

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Vice-Chairperson Doug Mays at 1:30 p.m.. on January 23, 1996, in Room 521-S of the Capitol.

All members were present except: Representative Kent Glasscock - Excused
Representative Broderick Henderson - Excused
Representative Jill Grant - Excused

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

Conferees appearing before the committee: Jim Coder, Assistant Attorney General, Kansas State Fire Marshal's Office

Others attending: See attached list

The minutes of the January 17, 1996 meeting were distributed. Representative Welshimer moved that the minutes be approved, and Representative Tomlinson seconded. Motion passed.

Vice-Chairperson Mays opened the hearing on:

HB 2144: An Act concerning fire districts; relating to the consolidation thereof.

He introduced Jim Coder, Assistant Attorney General assigned to the Kansas State Fire Marshal's office. Mr. Coder spoke in favor of **HB 2144** saying that he appreciated the opportunity to address the committee since this is a bill that the State Fire Marshal asked to be introduced last year. He stated that in the last four years that he has been an attorney assigned to the Fire Marshal's office, this issue has consumed more of his time than any other single issue dealing with the local fire departments. He further stated that under current state law there are about twenty-five to twenty-six variations on the theme as to how to form a fire district whether it be a township, a county fire district, a special benefit district, municipality formed fire district, etc. His testimony lists the specifics of the statutory maze under which these fire departments were formed and which have created about 690 fire departments throughout the state. (Attachment 1.)

After a few minutes discussion, Representative Sloan moved to amend **HB 2144** on page 1, line 41 to read July 1 to be consistent with 19-3606. Representative Pettey seconded and motion passed.

Representative Sloan moved to amend **HB 2144** to add a Repealer of the old statute 19-3611, and Representative Pettey seconded. Motion passed.

Representative Sloan moved and Representative Pettey seconded **HB 2144** be passed out favorably as amended. Motion passed.

The meeting adjourned at 2:15 p.m.

The next meeting will be Thursday, January 25, 1996 in which **SB 464** hearing is scheduled.



"Where Fire Safety is a way of life"

TESTIMONY OF
JIM CODER
ASSISTANT ATTORNEY GENERAL
KANSAS STATE FIRE MARSHAL'S OFFICE

BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE
JANUARY 23, 1996

HOUSE BILL 2144

On behalf of the Kansas State Fire Marshal's Office, I would like to thank this committee for holding this hearing. This proposed legislation came as a result of several years of conversations with local fire officials, their legal counsels, and hours of legal research on my part. The problem that this legislation is intended to rectify is simply this: There are some 25 separate statutory provisions regarding formation of fire departments throughout the state. These provisions have been utilized to form at last count 690 fire departments throughout the state.

The specifics of the statutory maze under which these fire departments were formed are as follows:

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| 19-2716 | Taxing districts for fire protection |
| 19-2727 | Taxing districts for fire protection-counties between 125,000 and 165,000 |
| 19-2765 | Improvement districts |
| 19-3601 | Fire Districts |
| 19-3612e | Fire Districts in Reno and Sedgwick Counties |
| 19-3613 | Fire Districts in Johnson County |
| 19-3614a | Consolidated districts in Johnson County |
| 19-3623c | Certain districts with territory in cities over 50,000 |
| 19-3624 | Fire districts in two or more counties |
| 19-3808 | Industrial districts |
| 31-301 | Fire protection benefit districts |
| 80-1501 | Townships joining municipalities to maintain fire department |
| 80-1507 | Benefit districts adjacent to cities |
| 80-1512 | Fire districts in certain townships |
| 80-1520 | Fire districts in certain townships |
| 80-1524 | Certain townships over 17,500 creation of special districts |
| 80-1535 | Townships and cities of third class in certain counties |
| 80-1540 | Fire district creation |

80-1547	Consolidation of certain fire districts in urban areas
80-1902	Creation of department in counties having a city of the 1st class between 60,000 and 200,000
80-1914	Fire department in townships in certain counties over 150,000
80-1919	Fire department in certain townships

This list does not include any of the statutory references to fire departments found in chapters 12, 13, 14, and 15 of the Kansas Statutes regarding fire departments in cities of the 1st, 2nd and 3rd classes.

With one major exception, these 25 statutory provisions do not provide for any method of consolidation. The one exception is extremely restrictive and burdensome and there is some legal question whether that provision is able to be utilized in any fire department formed under another statutory provision. K.S.A. 19-3611 provides in part that **“Any fire protection benefit district or other special fire district heretofore or hereafter existing by virtue of law, may, in whole or in part, be included in or be made a part of any fire district organized or altered by provision of this act: Provided, No such district or part of such district shall be included in any district so organized or altered unless and until a petition is filed with the board of county commissioners signed by not less than fifty-one percent (51 %) of the residents within the limits of the district to be included”**

This provision is extremely restrictive and to the best of my knowledge, every department that has wanted to consolidate in recent years has looked at that provision and backed away. If it even applies, the petition requirement of 51% of the residents, not just registered voters as in many petition provisions, makes the use of this consolidation statute almost impossible. There is also some legal question regarding if that statutory section is even applicable to any type of department formed under any other statutory section rather than 19-3601. No one is quite sure what a “special fire district” is or which districts out of the list above it would include. In the opinion of many, it doesn’t apply to fire districts formed under the general provisions of the township statutes, but only to the special statutes with specific population and/or valuation provisions.

I realize that the term consolidation raises red flags and puts many people on the defensive. This bill is not intended to force consolidation on anyone. In my opinion the way this is drafted, there could be no consolidation without the approval of the governing bodies of the fire departments involved. We are simply wanting to provide a simplified method to allow consolidation when all parties involved desire it. There is also a protest petition and election provided for in section 4 of the bill, to simply provide the citizens a further voice in this process.

We have had a number of departments look at consolidation over the last few years. To the best of my knowledge, every one of those departments have abandoned the idea because there was either no provision to allow it, or the provision that would allow it was so burdensome that they felt it was not worth the trouble.

While there are many reasons why departments are looking at consolidation, it basically boils down

to two. Money and manpower. Running fire departments is expensive and labor intensive. To provide adequate protective gear, which includes coat, pants, boots, gloves and a helmet in addition to adequate protective breathing apparatus costs in the neighborhood of \$3,000 per firefighter. A pumper truck would be a steal if a department could find one for under \$100,000. Many of the 690 fire departments are protecting populations of a couple hundred people. They simply do not have the tax base to even properly outfit their firefighters. Additionally, many of these areas have an aging and shrinking population base from which to draw their volunteers. These departments are finding it very difficult to field firefighters, especially during the day when the firefighters are off in the nearest larger town at work. Although consolidation won't solve all of these problems in the minds of many local fire officials, it could help with these problems.

Once again thank you for holding this hearing. We believe this legislation is in the best interest of the Kansas Fire service and would ultimately help provide an adequate level of fire protection throughout the state for the citizens of Kansas.