

Approved: March 14, 1996

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

Date

The meeting was called to order by Chairperson Kent Glasscock at 1:30 p.m. on February 21, 1996, in Room 521-S of the Capitol.

All members were present except: Representative Jill Grant - Excused

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

Conferees appearing before the committee: Representative Gwen Welshimer
Mike Beam, Staff of Kansas Livestock Association
Karen Lowery, Kansas Association of School Boards
Representative Robert Tomlinson, Subcommittee #1 Chair
Dan Harden, Riley County Engineer
Jim Strickler, representing Kansas Society of Land Surveyors
Larry Emig, KDOT

Others attending: See attached list

Chairperson Glasscock opened the public hearing on:

HB 2971 **Elections, boards of education, election by districts, residence requirement.**

The Chair recognized Representative Welshimer who spoke as a proponent for **HB 2971**. She said that she did not have any written testimony because Belyndae Johannngsmeier, Citizen Participation Organization from Wichita, had planned to testify, but her son was injured in a serious accident so she was unable to attend. Representative Welshimer explained that several council members were concerned when they had a primary election in which a candidate won who later moved out of the district from which being elected. What this legislation does is say that if you move out of a member district that you can no longer fill the office. The bill would require all school districts in the state to have voting Plan C, which means voting by a district method in both the primary and general elections. There was discussion about the possible removal of the option to have people running at large and formalizing boundaries between borders at both the primary and general elections.

Chairperson Glasscock recognized Karen Lowery, Kansas Association of School Boards, who spoke as an opponent for **HB 2971**. She stated that by making changes in the voting plans of local boards of education by striking voting plan A and voting plan B, and requiring all board of education members to be elected by voting plan C in both the primary and general elections would take away the decision making at the local level. She said that current law allows for either the school board or the voters to propose changes in the voting method. The Kansas Association of School Boards feels that if changes are needed, the initiative should come from the local community and not the state. (Attachment 1.)

Chairperson Glasscock closed the public hearing of **HB 2971**.

The Chair opened the public hearings on the following:

- HB 2972 - County engineers in certain counties; county surveyors, salary.**
- HB 2973 - County engineer; powers and duties.**
- HB 2975 - Roads and bridges in certain counties.**
- HB 2977 - Marking of vehicles owned or leased by political subdivisions.**

Chairperson Glasscock recognized Representative Tomlinson, Chairperson of Subcommittee #1. He said that the previous bills the subcommittee had brought to the Committee's attention were primarily bills brought to the subcommittee by the League of Kansas Municipalities. These current bills have been brought to the attention of the subcommittee by the Association of Counties, County Engineers, or the Association of County Surveyors. All of these groups are very interested in cleaning up the statutes that deal with their particular organizations, but the task is tremendous. Representative Tomlinson said that this effort is only a foot in the door toward cleaning up those statutes that relate to surveyors and engineers. He called the Committee's attention to the fiscal notes that indicate there are no state funds needed, but rather a potential savings, and he said that is what the subcommittee #1 (Repealer committee) is all about.

Representative Tomlinson reported that **HB 2972** applies to surveyors particularly. Section 19-1403a refers to the county engineer in counties over 250,000 and says that the elective office of county surveyor is hereby abolished. Whenever there is a non-uniform section like this, it can be chartered out from under for all counties, so one might say, "why bother." Therefore, this is the purpose for the repeal of this section. The second section, 28-120, sets forth fees for county surveyors. There was discussion about adjusting those fees, but the reality is that the counties can negotiate those fees with the county surveyors themselves. Both of

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 21, 1996.

these items are included in the repeal. (Attachment 2, pages 1-2.)

Representative Tomlinson next addressed **HB 2973** which relates to the engineering statutes. The first one, #68-501, is the most important and describes the position of country engineers. He said that the following three things are important: 1) although in all 105 counties, county engineers are required, they actually exist in only 23 counties. He said that the law is not being followed now. The amendments would 2) indicate that all duties that need to be performed by an engineer would have to have an engineer in order to conduct those services. The interest is in eliminating the post of county engineer which isn't being filled anyway and allowing counties the opportunity to choose how they wish to contract for their engineering services. 3) As a result of this, the remaining sections which describe the various duties of county engineers are also eliminated because without a county engineer position the job description is no longer needed. (Attachment 2.)

The next repealer discussed was **HB 2975** which also relates to road and bridge routes in certain counties. Representative Tomlinson said that it specifically lists populations of between 175,000 and 250,000 in those counties and this is all that the current statute contains. He said that there are no counties in that specific category of population. As a result, rather than making an unused statute uniform across all counties, it was suggested to repeal it. (Attachment 2 continued.)

HB 2977 is an effort to assist counties in a difficult situation. Currently counties and political subdivisions are asked to mark their automobiles by requiring the markings to be painted on and prohibits magnetic signs. It was the opinion of the subcommittee that the county should have the option of placing required markings they feel comfortable with on their own vehicles and which would not affect the resale value of the vehicles. (Attachment 2 continued.)

Chairperson Glasscock recognized Dan Harden, P.E.-Riley County Engineer, who spoke as a proponent of **HB 2972, HB 2973, HB 2975, and HB 2977.** First, he said that the engineers are interested in repealing **HB 2972** because the Board of Technical Professions has taken over the regulation of these technical professions in the State of Kansas, and essentially this statute is obsolete and should be repealed. He said that **HB 2973** deals with a number of statutes in which some are repealed and some are modified. Since the initial writing of the bill, there have been a number of discussions between the Kansas Highway Association, the Kansas County Commissioners Association, KDOT, consulting engineers, and the Kansas Engineering Society, and they have all come to the conclusion that this needs to be discussed some more and consideration delayed until they get together and come up with a consensus. Dan Harden said that **HB 2975** repeals a couple of qualifier statutes which allows counties with populations greater than 175,000 but less than 250,000 to bond certain road and bridge construction. He said that since the law does not apply uniformly to all counties that the law should be rewritten to apply to all Kansas counties. He emphasized that he was not proposing a repeal of this law, but rather was proposing a change. Mr. Harden said that **HB 2977** repeals K.S.A. 8-305 which requires painted serial numbering on all public vehicles and painted on identification signs. He informed the Committee that this statute is generally not being followed because car dealers discourage painting on cars since it destroys resale value. He also said "that all county vehicles now bear a license plate that carries a unique number and carries the word "county" across the plate." He said that the statute is obsolete. (Attachment 3.)

Representative Sloan asked about the concerns of the groups that had not been mentioned. Larry Emig, KDOT, was present and was asked if he would like to speak to this question. He said that KDOT was interested in keeping enumeration in the statutes as to what it should be. He concurred with Dan Harden in his comments at looking at some of the issues that are addressed by this particular statute. They see that there are some benefits in having the statutory link that's in that statute of appointment of a county engineer by a Board of County Commissioners and approval by the Secretary. He said there are a lot of common concerns among the District Engineers across the state concerning roads, bridges, structures, hydraulics, intersections, etc., and they see this as a real positive statement in the statute that provides a statutory limit. In reference to the duties, they believe that there is some benefit to having uniformity. (Attachment 4.)

Representative Tomlinson said that he had some serious problems with the previous comments. First, he questioned that 105 counties are required to have county engineers and that only 28 are in existence, how can this be uniform? Mr. Emig responded that it isn't uniform, but added that District 6 in southwest Kansas has recently formed a district so now the number is 30. He was asked if it is KDOT's intention to proceed in forcing them to have engineers. The response was that it was the Attorney General's opinion early in the 80's under home rule that counties could consolidate certain duties as long as engineering duties were performed by a licensed engineer. Representative Tomlinson asked if there was any evidence at all that counties that do not have engineers that duties are being performed by non-certified engineers. Mr. Emig replied that he did not have all the information, but said that in the 77 counties that no one is exercising in the performance of engineering, it's a broad interpretation and that it is up to interpretation as to when that's being violated. He said that across the state all the roads that are being maintained with or without the statute, there is considerable effort with KDOT in communications at their District levels where they have intersecting roads, etc., and they believe the statute does provide them with some benefit in dealing with these issues. Because of

CONTINUATION SHEET

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that, even though they were not at the meeting, they would like to see that these organizations--the Commissioners Association, the County Engineers Association, KDOT, and the Consulting Association--discuss this in detail so that they can present to the Committee a uniform approach for solving this problem.

Chairperson Glasscock recognized Jim Stickler, registered Kansas Land Surveyor, and a member of the Society of Land Surveyors, who testified using testimony prepared by Michael D. Kelly, Kansas Land Surveyor #869. He said he agreed with Mr. Harden that K.S.A. 19-1403a should be repealed because it stipulates the county engineer should perform duties that can legally only be performed by a land surveyor. He also said that K.S.A. 28-120 should be repealed because it mandates specific monetary amounts for wages and fees for services to be rendered to the public by the county surveyor. (Attachment 5.)

The Chair closed the public hearings on **HB 2972, HB 2973, HB 2975, and HB 2977.**

Chairperson Glasscock asked the Committee to turn its attention back to **HB 2971 - Elections, boards of education, election by districts, residence requirement.**

Representative Welshimer made a motion to amend HB 2971 to remove the portion that dictates Plan C and to reinstate Plans A and B. Motion seconded by Representative Mays. Motion passed.

Representative Welshimer made a motion to pass out favorably HB 2971 as amended. Motion seconded by Representative Pettey.

Representative Mays commented that he liked the bill the way it is now as it is fundamental. You have districts because you want people to represent their district, and if they move out of the district, they should be disqualified. He doesn't think school board elections should be treated differently than other elections.

Representative Becker asked what is now different than it was before. Theresa Kiernan replied that in Section 2, it says if you run from a district and move from that district, you are no longer qualified to represent that district. The vote was taken on the motion to pass out favorably HB 2971. Motion passed.

Chairperson Glasscock asked the Committee to look back at **HB 2972, HB 2973, HB 2975, and HB 2977.** Representative Tomlinson moved that HB 2972 be marked favorable for passage and that due to its noncontroversial nature, it be placed on the consent calendar. Representative Becker seconded the motion. Motion passed.

Representative Tomlinson moved that HB 2977 be passed marked favorable for passage. Representative Becker seconded. Representative Tomlinson amended his motion to place HB 2977 on the consent calendar. Representative Becker seconded. Motion passed.

Representative Tomlinson said that he personally sees no reason not to pass **HB 2973** out of Committee, but since his is only one opinion, he has no objection to the consideration of KDOT's recommendation to study it further. Representative Sloan said that he would like to take **HB 2973** up at tomorrow's meeting. Representative Powers said that he had a question about discussing **HB 2973** at the next meeting because he was of the understanding that all of the repealers were non-controversial, and if there was any controversy, then he believes they should be left alone. The Chair thanked the subcommittee for a tremendous job, and said that **HB 2973** would be discussed in Committee tomorrow.

Representative Tomlinson said that he had heard a suggestion to amend rather than repeal **HB 2975**, but that the reality still exists that this statute applies to no one single person, and because of county home rule, wouldn't apply to anyone. Having said that, Representative Tomlinson moved that HB 2975 be marked favorable for passage. Representative Ott seconded the motion. Motion passed.

The Chair called the Committee's attention to late written testimony submitted by Tom Winters, Sedgwick County, concerning **HB 2832.**(Attachment 6.)

The meeting adjourned at 2:45 p.m.

The next meeting is scheduled for February 22, 1996.

LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: February 21, 1996

NAME	REPRESENTING
DAN HARDEN	RILEY COUNTY
Jim Williams	Riley County
Charlie Swayze	City Medicine Lodge - Barber
Jim Stickler	Kansas Society of Land Surveyors
Anne Spiess	Ks. Assoc. of Counties
Karen Rowley	KAB



TO: House Committee on Local Government
FROM: Karen Lowery, Coordinator of Governmental Relations
DATE: February 21, 1996

RE: Testimony on H.B. 2971

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear today as an opponent of H.B. 2971, which would make changes in the voting plans of local boards of education.

This bill would strike voting plan A and voting plan B after July 1, 1996 and require all board of education members to be elected by voting plan C. Under voting plan C, in both the primary and general elections, electors vote only on positions in the member districts they reside in and on the at-large position.

KASB believes any changes regarding the election of school board members should remain a local level decision. Current law allows for either the school board or voters to propose changes in the voting method and/or plan. If a community feels changes are needed, the initiative should come from the community, not the state.

Thank you for your consideration.

House Local Government
Attachment 1
2.21.96

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 21, 1996

TESTIMONY ON THE FOLLOWING HOUSE BILLS:

HB 2972, 2973, 2975 and 2977

These bills are part of the repealer subcommittee work. They are primarily amended bills which amount to cleanups and concur with current established practices.

House Local Government
Attachment 2
2-21-96

19-1403a. County engineer in counties over 250,000. In all counties of the state having a population in excess of two hundred fifty thousand (250,000) the elective office of county surveyor is hereby abolished, and all the duties now or hereafter required by law to be performed by the county surveyor shall be performed and discharged by the county engineer of such county. ***No person shall perform the duties of county surveyor who is not a practical and competent surveyor.*** Provided, however, Nothing in this act shall affect the present term of office or duties of any elected county surveyor in such county.

[While the preferred method of handling this statute would be to repeal it the above revision is sufficient.]

28-120. County surveyor; compensation and fees; office hours in counties over 50,000. The county surveyor shall receive such compensation as shall be fixed by the board of county commissioners *in an amount commensurate with prevailing professional wages*, ~~not exceeding the sum of ten dollars (\$10.00) per day, for the time actually and necessarily employed and in going to and in making survey and in returning to his office; for examination of records, for each hour necessarily employed, seventy five cents (75c) not to exceed one (1) day for each survey; for each plat or certificate of survey, three dollars (\$3); for making complete report of surveys made by authority for county or township, three dollars (\$3); for recording surveys and making certified copy of report appealed from, per folio, thirty cents (30c); for serving notices, for first person, seventy five cents (75c); for each additional person, fifty cents (50c); for report of survey and for copies thereof, as required by law, per folio, fifteen cents (15c); actual and reasonable cost of transportation going to, making the survey and returning to his office; Provided, That in counties of more than fifty thousand (50,000) population the *The office of the county surveyor shall be kept open six (6) days in each week in the same fashion as other county administrative offices in the same county*, and the county surveyor for his services in such counties shall receive the sum of four dollars (\$4) per day, for each day his office is open, together with the fees of the office as provided for in this section.~~

[These changes are meant to bring the statute in line with modern practice.]

Subject: http://www.ink.org/ink/statutes/_25_statute-bynum.cgi

Date: 1996-01-25 10:00:10 EST

From: Carla Campbell@ink.org (CTRILEY6)

To: carlacamp@aol.com

> Statute # 68-151f

> Chapter 68.--ROADS AND BRIDGES

> Article 1.--GENERAL PROVISIONS

> Title ~~Certain counties between 175,000 and 250,000;~~ Construction,
> alteration, repair or improvement of roads and bridges; bonds;
> procedure.

>

>

> The board of county commissioners of any
> county ~~having a population of not less than one~~
> ~~hundred seventy five thousand (175,000) nor more~~
> ~~than two hundred fifty thousand (250,000)~~, may,
> by resolution, unanimously adopted by such board,
> declare that it is necessary in said county to
> construct new road or roads, bridge or bridges,
> or alter, widen or improve any existing road or
> roads, or bridge or bridges, or repair, replace,
> rebuild worn, damaged or washed out bridge or
> bridges, and if there are not sufficient funds
> available to pay for such construction, repairs
> or improvements, the board of county
> commissioners may, for the purpose of paying for
> same, issue and sell the bonds of such county in
> an aggregate sum, not in excess of one hundred
> thousand dollars (\$100,000) annually, without the
> necessity of an election. Before the issuance of
> such bonds the board of county commissioners
> shall:

>

> (1) Require the county engineer to prepare
> in writing and file with the county clerk of such
> county, the plans and specifications for such
> construction, improvement or repairs and an
> estimate of the cost;

>

> (2) by resolution adopted by the unanimous
> vote of said board of county commissioners,

>

approve the plans and specifications of the county engineer for such construction, improvement or repairs, and direct the issuance of the bonds of such county for the amount of said estimate.

Any bonds issued by such county, under the provisions of this act, shall be serial bonds, payable in approximately equal annual installments over a period of not to exceed thirty (30) years, and shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and the board of county commissioners shall make a levy on all the taxable property in such county to pay the principal and interest on said bonds as the same become due and payable. All such bonds shall be issued, sold, registered, delivered and retired in accordance with the provisions of the general bond law except as herein otherwise expressly provided.

History

History: L. 1943, ch. 247, S. 1; L. 1957, ch. 355, S. 1; L. 1970, ch. 64, S. 77; L. 1978, ch. 99, S. 33; April 25.

----- Headers -----

From <@ink6.ink.org:CTRILEY6> Thu Jan 25 10:00:00 1996
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Received: from ink.ink.org (INK.INK.ORG [192.159.86.1]) by emin04.mail.aol.com (8.6.12/8.6.12) with SMTP id JAA13133 for <carlacamp@aol.com>; Thu, 25 Jan 1996 09:59:54 -0500
Date: Thu, 25 Jan 1996 09:59:54 -0500
Received: from ink6.ink.org by ink.ink.org id aa28685; 25 Jan 96 8:56 CST
From: CTRILEY6 <"Carla Campbell"@ink.org>
To: carlacamp@aol.com
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Date: 96-01-25 11:03:23 EST

From: Carla Campbell@ink.org (CTRILEY6)

To: carlacamp@aol.com

> Statute # 68-501
> Chapter 68.--ROADS AND BRIDGES
> Article 5.--COUNTY AND TOWNSHIP ROADS
> Title County engineer, appointment, qualifications, approval;
> termination of appointment, when.

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>
> The board of county commissioners of each
> county shall appoint a licensed professional
> engineer, whose official title shall be county
> engineer. Such appointment may be terminated
> without cause on June 1 of any year by a majority
> vote of the board of county commissioners or may
> be terminated for cause at any time by the board
> of county commissioners or by order of the
> secretary of transportation for incompetency or
> by dissolution of a county engineer district:
> Provided, That all appointments of county
> engineers shall be approved by the secretary of
> transportation. The provisions of this section
> shall not disqualify any county engineer who is
> not a licensed professional engineer and who was
> holding office as county engineer on June 30,
> 1961, and any such person shall be eligible for
> appointment as a county engineer.

*1996
48
Cammell*

> History
> History: L. 1917, ch. 264, S. 8; L. 1919,
> ch. 245, S. 2; R.S. 1923, 68-501; L. 1961, ch.
> 299, S. 11; L. 1975, ch. 427, S. 114; Aug. 15.

> Case Annotations
> Research and Practice Aids:
>
> Counties \$YKY 62.
>
> C.J.S. Counties S. 101.
>
> CASE ANNOTATIONS 1. Appointment of county

> surveyor vested in board of commissioners.
> Cornelius v. Robson, 103 K. 467, 469, 173 P.
> 917. 2. Power of appointment fairly within
> scope of title.

> Cornelius v. Robson, 103 K. 467, 469, 173
> P. 917. 3. County engineer is public officer
> and legislature may reduce his salary. Miller v.
> Ottawa County

> Comm'rs, 146 K. 481, 483, 71 P.2d 875. 4.
> County engineer not liable for injuries
> sustained by county employee. Smith v. Higgins,
> 149 K. 477, 479, 87 P.2d 544. 5. County
> engineer not personally liable for negligent
> performance of official duties. Wolf v. Fidelity
> & Deposit Company of Maryland, 174 K. 402, 256
> P.2d 862. 6. Mentioned in holding exemptions
> from vehicle weight limitations (8-1911)
> constitutionally permissible. State v. Moore,
> 237 K. 523, 533, 701 P.2d 684 (1985).
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From: CTRILEY6 <"Carla Campbell"@ink.org>
To: carlacamp@aol.com
Mime-Version: 1.0
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Subject: http://www.ink.org/ink/statutes/_25_statute-bynum.cgi
Message-ID: <9601250959.aa08203@ink.ink.org>

St :tp://www.ink.org/ink/statutes/_25_statute-bynum.cgi
Da 6-01-25 10:01:52 EST
From: Carla Campbell@ink.org (CTRILEY6)
To: carlacamp@aol.com

> Statute # 68-502
> Chapter 68.--ROADS AND BRIDGES
> Article 5.--COUNTY AND TOWNSHIP ROADS
> Title Duties of county engineer.

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>
> It shall be the duty of the county
> engineer, in conformity with the regulations and
> requirements of the secretary of transportation
> to:

>
> (1) Prepare plans and specifications and
> estimates for roads, bridges and culverts to be
> built by the county;

>
> (2) act for the county in all matters
> relating to the supervision of the construction,
> repairing, surfacing, resurfacing and maintenance
> of any roads, bridges or culverts, or anything
> pertaining to rivers, streams or watercourses,
> for which the county pays any part of the cost
> thereof;

>
> (3) visit and inspect the highways and
> culverts in each township of the county or
> district which have been reported as unsafe or in
> need of repair, and advise and direct the
> township board and the road overseer of each
> township as to the best methods of construction,
> repair, maintenance and improvement of such
> highways and culverts;

>
> (4) prepare plans, specifications and
> general regulations governing the construction
> and maintenance of township roads and culverts,
> and upon request furnish copies of the same to
> the township board and to the road overseer of

the several townships of the county or district;

(5) keep a record of all contracts and of all purchases of material, machinery or apparatus to be used in road construction, in excess of \$10,000, approved by the county engineer in any township;

(6) study the soil conditions and collect information concerning the various deposits of gravel, stone, sand, clay and other road and bridge building materials, and to investigate and determine the most approved methods of using the same;

(7) make maps of the roads in the different townships of the county or district, and where there are no other records, or the records are incomplete, and when ordered by the county commissioners, the county engineer shall make maps of plats and file them in the offices of the county clerk and township clerk, which when passed upon and adopted by the board of county commissioners shall be the records of such roads where there are no other records, and shall be additional and supplemental records when the former records are incomplete or imperfect;

(8) answer inquiries and to hold at least one public meeting annually to advise with highway officials in road, bridge and culvert improvement, and to perform all other duties required by law.

History

History: L. 1917, ch. 264, & 9; R.S. 1923, 68-502; L. 1961, ch. 299, & 12; L. 1975, ch. 427, & 115; L. 1984, ch. 253, & 1; July 1.

Case Annotations

Cross References to Related Sections:
Duties of county engineer, see, also, 19-1403.

Research and Practice Aids:

Counties \$YKY 88.

C.J.S. Counties S. 139.

Attorney General's Opinions:

School districts; student transportation;
maintenance of transportation routes. 88-59.
Opening and repair of road by township. 90-60.

CASE ANNOTATIONS 1. County engineer acts
for county in construction and maintenance of
roads. Breedlove v. Wyandotte

County Comm'rs, 127 K. 754, 758, 275 P.
379. 2. County engineer is public officer and
legislature may reduce his salary. Miller v.
Ottawa County

Comm'rs, 146 K. 481, 483, 71 P.2d 875. 3.
County engineer's duties governmental; not
personally liable for negligent performance of
duties. Wolf v. Fidelity & Deposit Company of
Maryland, 174 K. 402, 403, 256 P.2d 862. 4.
Mentioned; on review of order sustaining
demurrer to petition, petition held to state
cause of action enjoining changing of
watercourse. Reeder v. Board of

County Commissioners, 193 K. 182, 184, 392
P.2d 888.

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Date: 96-01-25 10:01:50 EST

From: Carla Campbell@ink.org (CTRILEY6)

To: carlacamp@aol.com

> Statute # 68-504
> Chapter 68.--ROADS AND BRIDGES
> Article 5.--COUNTY AND TOWNSHIP ROADS
> Title Office, assistants, supplies and clerical help for county or
> district engineer.

>
>
> The board of county commissioners of each
> county shall provide the county or district
> engineer with suitable offices, conveniently
> situated, and such assistants, equipment,
> supplies and clerical help as are necessary for
> the proper performance of his duties: Provided,
> That in counties having a population of more than
> five thousand (5,000) and less than seven
> thousand (7,000), with an assessed valuation of
> more than fourteen million dollars (\$14,000,000)
> and less than seventeen million dollars

> (\$17,000,000), in which there is located a
> city of the second class and at least two cities
> of the third class, the salaries, expenses, and
> clerk hire provided for herein may be paid out of
> the general fund, or out of the consolidated road
> and bridge fund, as other county bills are paid.

> History

> History: L. 1917, ch. 264, S. 13; R.S.
> 1923, 68-504; L. 1957, ch. 360, S. 1; June 30.

> Case Annotations

> Attorney General's Opinions:

> County commissioners; employment
> termination of county employees. 88-11.

Date: 96-01-25 11:04:48 EST
From: Carla Campbell@ink.org (CTRILEY6)
To: carlacamp@aol.com

Statute # 68-505
Chapter 68.--ROADS AND BRIDGES
Article 5.--COUNTY AND TOWNSHIP ROADS
Title Bond of engineer.

Before entering upon his duties the county engineer shall give a bond unto the state of Kansas with surety to be approved by the board of county commissioners in the sum \$2,500, conditioned upon the faithful discharge of his duties and the protection, care and return of all property of the county which may come into his custody: Provided, Where the county engineer districts have been formed the bond shall be made payable to the state of Kansas for use of each county forming such district.

History

History: L. 1917, ch. 264, S. 14; March 7;
R.S. 1923, 68-505.

Case Annotations

Research and Practice Aids: Bond of county engineer, Vernon's Kansas Forms S. 9431.

CASE ANNOTATIONS 1. County engineer not liable for injuries sustained by county employee. Smith v. Higgins, 149 K. 477, 478, 479, 480, 87 P.2d 544.

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Da 96-01-25 10:02:29 EST
From: Carla Campbell@ink.org (CTRILEY6)
To: carlacamp@aol.com

> Statute # 68-506
> Chapter 68.--ROADS AND BRIDGES
> Article 5.--COUNTY AND TOWNSHIP ROADS
> Title Classification and designation of roads in noncounty unit road
> system counties; improvement and maintenance of certain streets and
> highways.

>

>

> (a) In counties which have not adopted the
> county unit road system, it shall be the duty of
> the boards of county commissioners with the
> approval of the county engineers in their
> respective counties, to classify and designate
> the roads and highways within such county within
> the following classes:

>

> (1) "Secondary roads or highways" which
> shall include all county roads and highways
> designated for inclusion in the secondary road
> system in accordance with K.S.A. 68-1701 to
> 68-1704, and amendments thereto;

>

> (2) "county minor collector roads or
> highways" which shall include all county roads
> and highways, not designated for inclusion in the
> secondary road system, which are main traveled
> roads utilized and designed primarily for the
> movement of traffic between different areas of
> the county; and

>

> (3) "township or local service roads" which
> shall include all roads and highways not
> designated for inclusion in the secondary road
> system or as county minor collector roads or
> highways.

>

> (b) Whenever any county secondary road or

> highway or county minor collector road or highway
> is located partly within and partly without a
> city or connects any such road or highway with a
> city, by and with the consent of the governing
> body the board of county commissioners is hereby
> given power and authority and required to
> designate such public road or highway as a part
> of the county road or highway system, and it
> shall be improved and maintained as other parts
> of the county road system, except that the
> governing body of such city may aid in the
> construction, maintenance and improvement of such
> road or highway as it would were the road or
> highway wholly within the corporate limits of the
> city and may improve any such city boundary line
> road or street in the manner provided by K.S.A.
> 12-693, and amendments thereto. When a road or
> highway is being, or has been, improved by the
> county where state or federal aid has been
> extended in the improvement of such road or
> highway, and such road or highway terminates at
> the city limits, and where a road or highway has
> been or shall be constructed with federal aid,
> which such road or highway terminates at a state
> line, and the state line is the corporate limits
> of a city within this state, the secretary of
> transportation is hereby authorized and empowered
> to extend federal aid, and the board of county
> commissioners, on the application of the
> governing body of the city, shall declare such
> city through which a street or streets form a
> connection between such roads or highways, a
> benefit district, and shall extend state aid on
> that part of the road or highway lying within the
> city limits in the same way and in the same
> manner as they extend aid in the improvement of
> the road or highway outside of the city limits.
> The secretary of transportation is hereby
> authorized and empowered to cooperate and deal
> with the governing body of the city, board of
> county commissioners, or other interested parties
> that provide funds to take care of the local part

> of the costs of the improvement of the road or
> highway lying within the city limits, and such
> improvement shall be under the supervision and
> direction of the secretary as provided for in the
> improvement of other roads and highways of like
> nature in the county.

> (c) The county engineer and the boards of
> county commissioners may shift road or highway
> mileage from one county road or highway
> classification to another as continuing study
> indicates that such changes are needed by reason
> of changing traffic needs or for other reasons
> substantiated by engineering analysis, except
> that no road or highway mileage may be shifted to
> or from the secondary road system except as
> provided in article 17 of chapter 68 of the
> Kansas Statutes Annotated and amendments thereto.

> History

> History: L. 1917, ch. 264, & 15; L. 1921,
> ch. 219, & 1; R.S. 1923, 68-506; L. 1925, ch.
> 211, & 1; L. 1935, ch. 249, & 1; L. 1945, ch.
> 267, & 1; L. 1949, ch. 344, & 4; L. 1961, ch.
> 299, & 13; L. 1975, ch. 427, & 117; L. 1986, ch.
> 252, & 2; L. 1988, ch. 270, & 2; July 1.

> Case Annotations

> Source or prior law:

> L. 1911, ch. 248, S. 18.

> Cross References to Related Sections:

> Validation of certain acts of cities, see
> 68-506b.

> Research and Practice Aids: Highways \$YKY
> 44(1).

> C.J.S. Highways S. 64 et seq.

> Attorney General's Opinions:

> Classification and designation of roads in

> a noncounty road system. 85-172.

> Legal liability of townships. 86-108.
> Maintenance of township road by county. 87-22.

> Classification and designation of roads in
> noncounty unit road system counties. 91-140.

> CASE ANNOTATIONS 1. Commissioners required
> to make new classifications of roads in county.
> Irwin v. Finney County, 106 K. 171, 172, 186 P.
> 975. 2. County not liable for defective highway
> unless designated county highway. Irwin v.
> Finney County, 106 K. 171, 172, 186 P. 975. 3.
> Evidence held sufficient to establish road as
> township road. Watson v. Parker Township, 113 K.
> 130, 213 P. 1051, 1052. 4. Section cited in
> considering authority of county board over road.
> Stock Farm Co. v. Pottawatomie

> County, 116 K. 315, 318, 226 P. 781. 5.
> County not required to surface with gravel when
> required to improve county road. Neosho County

> Comm'rs v. Burdick, 120 K. 698, 699, 244 P.
> 866. 6. Initiative and referendum not
> applicable to highway improvement co-operation
> in city.

> State, ex rel., v. Morton, 128 K. 125, 276
> P. 62. 7. State highway commission not liable
> for improvement under act.

> State, ex rel., v. State Highway Comm., 137
> K. 800, 22 P.2d 969. 8. County road taken into
> state highway system; state highway commission
> liable on county's contract. Verdigris River
> Drainage Dist. v. State Highway

> Comm., 155 K. 323, 325, 329, 125 P.2d 387.

> Case Annotations

> 68-506.

> Case Annotations
> Attorney General's Opinions:
>
> Secondary road system; classification of
> roads in noncounty unit road system. 93-37.
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Date: 96-01-25 10:03:48 EST

From: Carla Campbell@ink.org (CTRILEY6)

To: carlacamp@aol.com

> Statute # 68-508
> Chapter 68.--ROADS AND BRIDGES
> Article 5.--COUNTY AND TOWNSHIP ROADS
> Title Maps of county roads; filing by county engineer for correction
> and approval.

>
>

> As soon as the county roads are so
> designated, the county engineer shall mark them
> upon some map which shows the public roads and
> section lines in the county, and for this purpose
> existing atlas maps may be used, provided the
> county roads selected are plainly marked thereon.
> The map shall be filed with the board of county
> commissioners of such county for correction and
> approval.

> History

> History: L. 1917, ch. 264, S. 17; March 7;
> R.S. 1923, 68-508.

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o: carlacamp@aol.com

Statute # 68-541
Chapter 68.--ROADS AND BRIDGES
Article 5.--COUNTY AND TOWNSHIP ROADS
Title Forms for accounts and reports.

All forms and blanks necessary to secure
uniformity of records and reports in the system
herein provided shall be prescribed by the
secretary of transportation.

History

History: L. 1917, ch. 264, S. 48; R.S.
1923, 68-541; L. 1975, ch. 427, S. 123; Aug. 15.

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8.305. **Marking of vehicles of political subdivisions; how marked; exceptions.** All motor vehicles owned or leased by any political subdivision of the state of Kansas shall bear the name of the political subdivision owning such vehicle plainly printed on both sides thereof, in plain letters: ~~not less than two inches in height and with not less than 1/4 inch stroke, together with the name of the political subdivision.~~ This act shall not apply to the following: Municipal fire apparatus, police patrols and ambulances, ~~the general appearances of which is unmistakable;~~ passengers vehicles used by plain clothes officers or community corrections personnel working in the employ of any political subdivision; and motor vehicles owned or leased by any municipal university. ~~Each motor vehicle of every political subdivision shall bear a separate serial identification number which shall follow the name of the political subdivision. Such motor vehicle, when, lettering or number thereon shall become illegible, shall be relettered or renumbered as required in this section. Such lettering and numbering shall be on a part of the vehicle itself and not on a removable plate or placard of any kind, and shall be kept clean and visible at all times.~~

History: L. 1951, ch. 119 § 2; L. 1970, ch. 53, § 1; L. 1972, ch.29, § 16; L. 1982, ch. 43, § 1; L. 1990, ch. 46, § 1; July 1.



**TESTIMONY OF
DAN HARDEN, P.E.
RILEY COUNTY ENGINEER
21 FEBRUARY 1997**

**BEFORE
HOUSE LOCAL GOVERNMENT
KENT GLASSCOCK, CHAIRMAN**

Chairman Glasscock, members of House Local Government, I appreciate being given the opportunity to address this committee. I will discuss 5 bills with you today. These 5 are HB 2972, HB 2973, HB 2974, HB 2975, and HB 2977.

HB 2972

HB 2972 repeals KSA 19-1403a and KSA 28-120. KSA 19-1403a abolished the office of county surveyor in counties with population over 250,000 and transferred these duties to the county engineer in 1957. This statute violates the KARs promulgated by the Board of Technical Professions since 1957. These regulations prohibit engineers from practicing surveying. This statute is therefore obsolete and should be repealed.

KSA 28-120 sets the fees, office hours and compensation for the county surveyor in counties

over 50,000 in population. Fees and compensation are in 1923 dollars. Hours are 6 days a week. The County Surveyor is to be paid \$4 per day. I know of no county that follows this statute. It is obsolete and should therefore be repealed.

HB 2973

HB 2976 repeals KSA 68-501 and replaces it with a new statute. Since the introduction of HB 2973 there have been several discussions between the affected parties; the Kansas County Highway Association, the Kansas County Commissioners Association, the Kansas Department of Transportation, the Kansas Consulting Engineers and the Kansas Engineering Society. Additional consideration by these affected parties is needed. It is my recommendation that further consideration of HB 2973 by this committee be delayed until such time as all of the aforementioned organizations can come together and fully discuss the ramifications of the proposed changes. I would not anticipate this happening before the end of this session.

HB 2974

HB 2974 repeals KSA 68-128a. This statute deals with the matter of low volume roads located in pastures. The statute allows counties to build substandard roads across pastures. This law was practical when Kansas counties enjoyed immunity from tort claim liability. With the advent of tort

claim liability exposure for counties this law is now obsolete and should be repealed.

HB 2975

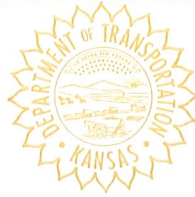
HB 2975 repeals KSA 68-151f and KSA 68-571. KSA 68-151f applies to only those counties with populations greater than 175,000 but less than 250,000. It allows counties of this size to bond certain road and bridge construction. Since the law does not apply uniformly to all Kansas counties; any county, by charter resolution, may home rule itself out from under the population restrictions. In reality then the law applies to all counties. I am suggesting that we be honest with all Kansans that read the statute books and rewrite the law to apply to all Kansas counties. I am not proposing a repeal of this law. I am proposing a change in this law.

KSA 68-571 applies only to counties with a population greater than 140,000. The law prescribes actions a qualifying county can take to insure roads in new real estate developments built by developers are built to or in excess of a minimum county standard for roads of this type. This law is also subject to the aforementioned charter resolution process. Since it then applies to everyone, the law should be so written.

HB 2977

HB 2977 repeals KSA 8-305. This law requires painted serial numbering on all public vehicles and painted on identification signs. The lettering must be done with 1/4 inch stroke letters or larger. Magnetic signs are not allowed. This statute is generally not being followed. Car dealers discourage painting on cars as it destroys resale value. Since the Legislature allowed individual public vehicle license plates several years ago, all county vehicles now bear a license plate that carries a unique number and carries the word "county" across the plate. All county vehicles are therefore already marked and specifically identified in a way that does not decrease the value of the public investment in the vehicle. Because of this change I believe this statute to be obsolescent as well.

This concludes my testimony. Thank you allowing me to present this testimony to the committee.



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
TTY (913) 296-3585
FAX (913) 296-1095

Bill Graves
Governor of Kansas

**TESTIMONY BEFORE THE
HOUSE COMMITTEE ON LOCAL GOVERNMENT
Regarding H.B. 2973
Relating to County Engineers
CONCERNING HOUSE BILL 2973**

February 21, 1996

Mr. Chairman and Committee Members:

The Kansas Department of Transportation (KDOT) appreciates the opportunity to share with the House Local Government Committee several concerns we have with proposed H.B. 2973.

H.B. 2973 amends one and repeals six existing statutes relating to the hiring, duties and responsibilities of the county engineer. KDOT is most concerned about the suggested amendments to K.S.A. 68-501 and the repealing of K.S.A. 68-502. These two statutes prescribe the hiring process, qualification and duties for the county engineer. Under K.S.A. 68-501, the county engineer is appointed by the board of county commissioners and approved by the Secretary of Transportation. This official is required to be a licensed professional engineer. K.S.A. 68-502 lists the specific duties required to be done by the county engineer. H.B. 2973 would eliminate the requirement that the county engineer's appointments be approved by KDOT as well as the section listing specific duties.

K.S.A. 68-501 as currently written provides for a statutory link with KDOT by having the county engineer approved by the Secretary of Transportation. We believe this statutory link is important because KDOT's district engineers and headquarters staff, and the county engineers have common technical and management concerns and problems to address when maintaining and improving their respective highway/road systems. The appointment of county engineers and approval requirements by the Secretary gives notice to the public of the link which encourages and provides professional standards being used as the basis for managing their portion of the approximately 109,000 miles of county roads and 20,000 bridges.

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K.S.A. 68-502 provides eight (8) official duties of the county engineer which address the effort necessary for a roadway system to be consistent for those who drive on county roads. K.S.A. 68-502 authorizes KDOT to provide guidance and assist the county engineer in preparation of uniform plans and specifications, making road improvements, collecting roadway data, preparation of maps, providing technical information, etc. County and state roads have common intersections, grade lines, right of way, warning and mandatory signs, railroad crossings, soils and pavement conditions, drainage problems, structures, automobile and truck traffic and snow to be removed. The counties also participate in federal aid programs with pass thru funds. KDOT has frequent contact with the county engineer or the person appointed by the counties to function in this management capacity. KDOT believes that these common roadway features, data elements and funding programs are best addressed by a professional engineer. In addition, we believe that the uniform administration of duties which K.S.A. 68-502 provides is important for maintaining a roadway system with consistent features and that is safe for Kansas motorists.

The Department understands that there are concerns about the current system for employing county engineers which need to be addressed. KDOT would be willing to participate with those involved in an effort to identify other possible solutions to the problems. However, we are hopeful that solutions to these concerns can be found which enhances rather than reduces the level of uniformity and professionalism with which our county roads are managed.

Testimony before the House Committee of Local Government

from

Michael D. Kelly, Kansas Land Surveyor #869
Chair, Legislative Committee, Kansas Society of Land Surveyors

Re: HB#2972, an act repealing K.S.A. 19-1403a and K.S.A. 28-120

The proposed bill is before the committee of local government as a result of a systematic review of existing statutes by the Kansas Society of Land Surveyors (KSLS). The KSLS Legislative Committee (composed of a county surveyor, a county engineer/county surveyor, a surveyor employed by a county, and two surveyors in private practice) identified many statutes requiring update to reflect modern practice and recently enacted statutes and/or regulations.

K.S.A. 19-1403a should be repealed because it stipulates the county engineer should perform/discharge "duties" that can legally only be performed by a land surveyor. The practices of land surveying and engineering are independent disciplines and both are regulated by the Kansas State Board of Technical Professions. A person must be licensed by the Board to practice either profession, per K.S.A. 74-7001. The unlawful practice of a technical profession in Kansas is a Class A misdemeanor, per K.S.A. 74-7029.

K.S.A. 28-120 should be repealed because it mandates specific monetary amounts for wages and fees for services to be rendered to the public by the county surveyor. It also mandates the office of the county surveyor be kept open six (6) days each week. It is the position of KSLS that both wages and office hours should be based on modern, local prevailing practices.

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TOM WINTERS
Commissioner - Third District
CHAIRMAN

BOARD OF COUNTY COMMISSIONERS
SEDGWICK COUNTY, KANSAS

COUNTY COURTHOUSE - SUITE 320 - 525 NORTH MAIN - WICHITA, KANSAS 67203-3759
TELEPHONE (316) 383-7411 - FAX (316) 383-8275

February 16, 1996

Representative Kent Glasscock, Chairman
House Committee on Local Government
300 SW 10th Ave, Room 115-S
Topeka, KS 66612-1504

Dear Chairman Glasscock:

On Wednesday, February 14, the House Committee on Local Government held a hearing on HB 2832 regarding consolidation of elected county offices. I understand that references were made to McPherson and Sedgwick counties, but details were sketchy. Please allow me to clear up any misunderstandings about events in Sedgwick County.

I believe the situation referred to by Committee members involves the recent creation of a Geographic Information System (GIS) department in our county organization. Since early 1994, Sedgwick County has been working cooperatively with the City of Wichita and other entities to develop a GIS for the community. A GIS uses computer-based technology for storing, organizing, and retrieving all kinds of regional data based on their locations on a map.

A policy group was formed to address GIS issues. Members of the policy group were the County Appraiser, County Clerk, Information Services Director, City/County Planning Department representative, Deputy Public Services Director, and an Assistant County Manager. In 1995, the policy group unanimously proposed establishment of a GIS department, which was subsequently approved by the County Commission in its 1996 budget. Three departments, the Appraiser, Clerk, and Information Services, agreed to provide most of the personnel resources. In return, a commitment was made to continue to satisfy the mapping needs of these departments.

The County Clerk withdrew one of four promised staff positions prior to the proposal's submission. After the Board of County Commissioners approved establishment of a new department using staff

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positions donated by the three departments, the County Clerk sought to withdraw the three positions she had contributed to the department, citing concern that "her statutory mapping responsibilities" would not be assured. Research by our County Counselor indicates that providing maps is not a statutory duty of the County Clerk, although it has been customary in Sedgwick County for the Clerk to provide courtesy maps to the real estate industry and other members of the public.

The advantages of having a state-of-the-art GIS department to serve the Sedgwick County community are undisputed. Our system was devised using input from all stakeholders with the intent of providing the highest quality service possible in an efficient manner while ensuring accountability to users and to the community. It is my understanding that when reappraisal was required by the State of Kansas in the late 1980s, the State also encouraged consolidation of mapping responsibilities into one entity. Compared to the rest of the country, Sedgwick County is somewhat behind in providing GIS. Our staff surveyed the 21 Kansas counties with populations greater than 25,000 and found that the Clerk is not in charge of mapping in any of these counties and that in only two counties does the clerk even participate in mapping.

The Board of County Commissioners has assured the County Clerk that her mapping needs will be met by the GIS department. In addition, the Clerk serves on the GIS Advisory Committee, which advises the department on policy direction, troubleshooting, time schedules, and other matters.

Regarding HB 2832, although the effects of this bill are somewhat confusing, I do not believe Sedgwick County's establishment of a GIS department has any relationship to this bill. The Board of County Commissioners had no intention of eliminating an elected county office or stripping an elected office of its statutory duties.

Thank you for allowing me to clear the air. The business of Sedgwick County government is an open book. Please let me know if I can provide additional information on this matter.

Respectfully,



Thomas G. Winters
Chairman

cc: Representative Daniel Thimesch
Willie Martin, Director of Intergovernmental Affairs, Sedgwick County

The above voting scheme was challenged as an unconstitutional violation of equal protection in *Provance v. Shawnee Mission U.S.D. No. 512*, 231 Kan. 636, 648 P.2d 710 (1982). The court upheld the voting scheme after determining that a rational basis test rather than a strict scrutiny test should apply to a "single shot" referendum involving a question which was "likely to be of special interest to a particular well-defined portion of the electorate." See *Provance v. Shawnee Mission U.S.D. No. 512*, 235 Kan. 927, 683 P.2d 902 (1984) where the court denied an attempt to reopen issues on remand of the prior case. See also Op. Att'y Gen. 91 (1985) which said the Mail Ballot Election Act could be utilized to conduct an election under K.S.A. 72-8136(e).

Other statutory procedures which can result in school building closures include: loss of accreditation under K.S.A. 72-8213(e), attachment or transfer of territory under K.S.A. 72-8213(f), new facilities serving an entire district under K.S.A. 72-8213(h), state fire marshall orders and recommendations under K.S.A. 31-144, and agreements between school districts under K.S.A. 72-8233.

§11.16 E. Change of Use

School boards may change the use of any school building so long as the building is operated or used for pupil attendance. See K.S.A. 72-8213(g).

F. Organization of School Boards—Election

§11.17 1. School Board Membership

All school boards have seven elected members except the Fort Leavenworth School District which has three appointed members. See K.S.A. 72-7901 and 72-5333a. Elected school board members serve for four-year terms and are elected on a nonpartisan basis. Board members can be elected by district, or at-large, depending on the voting method adopted. See K.S.A. 72-7901. Board members may not receive any compensation for any work or duties performed. See K.S.A. 72-8202e.

Following is a summary of the various school board member election plans and voting methods available and the procedures that must be followed in changing them. See K.S.A. 72-7901 *et seq.*

§11.18 2. Alternative District Methods

Generally, the Kansas law authorizes five different methods for the election of school board members. See K.S.A. 72-7901 *et seq.* These include the following:

- (1) *Two District Method.*
Two election districts are created. Three school board members are elected from each district and one member is elected at large. Voting plan B is used.
- (2) *Three District Method.*
Three election districts are created and two school board members are elected from each district. One member is elected at large. Voting

plan B is used.

- (3) *Five District Method.*
Five election districts are created. Five school board members are elected, one from each district and two members are elected at large. Voting plan C is used.
- (4) *Six District Method.*
Six election districts are created for the election of school board members and one board member is elected at large. Voting plan C is used.
- (5) *At Large Method.*
All seven board members are elected at large. Voting plan A is used.

§11.19 3. Voting Plans

Three different voting plans are established to match up with the election method chosen for school board members. See K.S.A. 72-8003. The voting plan selected is based partially on the election district method being used. The voting plans are:

- (1) *Voting Plan-A.*
All electors who reside in the school district vote in both the primary and general election for all member positions to be filled. This voting plan is only used with the at-large school board member election method.
- (2) *Voting Plan-B.*
In the primary election all electors who reside in the member district vote for the member positions in their member district and for the at-large member positions. In the general election, electors may vote for *all* member positions to be filled, including the at-large positions.
- (3) *Voting Plan-C.*
In both the primary and general election all electors who reside in a particular member district only vote for the school board member positions of their district and for the at-large positions.

§11.20 4. Procedures for Changing Election Method or Plan

A school board may change its election method or voting plan to any of those provided in the law. Change in election methods or voting plans may be initiated either by the school board or by the electors of the district. See K.S.A. 72-8005. Any change must be approved by school district voters at an election. See K.S.A. 72-8001.

Regardless of whether a change in the election plan or voting method is board or elector initiated, there are certain conditions that apply: districts must be contiguous and compact; districts must have equal population, as nearly as practicable; districts must include all of the territory of the school district; no territory of the district may be included in more than one member district; and member districts must be planned so that no holdover members are displaced. See K.S.A. 72-8004.