

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 15, 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 Tom Sloan
Representative Robert Tomlinson
Don Moler, General Counsel, League of Kansas Municipalities

Others attending: See attached list

The minutes of the February 14, 1996 meeting were distributed. Representative Sloan moved the minutes be approved, and Representative Pettey seconded. Motion passed.

The Chair recognized Representative Sloan who proposed a substitute for:

HB 2829: An act concerning municipalities; relating to improvements and the financing thereof. (Attachment 1.)

Chairperson Glasscock asked Don Moler, General Counsel, League of Kansas Municipalities, if he had any comments, and he said that the League's official position is no position.

Representative Sloan made a motion to amend HB 2829 by introducing a substitute bill. Representative Thimesch seconded. Motion passed.

Chairperson Glasscock recognized Subcommittee #1 Chairperson Tomlinson who spoke favorably on the following bills: **HB 2797, HB 2799, HB 2800, HB 2801, and HB 2802.**

HB 2797 - Reproduction of records on film
HB 2799 - Change of grade subject to extraordinary majority
HB 2800 - Sale of park lands subject to protest petition
HB 2801 - Conveyance of real estate to patriotic corporations subject to referendum
HB 2802 - Cleaning and oiling of streets subject to initiative by property owners
(Attachment 2.)

The Chair next recognized Don Moler, General Counsel, League of Kansas Municipalities, who supported **HB 2797, HB 2799, HB 2800, HB 2801 and HB 2802.** He thanked Chairman Glasscock and Subcommittee #1 Chairman Tomlinson for requesting and allowing the League to participate in the process of trying to weed out unnecessary local government statutes. He did suggest one change in **HB 2800** to eliminate 12-1302 from the repealing process. This one section concerned parks and the League would like it retained. (Attachment 3.)

Since there was no additional testimony, Chairperson Glasscock closed the public hearing on **HB 2797, HB 2799, HB 2800, HB 2801, and HB 2802.**

Representative Tomlinson moved that HB 2797, HB 2799, HB 2801, and HB 2802 be recommended favorable for passage and because the committee feels they are non controversial that these bills be placed on the consent calendar. Representative Welshimer seconded. Motion passed.

Representative Tomlinson moved that HB 2800 be amended to eliminate 12-1302 from repeal and marked favorable for passage. Representative Toplikar seconded. Motion passed.

Chairperson Glasscock directed the Committee's attention to:

HB 2230 - Municipalities; issuance of certificates of participation; procedure.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse,
1:30 p.m. on February 15, 1996.

Representative Mays offered an amendment to **HB 2230** which he believed would clear up the issue. Representative Mays made a motion to recommend **HB 2230** favorable for passage as amended. Representative Toplikar seconded. Discussion followed. Representative Mays withdrew the motion with permission of the second that the bill will be taken up at a later date. (Attachment 5.)

The Chair recognized Representative Thimesch who spoke in support of **HB 2832 - Consolidation of elected county offices; prohibited, exception.** He presented a balloon allowing the voters to initiate the question to eliminate a county office. See ©, line 11. He said the effect is that it prevents a governing body from eliminating officers, but allows the electorate to vote if a 10% initiative petition is obtained. (Attachment 4.)

Representative Welshimer moved to pass **HB 2832** as amended marked favorable for passage. Thimesch seconded. Active discussion followed. Representative Grant made a substitute motion that **HB 2832** be tabled. Representative Tomlinson seconded. Motion passed.

The meeting adjourned at 2:45 p.m.

The next meeting is scheduled for February 20, 1996.

LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: Thursday, February 15, 1996

| NAME | REPRESENTING |
|---------------------------|-----------------------------|
| Janette N. Cano. | |
| Tang zhang | |
| Bertha T. Gardea | |
| SANDRA MARIN | |
| Fabiola Gardea | |
| Brenda Ramirez | Wyandotte High School - |
| Martha G. Peña. | Close-Up For New Americans |
| Miriam Erives. | (Doug Spender - rep) |
| Ger hor | |
| Francisco Carrillo | |
| Camille Neidhart | |
| PATRICIA L. LYNCH | City of Simpson |
| Terry W. _____ | City of Beloit |
| Kenneth W. Sullivan | League of KS Muni. |
| Don Moler | League of KS Municipalities |
| _____ | |
| Anne Spiess | KS. Assoc. of Counties |
| Gerry Kay | Johnson Co. Commission |

DATE: FEBRUARY 12, 1996

MEMO TO: *Rep.* TOM SLOAN

FROM: RENEE KARR
SCHOOL BOARD MEMBER USD 497

I READ YOUR ARTICLE IN THE JOURNAL WORLD OF SATURDAY FEBRUARY 10 AND WANT YOU AND YOUR COLLEAGUES TO KNOW I SUPPORT THIS ACTION 100 PER CENT.

WHILE OUR SCHOOL DISTRICT HAS MAINTAINED ALL CONSTRUCTION PROJECTS WITHIN BUDGET, I BELIEVE WE WOULD HAVE BEEN CARELESS WITH THE TRUST AND FAITH OF OUR CONSTITUENTS HAD WE ALLOWED THE COSTS TO GO ABOVE WHAT WAS ORIGINALLY APPROVED.

THERE SHOULD NOT BE ANY FEAR OR RELUCTANCE TO GO BACK TO YOUR VOTERS AND ASK FOR MORE FUNDS IF THERE IS GOOD REASON AND SUPPORTING EVIDENCE.

WE ARE ELECTED TO REPRESENT NOT DICTATE!!!

Sincerely
Renee Karr
USD 497

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PROPOSED SUBSTITUTE for HOUSE BILL NO. 2829

By Representatives Sloan and Tanner

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

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

Section 1. (a) When used in this section, "municipality" means any county, township, city, municipal university, school district and any other taxing district or political subdivision of the state.

(b) Whenever the governing body of any municipality proposes to make a public 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 public improvement to be made;
- (2) the projected cost of making such public improvement;
- (3) the projected cost of professional services to be acquired and paid for in conjunction with such improvement, including, but not limited to, architectural, engineering, legal, bond underwriting, financial advisory, bond rating and other services;
- (4) if bonds are to be issued, the projected date on which the bonds would be retired;
- (5) if sales and use taxes are to be levied, the projected date on which the proposed tax will expire; and
- (6) any other information deemed necessary by the governing body of the municipality to provide full disclosure relating to the proposed public 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 comply with the

House Local Government
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requirements of this subsection based upon the information available to the governing body at the time of the publication of the notice.

(c) If at any time after an election is held authorizing the financing or making of an improvement and prior to the letting of contracts for such improvement, the governing body of the municipality determines that the cost of the improvement will exceed, by at least 20%, the amount of the projected cost stated in the notice of the election as required by subsection (b), the governing body shall not authorize the letting of contracts for such improvement until the governing body publishes a notice in a newspaper of general circulation within the municipality of the time, date and place of a public hearing before the governing body concerning the cost of the public improvement. At such hearing the governing body shall explain the basis for the variance in costs for the public improvement from projected costs published in accordance with subsection (b) and receive comments from the public thereon.

(d) After the hearing required by subsection (c), the governing body may:

(1) Authorize the letting of contracts for the completion of the public improvement;

(2) determine the project is not feasible and not let the contracts; or

(3) submit the question of making such improvement and the method of financing such project to the qualified electors of the municipality. Such election shall be called and held in the manner provided by the general bond law.

(e) If the governing body of the municipality determines that the continuation of the public improvement project is not feasible or the question submitted to the qualified electors in accordance with subsection (d) is not approved at the election held thereon, the governing body shall not issue bonds or, if the project is to be financed in accordance with a retailers' sales tax in accordance with K.S.A. 12-187 et seq., and amendments

thereto, the governing body shall repeal that portion of such tax attributable to the financing of the public improvement project in the manner provided by K.S.A. 12-187, and amendments thereto. No portion of a countywide retailers' sales tax shall be repealed for the reasons set forth in this subsection unless and until the governing bodies of the county and all the cities therein adopt resolutions providing therefor.

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

STATE OF KANSAS

BOB TOMLINSON
REPRESENTATIVE 24TH DISTRICT
STATE CAPITOL
TOPEKA, KS 66612-1504
913 296-7632
5722 BIRCH
ROELAND PARK, KS 66205
913 831-1905



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIR: SELECT COMMITTEE ON JUVENILE CRIME
MEMBER: EDUCATION
LOCAL GOVERNMENT

February 15, 1996

TESTIMONY ON THE FOLLOWING HOUSE BILLS:

HB 2797, 2799, 2800, 2801 and 2802

These bills reflect some of the work of Subcommittee #1 of Local Government. They are primarily repealers drafted at the request of the League of Municipalities. I will explain each one separately.

You may refer to the attached pages from Dr. Flentje's Mandate Inventory Notebook provided for each bill.

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HB 2797

Mandate: Reproduction of records on film

Description: The governing body of any city may cause any or all records, documents, or papers to be photographed, microphotographed, or reproduced on film; however, such photographic film shall comply with federal standard no. 125a, dated April 24, 1958, or the latest revision of the federal standard, issued pursuant to the federal property and administrative services act of 1949, as amended. Further, the device used to reproduce such records on film shall be one which accurately reproduces the original record in all details.

Applies To: All cities

Legal Basis: K.S.A. 12-122, 12-123

Year of Enactment; Year of Last Amendment: 1949; 1972

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (see K.S.A 60-1205 and 25-4302)

Mandate Type: Governance

Subject Area: General government

Office/Official Affected: City governing body

3 2799

Mandate: Change of grade subject to extraordinary majority

Description: The city governing body may establish by ordinance the grade of any street or alley; however, the city governing body shall not change the grade of a street or alley, unless a resolution is passed with a three-fourths vote of all the governing body members declaring the necessity of such grade change. When such resolution is passed declaring it necessary to change any grade, the governing body shall proceed pursuant to procedure required for the excise of the power of eminent domain and shall pay the total damages and expenses caused by such change of grade out of the general fund.

Applies To: All cities

Legal Basis: K.S.A. 12-632, 12-633

Year of Enactment; Year of Last Amendment: 1909; 1974

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (K.S.A 60-1205 and K.S.A 25-4302)

Mandate Type: Governance

Subject Area: Public works

Office/Official Affected: City governing body

2800
Mandate: Sale of park lands subject to protest petition

Description: The city governing body may trade or exchange any public park, public square, or market square which it may own, or any portion thereof, for other land to be used for similar purposes, or may sell any public park, public square or market square; however, before making any such trade or exchange or sale, the city shall give public notice through publication, and such transaction shall be subject to protest petition and possible referendum(see Glossary). City parks so established shall be under the control of the city governing body, who shall provided for the establishing and care of the parks out of the funds raised through a mill levy and shall make suitable regulations for the care and government of such parks.

Applies To: All cities

Legal Basis: K.S.A. 12-1301, 12-1303, 12-1304

Year of Enactment; Year of Last Amendment: 1909; 1979

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (see K.S.A. 60-1205 and K.S.A. 12-4302)

Mandate Type: Citizen preemption

Subject Area: General government; parks and recreation

Office/Official Affected: City governing body

B2801

Mandate: Conveyance of real estate to patriotic corporations subject to referendum

Description: Any city governing body having grounds, or grounds and buildings, or parts thereof, not being used for city purposes, may convey the grounds, or any part of such grounds, upon resolution adopted by its governing body, to a patriotic organization incorporated by an act of the U.S. Congress; however, no such property shall be conveyed unless the proposition is first submitted to a vote of the qualified electors of the city and receives a majority of the votes cast at such referendum. Further, any such conveyance shall contain a clause that the property being conveyed, together with all improvements or additions, shall revert to the city when the grantee ceases to use it for the purposes for which it was conveyed. The consideration for the conveyance shall be the covenant of the grantee to maintain and improve the property conveyed, and a breach of the covenant shall cause the property to revert to the city.

Applies To: All cities

Legal Basis: K.S.A. 12-1704, 12-1705

Year of Enactment; Year of Last Amendment: 1945; none

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (see K.S.A. 60-1205 and K.S.A. 12-4302)

Mandate Type: Citizen preemption

Subject Area: General government

Office/Official Affected: City governing body

HB 2802

Mandate: Cleaning and oiling of streets subject to initiative by property owners

Description: When presented with a petition signed by the majority of the resident owners of property requesting the street, avenue, or alley abutting their property be cleaned or oiled, the city governing body shall cause such street, avenue, or alley or portion thereof, to be sprinkled with oil as provided in such petition. Further, the cost of such street work shall be fairly and equitably assessed against the property abutting thereon and benefitted thereby. It shall be the duty of the city clerk within thirty days after each oiling of such street or portion of the street to render the bills for the same to the owners of the property chargeable with service of oiling, and such bills shall be immediately due and payable, and if not paid within ten days the city clerk shall certify the same as charges and assessments to the county clerk, and such charges and assessments shall be taxed against said property and collected as other taxes.

Applies To: All cities

Legal Basis: K.S.A. 12-665, 12-666

Year of Enactment; Year of Last Amendment: 1911; 1975

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (K.S.A 60-1205 and K.S.A 25-4302)

Mandate Type: Citizen preemption

Subject Area: Finance; public works

Office/Official Affected: City governing body
City clerk



**League
of Kansas
Municipalities**

LEGAL DEPARTMENT • 300 S.W. 8TH TOPEKA, KS 66603 • TELEPHONE (913) 354-9565 • FAX (913) 354-4186

LEGISLATIVE TESTIMONY

TO: House Local Government Committee
FROM: Don Moler, General Counsel
RE: Support for HB 2797, HB 2799, HB 2800, HB 2801 and HB 2802
DATE: February 15, 1996

I would like to start by personally thanking Chairman Glasscock and Subcommittee Chairman Tomlinson for requesting and allowing the League to participate in the process of trying to weed out unnecessary and/or anachronistic local government statutes. We believe this is a very worthwhile process and do appreciate the support of the House Local Government Committee.

In an effort to save trees and the environment and to reduce the paper clutter on your desk, I have combined the League's testimony on the five bills into a single piece of testimony since the purpose of all five is to either remove or update statutes which have become essentially useless in their current forms. I will give a very brief description of the bills in the summary as well as attaching the appropriate pages from the League's mandate book from which all five of these mandates were taken.

HB 2797 – Cities; Reproduction of Certain Records

The League requested introduction of HB 2797 which deals with the reproduction of local government records and have asked that the language found in K.S.A. 12-120 through K.S.A. 12-123 to be updated to recognize the fact that we are no longer using film standards established in 1958 and to recognize the fact that reproduction of official documents can be made in a variety of fashions, other than photographs, which allow for accurate reproduction of an original document.

HB 2799 – Cities; Change of Grade of Streets and Alleys

This bill repeals K.S.A. 12-632 and K.S.A. 12-633 which require that a city may not change the grade of a street or alley unless a resolution is passed with a 3/4 vote of the governing body members declaring such change to be necessary. We believe this statute to be an unnecessary burden on local government and ask for its outright repeal.

HB 2800 – Cities; Land for Park Purposes

Current statute K.S.A. 12-1301 requires that before a city may sell, trade or exchange any public park, public square or market square that the city must give public notice through publication and the transaction will be subject to protest petition and possible referendum. We have also requested the repeal of K.S.A. 12-

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1303 and K.S.A. 12-1304. It was never our intent to request the repeal of K.S.A. 12-1302, but upon a close examination of HB 2800 we find K.S.A. 12-1302 is also being repealed. We would respectfully request that it be removed from the bill as it was not part of our original request and we do not feel it appropriate to repeal at this time.

HB 2801 – Cities; Conveyance of Property to Certain Organizations

HB 2801 repeals K.S.A. 12-1704 through 12-1706 which currently require before any city may transfer publicly owned property to a patriotic organization incorporated by an act of Congress that there must be a vote of the electors of the city. This is a very odd statute in that city property may be conveyed by the city governing body at any time to any other group without any vote of the public. It is at the discretion of the governing body of the city. We note that these statutes date to 1945 and have not been amended nor apparently utilized since that time. We would ask that they be repealed as an anachronism not necessary in today's statute books.

HB 2802 – Cities; Streets, Oiling and Cleaning

This bill repeals K.S.A. 12-665 and 12-666 which are very old statutes dealing with the oiling of city streets and the assessment for that oiling. There is one major statute, the general special assessment law found at K.S.A. 12-6a01 et seq., which allows the city to make any kind of a city improvement and assess adjoining property owners. We find the language in K.S.A. 12-665 and K.S.A. 12-666 to be superfluous and would ask that the Committee repeal the statutes found in HB 2802.

Thank you very much for allowing the League to participate in this process and to offer our opinions as to antiquated statutes which can be removed from the statute book and can clean up the current statutory language.

Mandate: Issuance of no-fund warrants for repair or replacement of equipment in case of emergency subject to state approval

Description: The city governing body and the board of county commissioners may, in case of emergency, issue no-fund warrants or general obligation bonds to purchase, repair, or replace equipment, apparatus, or machinery used for the operation of law enforcement, for the disposal of refuse, for fire protection, for street, road, and bridge construction, repair, or maintenance, for sewer treatment, for water service, or for ambulance service. However, when issuing such no-fund warrants and general obligation bonds, the city governing body and board of county commissioners shall by ordinance or resolution declare that an emergency exists, state the necessity of any expenditure, and state the maximum amount to be expended on any purchases that relate to the declared emergency. Upon the passage of any such ordinance or resolution, the city governing body and board of county commissioners shall file an application with the state board of tax appeals, asking for permission to make such expenditure and issue warrants or bonds in payment. Only after the state board approves the application may the city governing body or the board of county commissioners repair or replace the equipment.

Applies To: All cities and counties

Legal Basis: K.S.A. 12-110a

Year of Enactment; Year of Last Amendment: 1947; 1989

Supervising State Agency: State board of tax appeals

Penalty for Noncompliance: Subject to ouster or recall (see K.S.A. 60-1205 and 25-4302); for members of the board of county commissioners, misdemeanor with fine of \$50 to \$1,000 and imprisonment for thirty days to one year (see K.S.A. 19-233)

Mandate Type: State supervision

Subject Area: Finance

Office/Official Affected: City governing body
Board of county commissioners.

Mandate: Change of grade subject to extraordinary majority

Description: The city governing body may establish by ordinance the grade of any street or alley; however, the city governing body shall not change the grade of a street or alley, unless a resolution is passed with a three-fourths vote of all the governing body members declaring the necessity of such grade change. When such resolution is passed declaring it necessary to change any grade, the governing body shall proceed pursuant to procedure required for the excise of the power of eminent domain and shall pay the total damages and expenses caused by such change of grade out of the general fund.

Applies To: All cities

Legal Basis: K.S.A. 12-632, 12-633

Year of Enactment; Year of Last Amendment: 1909; 1974

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (K.S.A 60-1205 and K.S.A 25-4302)

Mandate Type: Governance

Subject Area: Public works

Office/Official Affected: City governing body

Mandate: Sale of park lands subject to protest petition

Description: The city governing body may trade or exchange any public park, public square, or market square which it may own, or any portion thereof, for other land to be used for similar purposes, or may sell any public park, public square or market square; however, before making any such trade or exchange or sale, the city shall give public notice through publication, and such transaction shall be subject to protest petition and possible referendum(see Glossary). City parks so established shall be under the control of the city governing body, who shall provided for the establishing and care of the parks out of the funds raised through a mill levy and shall make suitable regulations for the care and government of such parks.

Applies To: All cities

Legal Basis: K.S.A. 12-1301, 12-1303, 12-1304

Year of Enactment; Year of Last Amendment: 1909; 1979

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (see K.S.A. 60-1205 and K.S.A. 12-4302)

Mandate Type: Citizen preemption

Subject Area: General government; parks and recreation

Office/Official Affected: City governing body

Mandate: Conveyance of real estate to patriotic corporations subject to referendum

Description: Any city governing body having grounds, or grounds and buildings, or parts thereof, not being used for city purposes, may convey the grounds, or any part of such grounds, upon resolution adopted by its governing body, to a patriotic organization incorporated by an act of the U.S. Congress; however, no such property shall be conveyed unless the proposition is first submitted to a vote of the qualified electors of the city and receives a majority of the votes cast at such referendum. Further, any such conveyance shall contain a clause that the property being conveyed, together with all improvements or additions, shall revert to the city when the grantee ceases to use it for the purposes for which it was conveyed. The consideration for the conveyance shall be the covenant of the grantee to maintain and improve the property conveyed, and a breach of the covenant shall cause the property to revert to the city.

Applies To: All cities

Legal Basis: K.S.A. 12-1704, 12-1705

Year of Enactment; Year of Last Amendment: 1945; none

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (see K.S.A. 60-1205 and K.S.A. 12-4302)

Mandate Type: Citizen preemption

Subject Area: General government

Office/Official Affected: City governing body

Mandate: Cleaning and oiling of streets subject to initiative by property owners

Description: When presented with a petition signed by the majority of the resident owners of property requesting the street, avenue, or alley abutting their property be cleaned or oiled, the city governing body shall cause such street, avenue, or alley or portion thereof, to be sprinkled with oil as provided in such petition. Further, the cost of such street work shall be fairly and equitably assessed against the property abutting thereon and benefitted thereby. It shall be the duty of the city clerk within thirty days after each oiling of such street or portion of the street to render the bills for the same to the owners of the property chargeable with service of oiling, and such bills shall be immediately due and payable, and if not paid within ten days the city clerk shall certify the same as charges and assessments to the county clerk, and such charges and assessments shall be taxed against said property and collected as other taxes.

Applies To: All cities

Legal Basis: K.S.A. 12-665, 12-666

Year of Enactment; Year of Last Amendment: 1911; 1975

Supervising State Agency: None

Penalty for Noncompliance: Subject to ouster or recall (K.S.A 60-1205 and K.S.A 25-4302)

Mandate Type: Citizen preemption

Subject Area: Finance; public works

Office/Official Affected: City governing body
City clerk

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1 consolidation which eliminates any such elective office shall not be voted
2 on by the governing body of the political or taxing subdivision until a
3 special public hearing is held within the political or taxing subdivision.
4 Notice of such special hearing shall be published in a newspaper of gen-
5 eral circulation in the political or taxing subdivision once each week for
6 two consecutive weeks prior to the hearing. The first publication shall not
7 be less than 21 days prior to such hearing. Any elected officer whose
8 office would be eliminated in such consolidation and any other interested
9 party shall be given an opportunity to appear and offer testimony at any
10 of such hearings.

11 (c) *An elective county office may not be eliminated by consolidation*
12 *under the provisions of this act.* Whenever the statutorily mandated duties
13 of any elected county official are proposed for elimination, by transfer or
14 otherwise, the question of the elimination of any such duties shall be
15 considered as an elimination of the elective office itself within the mean-
16 ing of this section; ~~and shall be subject to an election prior to such elim-~~
17 ~~ination as required by subsection (b).~~ The provisions of this subsection
18 shall not preclude the transfer of duties of an elected office with the
19 consent of the affected elected official.

20 Sec. 2. K.S.A. 12-3903 is hereby repealed.

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

unless the question of eliminating such office was initiated by
a petition pursuant to K.S.A. 12-3904, and amendments thereto

, and shall be subject to an election prior to such elimination
as required by subsection (b)

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dissolution of a number of political and taxing subdivisions, including the creation of cities (K.S.A. 15-116 *et seq.*) and the approval of certain city annexations (e.g. K.S.A. 12-521). Boards are responsible for the establishment of: sewer districts (K.S.A. 19-27a01 *et seq.*); improvement districts (19-2753 *et seq.*); industrial districts (K.S.A. 19-3801 *et seq.*); fire districts (K.S.A. 19-3601 *et seq.*); drainage districts (K.S.A. 24-401 *et seq.* and 24-501 *et seq.*); irrigation districts (K.S.A. 42-357 *et seq.*, 42-701 *et seq.*); libraries (K.S.A. 12-1218 *et seq.*); community building districts (K.S.A. 15-11b01 *et seq.*); and port authorities (K.S.A. 12-3401 *et seq.*).

§1.40 2. County Clerks

County clerks are elected in all counties and serve four-year terms. They are the chief recorders of transactions of county business and are responsible, in most counties, for auditing the county's financial affairs. As county election officer in all but the four largest counties, the county clerk is responsible for the administration of elections. Some county clerks also act as county appraisers. Their duties involve administrative and ministerial functions rather than policymaking responsibilities for the county.

The general responsibilities of the county clerk, in regard to county business, appear at K.S.A. 19-301 *et seq.* They are required to keep their office at the county seat; attend sessions of the board of county commissioners (but not the executive sessions referred to under the Kansas Open Meetings Law according to Op. Att'y Gen. 170 (1987)); keep records and papers of the board, and sign the records of board proceedings. K.S.A. 19-304. They are responsible for recording all proceedings of the board, making entries of their resolutions and decisions in all questions dealing with raising money, recording votes of commissioners if required by any member, signing all orders issued by the board for payment of money, and filing all accounts acted upon by the board. K.S.A. 19-305 and 19-306. The clerk's accounting functions in conjunction with those of the county treasurer are specified in K.S.A. 19-312.

Election responsibilities for the clerk as the county election officers are numerous. The term "county election officer" is defined in K.S.A. 25-2504 to mean the election commissioner in counties which have such an officer and the county clerk in all other counties. Election commissioners are appointed by the Secretary of State in counties with a population exceeding 130,000, *i.e.* Johnson, Sedgwick, Shawnee, and Wyandotte counties under K.S.A. 19-3419. The entire Chapter 25 of Kansas Statutes Annotated is replete with duties of county election officers. See L. 1968, ch. 406 for a more sequential description of county election officer's duties. Responsibilities include registration of voters (K.S.A. 25-2301 *et seq.*); conducting primary, general, and special elections within the county (K.S.A. 25-101 *et seq.*) conducting city elections (K.S.A. 25-2101 *et seq.*) and school district elections (K.S.A. 25-2002 *et seq.*); overseeing absentee voting (K.S.A. 25-1114 *et seq.*); printing of ballots for all primary, special, and general elections (K.S.A. 25-604 *et seq.*); administering the mail ballot elections act (K.S.A. 25-431 *et seq.*); appointment of county election boards (K.S.A. 25-2801 *et seq.*); and various responsibilities in regard to canvassing elections (K.S.A. 25-3101 *et seq.*).

County clerks are also responsible for other functions regarding political and taxing subdivisions within the county. For example, the county clerk is responsible for keeping a municipal bond register for taxing subdivisions in the county which issue bonds. City bonds are excluded from the register and school districts and community college bonds may be registered at the option of their respective boards. K.S.A. 10-1007. The clerk must compile an annual statement of bonded indebtedness for local governments within the county. K.S.A. 10-1007a. All taxing subdivisions of the county are required to certify their tax levies and file a copy of their annual budgets on or before August 25 with the county clerk. K.S.A. 79-1801 and 79-2930. The county clerk must make any legally required reduction to the tax levy and compute the tax levy rates based on the final assessed valuation under K.S.A. 79-1965.

Other duties include the sale of fish and game licenses and permits (K.S.A. 19-328); pawnbroker and precious metal licenses (K.S.A. 16-707); building-moving permits (K.S.A. 17-1915); and transient-merchants licenses (K.S.A. 19-2235). The clerk acts as secretary to certain fire districts (K.S.A. 19-3601) and receives petitions for the incorporation of cities (K.S.A. 15-116), rural water districts (K.S.A. 82a-614), and for various other political subdivisions. Finally, county clerks are required to function as sheriff if the office is vacant in certain circumstances. K.S.A. 19-804a.

§1.41 3. County Treasurers

County treasurers are elected at the same time as other county elected officials but their term of office begins on the second Tuesday in October following the election (K.S.A. 19-501). This timeframe is more in line with the financial cycle of the county rather than the date when the other county elected officials assume their offices the second Monday in January. K.S.A. 25-313. No person holding the office of sheriff, county attorney, county clerk, clerk of the district court, nor their deputies, nor any county commissioner may hold the office of treasurer. K.S.A. 19-505.

Treasurers have been described as ministerial officers whose duties are prescribed by statute and who do not possess discretionary power. See *School District No. 12 v. Ottawa County Commissioners*, 133 Kan. 528, 1 P.2d 88 (1931). Treasurers are responsible for receiving all moneys of the county and making disbursements of moneys, but only on orders of the board of county commissioners, unless otherwise provided by law. K.S.A. 19-506. The county treasurer is the collector and distributor of a number of taxes, including real and personal property taxes for the state and all taxing subdivisions under K.S.A. 79-2001 *et seq.* They are required to prepare lists of personal and real property subject to sale for unpaid taxes (K.S.A. 79-2101 *et seq.* and 79-2301 *et seq.*) and are the sales tax collector for isolated motor vehicles and trailer sales (K.S.A. 79-3604). They are the tax collector and distributor for motor vehicle taxes (K.S.A. 79-5107 and 79-5109); the collector of registration and certificate of title fees (K.S.A. 8-145); and the collector of motor vehicle dealer tax stamp moneys (K.S.A. 79-1020 and 79-1021). County treasurers distribute certain other moneys to other taxing subdivisions including local *ad valorem* tax reduction fund moneys (K.S.A. 79-2961) a portion of the

special city and county highway fund moneys (K.S.A. 79-3425c); and the special county mineral production severance tax fund moneys (K.S.A. 79-422(d)).

One of the main duties of the county treasurer's office is the licensure and registration of motor vehicles under K.S.A. 8-129 and K.S.A. 8-145. Treasurers perform additional duties as well.

§1.42 4. County Registers of Deeds

Registers of deeds are elected in each county for four-year terms. Their primary responsibility is to maintain the state land-recording system and to record a number of other instruments and documents not related to real estate. K.S.A. 58-2221 requires that "Every instrument in writing that conveys real estate, any estate or interest created by an oil and gas lease or whereby any real estate may be affected, proved or acknowledged... may be recorded in the register of deeds office." Included are certificates of value under K.S.A. 58-2223.

The following are examples of documents filed in the register of deeds office: plats, vacations of plats, and townsites (K.S.A. 12-403, 12-504, 19-1207 and 58-2613); plats of subdivisions (K.S.A. 12-705b); planned unit development plans (K.S.A. 12-729); annexation and deannexation ordinances, agreements, and court orders (K.S.A. 12-522, 12-532, 12-533, 12-534); land patents (K.S.A. 58-2101); liens under the Uniform Federal Lien Registration Act (K.S.A. 79-2613); *lis pendens* filings (K.S.A. 60-2101); municipal energy agency agreements (K.S.A. 12-888); interlocal cooperation agreements (K.S.A. 12-2905); and certain secured transaction filings under the Uniform Commercial Code (K.S.A. 84-9-401 *et seq.*).

§1.43 5. County Sheriffs

The county sheriff is the chief county law enforcement officer in all but one of the counties in Kansas. The exception is Riley County, which has a consolidated city and county law enforcement agency with an appointed director and appointed board.

Eligibility for the office of sheriff requires the person to be a citizen of the United States, a qualified elector of the county, possess a high school education or its recognized equivalent and never have been convicted, or pleaded guilty or *nolo contendere* to any felony charge or any gambling, liquor, or narcotics violation. Further, the candidate must submit to fingerprinting for a state and national fingerprint file search. Finally, sheriffs are required to satisfactorily complete 320 hours of training at the law enforcement training academy. K.S.A. 19-801b and 19-826.

Sheriffs play a key role in both the criminal and civil justice system of the state. They are charged with preserving the peace, suppressing all disturbances, riots, unlawful assemblies and insurrections, and delivering service of process in civil and criminal cases. K.S.A. 19-813. A sheriff officer's criminal jurisdiction as a law enforcement officer encompasses anywhere within their county as well as in any other place where a request is made for assistance by the appropriate law enforcement authority or when a sheriff's officer is in fresh pursuit. K.S.A. 22-2401a.

In regard to the civil justice system, sheriffs or their deputies may serve subpoenas (K.S.A. 60-245(d)) and service of process (K.S.A. 60-303); and may levy executions on real and personal property and conduct the sale of such property (K.S.A. 60-2401 *et seq.*). Other duties include the sale of property for unpaid taxes (K.S.A. 79-2804); and the foreclosure and sale of railroad property (K.S.A. 66-801 *et seq.*). Sheriffs may also provide law enforcement services for any city pursuant to a contract. K.S.A. 12-2909.

6. County and District Attorneys and County Counselors

§1.44 a. County and District Attorneys

County attorneys are elected in 100 counties, whereas district attorneys are elected in the five most populous counties, *i.e.* Douglas, Johnson, Sedgwick, Shawnee, and Wyandotte counties. K.S.A. 19-701, 22a-101, and 22a-108.

Candidates for the office of district attorney must have at least five years experience as lawyers, and once elected, must devote full time to their official duties and not engage in the civil practice of law (K.S.A. 22-102, 22a-106). County attorneys need only be regularly admitted to the practice of law (K.S.A. 19-701), and there is no requirement that they devote their full time to their office. District attorneys are specifically granted "any power or duty now conferred or imposed by law upon all county attorneys..." K.S.A. 22a-104. Another key difference is that district attorneys are declared to be "an executive officer of the judicial district... and in no event shall said district attorney be deemed an officer of any county." K.S.A. 22a-101.

The general duties of county attorneys are to prosecute and defend all suits, applications, or motions, civil or criminal, in which the state or their county is a party or has an interest. They are required to give advice without charging a fee to the board of county commissioners and other civil officers of the county when requested, but are not required to give assistance in regard to the operation of county hospitals. K.S.A. 19-704. County attorneys are to assist grand juries (K.S.A. 19-713); enforce election and licensure laws (K.S.A. 19-714), and review all claims against the county with the board of county commissioners in counties with less than 70,000 population who do not have a county auditor (K.S.A. 19-716). See Op. Att'y Gen. 179 (1987), which contains an attachment listing 287 statutory duties of county and district attorneys prepared by the Kansas County and District Attorneys Association.

Note prosecuting witnesses in any criminal action or proceeding may employ at their own expense an attorney to assist the county attorney under K.S.A. 19-717. The board of county commissioners also may employ an additional attorney to assist the county attorney in any special investigation, prosecution, or any civil or criminal matter involving the duties of the county attorney. See K.S.A. 19-723.

§1.45 b. County Counselors

Any board of county commissioners may appoint county counselors under home rule powers. See Op. Att'y Gen. 127 (1978) and Op. Att'y Gen. 31 (1977). Typically, county counselors are responsible for representing the county in all civil

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PROPOSED BILL NO. _____

By

AN ACT concerning municipalities; relating to lease-purchase agreements; amending K.S.A. 10-1116c and repealing the existing section.

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

Section 1. K.S.A. 10-1116c is hereby amended to read as follows: 10-1116c. Any lease-purchase agreement entered into pursuant to this act shall be subject to the following conditions:

(a) If the proposed agreement is for a term exceeding the current fiscal year of the municipality, it shall be approved by a majority vote of all members of the governing body.

(b) Subject to the provisions of subsection (c), if the proposed agreement involves the acquisition of land or buildings, is for a term of three or more years, and provides for payments in any year in excess of 3% of the total amount budgeted by the municipality for expenditure during the current year, excluding debt service, a notice thereof specifying the purpose and the total of all payments shall be published once each week for two consecutive weeks in a newspaper of general circulation with such municipality. If, within 30 days following the last publication of such notice, a petition in opposition to the agreement signed by not less than 5% of the qualified voters of such municipality is filed with the appropriate county election officer, no such agreement shall take effect unless and until the same is approved by a majority of the qualified voters of such municipality voting at an election thereon. Any such election shall be called and held in accordance with the provisions of K.S.A. 10-120, and amendments thereto, or in accordance with the provisions of the mail ballot election act.

(c) If the municipality is a county, school district or

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community college and if the proposed agreement involves the acquisition of land or buildings, is for a term exceeding the current fiscal year of the municipality and provides for payments which in the aggregate exceed \$50,000, the governing body of such municipality first shall adopt a resolution stating its intent to enter such lease-purchase agreement. The resolution shall specify the total of all payments to be made pursuant to the agreement and the purpose for which such agreement is to be entered. The resolution shall be published once each week for two consecutive weeks in a newspaper of general circulation within the municipality. If a protest petition signed by not less 5% of the qualified voters of the municipality, as determined by the vote for secretary of state at the last general election, is filed with the county election officer of the county in which such municipality is located within 30 days following the last publication of the resolution, no such agreement shall take effect unless approved by a majority of the qualified voters of the municipality voting at an election thereon. Any such election shall be called and held in the manner provided by K.S.A. 10-120, and amendments thereto, or in accordance with the provisions of the mail ballot election act. If no such protest petition is filed within the time limitation contained herein, the governing body of the municipality may enter such agreement. If an election is held pursuant to a protest petition and a majority vote is cast in favor of the proposition, the governing body of the municipality shall have authority to enter such agreement.

(c) (d) If the proposed agreement is for a term exceeding the current fiscal year of the municipality, the agreement shall specify the following: (1) The amount or capital cost required to purchase the item if paid for by cash, (2) the annual average effective interest cost, and (3) the amount included in the payments for service, maintenance, insurance or other charges exclusive of the capital cost and interest cost.

Sec. 2. K.S.A. 10-1116c is hereby repealed.

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