

Approved: 4/7/95
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Kent Glasscock at 1:45 p.m. on March 16, 1995 in Room 521-S of the Capitol.

All members were present except: Representative Belva Ott - Excused

Committee staff present: Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative Cindy Empson
Alan Alderson, Kansas County Treasurers' Association
Wes Holt, Kansas County Commissioners' Association
Marge Schnacke, Landowner in Tri County Drainage District
Frank Dougan, Landowner in Tri County Drainage District
Micky Waite, Landowner in Tri County Drainage District
Lawrence J. Brennan, Engineer, Kaw Valley Grainage District

Others attending: See attached list

Chairman Glasscock opened the meeting at 1:45 p.m. The minutes of the March 14, 1995 meeting were distributed. Representative Sloan moved that the minutes be approved, and Representative Grant seconded. Motion passed.

The Chairman opened the public hearing for **HB 2543**.

HB 2543: County administrator; procedure to establish office

The Chair recognized Representative Cindy Empson who spoke in support of **HB 2543**. She said that it provided permissive legislation which allows the residents of a county to petition the county commissioners to adopt a resolution establishing the office of county administrator. (Attachment 1).

The next speaker was Alan Alderson, Legal Counsel for the Kansas County Treasurers' Association, who explained that he first was an opponent of **HB 2543** until Representative Empson agreed to the proposed amendment which has changed his position to neutral. He said that after a lengthy discussion with Representative Empson, she graciously agreed to offer an amendment which would remove the "duties and responsibilities" provisions of Section 3 and simply replace it with language that would indicate that the Administrator would perform such duties as would be delegated from the County Commission. (Attachment 2).

The Chairman next introduced Wes Holt, Pottawatomie County Commissioner and member of the Kansas County Commissioners Association, who presented testimony in opposition to **HB 2543**. He said he believed that as an elected official, the fiscal responsibility and administration of county functions rest with and must remain with the County Commissioners. He also stated that these statutes are very adequate and work well. (Attachment 3).

There being no other conferees, Chairman Glasscock closed the public hearing on **HB 2543**.

The Chairman opened the public hearing on **SB 158**.

SB 158: Drainage districts; no-fund warrants

The Chair welcomed Marge Schnacke, landowner in Tri County Drainage District, who was a proponent for **SB 158**. She had no written testimony, but wanted to let the Committee know why there was a need for this legislation because the landowners want to be notified. She stood for questions and also introduced Frank Dougan and Micky Waite, landowners, who also expressed total frustration and anxiety.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on March 16, 1995.

The Chair next recognized Lawrence J. Brennan, Engineer, Kaw Valley Drainage District, who spoke in opposition to **SB 158** by saying that he sees the amendment as a step backwards in allowing districts to efficiently and quickly address an emergency. (Attachment 3).

There was no additional testimony, so Chairman Glasscock closed the public hearing for **SB 158**.

The Chair next opened the public hearing for **HB 2564**.

HB 2564: Authorizing U.S.D. No. 413 to convey certain real estate located in Neosho county back to the state.

Chairman Glasscock explained this bill to the Committee in the absence of Representative Phil Kline. About 15 years ago the state deeded over a tract of land adjacent to the SRS property to the local school district, as a new high school building was being considered. Later it was decided not to build the school, but the school district still holds title to the land. This land could be used for a state building. The school doesn't want to give up the land; however, the statute is clear that if the land is not used for school purposes, it must come back to the state. Representative Kline believes this section should be repealed because there should not be any question about who owns the land. This particular bill speaks to the Committee about the land that the school district has in Chanute that should have reverted back to the State.

After a brief discussion, the Chairman announced that the public hearing for **HB 2564** was closed.

Representative Powers moved that **HB 2564** be moved out of the Committee marked favorable for passage. Representative Sloan seconded. Motion passed.

The Committee next turned its attention to **SB 158 - Drainage districts; no-fund warrants**. Representative Mays said there were three alternatives - 1) send the bill out clean, 2) restrict it just to the Tri County Drainage District, or 3) put a threshold in the bill.

Representative Feuerborn moved to amend **SB 158** to add a threshold of 5 percent. Representative Mays seconded. Motion passed.

Representative Welshimer said that she would like the Committee to recall Representative McKechnie's **HB 2281** which concerned watershed districts and related to establishment of districts in certain counties. This bill was passed out of the Committee on February 23, 1995, but got caught on the calendar at the turn around. (Attachment 4)

Representative Welshimer moved that **HB 2281** be amended into **SB 158**. Representative Feuerborn seconded. Motion passed.

Representative Mays moved to further amend **SB 158** to include the contents of **HB 168**. Representative Grant seconded. Motion passed.

Representative Sloan moved to further amend **SB 158** to make effective date of bill publication in the Kansas Register. Representative Grant seconded. Motion passed.

Representative Grant moved to pass out favorably **SB 158** as amended. Representative Weber seconded. Motion passed.

The Chair recognized Representative Mays who directed the Committee's attention to **SB 168** which was Representative Wisdom's bill concerning the Kaw Valley drainage district and regulation of excavations within the district. He reminded the Committee about the reopening of the hearing on Senator Bogina's **SB 69** when Ernie Mosher testified and suggested that the Committee might want to consider an amendment. Representative Mays said that he preferred to put this suggestion in the form of an amendment into **SB 168** rather than to amend **SB 69**. (Attachment 5).

Representative Mays moved to eliminate the language in **SB 168** and insert or substitute downzoning. Representative Hayzlett seconded. Motion passed.

Representative Mays moved to recommend favorable passage of **SB 168** as amended. Grant seconded. Motion passed.

Representative Powers moved to recommend **HB 2453** favorable for passage. Representative Tomlinson

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on March 16, 1995.

seconded.

Representative Sloan made a substitute motion to amend **HB 2543** by adding new Section 3 language that was suggested. Representative Welshimer seconded. Motion passed.

Representative Mays moved to amend **SB 158** so that in line 16 the 5 percent be changed to 10 percent. Representative Welshimer seconded. Motion passed.

In further discussion, Representative Feuerborn and Representative Hayzlett both had concerns about legislating for one county since the County Commission already has the authority to hire an administrator.

Representative Feuerborn moved to table **HB 2543**. Representative Welshimer seconded. Motion passed. The following Representatives wanted their "no" votes recorded: Representative Grant, Representative Tomlinson, Representative Sloan, and Representative Toelkes.

The meeting adjourned at 3:05 p.m.

CINDY EMPSON
REPRESENTATIVE, TWELFTH DISTRICT
MONTGOMERY COUNTY
HOME ADDRESS: P.O. BOX 848
INDEPENDENCE, KANSAS 67301

TOPEKA OFFICE: STATEHOUSE, RM. 182-W
TOPEKA, KANSAS 66612



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: FEDERAL AND STATE AFFAIRS
EDUCATION
LEGISLATIVE EDUCATIONAL
PLANNING COMMITTEE

March 16, 1995

TO: House Local Government Committee

RE: HB 2543

Chairman Glasscock and members of the Committee, I thank you for the opportunity to appear before you in support of HB 2543. This is permissive legislation which allows the residents of a county to petition the county commissioners to adopt a resolution establishing the office of county administrator.

This is a two-step procedure. It requires the signature of ⁵50% of the qualified electors of the county before the county commission is forced to adopt the resolution and then it requires the question be submitted to the county voters and passed by a majority of those voting.

County government is a big business and involves many people, at times working independently of one another. An administrator could oversee this business and provide a continuity which in some counties is currently lacking.

HB 2543 gives county residents the ability to determine whether they believe their county would be better run with professional day-to-day management. Our county commissioners currently meet two days a week to make decisions involving all county operations and the oversight of an approximate \$11 million budget. Commissioners come from a multitude of backgrounds with varying education levels and no requirement that they have any previous business experience. A county manger could provide the business management expertise that is at times lacking in a commission.

I firmly believe that the taxpayers who fund the county budget should be

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allowed to determine the management of that county. HB 2543 gives them that opportunity.

I ask for your support for HB 2543 and will be happy to respond to questions.

“Sec. 3. The county administrator shall be the chief administrative officer of the county and shall perform such duties as shall be delegated by the board of county commissioners.”;

ALDERSON, ALDERSON & MONTGOMERY

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MEMORANDUM

TO: Members of the House Local Government Committee

FROM: Alan F. Alderson, Kansas County Treasurer's Association

RE: House Bill No. 2543

DATE: March 16, 1995

I am Alan Alderson, Legislative Counsel for the Kansas County Treasurer's Association, appearing today in opposition to House Bill No. 2543. Our opposition, however, is qualified by the fact that there are provisions of the bill that we simply don't understand. It may well be that the proposed legislation has no adverse impact upon County Treasurers, but some of its provisions are vague and unclear and cause us concern.

It is the listing of duties and responsibilities in Section 3 of the bill that causes us the most concern. In particular, Subsections (e), (g), and (i) seem to be unclear as to whether there might be some duties that would infringe upon powers and duties normally assigned to other elected officials. At the very least, they would leave some questions open for potential conflict.

I have spoken at some length with Representative Cindy Empson, and she has graciously consented to offer an amendment which would remove the "duties and responsibilities" provisions of Section 3 and simply replace it with language that would indicate that the Administrator would perform such duties as would be delegated from the County Commission. In so doing, I think it would become clear that the Board of County Commissioners could not delegate any more authority than it already had. Therefore, any implication that new duties or powers have been created would be eliminated.

Again, I am very appreciative of the cooperation and consideration the County Treasurers have received from the sponsors of this legislation, and we have no difficulty with the bill as it would be amended. I would be happy to answer any questions you might have.

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March 16, 1995

To: Representative Kent Glasscock
Members of House Local Government

From: Wes Holt, Pottawatomie County Commissioner
Kansas County Commissioners Association

Re: HB 2543 County Administrator

Mr. Chairman and members of the committee. I appreciate the opportunity today to present testimony in opposition to HB 2543.

First of all I believe that as an elected official the fiscal responsibility and administration of county functions rest with and must remain with the County Commissioners. I believe that the statutes that are currently in place, KSA 28-824 and KSA 19-101A dealing with county home rule authority, authorizes County Commissioners to hire the personnel necessary for the operation of the county. These statutes are very adequate and work very well.

Not all county commissioners are against hiring county administrators, although I believe they are not needed in most rural counties, we must have the authority to choose if it is a needed position in our respective counties. In fact currently 10 counties have the designated position of county administrator. (list on back page) There are also counties that have come up with some alternatives with positions like county managers, county coordinators, administrative assistant, fiscal officers and public works directors that serve in about the same capacity as the duties set forth in this bill to that of a county administrator. These counties have these positions because the county commissioners have been responsible and recognized the need to create these positions to assist in the administration of their county. There are also the other elected positions in county government, Clerk, Treasurer, Register of Deeds, Sheriff and County Attorney all assist the Commissioners in the administration of county government.

You would tend to relate the office of county administrator with only the highly populated counties and in most cases that is true. Finney County, Garden City, has an administrator not because of population but because the county has become one of the fastest growing areas in the state. The County Commission was being responsible in recognizing the great number of issues felt they had a need for such a position.

In my own county we found an alternative, expanding the position of the county engineer, to the public works director, giving that position much more authority and responsibility. Responsibilities like solid waste, mandatory drug testing, buildings and grounds, environmental health including wastewater

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collection and treatment. Also We expanded a position in finance department to that of fiscal officer, a CPA with the responsibility for budget, overseeing purchasing and payroll and audit, eliminating the need for a county administrator. That is something called employee management. Utilizing staff already in place.

Knowing that people today want less government and the buzz word is downsize, and where we in county government are under budget lids we do not need to create more administrative costs where it is not needed. More administration only takes away the ability to provide the basic services that everyone expects from local government. Again I would say let the decision on hiring a county administrator rest with the County Commission. Let it be our choice.

This committee is very familiar with mandates, I would consider this bill to be an unfunded mandate.

If the governing board of a county is forced to hire an administrator, who they do not support, then the working relationship would be less than desirable and no one would realize any benefit in the creation of that position. A county administrator only has the authority which is granted to him by the governing board. A county administrator is not accountable to the voting taxpayers of the county as is a commissioner. We all know where the buck stops in county government, with the commission. There is a lot of criteria that should be considered before hiring such a position. First lets make sure that we hire the position for the right reasons. Lets be sure we can afford it. The establishment of that office does not stop with the county administrator alone, there will be support staff and equipment costs such as computer systems and automobiles. Criteria like growth factors, population, the need of the governing board to have more assistance. In fact you have just created another layer of government. Is that what we want to do?

I feel that we all have administrators out there and they are called voters. I was elected to do a job just as you were, and I want to perform that job, because I believe I have the ability to do it. If I do not, then I will be replaced by someone who can or someone who believes in hiring a county administrator.

The Kansas County Commissioners Association opposes HB 2543 and urges you to vote NO on this issue.

Counties with County Administrators

- | | |
|-------------|--------------|
| 1. Sedgwick | 6. Seward |
| 2. Saline | 7. Harvey |
| 3. Johnson | 8. Douglas |
| 4. Barton | 9. McPherson |
| 5. Finney | 10. Miami |

SENATE BILL No. 158

By Senator Salisbury

1-31

10 ~~AN ACT concerning drainage districts, relating to no-fund warrants,~~
11 ~~amending K.S.A. 24-133 and 24-605 and repealing the existing section~~
12 ~~sections.~~

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

15 Section 1. K.S.A. 24-133 is hereby amended to read as follows: 24-
16 133. (a) The governing body of any drainage district may issue emergency
17 no-fund warrants of the drainage district to pay the costs and expenses
18 resulting from an emergency within the district. An emergency within the
19 district exists by reason of current injuries to persons or property, or
20 imminent danger thereof, from floods or other injurious action of water
21 in any watercourse within the district. In case of an emergency, the gov-
22 erning body of the district may build new dikes and levees, and repair,
23 expand and strengthen old ones, dig ditches, build jetties, or make any
24 other changes, alterations and additions in existing improvements. The
25 governing body also may build any other new structure or other improve-
26 ment it deems necessary to solve the problems created by the emergency.

27 The governing body shall levy a tax at the first tax levying period after
28 the issuance to pay the emergency no-fund warrants and interest thereon.
29 The levy shall be in addition to all other levies authorized or limited by
30 law. Emergency no-fund warrants shall be issued, registered, redeemed
31 and bear interest in the manner and in the form prescribed by K.S.A. 79-
32 ~~2039 and 79-2940~~, except they shall be issued without the approval of
33 the state board of tax appeals and shall not bear the notation required by
34 K.S.A. 79-2040 and amendments thereto, except that such no-fund war-
35 rants shall be issued without the approval of the state board of tax
36 appeals and shall not bear the notation required thereby.

37 (b) Prior to the issuance of any no-fund warrants under the au-
38 thority of this section, the governing body shall publish once in a
39 newspaper of general circulation within the district a notice of the
40 intention of the governing body to issue such no-fund warrants. If
41 within 60 days after the publication of such notice, a petition re-
42 questing an election on the question of the issuance of the no-fund
warrants signed by not less than 5% of the owners of land within

An Act concerning flood control; relating to drainage districts; relating to watershed districts; amending K.S.A. 12-133, 24-605, 24-1203, 24-1206, 24-1207, 12-1208, and 24-1214 and repealing the existing sections.

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1 the district is filed with the county election officer of the county in
2 which the greater portion of the district is located, the governing
3 body shall submit the question of the issuance of such no-fund war-
4 rants at an election held under the provisions of the general bond
5 law.

6 Sec. 2. K.S.A. 24-605 is hereby amended to read as follows: 24-
7 605. (a) Within 30 days after the district court has declared that
8 the drainage district is organized, the clerk of the court shall call a
9 meeting of the owners of the real estate located within the district
10 for the purpose of electing a board of five supervisors to be com-
11 posed of owners of real estate located within the district. A majority
12 of the supervisors shall be residents of the county, or counties, in
13 which the drainage district is located. Notice of such meeting shall
14 be published at least 15 days prior to the meeting and shall specify
15 the time, place and purpose of the meeting. The landowners, when
16 assembled, shall organize by the election of a chairperson and a
17 secretary of the meeting, who shall conduct the election. At such
18 election and all succeeding elections, including elections to approve
19 the issuance of bonds or no-fund warrants, each and every acre of
20 land in the district shall represent one share and each owner shall
21 be entitled to one vote for each acre owned in such district. A vote
22 at any election may be cast by the landowner or by a legally ap-
23 pointed proxy.

24 At the first election one person shall be elected supervisor for a
25 term of one year, two persons for terms of two years, and two per-
26 sons for terms of three years, thereafter all supervisors shall be
27 elected for terms of three years and until their successors are elected
28 and qualified. Elections to choose supervisors or their successors
29 shall be at the annual meeting of the owners of the real estate lo-
30 cated within the district. Supervisors elected in any district prior
31 to the effective date of this act shall hold their office until their
32 successors are elected and qualified.

33 If a vacancy occurs at any time in the office of a supervisor of
34 any such drainage district, the remaining supervisors shall appoint
35 from the qualified residents in the district a person to hold the office
36 of supervisor until the next election.

37 (b) For the purpose of determining the total number of acre
38 votes which each landowner is entitled to cast at the meeting for the
39 first election of supervisors, the clerk of the district court shall de-
40 liver to the secretary elected at the first landowners' meeting, at the
41 time of the secretary's election, a written certificate, prepared from
42 the proceedings in the district court for the formation of such drain-
43 age district, which sets forth the names of all landowners in the

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district and the legal description and acreage of all land located within the district. In all elections, except the first, the county clerk shall determine the names of all landowners within the drainage district and the number of acres owned by each landowner as of 20 days prior to the date of any election.

Any landowner within the district whose name or total acreage does not appear or appears incorrectly on such certificate may request the county clerk to add the landowner's name to the certificate or to correct the acreage on the certificate. The county clerk may administer oaths and affirm witnesses, take testimony and examine documents and records necessary to determine the qualification of any landowner to vote and the total acreage of the landowner. After the completion of the investigation, the county clerk shall issue a certificate stating that the landowner to whom the same is issued is entitled to vote and certifying the total acreage owned by the landowner to whom the certificate is issued. Such certificate shall be accepted by the judges and clerks of the election and the landowner shall be allowed to vote the number of acre votes stated in the certificate.

~~Sec. 23. K.S.A. 24-133 and 24-605 are hereby repealed.~~

[Insert attached sections

~~Sec. 37.~~ This act shall take effect and be in force from and after its publication in the statute book.

[Sec. 9. K.S.A. 24-133, 24-605, 24-1203, 24-1206, 24-1207, 24-1208 and 24-1214 are hereby repealed.

[Sec. 10.

EXPLANATION OF BALLOON

SESSION OF 1995

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2281

As Amended by House Committee on
Local Government

Brief*

H.B. 2281 establishes an alternative procedure for the formation of watershed districts. The bill authorizes the board of county commissioners to adopt a resolution proposing the establishment of one or more districts and appointing a steering committee for each proposed district. The prerequisites for using this alternative are that the lands within each proposed district substantially comprise a watershed or two or more watersheds and in the preceding five-year period, the Governor has issued a proclamation declaring a state of disaster emergency in the county due to flooding.

The resolution must contain the information required for a petition under K.S.A. 24-1204 and include a map of the lands to be included which has been prepared in consultation with the Chief Engineer of the Division of Water Resources. An election on the issue of establishing the district must be held within the proposed district as provided under current law. All costs of projects and works of a watershed district are to be paid by a general tax levy within the district.

Background

The bill was supported by the Kansas Conservation Commission and others. The sponsor said that Crawford County had experienced two major floods during the past year. He said the bill would provide authority to create a countywide watershed district subject to voter approval to help prevent future flooding.

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New Section 3. (a) In lieu of the procedures for organization of a watershed district under K.S.A. 24-1203 through 24-1208, and amendments thereto, and dissolution of a watershed district under K.S.A. 24-1228 through 24-1230 provided by K.S.A. 24-1203, 24-1204 and 24-1205, and amendments thereto, the board of county commissioners of any county may adopt a resolution establishing proposing the establishment of one or more watershed districts within the county and dissolving those portions of any existing watershed districts that lie within the district or districts established appointing the steering committee of each proposed district if:

(1) The lands within each proposed district comprise substantially a watershed or two or more adjoining watersheds, as determined by the chief engineer; and

(2) in the preceding five-year period, the governor has issued a proclamation declaring a state of disaster emergency in the county due to flooding.

(b) The resolution shall contain the information required for a petition under K.S.A. 24-1204, and amendments thereto, and shall have appended and incorporated by reference a map showing the lands to be included in each proposed district and the subwatersheds therein, prepared in consultation with the chief engineer.

Upon adoption of such resolution, the county commission shall transmit a certified copy of the resolution to the secretary of state. Upon receipt of the resolution, the secretary of state shall issue to the board of directors a certificate of incorporation for the district or districts, which shall be filed of record in the office of the register of deeds of the county. Upon recordation of the certificate of incorporation, the district or districts shall be authorized to function in accordance with the provisions of

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the watershed district act and district's or districts' certificate of incorporation.

(b) The board of county commissioners shall appoint the members of the board of directors of a watershed district established under this section; to serve until the first board of directors is elected chief engineer.

(c) All costs of projects and works of a watershed district established under this section shall be paid by a general levy against all taxable tangible property located within the district.

(d) This section shall be part of and supplemental to the watershed district act.

Sec. 4. K.S.A. 24-1203 is hereby amended to read as follows: 24-1203. *Except as otherwise provided by section 1*, before any watershed district shall be organized, a petition shall be filed in the office of the secretary of state, signed by not less than ~~twenty percent (20%)~~ 20% of the landowners and representing ~~twenty-five percent (25%)~~ 25% of the acreage within said proposed district as shown by a verified enumeration of said landowners taken by a landowner of said proposed district to be selected by the first ~~ten (10)~~ 10 signers of the petition. A verified copy of said *such* enumeration shall be attached to and filed with the petition in the office of the secretary of state: ~~Provided, That~~. For purposes of determining ownership, the county clerk of the county in which any part of the watershed is described shall, upon demand, furnish the record of the ownership of the lands within the county from the tax rolls of ~~said the~~ county, and ~~said such~~ record of ownership shall be satisfactory evidence of title.

Sec. 5. K.S.A. 24-1206 is hereby amended to read as follows: 24-1206. (a) If the secretary of state finds the petition to be sufficient as to form and the number and qualifications of the petitioners, ~~he the secretary of state shall prepare a certified copy of the petition and transmit the same it to the chief engineer within five (5) days from the date of his days after the secretary of state's determination of sufficiency.~~

(b) Upon receipt of ~~such certified copy a certified copy of a petition transmitted pursuant to subsection (a) or a certified copy of a resolution transmitted pursuant to section 1~~, the chief engineer shall institute an investigation of the *each* proposed district, its territory and purposes; and shall ~~within ninety (90) and, within 90 days after receipt of said copy such copy shall transmit a written report of his the chief engineer's findings on the petition or resolution, together with his the chief engineer's written approval or disapproval of the petition or resolution, to the secretary of state and the acting chairman chairperson of the steering committee named in the petition or resolution.~~

(c) The chief engineer shall approve such petition if ~~he the petition or resolution if the chief engineer finds and discloses by his report the chief engineer's report that:~~

(1) ~~That~~ The lands proposed to be included in the *each* district comprise substantially a watershed or two or more adjoining watersheds;

(2) ~~that the each~~ proposed district would not include lands in any existing watershed district;

(3) ~~that the statement of purposes contained in the petition or resolution conforms with the intents and purposes of this act;~~

(4) ~~that the lands within the each~~ proposed district or a part thereof, are subject to erosion, floodwater or sediment damage or would be benefited by the construction of works for the conservation, development, utilization or disposal of water;

(5) ~~that the boundary of any each~~ proposed district is defined, as far as practicable, so as to include all quarter-quarter sections of which more than one-half 1/2 of each is within the watershed;

(6) ~~that the downstream limit of any each~~ proposed district is established with due regard to the location of highways and railroads and the location and character of existing works of improvement, the boundaries of any organized levee, drainage, irrigation and watershed districts, and the physical characteristics of and the probable relative effect of the operation of the proposed district upon any flood plane area common to both the stream or watercourse and any other stream or watercourse; and

(7) ~~that the map attached to the petition or resolution and the description of lands proposed to be included in the each~~ district are adequate and correct: ~~Provided, That, except the chief engineer, in his the chief engineer's report, may make any minor corrections with respect to the map or the description of lands proposed to be included in the district to make such map and description of lands conform to the map previously prepared in consultation with the chief engineer; and such corrections shall thereupon become a part of the petition or resolution and be deemed effective without a recirculation of the corrected petition among the landowners or amendment of the resolution.~~

(d) If the chief engineer shall approve such petition; ~~he approves the petition or resolution, the chief engineer shall transmit a certified copy of his the chief engineer's report to the secretary of state and to the chairman chairperson of the steering committee of the district.~~

Sec. 6. K.S.A. 24-1207 is hereby amended to read as follows: 24-1207. (a) Within ~~ten (10)~~ 10 days after receipt of a certified copy of the chief engineer's report approving the petition or resolution,

or the petition as amended or resolution as amended or revised by the chief engineer, the chairman chairperson of the steering committee of the proposed district shall call a meeting of the committee by mailing a written notice fixing the time and place of such meeting to each member of the committee at least five (5) days in advance of the time so fixed, unless such notice is duly waived. The committee shall meet at the time and place fixed in said the notice for the purpose of electing from their number a board of directors consistent with the number set out in the petition, and this board of directors, after being duly elected, shall elect from their number a president, a vice-president, a secretary; and a treasurer. *Provided*, That, *except that* in a district having only three (3) directors, the board shall elect one person to hold the offices of secretary and treasurer. The board shall, by resolution, shall provide for the calling of an election of the qualified voters of the district for the purpose of submitting the question of whether the district should be organized and created in accordance with the petition or resolution, or the petition or resolution as amended or revised by the chief engineer.

(b) The board shall designate one or more centrally located voting places with *within* the proposed district, but if the territory of *such the* proposed district lies in more than one county, then at least one voting place shall be designated within each county of *said the* proposed district, and shall name and appoint three (3) judges and two (2) clerks for each voting place designated, which judges and clerks shall take an oath to faithfully perform their duties as judges and clerks, respectively, and shall each receive compensation of eight dollars (\$8) \$8 per day for their services; and. The board shall cause a notice of *said the* special election to be published for three (3) consecutive weeks in *some a* newspaper of general circulation within the proposed district, the first publication to be not less than ~~twenty-one (21)~~ 21 days prior to such election. If the proposed district lies in more than one county, then a similar notice shall be published in a newspaper of general circulation in each of the counties in which a part of *said the* proposed district is located. *Such The* notice shall set forth the time and place or places of holding the election; and the proposition to be voted on, shall contain a copy of the petition or resolution, or the amended or revised petition or resolution (omitting the map attached thereto as an exhibit) and shall be signed by the president and attested by the secretary of the board. Any qualified voter shall be entitled to vote at such election. The vote at such election shall be by ballot, and such ballot shall comply with the usual requirements for an

official ballot for public office insofar as such requirements are applicable thereto. Upon such ballot shall be printed the proposition submitted, preceded by the words, "Shall the following be adopted?" and followed by the words "To vote in favor of the proposition make a cross X mark in the square after the word 'Yes' " "To vote against the proposition make a cross X mark in the square after the word 'No.' "

(c) Returns from *such the* election shall be made to the board of directors who shall canvass the votes cast at *such the* election on the second Friday following the date of *said election*; and *said the* election. The board shall immediately certify the results of *said the* election to the secretary of state. If a majority of those voting on the proposition voted in favor of the organization and creation of the district upon the petition or resolution, or amended petition or revised petition or resolution, the secretary of state shall thereupon issue to the board of directors a certificate of incorporation for *said the* district, which shall be filed of record in the office of the register of deeds of each county in which all or a portion of the district lies. Upon such recordation of the certificate of incorporation the district shall be authorized to function in accordance with the provision of this act and its certificate of incorporation. If a majority of those voting on the proposition voted against the organization and creation of the district, the secretary of state shall endorse that fact on the face of the petition or resolution and the proceedings shall be closed. No action attacking the legal incorporation of any watershed district organized under this section shall be maintained unless filed within ~~ninety (90)~~ 90 days after the issuance of the certificate of incorporation for such district by the secretary of state, nor shall the alleged illegality of the incorporation of any such watershed district be interposed as a defense to any action brought after such time.

Sec. 7. K.S.A. 24-1208 is hereby amended to read as follows: 24-1208. If the organization of the proposed district is defeated at the special election or if the petition or resolution is disapproved by the chief engineer, the board of directors or steering committee named in the petition or resolution shall continue to function in a limited capacity for the purposes hereinafter set forth in this action. *Said Such* board or steering committee shall determine the amount of money necessary to pay all of the costs and expenses incurred in the preparation and filing of the petition or resolution and in the conduct of the special election and shall certify a statement of such amount to the county clerk of each county in which the proposed district was to be located. *Said Such* county clerks

shall thereupon ascertain the total assessed valuation of all taxable tangible property in their respective counties within the proposed district and certify ~~same such valuation~~ to the county clerk of the county in which the acting ~~chairman~~ chairperson of the board or steering committee of the proposed district resides.

Said Such county clerk shall determine the levy necessary to be spread against the taxable tangible property in the entire proposed district in order to raise funds sufficient to pay the amount set forth in ~~said the~~ statement and shall certify ~~said such~~ levy to the county clerk of the other counties in which a portion of ~~said the proposed~~ district is located. Each of the county clerks shall then cause ~~said such~~ levy to be extended against the taxable tangible property lying within the boundaries of ~~said the proposed~~ district and within ~~his the clerk's~~ county. The county treasurers of the respective counties involved shall remit the funds raised by such levy in their counties to the county treasurer of the county in which the acting ~~chairman~~ chairperson of the board or steering committee resides who. Such treasurer shall hold ~~said such~~ funds and shall honor warrants drawn upon ~~said such~~ funds by the acting ~~chairman~~ chairperson of the board or steering committee and countersigned by the acting secretary of the board or steering committee in payment of the costs and expenses incurred in the proposed organization of the district and shown on the aforementioned statement of expenses

Sec. 8 . . . K.S.A. 24-1214 is hereby amended to read as follows: 24-1214. Subject to the provisions of subsection (e) (b) of section 1, when the general plan is approved by the chief engineer the board shall then by resolution shall propose that the cost to the district of all works contemplated in the plan be paid either by a general levy against all of the taxable tangible property located within the district or, that such cost be paid by special assessment against lands within the district to be specially benefited by any of the proposed projects or that such cost be paid by both such general levy and special assessment, stating the portion proposed to be paid by each method. The board shall also set forth in ~~said the~~ resolution any proposal to issue improvement bonds of the district to provide for the payment of all or any part of the cost to the district of proposed projects by installments instead of levying the entire tax or special assessment at one time.

The board shall thereupon fix a time and place either within or conveniently near the district for a public hearing upon the general plan and the resolution proposing a method of financing costs of the works contemplated in the plan. A notice of such hearing shall be given by one publication at least ~~twenty (20)~~ 20 days prior to the date fixed for ~~said the~~ hearing, setting forth the time and place of hearing upon ~~said the~~ plan

and resolution, that a copy of ~~said the~~ plan and resolution is available for public inspection in the office of the secretary of the district and that any electors or landowners desiring to be heard in the matter must file, in duplicate, with the secretary of the board at ~~his the secretary's~~ office, at least five (5) days before the date of ~~said the~~ hearing, a written statement of their intent to appear at the hearing and the substance of the views they wish to express. Upon receipt of any such statements the secretary of the board shall immediately transmit one copy of ~~said the~~ statements to the chief engineer. The chief engineer or ~~his the chief engineer's~~ duly appointed representative may attend ~~said the~~ hearing. At the hearing any elector or landowner who has duly filed ~~his a~~ written statement shall be heard and may present information in support of ~~his the elector's or landowner's~~ position in the matter. After hearing all such statements the board shall, by resolution, shall adopt as official or reject the general plan and adopt as official or reject the proposed method of financing costs of the works contemplated in the plan or determine that the general plan or the proposed method of financing or both should be modified and notify the chief engineer of ~~their the board's~~ action. If it is determined that the general plan should be modified, any proposed changes approved by the board shall be incorporated in a modified general plan which shall be submitted to the chief engineer for further consideration.

The chief engineer shall review the modified plan and shall transmit a supplemental written report of the results of ~~his the chief engineer's~~ study and investigation to the board, including ~~his the chief engineer's~~ written approval or disapproval of the modified general plan. If the modified general plan is approved by the chief engineer, the board shall, by resolution, shall adopt ~~it the modified plan~~ as the official general plan of the district and notify the chief engineer of ~~their the board's~~ action. If it is determined that the proposed method of financing should be modified, the board shall give consideration to the ~~same; and the modified method of financing and,~~ following adoption of the general plan or an approved modification thereof, the board shall, by further resolution; setting forth such modified method of financing, shall adopt it as the official method of the district for financing costs of the works contemplated in the official general plan: ~~Provided, however, That~~ If a board is unable to carry out a general plan because of disapproval of a bond issue at an election or because insufficient funds have been provided, they may reconsider the general plan ~~and/or the resolution or the method of financing, or both,~~ and by following the procedure hereinbefore set forth, resubmit a general plan ~~and/or resolution or method of financing, or both.~~

PROPOSED AMENDMENT TO SENATE BILL NO. _____

On page _____, following line _____, by inserting the following:

"Sec. . K.S.A. 12-757 is hereby amended to read as follows: 12-757. (a) The governing body, from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the governing body or the planning commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Any such amendment, if in accordance with the land use plan or the land use element of a comprehensive plan, shall be presumed to be reasonable. The governing body shall establish in its zoning regulations the matters to be considered when approving or disapproving a rezoning request. The governing body may establish reasonable fees to be paid in advance by the owner of any property at the time of making application for a zoning amendment.

(b) All such proposed amendments first shall be submitted to the planning commission for recommendation. The planning commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations provided in K.S.A. 12-758[*]. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of such proposed amendment shall be mailed at

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least 20 days before the hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered for regulations of a city and to all owners of record of lands located within at least 1,000 feet of the area proposed to be altered for regulations of a county. If a city proposes a zoning amendment to property located adjacent to or outside the city's limits, the area of notification of the city's action shall be extended to at least 1,000 feet in the unincorporated area. Notice of a county's action shall extend 200 feet in those areas where the notification area extends within the corporate limits of a city. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the planning commission or the governing body. Such notice is sufficient to permit the planning commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation of a zoning classification of lesser change than that set forth in the notice shall not be valid without republication and, where necessary, remailing, unless the planning commission has previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.

(c) (1) Whenever five or more property owners of record owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by

publication and hearing in like manner as required in subsection (b) of this section. Such zoning amendment shall not require written notice and shall not be subject to the protest petition provision of subsection (f) of this section.

(2) Whenever a city or county initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, such zoning amendment shall require notice by publication and hearing in like manner as that required by subsection (b) of this section. In addition, written notice shall only be required to be mailed to owners of record of the properties to be so rezoned and only such owners shall be eligible to initiate a protest petition under subsection (f) of this section.

~~(e)~~ (d) Unless otherwise provided by this act, the procedure for the consideration and adoption of any such proposed amendment shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of the members of the planning commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the governing body. If the planning commission fails to make a recommendation on a rezoning request, the planning commission shall be deemed to have made a recommendation of disapproval. When the planning commission submits a recommendation of approval or disapproval of such amendment and the reasons therefor, the governing body may: (1) Adopt such recommendation by ordinance in a city or by resolution in a county; (2) override the planning commission's recommendation by a 2/3 majority vote of the membership of the governing body; or (3) return such recommendation to the planning commission with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendation, the planning commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit

new and amended recommendation. Upon the receipt of such recommendation, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or resolution, or it need take no further action thereon. If the planning commission fails to deliver its recommendation to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.

~~(d)~~ (e) If such amendment affects the boundaries of any zone or district, the respective ordinance or resolution shall describe the boundaries as amended, or if provision is made for the fixing of the same upon an official map which has been incorporated by reference, the amending ordinance or resolution shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment, shall amend the section of the ordinance or resolution incorporating the same and shall reincorporate such map as amended.

~~(e)~~ (f) Regardless of whether or not the planning commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the office of the city clerk or the county clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total area required to be notified by this act of the proposed rezoning of a specific property, excluding streets and public ways, the ordinance or resolution adopting such amendment shall not be passed except by at least a 3/4 vote of all of the members of the governing body.

~~(f)~~ (g) Zoning regulations may provide additional notice by providing for the posting of signs on land which is the subject

of a proposed rezoning, for the purpose of providing notice of such proposed rezoning.

(g) (h) The provisions of this section shall become effective on and after January 1, 1992. "

By renumbering sections accordingly;

Repealer; Title