

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 March 14, 2001 in Room 245-N of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Representative Vern Osborne  
Judy Mohler, Kansas Association of Counties  
Ashley Sherard, Intergovernmental Relations Manager,  
Johnson County  
Jim Yonally, representing Kansas Society of Land Surveyors  
Marilyn Nichols, representing the Kansas Register of Deeds  
Association

Others attending: See attached list.

Hearing on:

**HB 2406 - plats, review prior to recordation thereof**

Ken Wilke, Revisor of Statutes, explained that **HB 2406** amends current law to provide some flexibility for counties to review plats.

Representative Osborne testified in support of **HB 2406** (Attachment 1).

Testimony presented in support of **HB 2406** was given by Judy Mohler, Kansas Association of Counties (Attachment 2).

Ashley Sherard, Intergovernmental Relations Manager, Johnson County testified before the committee in support of **HB 2406** (Attachment 3).

Jim Yonally, representing Kansas Society of Land Surveyors, testified in support of **HB 2406** (Attachment 4). Mr. Yonally requested committee to consider adding the language "such review shall consist of compliance with applicable statutes and Kansas minimum standards as adopted by the Kansas Board of Technical Professions".

Written neutral testimony on **HB 2406** was handed out to committee from Marilyn Nichols, representing the Kansas Register of Deeds Association (Attachment 5).

A question of committee was asked regarding the number of surveys done in Johnson County on a yearly basis. Chairperson Allen requested Ashley Sherard, Intergovernmental Relations Manager, Johnson County, to accumulate this information and make available to the committee.

Chairperson Allen delayed taking action **HB 2406** until the committee received the information requested.

**Discussion of bills:**

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

**A motion Senator Brownlee made on March 8, 2001, to insert the language of SB 227 into HB 2119 failed. A division was requested with a count of 3 Yeas and 4 Nays.**

CONTINUATION SHEET

March 14, 2001

**Senator O'Connor made a motion to pass HB 2119 as amended. Senator Schmidt seconded the motion. The motion carried**

**SB 314 - concerning the Kansas highway patrol, relating to restrictions on certain activity**

Dennis Hodgins, Legislative Research, handed out a memo Mike Heim had prepared for committee showing political activity of state employee's guidelines (Attachment 6).

**Senator Schmidt made a motion to move SB 314 favorably for passage. Senator Gilstrap seconded the motion. The motion carried.**

Chairperson Allen informed the committee it would be meeting next week.

The meeting adjourned at 2:20 p.m.

**SENATE  
ELECTIONS AND LOCAL GOVERNMENT  
GUEST LIST**

**Date** March 14, 2001

<u>Judy Moler</u>	<u>KAC</u>
<u>Don Newmyer</u>	<u>Douglas Co. Register of Deeds</u>
<u>Tim Yonally</u>	<u>KSL S</u>
<u>Asmey Sherard</u>	<u>Johnson County</u>
<u>Marilyn Nichols</u>	<u>Reg. of Deeds - Shawnee Co.</u>
<u>C. Suzanne Bonix</u>	<u>Reg. of Deeds - Wabaunsee Co.</u>
<u>Madere Wagon</u>	<u>Reg. of Deeds - Atchison Co.</u>
<u>Susan Skuster</u>	<u>Douglas Co. Reg. of Deeds</u>
<u>Stacy R. Driscoll</u>	<u>Leavenworth Co. Reg. of Deeds</u>
<u>Thad T. Fowler</u>	<u>Land Surveyor</u>
<u>Bill Haverkamp</u>	<u>Land Surveyor</u>

## VERN OSBORNE

REPRESENTATIVE, SIXTY-FIRST DISTRICT  
HOME ADDRESS: 6940 KIRTNER DRIVE  
ST. GEORGE, KANSAS 66535  
(785) 494-2449

OFFICE ADDRESS: STATE CAPITOL, SUITE 112-S  
TOPEKA, KANSAS 66612-1504  
(785) 296-7672



TOPEKA

HOUSE OF  
REPRESENTATIVES

Madam Chair and Committee Members:

I appreciate the opportunity to testify in regards to HB 2406.

Today, we find some of our counties trying to adhere to a statute that requires them to review all plat maps prior to recording. Confusion now exists because some counties are reviewing these plats at no cost to the applicant, some are charging for the review and some are simply overlooking the statute entirely.

In HB 2406, I am simply trying to clear up the confusion that now exists. There shouldn't be any question on who does what with this bill. It simply states who will review and who will pay for that review.

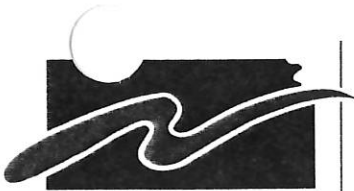
This entire issue exists because poor quality plats are being submitted and the county recorders are attempting to deal with the problem. The applicant/client should receive a recordable plat map from the surveyor initially at a contracted price. A review, therefore, should be a very simple and quick process. Any review costs should be built into the original contract.

Lets allow private enterprise the opportunity to resolve this problem.

A handwritten signature in black ink that reads "Vern Osborne". The signature is written in a cursive, flowing style.

Senate Elec & Loc Gov  
03-14-01

Attachment 1



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

Kansas Association of Counties

In support of HB 2406

Before the Senate Elections and Local Government Committee

By Judy A. Moler, General Counsel/Legislative Services Director

March 14, 2001

Chairman Allen and Member of the Committee:

The Kansas Association of Counties is in support of HB 2406 that would allow counties to collect from the applicant for a county's review of a subdivision plat or plat of survey before it is recorded. The Attorney General has opined that under the current statute, K.S.A. 58-2005, counties cannot charge for this service. Counties perform this review as a service for their citizens as mandated by K.S.A. 58-2005. Quite frankly, the Kansas Association of Counties has introduced legislation to completely eliminate this review for two years. However, in both instances, the House felt that this review is sorely needed and did not pass the bill. If this, indeed, is an important function for counties to perform, counties would like the ability to charge the applicant for this service.

Thank you for your consideration of this bill.

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

Senate Elec + Loc Gov  
03-14-01  
Attachment 2



Johnson County, Kansas

---

OFFICE OF THE COUNTY ADMINISTRATOR

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

From: Ashley Sherard  
Intergovernmental Relations Manager

Date: March 14, 2001

Subject: **Support for HB 2406 – County Surveyor Plat Certifications**

---

I am writing to express the Johnson County Commission's support for HB 2406.

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.

Under an Attorney General's opinion, counties currently are not permitted to be compensated for providing this service. HB 2406, however, would enable counties to charge the applicant for the cost of the plat review and approval. This authorization would greatly relieve the serious financial and staffing implications the current unfunded mandate creates for counties across the state.

For these reasons, the Johnson County Commission strongly urges you to report HB 2406 favorable for passage. Thank you for your consideration.

Senate Elec + Loc Gov  
03-14-01  
Attachment 3

TESTIMONY BEFORE THE SENATE COMMITTEE ON  
ELECTIONS AND LOCAL GOVERNMENT  
MARCH 14, 2001

Presented by Jim Yonally  
on behalf of the Kansas Society of Land Surveyors

Madam Chairman, and members of the committee, I am Jim Yonally, and I am appearing today as a representative of the Kansas Society of Land Surveyors.

We have always been sympathetic to the concern of the counties that the review required by K. S. A. 58-2005 may require them to have an expenditure that they have not had before. We also understand that some county commissions have not approved additional budget authority for their county register of deeds, and the cost of a review has had to come out of their regular budget.

We supported, last year, an amendment to K.S.A. 58-2005, that would have allowed counties to charge a fee for this review. Also, we requested, this year, the introduction of Senate Bill 109, which would have permitted counties to form districts to address some of these same problems. As an alternative, it appears that passage of HB 2406 would assist counties in dealing with this problem, and we therefore would support passage of this bill.

We would urge the committee to adopt one clarifying amendment. There was testimony in the House Committee that this review consisted of one thing in one county, and sometimes something quite different in another county. We would suggest that language similar to the following be added at an appropriate location:

"Such review shall consist of compliance with applicable statutes and Kansas minimum standards as adopted by the Kansas Board of Technical Professions."

I would be happy to stand for questions.

Senate Elec & Loc Gov  
03-14-01

Attachment 4

KANSAS REGISTER OF DEEDS ASSOCIATION

---

House Bill 2406

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 allow counties to collect fees for the review of plats and surveys by a county surveyor, or county contracted surveyor, before being recorded in the Register of Deeds Office. The Register of Deeds Association has consistently opposed the review process and was supporting a Bill to repeal that requirement. However, that Bill lost on a 62-62 vote in the House. We then took the position to remain silent on HB 2406, neither being a vocal proponent or opponent. As the KAC has offered previously testimony that "half a loaf is better than none" we believe that to be so as well. If we must somehow come into compliance for the review, the county then would certainly need to recoup the costs of the review and this bill does accomplish that. We will continue to seek a better solution for the constituents of our counties in the future, but in the meantime this seems to be the best solution at hand. We urge you to not consider any amendments to this bill that would prohibit the counties' abilities to recoup costs.

I will be present at the hearing today, along with several other Registers of Deeds and we would be happy to stand for any questions.

Marilyn L. Nichols,  
Shawnee County Register of Deeds

Senate Elec + Loc. Gov  
03-14-01  
Attachment 5



SESSION OF 1996

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2088**

As Amended by Senate Committee on  
Elections, Congressional and Legislative Apportionment,  
and Governmental Standards

**Brief\***

H.B. 2088, as amended, would require a state officer or employee in the state classified service to resign from the service prior to taking the oath of office for a state elective office.

Under current law, a state officer or employee in the classified service must resign from office upon filing as a candidate for state office except for an elective office filed for a township office, a county office, an elective office in the judicial branch of government, or a nonpartisan elective office.

H.B. 2088, as amended, would become effective upon its publication in the *Kansas Register*.

**Background**

Representative Sloan, a sponsor of the bill, testified before the Senate Committee on Elections, Congressional and Legislative Apportionment, and Governmental Standards in support of H.B. 2088. He testified that unclassified state employees do not have to resign from the service when seeking elective office. They may take an unpaid leave of absence while serving, and return to their careers at the end of public service. This opportunity is not available to classified state employees.

The Senate Committee amended the bill to require state officers or employees in the state classified service to resign prior to taking the oath of office.

---

\* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

16973/dh

Senate Elec & Loc Gov  
03-14-01

Attachment 6

supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Sec. 2. K.S.A. 1995 Supp. 45-221 is hereby repealed.

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

Approved May 3, 1996.

Published in the *Kansas Register* May 16, 1996.

### CHAPTER 197

#### HOUSE BILL No. 2088

AN ACT relating to state officers and employees; concerning political activity by state officers and employees in the classified service; amending K.S.A. 1995 Supp. 75-2953 and repealing the existing section.

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

Section 1. K.S.A. 1995 Supp. 75-2953 is hereby amended to read as follows: 75-2953. (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 to 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 upon filing as a candidate for an elective office, unless the elective office filed for is a township elective office, a county elective office, an elective office in the judicial branch of government or is elected on a nonpartisan basis. "Elective office" shall not mean or include the office of precinct committeeman or precinct committeewoman.~~

(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.

Sec. 2. K.S.A. 1995 Supp. 75-2953 is hereby repealed.

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

Approved May 3, 1996.

Published in the *Kansas Register* May 16, 1996.

AN ACT CONC

*Be it enacted*

Section  
treatment  
the provis  
and drug  
who have  
assistance  
are partic  
(b) N

ing as a  
be eligib

(c) I  
program  
person s  
the eval  
to comp  
tion or

(d)  
authoriz  
publicly  
poyees  
essary i  
sional  
providi  
regulat  
poyee  
be sub

(e)  
rules a  
tion.

(f)  
ers fro  
neede  
projec  
KanW  
servic  
der th  
in the  
ment  
(g)

March 13, 2001

## Political Activities of State Employees: Guidelines

### Permitted Political Activities

As a general rule, both classified and unclassified state employees and those employees covered by the Federal Hatch Act, may engage in the following political activities.

#### Nonpartisan Elected Political Office

A state employee may run for a nonpartisan elected political office; hold a nonpartisan elected political office; promote or contribute to nonpartisan political causes or candidates by doing such things as posting yard signs at their residences, participating in fund raisers, and so forth. These activities must be carried on outside the workplace and work time.

See KSA 75-2953(b), including L. 1996, ch. 197, and the Supplemental Note for 1996 HB 2088 which reveals the intent of the 1996 change to this statute. The law provides that any officer or employee in the state classified service shall resign from service *prior to taking the oath of office for a state elected office*. Note all state elected officers are partisan in nature. See also Attorney General Opinion No. 90-109.

#### Partisan Political Activities Permitted

As a general rule, both classified and unclassified state employees not covered by the Federal Hatch Act may do the following in regard to partisan political activities.

A classified state employee, and apparently most unclassified state employees may run for a local or state partisan political office and may hold a local partisan political office and retain their state position, *i.e.*, precinct committees, township, county, and in rare cases (most city elections are nonpartisan), city partisan office. Posting yard signs, participating in fund raisers, or promoting or working for partisan candidates is permitted outside the workplace and work time.

**Note:** KSA 75-2953(b) requires a classified state employee to resign from state service only prior to taking the oath of office for a state elective office. It does not require resignation if the state civil service officer or employee runs for or assumes a local partisan office. However, KSA 19-205 states that no person currently holding a state, county, city, or township office may hold the office of county commissioner. The common law doctrine

of incompatibility of office may prohibit the holding of some local offices by state civil service officers or employees.

### **State Employees Covered by the Federal Hatch Act**

The Federal Hatch Act covers state employees whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency. See 5 USCA 1501(4).

State employees covered by the Hatch Act may run for and hold nonpartisan elected offices. In addition, these state employees may post yard signs, participate in fund raisers, make contributions, attend political functions, both partisan and nonpartisan, and may work for a particular partisan or nonpartisan candidate or political party on the employee's own time and outside the workplace. See Attorney General Opinion No. 90-109.

### **Political Activities Prohibited**

KSA 75-2953 makes it a class C misdemeanor for any state officer or employee to use their authority or official influence to compel any officer or employee in the classified or unclassified service to become a member of any organization, to pay or promise to pay any assessment or make any contribution, or take part in any political activity.

KSA 75-2974 prohibits a supervising official from soliciting any contribution to or on behalf of any state officer or candidate for state office from any state classified employee under the supervision of the supervising official. Violations are subject to a civil penalty of up to \$2,500 per violation.

KSA 44-714(c)(2) makes it an unclassified misdemeanor subject to jail time of not less than 30 days nor more than six months and/or a fine of not less than \$100 nor more than \$1,000 for an employment security employee to receive or solicit political contributions.

### **Specific Political Activity Restrictions on Certain Employees**

#### **Employment Security Law Employees**

KSA 44-714(c)(2) provides that no employee engaged in the administration of the employment security law shall directly or indirectly solicit or receive or be in any manner concerned with soliciting or receiving any assistance, subscription, or contribution for any political party or political purpose, other than soliciting and receiving contributions for the

person's personal campaign as a candidate for a nonpartisan elective public office. Nor shall any employee participate in any form of political activity except as a candidate for a nonpartisan elective public office, nor champion the cause of any political party or the candidacy of any person.

Any employee who violates these provisions shall be immediately discharged.

Further, no person shall solicit or receive any contribution for any political purpose from any employee and any such action shall be an unclassified misdemeanor and shall be punishable by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.

The Attorney General in Opinion No. 90-109 said the above statutory provisions were unconstitutionally over broad. The opinion then lists the following political activities that are permitted for state employees covered by the Hatch Act and involved in the administration of the employment security law.

1. Post yard signs at their residence;
2. Participate in fund-raisers;
3. Make contributions;
4. Attend party functions; and
5. Work for a particular candidate or party on the employee's own time and outside the workplace.

### **State Highway Patrol Officers**

KSA 74-2113(e) provides as follows:

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.

The Attorney General in Opinion No. 84-40 said the above statutory provision was unconstitutionally over broad. The opinion then listed seven permitted political activities which patrolmen could engage in and one activity (No. 8) which a patrolman may not do as follows:

1. May be members of political clubs, but not officers of said clubs or members of a committee of such a club;
2. May not work as a volunteer for a partisan candidate, but may work as a volunteer for a nonpartisan candidate for public office;
3. May put a political sign in their yard;
4. May place a candidate's bumper sticker on their personal automobile;
5. May contribute money to a candidate's campaign committee, but may not engage in fund-raising activities for a partisan candidate;
6. May be a candidate in a nonpartisan contest for city council or school board;
7. May attend a political rally when on an off-duty status, provided the member does not engage in any prohibited activity at said rally; and
8. May not be a partisan candidate for a political office, even if they take a leave of absence without pay prior to filing for the office, with the understanding they would either resign or come back to work once the outcome of the election is known.

### **Judicial Branch Employees**

Kansas Court Personnel Rule 5.17 provides:

Employees shall not directly or indirectly use their authority or official influence to compel any employee to apply for membership in or become a member of any organization, to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity. Any employee who violates any provision of this subsection shall be subject to dismissal.

Employees may not hold an elective office while employed with the Judicial Branch except precinct committee person or a nonpartisan elective office. Employees shall be required to resign employment with the Judicial Branch upon filing as a candidate for holding an elective office, unless the elected office filed for is one of the above.

Subject to the above restrictions employees may exercise all rights of citizenship as individuals on their own time.

## **Certain Legislative Branch Employees**

Legislative Coordinating Council Policy No. 14 provides that no officer or employee of the Research Department, Office of the Revisor of Statutes, or Division of Legislative Administrative Services shall become a candidate for partisan political office while employed in such office.