

Approved: 2-8-99
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairman Senator Janice Hardenburger at 1:30 p.m. on February 2, 1999 in Room 529-S of the Capitol.

All members were present:

Committee staff present: Dennis Hodgins, Legislative Research Department
Mike Heim, Legislative Research Department
Ken Wilke, Revisor of Statutes
Graceanna Wood, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

Chairman Hardenburger asked for introduction of bills.

Senator Steve Morris requested introduction of bill changing the statutes that would allow crossing the state line by fire protection for the purpose of providing mutual aid. (Attachment #1)

Senator Becker moved that the bill be introduced, seconded by Senator Huelskamp. Motion carried.

Senator Huelskamp requested introduction of a bill dealing with corporations appearing in small claims court and provide some clarification in the statute concerning different judicial districts.

Senator Becker moved that the bill be introduced, seconded by Senator Steineger. Motion carried.

Chairman Hardenburger informed the Committee that a previous briefing was held on **SB 7-relating to the consolidation of cities and counties**. Since it is a comprehensive bill, another briefing on the bill was in order. The bill originated as a result of an amendment proposed on a bill last year that would have required a majority vote by every taxing sub-division in a district or county or city that wanted to consolidate functions or services. The intent of the amendment was to prevent consolidation because it definitely produced many problems that needed to be clarified and with the approval of the majority of every taxing sub-division. It would have created a very complicated process as far as setting up the voting procedures for such an effort. A special Committee was requested to study city and county consolidation. **SB 7** is patterned from the framework that was set up for the consolidation of Wyandotte County and Kansas City, Kansas. This is not a mandate. This would allow governments the freedom to decide what they wanted to do at the local level with the vote of the people. If this is not acceptable to local government, we certainly can draft laws at the state level to control what is done at the local level. With that, Chairman Hardenburger emphasized that **SB 7** is enabling legislation, providing framework for local government to discuss consolidation, without having to come to the state for permission. This bill is flexible; it can be changed to satisfy local government - a way for state government to enable local governments to operate as they so choose. There have been some consolidation efforts in the state. There are many going on right now. and the state does not ban the consolidation of functions and services at this point. Last year, the amendment proposed would have almost banned consolidation of functions and services. Riley County has had consolidated law enforcement for 25 years which works very well and has served as a pattern for other people to look at. Cloud County right now is studying consolidation of law enforcement. Some counties and cities are talking about consolidation of their technology systems, their computer systems etc.

Mr Heim, Legislative staff briefed the Committee on **SB 7**, which was a result of the Special Committee recommendations. (Attachment #2)

The Committee discussed 1/3 of the membership coming from the unincorporated area..

Meeting was adjourned at 2:10 p.m. Next meeting scheduled for February 3, 1999.

ELECTIONS & LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: FEBRUARY 2, 1999

Randy Allen, Kansas
Association of Counties

NAME	REPRESENTING
Susan Duran	Issues Management Group
MIKE Steinfert	MYSELF
Harry Kramer	"
Marci Leo	Sedgwick County
Janet Hay	Sedgwick County
Brenda Foreman	" "
W. Dean Foreman	Sedgwick Co.
James Kelsey	Shawnee Co Farm Bureau
Jeanie Stous	Shawnee Co Farm Bureau
Dub Stous	" " "
Francis Kelsey	" " "
Marvin E. Smith	Shawnee Co Farm Bureau
Craig E. Emz	Farm Bureau
Clyde Young	Lakin Township
Anne Marie Worley	Rawlins Co. F Bureau
Lynda Foster	Farm Bureau - Bourbon Co.
Paul Drum	Farm Bureau Sedg Co
Duane Sanders	Lincoln Township
Geahella Sanders	Farm Bureau Sedg Co.

Valer Lou Drum
 Dennis Hagenbacher
 Fajana Cole
 Marc Hanover
 Gary Gacke
 Farm Bureau - Sedg. Co.
 Sedgwick County Farm Bureau
 Sen. Syron - Intuan
 Div. of the Budget
 Sedgwick County

Karen Skillman - Coffey Co Farm Bureau
Leon Skillman Coffey Co Farm Bureau
Maude Hawver Hawver's Capitol Report



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1 February 1999

The Honorable Stephen R. Morris
State Senator, District 39
Kansas Senate
Topeka, KS 66612

Dear Senator Morris:

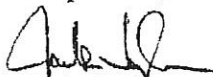
As we have been updating our mutual aid agreements for fire protection recently, I have come across something that I, along with many other fire chiefs in the State of Kansas, have been unaware of. The Attorney General's Office made me aware of this as they reviewed the agreements we submitted to them. That is that there is no provision in the statutes that allows us to cross the state line for the purposes of providing mutual aid. There is a statute, 19-3608, that allows county fire protection districts to enter into agreements with counties in adjoining states but none for cities.

Many of my fellow chiefs that are in the near vicinity of neighboring states are concerned over this issue. As you may be aware, with the exception of the Seward County Fire Department, our closest mutual aid comes from Oklahoma. Conversely, the City of Liberal has provided technical rescue services into the Oklahoma panhandle for as long as I have been with the Department (1975). We have also provided mutual aid for fires from time to time. It seems immoral to me to tell me that if a car load of kids is trapped in a wrecked vehicle two miles south of town in Oklahoma, that the State of Kansas won't allow me to cross that imaginary line to render assistance with the closest ambulance in Oklahoma being 35 miles away.

It is my opinion that we need to take action to amend 19-3608 to include cities or to create separate legislation to provide us a means to render aid across state lines when necessary.

I've tried to keep this short and to the point so I may not have covered everything. If you have questions or comments, please call me at 626-0128. You can fax me at 626-0568 or my e-mail is taylorj@swko.net. Thank you for your attention and I look forward to hearing from you.

Respectfully,


Jack Taylor
Fire Chief

Senate Elections & Local Government
Attachment: # 1-1
Date: 2-2-99

SENATE BILL No. 7

By Special Committee on Local Government

12-16

8 AN ACT concerning cities and counties; relating to the consolidation
9 thereof; amending K.S.A. 12-301 and 12-3909 and K.S.A. 1998 Supp.
10 19-205 and repealing the existing sections.

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

13 New Section 1. As used in this act:

14 (a) "Board" means the board of county commissioners.

15 (b) "City" means any city.

16 (c) "Commission" means a consolidation study commission selected
17 pursuant to section 2, and amendments thereto.

18 (d) "County" means any county.

19 New Sec. 2. (a) The board of county commissioners of a county and
20 the governing body of any city or cities located within such county may
21 adopt a joint resolution providing for the establishment of a consolidation
22 study commission to prepare a plan for the consolidation of the county
23 and such city or cities located in such county. Such resolution shall not
24 be effective until the question has been submitted to and approved by a
25 majority of the qualified electors of the county voting at an election
26 thereon. Such election shall be called and held in the manner provided
27 by the general bond law.

28 (b) Upon presentation to the board of county commissioners of a
29 sufficient petition requesting the establishment of a consolidation study
30 commission, the board shall adopt a resolution providing for the estab-
31 lishment of a consolidation study commission to prepare a plan for the
32 consolidation of such county and city or cities located therein. Any such
33 petition shall be signed by at least 10% of the qualified electors of the
34 county. Any such petition shall contain a statement that the creation of a
35 consolidation study commission and any final plan adopted by the com-
36 mission which recommends consolidation shall be subject to approval by
37 the qualified electors of the county. In addition, the petition also shall
38 state that no city shall be consolidated with the county and no offices,
39 functions, services and operations of a city shall be consolidated with the
40 county unless such consolidation plan is approved by a majority of the
41 qualified electors of such city voting at the election held on such plan.
42 Such resolution shall be submitted to the qualified electors of the county

Definitions of terms.

How the process starts: two alternatives

(a) governing bodies actions

(b) 10% petition of county electors

Contents of initiative petition

1 at an election called and held in the manner provided by the general bond
2 law.

3 (c) Any resolution or petition authorized to be adopted or submitted
4 by subsection (a) or (b) shall provide for the establishment of a consoli-
5 dation study commission and shall provide either that the members be
6 appointed or that the members be elected by the qualified electors of the
7 county on a nonpartisan basis. If the commission is to be elected, the
8 procedure for holding such election shall be determined by such reso-
9 lution or petition. The laws applicable to the procedure, manner and
10 method provided for the election of county officers shall apply to the
11 election of members of the commission except that such election shall be
12 called in the manner provided by the general bond law.

13 (d) If a majority of the qualified electors of the county voting on a
14 resolution submitted pursuant to subsection (a) or (b) vote in favor
15 thereof, the commission shall be elected or appointed as provided by the
16 resolution or petition. The number of members on a consolidation study
17 commission shall be determined by the resolution or petition. At least 1/3
18 of the membership of a consolidation study commission shall be residents
19 of the unincorporated area of the county.

20 New Sec. 3. (a) Within 30 days following the certification of the re-
21 sults of the election or appointment of members of the consolidation
22 study commission, the chairperson of the board of county commissioners,
23 acting as the temporary chairperson of the commission, shall call and hold
24 an organizational meeting of the commission. The commission shall elect
25 a chairperson, vice-chairperson and other officers deemed necessary. The
26 commission may adopt rules governing the conduct of its meetings.

27 (b) The commission shall be subject to the open meetings law and
28 the open records law.

29 (c) Members of the commission shall be reimbursed for the actual
30 and necessary expenses incurred in the performance of their official
31 duties.

32 (d) The commission may appoint an executive director of the com-
33 mission. The executive director shall receive compensation established by
34 the commission. The executive director shall employ other staff and may
35 contract with consultants, as the executive director deems necessary to
36 carry out the functions of the commission. Staff employed by the exec-
37 utive director shall receive compensation established by the executive
38 director and approved by the commission.

39 (e) The commission shall prepare and adopt a budget for the oper-
40 ation and functions of the commission and commission activities.

41 New Sec. 4. (a) The commission shall prepare and adopt a plan ad-
42 dressing the consolidation of the city or cities and county or certain city
43 and county offices, functions, services and operations. The commission

Contents required for either the resolution or petition---whether the consolidation study commission is appointed or elected on a nonpartisan basis is set here

The resolution or petition sets the number of commissioners—Note 1/3 of the membership must be from the unincorporated area

Commission startup

open meetings and open records

executive director

budget required

What the Commission is required to do

1 shall conduct such studies and investigations as it deems appropriate to
2 complete its work. Such studies and investigations shall include, but not
3 be limited to:

conduct studies

4 (1) Studies of the efficiency and effectiveness of the administrative
5 operations of the city or cities and county.

6 (2) Studies of the costs and benefits of consolidating the city or cities
7 and county or certain city or cities and county offices, functions, services
8 and operations.

9 (b) The commission shall hold public hearings for the purpose of
10 receiving information and materials which will aid in the drafting of the
11 plan.

hold hearings

12 (c) For the purposes of performing its studies and investigations, the
13 commission or its executive director may administer oaths and affirmations,
14 subpoena witnesses, compel their attendance, take evidence, require the
15 production of any books, papers, correspondence, memoranda, agreements
16 or other documents or records which the commission or executive director
17 deems relevant or material to its studies and investigation.

may compel testimony and documents

18 (d) The commission shall prepare and adopt a preliminary plan
19 addressing the consolidation of the city or cities and county or certain city
20 and county offices, functions, services and operations it deems advisable.
21 Copies of the preliminary plan shall be filed with the county election
22 officer, city clerk of each city to be consolidated and each public library
23 within the county and shall be available to members of the public for
24 inspection upon request. The commission shall hold at least two public
25 hearings to obtain citizen views concerning the preliminary plan. At least
26 seven days shall elapse between the holding of such hearings. Notice of
27 such hearings shall be published at least once in a newspaper of general
28 circulation within the county. Following the public hearings on the
29 preliminary plan, the commission may adopt, or modify and adopt, the
30 preliminary plan as the final plan.

preliminary plan required

31 (e) The final plan shall include the full text and an explanation of the
32 proposed plan, and comments deemed desirable by the commission, a
33 written opinion by an attorney admitted to practice law in the state of
34 Kansas and retained by the executive director for such purpose that the
35 proposed plan is not in conflict with the constitution or the laws of the
36 state, and any minority reports. Copies of the final plan shall be filed with
37 the county election officer, city clerk of each city to be consolidated and
38 each public library within the county and shall be available to members
39 of the public for inspection upon request. The commission shall continue
40 in existence at least 90 days following the submission of the final plan for
41 approval at an election as provided by subsection (f).

where copies of preliminary plan available

at least two public hearings on the preliminary plan

final plan—written opinion by attorney required

42 (f) The final plan shall be submitted to the qualified electors of the
43 county at the next general election of the county held at least 45 days

where copies of final plan available

final plan to a vote at next county general election

1 following the adoption of the final plan by the commission. Such election
2 shall be called and held by the county election officer in the manner
3 provided by the general election law. A summary of the final plan shall
4 be prepared by the commission and shall be published at least once each
5 week for two consecutive weeks in a newspaper of general circulation
6 within the county.

Summary of final plan must be published

7 If a majority of the qualified electors of the county voting on the plan
8 vote in favor thereof, the consolidation plan shall be implemented in the
9 manner provided by the plan except that no city shall be consolidated
10 with the county and no offices, functions, services or operations of a city
11 shall be consolidated with the county unless such consolidation plan is
12 approved by a majority of the qualified electors of such city voting at the
13 election held on such plan.

14 There shall be printed on the ballots at any election called to approve
15 the final plan the following statement:

Statement on ballot required

16 "If the majority of the qualified electors of a county and the majority
17 of the qualified electors of a city voting at the election to approve the
18 final plan vote in favor of such plan, such city shall be included within
19 and subject to the provisions of such plan.

20 If the majority of the qualified electors of a city voting at the election
21 to approve the final plan, do not vote in favor of such plan, such city shall
22 not be included within nor subject to the provisions of such plan in regard
23 to the status of such city as a separate entity from the county."

no city included if city voters don't approve

24 If such a majority of the electors vote against such plan, the proposed
25 consolidation plan shall not be implemented.

26 If the commission submits a final plan which does not recommend the
27 consolidation of the city or cities and county or certain city and county
28 offices, functions, services and operations, the provisions of this subsec-
29 tion shall not apply.

30 New Sec. 5. (a) Any plan submitted by the commission shall provide
31 for the exercise of powers of local legislation and administration not in-
32 consistent with the constitution or other laws of this state.

33 (b) If the commission submits a plan providing for the consolidation
34 of certain city and county offices, functions, services and operations, the
35 plan shall:

Requirements for a plan which does not involve full consolidation

36 (1) Include a description of the form, structure, functions, powers
37 and officers and the duties of such officers recommended in the plan.

38 (2) Provide for the method of amendment or abandonment of the
39 plan.

40 (3) Authorize the election, appointment or elimination of elective of-
41 ficials and offices.

42 (4) Specify the effective date of the consolidation.

43 (5) In the case of multi-city consolidation with a county, the plan shall

1 include provisions addressing the situation if the plan is approved by the
2 electors of one, but not all cities to be consolidated under the plan.

3 (6) Include other provisions determined necessary by the
4 commission.

5 (c) If the plan provides for the consolidation of the city or cities and
6 county, in addition to the requirements of subsection (b) the plan shall:

7 (1) Fix the boundaries of the governing body's election districts, pro-
8 vide a method for changing the boundaries from time-to-time, any at-
9 large positions on the governing body, fix the number, term and initial
10 compensation of the governing body of the consolidated city-county and
11 the method of election.

12 (2) Determine whether elections of the governing body of the con-
13 solidated city-county shall be partisan or nonpartisan elections and the
14 time at which such elections shall be held.

15 (3) Determine the distribution of legislative and administrative duties
16 of the consolidated city-county officials, provide for consolidation or ex-
17 pansion of services as necessary, authorize the appointment of a consol-
18 idated city-county administrator or a city-county manager, if deemed ad-
19 visable, and prescribe the general structure of the consolidated
20 city-county government.

21 (4) Provide for the official name of the consolidated city-county.

22 (5) Provide for the transfer or other disposition of property and other
23 rights, claims and assets of the county and city.

24 New Sec. 6. (a) If the voters approve a plan which provides for the
25 consolidation of the city or cities and county, such consolidated city-
26 county shall be subject to the provisions of this section.

27 (b) The consolidated city-county shall be subject to the cash-basis and
28 budget laws of the state of Kansas.

29 (c) Except as provided in subsection (d), and in any other statute
30 which specifically exempts bonds from the statutory limitations on bonded
31 indebtedness, the limitation on bonded indebtedness of a consolidated
32 city-county under this act shall be determined by the commission in the
33 plan, but shall not exceed 30% of the assessed value of all tangible taxable
34 property within such county on the preceding August 25.

35 (d) The following shall not be included in computing the total bonded
36 indebtedness of the consolidated city-county for the purposes of deter-
37 mining the limitations on bonded indebtedness:

38 (1) Bonds issued for the purpose of refunding outstanding debt, in-
39 cluding outstanding bonds and matured coupons thereof, or judgments
40 thereon.

41 (2) Bonds issued pursuant to the provisions of article 46 of chapter
42 19 of the Kansas Statutes Annotated, and amendments thereto.

43 (3) Bonds issued for the purpose of financing the construction or

**Requirements of a plan where full city-
county consolidation is proposed**

**If city-county consolidation is approved
by voters the following rules apply**

cash basis and budget laws

bonded debt

1 remodeling of a courthouse, jail or law enforcement center facility, which
2 bonds are payable from the proceeds of a retailers' sales tax.

3 (4) Bonds issued for the purpose of acquiring, enlarging, extending
4 or improving any storm or sanitary sewer system.

5 (5) Bonds issued for the purpose of acquiring, enlarging, extending
6 or improving any municipal utility.

7 (6) Bonds issued to pay the cost of improvements to intersections of
8 streets and alleys or that portion of any street immediately in front of city
9 or school district property.

10 (e) Any bonded indebtedness and interest thereon incurred by the
11 city or cities or county prior to consolidation or refunded thereafter shall
12 remain an obligation of the property subject to taxation for the payment
13 thereof prior to such consolidation.

local retailers' sales tax rates

14 (f) Upon the effective date of the consolidation of the city or cities
15 and county, any retailers' sales tax levied by the city or cities or county in
16 accordance with K.S.A. 12-187 *et seq.*, and amendments thereto, prior to
17 such date shall remain in full force and effect, except that part of the rate
18 attributable to the city or cities to be consolidated shall not apply to retail
19 sales in the cities which are not consolidated with the county. The con-
20 solidated city-county shall be a class A, B, C or D city as determined by
21 the commission in the plan.

territory

22 (g) Upon the effective date of the consolidation of the city or cities
23 and county, the territory of the consolidated city-county shall include:

24 (1) All of the territory of the county for purposes of exercising the
25 powers, duties and functions of a county.

26 (2) All of the territory of the county, except the territory of the cities
27 which are not consolidated with the county and the unincorporated area
28 of the county, for purposes of exercising the powers, duties and functions
29 of a city.

voting area

30 (h) For the purposes of section 1 of article 5 of the constitution of
31 the state of Kansas, the "voting area" for the governing body of the con-
32 solidated city-county shall include all the territory within the county.

33 (i) Except for the consolidated city-county and unless otherwise pro-
34 vided by law, other political subdivisions of the county shall not be af-
35 fected by consolidation of the city or cities and county. Such other political
36 subdivisions shall continue in existence and operation.

state and federal funds

37 (j) Unless otherwise provided by law, the consolidated city-county
38 shall be eligible for the distribution of any funds from the state and federal
39 government as if no consolidation had occurred. Except as provided in
40 this subsection, the population and assessed valuation of the territory of
41 the consolidated city-county shall be considered its population and as-
42 sessed valuation for purposes of the distribution of moneys from the state
43 or federal government.

1 (k) The consolidated city-county shall be a county. The governing
 2 body of the consolidated city-county shall be considered county commis-
 3 sioners for the purposes of section 2 of article 4 of the constitution of the
 4 state of Kansas and shall have all the powers, functions and duties of a
 5 county and may exercise home rule powers in the manner and subject to
 6 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
 7 other laws of this state.

8 The governing body of the consolidated city-county shall be responsible
 9 for any duties or functions imposed by the constitution of the state of
 10 Kansas and other laws of this state upon any county office abolished by
 11 the consolidation plan. Such duties may be delegated by the governing
 12 body or as provided in the consolidation plan.

13 (l) The consolidated city-county shall be a city of the first, second or
 14 third class as determined by the commission in the plan. The governing
 15 body of the consolidated city-county shall have all the powers, functions
 16 and duties of a city of such class and may exercise home rule powers in
 17 the manner and subject to the limitations provided by article 12 of section
 18 5 of the constitution of the state of Kansas and other laws of this state.

19 (m) The governing body of the consolidated city-county may create
 20 special service districts within the city-county and may levy taxes for serv-
 21 ices provided in such districts.

22 (n) Changes in the form of government approved by the voters in
 23 accordance with the consolidation plan are hereby declared to be legis-
 24 lative matters and subject to initiative and referendum in accordance with
 25 K.S.A. 12-3013 *et seq.*, and amendments thereto.

26 New Sec. 7. The board of county commissioners may levy a tax not
 27 to exceed one mill on all taxable tangible property of the county for the
 28 purpose of financing the costs incurred by the consolidation study com-
 29 mission while executing the powers, duties and functions of such com-
 30 mission. After the payment of such costs incurred by the commission any
 31 remaining moneys derived from such tax levy shall be transferred to the
 32 county general fund in the manner provided by K.S.A. 79-2958, and
 33 amendments thereto.

34 Sec. 8. K.S.A. 12-301 is hereby amended to read as follows: 12-301.

35 (a) Whenever two or more cities organized under the laws of the state of
 36 Kansas, which are adjacent to each other, desire to ~~form but one city~~
 37 *consolidate*, such consolidation may be made under the provisions of this
 38 act. ~~Provided~~, That if any one of said. *If one of such* cities shall have
 39 adopted the commission form of government, the word "council," as
 40 hereinafter used, shall be construed literally, or shall be held to mean
 41 mayor and commissioners, or board of commissioners as the sense shall
 42 justify.

43 (b) *The provisions of K.S.A. 12-301 through 12-331a, and amend-*

Considered a city

Special service tax districts

initiative and referendum apply

tax levy—not to exceed one mill--
authorized to pay costs of commission

city-city consolidation clarification

1 *ments thereto, shall not apply to cities consolidated pursuant to this act,*
2 *and amendments thereto.*

3 Sec. 9. K.S.A. 12-3909 is hereby amended to read as follows: 12-
4 3909. ~~Nothing in this act shall be construed as authorizing the consoli-~~
5 ~~datation of any political or taxing subdivision with any other political or~~
6 ~~taxing subdivision.~~ Nothing in ~~this act~~ *K.S.A. 12-3901 through 12-3908,*
7 *and amendments thereto,* shall be construed to authorize the closing or
8 the change of use of any school or attendance facility.

**consolidation of functions law
clarification or change**

9 Sec. 10. K.S.A. 1998 Supp. 19-205 is hereby amended to read as
10 follows: 19-205. Except as provided by K.S.A. 1998 Supp. 12-344 ~~and,~~
11 12-345, *sections 5 and 6, and amendments thereto,* no person holding any
12 state, county, township or city office shall be eligible to the office of
13 county commissioner in any county in this state.

**eligibility requirements for office of
county commissioner clarification**

14 Nothing in this section shall prohibit the appointment of any county
15 commissioner to any state board, committee, council, commission or sim-
16 ilar body which is established pursuant to statutory authority, so long as
17 any county commissioner so appointed is not entitled to receive any pay,
18 compensation, subsistence, mileage or expenses for serving on such body
19 other than that which is provided by law to be paid in accordance with
20 the provisions of K.S.A. 75-3223, and amendments thereto.

21 Sec. 11. K.S.A. 12-301 and 12-3909 and K.S.A. 1998 Supp. 19-205
22 are hereby repealed.

23 Sec. 12. This act shall take effect and be in force from and after its
24 publication in the statute book.