

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Les Donovan at 8:30 a.m. on March 21, 2001 in Room 245-N of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Marian F. Holeman, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list.

Approval of minutes

Senator Salmans moved to approve minutes of the March 14 and 15, 2001 meetings. Senator Harrington seconded the motion. Motion carried.

HB 2369: Cities & counties; paving materials, prohibiting the sale thereof

Members had in front of them a package of balloons containing four different amendments (Attachment 1). The first one, proposed by the Kansas Association of Counties, should do what the counties want done in a fairly simple straightforward way. A big concern from the private sector is that counties with a large production capacity might want to sell outside, as well as inside, their county to other private and public entities. At this time, work is being done to develop language to say counties can work within their own county, but will be precluded from going outside the county.

Several members had a problem with the latter aspect of the bill, especially in counties with small populations and a small tax base when county roads cross adjacent county lines. Currently such counties combine to exchange labor and material resources to complete work across county lines. This system works very well. It is a common practice and they do not wish to see it changed. Discussed the various implications in the bill for interlocal agreements; including whether or not it would preclude interlocal agreements with neighboring states.

The real question being addressed by **HB 2369** is whether or not any government entity with the capability of producing more aggregate than it needs should compete in the market place with the private sector in selling materials to whomever when the county equipment and function is basically paid for by taxpayers' money. Apparently there is a need to let them do some cooperative work, yet not trample on the ability of the private sector to compete in the market place. It was suggested that another possible approach would be to consider whether or not the intent is to stop county expansion into the private sector or to take it back completely. Members discussed provisions in the other proposed balloons. It was pointed out that language could be included to limit selling or otherwise providing materials within the county or adjacent county.

Regarding the proposed balloon from the Kansas Association of Counties, discussed going back to the original language or going with the Association's language. Senator Schodorf moved to adopt the Kansas Association of Counties' amendment. Senator Lyon seconded the motion. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE at 8:30 a.m. on March 21, 2001 in Room 245-N of the Capitol.

Senator Salmans moved to substitute the word "paving" for "construction" and strike "exclusive" on the 3rd line of the Kansas Aggregate Producers' Association Proposed Balloon #2 and adopt this amendment. Senator Schodorf seconded the motion. Motion carried.

Senator Salmans made a conceptual motion to allow technical cleanup language in the amended bill. Senator Harrington seconded the motion. Motion carried. Senator Harrington moved to recommend **HB-2369**, as amended, favorable for passage. Senator Schodorf seconded the motion. Motion carried.

HB 2143: Re traffic; auxiliary driving lamps & fog lamps

On March 8, 2001, the Committee held hearings and discussed this bill. At that time members had several concerns regarding the bill. Those concerns were repeated in today's discussion. However, since there is considerable pressure outside the Committee to have the bill passed out, the Committee Chair asked for the Committee's recommendation. Senator Harrington moved to pass the bill out without recommendation. Senator Schodorf seconded the motion. Motion carried.

The meeting adjourned at 9:25 a.m.

No further meetings are scheduled at this time

SENATE TRANSPORTATION COMMITTEE

GUEST LIST

DATE: MARCH 21, 2001

NAME	REPRESENTING
Lenie R. ADDIS	Lebette Co. Commissioner KCCA
RDU W'WUELY	KDOT
Tom WHITAKER	Ks Motor Carriers Assoc
Gardie Shaw	Ks Motor Carriers Assoc.
Don Moler	LRM
Mike Pepoon	Sedgwick County
Randy Allen	Kansas Assoc. of Counties
John Pinegar	Kansas Legislative Policy Group

HOUSE BILL No. 2369

By Representative Grant

2-7

AN ACT concerning cities and counties; relating to the powers and duties of the governing bodies thereof.

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

Section 1. (a) As used in this section:

(1) "City" means any city.

(2) "County" means any county.

(3) "Governing body" means the governing body of any city and the board of county commissioners of any county.

(4) "Paving material" means crushed rock, asphalt, gravel, aggregate sand or other materials used to pave roads, streets and drives.

(b) ~~The governing body of any city or county shall not sell or otherwise provide paving material or paving services to any other city, county, private person or private entity, unless such governing body has made a determination that such paving materials are not readily available from a nongovernmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist.~~

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Except as provided in subsection (c), the

- (c) The provisions of subsection (b) shall not apply if the governing body has:
 - (1) Made a determination that such paving materials are not readily available from a nongovernmental entity; or
 - (2) adopted a resolution declaring the existence of a disaster, emergency or the threat of disaster or emergency.
- (d) The provisions of this section shall not prohibit the governing bodies of any county and any city or cities located in such county, pursuant to an interlocal agreement from jointly purchasing paving material from a nongovernmental entity for the use by such county and city or cities.

SENATE TRANSPORTATION
COMMITTEE-DATE: 3-21-01
ATTACHMENT: 1

1-1

1-2

As Amended by House Committee

Session of 2001

HOUSE BILL No. 2369

By Representative Grant

2-7

Kansas Association of Counties
Proposed Balloon

AN ACT concerning cities and counties; relating to the powers and duties of the governing bodies thereof.

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

Section 1. (a) As used in this section:

- (1) "City" means any city.
- (2) "County" means any county.
- (3) "Governing body" means the governing body of any city and the board of county commissioners of any county.

(4) "Paving material" means crushed rock, asphalt, gravel, aggregate sand or other materials used to pave roads, streets and drives.

(b) The governing body of any city or county shall not sell or otherwise provide paving material or paving services to any other city, county, private person or private entity, unless such governing body has made a determination that such paving materials are not readily available from a nongovernmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

provide paving material to any private person or private entity,



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HOUSE BILL No. 2369

Kansas Aggregate Producers' Association
Proposed Balloon # 1

By Representative Grant

2-7

AN ACT concerning cities and counties; relating to the powers and duties of the governing bodies thereof.

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

Section 1. (a) As used in this section:

- (1) "City" means any city.
- (2) "County" means any county.
- (3) "Governing body" means the governing body of any city and the board of county commissioners of any county.
- (4) "Paving material" means crushed rock, asphalt, gravel, aggregate sand or other materials used to pave roads, streets and drives.

(b) ~~The governing body of any city or county shall not sell or otherwise provide paving material or paving services to any other city, county, private person or private entity unless such governing body has made a determination that such paving materials are not readily available from a nongovernmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist.~~

Except as provided in subsection (c), the

(c) The provisions of subsection (b) shall not apply if the governing body has:

- (1) Made a determination that such paving materials are not readily or customarily available from a nongovernmental entity; or
- (2) adopted a resolution declaring the existence of a disaster, emergency or threat of disaster or emergency.

(d) The provisions of this section shall not prohibit the governing bodies of any county and any city or cities located in such county, pursuant to an interlocal agreement from jointly purchasing paving material from a nongovernmental entity for the use by such county and city or cities.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

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HOUSE BILL No. 2369

By Representative Grant

2-7

Kansas Aggregate Producers' Association
Proposed Balloon #2

AN ACT concerning cities and counties; relating to the powers and duties of the governing bodies thereof.

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

Section 1. (a) As used in this ~~section~~ act

(1) "City" means any city.

(2) "County" means any county.

(3) "Governing body" means the governing body of any city and the board of county commissioners of any county.

(4) "Paving material" means crushed rock, asphalt, gravel, aggregate sand or other materials used to pave roads, streets and drives.

(b) The governing body of any city or county shall not sell or otherwise provide paving material ~~or paving services~~ to any other city, county, private person or private entity, **unless such governing body has made a determination that such paving materials are not readily available from a nongovernmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist.**

Sec ~~2~~ 3 This act shall take effect and be in force from and after its publication in the statute book. 3.

Sec. (2). The governing body of any city or county is hereby authorized to establish or participate in the mining or manufacturing of ~~construction~~ ^{paving} materials for the exclusive use of such county. Establishment of or participation in any such mining or manufacturing operation shall not occur unless: (a) Prior to the establishment of or participation in any such mining or manufacturing operation, the governing body shall hold a public hearing to consider the merits of the proposed mining or manufacturing operation;

(b) notice of such public hearing has been published in both the Kansas Register and a newspaper having general circulation in the city or county in which such proposed mining or manufacturing operation is to be established or participated in not less than 20 days prior to the date of such public hearing;

(c) the governing body shall notify any city or county resident or taxpayer, as determined by such city or county's vendor list, who customarily provides construction materials, of the date, time and location of such public hearing. Such notification shall be made by mail not less than 20 days prior to the date of such hearing; and

(d) prior to such hearing, the governing body has prepared or caused to be prepared a verifiable cost/benefit analysis of the proposed mining or manufacturing operation. Copies of such cost/benefit analysis shall be available at the public hearing for consideration by the governing body and the public.