

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Kent Glasscock at 1:30 p.m.. on February 13, 1996 in Room 521-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Representative Greg Packer
Representative Becky Hutchins
Betty Musick, County Clerk, Cloud County (written testimony Only)
Representative Tom Sloan
Anne Spiess, Kansas Association of Counties
Craig Weinaug, Douglas County Administrator
Don Moler, General Counsel, Kansas League of Municipalities
Don Cashott, Co-Chairman, Douglas County Property Owners Association

Others attending: See attached list:

Chairperson Glasscock opened the public hearing on:

HB 2811: County commissioner districts; rearrangement of.

Chairperson Glasscock introduced Representative Packer who spoke as a proponent for **HB 2811**. He showed the Committee a map illustrating the latest redistricting policy of the county commissioners with drawings of both the old districts versus the new districts which was passed by a 2 to 1 vote on December 4, 1995. He stressed that he believes that **HB 2811** is a "fairness" piece of legislation. **HB 2811** simply would "require that there be in Shawnee County the same population of county residents in all commissioner's districts as geographically possible," which he feels would keep politics out of this issue. He presented three balloons. The first balloon on the amendment actually does the repealing of the existing sections which basically is the technical language. The second portion of the balloon makes it specific for Shawnee County and dictates the redistricting every three years and the voting on the redistricting. The third part does the same repealing type situations. Towards the end at the very last portion of the balloon, counties may not exempt from or affect changes in subsection of K.S.A.19-204. The fiscal note reflects that there will be no additional cost for this proposal. (Attachment 1.)

Chairman Glasscock welcomed Representative Hutchins who spoke in favor of **HB 2811** because it will allow for equal representation of both incorporated and unincorporated areas of Shawnee County. (Attachment 2.)

Representative Grant thanked Representative Packer and Representative Hutchins for all the work they have done in pursuing this legislation.

The Chair called the Committee's attention to the written testimony of Betty Musick, Cloud County Clerk. (Attachment 3.)

Commissioner Winifred Kingman was in the audience and said that she would be happy to answer any questions the Committee had, but was not attending the meeting to formally testify.

Chairperson Glasscock closed the public hearing on **HB 2811**.

The Chair called the Committee's attention to the copy of the letter he sent to Attorney General Carla Stovall requesting an opinion in regard to the necessity for 1996 **HB 2794**. (Attachment 4.)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 13, 1996.

The Chairperson opened the public hearing on:

HB 2829: Municipalities; costs of improvements in excess of estimates.

Chairperson Glasscock called Representative Sloan who was a proponent for **HB 2829**. He said that **HB 2829** is a simple bill with lots of controversy. He said that "**HB 2829** requires that elected officials stand behind, and be accountable for, the information provided to voters at the time of a referendum on an "income stream" (e.g., sales tax increase) for financing specific capitol improvements. If, prior to the letting of contracts, the project construction costs are found to be erroneous by more than 20 percent, the officials should return to the voters for re-approval." Representative Sloan stressed that he believes it is important to keep citizen trust by careful planning so that the voters will know the true costs and products. Included with his testimony was written testimony from Allen Levine, City Commissioner of Lawrence. (Attachment 5)

During the questioning, Representative Mays asked about the original approved bond issue, and Representative Sloan said there would be no bond issue. He said they would have to go back to the voter on each item if the amount was more than 20%. Representative Toplikar wanted clarification on going back to another referendum only if a new cost comes up before the contracts are signed.

Mike Heim, Research, said that the key is the election which triggers this bill. He said that when you have an election that specifically spells out what is to be done whether it is a bond issue or a tax levy of some type, that's how this bill would come into play. Representative Sloan said if there was any impact on bonds, this would be fixed because that was not the original intent of the bill. Representative Powers said that it bothered him that there was a balloon already on the original bill, and Representative Sloan explained that this was because the original bill was introduced in order to make the deadline for introduction of bills. The bill was not right and was not fine-tuned.

Chairperson Glasscock called Don Moler, Chief Counsel for the League of Kansas Municipalities, who presented testimony in opposition to **HB 2829**. He said that this legislation is unnecessary, infringes on Home Rule, unfairly burdens smaller cities, and raises the cost of public projects. He cited that there is accountability at the ballot box and that life is full of uncertainties. He said that the League recommends that **HB 2829** be tabled or reported adversely. (Attachment 6.)

The Chair recognized Anne Spiess, representing The Kansas Association of Counties, who testified that they have concerns with **HB 2829**. She stated that it is difficult to estimate the cost of improvements and that KAC believes local governments are diligent in their attempt to keep costs down, and they do have to answer to the taxpayer. (Attachment 7.)

Chairperson Glasscock called Craig Weinaug, County Administrator of Douglas County, who spoke in opposition to **HB 2829** in which he stated that the original intent is good, but the bill, in fact, he believes will have just the opposite effect on cutting costs. He mentioned that from actual experiences with controls of this type, increased spending rather than decreased spending occurs due to planned built-in inflation. He said that at best this legislation would have no effect at all on actual spending, or at worst, it could easily increase spending as budgets are developed too high due to anticipation of an increase in actual spending. (Attachment 8.)

Don Cashott, Co-Chair of the Douglas County Property Owners' Association, stood up from the audience and said that he did not come to testify, but did feel he wanted to say a few words. He said that he was interested and involved in fair property evaluation and taxation and in the monitoring of the spending of local units of government. He decided to speak because he realized that one important thing had not been brought out in the previous testimony. He said that when a project is put before them, the newspapers pick it up and tell them essentially what the project is going to be and what it is going to cost. Then the people make a decision at the ballot box if they have an opportunity to vote on the project and what's going to fund it. An example would be an increase of a percent in the sales tax divided between the county and the city. He continued by talking about the Lawrence jail in which they were told that it was going to be a particular size and cost a certain amount. He referred to another article in the newspaper which reported that the jail had increased so many million and then again and again, and that it's not settled yet. He said the County officials blame this on State and Federal legislation as to why the expenses are so great. He felt that the cost per cell in the proposed jail was way too high. He said the average citizen does not have the time or the interest to dig into all of this. He said that the public cannot keep up with all the changes and additions because they are too busy making a living. He said that once these buildings are built with the twice-inflated costs, the public is stuck with the costs even if the next election results in new people being elected. He said that "there isn't any other area of life--family life or business life--where we say we will do something for X number of dollars and then double it and walk away and require that somebody else pay for it." Mr. Cashott said that he was in favor of Rep. Sloan's **HB 2829**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 13, 1996.

“County officials need to be held accountable before or by the time we at least give them permission to build a facility and not be allowed to run away with the cost afterwards.”

Chairperson closed the public hearing of HB 2829.

Chairperson Glasscock asked the Committee to turn its attention back to HB 2811.

Representative Mays moved that HB 2811 be passed with the balloon and marked favorable for passage. Representative Miller seconded the motion.

During the discussion, Representative Pettey asked if there was a conflict originally on lines 19-12 as to the time line. Representative Mays answered that the problem is if you stretch the time line too far, you get too close to the filing date, and he thinks 30 days is more than reasonable. Representative Pettey had a second question concerning the number of residents in each district, and Representative Mays told her that the question concerned the original bill before the balloon was added. Representative Toplikar referred to page three of the balloon, and Representative Mays said this was put into the bill so that Shawnee County cannot charter out from under the Shawnee County specific statute. He said that if this isn't in the bill, then they could simply charter out from under it. This balloon limits their home rule ability. The vote was taken and the Motion passed.

The meeting adjourned at 3:05 p.m.

The next meeting is scheduled for February 20, 1996.

LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: Tuesday, February 13, 1996

NAME	REPRESENTING
RICHARD BODEWALD	TAXPAYERS
DONALD E. PASHATT	D.C. P.O. ASSN.
Christophe Dalkover	Rep Becky Nichols
Russ Frey	Co Commissioner Riley Co
Marvin E. Smith	Shawnee County Resident
Bob Zimmerman	Douglas Co. Prop. owners Assn.
Richard Miller	Douglas Co. Property Owners Assn.
Earl Carnoagie	" " "
Marian Cuskatt	" " "
Delpha Bedger	Douglas Co Property Owners Assn.
Craig Weinaweg	Douglas Co. Administrator
Rep Becky Hutchins	50th Dist.
Don Moler	League of Kansas Municipalities
Jim Dice	League of Kansas Municipalities

STATE OF KANSAS

GREG A. PACKER
REPRESENTATIVE, FIFTY-FIRST DISTRICT
7200 WATTLING CT.
TOPEKA, KANSAS 66614
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OFFICE:
STATE CAPITOL, 112-S
TOPEKA, KANSAS 66612-1504
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TOPEKA
—
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIR: BUSINESS, COMMERCE, AND LABOR
ECONOMIC DEVELOPMENT
JOINT COMMITTEE ON ARTS AND CULTURAL
RESOURCES
SELECT COMMITTEE—TELECOMMUNICATIONS

February 13, 1996

Mr. Chairman and members of the committee:

I thank you for this opportunity to appear before your committee on HB 2811.

I believe that HB 2811 is a "fairness" piece of legislation. It pains me to have to introduce this bill. As a taxpaying citizen who lives in the county I am appalled at the latest redistricting policy of the county commissioners. County taxpayers are left at the mercy of a losing proposition on any issues that only affect the county and not the city. As most people can tell, the city has different problems than the county taxpayers have.

This is why we in Shawnee County have had a city type government for cities such as Topeka's city council. Now with the new redistricting, the City of Topeka has the majority of the county commissioners; thus, representing only city residents.

This in my eyes is a duplication. We must have the whole

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counties interest at heart if we are electing county commissioners. This is where #2811 comes in. You can see on this poster I have exhibited which shows old districts versus new districts.

This bill would require that there be in Shawnee County the same population of county residents in all commissioner's districts as geographically possible. This in my estimation is the only fair way to keep politics out of this issue.

Thank you for your time.

HOUSE BILL No. 2811

By Representatives Packer and Hutchins

2-1

9 AN ACT concerning counties; relating to county commissioner districts;
10 amending K.S.A. 19-204 and repealing the existing section.

19-101a and 19-204 and repealing the existing sections

11
12 *Be it enacted by the Legislature of the State of Kansas.*

13 Section 1 K.S.A. 19-204 is hereby amended to read as follows: 19-
14 204. (a) Subject to the provisions of K.S.A. 19-204a, and amendments
15 thereto, the board of county commissioners, on the day of the organization
16 of the board or as soon thereafter as may be possible shall meet and
17 divide the county into three commissioner districts or such number of
18 districts as is prescribed by resolution of the board, as compact and equal
19 in population as possible, and number them. ~~Each district shall include~~
20 ~~residents of both the incorporated and unincorporated areas of the~~
21 ~~county. The number of residents in each district from the unincorporated~~
22 ~~area of the county shall be as equal in number, as possible. Such districts~~
23 ~~shall be subject to alteration at least once every three years. Any alteration~~
24 ~~shall be approved by the unanimous vote of the board. Any county which~~
25 ~~does not meet the requirements of this section shall be altered to comply~~
26 ~~with such requirements no later than 90 days following the effective date~~
27 ~~of this act.~~

(b) In Shawnee county, each district shall include residents of both the incorporated and unincorporated areas of the county. The number of residents in each district from the unincorporated area of the county shall be as equal in number, as possible. Such districts shall be subject to alteration at least once every three years.

28 (c) ~~(b)~~ The board of county commissioners of any county, by resolution,
29 may divide the county into three, five or seven commissioner districts, as
30 compact and equal in population as possible, but no such resolution which
31 would effect a change in the number of commissioner districts shall take
32 effect until it has been approved by a majority of the qualified electors
33 of the county voting thereon at the next general election following not
34 less than 60 days the adoption of such resolution, in which all the qualified
35 electors of the county are entitled to vote. Upon the presentation of a
36 petition to the board of county commissioners, signed by electors equal
37 in number to 5% of the qualified electors of the county and verified by
38 the county election officer, requesting that the number of commissioner
39 districts be changed, the board of county commissioners shall cause such
40 proposition to be submitted to the voters of the county at the next general
41 election, following not less than 60 days the presentation of such petition,
42 in which all of the qualified electors of the county are entitled to vote. In
43 the event that more than one such petition is presented to the board of

If the districts do not meet the requirements of this subsection, the districts shall be altered to comply with such requirements no later than 30 days following the effective date of this act.

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1 county commissioners prior to a general election, and any of such peti-
 2 tions conflicts with any other such petition with respect to the number
 3 of commissioner districts requested, the board of county commissioners
 4 shall decide, by majority vote thereon, which of the propositions shall be
 5 submitted to the voters at the next such general election. If a majority of
 6 the electors voting at such election shall be in favor of changing the num-
 7 ber of commissioner districts, the board of county commissioners shall
 8 provide for the division of the county into commissioner districts as pro-
 9 vided in K.S.A. 19-204a, and amendments thereto.

10 ~~(d)~~ ~~(c)~~, No change in the number of commissioner districts shall become
 11 effective in any county within four years of the effective date of any pre-
 12 vious change in the number of commissioner districts in such county.

13 ~~(e)~~ ~~(d)~~, The provisions of this section may be modified by the adoption
 14 of a charter for county government in any county which has established
 15 a charter commission pursuant to law.

16 ~~Sec. 2 K.S.A. 19-204 is hereby repealed.~~

17 Sec. 3 This act shall take effect and be in force from and after its
 18 publication in the statute book.

Sec. 2. Attached

Sec. 3. K.S.A. 19-101a and 19-204 are hereby repealed.

Kansas Register

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19-101a. Home rule powers; limitations, restrictions and prohibitions; procedure. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204

BECKY HUTCHINS
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
700 WYOMING
HOLTON, KANSAS 66436
(913) 364-2612



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE
ENERGY AND NATURAL RESOURCES
HEALTH AND HUMAN SERVICES

ROOM 426-S
STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(913) 296-7639

Testimony for Local Government Committee

Re: H.B. # 2811 Hearing: February 13, 1996

Thank you Mr. Chairman and members of the Local Government Committee for allowing me to testify in support of HB 2811. I am Becky Hutchins, State Representative for the 50th District.

Many of my constituents in rural Shawnee County are concerned and opposed to the county commissioners' redistricting plan implemented in December 1995. Because of the new plan, county commissioners from districts 2 and 3 will have constituents from within the city limits of Topeka, while the commissioner from the 1st district will have constituents basically from outside the city limits of Topeka.

Historically, Shawnee County Commission Districts have had an equal number of residents within the city of Topeka and outside the city limits. This caused the commissioners to be accountable to the interests of voters inside and outside the city limits of Topeka. I feel that it is important that each county commissioner have constituents in their districts who have an interest in major expenditures, such as county roads and bridges, law enforcement, and extension services.

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The new county commissioner districts will affect approximately 30,000 voters. Some voters will get to "double up" on their voting, while others will have to wait a total of six years before they get to vote for their county commissioner. Approximately 17,000 people will be denied the right to vote for county commissioner in the 1996 election.

HB 2811 will allow for equal representation of both incorporated and unincorporated areas of Shawnee County.

A handwritten signature in cursive script that reads "Becky Hutchins".

Representative Becky Hutchins
Fiftieth District

Testimony on House Bill #2811

By Betty L. Musick, Cloud County Clerk

February 13, 1996

Chairman Glasscock, Members of the Committee:

I am Betty Musick, Cloud County Clerk. I thank you for the opportunity to present testimony concerning House Bill #2811. While we all must applaud continuing efforts to keep County Commissioner districts as equal as possible, I would like to share some concerns I have about this present bill, particularly in my capacity as an election official.

Current requirements concerning Commissioner districts are (1) that the districts be as equal as possible according to population, and (2) that the districts each be as compact as possible, which implies contiguity.

New language in Section 1 requires that each Commissioner district include both incorporated and unincorporated areas of the county with the population figures from the unincorporated area being as equal as possible in each Commissioner district.

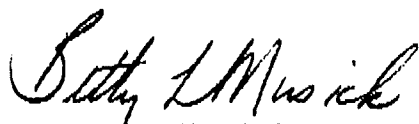
Third class cities are, for all elections other than city elections, part of the township in which they are located.

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Therefore the unincorporated population of certain townships cannot be separated from the incorporated population. In my own county, I can make a fairly equal division based only on unincorporated population, but adding the 3rd class city population (as must be done) throws the figures all out of whack.

Section 1, paragraph a requires that any county not meeting the requirements of population equality be altered within ninety days of the effective date of the act, which Section 3 states as being publication in the statute book. K.S.A. 45-310 states that the official publication date is July 1. However, June 10 is the filing deadline for at least 2 Commissioner districts in all counties. Alteration following that date could leave filed candidates without a district or districts without a candidate.

I want to emphasize that I appreciate and support efforts to effect equality in Commissioner districts. I am confident that the concerns I have mentioned can be addressed and rectified.



Betty L. Musick
Cloud County Clerk

KENT GLASSCOCK
P. O. BOX 37
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STATE CAPITOL, ROOM 115-S
TOPEKA, KS 66612-1504
(913) 296-7642



COMMITTEE ASSIGNMENTS
CHAIRMAN LOCAL GOVERNMENT
MEMBER ECONOMIC DEVELOPMENT

HOUSE OF
REPRESENTATIVES

February 9, 1996

Honorable Carla Stovall
Attorney General
Kansas Judicial Center
Topeka, Kansas 66612-1507

Dear General Stovall:

I would like to request your opinion in regard to the necessity for 1996 H.B. 2794, a copy of which is enclosed. The bill authorizes city and county governing bodies to provide reimbursement for travel expenses for members of planning commissions. The current law, K.S.A. 12-744, provides that planning commission members shall serve without compensation. The statute does not prohibit reimbursement of travel expenses.

My specific question to you is whether a city or county under home rule power can supplement K.S.A. 12-744 and provide for payment of travel expenses for planning commission members. Your prompt response to my inquiry will be greatly appreciated.

With best regards,

Representative Kent Glasscock, Chairman
House Local Government Committee

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TOM SLOAN
 REPRESENTATIVE, 45TH DISTRICT
 DOUGLAS COUNTY

STATE CAPITOL BUILDING
 ROOM 446-N
 TOPEKA, KANSAS 66612-1504
 (913) 296-7677
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 (913) 841-1526



TOPEKA
 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: AGRICULTURE
 LOCAL GOVERNMENT
 ENERGY & NATURAL RESOURCES

TESTIMONY ON HB 2829

February 13, 1996

Thank You Mr. Chairman, members of the Committee. HB 2829 is based on a simple, though controversial premise - that Kansans should be able to trust what elected officials say. HB 2829 requires that elected officials stand behind, and be accountable for, the information provided to voters at the time of a referendum on an "income stream" (e.g., sales tax increase) for financing specific capitol improvements. If, prior to the letting of contracts, the project construction costs are found to be erroneous by more than 20 percent, the officials should return to the voters for re-approval.

The 1995 Legislature enacted HB 2209, which we referred to as the "Informed Voter Act", because it requires publication of information related to the long-term costs of proposed local bond issues. Included are specifications of interest rates and costs, attorney costs, and costs associated with pre-paying off the bonds. This is similar to the information provided by banks and other financial institutions before consumers purchase a home or car.

The bill before you today is the next logical step in a "Truth in Government" contract. It requires local officials return to the voters for re-approval of projects whose costs will exceed the previously published estimates by more than 20 percent. This re-approval process only is in effect if the officials learn that their initial cost estimates were incorrect before contracts are signed.

If additional costs are incurred during construction, no re-approval is necessary. However, I would expect that the successful contractor would have anticipated potential construction difficulties and included such risks in the original bid.

Many local officials will argue against this bill on the grounds they cannot accurately estimate construction and other costs and therefore should not be required to pay the added expenses of a second referendum. I ask, Why can't they? Why shouldn't the citizens of Kansas expect their elected officials to have adequate information about a planned construction project before beginning the approval and construction phases? Why can't the citizens of Kansas hold their elected officials accountable for poor performance and expect the opportunity to vote again on whether the projects are "worth" the cost? If the project is desired by the community AND the projected increased costs are reasonable, I have faith that the voters will re-approve the project. But we, as elected officials, must continually earn their trust by providing accurate information.

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This bill only applies to capitol improvement project funding, it does not apply to referendums on tax increases for general government operations. It does not require completed blue prints or extensive soil compaction tests prior to the referendum. It does require sufficient planning and forethought so the voters will have an accurate "picture" of the project and it's cost before they vote.

The bill also contains provision requiring the sunseting of the capitol improvements "income stream" when the project's costs are fully paid. Voters should be asked to re-authorize the tax to fund additional projects if they are desired. It also includes a "hold harmless" provision to protect local officials from lawsuits if they have acted in good faith based on the information available to them at the time of the referendum.

As elected officials this bill asks us, what should be more "politically correct": 1) to underestimate the cost of constructing a new school or recreation center and then significantly inflate the costs as "problems" or "opportunities" are "discovered", or 2) to devote the necessary pre-referendum time to correctly and completely plan the project so voters know the true costs and products? If you believe, as I do, in the true value of planning AND keeping citizen trust, I ask you to favorably recommend HB 2829 for passage.

SENT BY: KIRKO'S Lawrence, KS : 2-13-96 : 11:55 : FAX# (913) 848-2102 : 013133000000:# 1/ 1

City of Lawrence

KANSAS

CITY COMMISSION

MAYOR

BOB MOODY

COMMISSIONERS

JOHN NALBANDIAN

JOLEN ANDERSON

DONNIE S. AUGUSTINE

ALLEN LEVINE

MIKE WINDGLEN, CITY MANAGER

CITY OFFICES

6 EAST 6TH

BOX 708

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913 842-3000

TELEPHONE 832-3206

FAX 913-842-3405

Feb. 11, 1996

Representative Tom Sloan
Kansas House of Representatives
Topeka, KS

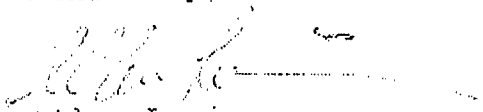
Dear Tom,

I just wanted to write you a quick letter to let you know that I applaud your efforts to make communities in Kansas more accountable to the voting public.

Far too often, I have seen first-hand, bids coming in which are 50%-100% higher than cost estimates on projects that are related to the sales tax that voters in Lawrence approved a couple of years ago. It makes me more than a little uncomfortable to watch the city spend itself into debt on these projects. I have received numerous calls from constituents who all say, "That's not what we voted for." And more often than not, I find myself in agreement with the callers.

I believe that your bill is a good one. It gives added incentive for municipalities in the state of Kansas to exercise fiscal responsibility. Management of public dollars is, perhaps, the most important task for an elected official. And the people of Kansas should expect no less than to have a check for the system if it is not working.

Sincerely,


Allen Levine
City Commissioner, Lawrence

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HOUSE BILL No. 2829

By Representatives Sloan and Tanner

2-1

9 AN ACT concerning municipalities; relating to improvements and the
10 financing thereof.

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

12 Section 1 (a) When used in this section, "municipality" means any
13 county, township, city, municipal university, school district and any other
14 taxing district or political subdivision of the state which is, or may be,
15 authorized to issue bonds.

16 ~~(b) If at any time after an election is held authorizing the issuance of~~
17 ~~bonds to finance an improvement or approving the making of an improve-~~
18 ~~ment and prior to the letting of contracts for such improvement, the~~
19 ~~governing body of the municipality determines that the cost of the im-~~
20 ~~provement will increase more than 10% of initial estimated cost, the gov-~~
21 ~~erning body shall not issue any bonds or make such improvement until~~
22 ~~another election is called and the question of making such improvement~~
23 ~~and the method of financing thereof is approved by the qualified electors~~
24 ~~of the municipality. Such election shall be called and held in the manner~~
25 ~~provided by the general bond law.~~

26 ~~(c) If the governing body of the municipality determines that the~~
27 ~~continuation of the improvement project is not feasible, all costs and~~
28 ~~expenses of the project, including preliminary planning, engineering, legal~~
29 ~~and work of other skilled persons employed by the governing body shall~~
30 ~~be paid by the municipality.~~

31 Sec. 2 This act shall take effect and be in force from and after its
32 publication in the statute book.
33

(b) See attached

or financing an improvement

exceed, by at least 20%, the amount of the projected cost stated in the notice of the election as required by subsection (b)

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(b) Whenever the governing body of any municipality proposes to make an improvement and the question of making or financing such improvement is submitted for approval by the qualified electors of the municipality, the governing body shall include in the notice of such election:

- (1) The type of improvement to be made;
- (2) the projected cost of making such improvement and expenses related thereto;
- (3) the method or methods of finance to be used to pay the costs of such improvement and expenses related thereto;
- (4) the projected date at which bonds would be retired, if bonds are to be issued;
- (5) the projected date at which any tax to be levied to finance the improvement and expenses related thereto would expire; and
- (6) any other information deemed necessary by the governing body of the municipality to provide full disclosure relating to the proposed improvement.

Nothing in this subsection shall be grounds to challenge the validity of the election on the improvement or the method of financing the improvement and expenses related thereto if the governing body has made a good faith effort to make accurate projections regarding the final cost of the improvement and expenses related thereto based upon the information available to the governing body at the time of making such projections.



**League
of Kansas
Municipalities**

Legal Department 300 S.W. 8th Topeka, KS 66603-3896 (913) 354-9565 Fax (913) 354-4186

TO: House Local Government Committee
FROM: Don Moler, General Counsel
DATE: February 13, 1996
SUBJECT: Opposition to HB 2829

Thank you for the opportunity to offer some comments with regard to HB 2829. The League appears in opposition to this legislation for the following reasons:

① **It Is Unnecessary.** Most capital improvement projects today are approved by the voters in conjunction with a specific financing proposal--either through the issuance of bonds or a sales tax proposal. Current law **already** requires that a bond proposition on the ballot be specific enough to inform an average voter of its consequences. The specific amount of the bonds is mentioned in the ballot language. If the proposition is approved by the voters, the bonds may be issued to finance the project. If the construction cost estimate is too low, it necessitates a subsequent bond election to issue the difference unless other revenues are available to provide the "gap financing".

When a project is financed with a local option sales tax, paragraph (i) of K.S.A. 1995 Supp. 12-188 **already** provides that the ballot proposition shall contain the following:

(i) The governing body of the city or county proposing to levy any retailers' sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

It is common today for a sales tax proposal to cover specific capital improvement projects as well as to provide funding for general operations. If HB 2829 were enacted and the cost of a project that is financed by a sales tax exceeds the amount in the notice of the election, would the city still be able to collect the sales tax because part of it was to be used for general operations?

② **Home Rule.** HB 2829 seems designed to restrict the exercise of local discretion by elected officials who see their constituents in their communities on a daily basis. Local officials receive regular feedback about the choices they make--sometimes on an hourly basis. If they decide to allow a project to go forward which exceeds the initial projected cost by certain figure, their local constituents will let them know if they are not on the right track. When are we going to stop interfering with the local process of representative self-

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government? Current laws already make it difficult enough to get anything done. Do we really need more?

③ **Life Is Full of Uncertainties.** Local and state lawmakers alike make decisions based on the best possible information available at the time. If we are fortunate to hit the construction market at the right time, our projected estimates of project cost make us look brilliant. If we are unfortunate, we find we need to trim costs, abandon the project, or find supplemental revenues. We understand that in some parts of our state construction costs last year exceeded the rate of inflation by a factor of two to three fold. Does that mean that voter approved projects should not be constructed unless the voters have sanctioned them again? What if the estimate came in at 19% rather than 21% over budget? Would that make much of a difference? The fact is that HB 2829 would impose an iron rule of “do it over again” if the increase exceeds a specified threshold **whether the voters in a particular community want to experience further delay on the project or not!** If timing is everything in terms of getting the most for the community’s construction dollar, isn’t it better to go ahead rather than risk further increases?

④ **Accountability at the Ballot Box.** Like you, local elected officials are elected and reelected based on the perceptions of the public about the job that they will do. Unless you want to discount the effectiveness of this type of accountability, a local elected official’s decision about such matters is adequately supervised by the voters.

⑤ **Unfairly Burdens Smaller Cities.** Today cities of the third class are the only class of cities that are specifically required to have elections on general obligation bond issues (K.S.A. 15-408). To the extent this measure imposes additional bond related costs, they will be borne disproportionately by the smallest cities of our state. We have to quit singling out our smallest units for the biggest burdens or small town life is going to disappear at an even faster rate.

⑥ **Raises the Cost of Public Projects.** If passed, HB 2829 will lead to two things: (1) higher construction cost estimates; and (2) higher professional fees to architects and engineers. Today a sales tax proposal can be submitted to the voters based on preliminary estimates of construction costs. This legislation will require greater initial investment in design services in order to minimize the likely effects of undershooting your project’s cost.

Recommendation: For the foregoing reasons, the League recommends that HB 2829 be tabled or reported adversely.

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TO: House Local Government Committee
Rep. Kent Glasscock, Chairman

FROM: Anne Spiess

DATE: Feb. 13, 1996

RE: HB 2829

Thank you for the opportunity to appear in opposition to HB 2829. The Kansas Association of Counties has several concerns with the bill.

It is very difficult to estimate what improvements are going to cost. Local governments could spend many thousands of dollars if they were to try and determine to the last detail the estimated cost of a project prior to an election. Also, these projects can span several years with construction costs increasing each year. Again, it will be extremely hard on the front end to estimate the costs of projects without doing a thorough analysis that could be very costly.

We thank the Committee for the consideration of our concerns. KAC believes local governments are diligent in their efforts to keep costs down as they, like you, have to answer to the taxpayer.

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Testimony with Regard to House Bill 2829 Relating to
Improvements and the Financing Thereof

Hearing to be Held on February 13, 1996 at 1:30 p.m.
Craig Weinaug, County Administrator
Douglas County

House Bill No. 2829 has the laudable intent of providing statutory language to better control costs on public projects. It is also the intent of this bill to assure that local governing bodies live up to their promises in building projects that have been approved by the voters in their jurisdictions. On the surface, this bill would seem to accomplish that purpose. Unfortunately, actual experience with controls of this type placed in state law reveals that this kind of control often encourages increased spending rather than decreased spending on projects.

I suspect that the recent experience of Douglas County with projects which were part of the countywide sales tax proposal approved by the Douglas County voters in November of 1994, has been part of the motivation for the development of this bill. At this election, the voters of Douglas County approved a countywide 1 cent sales tax to finance several city and county projects. Among those projects were a county jail which was estimated to cost \$11 million, a Douglas County/City of Lawrence health facility (jointly financed by the City of Lawrence and Douglas County) which was estimated to cost \$8.2 million and various parks and recreation projects which are to be financed out of the City of Lawrence's share of the sales tax revenues. Actual costs for all of these projects are now estimated to exceed original estimates in every case by significant margins. Causes for the project cost inflation are various. Actual costs for public buildings have increased dramatically. Bids for identical construction line items have sometimes increased by 25 to 30 percent over the last two years. Such project cost inflation has been experienced not only by the local governments but for all large projects taking place at this time in Lawrence. The other cause of the project inflation has in some cases been the result of deliberate decisions of the local bodies to increase the size of the project to meet their perceptions of public need. The size of the jail has been increased from 170 beds to 198 beds as a result of a thorough study conducted by the County to attempt to realistically plan for the projected jail bed needs for our community. The size of the recreation projects for the City of Lawrence has increased as a result of extensive public hearings which were held by the City Commission in Lawrence to better assess the public's need for recreation facilities.

The direct result of these causes has been relatively significant inflation of the projects planned. The good news is that all of the projects planned and promised can still be accomplished within the revenue increases provided by the sales tax and still provide the property tax relief promised as a part of the sales tax proposal.

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The bill before you appears to provide a reasonable solution to the type of situation which I described above. But it is critical that you take a look at the practical impact of this solution. No local government board is going to intentionally underestimate the size of a project prior to an election. The consequences are too severe. Most in the public do not focus on whether a specific project costs \$11 million or \$15 million when it is initially sold to the public. They focus on whether the improvement is needed and whether the citizen is willing to pay the increase in taxes that result from the bond issue or the sales tax proposal.

After the election, the public and the media focus in on whether the project, as designed, stays within the budget. Projects that exceed their budget damage the credibility of the local government in all their activities. For political purposes, it is much better to overestimate a project. Such overestimating rarely hurts the sale of the project initially, and it protects against embarrassing cost overruns later.

Ironically, a project whose cost is initially overestimated can lead to unnecessary overspending. Since the public, the media, and the contractors that bid on the project use the initial budget as their measuring stick to determine whether the project is well managed, local governing boards can more easily add unnecessary (but sometimes popular) frills, and contractors can more easily provide higher, more profitable bids if the project costs are overestimated.

Illinois Municipal Accounting Law requires cities to prepare budgets with line item detail that cannot be exceeded by actual expenditures. In other words, the line item estimates for office supplies, books, snow removal materials, and prisoner food cannot be exceeded by actual expenditures. The purpose of this law was to provide tight controls on expenditures. The actual result is just the opposite. Since even the best managers cannot predict exactly how much snow may fall or how many criminals may be locked up, budgeted line items are set much higher than realistic expectations so that the local government is not prevented from locking up criminals or removing snow. The result is a budget that is unrealistically high and can encourage overspending. In order to provide a useful budget for cost containment two budgets are prepared in most municipalities: one to satisfy state law that does not permit overexpenditure and one to provide a useful management tool for cost containment that provides realistic estimates. The legal budget accomplishes only one purpose -- to satisfy state law.

The practical effect of House Bill 2829 would, at best, be the same: no effect at all on actual spending as budgets for projects were inflated to ensure compliance with the law. At worst, this law could easily inadvertently increase spending on projects as budgets were developed which were unnecessarily high causing an increase in actual spending.