

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on February 5, 2002 in Room 245-N of the Capitol.

All members were present except: Senator Huelskamp - excused

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

Conferees appearing before the committee: Brad Bryant, Deputy Assistant, Secretary Of State
Kathy Porter, Office of Judicial Administration
Judge Paul Buchanan, Chief Judge, 18th Judicial Dist.,
Sedgwick County

Others attending: see attached list

Introduction of Bills

Sen. Steineger introduced a committee bill repealing K.S.A.12-763. This would allow a city or county to make zoning requirements excluding the use of manufactured housing (Attachment 1). Senator Clark made a motion the Committee introduce the proposed legislation, seconded by Sen. Schmidt. The motion carried.

Sen. Schmidt requested a conceptual introduction of a bill establishing the Independence area library district. Senator Schmidt made a motion the Committee introduce the proposed legislation, seconded by Senator O'Connor. The motion carried.

Jeff Burkhead, Executive Director of Kansas Press Association, introduced a bill concerning the taping of executive sessions during closed sessions (Attachment 2). Senator Schmidt made a motion the Committee introduce the proposed legislation, seconded by Senator O'Connor. The motion carried.

Senator Clark requested a conceptual introduction of a bill requiring disclosure statements from university teachers who do consulting. Senator Clark made a motion the Committee introduce the proposed legislation, seconded by Senator Brownlee. The motion carried.

Senator Jackson requested a conceptual introduction of a bill concerning transfer of land from one drainage district to another drainage district under certain conditions. Senator Jackson made a motion the Committee introduce the proposed legislation, seconded by Senator Clark. The motion carried.

Hearing on S.B. 468 - Technical clean up amendments to election laws

Brad Bryant, Deputy Asst. Sec. Of State, testified in support of **S.B. 468**. Section 1 of the bill clarifies how voter registration can be terminated, alters page 2, adding "4" at the end of line 4 referring to line 18. Section 2 of the bill strikes the word "two" from K.S.A. 25-3102 concerning the filling temporary vacancies on county boards of canvassers. Section 3 of the bill changes guidelines for gubernatorial candidate petitions to comply with other petition guidelines and decision by U.S. Supreme Court (Attachment 3).

There were no opponents to the bill.

Hearing on S.B. 446 - Purchase of supplies and equipment by the district courts

Kathy Porter, Office of Judicial Administration, testified in support of **S.B. 446**. The bill amends K.S.A. 19-260b to allow chief judges of district courts in Johnson and Sedgewick Counties to make requisitions

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT at on February 5, 2002 in Room 245-N of the Capitol.

for all purchases of supplies and other transactions without going through the county purchasing officer (Attachment 4).

Judge Paul Buchanan testified in support of the bill (Attachment 5).

There were no opponents testifying on **SB 446**.

Adjournment

The meeting was adjourned at 2:15 p.m.

The next meeting scheduled for Wednesday, February 6, 2002.

Senate Bill No. _____

by Senator Steineger

AN ACT concerning cities; relating zoning authority; repealing K.S.A. 12-763.

Section 1. K.S.A. 12-763 is hereby repealed.

Section 2. Statute Book

"12-763. Same; exclusion of manufactured homes prohibited, when.

(a) The governing body shall not adopt or enforce zoning regulations which have the effect of excluding manufactured homes from the entire zoning jurisdiction of the governing body. In addition, the governing body shall not adopt or enforce zoning regulations which have the effect of excluding residential-design manufactured homes from single-family residential districts solely because they are manufactured homes.

(b) Nothing in this section shall be construed as precluding the establishment of architectural or aesthetic standards applicable to manufactured homes so as to ensure its compatibility with site-built housing in the same zoning district.

(c) Nothing in this section shall be construed to preempt or supersede valid restrictive covenants running with the land.

(d) The provisions of this section shall become effective on and after January 1, 1992. "

Let me know if you have questions

Chris Steineger

Senate & Loc Gov
02-05-02
Attachment 1



Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

5423 SW Seventh Street • Topeka, Kansas 66606 • Phone (785) 271-5304 • Fax (785) 271-7341 • www.kspress.com

Date: Tuesday, Feb. 5, 2002

To: Chairwoman Allen and members of the Senate Elections and Local Government Committee

From: Jeff Burkhead, executive director of the Kansas Press Association

Re: Audiotaping of Executive Sessions

Thank you for the opportunity to appear before you with this bill request. Attached to this memo is proposed language that would change the provisions in Kansas law regarding executive sessions of public meetings. The changes would require the following:

1. Executive sessions shall be tape recorded during the closed session.
2. The tape recording of a closed session shall be sealed and shall not be public records open to public inspection.
3. Upon order of the court in an action to enforce the provisions of open meetings, the tape recording shall be unsealed and examined by the court in camera.
4. The court shall then determine what part, if any, of the recording should be disclosed to the party seeking enforcement of the open meetings laws for use in that enforcement proceeding.
5. Before releasing any of the record, the court shall weigh the prejudicial effects to the public interest, of the disclosure of any portion of the recording in question, against its probative value as evidence to enforce the open meetings laws.
6. After such a determination, the court may permit inspection and use of all or portions of the tape recording by the party seeking enforcement of the open meeting law.
7. A governmental body shall keep the tape recording of any closed session for a period of at least one year from the date of that meeting.

A number of other states have adopted similar provisions, including the surrounding states of Colorado, Iowa and Nebraska. Thank you for taking time to entertain this request for a bill introduction.

Senate Elec + Loc Gov
02-05-02
Attachment 2

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

Article 43.--PUBLIC OFFICERS AND EMPLOYEES

75-4319. Closed or executive meetings; conditions; authorized subjects for discussion; binding action prohibited.

(a) Upon formal motion made, seconded and carried, all bodies and agencies subject to this act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion and shall be tape recorded during the closed session. The tape recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in an action to enforce this chapter, the tape recording shall be unsealed and examined by the court in camera. The court shall determine what part, if any, of the recording should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the recording should be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest, of the disclosure of any portion of the recording in question, against its probative value as evidence to enforce this chapter. After such a determination, the court may permit inspection and use of all or portions of the tape recording by the party seeking enforcement of this chapter. A governmental body shall keep the tape recording of any closed session for a period of at least one year from the date of that meeting.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person;
- (6) preliminary discussions relating to the acquisition of real property;
- (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;
- (8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (a)(2)(J) of K.S.A. 38-1507 and amendments thereto or subsection (f) of K.S.A. 38-1508 and amendments thereto;
- (9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;
- (10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;
- (11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 1997 Supp. 39-7,119 and amendments thereto; and
- (12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

RON THORNBURGH
Secretary of State



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STATE OF KANSAS

Senate Committee on Elections and Local Government

Testimony on Senate Bill 468

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 5, 2002

Madam Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of Senate Bill 468. This bill was proposed by the Secretary of State as a technical cleanup bill. It has three provisions.

1. It clarifies the circumstances under which a voter's registration may be canceled by the county election officer and brings K.S.A. 25-2316c into technical compliance with the National Voter Registration Act of 1993. Federal and state law require the election officer to mail a confirmation notice to any registered voter for whom the election officer receives indirect evidence of an address change. In this case, indirect means information from a source other than the voter. If the address change is from one place to another *within the county*, the confirmation notice merely serves to update the registration records in the election office. If, however, the address change is *outside the county or state*, the confirmation notice may ultimately result in the cancellation of the person's registration if: (a) the notice was sent in response to an apparent out-of-county move, (b) the voter fails to respond to the notice, and (c) the voter subsequently fails to vote in the next two consecutive general elections.

By inserting the number (4) in K.S.A. 25-2316c(d)(2), the bill will clarify that a voter's registration may be canceled only if evidence exists that the voter moved out of the county. It would eliminate the chance that this statute could be interpreted to allow cancellation of a person's registration based on an in-county move, which would violate federal law.

This technical amendment would not change current practice among county election officers; they have been informed of the proper procedures and trained to conduct their confirmation mailings in accordance with the NVRA.

2. The bill deletes an unnecessary word (the word "two") in K.S.A. 25-3102, which deals with filling temporary vacancies on county boards of canvassers. This revision is a follow-up to a provision in 2001 Senate Bill 125. The statute provides a procedure for appointing persons to act as county canvasser in the absence of one or more county commissioners. Previous language in the statute assumed there were only three commissioners, but now that some counties have five

Senate Elec & Loc Gov
02-05-02
Attachment 3

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or more commissioners, the statute must be updated to allow for the temporary appointment of canvassers to fill multiple vacancies on the board.

Last year's Senate Bill 125 was intended to do this, but the word "two" was inadvertently left in the statute, which makes the statute confusing and appears to unnecessarily limit the appointment authority.

I have attached a photocopy of last year's bill to clarify the intent.

3. The bill reduces the statutory qualifications of persons who circulate gubernatorial candidate petitions. This provision is a follow-up to 2001 Senate Bill 127, which reduced petition circulators' qualifications for various types of petitions to bring state laws into compliance with the U.S. Supreme Court decision in *Buckley vs. American Constitutional Law Foundation*. That decision prohibits states from requiring petition circulators to be registered voters or residents of the election districts where they circulate petitions.

In order to be consistent, gubernatorial candidate petitions should have been included in the 2001 legislation, but were not. This bill would correct that error and add consistency to Kansas petition laws.

We urge the committee to report SB 468 favorably for passage.

Thank you for your consideration.

FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND VICE-PRESIDENT _____ and _____

To vote for a person make a cross or check mark in the square at the left of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space and make a cross or check mark in the square to the left.

FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND VICE-PRESIDENT

Vote for One Set of Electors

- JONESTERN AND DOE Republican
- ROEHEAD AND RICHARDBY Democrat
- JANEBRAND AND JOHNBERG Independent Nominations
- _____ AND _____

FOR UNITED STATES SENATOR

Vote for One

- DAN BOBING, Brussell Republican
- ROBERTA SMITH, Salina Democrat
- _____

FOR UNITED STATES REPRESENTATIVE _____ DISTRICT

Vote for One

- ELMER O'BRIEN, Wichita Democrat
- WM.T. MILLER, Maple City Republican
- _____

When any office is not to be elected, it shall be omitted from the ballot.

Sec. 6. K.S.A. 25-618 is hereby amended to read as follows: 25-618. The official general ballot for county and township offices may be separate from the official general ballot for national and state offices or may be combined with the official general ballot provided for in K.S.A. 25-601 and amendments thereto. The secretary of state shall prescribe the ballot format but the ballot shall be substantially in the form shown in this section and K.S.A. 25-611, and amendments thereto.

STATE OF KANSAS
OFFICIAL GENERAL BALLOT
County and Township Offices
County of _____, City (or Township) of _____
November _____, 19____ Year

To vote for a person, make a cross or check mark in the square at the left of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space and make a cross or check mark in the square to the left.

FOR COUNTY COMMISSIONER _____ DISTRICT

Vote for One

- _____
- _____
- _____

FOR COUNTY CLERK

Vote for One

- _____
- _____
- _____

FOR COUNTY TREASURER

Vote for One

- _____
- _____
- _____

And continuing in like manner for all county and township offices to be elected.

Sec. 7. K.S.A. 25-3102 is hereby amended to read as follows: 25-3102. In the event that a member of the county board of canvassers shall die, be absent, or from any casualty be prevented from serving on such board, the remaining members of the county board of canvassers shall select an elector to serve on the county board of canvassers in his such member's place. If more than one member of the county board of canvassers shall die, be absent, or from any casualty be prevented from serving on the county board of canvassers, the remaining member or members of the board and the county election officer shall jointly select two persons electors to serve in their place. Functions and duties of the county election officer may be performed by the deputy of the county election officer in his the absence of the county election officer.

Sec. 8. K.S.A. 25-3801 is hereby amended to read as follows: 25-3801. (a) At each primary election, the members of the party residing in each precinct in each county of the state shall elect a man of their number as precinct committeeman and a woman of their number as precinct committeewoman. No person shall be eligible to be a candidate for or hold the office of precinct committeeman or precinct committeewoman of a party in any precinct unless such person actually lives, resides and occupies a place of abode in such precinct, and is in all other respects a qualified elector and is shown as a member of such party on the party affiliation list, in the office of the county election officer. Except as provided in subsection (b), any vacancy occurring in the office of precinct committeeman or committeewoman shall be promptly filled by appointment by the county chairperson, except that any vacancy which occurs because the party had no candidate at such primary election shall not be filled until the county central committee has elected or reelected its chairperson under K.S.A. 25-3802 and amendments thereto. Not later than three days after appointment of precinct committeemen and committeewomen, the county chairperson making the appointments shall notify the county election officer of such appointments. The county election officer shall make such appointments public immediately upon receipt thereof.

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3-3



State of Kansas
Office of Judicial Administration
Kansas Judicial Center
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Senate Elections and Local Government Committee

Tuesday, February 5, 2002

Testimony in Support of SB 446

Kathy Porter
Office of Judicial Administration

Thank you for the opportunity to testify in support of SB 446. The bill was introduced at the request of the Kansas Association of District Court Clerks and Administrators (KADCCA), and I regret that the district court administrator for the 18th Judicial District, who had planned to testify in support, was not able to be here today.

Under current law, K.S.A. 19-260b provides that, for Johnson and Sedgwick Counties only, the judges of the district court are required to make requisition for all purchases of supplies and equipment contracts and other transactions through the county purchasing officer. This requirement is not imposed on any other district courts in the state. This statute was enacted in 1971, prior to court unification. At that time, both Sedgwick and Johnson Counties had lower courts that were totally funded by the county. In Sedgwick County, that court was known as the Court of Common Pleas.

In 1976, the Kansas Legislature approved court unification, and a uniform court system, which does not include lower courts funded by the counties, came into existence in January 1977. Court unification made necessary numerous statutory amendments, and KADCCA believes that K.S.A. 19-260b was overlooked in that process.

Other statutes make it clear that the chief judge is responsible for and has general administrative authority over the clerical and administrative functions of the district court (See K.S.A. 2001 Supp. 20-329). K.S.A. 2001 Supp. 19-101a, which defines the home rule powers of the counties, provides that the counties "may not affect the courts located therein." K.S.A. 2001 Supp. 20-349, a copy of which is attached, outlines the budgetary process for the district courts and includes the following language:

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02-05-02
Attachment 4

After the amount of such district court budget is established, the expenditures under such budget, other than expenditures for job positions contained in the budget, shall be under the control and supervision of the chief judge, subject to supreme court rules relating thereto, and the board of county commissioners shall approve all claims submitted by the chief judge within the limits of such district court budget.

The requested amendment to K.S.A. 19-260b does not change the provision of K.S.A. 2001 Supp. 20-349 that gives boards of county commissioners the final authority to approve the budget for district court operations. It would, however, eliminate the ability of county purchasing officers to deny or delay expenditures that fall within the court's budget and that have been approved by the chief judge.

Thank you for the opportunity to appear in support of this bill, and I would be glad to try to answer any questions.

KP:mr

within the district and the judges of the district court shall approve the budget for the county in which such judges are regularly assigned prior to submission of such budget to the board of county commissioners. The compensation to be paid to district court personnel excluded from the judicial personnel classification system pursuant to subsection (b) of K.S.A. 20-162, and amendments thereto, shall be listed in the budget as a separate item for each job position. After the amount of such district court budget is established, the expenditures under such budget, other than expenditures for job positions contained in the budget, shall be under the control and supervision of the chief judge, subject to supreme court rules relating thereto, and the board of county commissioners shall approve all claims submitted by the chief judge within the limits of such district court budget. No board of county commissioners shall decrease such budget for district court operations to a level below the amount of the 1978 calendar year budget approved by the board of county commissioners less the amount of compensation and fringe benefits provided in such budget for judges and other personnel positions which are assumed by the state pursuant to this act. The financial affairs of the district court in each county including, but not limited to, nonexpendable trust funds, law library funds and court trustee operations shall be subject to audit pursuant to the provisions of K.S.A. 75-1122, and amendments thereto, as part of the annual county audit. Reports of fiscal or managerial discrepancies or noncompliance with applicable law shall be made to the judicial administrator of the courts as well as the board of county commissioners.

History: L. 1976, ch. 146, § 44; L. 1977, ch. 110, § 4; L. 1978, ch. 108, § 8; L. 1992, ch. 267, § 1; L. 1999, ch. 57, § 22; July 1.

Attorney General's Opinions:

Expenditures for operation of district court; not subject to county purchasing policy. 96-4.

District courts in Johnson and Sedgwick county; purchase of supplies through county purchasing officer; constitutionality; exercise of county home rule. 96-40.

Claims arising out of court service officer's use of personal motor vehicle while acting within scope of employment; state liability under tort claims act; reimbursement for additional insurance premiums. 1999-17.

Employment status of district court trustee and employees of trustee's office. 2000-37.

20-349. Budget for district court expenses payable by counties, preparation; approval of budget, limitations. The chief judge in each judicial district shall be responsible for the preparation of the budget to be submitted to the board of county commissioners of each county. The board of county commissioners shall then have final authority to determine and approve the budget for district court operations payable by their county. The judicial administrator of the courts shall prescribe the form upon which such budgets shall be submitted. The budget shall include all expenditures payable by the county for operations of the district court in such county. A separate budget shall be prepared for each county

Paul Buchanan
DISTRICT JUDGE
CHIEF JUDGE



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DISTRICT COURT
EIGHTEENTH JUDICIAL DISTRICT
SEDGWICK COUNTY COURTHOUSE
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Senate Elections and Local Government Committee

Testimony in Support of SB446

I appreciate the privilege the Committee has given me to furnish this testimony in support of SB446. K.S.A. 19-260b was passed in 1971. The reasons for its passage are lost from memory. It probably passed through the legislature as being a "local" bill.

Actually, K.S.A. 19-260a and 19-260b are inconsistent with the house rule power granted to counties by K.S.A. 19-101 and 19-101a. Sedgwick County has home ruled itself out from the provision of K.S.A. 19-260b.

This statute creates an anomaly in the State. In the two largest counties (and two largest judicial districts), the Chief Judge must go through the Board of County Commissioners to make purchases. In Wyandotte, Shawnee, Logan, Meade, Montgomery and ninety-eight (98) other counties the Chief Judge makes all the purchases for the court under the provisions of K.S.A. 20-349. There is no reason for the distinction applying to only two of the forty-one Chief Judges in the state.

There is no additional cost to any county from the repeal of K.S.A. 12-260b. The county saves money because it no longer receives and processes the purchasing request from the Chief Judge.

K.S.A. 19-260b is obsolete because it refers to purchases by a judge or judges. K.S.A. 20-349 provides that all purchases are made by the Chief Judge.

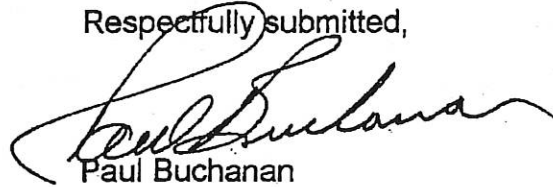
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02-05-02
Attachment 5

The Chief Judge of a district is a judge designated by the Supreme Court.
It is not a position based on seniority.

There is no reason for special provisions for Sedgwick and Johnson
counties.

Dated this 6th day of February, 2002

Respectfully submitted,



Paul Buchanan
Chief Judge

PB/rp