe
Melville Linton	Topeka	KGC
Don Gwodin	Topeka	AFSCME
Suzanne Peters	Wichita	WIBA
Norm Wicks	TOPEKA	KASB
Martin Winscow	Wichita	WIBA
Christina Campbell-Clark	—	WIBA
Leland Smith	Wichita	WIBA
Jeff Grallner	Wichita	WIBA
Gary Ackerman & Karla	Wichita	WIBA
LEON LUNGWITZ	WICHITA	WIBA
Jean Cole	Wichita	WIBA
Roger Bowles	Wichita	WIBA

"PROGRESS THROUGH UNITY"

KANSAS STATE COUNCIL OF FIRE FIGHTERS

Affiliated With
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS • KANSAS STATE FEDERATION OF LABOR • CENTRAL LABOR BODIES

DATE: February 5, 1992

TO: Senate Labor, Industry and Small Business Committee

FROM: Kansas State Council of Fire Fighters
Jerry Marlatt, Lobbyist

RE: S.B. 276 (PEER Act, Local Option)

The Kansas State Council of Fire Fighters strongly encourage the favorable passage of S.B. 276 in its entirety.

The reasons we support S.B. 276 were expressed last week in your hearing by the proponents on this bill and for the sake of not being redundant, I will not repeat them.

Also, in addition to those reasons, the situation in Emporia is a factor and is explained by the attached articles.

Thank you for your consideration of S.B. 276.

Jerry Marlatt

Jerry Marlatt, Lobbyist
Kansas State Council of Fire Fighters

S L&I SB
2/5/92

Attachment 1-1

THE EMPORIA GAZETTE

Celebrating a Century of Service

Twenty-two Pages

Weekend Edition, June 30 and July 1, 1990

Judge Rules City Owes Firefighters Over $3 Million

By Roberta Birk
Of The Gazette Staff

A Federal judge on Friday awarded a total of $3.6 million to a group of Emporia firefighters who had sued the City of Emporia for overtime pay.

U.S. District Judge Dale Saffels signed papers in Topeka Friday that ordered the city to pay 33 firefighters actual damages, plus "liquidated" damages, for time they were required to be on-call for 24-hour shifts.

The firefighters' attorney, Gregory K. McGillivary of Washington, D.C., explained last week that the judge was mandated by law to award liquidated damages equal to the actual damages if the city "failed to prove that it acted in good faith" regarding the firefighters' wages.

Judge Saffels ruled last week that the city had not acted in good faith and that the plaintiffs were entitled to liquidated damages.

The firefighters filed suit against the city in January 1987 to recoup overtime pay they believed they were entitled to under the Fair Labor Standards Act. The act had gone into effect early in 1985, but employers were given until April 15, 1986, to comply. The firefighters asked for compensation for overtime from April 15, 1986.

The suit contended that the firefighters were required to be on-call — available to report to the station within 20 minutes — for 24-hour shifts after they had worked 24-hour shifts at the fire stations. A fireman's normal work cycle includes alternating on-duty and on-call shifts for six consecutive days, then being off-duty for three days before returning to the on-duty/on-call cycle.

"Due to the rotating nature of the firefighters' work schedules, the firefighters were required to either be on-call or at the fire stations for periods of 144 straight hours," Mr. McGillivary said in a news release Friday afternoon. The firefighters were called in frequently, he said.

"Under these circumstances, the Court determined that the conditions under which the firefighters worked while on-call were sufficiently circumscribed that they must be compensated for the time they are on-call," he said.

The city did not end the disputed on-call policy until February 1990, when the court ruled that the city was obligated to pay overtime, Mr. McGillivary said.

City Manager Steve Commons said late Friday afternoon that the city had paid overtime to on-call firefighters only when they actually had been called in to work.

"This issue is the time that person was waiting at home," Mr. Commons said. "We continue to contend that was not compensable time."

Mr. Commons said he believed the firefighters' case should have been tried in court instead of being decided by a judge.

"We've indicated from the first decision that the judge made on this . . . that we believe that he erred in how he viewed the facts," he said, "so we really never had our day in court."

Both sides provided information to Judge Saffels to support their contentions.

Mr. Commons said that the judge had set a precedent in his ruling that would affect firefighters and municipalities nationwide.

He expects the city to appeal the decision to the 10th Circuit Court in Denver.

"We'll be reviewing this with commissioners at their meeting on the 11th," he said.

SB 9 + SB
2/5/92

Attachment 1-2

THE EMPORIA GAZETTE

In Our Second Century of Service

Twenty Pages

Tuesday, December 17, 1991

Judge Says Police Are Also Entitled To Overtime Pay

By Roberta Birk
Gazette Reporter

The city's problems over its former pay policy got deeper on Monday when a federal judge in Wichita said he intends to rule in favor of six former and current Emporia police officers who are suing the city for back pay.

The plaintiffs are: former detectives Lyle G. Armitage Jr. and Mark G. Moore; former detective Lieut. Larry D. Adams, now a patrol lieutenant; and detectives James R. Davis, David R. Jamison, and Steven R. Edwards.

Emporia City Attorney Dale Bell said Monday that Judge Patrick Kelly had conducted a hearing in the case earlier in the day. "He indicated today he was going to find for the plaintiffs," Bell said. Bell added that the written, and official, opinion likely will be handed down in January.

The case involves a dispute over interpretation of the Fair Labor Standards Act of 1985. It is the second federal lawsuit involving Emporia city employees asking to be paid for time spent on call but not on duty.

The 10th Circuit Court of Appeals in Denver recently upheld a lower federal court decision that awarded $3.6 million in wages and damages, plus interest, to Emporia firefighters. The firefighters contended that under the FLSA, they were entitled to wages for time spent on call, but off duty.

The award has grown to more than $4.2 million since the lower court ruling in June 1990.

The city offered last month to settle for $2.1 million. Firefighters voted on Dec. 3 to reject the offer, and countered with an offer of $3.9 million, with provisions for interest accrual to halt if the city accepts the proposal. City officials have not yet voted on the matter, and earlier had said they would appeal the case to the U.S. Supreme Court if firefighters refused the $2.1 million offer.

The detectives, represented by Emporia attorney Irv Shaw, also cited the FLSA as the basis for their claim.

In a petition filed April 30, 1990, the detectives said that they were entitled to overtime pay for hours worked "in excess of the hourly levels specified in the FLSA."

The detectives have asked the court to declare that the city violated the FLSA and to permanently restrain the city from

POLICE, Page 12

Police

From page 1

withholding the overtime wages. They also ask for damages in back pay, as well as liquidated damages equal to the back pay, plus interest and attorneys' fees.

The suit states that under the city's previous standby policy, the detectives were assigned to be on call on a weekly rotation schedule. While on standby, they were required to be available to report to work immediately after being called in. As a result, the suit said, they could not use the standby time effectively for personal activities.

The city changed the policy last year.

The detectives also said their work schedules included "flex" time: an eight-hour shift with one-half hour for lunch without pay. They were required to sign out and to be available for emergency on-call response during their lunch periods. The suit said they could not use that time for personal activities and were limited in the time spans they could take lunch, the suit said.

The suit alleges that the city's policies were carried out in a "knowing, willful, purposeful, intentional and bad faith manner."

SJ + SB
2/5/92

Attachment 1-3

THE EMPORIA GAZETTE

Thursday, January 3, 1991 — Celebrating a Century of Service — Twelve Pages

More Firefighters File Against City For Back Wages

By Roberta Birk
Gazette Reporter

A complaint against the City of Emporia has been filed in Federal court in Topeka on behalf of 13 additional Emporia firefighters to recoup wages not paid for time spent on call, but not on duty, at fire stations here.

The firefighters named in the suit were hired after January 1987, when 33 other firefighters sued the City of Emporia for on-call pay, according to their attorney, Greg McGillivary of Washington, D.C. The second suit was filed Sept. 15, 1990.

"As a practical matter, the case will be governed by the outcome in (the first case)," Mr. McGillivary said.

Federal Judge Dale Saffels had ruled on June 29 that the city owed firefighters in the first suit $3.6 million in back pay. The award included $1.8 million in actual damages and $1.8 million in "liquidated damages" because the city had "failed to prove that it acted in good faith" in dealing with the firefighters.

The city has appealed that ruling to the 10th Circuit Court in Denver. Mr. McGillivary said in a telephone interview Wednesday afternoon that a date for hearing oral arguments in the appeal had not been set, and no response had been received from the city in the second case.

The firefighters had filed suit in January 1987 for overtime pay they believed they were entitled to under the Fair Labor Standards Act of 1985. Employers had been given until April 15, 1986, to comply. The suit asked for overtime compensation from that date.

The suit contended that firefighters were required to be on-call, and available to report to a fire station within 20 minutes, for 24-hour shifts after they had finished working 24-hour shifts at the stations.

City Attorney Dale Bell said

WAGES, Page five

Wages

From page one

this morning that the city believes the court based its findings on disputed information, and that no violation of the Fair Labor Standards Act occurred.

"Our main contention is that the facts that the court relied upon were disputed facts, and that if you applied the facts as we had them to the law, our policy was in accord with the prior precedent" set by the U.S. Supreme Court.

He explained that the Supreme Court in the 1970's had ruled that the act in effect at that time did not apply to municipalities.

"Then they reversed themselves on a 5-4 decision in the mid-80's," he said.

"I think the significant (defense) we've maintained all along is that our policy . . . was in accord with the F.L.S.A. and in accord with the court decisions that had come down in Department of Labor administrative rulings. . ."

Before the 1987 suit was filed, the plaintiffs had offered to settle with the city without any monetary award, if the city would halt the mandatory on-call practice and, instead, institute a voluntary on-call system. The city turned down the offer.

Judge Saffels ruled early in 1990 that the firefighters were due overtime pay. The city went to a voluntary on-call system in February 1990.

"The firemen were willing to just settle if they'd done what they were doing now, originally," Mr. McGillivary said.

Firefighters offered in September 1990 to settle the suit for actual damages and to forego the liquidated damages. The city turned down that proposal and offered between $30,000 and $400,000 as a counter settlement. The firefighters refused that proposal.

Attachment 1-4

Firefighters Say City Offer Too Small

By Roberta Birk
Gazette Reporter

Most of 33 firefighters have voted to reject an offer from the City of Emporia to settle the overtime-pay lawsuit they filed in January 1987. The city's offer, between $300,000 and $400,000, would have given firefighters 10 percent of the money they were awarded in June by a Federal judge.

The city offer responded to the Oct. 1 offer by the firefighters to accept half of the amount they had been awarded.

U.S. District Judge Dale Saffels on June 29 awarded the firefighters $3.6 million in the suit they filed in January 1987. Before the suit went to trial, the judge ruled for the firefighters and awarded them actual damages of $1.8 million, plus an equal amount in "liquidated" damages because the city had "failed to prove that it acted in good faith" during the suit. He also awarded interest at 12 percent per year on the $3.6 million until the settlement is paid. The interest is accumulating at about $1,200 a day, according to a figures provided by a local banker.

The city has appealed Judge Saffels's decision to the U.S. 10th Circuit Court of Appeals in Denver.

■ In a letter to City Manager Steve Commons, firefighter William Renfro, head of the local group, said that as a "show of good faith to the citizens of Emporia, the firefighters are willing to settle the case in exchange for the city's agreement to pay the actual damage amounts (the $1.8 million) . . . and payment of plaintiffs' attorneys' fees and costs" totalling approximately $49,000.

He said that the plaintiffs would be willing to forego the liquidated damages and interest. He estimated the accrued interest to Oct. 1 was $109,000 and that the firefighters' offer would save the city about $1,928,500.

"We feel we met them more than halfway," Mr. Renfro said in an interview last week. "Right now, they seem unconcerned about $1.8 million and interest; that's what we were willing to give up."

The city rejected the offer and countered with its $300,000 to $400,000 offer. Mr. Commons said this morning that he had not been notified officially that the firefighters had rejected that offer. "I'll hold any comment until we hear officially."

■ The disagreement between the city and the firefighters began when a new Federal Labor Standards Act appeared to require that firefighters be paid for time spent off duty but on call. The firefighters wanted the city to change its mandatory on-call policy and replace it with a voluntary system.

They met with city representatives in 1986 to discuss the voluntary call-back system, but the c rejected the plan.

Firefighters were willing to resolve the issue "without any payment whatsoever," Mr. Renfro said.

County Clerk Linda Wood, then a city employee, was a member of the group that met to discuss the new law and the proposed change. In a deposition taken for the case on Sept. 29, 1987, Mrs. Wood explained her understanding of the city's view of the act after conversations with then City Clerk Steve Anderson.

Mr. Anderson later left Emporia and now has a job in Washington state with Brent McFall, who was then Emporia's city manager.

In her deposition, Mrs. Wood described a conversation with Mr. Anderson about her role on the task force.

"My understanding from him,

OFFER, Page 18

Mr. Renfro said the system restricted firefighters' activities. They could not go fishing, hunting or out of town, to sports events where crowd noise would override the sounds of their pagers, plan social outings, take part in some of their children's activities and other similar activities.

Firefighters said that when they did go out with their families, they and their wives would have to take separate cars. They had to make contingency baby-sitting arrangements if they were taking care of their children.

■ The city did not change its call-back system until February 1990, about one month after Judge Saffels ruled that the firefighters were due overtime pay. The new, voluntary call-back system seems to work well, Mr. Renfro said.

"The morale . . . is a lot higher now after they went to voluntary call-back than it has been in years. There's still a little problem as far as the lawsuit goes, but it's a lot better working there. . . ."

He said he did not believe the city administrators had taken firefighters seriously when they offered the Oct. 1 settlement or when they requested changes when the Federal law went into effect.

Offer

From page one

words to the effect of the fire department has gotten along the way they've gotten along for many years and they'll probably continue to get along that way. I think this Fair Labor Standards Act is a bunch of crap. And that's probably pretty close to a true quote, I think the Fair Labor Standards Act is a bunch of crap.

". . . (Mr. Anderson) gave me to understand that I was being included in these negotiations pretty much as a token person, a token member of management, that he really didn't expect me to do anything."

In the deposition she said she had questioned why she was going to the task-force meetings if the city did not believe the firefighters were entitled to overtime pay.

"And (Mr. Anderson) said, because it looks good. . . . I assumed that he meant it looked good to the fire department."

The city later filed a request for a summary judgment from Judge Saffels, and asked that the judge rule in the city's favor. A summary judgment, a law dictionary states, is "a win for one side in a lawsuit before the conclusion of a full trial." The suit had not come to trial when the city filed its request.

Mr. Renfro said that the firefighters had assumed there would be a trial. Several weeks after the city filed its request to bypass the trial, the firefighters requested a summary judgment in their favor. Judge Saffels granted their request and denied the request from the city.

"The judge has said the 24 hours on-call was work time," Mr. Renfro said. "We worked six days and they paid us for three days, unless we responded to the call. When we got called in, they paid us for however many hours we spent in there, overtime. The city paid a minimum of one hour, whether you were in there for 10 minutes or an hour."

He said the firefighters were allowed 20 minutes to reach the station after they were called in. If they were late or missed a call, they were reprimanded or disciplined. If someone was sick or unable to take a call for an excused reason, "then they'd just start down the list and fill it in. Sometimes you wouldn't even know about it. Sometimes they'd just call the wife and say, 'Tell Bill he's on call next time you see him.' " If the wife could not find the firefighter and he missed a call to work, he could be disciplined.

He said that the number of calls averaged three to five per on-call shift.

Attachment 1-5
2/5/92
LKG & D

It Should Never Have Happened 7-13-90

In regard to your "Something for Nothing" editorial, relating to the $3.6 million judgment entered against the City of Emporia, Congress established April 15, 1986, as the date on which municipalities must begin to comply with F.L.S.A.'s (Federal Labor Standard Act) overtime provisions.

You state that, "The city got something for nothing, year after year. It all evened out." However, the City of Emporia had no legal obligation prior to the effective date of the F.L.S.A. to provide overtime compensation. Each party got what they bargained for.

The court file shows that both the City of Emporia and the firefighters requested that the judge rule on the issue based upon the record and the court concluded that the relevant facts were undisputed.

Court records in Topeka reflect that the city made little effort after the effective date of the "Act" to ascertain whether or not their policy provision complied with the F.L.S.A. overtime provisions. The city was advised by the Department of Labor that their mandatory on-call policy "might violate E.E.O." Emporia never requested a written opinion from the Department of Labor and no agreement was reached between Emporia and the firefighters regarding the on-call time compensation.

The court concluded that the city failed to "show reasonable grounds" for believing that its mandatory on-call policy did not violate the act, thus the assessment of the $1.8 million in excess of the time compensation awarded to the firefighters for the lack of good faith on the part of the city.

While I am sure your calculations are correct in regard to each Emporia citizen's fair-share cost to satisfy this judgment, the ultimate responsibility for payment of this judgment, together with the $1,000 plus per day accruing interest and the thousands of dollars expended by the city in connection with this litigation, will be the already overtaxed property owners. You ask, "Where will it all end?" The question should be, "Why did it happen?"

I am sure that you and your fine staff of reporters will continue to ask questions concerning this matter, several of which come to mind:

- What effort did the city make to settle this claim prior to the filing of this litigation?
- What settlement offers were made and how much?

"Where will it all end?" — it should have never occurred.

Thomas A. Krueger
501 Commercial St.

SB 2 + SB
2/5/92

Attachment 1-6

AFSCME
Kansas Public Employees Union
Council 64 A.F.L.-C.I.O.

TESTIMONY ON SB 276
FEBRUARY 5, 1992
1:00PM
SENATE LABOR, INDUSTRY and SMALL BUSINESS COMMITTEE

Good afternoon, my name is Don Zavodny, I am a Representative for Kansas Public Employees Council 64 of the American Federation of State, County and Municipal Employees union, AFL-CIO; testifying on behalf of our 1.3 million members nationwide and the 4,000 public workers we represent in Kansas. I will keep my testimony brief as I know there are many people to hear from in a short period of time.

I want to thank the committee for the opportunity to appear before you on SB 276; which will delete from the PEER ACT that section which denies employees of political sub-divisions of the state the same rights and privileges that state employees and all employees of private business have had for many years. This section says that the governing body of the local government unit must vote to have the provisions of the Public Employer Employee Relations Act extended to the citizens of Kansas that they employ, there is no other class of workers in the state of Kansas that this basic right is controlled to this degree by their employer.

Kansas Public Employees Council 64, AFSCME, AFL-CIO is a union that has been representing public employees in Kansas since the 1950's. We were a supporter of this law when it was passed by the Legislature in the early 1970's, even then, we urged the Legislature to extend the Act to all public employees in Kansas.

SB29+SB
2/5/92

12-C AFSCME in the public service
4125 S.W. Gage Ctr. Dr., Suite 200 • Topeka, KS 66604 • Phone: 913-273-6464

Attachment 2-1

It has been our experience since the PEERA was adopted approximately 20 years ago that many cities, counties and other political sub-divisions at the State of Kansas refuse to allow their employees to have the same rights as their family members, neighbors and most other citizens enjoy.

Many cities have been petitioned by their employees to elect to come under the PEERA, but most refuse to do that. As it was testified last week very few cities and counties have elected to come under the Act, and most of those who refused to come under the PEERA did not even do as Lawrence by creating a procedure to recognize and meet and confer with an employee designated representative. When a city, county, school board, or other public employer refuses to come under PEERA, then the employees have no other recourse. The employer retains control of the cost and other condition of employment because the PEERA provides that if an impasse occurs in the "Meet and Confer" process then the final step of the impasse procedure is for the "governing body shall take such action as it deems to be in the public interest."

It appears to us that the primary reason that a public employer refuses to come under PEERA is to deny their employees the right to organize and speak in a collective voice, the employer is afraid their employees might "Unionize."

It is time the Kansas Legislature recognize and give these citizens the rights they've been denied for so long. We urge you to pass this bill.

SB 22 + SB

2/5/92

Attachment 2-2

KANSAS ASSOCIATION OF SCHOOL BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

TESTIMONY ON SENATE BILL NO. 276
BEFORE THE SENATE COMMITTEE ON LABOR, INDUSTRY & SMALL BUSINESS

BY

NORMAN D. WILKS, DIRECTOR OF LABOR RELATIONS
KANSAS ASSOCIATION OF SCHOOL BOARDS

January 30, 1992

Madam Chairperson and members of the committee, on behalf of 294 of the 304 unified school boards of education which are members of the Kansas Association of School Boards, we wish to express our opposition to the passage of S.B. 276.

The current provisions of the Public Employer-Employee Relations Act recognize the advisability of the governing body making a determination of whether the provisions of the Act are the proper forum for communication with its classified employees. As a part of the legislative issues considered by our delegate assembly in December, 1991, the overwhelming consideration was that local boards of education should continue to determine the appropriate method of communication with their classified employees to determine terms and conditions of employment.

We therefore urge the continuation of the local option portions of the Public Employer-Employee Relations Act.

In addition, mandating application of the PEER Act may increase costs at a time when funding is a prime concern for public schools. Using the Professional Negotiations Act as a comparison for cost fig-

L I & S B.
2/5/92

Attachment 3

ures, it would certainly increase the out-of-pocket expenditures of unified school districts to be required to participate in employee bargaining. Based on 150 school districts reporting to KASB for 1991-92 contract negotiations under teacher negotiations, the average out-of-pocket expense was $2,038. This does not count the cost of staff or internal expenditures.

In addition we believe that the time requirements to engage in more formal bargaining procedures with classified staff would take time away from other educational pursuits being considered by many local school districts. At a time when districts are considering educational reforms, improvement of the quality of performance, and discussions about quality performance outcomes, the requirement would take away time from those activities.

In the alternative, if it is the will of this committee and the legislature that boards of education be required to engage in formal negotiations at the request of their classified employees, then we should examine the Public Employer-Employee Relations Act and the Professional Negotiations Act and create a single procedure that is appropriate to conduct negotiations with classified and professional public employees. We believe that the ease of administration and the continuity of having one law far outweighs the benefit of splitting the law and having one set of rules apply to teachers and another set of rules apply to classified employees.

In closing, we urge the committee to report S.B. 276 unfavorable for passage, or in the alternative, if it is the will of this committee and the legislature to engage in bargaining with all public employees, that a single negotiations law be applied to all public employees.

Thank you for your consideration in this matter.

SB 276 + SB 277
2/5/92

Attachment 3-2

Johnson County
Kansas

January 30, 1992

SENATE LABOR, INDUSTRY AND SMALL BUSINESS COMMITTEE

HEARING ON SENATE BILL NO. 276

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

Madam Chairman, members of the Committee, my name is Gerry Ray, representing the Johnson County Board of Commissioners and appearing today in opposition to Senate Bill 276.

The bill removes the authority of a public employer to determine if it is in the best interest of the organization and the taxpayers to allow itself to be brought under the Public Employee/Employer Relations (PEER) Act. The Commissioners view this as a home rule issue and believe that such authority should not be removed from the governing body.

Under the Johnson County Personnel Policies there is a grievance procedure available to all employees of the County. It is utilized by various levels of employees and provides adequate due process to resolve the complaints in favor of either the employee or management. We believe these policies and procedures are sufficient to handle the situations that arise.

A primary objective of the Johnson County Commission it to deal with the county employees in a fair manner and provide an adequate level of compensation to them for good job performance. How else can an organization retain its good employees? On the other side of the coin is the taxpayer who must pay the bills. The Commission believes it their responsibility to determine what is fair and equitable to both groups. In order to do this it is necessary that the County have the flexibility to make appropriate decisions and choices for the operation of the organization.

Based on the above reasons, the Johnson County Commission strongly urges that Senate Bill 276 not be recommended for passage.

S L G + S B
2/5/92

Attachment 4-1

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

KANSAS ASSOCIATION OF COUNTIES

"Service to County Government"

1275 S.W. Topeka Blvd.
Topeka, Kansas 66612
(913) 233-2271
FAX (913) 233-4830

To: Senator Alicia Salsbury, Chairperson
Members Senate Labor, Industry and Small Business Committee

From: Bev Bradley, Deputy Director
Kansas Association of Counties

Re: SB 276

The Kansas Association of Counties opposes SB 276 because it is a further erosion of Home Rule Powers for the County Governing Board. Our conference approved policy on Home Rule states: "The Kansas Association of Counties opposes any legislation that would interfere with, diminish or eliminate the authority or duties of county officials."

The striking of section c of K.S.A. 75-4321 does just that. It eliminates the power of the governing board of counties to make decisions as to whether or not they wish to bring the public employer under the provisions of the Kansas public employer-employee relations law (PEER act). We believe personnel decisions should be made by the local elected board. Therefore we oppose SB 276.

TSBSB276

S. L. I + A B.
2/5/92
Attachment 5