

## MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairman Carlos Mayans at 3:30 p.m. on February 16, 1999 in Room 521-S of the State Capitol.

All members were present except:   Rep. Cindy Hermes - excused  
  Rep. Gwen Welshimer - excused  
  Rep. Joe Shriver - excused

Committee staff present:             Michael Heim, Legislative Research Department  
  Dennis Hodgins, Legislative Research Department  
  Theresa Kiernan, Office of the Revisor of Statutes  
  Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Rep. David Haley  
Whitney Damron, Unified Government of Kansas City, Kansas/Wyandotte County  
Karen France, Kansas Association of Realtors  
Sherry Diel, Kansas Advocacy & Protective Services, Inc.  
Paul Wilson, Executive Director, Kansas Association of Public Employees  
Steve Bukaty, Kansas State Lodge, Fraternal Order of Police  
Chester Pinkston, Wichita Lodge No. 5, Fraternal Order of Police  
Brian Hardesty, President, Service Employees Union  
Jeff Diel, Firefighters No. 179, International Association of Fire Fighters  
Chuck Wilson, Security Officer, U.S.D. 501  
Don Moler, General Counsel, League of Kansas Municipalities  
Judy Moler, Director, Kansas Association of Counties  
Written Testimonies of Representative Tom Sloan  
Written Testimony of Mary Nelson, Johnson County Rural Water District No. 7

Others attending:       See Guest List ([Attachment 1](#))

The minutes of the meetings held on February 9 and February 11, 1999, were distributed and approved.

Chairman Mayans stated that two bills have been assigned to the committee since the last meeting: **HB 2337** (Disposition of unclaimed bodies; cremation authorized) and **HB 2505** (Sewer districts; governing body).

The Chairman opened the hearing on **HB 2310** (Abandoned property, rehabilitation). Representative David Haley, the bill's sponsor, described the bill as a mandate to the cities in Wyandotte County to establish an abandoned property review authority to categorize and set priorities for the demolition or rehabilitation of abandoned properties and to make them available to those who are interested in rehabilitating the property. He was questioned about section 10(b) as to the need for a .04% mortgage fee to fund a housing development fund. Representative Haley indicated that the fund, administered somewhat like an educational scholarship fund, is intended to serve as a means to assist first time homeowners in meeting costs of purchase or renovation and could be allocated for demolition. He indicated the incentive for the review authority is to prevent demolition of historic and structurally sound affordable housing; maintain the integrity of a neighborhood; and provide opportunity for first time ownership for renovation and use of such property. He also indicated nothing in the bill precluded an aggressive landlord in participating in the program.

Whitney Damron, representing the Unified Government of Wyandotte County & Kansas City, Kansas, testified in opposition to **HB 2310**, indicating the bill applies only to the area he represents and establishes another bureaucracy. The legislation should be considered as a local control issue and the bill not be passed.

Karen France, representing the Kansas Association of Realtors, expressed concern with section 10(b) and its application to all real estate mortgages. She indicated the .04% mortgage fee seems self defeating if it is applied to those whom the bill is supposed to assist by assessing an additional fee, which adds to the mortgage costs. Representative Haley indicated he was amenable to deleting the section if the committee so chose.

There being no other present to testify, the hearing on **HB 2310** was closed.

Chairman Mayans opened the hearing on **HB 2315** (cities; costs of repair or reconstruction of sidewalks). He stated the bill is offered to shift the responsibility for sidewalks onto a city or municipal government and allow property owners the right to petition the city for such reconstruction or repair.

Representative David Haley, the bill's sponsor, indicated in Kansas City the average cost for replacement or repair of a sidewalk is in the range of \$2,000-\$2,500. He stated repairs would be less expensive if the city or municipality undertook the projects in an entire area rather than for property owners to do so on a one-by-one basis.

Sherry Diel, Deputy Director of Kansas Advocacy and Protective Services, Inc., suggested an amendment to ensure that repairs are performed in accordance with the Americans With Disabilities Act (see Attachment 2).

Whitney Damron, representing the Unified Government of Wyandotte County and Kansas City, Kansas, distributed opposing comments of Robert Roddy, P.E., Senior Manager of the Public Works Department (see Attachment 3). Mr. Damron indicated the potential negative impact could be as much as \$20-\$40 million on local units of government in replacing and maintaining current sidewalks. The bill also makes property owners who do not have sidewalks, through taxes, pay for those who do. The bill shifts significant responsibility from those who benefit to local units of government. He also requested that **HB 2315** be not passed.

Don Moler, General Counsel, League of Kansas Municipalities, joined in opposition to **HB 2315** and noted sidewalks are easements to the city, the same as public right-of-ways or utility lines. He expressed the view that the bill, as written, is permissive and that it should not be a mandated requirement.

There being no others present to testify, the hearing on **HB 2315** was closed.

Chairman Mayans opened the hearing on **HB 2457** (Repeal local government option for coverage under PEERA). Representative Melany Barnes, sponsor of the bill, stated the bill makes the provisions of the Public Employer-Employee Relations Act (PEERA) applicable to all state and local public employees in the state and gave her reasons for supporting the bill which allows all public employees to have the right of collective bargaining and due process. (See testimony, Attachment 4.)

Paul Wilson, Executive Director of The Kansas Association of Public Employees, testified in support of the bill, stating that section "c" of the current statute is the most inequitable provision by denying public employees of political subdivisions the right to representation in employment situations unless the governing body grants that right. (See testimony, Attachment 5.) Mr. Wilson explained he has worked for KAPE for over ten years; prior to that he administered this law for 12 years in the Department of Human Resources. He observes the option for coverage part of the law has caused more problems than any other provisions of the entire act and has led to two strikes by employees trying to bring themselves under it. Once employees are under the act, they are prohibited from striking and the employers retain control to do what they believe to be in the best interests after participating in the commission process.

Steve Bukaty, an attorney who represents some 50 labor organizations across the state, testified in support of the bill (see Attachment 6). He stated current law creates a two-class system for public employees, and greatly affects employee morale and the grievance process.

Chester Pinkston, Chief Lodge Steward for F.O.B. Lodge #5, spoke in support of the bill and stated the opportunity to meet, confer and discuss issues is an ally toward employees morale. When asked about Wichita's experience, he said the city meets with the staffs of the various organizations where issues are discussed. Most of the time the discussions determine equitable resolutions for both sides. (See testimony, Attachment 7.)

Brian Hardesty, President of the Service Employees Union, also testified in support of **HB 2457**.

Jeffrey Deal, Member of Firefighters Local 179 in Hutchinson, testified in support of **HB 2457** and described the aftermath of the city of Hutchinson's attempt to eliminate Firefighters, Service Employees and F.O.P. as collective bargaining agents for city employees and the massive efforts of city employees and citizens that overcame the attempt. (See testimony, Attachment 8.)

Chuck Wilson, a Topeka U.S.D. 501 law enforcement officer, described the problems the officers have encountered with the District caused by the Board's decision to opt out of PEERA. He encouraged passage of **HB 2457**. (See testimony, Attachment 9.)

The Chairman noted that written testimony in support of the bill had been distributed from Todd Newkirk, Assistant Manager of IBEW Local 304, in Topeka (see Attachment 10).

Don Moler, General Counsel for the League of Kansas Municipalities, testified in opposition to **HB 2457** (see testimony, Attachment 11.) He said the reality of this issue is the decision as to whether or not a city or county comes under the PEER act. Currently the decision is made by locally elected representatives of the people, and it has been the law since 1972. (He noted the League, in a 1997 survey, found that the cities of Wichita, Topeka and Kansas City have opted to come under the act.) The League suggests that policy option should be followed today. He said if the workers of a city or county believe they should be under the PEER act the appropriate place to petition is the governing body. The idea that this should be imposed by the state and take away the ability of locally elected governing bodies to make this choice is improper according to League members and they strongly urge the committee to oppose the bill. Representative O'Connor asked why the three larger cities rescinded their option, and Mr. Moler recalled that no bargaining unit or meet-and-confer group formed in those cities, so they opted out. He noted that he believed Chanute, Coffeyville and Wichita have active bargaining units.

Representative O'Connor asked if Reno County continues to have labor problems. Mr. Deal answered he could not specifically answer that question but in his work in the city he maintains close contacts with police and firefighters and has noticed since they were opted out of PEERA the city has had an extreme difficulty in retaining these employees. The Sheriff's Department is short 11 officers and run the jail with only two people in a 24-hour schedule. Hutchinson is also have difficulty in recruiting EMS personnel. He said there has been a massive flight of firefighters since the opt out.

Judy Moler, Legislative Services Director/General Counsel for the Kansas Association of Counties, also testified in opposition to **HB 2457**. She noted a tenet in KAC's legislative platform on the importance of local control and their opposition to any federal or state legislation preempting home rule powers. She urged the committee to vote against the bill. (See testimony, Attachment 12.)

Chairman Mayans noted that written testimony had been distributed from Lonie Addis, Commissioner of Labette County, in opposition to the bill (see Attachment 13).

Representative Barnes questioned the accuracy of the financial note developed by the Budget Division as it relates to the Department of Human Resources. Mr. Paul Wilson stated the Deputy Director of Human Resources had estimated that the bill would require two part-time administrators and two clerical employees; but he stated, in his opinion, there is no need for additional employees. Representative Barnes intends to contest the note in his regard.

Paul Leara, Local 304 Topeka Electric Workers Union member, thanked the committee for hearing the bill, and affirmed his support of the bill.

There being no others present to testify on **HB 2457**, the hearing was closed. The Chairman then asked the wishes of the committee with respect to the bill.

Theresa Kiernan noted that if the bill is to be passed out, it needs a technical amendment on page 1, line 41, to delete the words "Subject to provisions of subsection (c)" as that section is being deleted by the bill. Representative O'Connor moved the amendment; Representative Long seconded the motion. The motion carried. Representative O'Connor moved that **HB 2457** be passed, as amended. Representative Long seconded the motion.

Representative Dahl stated he had not had one worker in his district comment on the bill and did not believe it to be an issue.

Representative Jeff Peterson moved, in a substitute motion, that the bill be tabled. Representative Dahl seconded the motion. The substitute motion failed by voice vote.

A vote was called on the original motion of Representative O'Connor to pass the bill as amended. The motion carried. Representative Barnes will carry the bill on the floor of the House.

Chairman Mayans then stated that the following correspondence had been received and distributed to committee members: (1) From Representative Tom Sloan, relative to **HB 2040** (Amusement rides, liability insurance and inspection, Attachment 14); (2) from Representative Tom Sloan, relating to **HB 2182** (Townships; power of eminent domain, Attachment 15); and from Mary Nelson, Chairperson of the Johnson County Rural Water District No. 7 relating to **HB 2043** (Rural water districts; prohibiting certain charges, Attachment 16).

The meeting was adjourned at 5:25 p.m.

The next meeting is scheduled for February 18, 1999.



HOUSE COMMITTEE ON LOCAL GOVERNMENT  
GUEST LIST  
FEBRUARY 16, 1999

NAME	REPRESENTING
D. Keith Meyer	Dept of Administration
CHESTER PINKSTON	WICHITA FOP LODGE #5
Steve A.J. BUKaty	KANSAS State FOP
Kevin Berberich	C. W. A
Chuck Wilson	Self
PAUL WILSON	KAPE
Whitney Dameron	WYCOLKERS
Les Gullely	Commercial Workers of Am
Jeff Deal	IAFF Local 179
Lee Powe	LNU
Pat Lehman	KS FSA
DON LINDSEY	UTU
Cheryl Maddox	CWA
Jessie Conroy	AFSCME - Council 6P
Don Moore	CKM
Judy Malin	16. Ass'n of Counties
Steve Kearney	FOP
Jim KEELE	B. L. E.
Erik Sartorius	Johnson Co. Board of Realtors
George L. Barker	IBEW Local Union #304
Robert King	Local 307 USWA
Jim Ineson	Local 307 USWA
Mike Hehn	Local 307 USWA
Israel A. Newkirk	IBEW Local 304
PAUL E Lira	IBEW Local 304
DAN A. DUNN	USWA 307
Jerry Elbert	USWA LOCAL 307
Richard L. Brough	USWA Local 307





## KANSAS ADVOCACY & PROTECTIVE SERVICES, INC.

3745 S.W. Wanamaker Rd.  
Topeka, Kansas 66610  
(785) 273-9661  
(785) 273-9414 Fax

3218 Kimball Ave.  
Manhattan, Kansas 66503  
(785) 776-1541  
(785) 776-5783 Fax(  
800) 432-8276 TDD/Voice

James Germer, Executive Director

Sherry Diel, Deputy Director  
Tim Voth, Attorney  
Kari Ramos, Advocate

Scott Letts, Deputy Director  
Lori A. Davis, Attorney

Michelle Rola, CFO  
Michelle Heydon, Advocate

Memo To: Chairman Mayans and Members of the House Local Government Committee  
From: Sherry C. Diel, Deputy Director  
RE: HB-2315--Act Relating To Reconstruction Or Repair Of City Sidewalks  
Date: February 15, 1999

### What is Kansas Advocacy and Protective Services, Inc.?

Kansas Advocacy and Protective Services, Inc. ("KAPS") is a federally funded non-profit corporation. Our agency serves as the designated Protection and Agency for persons with disabilities in the state of Kansas. Each state and territory in the United States has a similar type of organization. Our role is to advocate for legal rights and services for persons with disabilities. Pursuant to federal law, KAPS has authority to pursue resolution of disputes through use of legal, administrative and other appropriate remedies. Because our funding is limited, KAPS utilizes priorities, developed as a result of public input, to advocate for systemic changes in the public and private sector to benefit Kansans with disabilities.

### KAPS Requests An Amendment to HB-2315 Regarding Compliance With The Americans With Disabilities Act ("ADA") and the Kansas Act Against Discrimination.

HB-2315, as proposed, allows for a property owner who desires to reconstruct or repair the sidewalk abutting their property to make the repair or reconstruction at the owner's expense. The current language only requires the repair or reconstruction to be done in accordance with plans and specifications adopted by the city. [Page 1, Lines 27-30]. Unfortunately, not all city codes are in compliance with the requirements of the ADA.

KAPS requests an amendment to the proposed language to ensure that any repairs or reconstruction performed by a property owner are **also performed in accordance with ADA requirements**. See also the Kansas Act Against Discrimination, K.S.A. 44-1009(c). The proposed amendment is as follows:

**[Page 1, Lines 27-30]** "(c) The owner of property abutting on a street who desires to reconstruct or repair a sidewalk may do so at the owner's expense. Such reconstruction or repair shall be made in accordance with the plans and specifications adopted by the city **and in accordance with the Americans With Disabilities Act Accessibility Guidelines.**

We believe this amendment will address issues in the planning stage before monies are expended on the reconstruction of a sidewalk which do not comply with slope, curb cut or other ADA requirements relating to the construction of sidewalks.

HOUSE LOCAL GOVERNMENT  
Attachment 2  
2-16-99



**UNIFIED GOVERNMENT OF WYANDOTTE COUNTY  
& KANSAS CITY, KANSAS  
PUBLIC WORKS DEPARTMENT**

**WATER POLLUTION CONTROL DIVISION**

ONE McDOWELL PLAZA 701 NORTH 7<sup>TH</sup> STREET, 66101

(913) 573-5400

FAX (913) 573-5435

February 16, 1999

Honorable Representative Carlos Mayans  
Room 115 South  
State Capital  
Topeka, Kansas 66612

Dear Sir:

On behalf of the Public Works Department of the Unified Government I would like to comment on House Bill 2315. First of all and most importantly, we agree with the intent of the bill to improve the Public Works infrastructure of the urban areas. However, we believe that this bill is misdirected in how to achieve those improvements. Currently State Law places the maintenance and repair of sidewalks on the homeowners. This bill shifts that duty to the Municipal Government and we believe that this should be rejected for the following reasons;

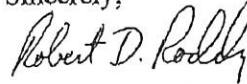
1. The Unified Government does not have sufficient funds to maintain the Public Works infrastructure which it already has primary responsibility.
2. This bill would shift a maintenance cost which is estimated to be 20 to 40 million dollars in our community to the Unified Government.
3. Those citizens, who do not have sidewalks, would be supporting those who do have sidewalks if this bill is passed.
4. House Bill 2315 is an excellent example of an unfunded mandate. If the State intends to give Unified Government new responsibility, then give us the funds to accomplish the task.

WHITNEY B. DAMRON, P.A.  
1100 MERCANTILE BANK TOWER  
800 SW JACKSON STREET  
TOPEKA, KANSAS 66612-2205  
(785) 354-1354 - 354-8092 (FAX)



Finally we remain committed to a system which improves the community but recognizes a limit to governmental resources. A bill which gives responsibility but not the means to accomplish the responsibility is misdirected and should be denied.

Sincerely,



Robert D. Roddy, P.E.  
Senior Manager, Public Works

RDR:hj

cc: Sharon Meyers  
John Mendez

**MARY BARNES**  
 REPRESENTATIVE, 95TH DISTRICT  
 1816 BURTON  
 WICHITA, KANSAS 67213  
 (316) 262-0800

STATE CAPITOL—RM. 284-W  
 TOPEKA, KANSAS 66612-1504  
 (785) 296-7673



TOPEKA

HOUSE OF  
 REPRESENTATIVES

MEMBER BUSINESS, COMMERCE  
 AND LABOR  
 KANSAS 2000 SELECT  
 COMMITTEE  
 GOVERNMENT ORGANIZATION  
 & ELECTIONS  
 LOCAL GOVERNMENT  
 WORKER'S COMPENSATION FUND  
 OVERSIGHT COMMITTEE

## TESTIMONY

## HOUSE COMMITTEE ON LOCAL GOVERNMENT

## HB 2457

I would like to thank the Chairman and the committee for granting a hearing on HB 2457, the right to representation for Public Employees. The bill repeals the Local Option from the Public Employer's/Employee's Relations Act, thus allowing employees in cities, counties and classified employees in school districts the same rights to representation and collective bargaining as state and federal employees and teachers.

Each day workers in cities, counties and schools go to work and perform identical tasks as state, university and college workers. They work at the direction of elected councils, commissions and school boards. These workers cannot be represented unless the governing body will vote to come under the act.

The very nature of a local election lends itself to changes that these workers must adapt to. Repeal of this section would allow these workers a voice at the table for their jobs, their families and their future. They do not have the right to strike under this act and they do not have the right to arbitration. They are solely in the hands of the governing body, limited to budgetary deadlines.

Each of us is touched daily by the work that these employees do; as a matter of fairness and equity, I would ask that the committee recommend this bill favorably for passage.

Thank you, and I will stand for any questions.



The Kansas Association of Public Employees  
1300 SW Topeka Blvd., Topeka, KS 66612  
(785) 235-0262 or (800) 232-KAPE / Fax (785) 2353920  
FPE / AFT / AFL-CIO

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Testimony of Paul K. Wilson  
Executive Director  
Kansas Association of Public Employees before  
The House Committee on Federal and State Affairs on  
House Bill 2457

Members of the committee, good afternoon and thank you for allowing me to come before you to offer testimony in support of House Bill 2457.

My name is Paul Wilson and I am the Executive Director of the Kansas Association of Public Employees. The bill under consideration here deals with the Public Employer Employee Relations Act found at K.S.A. 75-4321, and specifically seeks to repeal subsection "c" of that statute.

The provisions of the section which the bill seeks to repeal are the most inequitable provisions imaginable. Subsection "c" denies public employees of political subdivisions the right to representation in their employment dealings with their employers unless their employers grant them that right.

Virtually every other employee of every other employer in this state has the right to that representation if they so desire. And in those other places of employment, it is solely the employees who have the right to make that determination. Even here in the State of Kansas, state employees have the right to make their own decision on this issue by means of a vote. It is only the public employees of governmental entities, other than the state and its agencies, to whom this right to representation is denied, and there is no good reason for that denial.

The very purpose of the act is to provide a communications tool between labor and management. And ironically, the legislative intent for passing the act in the first place was because some employers refused to enter into meaningful communications with their employees. It is only those employers who refuse to enter into constructive dialog with their employees who will fight this bill as an infringement on their authorities as elected officials. But I ask you, how can a law which requires elected officials to communicate with their employees be anything but positive toward fulfillment of the public interests they were elected to steward?

No person elected to a representative position should support continuation of a law which denies some Kansas citizens a right which other citizens enjoy.

HOUSE LOCAL GOVERNMENT  
Attachment 5  
2-16-99

THE LAW OFFICES  
OF

# Steve A.J. Bukaty

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and Nebraska  
† Admitted Kansas and Missouri



February 16, 1999

## REMARKS OF STEVE A. J. BUKATY STATE LODGE ATTORNEY FOR THE KANSAS STATE LODGE OF THE FRATERNAL ORDER OF POLICE

**TO: THE CHAIRPERSON AND MEMBERS OF  
THE HOUSE COMMITTEE ON LOCAL GOVERNMENT**

### MEMBERS OF THE COMMITTEE:

The undersigned has represented numerous public employees, including hundreds of police officers in the State of Kansas. I speak to you today on a matter of fundamental fairness.

The Kansas Public Employee-Employer Relations Act in many ways is a model statute that has been followed by other jurisdictions. It conveys many employment rights upon State employees and certain local government employees, including the rights to organize, collectively bargain, arbitrate grievances, and be free from retaliation for engaging in these activities. Unfortunately, the statute also contains what has come to be known as the "local option" which allow cities and counties to determine whether their public employees will be covered by this statute. As I tell my seminar audiences, this local option provision, in my opinion, would be comparable to allowing each individual to determine whether or not he wished to be covered by the Internal Revenue Code.

As a result of this local option, we have created a two-class system in the State of Kansas for public employees. Those in cities and counties where the statute has been adopted, enjoy all of the rights under the statute, including the right to be represented in employment matters by their employee organization; they are covered by collective bargaining agreements; they have grievance procedures in which they can air their complaints against their employers; and, in my experience, they have much higher morale than those who do not.

HOUSE LOCAL GOVERNMENT  
Attachment 6-1  
2-16-99



By contrast, those who are not covered by the statute, have no bargaining rights, have their terms and conditions of employment completely and unilaterally determined by their employers, have no meaningful voice in their employment decisions, and tend to suffer from low morale.

In law enforcement, we have the incredible anomaly that police officers in adjoining jurisdictions have completely different standards by which their conduct is judged depending on whether or not the governing body of their city or county has voted to come under the statute.

PEERA is a very good and fair statute. There is no legitimate reason that it does not apply to all the public employers in the State. It is past time that the legislature do away with the second-class citizen status which is conferred upon those employees who are not covered by this statute. All State employees are covered by this statute. All local government employees should be covered by the statute as well.

It needs to be kept in mind that employees covered by the statute are not automatically represented by employee organizations. It is the employees' choice, following an election, to determine whether or not they will be represented by an employee organization. However, at the present time, those who are not covered by the statute are not even given that choice and do not have the opportunity to avail themselves of the rights which their brothers and sisters in adjoining jurisdictions may enjoy.

On behalf of the thousands of law enforcement officers in the State of Kansas, I strongly urge you to recommend the adoption of House Bill No. 2457.



The importance for professional law enforcement officers to have a vehicle like PEERA, that brings together both the employer and employees, in an atmosphere of cooperation is paramount. The benefit of PEERA in Wichita has been a forum for both the City of Wichita and FOP Lodge #5 to discuss issues that impact recruitment, morale, staffing and a myriad of other concerns. Without the guidelines of PEERA it is difficult to say when or if these discussions would ever take place.

The benefit of meet and confer is normally a contract between the City and the employees. The impact for career law enforcement officers is that such an agreement is often a mechanism through which grievances are filed and guidelines are established for disciplinary action by the Employer. The impact of discipline to a law enforcement officer that could be arbitrary, discipline in which there is no chance for rebuttal or representation, can ruin what would be an otherwise promising career.

- ☞ Saves both sides involved money by not fighting lawsuits through District Court
- ☞ Hours and conditions of work are bargained over  
Bid positions by established criteria
- ☞ Issues that have been addressed are spelled out in the contract to prevent future problems.
- ☞ Things that are minor in nature can be resolved without resorting to a court battle
- ☞ Examples from Wichita Police Department and FOP Lodge #5 1998 contract:
  - ☞ Evaluation Committee
  - ☞ Language Committee
  - ☞ Transfers are posted and bid on
  - ☞ Discipline process was refined even more
  - ☞ Language issues were cleared up (Sick Leave wording; Sgt's added)
  - ☞ Paragraph by paragraph review (D.C. requested Lt. testing be added)
- ☞ Approximately 70 percent of our issues are resolved prior to running completely through PERB
- ☞ FOP is solvent enough to fight for many of these smaller lodges. One Officer was fired and subsequently rehired after a court battle

2-16-1999

**Before the House Committee on Local Government**

**Testimony of Jeffrey Deal**

**Member IAFF (International Assoc. of Firefighters) Local 179**

Mr. Chairman, members of the Committee, I want to thank you for allowing me and other public employees to testify before your Committee. H.B. 2457 would end the authority of local government to remove itself from coverage under the Public Employer-Employee Relations Act. As a member of Firefighters Local 179 at the City of Hutchinson, I speak on behalf of my fellow firefighters, and of all organized employees at the City, in urging you to support H.B. 2457.

This Committee has the opportunity to take an important step toward remedying an egregious wrong and a violation of human rights. Unlike private sector employees, who are allowed to choose to bargain collectively without the permission of their employer, public sector workers in Kansas must gain the approval of the governing authority before they can bargain. Regardless of overwhelming majority support from employees, public sector workers who want to bargain collectively must have the approval of their management, in order to initiate and continue collective bargaining. The message to those of us in the public service is clear: When you go to work for a public employer in Kansas you give up your rights as a free human being.

Besides limiting new representation, existing Kansas law says that employees presently enjoying Union contracts can be stripped of representation against their will. This can happen solely because of the arbitrary and capricious whim of a few elected officials, elected in campaigns where the unionization of public employees is not even an issue. The community doesn't have to be consulted and may not agree with the action. As a result, organized employees are insecure in their employment and the quality of public service is at risk.

A case in point is what happened in the City of Hutchinson in November and December of last year. There, a few City Council members, on a whim, worked with City management in an attempt to eliminate the Firefighters, Service Employees and FOP as collective bargaining agents for City employees. A Council member complained that negotiations were taking too long. They are. But instead of working with the Unions to speed

up the process, the Council took action that could have resulted in throwing the baby out with the bath water.

This move by some of the "powers that be" provoked a bitter, divisive confrontation that soon involved much of the Hutchinson community, pitting citizens against citizens. What followed was organized lobbying, thousands of phone calls to City officials, letters to the editor, attention from the media, rallies and picketing by hundreds of citizens outside City Council meetings. Hutchinson's Christmas parade, attended by thousands, was handbilled with an appeal to call Council members. Merchants posted handbills and posters in their front windows attacking Council members. One Council member was attacked by the local newspaper. Sadly, there were even incidents of vandalism and anonymous threats of violence. City employees had nothing to do with the vandalism or threats. But once a situation begins to spiral out of control, there are always fringe elements who seek to take advantage.

Thanks to the activities of our members and hundreds of ordinary citizens who supported our cause, City employees won the right to keep our Unions, at least for the time being. Cooler heads prevailed. Members of the Council softened their stance. When it became clear a majority would not support removing the City from PEERA, the entire Council unanimously voted to work with the Unions to fix any problems.

Public employee law in Kansas denies workers the God-given right, recognized by many organized religions, to have a Union and bargain collectively if they so choose. The public workers here today, and the many thousands across Kansas, appeal to you to end the system of tyranny under which we work. What happened in Hutchinson is only a faint foretaste of the division and conflict that may occur elsewhere if the law is not changed. We respectfully request that this Committee refer HB 2457 to the House of Representatives with a do pass recommendation.

Thank you for your attention to my remarks.

Jeffrey Deal  
203 W. 23rd St.  
Hutchinson, KS 67502



Testimony of  
Chuck Wilson in regard to House Bill 2457

My name is Chuck Wilson and I am a sworn law enforcement officer for Unified School District 501 here in Topeka. I am here to tell you about the problems we officers have encountered in trying to discuss our employment issues with the 501 school board, and to encourage you to pass House Bill 2457.

For several years the officers of USD 501 have met jointly and prepared a list of employment issues we have wanted the board to consider. We have always submitted those concerns to the personnel officers of the district. Recently our written list of concerns have not been provided to the board and the information which is provided doesn't reflect our positions on those issues.

In an effort to formalize our communications with the board, over 90% of the officers attempted to become a certified employee organization under the Public Employer Employee Relations Act. We were advised that we couldn't do so unless the board voted to come under the law. When we asked to be placed on the board agenda to discuss this matter with the board we were denied. A presentation and a request to come under the law was made during the five minutes we were allowed in open public comment. The board ignored our request. During public comment at their next board meeting we again asked if they had considered our request and they deferred to their attorney. He advised us that they didn't intend to place it on the agenda or to take any further action on the matter. The fact that they chose to ignore our request hasn't solved our initial problems, but has caused new morale problems among the officers.

We only asked the board to formally communicate with us as the PEERA law provides. We asked them to consider our concerns like the State of Kansas, Shawnee County and the City of Topeka do with their employees, and like USD 501 even does with its teaching staff. Our requests have been ignored, and we have been treated like second class citizens. Passage of House Bill 2457 will simply cause elected officials to meet and confer with their employees to listen to the problems they face, and communications never hurt anyone.

Thank you for allowing me to appear and we urge you to pass House Bill 2457. Doing so will extend to me and other employees like me the right to representation enjoyed by virtually every other citizen of Kansas.

International  
of Electrical



Brotherhood  
Workers

LOCAL UNION 304

3906 N.W. 16th Street 785-235-2301  
Topeka, Kansas 66618 Fax: 785-235-3342

© IBEW 12-C

February 16, 1999

Mr. Carlos Mayans  
Chairman, Local Government Committee

Re: Written Testimony, HB-2457 Repeal Local Option for PERA

Mr. Mayans,

Please accept this written correspondence as testimony on behalf of the membership for IBEW Local 304. Our union has a strong interest in this pending legislation that is before your committee. Currently we represent and serve three (3) city municipalities with union representation and negotiation via the collective bargaining process. These relationships have been established for many consecutive years.

The proposed bill, HB-2457 for repealing unilateral authority vested to public governments to remove PERA recognition is endorsed by our union. Good faith relationships built on past strong commitment to the public has been and will be the success of civic leaders and labor into the future. For any public entity infrastructure to improve, we believe the labor relationship afforded by the Public Employees Relations Act is necessary. This law allows employees to work collectively to pursue common interests and common goals with government leaders. For government entities that have exercised this opportunity to employees, we commend such recognition allocated to the rights of working men and women at this time. It is appropriate for this committee to thoroughly discuss the merits and analyze HB-2457. Public employers and employees deserve the dividends afforded by the act, throughout Kansas. To further solidify this bill, we recommend to consider eliminating the local option for recognizing new collective relationships when requested by a majority of affected employees. The current local option for PERA recognition is unfair to workers and citizens who have benefited from effective collective relationships throughout the years.

It is understood the Public Employees Relations Act cannot be replaced with the National Labor Relations Act available to the private sector for public employees. However, please consider the dual importance of why these acts exist, and why this committee should support working men and women in Kansas by repealing the local option for PERA. Choices of this magnitude should be left to the workers, not civic leaders placed in worker domains.

If you would like to continue further discussion on this important legislation affecting public workers, you may contact me at (785) 235-2301 or via e-mail at LU304Todd@aol.com. Thank-you.

Sincerely,

A handwritten signature in black ink that reads "Todd A. Newkirk". The signature is written in a cursive style.

Todd A. Newkirk  
Assistant Business Manager, IBEW Local 304  
HOUSE LOCAL GOVERNMENT  
Attachment 10  
2-16-99

cc: Dempster, Diehm, Crutcher



# LEAGUE OF KANSAS MUNICIPALITIES

LEGAL DEPARTMENT □ 300 S.W. EIGHTH □ TOPEKA, KANSAS 66603  
PHONE: (785) 354-9565 □ FAX: (785) 354-4186

## LEGISLATIVE TESTIMONY

**TO:** House Local Government Committee  
**FROM:** Don Moler, General Counsel  
**DATE:** February 16, 1999  
**RE:** Opposition to HB 2457

I appreciate the opportunity to appear today on behalf of the League's 527 member cities in opposition to HB 2457. This bill would repeal subsection (c) of K.S.A. 75-4321, thus eliminating the local option provision which has been part of the Kansas Public Employer-Employee Relations (PEER) Act since its enactment in 1972. The effect of this mandate would be to authorize the formation of employee organizations under PEER in all local governmental units, and to require the governing bodies of these units to meet and confer with such "recognized employee organizations". We also interpret the thrust of the act as effectively nullifying any locally-established employee relations procedures other than under the Kansas PEER Act.

There is a long-standing policy position of the League, which is contained in the League's convention-adopted "1998-1999 Statement of Municipal Policy" dealing with this basic issue. This section provides as follows:

**C-3(b). Public Employee Relations. The state and federal government should not intervene in local government employee relations. Because personnel management must remain a local responsibility, we oppose any federal or state legislation which would mandate collective bargaining or the recognition of employee organizations. The local option provisions of the Kansas public employer-employee relations law (PEER act) should be retained.**

The elected city officials of Kansas believe the matter before you is essentially a matter of home rule and local self-determination, and that state government should *not intervene* in local employee relations by mandating the procedures and requirements for dealing with employees and their organizations. The League was active in the development of the PEER Act and actively supported its passage, with the inclusion of

the local option provision. The League's policy position at that time was taken after thoughtful consideration. We believed that some cities and counties would elect to come under the law, in order to take advantage of the procedures and processes established by the PEER Act, as has occurred. We also believed that some local units would not elect to come under the act, for a variety of reasons, including the disinterest of their employees, the absence of need, the attitude of the general public, or the desire to establish a local process separate and distinct from the state act.

We do not believe circumstances have changed in this regard since 1972. We respectfully suggest that locally elected governing bodies are responsive to community needs and interests, and recognize the need to have good employee relations. We suggest to you that if local employees find it difficult or impossible to convince their *locally elected* governing body to come under the PEER Act, one can question whether the state legislature should take it upon itself to mandate the inclusion of that local unit within the PEER Act. HB 2457 clearly falls into the category of being yet another unfunded mandate. Quite simply, municipal taxpayers cannot afford any more unfunded state or federal mandates.

Finally, we would remind you that HB 2457 applies *only to public employers*. In our judgment, the state has fulfilled its responsibilities to the public, and to local public employers and public employees, by making the PEER Act available. We believe the public policy decision as to whether a local government is covered by the PEER Act should continue to be a local decision, based on local conditions, and as determined by a locally elected governing body.

Thank you for allowing the League to testify today on HB 2457.



# RESEARCH / INFORMATION BULLETIN

League of Kansas Municipalities / 300 S.W. Eighth Street / Topeka, Kansas 66603 / 785-354-9565

Vol. XVII No. 646  
July 11, 1997

## Status of Kansas Local Labor Agreements under PEER Act

Under the Kansas Public Employer-Employee Relations (PEER) Act, found at K.S.A. 75-4321 et seq., city governing bodies have the option of recognizing and bargaining with employee groups. As part of a recent League survey of those cities which the League had been previously advised had opted to be governed by the PEER Act, the League solicited information on the labor organizations which represent the various employee groups. The cities of Burlington, Chanute, Coffeyville, Derby, Ellis, Hays, Hutchinson, Junction City, Kansas City, Manhattan, McPherson, Osawatomie, Russell, Topeka, and Wichita were among the cities contacted. According to some responses, several cities which had originally chosen PEER Act coverage have since rescinded participation, including Burlington, Derby, McPherson, and Osawatomie.

Based on the responses to the survey, eleven cities remain under the act's provisions, but only six of the eleven cities that responded have active labor organizations.<sup>1</sup> The cities of Ellis, Hays, Hutchinson, Junction City, Kansas City, Manhattan, and Topeka identified seventeen (17) labor organizations with which they deal. The International Association of Firefighters (IAFF) is the most common labor organization among the respondents. The IAFF is found in the cities of Hutchinson, Junction City, Kansas City, Manhattan, and Topeka.

The Fraternal Order of Police (FOP) represents employees in Hays, Hutchinson, Kansas City, and Topeka. Junction City police are represented by their own police organization called the JCPOA, which is not affiliated with the FOP. The AFL-CIO represents employees in Ellis, Hays, and Hutchinson. The American Federation of State, County, and Municipal Employees (AFSCME) has member groups in Kansas City and Topeka.

Kansas City has the largest number of active labor organizations; eleven out of the seventeen organizations which exist according to the respondents of the survey. Eight of these labor organizations are found solely in Kansas City; e.g., the United Food and Commercial Workers Union and SEIU. Topeka has five active labor organizations, several of which are only found in Topeka-KAPE, and Topeka Streets and WPC.

---

<sup>1</sup>The cities of Chanute, Coffeyville, and Wichita, did not respond to the survey.

## Results of Labor Agreement Survey

City of	Department(s)	Labor Organizations
<b>Ellis</b>	Public Works (Police)	Service Employees Union Local 513 AFL-CIO-CLC
<b>Hays</b>	Fire	Firefighters Lodge 48 Local 2219
	Police	Fraternal Order of Police
	Public Works and Parks	AFL-CIO Local 513
<b>Hutchinson</b>	Dispatchers	Communication Workers of America
	Fire	International Association of Firefighters
	Maintenance and Clerical Workers	AFL-CIO
	Police	Fraternal Order of Police
<b>Junction City</b>	Fire	International Association of Firefighters
	Police	JCPOA
<b>Kansas City</b>	Building Engineers	SEIU Local #96
	Carpenters	Carpenters Dist. Council #61
	Clerical, Service, and Maintenance	AFSCME Local #3475
	Dispatchers	United Food and Commercial Workers Local #576
	Fire	International Association of Firefighters Local #64
	Laborers	Const. and Gen. Laborers #1290
	Painters	Painters Dist. Council #3
	Plumbers	Plumbers Local #8
	Police	Fraternal Order of Police Lodge #4
	Streets and Parks Department	PSEU Local #1132
	Water Pollution	IBEW Local #53
<b>Manhattan</b>	Fire	International Association of Firefighters
<b>Topeka</b>	Building Inspection	AFSCME
	Clerical, Service, and Maintenance	KAPE
	Fire	International Association of Firefighters
	Police	Fraternal Order of Police
	Streets and WPC	Topeka Streets and WPC Local Union
	Technical, Fiscal, and Staff	KAPE
	THA	KAPE
	Water	AFSCME



**KANSAS  
ASSOCIATION OF  
COUNTIES**

**TESTIMONY  
Concerning HB 2457**

**Presented by Judy A. Moler, Legislative Services Director/General Counsel  
Kansas Association of Counties  
House Committee on Local Government  
February 16, 1999**

Chairman Mayans and members of the committee, the Kansas Association of Counties stands in opposition to HB 2457. The KAC has long held as a tenet of our legislative platform the importance of local control. The KAC opposes any federal or state legislation that preempts counties' home rule powers that allow counties flexibility to deal with local issues.

The bill before you, HB 2457, would strip away counties' home rule ability by mandating procedures and requirements for dealing with employees and their organizations. The PEER Act as currently written allows counties to take advantage of the procedures and processes established therein if it is the will of the local government. To mandate counties come under the PEER Act appears to the KAC to be an unfunded mandate and a preemption of local control.

I have attached testimony from Reno County submitted last year when this issue came before the legislature. In this testimony the county points to the tax lid...which they are bumping up against ....and the fact that there is simply no more taxing ability to fund employee salaries. A vote was taken by that county to remove itself from the tax lid. The vote was a resounding NO. That county...as are many others...is living within the budget prescribed by the tax lid. Those county commissioners...serving their electorate and working with their employees must make the decisions that make fiduciary sense for their county.

The public policy decision as to whether a local government should be brought under the PEER Act is best made at the local level. We respectfully urge your vote against HB 2457.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 233-2271.

700 SW Jackson  
Suite 805  
Topeka KS 66603  
785•233•2271  
Fax 785•233•4830  
email kac@ink.org

HOUSE LOCAL GOVERNMENT  
Attachment 12-1  
2-16-99

LESLIE, O'SULLIVAN, McCARVILLE & BROWN

Attorneys at Law

315 WEST FIRST STREET  
P. O. BOX 2067  
HUTCHINSON, KANSAS 67504-2067

RONALD L. LESLIE P.A.  
JOSEPH P. O'SULLIVAN  
JOSEPH L. McCARVILLE III  
PAUL W. BROWN

(316) 662-0527  
FAX (316) 662-0541

CHARLES E. RAUH  
(INACTIVE)

DAVID L. BROWN  
(1942-1992)

HERBERT R. HESS, JR.  
(1928-1993)

DATE: Feb 15, 1999

FAX # 785-233-4830

FAX MESSAGE

TO: CARLOS MAYANS - KAC

FROM: JOSEPH O'SULLIVAN

RE: HOUSE BILL NO. 2457

Number of pages to follow: 2

Return FAX # (316) 662-0541

COMMENTS: THE RENO COUNTY COMMISSION ASKED ME TO SEND YOU A COPY OF A LETTER WE SENT TO THE RENO COUNTY LEGISLATIVE DELEGATION LAST YEAR IN OPPOSITION TO HB 2244 - THE SAME SUBJECT AS HB 2457 THIS YEAR. RENO COUNTY'S POSITION REMAINS THE SAME. YOUR ASSISTANCE IN OPPOSING THIS BILL IS APPRECIATED.

J O'Sullivan

If there are any problems, telephone us at 316/662/0527

.....  
The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone immediately so we may arrange to retrieve this transmission at no cost to you. Thank you.



RONALD L. LESLIE P.A.  
 JOSEPH P. O'SULLIVAN  
 JOSEPH L. MCCARVILLE III  
 PAUL W. BROWN

CHARLES E. RAUH  
 (INACTIVE)

DAVID L. BROWN  
 (1942 - 1992)

HERBERT R. HESS, JR.  
 (1928 - 1993)

ATTORNEYS AT LAW

Leslie, O'Sullivan, McCarville & Brown

315 WEST FIRST STREET

P.O. BOX 2067

HUTCHINSON, KANSAS 67504-2067

FAX 316 662-0541

TELEPHONE 316 662 0527

March 24, 1998

Rep. Robert Krehbiel  
 State Capitol - Room 272W  
 Topeka, Kansas 66612

Rep. Michael O'Neal  
 State Capitol - Room 170W  
 Topeka, Kansas 66612

Rep. Janice Pauls  
 State Capitol - Room 272W  
 Topeka, Kansas 66612

Rep. Melvin Minor  
 State Capitol - Room 273W  
 Topeka, Kansas 66612

Senator Dave Kerr  
 State Capitol - Room 120S  
 Topeka, Kansas 66612

Dear Legislators:

I am writing in opposition to House Bill 2244 which amends K.S.A. 75-4321 by requiring public employers, such as Reno County, to come under the Public Employer/Employee Relations Act.

The Reno County Commission at one time elected to bring the County under the Act. In 1995 Reno County withdrew its consent. There were several reasons for the County's decision. These included the tremendous expense to the County resulting from seemingly endless meet and confer sessions, from resolving employee grievances which were automatically filed in most every case of employee discipline, and from defending meritless prohibitive practice complaints. Contrary to the declared policy and objectives of the Act as set out in K.S.A. 75-4321, Reno County's experience was that in many instances the Act did not develop harmonious and cooperative relationships between the County and its employees, and that Reno County has far less strife and unrest among its public employees while operating outside the jurisdiction of the Act.

In our experience the Legislature's effort to preserve the rights of the public employer as defined by K.S.A. 75-4326 was a failure. The Kansas Public Employee's Relations Board and the Kansas Supreme Court, in their respective decisions, defined mandatorily negotiable "conditions of employment" so broadly that virtually every management decision became a subject of a meet and confer session.

Reno County is now up against the tax lid. The Reno County Commission intends to ask for voter relief at the August primary. Relief is hoped for but not expected. Without tax lid relief, Reno County will reduce budgeted expenditures by approximately \$700,000.00 in 1999 in the general fund alone. Without additional resources, similar cuts are expected each subsequent year. Not only are there no resources to fund increases in the County's wage and salary schedule, it is likely there will be job consolidations and layoffs. Reno County offers generous employee benefits, including payment of a substantial portion of its employee's health insurance premium. We have to ask why the Kansas Legislature caps our ad valorem funding, leaving us in a position without any new revenues to pay wages and salaries, and then requires us to bargain in good faith with employee groups on the issues of wage and benefit increases.

Amending K.S.A. 75-4321, as proposed, is a mistake. I urge you to vote against its passage. This letter has been reviewed and approved by the Reno County Commission.

Very truly yours,

LESLIE, O'SULLIVAN, McCARVILLE & BROWN

By:



Joseph O'Sullivan  
Reno County Counselor

JO:deb

February 16, 1999

To: House Committee on Local Government  
From: Lonie R. Addis, Labette County Commissioner  
Re: Opposition to House Bill 2457

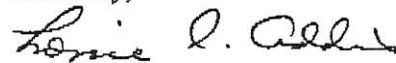
Dear Chairman Mayans and Members of the House Committee on Local Government:

Please excuse that I was unable to appear in person before your committee, but I only received word of the hearing this morning and was unable to make it to Topeka in time. HB 2457 concerns the Labette County Commission and Commissioners throughout the state. As a sixteen-year veteran of the Labette County Commission and current Vice-President of the Kansas County Commissioners Association, I assure you that every county is quite diverse. With each of the 105 counties of Kansas, comes home rule authority to govern their county as circumstances warrant. Each county is different in population, valuation and employee needs. The flexibility under existing laws gives each county commission the right to exercise their home rule authority to deal with labor issues that represent a harmonious and cooperative relationship with county employees.

Many county commissioners at one point in their life were members of organized labor. I belonged to the United Steelworkers of America for several years. As a Steelworker, I served as Chief Shop Stewart and was the Financial Secretary of Steelworkers Local 4359. While living and working in Kansas, I was also employed to assist Steelworker organizing efforts. I was and am very committed to the efforts of organized labor. But because counties are so different in nature in comparison to the private sector, local boards of commissioners need to deal with labor issues at the individual county level.

The two commissioners I work with, and those I am acquainted with throughout the state of Kansas are very conscientious of the safety and welfare of their county employees. Each county is unique and needs to be governed accordingly. I would sincerely request that this committee vote in opposition to HB 2457 and leave KSA 75-4321 in tact with the local option as stated in paragraph 5C.

Sincerely,



Lonie R. Addis  
Commissioner  
Labette County, Kansas

TOM SLOAN  
 REPRESENTATIVE, 45TH DISTRICT  
 DOUGLAS COUNTY

STATE CAPITOL BUILDING  
 ROOM 446-N  
 TOPEKA, KANSAS 66612-1504

(785) 296-7677  
 1-800-432-3924

772 HWY 40  
 LAWRENCE, KANSAS 66049-4174  
 (785) 841-1526



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 VICE CHAIRMAN: UTILITIES  
 MEMBER: ENVIRONMENT  
 KANSAS 2000

February 10, 1999

To: Local Government Committee Members  
 Re: HB 2040 – Amusement Ride Inspection and Rider Responsibility Bill

As I stated during my testimony, I have worked more than two years to build a consensus among amusement ride operators, manufacturers, insurers, fair operators, and patrons on the elements of an amusement ride safety bill. HB 2040 reflected that effort.

However, I carefully listened during your questioning of conferees during the hearing yesterday on HB 2040 and during several side conversations that occurred after the hearing concluded. Recognizing your concerns, I have asked Mary Ann Torrence to draft an amended bill for your consideration. The key changes include:

1. Removing all mention of the Dept. of Human Resources. – No State agency will be involved in the amusement ride business.
2. Removing the requirement that portable amusement rides be inspected within 30 days of each operation in Kansas (and therefore the requirement for multiple inspections). As amended, the bill still requires that all amusement rides – permanent fixed base and portable – must have at least \$1 million liability insurance, but now requires they be inspected before their first operation in Kansas each year. The rides do not have to be inspected again within that year. The inspection must be performed by a nationally certified, trained inspector.

According to the insurance industry representative's testimony before your Committee, his company (and presumably the others), employ such certified inspectors as loss prevention specialists and inspect the equipment for free before writing the insurance policy.

3. Making the language deletions suggested by the Kansas Trial Lawyers' representative to avoid ambiguity and potential conflict with existing statutes.
4. Providing an exemption from the bill's requirements for non-profit, community owned amusement rides (this meets Rep. Faber's request).

I believe that I have removed or corrected the problems Committee members identified with HB 2040 as originally introduced. It continues to represent a positive statement for safe operations of amusement rides on the part of both operators and riders. Furthermore, it provides local fair boards confidence that inspections, insurance coverage, and operator training are in place, without providing an undue burden or cost on amusement ride operators, local communities, or the State. And, based on the testimony of the two operators of small "shows," nothing in the bill (as revised) will restrict their ability to work or increase their operating costs.

I remind you of the generally unanimous testimony by conferees supporting the training documentation, requirement for liability insurance, posting of operator and rider information, and the rider responsibility feature. With my removal of the multiple inspection component, exclusion of State agency involvement, and exemption for community-owned rides, I ask you to amend HB 2040 and recommend the amended bill favorably for passage.

HOUSE LOCAL GOVERNMENT  
 Attachment 14  
 2-16-99



TOM SLOAN  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTYSTATE CAPITOL BUILDING  
ROOM 446-N  
TOPEKA, KANSAS 66612-1504  
(785) 296-7677  
1-800-432-3924772 HWY 40  
LAWRENCE, KANSAS 66049-4174  
(785) 841-1526TOPEKA  
HOUSE OF  
REPRESENTATIVES

To: Members of the Local Government Committee

Re: HB 2182 – Lecompton Township

During the hearing on HB 2182, a Lecompton Township Trustee and I attempted to explain why the township sought a limited increase in the power of eminent domain. As you recall, under current statutes townships may condemn ground next to a cemetery to construct a chapel. Lecompton seeks authorization to, IF NECESSARY, condemn ground for a township office/storage building in conjunction with the township fire department. I remind Committee Members that even under the use of eminent domain, property owners are paid for the land used for public purposes.

Committee members had questions about the township's budget: For 1998, the township spent a total of \$177,607. Major budget items include:

- \$65,233 for road rock
- 33,317 transfer to fire department
- 21,482 labor
- 11,760 parts and repairs
- 8,925 utilities
- 6,659 withholding
- 5,775 insurance
- 4,295 fuel
- 4,067 culvert tubes
- 3,157 tools and supplies
- 2,076 signs

the township also pays \$9,768 per year on a backhoe and beginning in 1999 will pay \$20,000 per year on a motor grader.

Committee members appeared uncomfortable providing a blanket right for townships to utilize eminent domain (even with the provisions built into the bill for citizens to demand a vote on the land acquisition and building plans). Questions focused on whether the bill could be amended to solely address Lecompton Township or to provide the County Commissioners the authority to use eminent domain on behalf of a township. Either approach is acceptable to Lecompton Township Trustees. Theresa Kiernan has developed balloon drafts of both approaches for your consideration. In addition, I have reduced the amount of land that can be condemned to a maximum of 3 acres and reduced the number of signatures necessary to call an election to 5 percent.

Each of us is asked by local government units to help them address community needs. Lecompton Township has a serious problem with a dilapidated building on inadequate space. The fire department has a similar problem. Both ask for legislative assistance so that they can provide improved service and protection to their constituencies.

HOUSE LOCAL GOVERNMENT  
Attachment 15-1  
2-16-99

I appreciate your consideration of these balloons for HB 2182 and trust that we can find a way to help Lecompton Township Trustees, firefighters, and citizens.

I also hope that you can recommend HB 2040 (regarding amusement ride safety inspections, operator training reports, insurance requirements, and rider responsibility pronouncements) with the proposed amendments Mary Torrence and Theresa Kiernan provided to address the concerns expressed by Committee Members favorable for passage.

Thank you,  
DM



# **Rural Water District No. 7**

## **Johnson County, Kansas**

534 West Main - P.O. Box 7  
Gardner, Ks. 66030-0007  
(913) 856-7375 Fax (913) 856-7173

February 12, 1999

Rep. Carlos Mayans  
Local Government Committee  
State Capitol Building, Room Room 115 S  
Topeka, KS 66612

Re: House Bill 2043

Representative Mayans:

Thank you for the opportunity to present comments to the Local Government Committee on February 4, 1999, regarding opposition to House Bill 2043.

As indicated at the committee hearing, we have discussed the proposed bill with Representative Ballou and have considered avenues for resolving the situation that caused HB 2043 to be introduced. The Board of Directors has met with the party whose "right to water service" was forfeited. Unfortunately, the party has indicated very adamantly that they would consider no compromise. The party will not avow that they forfeited the right to water service because they ignored their responsibility to pay past due billings. They believe that they can abandon the responsibilities of a property for 13 months, and upon demand, be reinstated as a patron of the Water District without consequence and without compliance to rules, regulations and bylaws. This is not in accordance with the policies that they agreed to as members.

No doubt, these individuals have a need to obtain water service. They informed the Board of Directors that they attempted to drill a private well. That well did not produce any water. They reported the cost of that construction to be \$3,400. We considered this information, and question why no resolve was sought with the Water District, using these funds to secure a guaranteed water supply. The goal was to have a water source, yet this party refused any consideration of compromising their stance against the Water District.

As was stated in our testimony, this is the first time this situation has occurred in this Water District since it was formed 25 years ago. We, the Board of Directors of Rural Water District #7, feel that we must continue to adhere to our Rules & Regulations and Bylaws, contrary to the development an isolated incident.

Rural water districts offer property owners the opportunity to affordable water service in rural areas by belonging to a cooperative organization and purchasing the "right to water service" or "Benefit Unit". We uphold that Benefit Unit owners must be accountable in preserving that right to service, as is clearly stated in the Rules & Regulations and Bylaws of the Water District. Every new benefit unit subscriber and patrons transferring into the Water District are provided a copy of the Rules & Regulations and Bylaws. These regulations are clear to point

Rep. Mayans  
February 12, 1999  
Page 2 of 2

out that all patrons are responsible for sharing the fiscal responsibility of the Water District by paying a monthly fee and the cost of water used by the individual. This party signed a Benefit Unit Certificate of Title acknowledging the Rules & Regulations and Bylaws that govern the District and agreed to abide by the regulations governing it, yet failed to meet that obligation.

HB 2043 would remove the payment obligation from the patrons, allowing them to pay billings at random, if they desired, without responsibility or consequence. Our interpretation of HB 2043 is that it could therefore, not only effect rural water districts but all utilities in Kansas, and would transfer the penalty for non payment to the utility companies and to customers who do pay their monthly obligations. We also are of the opinion that HB 2043 would remove the "self-governing" aspect of rural water districts and place it in the hands of persons who do not live in the community. Please keep in mind that the Board of Directors of our rural water district live in and abide by the rules within the system they govern, and are elected by fellow patrons.

Rural Water District #7 has a history of working with our patrons who have payment problems or other issues. An avenue for compromise has always been found to resolve the problem, and we pride ourselves in having successfully accomplished this for over 25 years. We believe that this case, too, could have been solved, had opportunity been offered to the Water District when the problem first arose. It should not now warrant legislation that so greatly affects the entire state.

Again, thank you for the opportunity to express our concerns on this proposed HB 2043. If we can be of assistance to you, or answer any questions you may have concerning the matter, please contact us through the Water District office at 913-856-7375.

Sincerely,

  
Mary Nelson, Chairperson  
Rural Water District No. 7  
Johnson County, Kansas

MN/tkr