

MINUTES OF THE HOUSE LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Representative Gerry Ray at 3:30 p.m. on February 8, 2001 in Room 519-S of the Capitol.

All members were present except:

Rep. Hermes - excused

Committee staff present:

Mike Heim, Research
Theresa Kiernan, Revisor
Kay Dick, Committee Secretary

Conferees appearing before the committee:

Rep. Tom Sloan
Gerald Cooper, DeSoto City Administrator
Don Seifert, City of Olathe
Rep. Ray Merrick
James Francis, Fire Chief, Jo. Co. Rural #2
Max Sielert, Fire Chief, Jo. Co. Rural #1
Mike Pierce, COB, Rural Dist. #3 Jo. Co.
Judy Moler, Kansas Association of Counties
Rep. Vern Osborne
Ben Crosland, Registered Land Surveyor
Marilyn Nichols, Shawnee County Register of Deeds
Lonie Addis, Kansas County Commissioners Assoc.
Jim Yonally, Lobbyist for KS. Society of Land Surveyors
Dan Garber, Pres., KS Society of Land Surveyors
Michael Kelly, Legislative Committee Chair, KSLS
Jerry Fowler, Director of Public Works, Saline Co.

Others attending:

Unavailable information (see attached sheet)

Chair opened hearing on HB 2068 - townships; relating to the acquisition of property

Rep. Tom Sloan testified in support of **HB 2068** permitting (but not requiring) any township to accept land if donated without submitting the issue to a popular vote (and expense). He also stated that this is a common sense proposal. (attachment #1) Rep. Sloan responded to questions asked by committee members.

Madam Chair closed the hearing on HB 2068

Chair Ray opened the hearing on HB 2118 - fire districts; relating to the annexation of territory by cities

Gerald Cooper, DeSoto City Administrator, appeared before the committee to request that **HB 2118** be amended to include DeSoto as receiving the same treatment as Olathe. He explained that like Olathe, DeSoto's corporate boundaries continue to expand and one impediment is the reluctance of the Rural Fire District to allow the City to take over the control of fire protection in the newly annexed areas. (attachment #2)

Don Seifert, City of Olathe, referred to the revised version of **HB 2118**, stating that it would amend to procedure for transferring the financial operation authority for fire protection in areas annexed by the city of Olathe from a rural fire district to the city. (attachment # 3 & 3a)

The Chair asked if the committee had any questions of the proponents. No questions were asked.

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Rep. Ray Merrick testified against **HB 2118** stating that the problems are: “ that when I reads the bill, the city could conceivable come out and take three of his fire station, which I pay for now, then all of a sudden the people in the county have to figure out how I’m going to have fire protection; so again I have to buy equipment, build a building, staff it and everything else. I going to have duplicate taxation, duplicate payment on something that I already own.” (No written testimony)

Theresa Keirman, Revisor, explained, “The provisions concerning Overland Park are actually on page 3 of the bill that is being stricken, but it requires that the books, papers and machinery etc. belongs to the fire district, if its dissolved, be transferred to the city of Overland Park. But the parts of the bill suggested deleting all of that so the law would be silenced, so it would stay with the fire district.

Rep. Campbell stated there is a small caveat that’s being proposed in what Rep. Merrick has addressed today. The proposed bill make it clear that the mill levy that exists today, that pays for the infrastructure, stays in place. And, what is being discussed is just the operational cost.

Jim Francis, Fire Chief, Johnson County Rural Fire District No.2, voiced his strong opposition to **HB 2118**. He familiarize the members of the committee with the fire district and its operation. He concluded his testimony in reaffirming that his fire districts strong support for the protection that was to be afforded to rural fire districts under the present Statute. He asked the committee not to grant the city of Olathe or any other city the same exemption that was given to Overland Park. (attachment # 4)

Max Sielert, Chief, Fire District # 1 - Johnson County, expressed opposition to **HB 2118**, adding the City of Olathe to Section 1 and all of New Section 2. He pointed out the Interlock Agreement with the City of Gardner that is a direct result of how well the current state statutes can work, in the attachment to his testimony. He encouraged the committee to allow this bill to die in committee because a need for it has not been demonstrated and it does nothing to address the concerns of the Fire Districts. (attachment 5 & 5a)

Mike Pierce, COB, Rural Fire District #3 Jo. Co., gave testimony in opposition to **HB 2118** stating “it clearly portrays favoritism and inequality among government entities”. He went on to say that “should Olathe be allowed to be excluded from the statute, the ramification would be devastation to fire district finance, reducing revenues. To compensate, fire districts would have to reduce service or increase taxes, probably both.” If this legislation passes it will cause higher taxes, below standard fire protection, and possible death to a fire district. (attachment 6)

Chair closed the hearing hon HB 2118.

Hearing was opened on HB 2172 - repeal; concerning land surveys; concerning plats

Judy Moler, Kansas Association of Counties, testified in support of **HB 2172** stating that upon repeal of this statute, counties that so choose, can by home rule, have a their county surveyor review plats of subdivisions or plats of survey before they are filed with the county. However, in the less populous counties, the hiring of a county surveyor is just not practical. (attachment #7)

Rep. Osborne pointed out that this issue was addressed last year. The Rep. stated that he was invited by his commissioner to discuss the upcoming session and the first thing from the Register of Deed was, “What are you going to do about the situation with the plat maps and the cost that goes along with this process the way it is structure now.” Rep. Osborne’s proposal (**HB 2406**) was passed out to the committee members. He explained that this proposal is to try to provide and avenue to protect, especially the small counties, that don’t have licensed surveyors. He pointed out the in the proposal that “All cost for plat review and approval shall be charged back to the applicant for plat approval.” He states “That’s the protection for the county.” (attachment # 8) Rep. Osborne answered questions from the committee.

Ben Crosland, Registered Land Surveyor, spoke in favor of **HB 2172**. He expressed that over the past year there had been a good deal of confusion regarding the current law. The statute is vague as to the criteria for

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February 8, 2001

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the review. He said that he was not opposed to the review process, only the manner in which it is currently being done. (attachment # 9)

Marilyn Nichols, Shawnee County Register of Deeds, testified as proponent to the repeal of KSA 58-2005 that re-proposed for **HB 2172**. Cost has not always been just the one issue that the Kansas Register of Deeds Association have spoken out against. KRDA also believes that the review is not necessary. It's not the duty of the counties to review these surveys and plats. (attachment # 10)

Lonie Addis, Labette County Commissioner, expressed the support of **HB 2172** to repeal KSA 58-2005. Mr. Addis said, "County Commissioners should not have to please the profession and then have to pay for the cost. If this bill is repealed and let county governments, under the home rule authority, take care of their counties as they deem best, will be the best measure to handle this problem." (attachment # 11)

Chair asked for any questions by the committee for the proponents. None were asked.

Jim Yonally, Kansas Society of Land Surveyors, spoken in opposition to **HB 2172**. He said that the potential harm to the public by having survey plats filed, that are inaccurate, is of such importance that these reviews should be continued. (attachment #12)

Mike Kelly, Douglas County Surveyor, (because of the weather) read the testimony of Jerry Fowler, Director of Public Works, Saline County. (Attachment # 13) He then gave an overview of the history of the county surveyor. (attachment #14) Mr. Kelly answered questions asked by committee members.

The committees' attention was drawn to the written testimony in favor of **HB 2172** by:

Susan Simon, Wabunsee County Register of Deeds. (attachment #15).

John Cashatt, Schwab-Eaton Engineers & Land Surveyors (attachment #16)

Ashley Sherard, Intergovernmental Relations Manager, Jo. Co. (attachment #17)

Opposing written testimony:

Daniel Garber, Pres. Kansas Society of Land Surveyors (attachment #18)

The Chair closed the hearing on **HB 2172**.

Madam Chairman Ray recognized Rep. Showalter, who said, "on Tuesday, we voted on HB 2086, which contained a conceptual amendment, and unfortunately that amendment did not include a phrase that would have changed my vote considerably. And I would like to know if it would be possible to bring that bill back up for consideration." The Chair responded by saying that she was sorry but that bill has already been turned in and it's been processed through the full house. Chairman Ray gave her deepest apology that it wasn't clarified for her. Rep. Hayzlett suggested, "that, today on the floor, we refer the bill back to committee to work it over on a very simple amendment and possibly we could do that bill, once this bill comes to the floor, because this was a major amendment." The Chair opposed re-referring. The Chair asked that it be noted in the minutes of Rep. Showalter's concern.

Action on HB 2157 - concerning counties; relating to computer software;

Representative Storm moved that the committee pass out **HB 2157** favorably. Representative Gilbert seconded the motion. The motion passed with no opposition.

Action on HB 2161 -concerning counties; concerning the awarding of certain contacts

Representative Peterson made a motion to move the bill favorably. Representative Miller seconded.

Revisor, Theresa Keirnan, addressed the committee regarding the amendment to HB 2161 by the Kansas Association of Counties. It amends a county bidding and surety bond statute dealing with construction

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contracts for county buildings and bridges, to require competitive bids on any bridge. Project. Current law only requires bids on bridge projects in excess of \$10,000. The bill also amends the surety bond requirements for bid winners to require such bonds on any bridge project and for building project contract valued in excess of \$40,000. Current law requires a surety bond for projects valued over \$10,000. She stated that this amendment puts the bill in the form which that really intended for it to be introduced in.

Chair asked Representative Peterson, if this amendment was acceptable, to remove her motion from the floor. The motion was removed by Representative Peterson.

A motion to adopt the amendment was made by Representative Gilbert. Representative Storm seconded the motion. The motion carried. Representative Peterson made a motion for the passage of **HB 2161** as amended. Representative Minor seconded. The bill passed out of committee with no opposition.

Final action on was taken on **HB 2068** - townships; relating to the acquisition of land by gift, donation or devise.

Representative Minor made a motion to pass **HB 2068**. Representative Campbell seconded. The motion carried.

Meeting was adjourned at 4:30 p.m.

**HOUSE LOCAL GOVERNMENT COMMITTEE
GUEST LIST
FEBRUARY 8, 2001**

[PLEASE PRINT YOUR NAME]

[REPRESENTING]

1/0

SINGAPORE
SHEFF

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

TESTIMONY
HOUSE BILL 2068
Acquisition of Property by Townships
February 8, 2001

Madam Chairman, Committee Members:

I appreciate the opportunity to appear before you in support of HB 2068.

This should be one of the less controversial bills that you consider this year.

While there are some Revisor-instituted, technical clean-up of the Statute, the key provision is on page 2, lines 5-7. Under the existing Statute, a township may not procure more than three acres of land for any purpose.

A township within my legislative district was offered a free tract of land in excess of 20 acres. Township Trustees initially accepted the offer, but then had to decline it because of the statutory limitations.

HB 2068 permits (but does not require) any township to accept land if donated without submitting the issue to a popular vote (and expense). For my Township Trustees, this is a common sense proposal, particularly since existing statutory language requires the township voters must approve any expenditures of funds to construct buildings.

Madam Chairman, that concludes my testimony. I will be pleased to respond to questions.

Tom Sloan, Representative, 45th District

HOUSE LOCAL GOVERNMENT

2/8/01

Attachment 1

February 8, 2001

Committee On Local Government

Re: HOUSE BILL No. 2118

Dear Honorable Committee Members:

I am the City Administrator for the City of DeSoto, Kansas. Like Olathe, our corporate boundaries continue to expand as a result of the annexation of unincorporated territory. One impediment to such growth, and the growth of our Fire Department, is the reluctance of the Rural Fire District to allow the City to take over the control of fire protection in the newly annexed areas. As a result, we support House Bill No. 2118 but respectfully request that the Bill be amended to include DeSoto as receiving the same treatment as Olathe .

Thank you for your consideration.

Sincerely,



Gerald Cooper
City Administrator

cc: Mayor
Council Members
Fire Chief

HOUSE LOCAL GOVERNMENT

2/8/01



City of Olathe

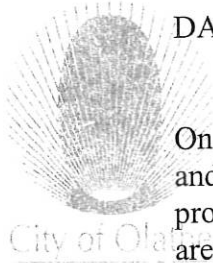
MEMORANDUM

TO: Members of the House Local Government Committee

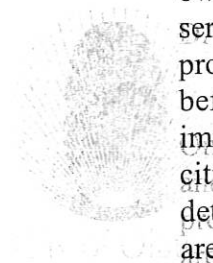
FROM: Donald R. Seifert, Policy Development Leader *DMS*

SUBJECT: House Bill 2118; Rural Fire District Detachment Procedure

DATE: February 8, 2001



On behalf of the city of Olathe, I want to thank the committee for introducing HB 2118 and for the opportunity to appear today in support of this bill. HB 2118 would amend the procedure for transferring the financial and operational authority for fire protection in areas annexed by the city of Olathe from a rural fire district to the city. In a growing community like Olathe that has historically annexed property on its borders as areas transition from rural to suburban, this issue has been problematic for years. Through this bill, Olathe is asking for the same statutory treatment as our neighboring city to the east, Overland Park.



The unincorporated area of Johnson County surrounding Olathe is served by three separate rural fire districts created under authority of K.S.A. 19-3613 *et seq.*, a statute unique to Johnson County fire districts. When the city annexes territory, usually by owner petition, but occasionally through city initiation, there is a seamless transition of services and taxing authority from the county to the city. The exception to this is fire protection, where a formal "detachment" of territory from the fire district must occur before the county can release it from the district mill levy, even though the city immediately begins providing fire protection. Under K.S.A. 19-3623f, Olathe and other cities in Johnson County except Overland Park that annex are required to negotiate detachment agreements with the appropriate rural fire district. If the city and the district are unable to reach an agreement, the Board of County Commissioners then decides on the detachment after receiving a petition and conducting a public hearing.

transition from rural to suburban, this issue has been problematic for years. Through this The city of Olathe believes the detachment procedure in K.S.A. 19-3623f has not worked well. Fearing the loss of tax base, the rural fire districts have not always negotiated detachment agreements in good faith with the city. The county government has been reluctant to take sides, or force the districts to face the larger issue of their proper role in an area that is no longer rural.

separate rural fire districts created under authority of K.S.A. 19-3613 *et seq.*, a statute unique to Johnson County fire districts. When the city annexes a territory, usually by Until recently, this situation mostly affected vacant property proposed for future development. However, the rural fire district detachment issue has now become more protection, where a formal "detachment" of territory from the fire district must occur before the county can release it from the district mill levy, even though the city immediately begins providing fire protection. Under K.S.A. 19-3623f, Olathe and other cities in Johnson County except Overland Park that annex are required to negotiate detachment agreements with the appropriate rural fire district. If the city and the district are unable to reach an agreement, the Board of County Commissioners then decides on

urgent. Last year, the city annexed an unincorporated corridor in northern Olathe that contained approximately 300 residential properties. These new residents, and others annexed in 1997-1999, received property tax bills last November which "double billed" them for fire protection from both the city and a rural fire district. This is an untenable situation for our governing body, and led to the introduction of this bill. We do not experience this post-annexation problem with any other county taxing entity previously providing service, such as the Johnson County library district.

Attached to my testimony is a copy of a property tax bill showing this duplication. The City Council is preparing to make refunds for the estimated fire protection levy of the city, even though the city is better equipped to respond and is responding to fire calls in the annexed areas. At tonight's meeting, the City Council will hold a public hearing to amend its adopted 2001 general fund budget to provide fire protection refunds in the amount of \$55,000 to property owners in the rural fire districts.

To resolve this longstanding problem, the city of Olathe through HB 2118 is seeking the same treatment as Overland Park. The process is very simple: under New Section 2 of the bill, the county would issue a detachment order upon receipt of a proper annexation ordinance from the city. This would release the annexed territory from only the operating mill levy of the district. As noted in subsection (b) of New Section 2, any bond and interest levy for general obligation debt of the district would remain with the land until the debt was retired.

In supporting this bill, Olathe is in no way implying that rural fire districts have no place in providing service to county residents. However, we do believe that urban services are best provided by cities once annexation has occurred. We believe citizens that have built and bought homes within the city limits expect their fire protection to come from the city. City residents should also expect their homeowner's insurance premium to reflect the city's fire insurance rating, not the rating of a rural district. During any annexation process, a city is required to demonstrate it can effectively provide services to the annexed area. All we are seeking in this bill is a reasonably efficient process for transferring the taxing authority necessary to provide these services.

Thank you again for the opportunity to appear today in support of this bill.

Johnson County Kansas Land Records

2000 Real Estate Tax Summary

The data listed below was last updated in November 2000. This data is updated annually after the County Clerk has set new mill levies and calculated taxes for the year.

After the calculation any changes to the taxes or payments received are not reflected on this bill.

Parcel ID: ██████████					
Address: ████████ W 156TH TER					
Legal Description: HERITAGE MEADOWS ████████ OLC 675 4 21					
Tax Unit	Receipt Number	Appraised Value	Assessed Value	Mill Levy	
0447	1881293	151,300	17,400	132.8900	
Class	Assessed Value Land Improvement		Tax Authority	Rate	Tax Amount
R	2,919	14,481	STATE OF KS	1.5000	26.10
			JOHNSON CO	15.6760	272.77
			COMM CLGE	7.6460	133.04
			JO CO PARK	1.3220	23.00
			OLATHE N/F	24.6300	428.56
			233 UNIFIED	29.6210	515.41
			233 SCH GEN	20.0000	302.00*
			233 BOND	16.1400	280.84
			JO CO FIR #2	16.3550	284.57
			* TAX CALCULATED ON APPRAISED VALUE LESS \$20,000.		
Appraised Agricultural Use Acreage:			Totals:	132.8900	2,266.29

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3-3

Johnson County Kansas Land Records

2000 Real Estate Tax Summary

The data listed below was last updated in November 2000. This data is updated annually after the County Clerk has set new mill levies and calculated taxes for the year.

After the calculation any changes to the taxes or payments received are not reflected on this bill.

Parcel ID: ██████████				
Address: ████████ W 111TH ST				
Legal Description: ████████ BEG NE COR NE 1/4 W 330' S 660' E 137' N 430' E 193' N 230' TO BEG 3.10 ACS M/L OLC 74 5				
Tax Unit	Receipt Number	Appraised Value	Assessed Value	Mill Levy
0411	1974569	234,000	26,910	121.6760
Class	Assessed Value Land Improvement	Tax Authority	Rate	Tax Amount
R	6,879 20,031	STATE OF KS	1.5000	40.37
		JOHNSON CO	15.6760	421.84
		COMM CLGE	7.6460	205.75
		JO CO PARK	1.3220	35.58
		OLATHE N/F	24.6300	662.80
		233 UNIFIED	29.6210	797.11
		233 SCH GEN	20.0000	492.20*
		233 BOND	16.1400	434.33
		→ JO CO R F #3	5.1410	138.35
		* TAX CALCULATED ON APPRAISED VALUE LESS \$20,000.		
Appraised Agricultural Use Acreage:		Totals:	121.6760	3,228.33

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3-4

HOUSE BILL No. 2118

By Committee on Local Government

1-23

AN ACT concerning fire districts; relating to the annexation of territory thereof by cities; amending K.S.A. 19-3623f and repealing the existing section.

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

Section 1. K.S.A. 19-3623f is hereby amended to read as follows: 19-3623f. (a) If any land included in a fire district created under the provisions of K.S.A. 19-3613, and amendments thereto, is thereafter annexed by any city, other than the ~~city of~~ *cities of Olathe or Overland Park*, such land shall continue to be within and a part of the fire district unless approved for detachment and exclusion from the boundaries of such district by the board of county commissioners. Within 60 days following annexation of land located within a fire district the governing bodies of the city and fire district shall negotiate an agreement providing for the transfer of such land to the city. Such negotiations also shall include the transfer of other property of the fire district and the payment of compensation therefor. Any such agreement shall be submitted to and approved by the board of county commissioners.

(b) If the city and fire district are unable to reach an agreement pursuant to subsection (a), the governing body of the city or fire district shall present a petition to the board requesting the board to detach such land and provide for the transfer of any property. Upon receipt of such petition, the board shall call and hold a hearing thereon. Notice of such hearing shall be published in a newspaper of general circulation in the county once each week for two consecutive weeks. The final notice shall be published not less than one week and not more than two weeks before the date fixed for the hearing. A copy of the notice also shall be mailed by certified mail to the residents and governing bodies of the fire district and city affected by the detachment. The cost of providing notice required by this subsection shall be paid by the city.

(c) On the day set for the hearing, the board shall hear testimony as to the advisability of the detachment of land from the fire district and the transfer of any property. The action of the board shall be quasi-judicial in nature. The board shall consider the impact of approving or disapproving the detachment of such land and transfer of any property. The

1 board shall make specific written findings of fact and conclusions deter-
 2 mining whether such detachment or the detachment of a lesser amount
 3 of such area and the transfer of property causes manifest injury to the
 4 fire district, or to the city if the detachment and transfer is disapproved.
 5 The findings and conclusions shall be based upon the preponderance of
 6 evidence presented to the board. In determining whether manifest injury
 7 would result from the detachment and transfer, the board's considera-
 8 tions shall include, but not be limited to, the:

- 9 (1) Response time of the city and the fire district to the area proposed
to be detached;
- 11 (2) impact on the fire district from the decrease in its tax base if
12 detachment is approved;
- 13 (3) impact on the city's provision of fire service if the detachment is
14 disapproved;
- 15 (4) impact on the residents of the area;
- 16 (5) loss of sales tax revenue to the city if detachment is disapproved;
- 17 and
- 18 (6) impact on the remainder of the fire district if the detachment is
19 approved.

20 (d) The board shall make its decision within 120 days after the date
 21 of the conclusion of the hearing. The board may continue the hearing
 22 beyond the time specified without further publication of notice. If a ma-
 23 jority of the board concludes the proposed detachment or any part thereof
 24 should be granted and the transfer of any property, the board shall so
 25 find; and thereupon such land shall be detached from the fire district and
 any other property shall be transferred to the city. If aggrieved by the
 27 decision of the board, the fire district or the city may appeal such decision
 28 to the district court of the county.

29 (e) When the land annexed to such city is detached and excluded
 30 from such district the governing body of the district shall redefine the
 31 new boundaries of the district to exclude the land so detached. All general
 32 obligation bonds issued for the acquisition or construction of fire stations
 33 or buildings, the acquisition of sites therefor and the purchase of fire
 34 fighting equipment by a fire district which are issued prior to the detach-
 35 ment of such land shall continue as an obligation of the property subject
 36 to taxation for the payment thereof at the time such bonds were issued.

37 ~~New Sec. 2. (a) The governing body of the city of Olathe may estab-~~
 38 ~~lish a city fire department or contract with any private or public entity~~
 39 ~~for provision of fire protection services within the corporate limits of the~~
 40 ~~city by adopting a resolution to that effect directed to the board of county~~
 41 ~~commissioners of Johnson county. Such resolution shall state the date of~~
 42 ~~the establishment of the city fire department or the effective date of such~~
 43 ~~contractual agreement with any private or public entity.~~

39-3

1 (b) Whenever any land located within the boundaries of a fire district
 2 created pursuant to K.S.A. 19-3613, and amendments thereto, have been
 3 annexed by the city of Olathe, the governing body of the city, by resolu-
 4 tion, may petition the board of county commissioners of Johnson county
 5 to detach such property from the fire district. The petition shall describe
 6 the boundaries of the property which have been annexed by the city. The
 7 petition also shall state whether fire service to the property will be pro-
 8 vided by the city or pursuant to a contractual agreement and the effective
 9 date of any such agreement.

10 (c) Upon receipt of a resolution pursuant to subsection (b), the board
 11 of county commissioners forthwith shall issue an order dissolving any fire
 12 district located wholly within the corporate limits of the city of Olathe or
 13 an order detaching from the fire district any property annexed by the city.
 14 Upon receipt of a city resolution to contract with any private or public
 15 entity for fire protection services, the board of county commissioners shall
 16 order such dissolution or detachment. Any such order of dissolution or
 17 detachment shall be effective as of the effective date of the annexation
 18 or the contractual arrangement with any private or public entity.

19 (d) The books, papers, moneys, equipment, apparatus, machinery,
 20 fire stations, sites, buildings and other real and personal property belong-
 21 ing to any fire district dissolved hereunder shall be transferred to and
 22 shall become the property of the city of Olathe. As to any fire district
 23 from which a portion of its area within the limits of the city is detached
 24 hereunder, any books, papers, equipment, apparatus, machinery, fire sta-
 25 tions, sites, buildings and other real and personal property located within
 26 the limits of the city shall be transferred to and shall become the property
 2 of the city. In addition, the city is authorized to negotiate and enter into
 28 contracts with any private or public entity to acquire by lease or purchase
 29 and to operate or maintain fire fighting equipment, and to acquire, con-
 30 struct or lease buildings to house the same and do all things necessary to
 31 effectuate the purposes of this section.

32 (e) In any fire district from which a portion of its area within the
 33 corporate limits of the city of Olathe is detached hereunder, such portion
 34 of the unexpended moneys in the treasury or in the reserve funds of such
 35 fire district at the time of detachment, and such portion of all moneys to
 36 be disbursed to such fire district during the remainder of the fiscal year
 37 in which detachment occurs, shall be transferred to the city for the pro-
 38 vision of fire protection services in the proportion that the assessed val-
 39 uation of taxable tangible property of the detached area of such fire dis-
 40 trict bears to the total assessed valuation of taxable tangible property of
 41 the fire district.

42 (f) If any fire district dissolved pursuant to this section shall have
 43 outstanding at the time of its dissolution any general obligation bonds,

1 ~~the tax levies to retire such bonds and to pay the interest thereon shall~~
 2 ~~be levied only on the taxable tangible property located in the territory of~~
 3 ~~such district prior to its dissolution. If any fire district from which area is~~
 4 ~~detached pursuant to this section shall have outstanding at the time of~~
 5 ~~detachment any general obligation bonds, the tax levies to retire such~~
 6 ~~bonds and to pay the interest thereon shall continue to be levied only on~~
 7 ~~the taxable tangible property located in the detached area.~~

8 Sec. 3. K.S.A. 19-3623f is hereby repealed.
 9 Sec. 4. This act shall take effect and be in force from and after its
 10 publication in the statute book.

New Sec. 2. (a) Whenever any land located within the boundaries of a fire district created pursuant to K.S.A. 19-3610, and amendments thereto, is annexed by the city of Olathe, the board of county commissioners of Johnson county shall issue an order detaching such land from the fire district. The order of detachment shall be effective as of the effective date of the annexation.

(b) All general obligation bonds issued by the governing body of the fire district prior to the detachment of such land shall continue to be an obligation of the property which was subject to taxation for the payment thereof at the time such bonds were issued. Taxes to retire such bonds and pay the interest thereon shall continue to be levied on the taxable tangible property located in the area detached pursuant to this section.

3a-4

TO: KANSAS HOUSE COMMITTEE ON LOCAL GOVERNMENT
FROM: JOHNSON COUNTY FIRE DISTRICT NO. 2 (RURAL)
RE: STATEMENT IN OPPOSITION TO HOUSE BILL NO. 2118
PRESENTER: CHIEF JIM FRANCIS

To the Chair and Members of the Committee on Local Government:

In your Committee's deliberations on House Bill No. 2118, Johnson County Fire District No. 2 (rural) asks that you consider its strong opposition to the Bill for the following reasons:

1. The Kansas Legislature some years ago recognized that in certain instances the financial integrity of rural fire districts could be adversely affected by annexation by adjoining municipalities. The Legislature recognized that rural fire districts adjoining developing urban areas would be the most likely to suffer financially as a result of these annexations. Detachments by annexation and the consequent loss of tax revenue were correctly recognized as detrimental to the rural fire district's ability to continue to deliver effective fire and medical services to the remaining patrons of its district.
2. To offer a degree of protection, K.S.A. 19-3823 was passed. This Statute provides a procedure for rural fire districts to object to detachments and a mechanism for those objections to be resolved in a way that offers the possibility of preserving the ability of the rural fire districts to continue to serve the balance of their patrons in an orderly fashion without undue financial disruption.
3. When the original Statute was passed, it was strongly supported by Johnson County Fire District No. 2 directly and through its local representative Nancy Brown. Even so, it was disturbing to our district when Overland Park was granted an exception from this Statute. By granting Overland Park its exception, the Legislature denied our district protection from its most visible annexor of land: the City of Overland Park. Ours is a very large district (nearly 150 square miles) and this Statute at least afforded us some protection from the other most likely annexor, the City of Olathe. The only other city that would conceivably effect us would be the small City of Spring Hill, population approximately 2,500. Spring Hill is highly unlikely to impact our district significantly by annexation particularly since we provide contract fire

services to the City of Spring Hill. Therefore, our district's biggest concerns and only concerns are the Cities of Overland Park and Olathe.

4. The proposed amendment would grant to the City of Olathe the same exemption that was granted to the City of Overland Park. If this is approved there is no point in having this Statute on the books so far as our district is concerned. Overland Park and Olathe are the only two municipalities from whom our district must be afforded the protections of this Statute.
5. With the possibility of the incorporation of a new City of Stilwell being considered in our district together with expansion by Overland Park and Olathe, passage of this Bill will for all practical purposes render our district financially unable, over time, to maintain its present level of excellence in the delivery of fire and medical services to the balance of the patrons in the district.
6. Our district asks this Committee and the Legislature not to pass House Bill No. 2118 with its exception in favor of the City of Olathe. The reason for the passage of the Statute which was to afford a certain degree of protection from detachments to rural fire districts. This is an even more pressing need today in Johnson County than it was when it was passed. To grant such protection and then take it away by exception for Overland Park and Olathe would deny our district all the benefit of the Statute.
7. There is a real question of the wisdom of having granted the City of Overland Park an exception to the application of this Statute. In order for the rural fire districts (in particular Johnson County Fire District No. 2) to receive the benefit afforded by this Legislation as originally passed, this Committee and the Legislature in general should take a hard look at eliminating the exemption that was afforded to the City of Overland Park. Johnson County Fire District No. 2 asks for that consideration if the Legislation is going to be changed at all.
8. In conclusion: Johnson County Fire District No. 2 reaffirms its strong support for the protection that was to be afforded to rural fire districts under the present Statute. Our district has already lost a good deal of that protection as a result of the exemption that was improvidently granted to the City of Overland Park when the Statute was originally passed. Now, the proposed addition of Olathe would, for all practical purposes, deny our district any benefit from the detachment protections and procedures afforded by this Statute. Please do not grant Olathe or any other city the same exemption that was given to Overland Park. Please also reconsider the exception to Overland Park.

Very truly yours,

JOHNSON COUNTY FIRE DISTRICT NO. 2
ROD L. RICHARDSON, CHAIRMAN
DON SHAPLEY
KEITH W. GALLEHUGH
DAN GROVER
GREGORY A. DEAN

TO: Kansas House Committee on Local Government

FROM: Max Sielert, Chief of Fire District #1-Johnson County

DATE: February 8, 2001

RE: Opposition to House Bill No. 2118

I am here on behalf of Fire District #1 to express our opposition to House Bill # 2118. We oppose adding the City of Olathe to Section 1 and we oppose all of New Section 2.

The City of Olathe borders parts of our North & East boundaries. Allowing the City of Olathe to annex and detach land automatically would be devastating to our District and put us in a position of not knowing what we really have left in the way of tax base or equipment from one year to the next.

Giving the City of Olathe this status would take away any incentive on their part to try and negotiate an agreement that might serve both entities better.

We currently have an Interlocal Agreement with the City of Gardner that is a direct result of how well the current state statutes can work. (Copy Attached)

Creating a new statute that would allow the City of Olathe to detach land from the Fire Districts without regard for what affects that detachment would have on the remaining tax payers of the district is not something this committee should be in favor of.

The City of Overland Park got their exemption to this statute passed several years ago because they do not have a city owned and operated fire department. They contract for fire service with the Overland Park Fire Department INC. This Exemption for Overland Park was created largely because they needed this language in the statutes to deal with the fact that they contract for fire service with a private company.

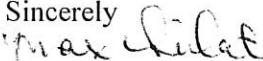
The City of Olathe has a city fire department and has no reason or need for special legislation to annex and detach land. They are covered adequately by the current statutes.

The City of Olathe has annexed a great deal of land in the last 15 years and will annex a great deal more in the next 15 years. The current state statutes on this subject have not slowed the City of Olathe's growth in any way.

The Fire District would encourage Representative Campbell and the City of Olathe to learn the intent of the current statutes and use them instead of creating a new statute that totally disregards the needs of their neighbors.

We would also encourage this committee to allow this bill to die in committee because a need for it has not been demonstrated and it does nothing to address the concerns of the Fire Districts.

Sincerely



Max Sielert, Chief, Fire District # 1 – Johnson County, KS

FIRE DISTRICT #1 - JOHNSON COUNTY, KANSAS, CITY OF GARDNER,
KANSAS

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT hereinafter referred to as "Agreement"), made this 16 day of December, 1997 by and between Johnson County Fire District #1 of Johnson County, Kansas ("Fire District") and the City of Gardner, Kansas (the "City"),

WITNESSETH:

WHEREAS, K.S.A 12-2904 allows public agencies to enter into interlocal agreements to jointly perform certain functions including fire protection; and

WHEREAS, all parties are pursuant to K.S.A. 12-2903 public agencies, capable of entering into interlocal agreements; and

WHEREAS, Johnson County Fire District #1 provides fire protection services to certain areas within the City of Gardner and to the unincorporated area surrounding Gardner; and

WHEREAS, the City of Gardner provides fire protection services to the majority of the area within the City; and

WHEREAS, the City of Gardner is experiencing substantial growth in area and population; and

WHEREAS, the City's growth will increase the area lying within the boundaries of both the City and the Fire District; and

WHEREAS, it is the desire of both Fire District #1 and the City of Gardner to assure continuing rapid, effective and affordable fire protection to the residents and businesses of Gardner;

NOW, THEREFORE, in consideration of the mutual covenants herein contained the parties agree as follows:

1. SERVICES. The Fire District shall respond to and aid in extinguishing all structure fires and respond to and aid in the removal of trapped persons on all extrication calls within the City reported to the Johnson County 911 system. This response shall consist of one (1) engine company manned by a minimum of two (2) fire

fighters. While at a fire or extrication scene within the City, Fire District manpower and equipment shall operate under the Incident Management System as adopted by the Johnson County Fire Chiefs Association.

2. PERFORMANCE STANDARDS. Within sixty (60) days of execution of this Agreement, the Fire District and the City's Public Safety Department shall adopt operating procedures describing the methods to be used when mutually responding to and extinguishing fires within the City.

3. COMPENSATION. In consideration of the services to be provided by the Fire District, the City shall annually pay to the Fire District a sum equal to the City's assessed valuation divided by one-thousand (1,000) multiplied by twenty-five one-hundredths (.25). For purposes of this Agreement, the City's assessed valuation shall not include the assessed value of any property for which City property taxes have been abated by the City or any other authorized agency. The Fire District shall prepare an invoice for each annual payment and submit such invoice to the City by February 1 of each year. The City shall process the invoice such that payment is received by the Fire District no later than February 28.

4. DETACHMENT. Within sixty (60) days of execution of this agreement, the Fire District shall request that the Johnson County Board of County Commissioners approve detachment of all land currently within the boundaries of the City and the Fire District. Thereafter, the City may provide written notice to the Fire District describing any land annexed into the City that lies within the boundaries of the Fire District. Within sixty (60) days after receiving said notice, the Fire District shall request that the Johnson County Board of County Commissioners approve detachment of the property described in the notice. In the event the Fire District requests detachment as provided herein and the Johnson County Board of County Commissioners does not approve the detachment, this agreement shall terminate and be of no further force and effect. However, nothing in this agreement shall preclude the parties from mutually agreeing to maintain this agreement despite the failure of the Johnson County Board of County Commissioners to approve a requested detachment.

The City of Gardner agrees not to seek detachment of the area known as New Century AirCenter.

5. TERM. The term of this agreement shall be twenty (20) years commencing on the 1st day of January 1998.

6. REVIEW AND RENEWAL. Three (3) years after its execution, the Fire District and the City shall appoint representatives to a task force. This task force shall be charged with reviewing the sufficiency of this agreement to provide rapid, effective and affordable fire protection within the boundaries of the Fire District and Gardner. The task force shall submit a report to the governing bodies of the Fire District and the City summarizing its findings and recommendations.

This agreement may be renewed by mutual agreement of the parties for one (1) additional fifteen (15) year period.

7. NO AGENCY RELATIONSHIP. Notwithstanding anything to the contrary contained in this Agreement, the Fire District and its employees shall not hold itself or themselves out as, and shall not be, an agent for the City. Neither the Fire District nor its employees shall have the authority to enter into agreements, leases, or other commitments on behalf of the City.

8. INDEMNITY. Each party to this agreement agrees to and shall defend and hold harmless the other for the negligent acts and omissions of such party and its agents, employees and contractors, provided, however, nothing herein shall be construed as a waiver by either party of any limitation of liability provided under the Kansas Tort Claims Act.

9. INSURANCE. The Fire District shall be solely responsible for obtaining all insurance coverages that it deems necessary or desirable in connection with its business and its obligations under this Agreement, including, but not limited to, general liability, workers compensation, and automobile liability coverage.

10. TERMINATION. This agreement may be terminated upon the mutual, written agreement of both parties and a minimum of one (1) year's notice. In the event one (1) party breaches this Agreement the other party may declare this Agreement in default. The non-breaching party may terminate this Agreement upon thirty (30) days

notice to the breaching party and this Agreement shall thereafter terminate unless the default is cured within such thirty (30) days.

11. CONTACTS. For purposes of this agreement the following persons shall serve as contacts for administration of the agreement: Public Safety Director, Gardner Public Safety Department, 440 East Main, Gardner, Kansas, (913) 856-6480 and Fire Chief, Fire District #1, P.O. Box 325, Gardner, Kansas, (913) 782-3258.

IN WITNESS WHEREOF, the parties hereto have set their hands this 16th day of December, 1997, at Johnson County, Kansas.

CITY OF GARDNER, KANSAS

JOHNSON COUNTY FIRE DISTRICT #1

By Carol Lehman
Carol Lehman

By Kurt R. Hoffman
Kurt R. Hoffman

Title Mayor

Title Chairman

THIS AGREEMENT is approved by the Kansas Attorney General.

By Mary Fery

Date: 12/24/97

Title Asst. Att. General

Good afternoon ladies and gentleman,

My name is Mike Pierce. I am a member and chairperson of the board of Rural Fire District #3 of Johnson County. Before my appointment to fire board, I served on the Johnson County Board of Zoning Appeal for four years, in which I served as chairperson of that board for two years. I am also disable-retired fire fighter after serving 15 year of career service and 25 years volunteer service. Today I stand here before this committee as an opponent to HR 2118.

Let me start out by saying that HR 2118 clearly portrays favoritism and inequality among government entities. If passed, HR 2118 will have undesirable effects on services and taxes. Most importantly, HR 2118 will set precedence that will be devastating to all fire districts involved.

The original statutes KSA 19-3623f has been proven to be fair legislation. However, Olathe wants to amend this statute to exclude themselves as did the city of Overland Park had done. The fact is, Olathe reasoning is far from the reasoning that the city of Overland Park was excluded from this statute. Overland Park is in a unique position. A Corporation, not by a fire district provides fire protection for the city of Overland Park. Overland Park did not want to be bound by a statute that dealt with fire district, so they were able to exclude themselves from the statute without protest and intelligently added to the statute to protect them selves should the corporation become dysfunctional. Olathe does not deal with a corporation. Olathe reasoning is quite obvious. Olathe wants self-gains without being a responsible government by avoiding the fairness of the present statute.

Should Olathe be allowed to be excluded from the statute, the ramification would be devastation to fire district finance. Automatic detachment, large or small, will cause an uninviting reduction of fire district revenues. To compensate that reduction, fire district would have to reduce services or increase taxes in their area. Possibility both would have to be done.

Finally, should this bill become law, it would set a precedence that will cause a snowball effect. Cities will be lining up to add their name to the list, including cities that can not provide adequate fire services. Of course, this would lead to the devastating results as I had mention earlier (above).

As you can see, this legislation is self-centered and would cause nothing but harm to fire districts and to the people they serve. This legislation will cause higher taxes, below standard fire protection, and possible death to a fire district. Events I am sure this state house would not want to support.

I want to thank you for your time and I would happy to answer any questions you might have for me.



KANSAS
ASSOCIATION OF
COUNTIES

Kansas Association of Counties
Testimony on HB 2172
Before the House Local Government Committee
By Judy A. Moler, General Counsel/Legislative Services Director
February 8, 2001

The Kansas Association of Counties is in support of HB 2172 which would repeal K.S.A. 58-2005. Upon repeal of this statute, counties that so choose, can by home rule have their county surveyor review plats of subdivisions or plats of survey before they are filed with the county. This will be, no doubt, the practice in many of the more urban counties. However, in the less populous counties, the hiring of a county surveyor is just not practical.

The KAC has heard from surveyors who feel this statute is necessary in order to stop surveyors from filing plats of subdivisions or plats of survey filled with errors. While this may be a laudable motive, the Board of Technical Professions exists to monitor and to discipline surveyors. The county should not be thrust into this role if they do not choose to be.

The Kansas Association of Counties is in support of good government in all our 105 counties. However, what is practical and workable in one county does not work in all 105 counties.

The Kansas Association of Counties urges your support of this bill.

Thank you for your time. I would be glad to answer any questions.

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.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

HOUSE LOCAL GOVERNMENT
2/8/01
Attachment 7

(68)

By Representative Osborne

AN ACT concerning plats; relating to the review thereof; amending K.S.A. 2000 Supp. 58-2005 and repealing the existing section.

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

Section 1. K.S.A. 2000 Supp. 58-2005 is hereby amended to read as follows: 58-2005. Before a subdivision plat or plat of survey may be recorded, it shall be reviewed by the county surveyor. ~~In the absence of the county surveyor, the county engineer may contract with a land surveyor who shall review such subdivision plat or plat of survey and certify the same if in compliance with the requirements of this act.~~ If the county does not have a designated county surveyor, the county engineer shall review the plat if the county engineer also is a registered land surveyor. In the absence of both a county surveyor and a county engineer the plat shall be reviewed by a registered land surveyor designated by the county. All cost for plat review and approval shall be charged back to the applicant for plat approval. The county shall be responsible for the enforcement of this act. The county surveyor or county engineer shall certify that such plat meets all the requirements of this act. If any such plat is required to be submitted to any planning commission for review and approval or disapproval, such review and approval duly certified upon the face of such plat shall not constitute full compliance with the review required in this section unless reviewed by the county surveyor or county engineer.

Sec. 2. K.S.A. 2000 Supp. 58-2005 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE LOCAL GOVERNMENT

2/8/01

Attachment 8

HOUSE COMMITTEE ON LOCAL GOVERNMENT
Honorable Gerry Ray, Chair

HOUSE BILL 2172

I am here today as a Registered Land Surveyor in the State of Kansas. I would like to thank you for the opportunity to speak in favor of this Bill.

I would like to say that I am not opposed to the review process, only the manner in which it is currently being done. I would support a process in which a full time employee of the County or Counties, as County Surveyor would be responsible for such review, with guidelines set Statewide as to what the review would include. At present the majority of these reviews are being done by Surveyors in private practice.

Over the past year there has been a good deal of confusion regarding the current law. The statute is vague at best, as what is to be the criteria for the review. Some feel compliance is suppling the section corner references along with the plat, others see this as a review of the "Minimum Standards", and still others feel they can make up their own criteria. This has caused delays in recording plats and undue expense to clients. We are having surveys sent back because the reviewer did not like our North Arrow or wanted the text just a little larger. The fees also vary from County to County with some Surveyors being charged more or less than others.

I would like to make it very clear that these reviews do not include any protection to the public. The reviewer is not looking for any deed problem, boundary dispute, or to verify the correct position of section corners used in the survey.

I am seeing the reviewers in some Counties reviewing their own work. This is quite unethical and needs to be stopped before we see complaints and or litigation filed against these individuals.

In conclusion, I would like to say again, that I am not opposed to the review process, only the manner in which it is currently being done.

Ben Crosland, L.S.
Kansas No.1095

9

Benjamin B. Crosland, L.S.
617 Lawrence Street Carbondale, Kansas 66414

HOUSE LOCAL GOVERNMENT
2/8/01
Attachment 9

KANSAS REGISTER OF DEEDS ASSOCIATION

Marilyn L. Nichols
Shawnee County Register of Deeds
700 SE 7th Street, Room 108
Topeka, Kansas 66603-3932

House Bill 2172

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 to repeal KSA 58-2005 which requires a county surveyor to review all subdivision plats and all surveys before they can be filed in the office of the Register of Deeds. The Kansas Register of Deeds Association supports this bill and initially asked the Kansas Association of Counties to introduce the repeal of KSA 58-2005. The repeal of KSA 58-2005 is an issue re-visited from last years legislative session and has been heard in its various forms both in House and Senate Committees. The Register of Deeds Association and the KAC have consistently testified in support of said repeal.

The fact still remains that 72% of Kansas counties have no county surveyor or engineer. Even though an Attorney General Opinion has been rendered that counties may recoup their costs incurred from hiring a surveyor to review the plats and surveys, the cost has never been our single issue. One issue 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 if they have been contracted by the county to do the reviews? What quality of fairness would be used in reviewing a competitor's work? Why do surveyors need another surveyor to review their work in the first place? The reviews are not in place to catch boundary disputes nor do they truly protect the consumer. While errors are made and boundaries are misrepresented at times, the "county surveyor" would not start over from scratch to do the review anyway; therefore it is not a consumer protection issue.

Some counties are struggling to come into compliance with the KSA 58-2005 and cannot afford some of the asking prices for the reviews. Some counties are simply ignoring the statute altogether.

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

HB 2172
POSITION STATEMENT
KANSAS COUNTY COMMISSIONERS ASSOCIATION

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

As current Chairman of the Kansas County Commissioners Association Legislative Committee, I wish to express our support of HB 2172 to repeal K.S.A. 58-2005. The Kansas Association of Counties in forming our Legislative Platform conducts extensive hearings from all areas of county government. There were many concerns expressed but ultimately it was agreed that by eliminating K.S.A. 58-2005 would be in the best interest of Kansas County Government. On November 21st, 2000 at our General Assembly in Topeka, with all 105 Kansas Counties having a vote, there was not one dissenting county in the passage of our Legislative initiatives.

In the past two years while serving as President of the Commissioners Association, I have had the opportunity to travel to each of the 105 Kansas Counties. It is the very diversity of our counties in Kansas why we ultimately need to choose our own course in several governmental matters. Why eliminating this particular statute would aid us, is that every county has a different scenario of how affective and relevant current statute K.S.A. 58-2005 is. If HB 2172 were passed, many counties would pass a resolution adopting the context of the repealed statute. Many others, like my county of Labette, would pass a resolution requiring the review as is stipulated in 2005, but would in contrast stipulate that the individual filing the plat pay for the additional review. We feel that in Labette County, eliminating the payment for this inspection out of the county general fund and passing it on, as a user's fee would be a fairer way. We don't see why all the taxpayers of the county should pay for this service. While in some smaller counties, they have little or no problem from plats filed and have no need to require the additional review.

As a county commissioner in Kansas, I assure you my colleagues across the state will take the responsibility and do what is right for their particular county. I respectfully request passage of HB 2172.

Sincerely,

Lonie R. Addis

Lonie R. Addis
Labette County and Legislative Chair
Kansas County Commissioners Association

640 Iowa
Oswego, KS 67356-2422
620-795-2138 ext. 260
addis@oswego.net

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LOCAL GOVERNMENT
FEBRUARY 8, 2001
Presented by Jim Yonally
on behalf of the Kansas Society of Land Surveyors

Madam Chairman, and members of the committee, I want to thank you for the opportunity to appear before you today, and speak in opposition to HB 2172. As you know, the sole purpose of HB 2172 is to repeal K.S.A. 58-2005. As nearly as I can tell 58-2005 was first enacted into law in 1967, and was not amended until you did so by passing HB 2205 in the 1999 session. I have distributed, with my testimony, a copy of the pertinent part of HB 2205, which includes as section 2, the amendment to 58-2005.

If you would turn your attention to that bill, you will see that the basic change we made in the law was to say that a county engineer MAY contract with a land surveyor to conduct the survey. We did not change the policy decision made in 1967 that these plats need to be reviewed by somebody, we simply gave counties another option, that they could contract with a surveyor to do the review.

What has happened is that we now know that many counties were apparently ignoring the law, and that NO ONE was doing the reviews called for in 58-2005. I can only speculate as to the reasons why they thought they didn't need to follow the law. One real possibility is that the law says the reviewing must be done by the county surveyor, or in the absence of one, by the county engineer. If you have neither in your county, perhaps you could rationalize that you just didn't need to do the reviews. Anyway, after the option appeared that the county could contract with a surveyor to do the review, there was no longer any "loophole" to avoid doing the review, thus the support for HB 2750, last year and HB 2172 this year.

We believe that the potential harm to the public by having survey plats, filed, that are inaccurate is of such importance that these reviews should be continued.

I would be happy to stand for questions.

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Information Network of Kansas[INK Home](#) > [Government](#) > [Legislative](#) > [Full Text of Bills](#) > House Bill No. 2205**As Amended by House Committee***Session of 1999***HOUSE BILL No. 2205****By Committee on Governmental Organization and Elections****2-1**

10 AN ACT concerning land surveys; ~~relating to qualifications and duties of~~
 11 **and land surveyors; amending K.S.A. 58-2003, 58-2005 and 58-2011**
 12 **and repealing the existing sections; also repealing K.S.A. 19-1401.**
 13

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

15 Section 1. K.S.A. 58-2003 is hereby amended to read as follows: 58-
 16 2003. When any section corner, quarter section corner or section center
 17 is set or reset by a surveyor and when any such corner is located by a
 18 surveyor in the course of carrying out a public survey, there shall be
 19 recorded ~~with the county register of deeds, in the manner provided by~~
 20 *K.S.A. 58-2011, and amendments thereto*, reference measurements from
 21 permanent, visible objects to the location of the point as set, reset or
 22 located. These reference objects shall be described clearly. ~~Provided,~~
 23 ~~That~~. In lieu of reference measurements from visible objects, such refer-
 24 ence measurements may be made from triangulation stations ~~estab-~~
 25 ~~lished by the United States coast and geodetic survey maintained by the~~
 26 *national ocean service/national geodetic survey or by utilizing the state*
 27 *plane coordinate system prescribed by K.S.A. 58-20a01 et seq., and*
 28 *amendments thereto.*

29 Sec. 2. K.S.A. 58-2005 is hereby amended to read as follows: 58-
 30 2005. Before a subdivision plat or plat of survey ~~can~~ *may* be recorded, it
 31 shall be reviewed by the county surveyor ~~or~~. In the absence of the county
 32 surveyor, the county engineer ~~shall be responsible for the enforcement~~
 33 ~~of this act, and shall certify that such plat meets all the requirements of~~
 34 ~~this act. Provided, however, That in the event that any such plat is re-~~
 35 ~~quired to be submitted to any planning commission for review and ap-~~
 36 ~~proval or disapproval that such review and approval duly certified upon~~
 37 ~~the face of said plat shall constitute full compliance with the review re-~~
 38 ~~quired in this section~~ **may contract with a land surveyor who shall review**
 39 **such subdivision plat or plat of survey and certify the same if in compli-**
 40 **ance with the requirements of this act.**

41 Sec. 3. K.S.A. 58-2011 is hereby amended to read as follows: 58-
 42 2011. (a) Whenever a survey originates from a United States public land
 43 survey corner or any related accessory, the land surveyor shall file a copy
 44 of the report of the completed survey and references to the corner or



PUBLIC WORKS DEPARTMENT

SALINE COUNTY HIGHWAY DEPARTMENT
3424 Airport Rd.
Salina, Kansas 67401

8 February 2001

Re: HB 2172

Chairman and members of the Local Government Committee

I am in opposition to repealing K.S.A. 58-2005. Saline County has complied with this statute when it became effective and is very supportive of the review requirement. Of the 47 documents reviewed by Saline County since October 20, 1999, none were without need for some correction. This alone shows a need for review. Other professions have their work reviewed before it is accepted. Attorney's are reviewed by judges every time they go to court. Professional engineers who design road and bridge projects for the Kansas Department of Transportation have their work reviewed by that agency. Many agencies review work completed by professionals hired to provide specific services. For most people, the purchase of real property is the largest purchase of their life. They should be entitled to some peace of mind that the described property boundaries filed with the Register of Deeds were correct.

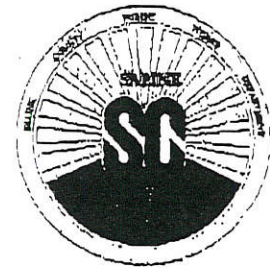
If the Legislature should for any reason repeal K.S.A. 58-2005, Saline County will take the necessary steps to continue with the review process. Repeal of this statute would be a great disservice to all persons that would make a future land purchase. Particularly those living in the more rural communities throughout the state that have limited resources.

Some of the opposition to K.S.A. 58-2005 has come from the Register of Deeds because they believe they cannot charge a fee for the cost of the review. Saline County would be very supportive of amending the statute to permit the collection of a fee to pay for the cost of the review.

Thank you for your consideration of these issues.

Jerry L. Fowler, P.E./L.S.
Director of Public Works
Saline County
3424 Airport Road
Salina, Kansas 67401

SALINE COUNTY, KANSAS SUBDIVISION PLAT OR PLAT OF SURVEY REVIEW FOR COMPLIANCE



In Compliance

Yes/No

- Scale, Graphic scale.
- North arrow.
- Point of beginning.
- Angles, bearings or azimuths.
- When bearings or azimuths are shown, the basis shall be indicated.
- Legal description contains dimensions sufficient to enable the description to be plotted and retrace.
- Monuments identified as to size and shape.
- Notation indicating which monuments were found and which were set.
- Found monuments are accompanied by reference to their origin, if known.
- All found or established monuments and evidence of possession beyond the surveyed premises on which establishment of the corners of the surveyed premises are dependent.
- All pertinent measured dimensions. On other dimensions, sufficient notations shall be used to identify their source.
- Adjoining parcels identified by the title description or record reference, when pertinent, shall be shown.
- A certificate stating the following:
The date of the survey, that the survey was made by the surveyor or under direct supervision, and original signature and seal. The signature and date shall be placed across the seal.

In Compliance

Yes/No

- Name, address, and phone number of the surveyor, company, or corporation responsible for the survey.
- K.S.A. 58-2001
Subdivision boundary corners shall be a metallic monument set in concrete base.
- K.S.A. 58-2002
Where any section corner, quarter section corner or section center is involved in the control establishing the location of a subdivision boundary, said point shall be clearly monumented and labeled before it is used in the subdivision control.
- K.S.A. 58-2004
Information shall be submitted with all plats for subdivisions of land:
(a) Exterior boundary plat showing:
 (1) Locations of the monuments,
 (2) Bearing and distances between the monuments,
 (3) Closure calculations.
(b) Horizontal lot and street calculations.
- K.S.A. 58-2005
County Surveyor Certificate as follows:
Reviewed in accordance with K.S.A. 58-2005 on this ____ day of _____, 20__.
- K.S.A. 58-2011
Report of completed survey and references to the corner shall be filed in the county surveyor's office, when applicable.

Additional comments are shown on the back of this form.

Subdivision Name: _____

Survey Location: _____

Name of Surveyor: _____

Review By: _____ Date: _____

February 8, 2001

Re: Testimony concerning HB 2172 before the Kansas House Local Government Committee

Chairman Ray and members of the House Local Government Committee:

Thank you for the opportunity to comment on the issues concerning K.S.A. 58-2005.

I feel I should briefly provide you with some background about myself so you may assess more completely my perspective on the issue. I have been employed by the Douglas County Public Works Department for 20+ years, most recently in the capacity of County Surveyor. I received my license to practice land surveying in 1986. I occasionally conduct land surveyor-related complaint investigations statewide on behalf of the Kansas State Board of Technical Professions, the licensing board for land surveyor's and four other designated professions. I have held numerous elective offices in both the Kansas Society of Land Surveyors (KSLS) and the Kansas City Metro Surveyor's Association. In addition, I have chaired the Legislative Committee of the KSLS for several years. I personally drafted the language in the previous HB 2205 that specifically addressed K.S.A. 58-2005 and I offered testimony during the two year legislative process of enacting the bill that in the previous year was known as HB 2222.

The primary intent of the legislation was to strike the previous language in K.S.A. 58-2005 exempting subdivision plats from the review of the County Surveyor prior to being recorded by the Register of Deeds. You may be aware that under the previous language subdivision plats subject to the review of a planning commission were exempt from review by the County Surveyor. It had become apparent to the KSLS that many subdivision plats containing errors were being recorded throughout the state resulting in problems including but not limited to: 1) Kansas resident's property improperly described or shown in recorded documents; 2) future resources to be expended by those resident's or their neighbors to resolve problems exacerbated by the fact they have been recorded; 3) correcting subsequent surveys based on the previous yet undetected errant surveys; 4) wasting the resources of public agencies involved in recording the instruments and mapping the errant parcels for appraisal or other various geographical information system (GIS) purposes utilized by governmental agencies.

When HB 2205 was under discussion in the House committee the lobbyist for the Kansas Association of Counties appeared with a request to change one word in the bill as initially proposed by the KSLS. The word "shall" was changed to "may" in the sentence that allows the County Engineer to contract for the service of a Land Surveyor in those counties where there is no currently appointed County Surveyor. It seemed the word "shall" was perceived as an "unfunded mandate" regardless of the existing required review of plats of survey by the County Surveyor. The change was agreed upon by the KSLS in the interest of moving forward and the bill was subsequently passed out of committee and approved by the House. The bill was ultimately passed by the Senate on consent, i.e., unanimously.

The language that was struck from K.S.A. 58-2005 contained another element in addition to the planning commission exemption. The other element involved the implied (or as some

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HOUSE LOCAL GOVERNMENT

2/8/01

Attachment 14

would say, interpreted) ability and responsibility of the County Engineer in lieu of a County Surveyor to conduct the required reviews. It has been recognized by K.S.A. 19-1401 and 19-1403 (and through the application of K.S.A. 74-7001 *et seq.*) for some time that a Professional Engineer, unless dually licensed as a Land Surveyor, is not qualified to practice land surveying. As it happens there are many County Engineer's in Kansas that are indeed dually licensed and serve in both capacities. There are also many County Engineer's in Kansas that are not licensed as a Land Surveyor and, as such, are not qualified to review the technical work of a Land Surveyor. To allow such would be similar to the notion that an Architect should be qualified to review the work of a Professional Engineer. The suggestion by one particular County Engineer to this writer, that the previous version of statute allowed such, is evidence the previous language needed amending.

There was no provision included in the amendment of K.S.A. 58-2005 for the payment of review costs due to the fact that some sort of review has been required at least since the 1960's and it was assumed that dictating a method of payment by statute would infringe on individual counties' local practices. In addition, there are many other statutory duties requiring the presence of a County Surveyor beyond the "reviews" currently being discussed. Ultimately we feel the individual counties are more familiar with funding issues and should have the leeway to accommodate their particular local budget line items as needed.

It has been suggested that Land Surveyor's survey plats and subdivision plats should stand on their own without review... that the Land Surveyor should sign a certificate on the face of the plat that states the document is correct. I agree that this should happen in addition to the County Surveyor's review. (Yes, I'm sure there will be those saying my stance is biased in favor of promoting my own job security as County Surveyor.) In fact, in the time during my review there has been a "plat problem rate" of approximately 40% among those reviewed. There have been major problems and minor problems in varying numbers of occurrence. The rate is getting better now that everybody is aware their work is being scrutinized. I would tend to attribute the predominant instances of errors to be the blunders of technicians preparing plats containing very technical information for their supervising land surveyor, i.e., a failure on the part of land surveyor's to properly review their printed product. Yes, they should be held accountable for this and I suspect repeated instances of poor work will ultimately be reported to the State Board of Technical Professions for their review. It has been commonly known for some time that the majority of complaints to the Board involve the work of land surveyors. It's my opinion that better scrutiny at the local level for the existing, statewide "minimum standards for boundary surveying", as adopted by the Board, will do more to protect the citizens of Kansas in such issues than would adopting legislation requiring specifically-worded certifications to be signed by a land surveyor.

I believe this situation has gained such visibility because, in part, of three general issues/trends. First, we have been subdividing land in Kansas long enough that many surveys, substandard by today's practices, have accumulated in numbers such that there is a perceived need for correction. Second, the current rate of parcel subdivisions occurring state-wide, commonly known as development, is now such that the sheer numbers of tracts generated inherently cause a certain amount of blunders in the work of the land surveyors. Third, we are increasingly becoming a litigious society. It seems people are extremely willing to go to court over minor issues of property. I believe it is in the overall best interest of the citizens of the State of Kansas to catch such problems before they can make it to the Register of Deeds office, much less the court system. Please remember... a survey can affect not only the property owner that hired the land surveyor but it can also affect many other adjacent property owners. Their interests are also being protected by the required review.

A previous version of K.S.A. 19-1401 required a County Surveyor for each county. Subsequently it was amended to only require an elected County Surveyor in two counties, Shawnee and Wyandotte. I believe this occurred at a time when many counties were acquiring the services of a County Engineer which, at that point in time, was allowed to practice land surveying.

The need for the County Surveyor goes back to the original federal government survey of the territory of Kansas. In that survey the determination of the center quarter corner of each section of land (1 square mile) was left to be the responsibility of the future, individual County Surveyor's. The County Surveyor has been given the role of preserving the monuments from the territorial survey. Can you imagine how much it costs to re-establish the location of a lost section corner, i.e., a corner to four different parcels of property? It should be apparent the amount of money being saved by the public because of the preservation efforts in some counties is worth tenfold that to our future citizens.

Many historical road and bridge duties were, by statute, the responsibility of the County Surveyor prior to the advent of the County Engineer. It was only in the last legislative session that the responsibility of the County Surveyor to prepare estimates for the replacement of drainage structures (K.S.A. 19-1420) was to be considered for repeal.

It is now apparent that the amending of K.S.A. 58-2005 has caused some problems for those counties that have been ignoring it all along. There are many ways to address those problems. The Kansas Society of Land Surveyors is anxious to continue to discuss and suggest solutions at every opportunity.

Again, thank you for the opportunity to provide some input on the issue before you. Should you have any questions please contact me. My daytime telephone number is 785-832-5297.

Very truly yours,

Michael D. Kelly, L.S.
Legislative Committee Chair
Kansas Society of Land Surveyors

5757 Longleaf Drive
Lawrence, Kansas 66049
785.832.5297 (o)
785.841.5808 (w)

HOUSE BILL 2172

I am Suzanne Simon, Register of Deeds of Wabaunsee County. Thank you for the opportunity to express my support of H.B. 2172.

Wabaunsee County is one of the more than 70 counties in the State of Kansas which does not have a county surveyor or county engineer. Our county is currently complying with K.S.A. 58-2005 as amended in 1999 by contracting with an independent licensed surveyor to review and certify all surveys and plats.

Surveys and plats are taking anywhere from two weeks to several months to complete the review process before they can be recorded in my office. There seems to be conflicting viewpoints among the State's surveyors as to how much and the nature of information which should be shown on a survey or subdivision plat in order for it to be certifiable. For example, some surveyor's view Wabaunsee County's reviewer's requirements as "nit-picking", while others view his requirements as appropriate.

Register land surveyors are governed by the Kansas Board of Technical Professions. This board has set standards and rules and regulations which surveyors must meet and abide by. Therefore, if these standards are followed as set out by the Board of Technical Professions, there should be no need for a review or critique of a surveyor's work.

I support H.B. 2172 which would repeal K.S.A. 2000 Supp. 58-2005. Thank you for considering my position on this issue. I will be happy to stand for any questions.

Suzanne Simon
Wabaunsee County Register of Deeds
PO Box 278
215 Kansas
Alma, KS 66401-0278

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February 6, 2001

Representative Gerry Ray

Dear Representative Ray:

I understand you will chair a committee hearing on HB 2172 this Thursday. I will be unable to attend, but submit the following:

I wish to support the efforts of HB 2172 to repeal KSA 58-2005. I am licensed as an engineer and a land surveyor. I've spent 11 years as a county engineer and county surveyor. I've spent the last 13 years in private practice. I disagree with 58-2005 from several angles. First, it isn't working. In our rural counties out west, there are no county surveyors. Counties must contract with a private surveyor to perform those functions. A county has no idea what criteria to use, so every county and every surveyor interprets the review differently. I serve as one of these contract county surveyors in 3 counties. I don't like the liability associated with signing someone else's work. Some counties require a review for subdivision plats only; others require it for the simplest of lot surveys. It costs from \$50 to over \$200 for a review. This is being passed on to the client in some counties. In others, the county stands the expense. I support the position that a surveyor representing the city should review a subdivision plat, but not necessarily a county surveyor. Cities have this authority now. Our biggest problem out this way is the review of the small surveys in the rural area. Much of our work is separating the house and buildings from the farmland. So much judgment is involved in locating a section corner. Only 10% of our corners are still monumented. We get into a difference in judgment between the person in the field doing the work and the reviewer sitting in the office. As an engineer, I can design a bridge that can seriously affect public health without a second engineer signing off on it, but I can't file a \$400 survey. If counties had fulltime land surveyors on staff and there was a statewide standard, this could work, but neither exists and it doesn't work.

Thank you for your time.

Respectfully submitted,

John P. Cashatt, RLS, PE
Schwab-Eaton Engineers & Land Surveyors
101 S. Mill
Beloit, Kansas
schwab-eaton@nckcn.com
785-738-2725

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Johnson County, Kansas

ADMINISTRATOR'S OFFICE MEMORANDUM

To: The Honorable Gerry Ray, Chairman
Members, House Local Government Committee

From: Ashley Sherard
Intergovernmental Relations Manager

Date: February 8, 2001

Subject: **Support for HB 2172 – County Surveyor Plat Certifications**

I am writing to express the Johnson County Commission's support for HB 2172.

Currently, K.S.A. 58-2005 requires all county surveyors to provide additional certification of a subdivision plat or survey prior to its being recorded in the Register of Deeds Office. While the statute's intent may be good -- to minimize errors -- this requirement is essentially an unfunded mandate for county governments.

HB 2172 would repeal the language in the statute imposing this requirement. Counties desiring to continue to provide this service, however, would have the option to do so under their home rule powers.

Because unfunded mandates have serious financial and staffing implications, the Johnson County Commission strongly urges you to report HB 2172 favorable for passage. Thank you for your consideration.

TESTIMONY FOR KANSAS HOUSE LOCAL GOVERNMENT COMMITTEE
February 8, 2001

As president of the Kansas Society of Land Surveyors, an organization of approximately 450 surveyors in the State of Kansas, I appreciate the opportunity to testify today regarding the status of KSA 58-2005.

You are no doubt aware that this is the second time we have appeared to answer the request by the Kansas Association of Counties to repeal this bill. The current wording of this statute has only been in place two years and KSLS has actively participated in discussions with K.A.C. to hear their concerns and offer our help to make the statute user-friendlier.

We have heard their concern regarding the lack of uniformity in the review process across the state. Some of the County Surveyors have been proactive about establishing a list of the current minimum standards and statutes pertaining to survey drawings and subdivision plats. When I addressed the Kansas County Highway Association at their annual meeting on November 20, 2000 in Topeka, I offered their members a copy of one of these lists. There was a great deal of interest in obtaining this information that would aid the review process, but no opposition to the statute itself was voiced.

KSLS has also heard their concern regarding the supposed inability to charge landowners and developers for the plat reviews. We believe a funding mechanism should be established instead of a complete repeal. This statute was never meant to burden the budget of our counties.

To at least partially address this concern, we hired an attorney, Mr. Ted E. Knopp of Wichita, to prepare an "Interlocal Agreement for County Surveyor's Services" which can be used by county commissions to join forces and hire one surveyor either as staff member or as a consultant to serve all participating counties, thereby limiting their costs.

In addition, we have offered to propose an amendment to this statute, which would address the subject of fees and allow the counties to charge a review fee equal to the amount paid to the reviewer.

Other efforts by the Kansas Society of Land Surveyors to raise the quality of surveying in Kansas include the adoption of continuing education requirements and the recommendation to the Kansas State Board of Technical Professions to require a degree in surveying as a component for licensure as a Land Surveyor. We've also established a surveying degree scholarship fund with Kansas State University College of Technology and Aviation at Salina to support education for persons now entering the land surveying program.

As you can see, we have proactively pursued strategies that will make the plat review process more effective. According to some County Surveyors, the need for reviews continues. It is the position of the Board of Directors of the Kansas Society of Land Surveyors to promote the continuance of KSA 58-2005 as it exists and to continue working with other organizations and county commissions to render this statute the effectiveness it was meant to have.

Thank you,
Daniel E. Garber, President
Kansas Society of Land Surveyors

INTERLOCAL AGREEMENT
FOR COUNTY SURVEYOR'S SERVICES

This Agreement made and entered into this _____ day of _____, 20__ between:

Counties: _____

and

Surveyor: _____

with reference to the following recitals:

A. K.S.A. 12-2904 authorizes interlocal agreements by public Counties for the joint exercise and enjoyment of powers, privileges or authority capable of exercise by a public agency, including public improvements, public utilities, building and related inspection services, flood control and storm water drainage.

B. Whereas, K.S.A. 74-7003 defines the practice of land surveying.

C. Whereas, each County desires to engage a Registered Land Surveyor to perform surveying work for the County.

D. Whereas, each County has determined that its performance of the duties of the county engineer and/or county surveyor would be aided by the employ of a Registered Land Surveyor to perform those duties involving the practice of land surveying.

E. Whereas, the Surveyor is a Registered Land Surveyor licensed by, and in good standing with, the Kansas State Board of Technical Professions, or a corporation holding a certificate of authorization in good standing issued under K.S.A. 74-7036.

Now, therefore, for and in consideration of the foregoing recitals, the parties hereto agree as follows:

- 1. Term of Agreement. Surveyor's services shall commence upon the latest to occur of i) _____ and ii) the approval by the Attorney General of the State of Kansas pursuant to K.S.A. 12-2904(f) and iii) the recording of this agreement with the Secretary of _____

State, of the State of Kansas, and the Register of Deeds of each county; and shall continue until terminated, with or without cause, by any County or by Surveyor on sixty (60) days prior written notice.

2. Purpose of Agreement. The purpose of this agreement is to outline the duties, supervision and compensation of the Surveyor in each County.
3. Acquisition, Holding and Disposition of Property. Any personal property acquired by the Counties for the purpose of this agreement, other than supplies and consumables, shall be inventoried, titled jointly in the name of Counties, permanently marked and stored at a location agreed by the Counties. Each County shall be given a copy of the inventory and list of markings. Each County shall have the opportunity to inspect and use the personal property during business hours upon notice to all counties.
4. Administration of the Agreement. This agreement shall be administered by the County Engineers of the Counties, sitting as a Board of Cooperating Engineers. The Board of Cooperating Engineers may appoint one member to serve as Chairman. Each County, acting through its County Engineer, shall be entitled to one vote in all matters which may come before the Board.
5. Duties: The Surveyor shall perform those duties imposed on or requested by the County or upon county engineers or the county surveyor which require or involve the practice of land surveying, including, but not limited to, the duties specified in K.S.A. 19-1401, et seq., K.S.A. 68-101, et seq., K.S.A. 79-409, K.S.A. 49-101, et seq.; and K.S.A. 58-2005.
6. Independent Contractor Status. Each County is interested only in the results obtained, and therefore, will make work available to Surveyor as determined by the County.

Surveyor shall:

- a. Control and supervise the execution of all works covered under this Agreement;
- b. Supervise and control any employees of Surveyor;

- c. Furnish at Surveyor's own expense all labor and equipment necessary to carry out the terms of this Agreement;
- d. Pay expenses of Surveyor incurred in performing the work hereunder.
- e. Employ any persons required for the performance of this Agreement and such persons shall be and remain Surveyor's employees. Surveyor shall discharge all obligations to any employees, including taxes and insurance, and shall hold the Counties harmless from such payments.

It is understood and agreed between the parties that Contractor shall perform this Agreement as an independent contractor and nothing herein shall be construed as inconsistent with such relationship or status. Contractor agrees to be responsible for the manner of performing the services and Contractor or Contractor's employees shall not be considered employees of any County for federal and state tax or other purposes. The Contractor, therefore, agrees to assume all responsibility for Contractor's and Contractor and Contractor's employees' federal and state withholding taxes, FICA taxes, Workers' Compensation, and any other applicable taxes, and shall be responsible for making any required filings relating thereto.

7. Surveyor's covenants.

- a. Surveyor shall devote sufficient time and attention to the performance of the Surveyor's duties hereunder, provided however that the Counties shall coordinate and prioritize Surveyor's duties in order to avoid scheduling conflicts and to avoid calling upon Surveyor's services for more than _____ () hours in any week or _____ () on average. Surveyor shall be permitted to maintain a separate business or practice during the term of this agreement.
- b. At all times, Surveyor shall maintain in good standing Surveyor's registration or certificate of

authority to engage in the practice of Land Surveying.

8. Supervision. The surveyor shall perform his duties within each county for the benefit of the respective County Engineer, or other designated agent of each County.
9. Compensation. The Surveyor shall receive compensation of _____ for the ordinary and necessary services provided hereunder, which shall to be reviewed not less than annually by the Board of Cooperating Engineers. In addition, the Board of Cooperating Engineers shall pay the Surveyor's actual and necessary traveling expenses incurred in the performance of his official duties upon the filing of itemized and verified vouchers signed by the Surveyor and approved by the board of Cooperating Engineers. The said board shall allow the Surveyor the necessary and required assistants, chainsmen, rod man, foremen, and all other help needed for the performance of his duties. Allowances for such assistants or help herein referred to shall be for work actually performed per diem and such allowance shall be paid only to the person or persons employed upon sworn claims presented to the board of cooperating engineers.
10. Office and Support. Surveyor shall provide and maintain suitable offices, conveniently situated, and such equipment, supplies and clerical help as are necessary for the proper performance of his duties. The Surveyor may designate one such office as a central office.
11. Surveyor Salary and Field Expenses. The salary and expense of the Surveyor and his assistants to be paid by each of the Counties shall be agreed, in writing, by the Board of Cooperating Engineers of the several counties. In agreeing as to the pro rata share to be paid by each county, the Board of Cooperating Engineers shall consider the surveying services probably required by each of such counties and such consideration shall include the following factors with respect to each of such counties: (a) area, (b) mileage of county roads, (c) number of watercourses, (d) population, (e) assessed tangible taxable valuation, and (f) the total amount of funds being and to be spent for county roads and bridges.

- 12. Indemnification. Surveyor hereby indemnifies and agrees to hold the Counties harmless from and against any and all costs, loss, expense, liability, damage, settlement, or claim for damages (including attorneys' fees and costs for defending any action) suffered, incurred or arising from:
 - a. Violation of Law. The failure of Surveyor or those acting under it to conform to the statutes, ordinances and regulations of any governmental authority;
 - b. Injuries. Injury to persons (including death) or damage to or destruction of property, including property of the County, arising or resulting from the work provided for or performed under this Agreement, or from any actual or alleged act, omission or negligence of Surveyor, its subcontractors and its or their agents or employees.

The provisions of this Article shall in no way be deemed released, waived or modified in any respect by reason of any insurance provided by Surveyor as required under this Agreement.

- 13. Insurance to be Maintained by Surveyor. Surveyor shall maintain and pay for insurance of the types and in the amounts specified in Paragraph 14, and furnish the Board of Cooperating Engineers with Certificates of Insurance as evidence thereof. If any work provided for or to be performed under this Agreement is subcontracted, Surveyor shall require the subcontractor to maintain and furnish Surveyor with satisfactory evidence of Workers Compensation, Employer's Liability and such other forms of insurance in amounts which Surveyor deems adequate.
- 14. Schedule of Required Insurance to be Furnished by Surveyor.
 - a. Workers Compensation. Workers Compensation and Employer's Liability Insurance affording protection under the Workers Compensation Law of the state of Kansas.
 - b. Comprehensive. Comprehensive General Liability Insurance in primary amounts not less than:
 - i Bodily Injury: \$100,000 each occurrence

\$300,000 aggregate

- ii Property Damage: \$100,000 each occurrence
\$500,000 aggregate

This comprehensive general liability insurance shall include Contractual Liability coverage for the liability assumed by Surveyor under the indemnity provisions of this Agreement above.

- c. Automobile. Comprehensive Automobile Liability Insurance with Employer's Non-Ownership Liability endorsement, in the following primary amounts:
Bodily Injury and Property Damage - \$300,000 combined single limit.
 - d. Professional Liability. So long as Surveyor is responsible for the furnishing and rendering of any professional services to County, Surveyor shall carry and maintain in full force and effect a policy of Professional Liability Insurance, insuring Surveyor and County against liability for errors and omissions in the performance of its duties in the rendering of said survey services, with coverage of not less than One Hundred Thousand (\$100,000.00), with such insurance company as shall be satisfactory and acceptable to Owner.
15. If Surveyor should be adjudged a bankrupt or if Surveyor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or should Surveyor, at any time, refuse or fail to prosecute the work with promptness and diligence, or should Surveyor be guilty of a substantial violation of any provision of this Agreement, County may demand performance by Surveyor and, if not cured by Surveyor within seven (7) days, may terminate Surveyor's contract immediately by giving written notice to Surveyor. Provided, that any County shall not be required to demand performance more than twice during any twelve (12) month period regardless of whether the default is the same or different from any previous default.
16. Any notices or communication required or permitted under this Agreement shall be deemed delivered personally or sent by registered mail, certified mail, or overnight delivery, postage prepaid, or by verified

telecopy facsimile (with original delivered thereafter by one of the other means), addressed to the parties as follows:

Board of Cooperating Counties:

Phone: _____
Fax: _____

with copies sent to

Phone: _____
Fax # _____

Surveyor:

Phone: _____
Fax: _____

- 17. Surveyor's Standard of Performance. Surveyor has been chosen because of its registration and extensive experience and capabilities, and shall exercise the highest degree of care and diligence in the performance of all services under this Agreement, and in accordance with the highest professional standards prevailing in the states of Kansas. All of the Surveyor's services under this Agreement shall be performed as expeditiously as is consistent with said standards.
- 18. Amendment and Entirety of Agreement. No amendment, alteration or modification of this Agreement shall be valid or binding upon the parties hereto unless the same be reduced to writing and executed by the parties. This Agreement represents the total understanding and

agreement of the parties and supersedes any and all prior agreements, written or oral, between them as to the Project.

- 19. Assignments. Surveyor shall not assign this Agreement nor any monies due or to become due hereunder, without Counties prior written consent.

In witness whereof, this agreement has been executed this day of _____, 20__.

_____ County, Kansa

Attest _____

by _____

its _____
Title