

## MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:08 a.m. on January 30, 1996, in Room 531-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Senator Nancey Harrington  
Terrell Black, Morton Township, Sedgwick County  
Allen Patterson, Richland Township, Harvey County  
Alvin Claassen, Murdock Township, Butler County  
Gerry Ray, Johnson County Commission  
Rebecca Floyd, Attorney General's office  
Theresa Marcel Nuckolls, Attorney General's office  
Gale Haag, State Fire Marshal's office  
Mike Taylor, City of Wichita

Others attending: See attached list

**SB 541: Concerning townships; relating to the governing body thereof; relating to compensation thereof.**

Staff explained that **SB 541** amends statutes which authorize township board members to perform road work on township roads. The amendment would make the amount of compensation to be paid for road work performed by board members uniform throughout the state whereas under current law the amount of compensation varies from township to township.

Senator Nancey Harrington testified in support of **SB 541** and briefly explained the intent of the bill. (Attachment 1) She noted that others were present to present more detailed testimony in support.

Terrell Black, representing Morton Township in Sedgwick County, testified in support of **SB 541** as a means to eliminate problems concerning compensation to board members who perform road work when no other option is available. (Attachment 2)

Allen Patterson, representing Richland Township in Harvey County, testified further in support of **SB 541** as a means of updating the law to enable legal payment to their township motor grader operator. (Attachment 3)

Alvin Claassen, representing Murdock Township in Butler County, testified in support of **SB 541** as a means to enable his township to continue operating in a legal, responsible manner. (Attachment 4)

Written testimony in support of **SB 541** was submitted by Doc Herndon of Attica Township in Sedgwick County and Duane Sanders of Lincoln Township in Sedgwick County. (Attachments 5 and 6)

Committee discussion followed regarding the stricken language in Section 1 of the bill relating to the salary to be paid to board members. It was determined that the language should be reinserted.

Senator Feleciano moved to amend **SB 541** by reinserting the stricken language in Section 1 and by changing the effective date from "publication in the statute book" to "publication in the Kansas Register" and that the bill be recommend favorable for passage as amended, seconded by Senator Ramirez. The motion carried.

Gerry Ray, Johnson County Commission, requested the introduction of a bill relating to the use of funds

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on January 30, 1996.

received from sand royalties by counties. She explained that Johnson County has a backlog of funds which cannot be used under current statutory restrictions in K.S. A. 82a309. (Attachment 7)

Senator Ramirez moved that the bill be introduced, seconded by Senator Feleciano. The motion carried.

Rebecca Floyd, office of the Attorney General, requested the introduction of a bill which would amend K.S.A. 10-108 (d) to allow the assistant attorney general who currently reviews bond transcripts to expand the duties of the position. (Attachment 8)

Senator Ramirez moved that the bill be introduced, seconded by Senator Ranson. The motion carried.

Theresa Nuckolls, office of the Attorney General, requested the introduction of a bill which would amend the Kansas Open Meetings act. It would encourage public agencies to tape executive session discussions for limited access to public prosecutors or courts in open meeting investigations. (Attachment 8)

Senator Ramirez moved that the bill be introduced, seconded by Senator Downey. The motion carried.

Gale Haag, State Fire Marshal's office, requested the introduction of a bill which would amend K.S.A. 31-139. The bill would allow the State Fire Marshal to commission deputies on a voluntary basis in local fire departments to legally represent the Fire Marshal in inspections. The State Fire Marshal would follow with enforcement. (Attachment 9)

Senator Langworthy moved that the bill be introduced, seconded by Senator Ramirez. The motion carried.

Senator Gooch introduced Mike Taylor, representing the City of Wichita, who requested the introduction of a bill involving the home rule issue and liquor licenses in the City of Wichita. The bill would apply statewide but would include a local option for cities.

Senator Langworthy moved that the bill be introduced, seconded by Senator Ranson. The motion carried.

The minutes of January 23 were approved.

The meeting was adjourned at 9:50 a.m.

The next meeting is scheduled for February 6, 1996.

# LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: January 30, 1996

NAME	REPRESENTING
Mike Taylor	City of Wichita
Jim Coder	State Fire Marshal
Gale Haag	State Fire Marshal
Dick Foller	STATE DEPT OF ADM.
Daniel J. Thumisch	State Rep
Nancy Hammon	St. Senate
Terrell Black	MORTON TOWNSHIP, LEMAY.
Alvin Claassen	Murdock Township, Butler Co
Allen Patterson	Richland Township, Harvey Co
Theresa Marcel Suckolls	AG's office
Rebecca Floyd	AG's
W. Martin	Judge Co.
Gerry Ray	Johnson Co. Commission
Chris Wilson	KS Governmental Consulting

NANCEY HARRINGTON  
SENATOR TWENTY-SIXTH DISTRICT  
9811 SOUTH 183RD WEST  
CLEARWATER, KANSAS 67026  
(316) 584-3267

STATE CAPITOL  
ROOM 143-N  
TOPEKA, KANSAS 66612-1504  
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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
EDUCATION  
PUBLIC HEALTH AND WELFARE  
TRANSPORTATION

SENATE LOCAL GOVERNMENT COMMITTEE  
TESTIMONY FOR SB 541

Senator Nancey Harrington  
January 30, 1996

To Chairman Parkinson and Committee Members,

Senate Bill No. 541 amends four statutes in chapter 68. In general, these statutes authorize members of the township board to perform road work on township roads. Under current law, the amount of compensation received by township board members varies from township to township, depending upon the size of the township and in which county the township is located.

The amendments in the bill would authorize the township board to determine the amount of compensation to be paid to board members for road work. The amount would not exceed that which county employees receive for such work.

Members of the board also would be reimbursed for actual and necessary expenses.

A quarterly report of the amount paid to township board members for such work is required to be filed with the county clerk. Notice that such information is also required to be published in a newspaper of general circulation in the township.

Thank you and I ask your support for SB 541.

*Senate Local Gov't  
1-30-96  
Attachment 1*

Good morning Senators, Ladies and Gentlemen.

My name is Terrell Black. I represent a small township in western Sedgwick County called Morton Township. We cover the area around the town called Cheney. I have served as president of the Sedgwick County Township Association for three years until last February. Most of Morton Township is a rural area. We have an operator who runs a road grader, tractor, mower, and does whatever else needs to be done. There has been several times when our operator has been too busy to perform another task. When that happens, there is no one else around except for us township board members. That is when we as board members assist our operator. If we were unable to do this, the services that we provide would suffer. The citizens that I represent demand good services by their township regardless of who does the work. They also like the township form of government because we are one of the most efficient forms of government there is and we are also more one on one with our constituents than most forms of government.

Recently, there have been some problems with the statute that deals with compensation that no one knew existed. Several of my constituents that I have talked to since this has come up, feel that if we perform work, regardless of what we do, we should be paid at a fair and equitable rate. The citizens that I represent also feel that if you are on the Township Board, you should be able to do the work and get paid for the work that you do at a reasonable rate, if you cannot find anyone. Sometimes we have no choice, but to do the work ourselves, because of an emergency that has come up or in finding someone that is qualified to run a piece of equipment such as a \$250,000 road grader or a \$10,000 tractor. In the rural areas, help is sometimes hard to find, especially on a short notice or on a part time basis. Most of the township board members in the areas around my township are not on the board to make a living, nor do they intend to. However, sometimes there leaves no option but to do the work ourselves.

The proposed bill that deals with compensation for township board members should be approved. I feel that this would eliminate a lot of our problems concerning compensation. If we pay ourselves too much, then, we will have to answer to our constituents and/or they will vote us out of office. The citizens that I represent will benefit because there will not be any hesitation when there is a task that needs to be done and there is no one else to do it.

In closing, I would ask for your support in this legislation and ask that this take effect July 1 instead of waiting for publication of the statute book. This will enable all townships the ability to get the work done that the citizens are expecting to be done without any hesitation. I would like to thank you for letting me have the opportunity to speak in regards to this matter and I would answer any questions that you may have. Thank you!

*Senate Local Government  
1-30-96  
Attachment 2*

I am Allen Patterson treas. for Richland township  
in Harvey County Ks.

The Trustee was elected because he could operate  
the motor grader.

The clerk was elected for his experience with  
road maintance and does our maintance on the motor  
grader and truck.

I feel the 1917 Law should be brought up to date  
so we can legally pay our motor grader operater.

Thank You

Senate Local Gov't

1-30-96

Attachment 3

My name is Alvin Claassen. I am the trustee of Murdock Township, Butler County, Kansas. I have worked for Murdock Township for 22 years and have been Trustee for 15 years.

At times during the last 15 years, our County Clerk has sent us copies of laws or attorney's opinions of laws that pertain to the amount of pay a township official may receive. In 1993 our County Attorney compiled into a book the laws he could find regarding township officials conduct and business. Even with this help we are not sure that what we are doing is legal. We mostly learned to operate the township from preceding township boards. To date we have not received much complaint or any threat of action against us by residents.

This proposed bill would enable us to continue operating our townships in a responsible manner without the threat of action such as those in Sedgwick County have received. I especially like that no dollar amounts are included because in 2 or 3 years those amounts become obsolete.

Senate Local Gov't  
1-30-96  
Attachment 4

To the Committee on Local Government

Chair and Members of the Local Government Committee, I am Doc Herndon, Boardmember, Attica Township. I am speaking in support of the proposed legislation. Attica Township is unique, in that the proposed legislation will not affect us at this time, as we are adjacent to Wichita and have a full-time employee, which is our road overseer.

Therefore, none of our board has to perform the duties that the smaller townships are confronted with. We are certainly in sympathy with them, and there should be some flexibility in our laws that will allow them to be compensated when they, as Boardmembers, cannot hire and must do the work that residents in the townships expect. It would only be fair.

*Senate Local Gov't  
1-30-96  
Attachment 5*



To the Committee on Local Government

Chair and Members of the Local Government Committee, I am Duane Sanders and I have served as Lincoln Township Treasurer for over 20 years in Sedgwick County. I do not serve for the prestige of the office nor the money I receive, I serve because of my neighbors and friends. Someone has to provide roads for school buses, mail carriers, milk trucks, grain trucks and feed delivery trucks who service the agriculture community. Then we also must provide roads to accommodate those people who reside in the rural area that have jobs in town and whose employers expect them to be there on time, five days a week.

For twenty years we have done our job very much like our predecessors. We have done what was necessary to get the job done. If we couldn't hire someone to do the job, we did it ourselves, if we were able, as did those who served before us. Our budgets are published, a

*Senate Local Gov't  
1-30-96  
Attachment 6*

report of receipts and expenditures is published and our board meetings are open to all. We have nothing to hide. We work out in front of peoples' houses.

Recently, we were informed we were breaking the laws of the State. I'm sure it's not just Sedgwick County, because the townships across the line in Butler, Harvey and Sumner counties are operating in much the same manner --board members operating graders and other machinery necessary to the maintenance of roads. They and their county officials probably are unaware of the laws that still govern them.

Some of the laws that affect us are statutes that were enacted in 1917, and we are living in the space age. Riverside Township in Sedgwick County joins the city limits of Wichita. Riverside Township has 14,000 residents, making it larger than 60% of the incorporated cities in Kansas. Their budget is \$527,000. K.S.A. 525 says their board members cannot be paid more than \$600 each per annum. That hardly seems

just compensation for someone who administers funds of that value and also serves the needs of 14,000 people.

Lincoln Township, where I live, has a budget of \$60,000 and less than 500 people, with 50 miles of gravel roads to maintain. We can't afford a full time operator, nor can we find a qualified part time operator. A new grader lists for \$250,000, so you are particular who you put on the machine. We have two board members qualified to operate a blade, and one of them has the time, usually, so he runs it and is paid about \$10,000 per year, at \$7.50 per hour, hardly a high salary. K.S.A. 530, which also was enacted in 1917, limits our township board members to \$1,000 per year compensation for services performed.

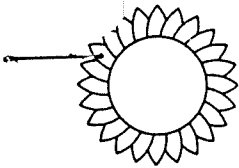
I asked a 90 year old man what wages were in 1917 and he said, "\$2.00 per day and maybe \$2.50, if the person was extra good." I asked a 96 year old school teacher and she couldn't remember about day wages , but said

she started teaching in 1917 and was paid \$50 per month. I had some research done and we found that legislators in 1917 were paid \$3.00 per day while in session, according to General Statute 143. I'm sure you know the amount of your compensation at this time. If my math is correct, a township official could be paid \$1,000 per year. With wages at \$2.50 per day, a man could be paid 400 days wages for a 260 working day year. Not bad.

I am in support of this proposed bill. It is not meant to raise compensation, only allow us to legally do what we have been doing for decades. Doing what is necessary to serve the needs of our township residents.

The checks and balances are included, published budgets, published expenditures, review of budgets and expenditures by County Commissioners and best of all, the ballot. Our neighbors can see what we are doing all of the time, for we do our job right out in front of

their houses. We have nothing to hide. Our sole purpose is to serve our neighbors, if we are allowed to do so. Thank you for anything you can do for us.



Johnson County  
Kansas

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January 25, 1996

TO: Senator Mark Parkinson  
FROM: Gerry Ray  
Johnson County Commission  
SUBJ: Sand Royalties

Currently K.S.A 82a309 places restrictions on counties as to the use of funds received from sand royalties. The use of the funds are limited to actual cleaning and maintenance of state rivers. In Johnson County there is a ten year backlog of funds for which there is nothing to use it for (under the restrictions) in our area. The present balance is \$100,000 and it grows by \$10,000 each year.

The Park and Recreation Department has recommended legislation that will allow the money to be used for development and maintenance along the state streams or tributaries adjacent to the streams. It seems much more logical to utilize the money in this manner than to just carry it over each year in the county's budget.

The following language is suggested: K.S.A. 82a309, New Sub section 2(C): In any county which has established a park and recreation district, the amount allotted to the county may be utilized for preservation of land and creation of public areas along the state streams or tributaries adjacent to such streams.

The Johnson County Commission and the Park and Recreation District appreciates your consideration of this proposal, and asks that the Local Government Committee introduce a bill to this effect.

*Senate Local Gov't  
1-30-96  
Attachment 7*



State of Kansas

## Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
FAX: 296-6296

January 30, 1996

Senator Mark Parkinson, Chairman  
Senate Local Government  
State Capitol  
Topeka, KS 66612

RE: Bill Requests

Dear Senator Parkinson and Senate Local Government Members:

I would appreciate your consideration of the following bill requests in Senate Judiciary.

1. Bond Attorney - Amend K.S.A. 10-108(d) to allow the assistant attorney general who currently reviews bond transcripts to expand the duties of this position.
2. Open Meetings Act - Amend the Kansas Open Meetings act (KOMA) to encourage public agencies to tape executive session discussions, by allowing those agencies to protect and close such tapes from discovery and most uses, but nevertheless allow public prosecutors or courts limited access for the purpose of open meeting investigation and enforcement. Private litigants would not have such access, however, if a KOMA petition was filed by such persons, a judge could in camera review the tape and make a decision.

Thank you for your consideration.

Sincerely,

Handwritten signature of Carla J. Stovall in cursive.

Carla J. Stovall  
Attorney General

Senate Local Gov't  
1-30-96  
Attachment 8

Bond attorney

**10-108.** Transcript of proceedings and bonds to state treasurer; fee for registration or certification; bond services fee fund; transmission to attorney general to determine sufficiency; return of bonds to municipality. (a) Before any bonds become a valid obligation, a full and complete transcript of the proceedings leading up to the issuance thereof, properly certified by the clerk, secretary or other recording officer of the municipality proposing to issue such bonds, shall be transmitted to the state treasurer, together with the bonds proposed to be issued and any coupons attached thereto. The state treasurer shall submit such transcript to the attorney general for the purpose of determining the sufficiency of the transcript. Upon receiving written approval of such sufficiency, the state treasurer shall register such bonds in the municipal bond register in the state treasurer's office. Thereupon, the state treasurer shall, under seal of office, certify upon the bonds the fact that they have been registered.

(b) The state treasurer is hereby authorized to fix, charge and collect fees for registration or certification under this section. Fees for registration or certification of bonds shall be fixed: (1) For each bond issue for which the state treasurer serves as paying agent, a fee of not more than \$30 per issue, and (2) for each bond issue for which the state treasurer does not serve as paying agent, a fee of not more than \$30 per issue and a fee of not more than \$.30 per bond in the issue. All such fees received shall be deposited in the state treasury to the credit of the bond services fee fund, which is hereby created. All expenditures from the bond services fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or a person or persons designated by the state treasurer.

(c) Bonds which have been registered under this section shall be returned to the municipality issuing the same. The state treasurer may make personal delivery of the bonds to the purchaser or to an authorized officer or agent of the municipality at the office of the state treasurer. In lieu of return by personal delivery, the state treasurer may return the bonds by registered or certified mail, return receipt of addressee only, or by any other method prescribed in writing by the municipality. All returns shall be at the expense of the municipality and moneys received to reim-

burse the state treasurer for return charges shall be deposited in the state treasury and credited to the bond services fee fund created by this section.

(d) The attorney general shall appoint an additional assistant attorney general for the purpose of determining the sufficiency of transcripts submitted to the attorney general by the state treasurer, who shall be assigned, except in unusual workload situations, exclusively to the examination of such transcripts.

History: R.S. 1923, § 10-108; L. 1933, ch. 34, § 1 (Special Session); L. 1974, ch. 45, § 3; L. 1983, ch. 49, § 23; L. 1991, ch. 48, § 1; July 1.

Source or prior law:  
See "Revisor's Note" under 10-101.

Cross References to Related Sections:  
Fees for review and examination of transcripts of proceedings by attorney general, see 75-750.

Research and Practice Aids:  
Forms, Vernon's Kansas Forms § 504.

Law Review and Bar Journal References:  
"Municipal Borrowing in Kansas," Fred W. Rausch, Jr., 10 K.L.R. 515 (1962).

CASE ANNOTATIONS

1. Taxpayer cannot maintain action to compel auditor to expunge registration. *Citizens Utilities Co. v. City of Goodland*, 146 K. 172, 174, 69 P.2d 318.
2. Presentation of note and transcript for registration; electorate not sufficiently informed concerning use of bond proceeds. *Unified School District v. Hedrick*, 203 K. 478, 481, 454 P.2d 536.
3. State auditor "registrar" for purpose of certifying temporary municipal notes; signature valid as to purchasers for value without notice; city estopped from denying validity. *Farmers State Bank & Trust Co. of Hays v. City of Yates Center*, 229 K. 330, 340, 624 P.2d 971.

**10-108a.** Nonlitigation certificate; incorporation in transcript; form. The governing body of any municipality issuing bonds pursuant to article 1 of chapter 10 of the Kansas Statutes Annotated, shall execute and incorporate in the transcript of the proceedings leading up to the issuance of such bonds a nonlitigation certificate in substantially the following form:

"It is hereby certified that other than a challenge by a property owner to the amount of a special assessment to be levied against the owner's property or a challenge by a property owner to the amount of a condemnation award there is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the issuing municipality or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act shown to have been done in the transcript of the proceedings leading up to the issuance of the bonds,

8-2



AN ACT relating to commissioning individuals to do fire code inspections.

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

Section 1. K.S.A. 31-139 is hereby amended to read as follows: 31-139. The state fire marshal and those persons designated in K.S.A. 31-137 *who have been commissioned by the state fire marshal pursuant to this act*, shall have the authority during all reasonable hours of operations to enter, in accordance with existing laws, in and upon all buildings and premises subject to this act for the purpose of examination, inspection and investigation to determine compliance with the rules and regulations promulgated under the authority of this act. Whenever the state fire marshal or any person designated in K.S.A. 31-137 finds any violations of this act or the act of which this section is amendatory, or of any of the rules or regulations issued thereunder, or any lawful order issued pursuant thereto, he may file a criminal complaint with the attorney general or the proper district or county attorney or he may issue an order to the owner or his agent to cease and desist such violations. Any order so issued may be appealed by any person aggrieved thereby, as provided in K.S.A. 31-140, but unless otherwise stated in the order, the filing or pendency of such appeal shall not abate or operate as a stay of the effect of the order.

New Sec.2 (a) State fire marshal deputies and local fire prevention personnel assigned code compliance and enforcement inspection responsibilities for inspections pursuant to K.S.A. 31-139 shall be commissioned by the state fire marshal. This act shall not apply to pre-fire or familiarity inspections conducted by the local fire departments. (b) The state fire marshal shall adopt rules and regulations defining minimum commission standards or acceptance of other recognized training or experience, levels or types of commissions, continuing education requirements and any other rules and regulations necessary to carry out this act. (d) Nothing in this act shall be construed to require persons employed prior to the effective date of this act to comply with these requirements as a condition of continued employment, and such person's failure to comply with such standard shall not make such person ineligible for any promotional examination for which they are otherwise eligible or affect in any way any pension rights to which they are entitled on the effective date of this act. Any such person shall comply with all other applicable rules and regulations promulgated as a result of this act including continuing education requirements.

Senate Local Gov't  
1-30-96  
Attachment 9