

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 March 13, 2000, in Room 245-N of the Capitol.

All members were present except: Senator Petty  
Senator Vidricksen

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: Karen France, Director of Government Affairs, Kansas Association of Realtors  
Judy Moler, Kansas Association of Counties  
Marilyn Nichols, Shawnee County Register of Deeds  
Ruth Rahe, Republic County Register of Deeds  
Jim Yonnally, Kansas Society of Land Surveyors  
Bill Meek, Sedgwick County Register of Deeds  
George Barbee, Barbee & Associates

Others attending: See attached list

Chairman Hardenburger opened the hearing on **HB 2750 concerning plat; and repealing the existing section**. This bill passed out of the House Committee of the whole with an amendment from the original bill, and **SB 582 concerning land surveys and land surveyors; and repealing the existing section** was passed in Senate Judiciary Committee and it is a bill that is much more acceptable to all the parties than was **HB 2750**. She said that the Committee will hear testimony on this bill, and if the Committee agrees, **HB 2750** will be gutted and **SB 582** amended into it with some amendments.

Karen France, Kansas Association of Realtors, gave testimony supporting **HB 2750**. She said that the protection of property owners should not be sacrificed over political squabbles within a county courthouse. (Attachment #1)

Legislative staff explained that KSA Supp. 58-2005 was supposed to be stricken from the Senate bill, which requires a county surveyor or, in the absence of a county surveyor, a land surveyor, to review a subdivision plat or plat survey, prior to recording of such plat.

Judy Moler, Kansas Association of Counties, an opponent of **HB 2750**, stated that last session, **HB 2205** amended KSA 58-2005 to its current status. **HB 2750** would repeal KSA 58-2005. (Attachment #2)

Marilyn Nichols, Shawnee County Register of Deeds, testified in opposition of **HB 2750**. She said the Register of Deeds Association cannot support the bill in the amended form, because it still calls for a review by the county surveyor and the certification of one surveyor's work to another. (Attachment #3)

Ruth Rahe, Republic County Register of Deeds presented testimony, in opposition and informed the Committee that this bill would present a financial burden to the smaller counties. She also presented testimony to the Committee signed by Board of County Commissioners, Republic County, stating this bill would represent an unfunded mandate due to the fact that it contains no provision to recoup expenditures which have been necessitated in complying with the law. (Attachment #4) (Attachment #5)

Jim Yonnally, Kansas Society of Land Surveyors, testified in opposition to **HB 2750** and said that **SB 582** had three sections. The Land Surveyors' Committee asked us to work out something, they met and worked out something on two sections. KSA 58-2003 and 58-2011 were left in the bill. He said that they agreed to leave 58-2005 out of the bill, and deal with 58-2005 in **HB 2750**, which was before the House. Therefore, Mr. Yonnally believes the language of 58-2005 in the bill should remain stricken.

## CONTINUATION SHEET

George Barbee, Barbee Associates, representing Kansas Consulting Engineers, testified to the Committee that he is in favor of inserting **SB 582** into **HB 2750**, because it removes KSA 58-2005. There is a situation where a licensed land surveyor is preparing plats because he must be licensed to do that. Another licensed land surveyor is being asked to review the plats. If a surveyor that prepared the plat is not doing it in a manner consistent with the minimum standards adopted by the Board of Technical Professions, then charges can be brought against him for their errors. There are safeguards for the practice of surveying, engineering and architecture, all with the same agency. Therefore, Kansas Consulting Engineers supports the adoption of **SB 582** within **HB 2750**.

The Committee discussed the problems between Land Surveyors surveying and reviewing the same plat. Chairman Hardenburger said that current law requires a surveyor and there are not enough surveyors in each county.

Bill Meek, Sedgwick County Register of Deeds explained to the Committee that when a plat has been properly sealed by a surveyor, the Register of Deeds cannot by law refuse them. They have to be accepted.

Senator Gooch asked if the Surveyor's surveys are error free. Mr. Yonnally said that the survey plats turned in had 40 to 60% error rates, some very minor, but some were very important.

Meeting was adjourned at 2:15 p.m. Next meeting is scheduled for March 14, 2000.





Kansas Association of REALTORS®

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**TO: HOUSE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE**

**FROM: KAREN FRANCE, DIRECTOR OF GOVERNMENTAL AFFAIRS**

**DATE: MARCH 13, 2000**

**SUBJECT: HB 2750 Plat review**

Thank you for the opportunity to testify. The Kansas Association of REALTORS® prefers the version of HB 2750 before you, rather than the version of the bill originally introduced. The original version of the bill might have been well intentioned, however the results would have been devastating.

The protection of property owners should not be sacrificed over political squabbles within a county courthouse. The review of a plat before recording is crucial. The feedback I have received from my members is that the failure to review a plat before recording has the potential of damaging property owners within a county and even outside of the county for years and generations to come. A plat which is six feet or six inches off the mark has a potential domino effect on, not only the property owners who own the land being platted, but all of the property owners which abut the subject property and potentially all of the property owners in the counties. Deeds are drawn and property is transferred based upon the presumed accuracy of this information and then fences are built, trees are planted, and houses are constructed.

We believe the existing law is clear and needs no change. If you feel the need to further to clarify it, this version is the better version. However, we believe the costs assessed to the applicant should be the actual costs involved. Otherwise this fee could easily become a new revenue stream for a county, or a method for deterring development by charging punitive fees.

We appreciate the opportunity to testify and will be happy to answer any questions the committee may have.

Senate Elections & Local Government  
Date: 3-13-00  
Attachment # 1



**KANSAS  
ASSOCIATION OF  
COUNTIES**

**TESTIMONY**

**Before the Senate Elections and Local Government Committee  
Judy A. Moler, Legislative Services Director/General Counsel  
Kansas Association of Counties  
HB 2750  
March 13, 2000**

Senator Hardenburger and Members of the Committee, thank you for allowing me to speak today regarding HB 2750. Last session, HB 2205 was passed with relative ease. This is the bill that amended K.S.A. 58-2005 to its current status. It seemed at the time a minor change. However, I would tell you that I have had more calls from counties with concerns about how they can implement this law than almost any other issue. As it appears, HB 2205 did very little to change the law, it just made counties aware of statutes that had not been workable for some time.

During the summer the Kansas Association of Counties, in order to make this bill workable for counties, held a meeting with county counselors, county registers of deeds and land surveyors. We prepared a resolution whereby the county could appoint a county surveyor in order to meet the letter of the law. However, in our less populous counties especially, this is just not a viable option. During the adoption of the KAC 2000 Platform, language was added to the platform asking for repeal of K.S.A. 58-2005.

Indeed, last month, a meeting of the same interested parties was held in the KAC offices to try to resolve this issue to the agreement of all. After much discussion, it became apparent that there is no agreement around this issue....in fact, at the meeting it became apparent that there is much disagreement among licensed land surveyors themselves.

As I understand it, HB 2205 bill was forwarded by the Kansas Society of Land Surveyors in order to stop plats or plats of surveys being filed which contained errors. While this may be a laudable motive, the Board of Technical Professions exists to monitor the professionalism of land surveyors. The county should not be placed in this role.

There are several counties who have selected a county surveyor or have one on staff who can review the plats or plats of survey before they are filed. Many would like to continue this practice. **Even if the statute were**

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**repealed, there is nothing that would prohibit counties from continuing or establishing this practice under the counties' existing home rule powers.**

The original version of HB 2750 repealed K.S.A. 58-2005. It was amended on the House floor to require counties to once again be responsible for the review of subdivision plats or plats of survey before they are recorded. The bill, as amended, does allow the county to collect a fee for this service as a recent Attorney General opinion stated that counties currently can not collect a fee. The Kansas Association of Counties would ask that the Legislature repeal K.S.A. 58-2005 by returning the bill to its original language.

SB 582 (attached) is on the Senate calendar. This bill deals with the same statute, repeals K.S.A. 58-2005 and changes the two other sections of the statute. This compromise was worked out during Senate Judiciary hearings. This bill is the preference of the Kansas Association of Counties.

There are several county officials here today. These officials can speak to the specific problems surrounding this issue.

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) 272-2585.



## As Amended by Senate Committee

Session of 2000

### SENATE BILL No. 582

By Committee on Judiciary

2-7

10 AN ACT concerning land surveys and land surveyors; amending K.S.A.  
11 1999 Supp. 58-2003, ~~58-2005~~ and 58-2011 and repealing the existing  
12 sections.  
13

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

15 Section 1. K.S.A. 1999 Supp. 58-2003 is hereby amended to read as  
16 follows: 58-2003. When any section corner, quarter section corner or  
17 section center is set or reset by a surveyor and when any such corner is  
18 located by a surveyor in the course of carrying out a public survey, there  
19 shall be recorded, ~~in the manner provided by K.S.A. 58-2011, and amend-~~  
20 ~~ments thereto, with the county register of deeds and, with the county~~  
21 **surveyor for the county or counties in which the survey corner exists**  
22 **or as otherwise provided in this section**, reference measurements from  
23 permanent, visible objects to the location of the point as set, reset or  
24 located. These reference objects shall be described clearly. In ~~lieu of~~  
25 **addition to** reference measurements from visible objects, such reference  
26 measurements may be made from triangulation stations maintained by  
27 the national ocean service/national geodetic survey or by utilizing the state  
28 plane coordinate system prescribed by K.S.A. 58-20a01 *et seq.*, and  
29 amendments thereto. **If there is no county surveyor for the county or**  
30 **counties in which the survey corner exists, such report shall be filed**  
31 **with the county engineer, or, if there is no county engineer, such**  
32 **report shall be filed with the office of the county road department.**

33 Sec. 2. K.S.A. 1999 Supp. 58-2005 is hereby amended to read as  
34 follows: 58-2005. Before a subdivision plat or plat of survey may be re-  
35 corded, it shall be reviewed by the county surveyor. In the absence of the  
36 county surveyor, the county engineer may contract with a land surveyor  
37 who shall review such subdivision plat or plat of survey and certify the  
38 same if in compliance with the requirements of this act ~~shall be respon-~~  
39 ~~sible for the enforcement of this act, and shall certify that such plat meets~~  
40 ~~all the requirements of this act. In the event that any such plat is required~~  
41 ~~to be submitted to any planning commission for review and approval or~~  
42 ~~disapproval that such review and approval duly certified upon the face~~  
43 ~~of such plat shall constitute full compliance with the review required in~~

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1 ~~this section.~~

2 Sec. ~~3~~ **2**. K.S.A. 1999 Supp. 58-2011 is hereby amended to read as  
 3 follows: 58-2011. (a) Whenever a survey originates from a United States  
 4 public land survey corner or any related accessory, the land surveyor shall  
 5 file a copy of the report of the completed survey and references to the  
 6 corner or accessory with the secretary of the state historical society and  
 7 with the county surveyor for the county or counties in which the survey  
 8 corner exists. ~~If there is no county surveyor of such county, such report~~  
 9 ~~shall be filed with the county engineer. If there is no county engineer,~~  
 10 ~~such report shall be filed in the office of the county road department.~~  
 11 ~~Reports filed with the secretary of the state historical society may be filed~~  
 12 ~~and retrieved using electronic technologies if authorized by the secretary.~~  
 13 Such report shall be filed within 30 days of the date the references are  
 14 **made *survey is completed***. At the time of filing such report with the  
 15 secretary of the state historical society, the land surveyor shall pay a filing  
 16 fee in an amount fixed by rules and regulations of the secretary of the  
 17 state historical society. ~~Fees charged for filing and retrieval of such reports~~  
 18 ~~may be billed and paid periodically.~~

19 (b) Any person engaged in an activity in which a United States public  
 20 land survey corner or any related accessory is likely to be altered, re-  
 21 moved, damaged or destroyed shall have a person qualified to practice  
 22 land surveying establish such reference points as necessary for the res-  
 23 toration, reestablishment or replacement of the corner or accessory. The  
 24 land surveyor shall file a reference report with the secretary of the state  
 25 historical society and with the county surveyor for the county or counties  
 26 in which the survey corner exists. ***If there is no county surveyor for***  
 27 ***the county or counties in which the survey corner exists, such report***  
 28 ***shall be filed with the county engineer, or, if there is no county***  
 29 ***engineer, such report shall be filed with the office of the county***  
 30 ***road department***. Such report shall be filed within 30 days of the date  
 31 the references are made ***survey is completed***. At the time of filing such  
 32 report with the secretary of the state historical society, the land surveyor  
 33 shall pay a filing fee in an amount fixed by rules and regulations of the  
 34 secretary of the state historical society.

35 (c) Upon completion of the activity likely to alter, remove, damage  
 36 or destroy the public land survey corner or related accessory, the land  
 37 surveyor shall review the survey corner and its accessories. If the survey  
 38 corner or any accessory has been altered, removed, damaged or de-  
 39 stroyed, the land surveyor shall replace the corner or accessory with a  
 40 survey monument and file a restoration report with the secretary of the  
 41 state historical society and the county surveyor in the county or counties  
 42 in which it existed. If the survey corner and accessories are not damaged  
 43 during the activity, a restoration report so stating shall be filed with the

1 secretary of the state historical society and county surveyor's office. Such  
 2 report shall be filed within 30 days after the activity is completed. At the  
 3 time of filing such report with the office of the secretary of the state  
 4 historical society the land surveyor shall pay a filing fee in an amount fixed  
 5 by rules and regulations of the secretary of the state historical society.

6 (d) Failure to comply with the filing requirements of this section shall  
 7 be grounds for the suspension or revocation of the land surveyor's license.

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Date:

Attachment # 2-4



9 (e) The secretary of the state historical society may produce, repro-  
10 duce and sell maps, plats, reports, studies and records relating to land  
11 surveys. The secretary of the state historical society shall charge a fee in  
12 an amount to be fixed by rules and regulations of the secretary for the  
13 furnishing of information retrieved from records filed pursuant to this  
14 section and for reproductions or copies of maps, plats, reports, studies  
15 and records filed in such office.

16 (f) All moneys collected by the secretary of the state historical society  
17 under the provisions of this section shall be paid to the state treasurer on  
18 or before the last day of each month. Upon receipt thereof the state  
19 treasurer shall deposit the entire amount in the state treasury. Twenty  
20 percent of each such deposit shall be credited to the state general fund  
21 and the balance shall be credited to the land survey fee fund, which is  
22 hereby created. All expenditures from such fund shall be made in ac-  
23 cordance with appropriation acts upon warrants approved by the secretary  
24 of the state historical society or a person designated by the secretary of  
25 the state historical society and shall be used only for the purpose of paying  
26 the costs incurred in administering the provisions of this act. After the  
27 effective date of this act, any reference to the secretary of state in regard  
28 to appropriations to the land survey fee fund shall be deemed to refer to  
29 the secretary of the state historical society.

30 ~~(g) The failure of any person to have a land surveyor establish ref-~~  
31 ~~erence points as required by subsection (b) shall be a class C~~  
32 ~~misdemeanor.~~

33 Sec. 4. ~~3~~. K.S.A. 1999 Supp. 58-2003, ~~58-2005~~ and 58-2011 are  
34 hereby repealed.

35 Sec. ~~5~~. ~~4~~. This act shall take effect and be in force from and after its  
publication in the statute book.

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Senate Elections & Local Government  
Date: 3-13-00  
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KANSAS REGISTER OF DEEDS ASSOCIATION

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President-Marcia Johnson, Barton County  
Vice President-Kari Weis, Sheridan County  
Secretary-Susan Lucas, Stanton County  
Treasurer-Jeanette Nepote, Crawford County

Legislative Co-Chairs-Nancy Prawl, Brown County  
Marilyn Nichols, Shawnee County

House Bill 2750

I am here today on behalf of the Kansas Register of Deeds Association. We thank you for the opportunity to provide input during your decision making process.

Our understanding of the intent of this bill as amended is to authorize a county engineer, if the engineer is a land surveyor, to review subdivision plats or plats of survey in the absence of a county surveyor. It would also allow the county to charge back the cost to the applicant for said approval. It would further prohibit a county planning commission from certifying the plat without the review by the county surveyor or engineer.

When this bill was introduced in its original form, it called for the repeal of KSA 1999 Supp. 58-2005. We testified then in support of the bill. Now that the amended form was passed by the House, we must testify in opposition. I have provided a copy of that testimony for your reference. The Register of Deeds Association cannot support this bill, in the amended form, because it still calls for a review by the county and an ultimate certification of one surveyor to another surveyor's work. The fact still remains that 72% of counties have no county surveyor or engineer. Though it would strike the language that required the counties to contract with a private surveyor, most counties would still be left with no alternative than to do just that to come into compliance with statute. The argument remains the same in counties where there are few land surveyors. Could the surveyor who originated the subdivision plat or plat of survey certify his or her own work?

Senate Bill 582, dealing with this same issue, passed out of Judiciary Committee successfully. We are in support of that bill because, among other things, it strikes all that portion of the statute that calls for a review by a county surveyor.

I want to assure this committee that I continue to receive numerous calls from Registrar's across the state in opposition to this bill in its amended form. Thank you for your time and I would be happy to stand for any questions.

**Senate Elections & Local Government**  
Date: 3-13-00  
Attachment # 3-1

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Marilyn Nichols, Shawnee County

House Bill 2750

I am here today on behalf of the Kansas Register of Deeds Association. We thank you for the opportunity to provide input during your decision making process.

Our understanding of the intent of this bill is simply to repeal K.S.A. 1999 Supp. 58-2005.

The Register of Deeds Association supports this bill. As you know KSA 58-2005, was amended to require a review of plats and surveys by a county surveyor or engineer. In the absence of either, the county could contract with a private surveyor to complete the review as required by the amendment. The attempt to come into compliance on that amendment has become costly to some counties and impossible for others.

Of the 105 counties in the State of Kansas, 76 counties have no surveyor or engineer, and some have no planning commission. That is over 72% of the counties in Kansas with no specific plan in place to come into compliance with this statute as amended in 1999. In some instances the only surveyor in an entire area of several counties is the surveyor that has prepared the plat of subdivision or the survey in the first place and is not employed by the county. The statute would make no provisions in such cases. Even if a county had a surveyor on the payroll, could he or she certify to his or her own work done on a plat? Further, we do not feel that the county should be in the business of reviewing a licensed professional surveyor's work.

Concurrently Senate Bill 582, referred to the Senate Judiciary Committee, had a hearing on Wednesday, February 16, at which we testified in opposition to another amendment to this statute. At that time the committee asked the KAC, Surveyors and Registers of Deeds to meet and try to come up with some language that we could all agree upon. We did meet on Friday, February 18, but could not reach an agreement in the time allotted. While I firmly believe we will come to that point, we must support the repeal of the amendment at this time.

We want to assure this committee that we have had numerous contacts concerning this bill, urging us to support the repeal. We thank you for considering our position and I would be happy to stand for any questions.

**Senate Elections & Local Government**  
**Date:** 3-13-00  
**Attachment #** 3-1

REPUBLIC COUNTY REGISTER OF DEEDS  
RUTH RAHE

REPUBLIC COUNTY COURTHOUSE · P.O. Box 429 · BELLEVILLE, KANSAS 66935  
TELEPHONE (785) 527-5691 EXT. 224

March 13, 2000


To: The Honorable Janice Hardenberger  
Senate Elections and Local Government Committee

Thank you for allowing me to present my opinions regarding HB 2750 as it affects the Republic County Register of Deeds office.

In 1999 after the implementation of HB 2005 which required surveys' s to be certified before recordation in the Register of Deeds office, I received several letters from survey firms in the state offering their services to certify these surveys. Fortunately, Republic County has a retired surveyor who is contracted to the county for various surveying and engineering services. He certifies these surveys for a nominal fee. His charges during 1999 were \$300. If it had been necessary for me to hire an outside firm, the most inexpensive of these firms would have charged me \$3000. For a small, rural county this would be a real financial burden. If this cost is passed to the client, I am concerned that these surveys would not be recorded.

I urge you support SB 582. This bill still requires these surveys to be recorded but does not present a financial burden to Kansas counties.

Sincerely,



Ruth Rahe  
Republic County Register of Deeds

Senate Elections & Local Government  
Date: 3-13-00  
Attachment # 4

Mem.  
National Association of Counties  
North Central Kansas County  
Highway Officials Association  
Kansas Association of Counties  
Kansas County Commissioners  
Association

**BOARD OF COUNTY COMMISSIONERS  
REPUBLIC COUNTY, KANSAS  
Courthouse - P. O. Box 429  
Belleville, Kansas 66935  
913-527-5691, Ext. 112**

Amos Blecha, 1st Dist.  
Tele. No. 913-987-5578  
Munden, KS 66959

John M. Nylund, 2nd Dist.  
Tele. No. 913-335-2695  
Scandia, KS 66966

Doane Sells, 3rd Dist.  
Tele. No. 913-527-5582  
Belleville, KS 66935

March 13, 2000

To: The Honorable Janice Hardenberger  
Senate Elections and Local Government Committee

Thank you for allowing us to present our views regarding HB 2750 which deals with presentation of surveys for filing in the office of the Register of Deeds.

The Board of County Commissioners of Republic County wish to go on record in opposition to HB 2750 as amended.

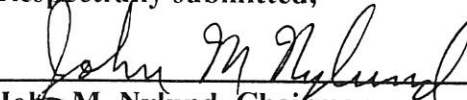
Most small counties in Kansas do not have licensed surveyors or county engineers on staff. Because this bill requires one of their signatures to appear on a certificate of approval for each survey filed, outside contracts must be entered into for the service. No budgeted funds will be available for this purpose until January, 2001, at the earliest.

Therefore, this bill, in the amended form, represents an unfunded mandate due to the fact that it contains no provision to recoup expenditures which have been necessitated in complying with this law.

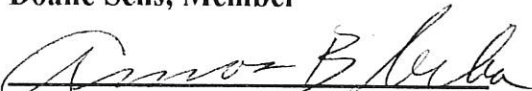
Senate Bill 582 requires recording of surveys, but does not require the second review. The original documents have been drawn and certified by licensed surveyors. This fact alone should negate the necessity of a second opinion.

The Board of County Commissioners of Republic County supports SB 582 in its present form, with the hope that, by its passage, Kansas will continue to file surveys in a timely and economical manner with the County's Register of Deeds.

Respectfully submitted,

  
John M. Nylund, Chairman

  
Doane Sells, Member

  
Amos Blecha, Member

Senate Elections & Local Government  
Date: 3-13-00  
Attachment # 5

