

Approved March 3, 1992
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Senator Audrey Langworthy at
Chairperson

9:10 a.m./~~p.m.~~ on Thursday, February 13, 1992 in room 531-N of the Capitol.

All members were present except: Senator Gaines

Committee staff present: Theresa Kiernan, Revisor of Statutes
Mike Heim, Legislative Research
Elizabeth Carlson, Committee Secretary

Conferees appearing before the committee:

Jerry Fear, City Administrator, Oberlin
Representative Carl Holmes,
Dan Walker, DVM, Animal Health Department

SB 574 - counties - vehicle reserve fund

Senator Langworthy announced the hearing on this bill to be cancelled since what was trying to be accomplished with this bill is already on the statute books.

SB 541 - city animal shelters or pounds; licensure

Senator Frahm introduced this bill which was requested because of a bill passed last year which dropped the words "of the first class".

Jerry Fear, City Administrator, Oberlin spoke on the problem with this law (Attachment 1) He said there are 602 cities of the second and third class in Kansas and by including them under this licensure provision, the Animal Health Department would have to increase their number of inspections to 1,252 per year. Municipalities deal with animals as a matter of public safety not of breeding or even owning animals. Leaving second and third class cities out of this law by passing SB 514 will save the state (and taxpayers) 96% of the cost and 96% of the work.

Senator Frahm asked what is being done at this time with the animals and Mr. Fear said they are turning them back as soon as they can to the owners. The local veterinarians used to take care of the pound but this has not been done for several years.

Representative Carl Holmes, 125th District, spoke about the problems with the dogs in his community. He spoke as a proponent of SB 541. He passed out an outline of his testimony (Attachment 2) He stated they were using the Humane Society in Liberal but they would only take certain dogs and now since they were in a different county this is no longer available to them. He said the cost in Plains of picking up a dog, while it is maintained, and if it is destroyed, is \$100.00.

Dan Walker, DVM, Animal Health Department, gave some statistics about the revenues. When they licensed the facilities in only the first class cities they licensed 22 facilities. This year with the addition of the second and third class cities they have licensed 67 facilities to date. It is an ongoing procedure. This generated \$13,000 in revenue and also increased the inspections by 134. They are still maintaining 3 inspectors. He said the Animal Dealers Act was primarily to regulate the breeding of animals for profit. One of the reasons for the change in the law was to increase revenues for the kennel program and there was a concern that animals may be held in some cities in conditions that were unacceptable. To date, he said he had not had any conditions like this come to his attention.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,
room 531-N Statehouse, at 9:10 a.m./~~p.m.~~ on Thursday, February 13, 1992

Senator Langworthy asked about the number of 67 second and third class cities. He said a number of cities had responded they do not have any facilities. These are the cities that have facilities and have an application on file for licensure.

Senator Frahm asked what these cities were doing if they have no facilities, and Dr. Walker said they are using the facilities of larger cities or have arrangements with a veterinarian. He said his interpretation of the rules and regulations was that they should have the basic conditions available, such as shade, food, electricity, record keeping and a simple run. He stated he thought it was not well thought out and there was no research. The \$200 was applied across the board, no matter how small or large the city.

Senator Daniels asked how many second and third class cities. Dr. Walker stated there are 36 second class cities and 31 third class cities that are licensed. She also asked about dog pounds in the county, and Dr. Walker stated he did not think there were any county facilities that he knew about.

Senator Langworthy asked what has been done before the bill was passed last year. Dr. Walker stated they have been licensing approximately 20 some first class cities since 1988. Senator Langworthy asked about the rationale for dropping the wording "of the first class". Dr. Walker said he thought it was done in the House Agriculture subcommittee and was supported by the Kansas Federation of Humane Societies.

Senator Steineger asked what was the rationale for requiring licensure of 1st class cities and not second and third class cities. Dr. Walker responded they would be larger facilities, and to insure the animals are being well treated. There is no difference in the fee for licensure with the second and third class cities; Dr. Walker said it was the same for all. He thought a graduated scale would be more appropriate. He said it costs \$100 to have an inspection.

Senator Langworthy announced there would be meetings next week on Tuesday and Thursday, February 18 and 20, 1992.

Senator Webb moved that the minutes of February 5 and 6 be approved. Motion seconded by Senator Frahm. Motion carried.

Meeting adjourned at 9:50.

Testimony Before the Senate Committee on Local Government
On Behalf of Senate Bill No. 541

*By Jerry J. Fear, City Administrator
City of Oberlin, Kansas*

Ladies and gentlemen, my name is Jerry Fear. I am the City Administrator in Oberlin, a small western Kansas town of 2200. I am here today to testify on behalf of Senate Bill 541. It is a simple three paragraph bill which restores the original wording and intent of the Kansas Animal Dealer Act passed in the last session of the Legislature. This original bill included the wording, "**city of the first class.**" This "**of the first class,**" was struck in the final version of the statute as passed. This change, leaving in the word **city** and leaving out the **of the first class** made an enormous change in the scope and reach of the Act.

There are twenty four cities of the first class in Kansas, which would have originally required the Animal Health Department to make forty-eight inspections annually. There are 602 cities of the second and third class in Kansas. By including them under this provision, the number of inspections increases to 1,252 per year, an increase of almost 300%. The Animal Health Department, when faced with this awesome task, must have been overwhelmed financially and adopted a licensing fee structure that would support the activities required by the Act. That fee was set at \$200. a year, and would generate \$125,200 a year if all cities participate. I understand that there may be some concern over losing that revenue if second and third class cities are excluded. I would respectfully point out that this measure would reduce the need for revenue by 96% by reducing the number of inspections back to the forty-eight originally envisioned.

*Attachment 1-1
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Most of our cities only found out about this requirement through a letter dated November 6, 1991 from the Animal Health Department. I actually did not receive mine until after the middle of November. The gist of the letter was that we had to register any animal pound that we might have or contract with by December 1, 1991, or face a class A misdemeanor criminal action with each day constituting a separate offense and fine. We were given only about two weeks to comply.

I suspect this is one of those instances where the original intent of the legislation got expanded and then distorted. It is my understanding, and the name, "**Kansas Animal Dealer Act**," would imply that the purpose was to regulate and monitor those businesses which seek to make a profit by owning and breeding animals, mostly dogs. If my memory serves me correctly there were a number of stories in the media preceding this legislative action about some kennels being unsanitary, overcrowded, and inhumane. I believe that this bill was referred to as the "Puppy Mill Bill."

Whether or not the Statute actually or adequately provides the kind of safeguards and inspection system which is needed is outside my expertise. And I do not want my appearance here to imply in any way opposition to that original purpose.

However, municipal governments are not in the business of maintaining or breeding or dealing in animals of any kind. Municipal governments do not make profits, but rather spend tax money, money that taxpayers are becoming much less willing to provide. Since cities are not profit-making enterprises, I do not understand why they would have been included in the original bill.

Municipalities deal with animals as a matter of public safety, not of business or agriculture. Most cities have adopted ordinances to prevent individuals from maintaining farm animals in cities because of concerns over public health and environment conditions. Most cities also prohibit or restrict the right of pet owners to allow their animals to run free. Most cities control dogs, but some also include cats. The reason for these ordinances is to protect the health and safety of the general

public. Animals respect no property lines. When allowed to wander they foul other peoples yards, dig up flowers, bite people if cornered, etc. They can be the source of serious diseases. They may have been abandoned by their owners, gotten loose accidentally, or let roam by their owners. It is in the public interest that these animals be captured and constrained. Typically, when an animal is picked up, the owner, if found, is fined. If the owner is not found within a short time, the animal is destroyed. In our case, that time is three days. Any municipal facility is therefore intended as a short term holding area , not a permanent home.

The only analogy that I can make is that we build jails to house human prisoners on a temporary basis, we don't put them in motels. No one would argue that we should build the same kind of amenities into our jails that are found in a typical motel.

Yet, that's exactly what K.S.A. 1991 Supp. 47-1704 did when it included municipal pounds in a statute meant to govern private kennels. Again in our specific case, we probably pick up 50 to 60 dogs a year, with a majority being claimed by their owner within a day. I would submit to you that a kennel where animals are confined permanently, and a temporary holding pound are quite different creatures. The Legislature acknowledged that there are differences when they exempted veterinary clinics and animal hospitals from coverage by the statute.

During the last three years, Oberlin has averaged about \$1,500 in revenue from both our dog licensing program and fines for loose dogs. Since the Legislature has seen fit to limit local autonomy through the Tax Lid Law, I cannot see where we could possibly find revenue for constructing a facility as required by Animal Health Department regulations. I do not believe that a majority of voters would support a mill levy increase to build a dog motel. And if any of you or your colleagues doubt that a figurative motel is required under Animal Health Department regulations, I have attached a copy for your reference. Meeting the letter of these requirements would cost

a minimum of \$15,000-\$25,000. Additionally, the record keeping requirements are also onerous and unreasonable.

I guess that some justification could be made for including the municipal pounds in larger cities in this inspection program, as most would already have facilities which would probably meet the requirements. More animals would be in custody at any given time and totally the volume would be much greater. But, if the Legislators from first class cities are concerned about having to financially support the inspection system, I would certainly support them choosing to opt out also. All political subdivisions depend on public vigilance and the pressure of public opinion as a fundamental part of the monitoring process of governmental behavior. If any municipality did not maintain reasonable standards and conditions in their pounds, they would soon hear about it, particularly now with the increased attention on animal rights.

If an inspection system for the breeding industry is needed and desirable, I think that industry should pay the cost. It is only in that way that the real benefit\cost can be determined. If any industry cannot police itself and prevent abuses, and cannot afford to have someone else do the policing, I believe that serious questions should be asked about the efficacy of that industry.

If it is determined that the industry is important and that it is in the public interest to subsidize an inspection system, then the Legislature should appropriate funds for that purpose. As it stands, This licensing program is in actuality a tax upon municipalities to support a state purpose, function, and responsibility.

As a final point, I would to give an hypothetical case. If one inspector could average one inspection per week (given travel time, vacation, sick-leave, paperwork, meetings, repeat visits, etc.,) it would take twenty four inspectors to carry out the semi-annual inspections required in the second and third class cities. One inspector could do all the first class cities and have time left over for other duties. Whether or

not my hypothesis is even close to correct , makes no difference. Leaving second and third class cities out by passing SB 514 will save the state (and taxpayers) 96% of the cost and 96% of the work. I urge you to approve this bill. Thank You.

I'll be happy to take questions.

attachment 1-5
Senate Local Govt
Feb 13, 1992

~~870 FEB DEC~~
~~A B FEB MAY TO PV~~
~~H800 72 7420~~

ARTICLE 22 - ANIMAL POUNDS AND SHELTERS

9-22-1. Animal pounds and shelters. (a) Structures.

(1) Each animal pound and shelter shall:

(A) Be constructed of material that will provide for the establishment of a sound structure;

(B) be maintained in good repair; and

(C) protect animals housed inside from injury.

(2) Water and electrical power shall be available in each animal pound and shelter.

(3) Space shall be supplied in each animal pound and shelter to store the provisions necessary to adequately operate each such unit.

(b) Operational procedures.

(1) Removal and disposal of animal, and all other food wastes, bedding, dead animals, and debris shall be done on a regular basis and at reasonable intervals. The disposal of these waste materials shall comply with federal, state and local laws and regulations relating to pollution control.

(2) The temperature for each pound and shelter shall be regulated by heating and cooling to sufficiently protect each animal housed inside from extremes of temperatures. Temperatures shall not be allowed to fall below or rise above ranges which would cause discomfort or health hazards to any animal.

(3) Ventilation for a pound and shelter shall be provided at

all times by natural or mechanical means. Each DEPT. OF ADMINISTRATION

ATTORNEY GENERAL

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and shelter facility shall be operated to provide fresh air by means of windows, doors, vents, fans or air conditioning. Ventilation shall be established to minimize drafts, odors and moisture condensation.

(4) Each animal pound and shelter shall be provided with uniformly distributed lighting. Lighting shall be in an amount sufficient to permit routine inspection and cleaning and be arranged so that each animal is protected from excessive illumination.

(5) Each animal pound and shelter shall be provided with a drainage system which will effectively eliminate excess water from the research animal pound and shelter unit. If drains are used, they shall be constructed in such a manner to avoid all foul odors and any backup of sewage. Drainage systems shall comply with federal, state and local laws and regulations relating to pollution control.

(c) Pens.

(1) Each animal pound and shelter shall be constructed to prevent the overheating and discomfort of any animal. Shade shall be supplied either by natural or artificial means. Each animal pound and shelter shall be constructed of acceptable materials and maintained in strict sanitary condition.

(2) Each animal pound and shelter shall be constructed and maintained so as to provide sufficient space for each animal housed and to permit normal postural and social adjustments, with freedom of movement for each animal. (Authorized by and implementing K.S.A. 1990 Supp. 47-1712, as amended by L. 1991, Ch. 152, Sec. 32; effective, T - _____, _____.)

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26 1991

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9-22-2. Animal health and husbandry standards. (a) Animal food shall be wholesome, palatable, free from contamination and of nutritional value sufficient to maintain each animal in good health.

(b) Food receptacles shall be in sufficient number, of adequate size and so located as to enable each animal, in the enclosure to be supplied with an adequate amount of food. Food receptacles shall be kept clean and sanitary.

(c) Excreta shall be removed from each enclosure as often as necessary:

(1) to prevent contamination of the animals, contained therein;

(2) to prevent disease hazards; and

(3) to reduce odors. Cages, rooms and pens which contain any animal having any infectious or transmissible disease shall be washed each day, and after each occupancy, with hot water and detergent. Effective disinfectant shall be applied as an incident of each washing.

(d) An effective program for the control of insects, ectoparasites and other pests shall be provided and maintained.

(e) A program for disease prevention, parasite control, euthanasia and adequate veterinary care shall be provided and maintained under the supervision of a veterinarian. Each animal, shall be observed each day by the person in charge of the animal pound and shelter or by someone working under their direct supervision.

(f) Each animal shall be handled in a manner which will not cause discomfort, stress or physical harm to that animal.

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(g) Water and food shall be provided to each animal at least once during each 24 hour period. Any animal with the nutritional need or disease condition shall be fed more frequently. (Authorized by and implementing K.S.A. 1990 Supp. 47-1712, as amended by L. 1991, Ch. 152, Sec. 32; effective, T - _____, _____.)

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9-22-3. Records. Each operator of an animal pound and shelter shall keep and maintain records for each animal purchased, acquired, held, transported, sold, or otherwise disposed of. The records shall include the following: (a) The name and address of the person from whom each animal was acquired, and the transportation motor vehicle license number if the animal was acquired from an animal operator.

(b) The date each animal was acquired.

(c) A description of each animal showing age, size, color marking, sex, breed and any vaccinal information available. Records shall also include any other significant identification for each animal including any official tag number or tattoo.

(d) The name and address of the person to whom any animal is sold, given, bartered or to whom otherwise delivered. The record shall show the method of disposition. (Authorized by and implementing K.S.A. 1990 Supp. 47-1712, as amended by L. 1991, Ch. 152, Sec. 32; effective, T - _____, _____.)

*Attachment 1-10
Senate Social Dept
Feb 13, 1992*

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SEP 24 1991

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STATE OF KANSAS

Animal Health Department

November 6, 1991

Attn: Animal Control Officer

Re: Kansas Animal Shelter & Pounds

The Kansas Animal Health Department is inquiring of all Kansas police departments as to the procedure used when stray animals are picked up. Recent changes in Kansas law makes it unlawful for any city to operate a pound or animal shelter unless it has obtained a license from the commissioner.

Enclosed you will find an application form for a Kansas Animal Shelter /Pound License. Please complete this application and return it with the proper amount of money prior to December 1, 1991. If you have a contract with another facility to handle the animals picked up by your department, please let us know the name and address so that we can contact them directly.

It is important to note that failure to obtain the necessary license constitutes a class A misdemeanor, and continued operation after conviction of this crime shall constitute a separate offense for each day of operation, K.S.A. 1990 Supp 47-1715, as amended at L. 1991, ch. 152, section 33. It is the intent of this office to regulate and enforce the law as set out in the Kansas Animal Dealer Act.

Your cooperation is greatly appreciated in effecting this change. If you have questions, please contact me.

Very truly yours,

OFFICE OF THE ANIMAL HEALTH DEPARTMENT
R. DANIEL WALKER, DVM

Sue Baxter, Director
Animal Facilities Inspection Program

Sb:ras

Enclosures

Attachment 1-11
Senate Local Govt
Feb. 13, 1992

CARL D. HOLMES
REPRESENTATIVE, 125TH DISTRICT



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

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

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

Introduction

Proponent of SB 541

My City Background

Dogs--Topic of most city commission meetings and city gatherings

City ordinances--reasons

Rabies

Protection of citizens (walking, attacks, property rights)

Dumping of animals on small cities

Sanitation

Animal Confinement facilities

No vets in town

Cost of pickup and handling

Letter from state to cities concerning requirements

Current conditions--no enforcement

Favor SB 541 which excludes cities of second and third class

Stand for questions

*Attachment 2-1
Senate Local Govt
Feb. 13, 1992*