

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on February 28, 2001 in Room 245-N of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee: Steve Kearney, Executive Director, Kansas State Troopers Association
Representative Tom Sloan
William Tuley, District Legal Counsel, Johnson County Park and Recreation District
Ashley Sherard, Johnson County Intergovernmental Relations Manager

Others attending: See attached list.

Hearing on:

SB 314 - Kansas highway patrol; relating to restrictions on certain political activity

Steve Kearney, Executive Director, Kansas State Troopers Association, appeared before the committee in support of **SB 314** (Attachment 1).

Senator Brownlee ask how relevant the hatch act would be to this language. Chairperson Allen requested the research department to provide the committee the hatch act amendment relating to state and federal employees.

No others wishing to testify on **SB 314**, the hearing was closed.

HB 2068 - Townships; acquisition of land by gift, donation or devise

Mike Heim, Legislative Research Department, gave a brief review of **HB 2068**.

Representative Sloan presented testimony in support of **HB 2068** (Attachment 2).

There being no others wishing to testify, the hearing on **HB 2068** was closed.

HB 2119 - concerning certain park and recreation districts; relating to improvements

Chairperson Allen requested Mike Heim, Legislative Research Department, to give a summary of **HB 2119** to the committee.

Bill Tuley, District Legal Counsel, Johnson County Parks and Recreation Department, testified before the committee in support of **HB 2119** (Attachment 3).

Ashley Sherard, Intergovernmental Relations Manager, Johnson County, presented testimony in support of **HB 2119** (Attachment 4).

There being no others wishing to testify before the committee on **HB 2119**, the hearing was closed.

The meeting adjourned at 2:10 p.m.

The next meeting is scheduled for March 7, 2001.



KANSAS STATE TROOPERS ASSOCIATION

February 28, 2001

Senate Elections and Local Government Committee Hearing on Senate Bill 314 1:30 p.m.

Madam Chair and Members of the Committee:

My name is Steve Kearney. I am here today as Executive Director of the Kansas State Troopers Association to speak in favor of Senate Bill 314.

This measure is being offered to repeal obsolete language in existing statutes that currently limits the participation of members of the Kansas Highway Patrol in any political exercise beyond casting a ballot.

Existing Section (e) of KSA 74-2113 mandates that "No member of the patrol, including the superintendent, shall in any way be active or participate in any political contest in any primary, general or special election or participate in politics, except to cast such member's ballot. For any violation of this provision, the offender shall be summarily removed by the superintendent from the patrol.

I submit to this committee that members of the Kansas Highway Patrol should be governed under the same guidelines as any other state employee. Attached to my testimony is a copy of a 1998 memo from Gov. Bill Graves to his cabinet secretaries. It is clear there are plenty of safeguards in place for state employees to participate to the fullest extent possible. We would like to see the members of the Patrol treated no differently than the vast majority of public employees.

In addition to my other activities, I am an adjunct professor in Criminal Justice at Washburn University. As an educator, I recognize this harkens back to the "spoils era". During that time, it was common practice -- Particularly in law enforcement -- to have public employees who "serve at the pleasure of..." putting up political yard signs while in their official vehicles, distributing political materials during work hours, displaying signs and stickers in their vehicles. This kind of activity took place before civil service protections were enacted, and other measures such as KSA 75-2953 were put in place to protect state employees from coercion in elections.

It will be to the benefit of Kansas communities to allow the finest quality individuals who serve in the Kansas Highway Patrol to serve their schools and communities in non-partisan elections and through greater participation in local, state and federal elections.

Thank you for the opportunity to present this testimony. I would be happy to respond to any questions.

STATE OF KANSAS

BILL GRAVES, Governor
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OFFICE OF THE GOVERNOR

MEMORANDUM

TO: Cabinet Secretaries
FROM: Governor Bill Graves *BG*
DATE: July 15, 1998
SUBJECT: Political Activity by State Officers and Employees

Due to the upcoming election season, I want to ensure that all officers and employees of the state are aware of what is appropriate political activity. K.S.A. 75-2953, an act concerning political activity by state officers and employees, states:

- (a) No officer, agent, clerk or employee of this state shall directly or indirectly use their authority or official influence to compel any officer or employee in the unclassified and the classified services to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription or contribution, or take part in any political activity. Any person who violates any provisions of this section shall be guilty of a class C misdemeanor, and, upon conviction, shall be punished accordingly. If any officer or employee in the classified service is found guilty of violating any provision of this section, such officer or employee shall be automatically separated from the service.
- (b) Any officer or employee in the state classified service shall resign from the service prior to taking the oath of office for a state elective office.

Additional prohibitions apply to members of the Kansas Highway Patrol (K.S.A. 74-2113) and to employees engaged in the administration of the Employment Security Act (K.S.A. 44-714 (c)(2)).

Employees should be careful to follow the provisions of the law that apply to them. If there is doubt that an act is appropriate, employees should either avoid the act or seek an appropriate legal opinion in advance. The following guidelines are suggested in order to conform with state law and to avoid any question of impropriety:

1. Supervisors or members of their immediate families should not solicit for political contributions or participation in political activities from classified or unclassified employees under their supervision.

Cabinet Secretaries
July 15, 1998
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2. Solicitation for political contributions or political activities should not occur on state property or during regular hours of employment.
3. To the extent solicitations for funds or activities are lawful and appropriate, they should not be made with expressed or implied offers of special favor or threats of penalty.
4. Campaign literature or other paraphernalia should not be brought onto state property or transported in or displayed on state vehicles.

Within the confines of K.S.A. 74-2113 (members of the Kansas Highway Patrol) and K.S.A. 44-714(c)(2) (employees engaged in administration of the Employment Security Act), state employees have the latitude to engage in the following political activities on their own time and in places other than their place of employment:

1. Be a member of the political party of their choice.
2. Actively engage in campaigning for the party and candidates of their choice.
3. Contribute to the political party and candidates of their choice.
4. Solicit funds for the political party and candidates of their choice.

All employees should be encouraged to register to vote and vote in all elections for which they qualify.

Please ensure that all officers and employees are made aware of this information concerning appropriate political activity.

BG:PAP:dp

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY



TOPEKA

HOUSE OF
REPRESENTATIVES

STATE CAPITOL BUILDING
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TESTIMONY
HOUSE BILL 2068
Acquisition of Property by Townships
February 28, 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

Senate Elec + Loc Gov
2-28-01
Attachment 2

**SUMMARY OF TESTIMONY OF WILLIAM M. TULEY
COUNSEL FOR THE JOHNSON COUNTY PARK AND RECREATION DISTRICT
IN FAVOR OF HOUSE BILL 2119
BEFORE THE SENATE LOCAL GOVERNMENT AND ETHICS COMMITTEE
FEBRUARY 28, 2001**

1. **Specific Issue to be Addressed:** The Johnson County Park and Recreation District is requesting that its statutory procedure for public bid opening and bid letting as required by K.S.A. 19-2881(a) be revised to change a requirement that the Park Districts' Board of Commissioners receive and open bids, and then evaluate, accept or reject such bids "immediately" by such Board. The currently required statutory procedure has previously been strictly interpreted by the Kansas Attorney General pursuant to Opinion 82-10.

2. **History of the Issue:** K.S.A. 19-2881 is a specific statute applicable only to the Johnson County Park and Recreation District. Subsection (a) requires, in part, that the Park District seek competitive bids for any contract for any improvement which is estimated to exceed \$10,000.00 in amount after preparing plans, specifications and a detailed estimate and after publication notice. A second part of subsection (a) requires competitive bids for the purchase of materials, contracts for purchase or sale, lease contracts and other contracts which are estimated to exceed \$10,000.00 in amount. In either bid situation that statute goes on to require, in pertinent part, the following:

...."All bids shall be made in writing and signed by the bidder, and presented by the bidder, or the bidder's agent or attorney, to the board, at a meeting thereof, and all bids shall be considered and accepted or rejected immediately after their submission."....
(Emphasis added)

The Kansas Attorney General has previously issued Opinion 82-10 which is, in essence, a strict construction interpretation of this section and requires the Park District's Board of Commissioners to receive, open, evaluate and accept or reject bids at its meeting "immediately after their submission". The Park Board does have the power to reject any bids and cannot accept a bid for work in excess of the estimated cost for work being bid on. The Park District has expanded tremendously in size and in its operations and the practical requirement of having to receive, open, evaluate and accept or reject bids at its meeting immediately after their submission is extremely burdensome for the Park District's Board of Commissioners to comply with.

3. **Particular Problems and Concerns:** The particular concerns of the Park District's Board of Commissioners with regard to the emphasized section of the statute are as follows:

1. As a public agency the Park District is prevented from prequalifying bidders and the requirement for an immediate acceptance or rejection of bids hinders the Park District's ability to perform a thorough reference check of bidders, to accurately

verify bid calculations, to verify the information and documentation required to be submitted with bids, and to overall effectively evaluate the bids and bidders. The Park District's staff and not the Board would be more suited and able to perform those tasks without having an immediate time constraint as currently imposed upon the Park District's Board.

2. The members of the Park District's Board of Commissioners are appointed and are unpaid. As the Park District has expanded in size the time spent by Board members on Park District business has increased tremendously. In considering the number of items for which bids are solicited by the Park District, the actual number of bidders, and the time it takes for the bids to be opened, read aloud, compiled and evaluated, the time spent by the Park District's Board in performing those tasks, all in one meeting and prior to any final action being taken thereon, is taking Board time away from other important matters before the Board.

As an example of the problems created for the District, a special Park Board meeting has been scheduled for February 12, 2001 primarily to open bids. Among several categories of items for which bids are to be received are tee shirts for various District programs and fertilizers and chemicals. Based upon the specifications, sizes and different color options on tee shirts, bids on eighty-eight (88) separate tee shirts are anticipated by an estimated six to ten different bidders, for an estimated minimum total of 528 bids to be received, evaluated and accepted or rejected. Thirty-three (33) separate fertilizer and chemical bids are anticipated by an estimated twelve bidders, for an estimated minimum total of additional 396 bids to be received, evaluated and accepted or rejected. It is anticipated that the Board meeting will not be short in duration.

4. Why does this issue need legislative resolution? Based upon the opinion of the Attorney General, the Park District has no effective alternative to the bid opening and bid letting procedure. The Park District agrees with the competitive bidding process, but would simply like to have a procedure approved whereby the Park District's staff or a designated representative of the Park District Board could receive, open and read aloud the bids in advance of a board meeting and then afford the District's staff time to review the bids, evaluate the bids and bidders, check references, and then present a full compilation and evaluation of the bids and bidders, and with potential recommendations, to the District Board for discussion, evaluation and final action by the Board at its board meeting. Such a procedure would provide for more efficient use of the Park District's staff and the Board member's time.

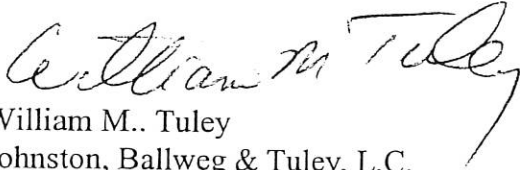
5. Is there any county or statewide impact.

This particular statute only applies to the Johnson County Park and Recreation District. As a local comparison, the Board of County Commissioners of Johnson County has established their own bidding procedure and has a purchasing manager and staff who actually receive, open and evaluate bids for Johnson County. Depending upon what is being bid on and the amount of the bid, the purchasing manager has authority to accept certain bids and contract for the County.

The purchasing manager, Mark Zack, has commented that the bidding procedure required of the Park District does not make the most efficient use of the District's staff and Board time. The Board of County Commissioners of Johnson County and the County staff support the proposed change in legislation.

6. **Other Documentation:** A copy of K.S.A. 19-2881 is attached hereto for ready reference.

Respectfully submitted:



William M. Tuley
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19-2877.

History: L. 1953, ch. 170, § 19; Repealed, L. 1969, ch. 158, § 8; July 1.

19-2878.

History: L. 1953, ch. 170, § 20; Repealed, L. 1976, ch. 136, § 1; July 1.

19-2879.

History: L. 1953, ch. 170, § 21; Repealed, L. 1983, ch. 102, § 1; July 1.

19-2880. Same; invalidity of part. If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section.

History: L. 1953, ch. 170, § 22; June 30.

19-2881. Contracts for improvements; plans and specifications; bids; purchases through a public agency. (a) Before the board of any park district created under K.S.A. 19-2859 to 19-2880, inclusive, and amendments thereto, shall let any contract for any improvement which is estimated to exceed \$10,000, the board shall cause accurate detailed plans and specifications therefor, together with a detailed estimate, of the cost of same, to be made and filed in the office of the secretary of such board. Before letting such contract, the board shall advertise for bids to do such work in accordance with such plans and specifications for at least one week in a newspaper of general circulation in such district. Except as provided by subsection (b), the purchase of materials, contracts for purchase or sale, lease contracts and other contractual services which are estimated to exceed \$10,000, shall be made upon competitive bids. All bids shall be made in writing and signed by the bidder, and presented by the bidder, or the bidder's agent or attorney, to the board, at a meeting thereof, and all bids shall be considered and accepted or rejected immediately after their submission. The board may reject any bids and shall not accept a bid in excess of the estimated cost of the work, and a contract let at a price in excess of the estimated cost of the work shall be void.

(b) The district may enter into agreements with any public agency for the purchase of materials, contracts for purchase or sale, lease contracts and other contractual services through such governmental units using the bidding procedure of such public agency. When used in this section,

"public agency" means any state or a political or taxing subdivision thereof.

History: L. 1961, ch. 151, § 4; L. 1963, ch. 190, § 1; L. 1986, ch. 108, § 1; L. 1995, ch. 26, § 1; July 1.

Cross References to Related Sections:

Procedures for correction of public improvement project bids based on mistakes, see 75-6901 et seq.

Attorney General's Opinions:

Parks, museums, lakes and recreational grounds; competitive bid procedures. 82-10.

Johnson county park and recreation district; bid procedure. 91-55.

19-2881a. Same; contracts with federal agencies for recreational areas and facilities on or around federal reservoirs within the district; tax levies. (a) The board of commissioners of the Johnson county park and recreation district is hereby authorized to contract in the name of the district with any agency or instrumentality of the United States for furnishing, constructing, equipping, operating, managing or maintaining recreational areas and facilities on or around any federal reservoir, all or any part of which is located within the boundaries of said district. Said board may obligate the district for the reimbursement of any such federal agency or instrumentality for obligations incurred pursuant to such contract, but not to exceed an amount equal to 15% of the assessed valuation of the tangible property within the district, plus any interest thereon not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto. Such contract for reimbursement may extend over such period of years as is permissible under applicable federal laws and regulations and as shall be agreed to by the board of commissioners, but not to exceed 50 years.

For the purpose of financing such reimbursement, said board of commissioners is hereby authorized to levy an annual tax of not to exceed two mills on all the taxable tangible property of the district during the period of said reimbursement contract, if the levy of such tax has been approved by the electors of the district in the manner provided in K.S.A. 19-2881b, and amendments thereto.

The powers granted to the board by this section may be exercised in addition to or in conjunction with any other powers vested in the board pursuant to law.

History: L. 1974, ch. 103, § 1; L. 1990, ch. 66, § 30; May 31.

19-2881b. Duties of board. The board of commissioners of any county park and recreation district shall have the same authority as the tax authority of the same shall have by the qualification of whether to levy the tax, electors of the district, a special election for such purpose giving of notice upon the question of general bond issue and counted as a tax are in favor of the tax.

It shall be the duty of the board of commissioners to give notice of such special election, and the expenses of the election shall be paid by the board.

History:

PARK DISTRICTS

Cross Reference: Designation of

19-2882.

Conditions. (a) The board of commissioners of any county park and recreation district shall have the same authority as the tax authority of the same shall have by the qualification of whether to levy the tax, electors of the district, a special election for such purpose giving of notice upon the question of general bond issue and counted as a tax are in favor of the tax.

(b) The board of commissioners of any county park and recreation district shall have the same authority as the tax authority of the same shall have by the qualification of whether to levy the tax, electors of the district, a special election for such purpose giving of notice upon the question of general bond issue and counted as a tax are in favor of the tax.

History:

Attorney General's Opinions: Kansas constitution, nature. 80-199.

19-2883.

Condition, name. The board of commissioners of any county park and recreation district shall have the same authority as the tax authority of the same shall have by the qualification of whether to levy the tax, electors of the district, a special election for such purpose giving of notice upon the question of general bond issue and counted as a tax are in favor of the tax.

★
Applies to J.C. only



Johnson County, Kansas

OFFICE OF THE COUNTY ADMINISTRATOR

To: The Honorable Barbara Allen, Chairman
Members, Senate Elections & Local Government Committee

From: Ashley Sherard
Johnson County Intergovernmental Relations Manager

Date: February 28, 2001

Subject: HB 2119 – Park and Recreation Districts

Thank you for giving me the opportunity to appear before you today concerning HB 2119, a bill which would amend the Johnson County Park & Recreation District's purchasing statute to enable the Park Board and staff to evaluate bid proposals prior to contract award.

Current law requires the Park Board to open bids at a public meeting and immediately accept or reject the bids. Staff is not permitted any time to review the bids to ensure that all information is verified and that documentation is complete prior to the Park Board making an award.

The amendment proposed in HB 2119 would permit the opening and the awarding of bids to occur at separate proceedings, providing time for staff to verify and more comprehensively evaluate bid information. The Johnson County Commission believes this change would make for a more efficient and more effective bid process, which would ultimately benefit taxpayers.

For this reason, the Johnson County Commission strongly supports HB 2119 and urges you to recommend the bill favorable for passage.

Thank you.

Senate Elec & Loc Gov
2-28-01
Attachment 4