Approved: February 24, 1995
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on February 21, 1995, in Room 531-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Senator Marge Petty
Glenn Cogswell, Drainage Districts
Vic Miller, Shawnee County Commissioner
Senator Lana Oleen
Eric Ward, Manhattan EMS
Willie Martin, Sedgwick County EMS

Others attending: See attached list

SB 211--Concerning streams and rivers; relating to the distribution of the proceeds from the sale of sand products

Ms. Kiernan explained that the bill concerns sand royalty proceeds and allows a county to pay drainage districts for cleaning, maintaining and the debt incurred in cleaning and maintaining state rivers. Currently, counties are not permitted to distribute funds to drainage districts. She also had prepared a proposed amendment which would allow the drainage district to do anything with the money from the county that can lawfully be done. (Attachment 1)

Senator Petty, author of the bill, explained that the need for the bill was expressed by Shawnee County, however, all counties could benefit from it. She introduced representatives from the Tri-County Drainage District and others wishing to testify in support.

Glenn Cogswell, representing the Tri-County Drainage District, North Topeka Drainage District and Kaw Drainage District, testified in support of **SB 211**. (Attachment 2)

Vic Miller, a Shawnee County Commissioner, testified further in support of the bill. He began by stating that he has no objection to the proposed amendments. His particular interest in the bill was to free up funds from the county to drainage districts, however, he has no objection to those counties who do not have drainage districts to benefit also. With this, the hearing on **SB 211** was closed.

Senator Feleciano began a discussion regarding the elimination of section 3 as he felt section 2 encompasses the contents of section 3, and staff concluded that section 2 would cover the provision in section 3.

Senator Feleciano made a motion to adopt the committee amendments and to strike section 3 of **SB 211**. Senator Ranson seconded, and the motion carried.

The Chairman inquired as to if there would be any drainage districts that the bill would adversely affect. Frank Rice, representing the Kaw River Drainage District, stood to respond that the bill would have no adverse affect on any drainage districts. All this bill allows is to permit a county to give monies to a drainage district. At present, counties' authority is limited, and they must hold the monies.

Senator Feleciano made a motion to report **SB 211** favorable for passage as amended, Senator Tillotson seconded, and the motion carried.

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

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on February 21, 1995.

SB 201--Concerning authorized emergency vehicles; relating to the designation thereof.

Ms. Kiernan explained that the bill would allow any emergency vehicle used by EMS to be designated without going to the Board of County Commissioners.

Senator Lana Oleen, one of the authors of the bill, stated her support for the bill. She noted that a minor amendment was to change "firemen" to "fire fighters." She explained that currently city commissions allow designation of any emergency vehicles used by EMS, but this bill would allow county commissions to do the same for vehicles used beyond city limits.

Eric Ward, representing himself and the Riley County Emergency Medical Service, testified in support of the bill and submitted written testimony in support by Larry Couchman, Director of Riley County Emergency Medical Service. (Attachments 3 and 4) Mr. Ward noted a technical amendment is needed to change "licensed" to "permitted" on line 18, page 1 of the bill to eliminate confusion.

Willie Martin, Sedgwick County EMS, testified in support of the bill and the amendment. (Attachment 5)

Senator Feleciano made a motion to so amend **SB 201** and recommend it favorable for passage as amended, Senator Ranson seconded, and the motion carried.

The Chairman called attention to bills previously heard. First to be considered was **SB 79** concerning water marks at fords. Senator Downey stated that she sees a real need for warning signs to be used instead of watermarks which can give a false sense of security.

Senator Downey made a motion to recommend **SB 79** favorable for passage, Senator Reynolds seconded, and the motion carried.

The next previously heard bill to be considered was **SB 168** concerning the powers, duties and functions of certain drainage districts. The Chairman recalled that this bill gives drainage districts the authority to permit what will be built in the drainage district.

Senator Feleciano made a motion to report **SB 168** favorable for passage, Senator Tillotson seconded, and the motion carried.

Discussion began regarding **SB 158** relating to no-fund warrants in drainage districts. Staff had prepared two proposed amendments. One regards a debt limit on the no-fund warrants. The other includes notice by publication and a provision for a protest petition procedure with an election rather than going to the State Board of Tax Appeals. (Attachments 6 and 7) It was the consensus of the committee to continue the discussion to Thursday, February 23.

Last to be considered was **SB 108** regarding unfunded mandates on cities and counties. The Chairman informed the committee that there is a similar House bill which passed out of committee but was sent back to the committee to be reworked. The Chairman had the language that addresses the House's concern and asked if the committee wished to send **SB 108** to the House. It was the consensus of the committee to work the bill on Friday, February 24.

The meeting was adjourned at 9:55 a.m.

The next meeting is scheduled for February 23, 1995.

LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: February 21, 1995

NAME	REPRESENTING
Harry Herington	League of KS Municipalities
Bob McDaneld	Board of EMS
David Stadler	Tri-County Drainage Dist.
Howard Parr	" " " "
Dennis G. Hall	Tri County Drainage
Eric Ward	Riley Co. EMS / KS EMS Admin. Assoc.
Nellie Martin	Sedgwick County
Dale Sandberg	No. Topeka Drain. Dist.
Dwight Jackson	" " " "
Glenn D. Cogswell	" " " "
Vic Miller	SN. Co. Commission
Sandra Jacquot	SN Co. Counselor
Rich Eckert	Ass SN Co. Counselor
Anne Spiess	Ks. Assoc of Counties
Chris McKenzie	League of Ks. Municipalities

SENATE BILL No. 211

By Senator Petty

2-6

AN ACT concerning streams and rivers; relating to the distribution of the proceeds from the sale of sand products; amending K.S.A. 1994 Supp. 82a-309 and repealing the existing section; also repealing K.S.A. 82a-310.

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

Section 1. K.S.A. 1994 Supp. 82a-309 is hereby amended to read as follows: 82a-309. *(a)* One-half of the net proceeds from the sale of sand products, and no other, taken from the bed of any river which is the property of the state of Kansas, shall be returned as follows. Where such river extends into or through any drainage district in this state, organized under any of the drainage district laws thereof, the board of directors of the district from which the sand products were taken shall be entitled to receive two-thirds of the amount returned and the remaining one-third shall be divided among the remaining drainage districts in the county, in proportion to the frontage on such river. Where such river does not extend into or through any drainage district in this state, the proceeds to be returned shall be returned to such counties as have adopted this act and have, prior to July 1 following the adoption of this act, notified the director of taxation of such adoption, and through which such river flows, in proportion to the mileage of such river bank in such county~~; and~~. *Except as provided by subsection (b), the proceeds in* this fund shall be used by the board of county commissioners of such county or counties only for the actual cleaning and maintenance of such state streams as is provided for in this act except that: (1) Before the expenditure of any such funds, the board of county commissioners shall submit all contracts, plans, and specifications for the proposed improvements to, and receive the approval of, the chief engineer of the division of water resources; and (2) in counties having a population of not less than 25,000 nor more than 29,000 and an assessed tangible valuation of over $46,500,000, the entire amount allotted to the county shall be paid into the bridge fund of such county.

(b) The board of county commissioners may pay the proceeds in such fund to drainage districts located in the county to be used by such districts for: (1) Cleaning, maintaining and repairing of state streams and tributaries thereof; (2) maintaining, repairing or reconstructing levees; and (3)

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1 *payment of debt or obligation incurred by such district in the cleaning,*
2 *maintaining or repairing of state streams or tributaries thereof which*
3 *were damaged prior to July 1, 1995.*
4 Sec. 2. K.S.A. 82a-310 and K.S.A. 1994 Supp. 82a-309 are hereby
5 repealed.
6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.

Section 1. K.S.A. 1994 Supp. 82a-309 is hereby amended to read as follows: 82a-309. *(a)* One-half of the net proceeds from the sale of sand products, and no other, taken from the bed of any river which is the property of the state of Kansas, shall be returned as follows:

(1) Where such river extends *along,* into or through any drainage district in this state, organized under ~~any of the drainage district laws thereof~~ *the laws of this state*, the board of directors of the district from which the sand products were taken shall be entitled to receive ~~two-thirds~~ ⅔ of the amount returned and the remaining ~~one-third~~ ⅓ shall be divided among the remaining drainage districts in the county, in proportion to the frontage on such river. ~~Where such river does not extend into or through any drainage district in this state~~

(2) If the products are taken from the bed of the river at a location which is not within the boundaries of a drainage district, the proceeds to be returned shall be returned to ~~such counties as~~ *the counties which* have adopted this act and have, prior to July 1 following the adoption of this act, notified the director of taxation of such adoption, and through which such river flows, in proportion to the mileage of ~~such~~ *the* river bank in such county~~; and this fund shall be used by the board of county commissioners of such county or counties only for the actual cleaning and maintenance of such state streams as is provided for in this act except that: (1) Before the expenditure of any such funds, the board of county commissioners shall submit all contracts, plans, and specifications for the proposed improvements to, and receive the approval of, the chief engineer of the division of water resources; and (2) in counties having a population of not less than 25,000 nor more than 29,000 and an assessed tangible valuation of over $46,500,000, the entire amount allotted to the county shall be paid into the bridge fund of such county~~.

(b) Moneys paid to a county pursuant to this section shall be disbursed or used as follows:

(1) If there are one or more drainage districts organized under the laws of this state which are located in such county along a river that is the property of the state of Kansas and which operate and maintain river flood control improvements in or along such river, the county shall disburse such moneys to each such drainage district, to be used for any lawful purpose, in proportion to each district's frontage on such a river.

(2) If there is no drainage district organized under the laws of this state which is located in such county along a river that is the property of the state of Kansas, the county may use the moneys for construction, operation and maintenance of public improvements located along, in or over such a river.

(3) If there is no drainage district organized under the laws of this state in a county which has a population of 25,000 or more but not more than 29,000 and an assessed valuation of more than $46,500,000, the entire amount disbursed to the county under this section shall be paid into the bridge fund of the county.

STATEMENT OF TRI-COUNTY DRAINAGE DISTRICT,
NORTH TOPEKA DRAINAGE DISTRICT AND KAW DRAINAGE DISTRICT
IN SUPPORT OF THE PROPOSED AMENDMENT TO SENATE BILL NO. 211

Tri-County Drainage District, North Topeka Drainage District and Kaw Drainage District, appearing here today, support the proposed amendment to Senate Bill No. 211 which incorporates most of the language contained in House Bill No. 2518.

The Legislature had tremendous foresight many years ago when K.S.A. 82a-309 was adopted by anticipating sand dredging from the beds of the state streams would have an adverse effect on flood control improvements constructed, operated and maintained by drainage districts along those river beds. Their fears were well founded as evidenced by the Corps of Engineers' report issued in January 1991, which found that in fact sand dredging on the Kansas River had an adverse effect on flood control improvements, other public improvements and river banks. It is evident from the language of K.S.A. 82a-309, the Legislature intended that the sand royalties collected from sand companies who pumped sand from the beds of the state rivers should be in part distributed to drainage districts to maintain flood control improvements along or in those river beds. However, there is a deficiency in the statute as it is presently worded in that sand royalty funds distributed to counties by the Director of Revenue cannot be redistributed by them, according to Attorney General Opinion No. 94-137, to drainage districts and used by them for any lawful purpose granted them under their enabling statutes. The effect of the present law was that sand royalty funds

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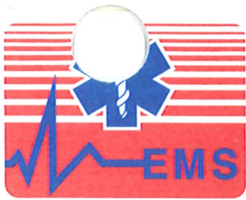
received by counties were being accumulated and not used because of the counties' lack of authority to disburse or use them even though the Legislature had obviously intended otherwise.

These two bills, SB No. 211 and House Bill 2518, were introduced as a result of Attorney General Opinion No. 94-137, and at the suggestion of the Attorney General's office, to correct the deficiency in the present law. Tri-County Drainage District, North Topeka Drainage District and Kaw Drainage District respectfully requests Senate Bill No. 211 be amended as proposed and passed out of this Senate Committee. Representatives of the three drainage districts are present and would be happy to answer any questions.

Thank you for your consideration.

Respectfully submitted,

TRI-COUNTY DRAINAGE DISTRICT
NORTH TOPEKA DRAINAGE DISTRICT
KAW DRAINAGE DISTRICT



RILEY COUNTY
EMERGENCY MEDICAL SERVICE
913•539•3535
2011 CLAFLIN ROAD
MANHATTAN, KS 66502

A department of Memorial Hospita[illegible]ation
Larry Couchman, RN, M[illegible]
Director

DATE:February 21, 1995

TO: Honorable Members of the Senate Local Government Committee

FROM: Larry Couchman, Director Riley County Emergency Medical Service, and Member of the Executive Committee of the Kansas Association of EMS Administrators (KAEMSA)

REF: Senate Bill 201

Representing both the above organizations, I come before you today presenting written testimony as a proponent of senate bill 201.

This bill will provide a much needed and simple correction to the statutes that govern the designation of emergency vehicles. KSA 8-2010 and 8-2110a, as amended, now grant the county commissioners the authority to designate certain types of vehicles as emergency vehicles, as well as list certain vehicles that are authorized by statute.

Captain Eric Ward, an officer in my department has completed a great deal of research on these statutes. In lieu of being repetitive and restating the history of these statutes and reasons a change is being requested, I encourage you to look at his written testimony. I concur with his testimony in its entirety.

KAEMSA and Riley County EMS feel the authors of SB 201 are following legislative intent with the amendments that are being presented for consideration. The only clarification that I would like to offer for consideration is on line 18. I would like to see the word "licensed" changed to "permitted" as ambulances are licensed by the Board of EMS and EMS services receive a permit to operate in the state and are not licensed by the board.

Thank you for your consideration and support of SB 201. If you have any questions or request some clarification, please contact me at the above number.

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21 February 1995

Testimony of: Eric A. Ward, MICT, NREMT-P
1330 Givens Rd.
Manhattan, KS 66502
(913) 537-2263

Concerning: Senate Bill 201

Prior to 1993, the designation of emergency vehicles in the State of Kansas was the responsibility of the Secretary of Transportation. Certain types of vehicles, such as publicly owned police and fire vehicles and ambulances were presumed to be emergency vehicles without any specific designation as such. Other vehicles, such as wreckers, private vehicles of volunteer firefighters, and others, could be designated by the Secretary as an emergency vehicle upon showing justification. The Secretary's decision was made under guidelines established in Kansas Administrative Regulations, including KAR 32-2-3 and 32-2-4. In 1993, House Bill 2415, as amended by the Senate Committee on Transportation, transferred the authority and responsibility for such designation to the Board of County Commissioners of the county in which the vehicle would be operating. In so doing, the Legislature copied most of the wording from the administrative regulations into the Statutes that would govern the local designation. KSA 8-2010 and 8-2010a, as amended, now grant the county commissioners the authority to designate certain types of vehicles as emergency vehicles, and list the types of vehicles that are authorized.

There are two specific problems that occur within the new statute, both being vehicles that are not included in either list of authorized or potentially authorized emergency vehicles. In preliminary research, I found that the list in the statutes is not intended to be an exclusive list. Attorney General's Opinion 92-143 states, in effect, that the list is an example, but the county commission may designate any vehicle they feel is needed as an emergency vehicle. The problem arises that some local governments and some attorneys view this as an exclusive list. In other words, if something is not specifically listed as authorized, then it cannot be designated as an emergency vehicle. This variance of interpretation leads to inconsistency from county to county, and potentially from election to election within one county, depending on individuals' interpretation of the statute. SB 201 would include language that would clarify the intent of the law and the authority of the county commissioners in this area. Lets look at the intent of the law.

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The old administrative regulations had presumed publicly owned police, fire, and ambulance vehicles to be emergency vehicles. When they were copied to the new statutes, private ambulance services argued, I believe rightly, that just because they are privately owned, they should not have to make special application for red lights and sirens on their vehicles if they are already inspected and licensed by the state. As a result, the clause concerning ambulances was changed to "Motor vehicles licensed as ambulances by the emergency medical services board under the provisions of K.S.A. 65-6101 et seq., and amendments thereto..." This would then automatically grant emergency vehicle status to any licensed ambulance, regardless of whether it is publicly or privately owned. The problem is that by limiting it to licensed ambulances, it eliminates other legitimate emergency vehicles routinely used by many ambulance services. Most larger EMS providers, and many small ones, have emergency vehicles for their directors, supervisors, or others whose duties may include responding to emergencies. Many also operate rescue squads, first response vehicles, disaster support vehicles, or others that are clearly intended to be emergency vehicles, but are not licensed, transporting ambulances. As written, under a strict, literal interpretation, these cannot be emergency vehicles. If they belonged to a police or fire department, they could, but not belonging to an ambulance service. SB 201 would amend the current statute to instead read "motor vehicles operated by ambulance services licensed by the Emergency Medical Services Board under the provisions of KSA 65-6101 et seq.,..." This would be more inclusive, and would be in line with the provisions for police and fire departments. One minor note, it has been observed that ambulance vehicles are licensed by the Board of EMS, ambulance services are actually permitted, so the wording should probably be changed to read "permitted by the ...board...".

The second problem is with KSA 8-2010a (b), and is also addressed in SB 201. 8-2010a lists types of vehicles that the county commissioners may designate as emergency vehicles. It includes:

(1) Wreckers;
(2) civil defense vehicles;
(3) emergency vehicles operated by public utilities;
(4) the privately owned vehicles of firemen or volunteer firemen; or
(5) the privately owned vehicles of police officers.

My initial concern with this portion of the statute was that while police officers or firefighters may obtain emergency vehicle designation for their private vehicles, if necessary to the needs of their department and approved by the county commission, EMS personnel may not. Again, the Attorney General opinion indicates that this is within the intent of the law, and a letter from the Board of EMS indicates that they feel this is within the intent of the law, but it is not included in the letter of the law Therefore a strict interpretation says it is not legal.

My initial intent was to simply have a number six added, which would be private vehicles of EMS personnel. Upon reviewing the old administrative regulations, however, I found that when they were copied to the statute, a section was left out that read something to the effect of

> "Any other vehicle when it is determined by the Secretary that such designation is necessary to the preservation of life or property or carrying out of emergency governmental functions.

By incorporating that original language back into the statute, and changing "secretary" to "board of county commissioners", we accomplish much more. That way, if a specific county wants to authorize certain EMT's who are volunteers or on call to have red lights and siren for responding to emergencies, they can. It would also include independent rescue squads that are not affiliated with an EMS, fire, or police department, and therefore not included in the current statute.

Perhaps most importantly, this portion of SB 201 relieves all of us from the duty to try and imagine the needs of every county in Kansas. With 105 counties in the State, it is unreasonable to think that any of us can think of every other county's needs. Some counties may want EMT's to have emergency vehicle permits. Some will not. Some may have a rescue squad that needs a permit. Others run rescue through fire or EMS departments, which would already be covered. Others may have some need I cannot even think of.

It was clearly the intent of the legislature in 1993 to give the local government the authority to make emergency vehicle designations according to their local needs. Unfortunately, by leaving out some of the wording from the old administrative regulations, they left out some of that authority, as well. By adopting SB 201, the statues would be amended to include what I believe was well within the intent of the writers of the current statute, but simply not within the letter of the law.

At the same time, while clarifying the authority of the commissioners, it would not force them to do anything at all. A current bill before the Kansas House of Representatives (HB 2240) would amend KSA 8-2010a to include volunteer EMT's, but not paid (including paid-on-call, which constitute a great many of what are considered "volunteer" ambulance services). This would address only a small portion of the problem, but SB 201 would cover the needs of those who proposed HB 2240, without skipping over the needs of others. For those counties who want only volunteers to have red lights, that is well within their authority. For a different county, who wants no one to have them, they have that authority. No one is forced or required to do anything, but they are given the needed authority to analyze and meet their own needs as only they can .

Thank you for your consideration and support of SB 201. I welcome any further questions or comments you may have now or at any time.

SEDGWICK COUNTY, KANSAS
EMERGENCY MEDICAL SERVICES
OFFICE OF THE DIRECTOR

538 N. MAIN
P.O. BOX 637
WICHITA, KANSAS 67201
(316) 383-7994

February 17, 1995

To: Willie Martin, Intergovernmental Relations
Sedgwick County, Kansas

From: Tom Pollan, Director

Subj: Testimony for Senate Local Government Committee

Re: SB 201 - Authorized Emergency Vehicles

Sedgwick County supports the amendments of K.S.A. 8-1404, 8-2010, and 8-2010a to allow ambulance service vehicles that are not ambulance vehicles licensed by the Kansas Board of Emergency Services to be designated as "Authorized Emergency Vehicles."

Sedgwick County operates seven (7) vehicles that do not fit the current category of "Authorized Emergency Vehicles" as defined in K.S.A. 8-1404 or 8-2010. Due to this, what we consider as an oversight by the 1992 and 1993 legislature, we are required to seek approval from the Board of County Commissioners for each non-ambulance vehicle to be authorized as an emergency vehicle. I will state up front, this process is not difficult and I can not imagine that the Board of County Commissioners would ever deny such a request from one of their own emergency agencies. Current statutes force this process and it seems inconsistent with the automatic designation of support and staff vehicles of other emergency services, such as fire and police departments which are publicly operated. If it is important to designate through a legislative act and allow non fire apparatus and patrol vehicles this type of exemption, it seems only reasonable to acknowledge the important of ambulance service's staff and support vehicles.

One consideration that we would ask is that you review the term "licensed" as used in K.S.A. 8-1404 and 8-2010 with regards to ambulance services. Under K.S.A. 65-6101 ambulance services are "Permitted" by the Kansas Board of Emergency Medical Services (K.S.A. 65-6127). We believe that by changing the term from "licensed" to "permitted" will eliminate any confusion.

Thank you for your time and consideration of this matter.
TWP:twp

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Proposed Amendment S.B. 158

On page 1, following line 32, by inserting:

"The authorized and outstanding no-fund warrant indebtedness of any drainage district shall not exceed 5% of the assessed valuation of the drainage district, as certified to the county clerk on the preceding August 25.

At least 14 days prior to issuing any no-fund warrants, the governing body of the drainage district shall mail written notice of its intent to issue such warrants to the owners of property located within the drainage district."

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Proposed Amendment S.B. 158

On page 1, following line 32, by inserting:

Prior to the issuance of any no-fund warrants under the authority of this section, the governing body shall publish once in a newspaper of general circulation within the district a notice of the intention of the governing body to issue such no-fund warrants. If within 60 days after the publication of such notice, a petition requesting 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 the district is filed with the county election officer of the county in which the greater portion of the district is located, the governing body shall submit the question of the issuance of such no-fund warrants at an election held under the provisions of the general bond law.

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