

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairman Vickrey at 3:30 p.m. on February 4, 2003 in Room 519-S of the Capitol.

All members were present except: Rep. Gilbert

Committee staff present: Mike Heim, Legislative Research Department
Kathie Sparks, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Rep. Dan Johnson	
Kirk Rogers	Kansas Sheriff's Association
Jerry Carson	Kansas County Commissioner's Association
Gene Merry	Coffey County
Don Moler	League of Kansas Municipalities
Randall Allen	Kansas Association of Counties
Jim Edwards	Kansas Association of School Boards
David Corliss	City of Lawrence
Mike Taylor	City of Wichita
David Cooper	City of Lenexa
Don Siefert	City of Olathe
Mike Pepoon	Sedgwick County
John Lewis	Sunshine Coalition
Doug Anstaett	Newton Kansas
Dan Simon	Olathe Daily News
Dane Hicks	Anderson Co. Review
David Powls	Holton Record
Patrick Lowry	Atchison Daily Globe
* Rep. McCreary	
* Danielle Noe	Johnson County
* Andy Taylor	Montgomery Co. Chronicle
* Mike Merriam	Kansas Press Association
* written testimony only	

Others attending: See attached list

Don Moler, League of Kansas Municipalities, requested three bills by committee on the following proposed legislation:

- Gives local governments a local option income tax
- Gives local governments a local option motor vehicle fuels tax
- Takes the cap off of the local sales tax for cities and counties

Without objection, the bill requests were adopted as committee bills.

Additional bill requests were then presented by Theresa Kiernan, Office of the Revisor of Statues.

A request for the following bill by committee on behalf of Rep. Minor:

- Amends the city and county planning and zoning law dealing with the membership of the city planning commission when the city decides to plan, zone, or administer subdivision regulations outside the city limits. The bill adds to the current provision that requires at least two members of the planning commission reside outside of but within three miles of the city to allow these persons who own property within the three-mile area and who reside within the unincorporated area to serve on the city planning commission.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. Ballou:

- Concerning cities and relating to the annexation of land located within water districts.

CONTINUATION SHEET

MINUTES OF THE AAA at TIME on February 4, 2003 in Room 519-S of the Capitol.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. O'Neal:

- Concerning fire and fire protection; relating to investigations of fires and explosions.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. Hill:

- Concerning municipal courts; relating to penalties for violations of an ordinance.

Rep. Hill was in attendance at the meeting and requested the bill by committee.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Mike Davis, Heart of America Chapter of the International Code Council:

- Concerning the licensure of plumbers; electricians and certain contractors.

Without objection, the bill request was adopted as a committee bill.

A request for the following bill by committee on behalf of Rep. Gatewood:

- Concerning land to be incorporated as, or added to cities.

Without objection, the bill request was adopted as a committee bill.

Rep. Campbell requested the following bill by committee:

- Requires the seller to get written notification from a buyer that they have been made aware of special assessments that may exist on property.

Without objection, the bill request was adopted as a committee bill.

Chairman Vickrey opened the hearing on:

HB 2082 Personnel matters within the office of the county sheriff

Written testimony only from Rep. McCreary was distributed to the committee (Attachment 1). He stated that the need for the legislation proposed in the bill was brought to his attention by Kirk Rogers, Harper County Sheriff. He explained that even the Supreme Court (88-844) decision (Attachment 3) issued on Friday, January 31, 2003 is concurrent with the intent of this bill, he thinks the state statutes need to be changed to conform with that decision.

Kirk Rogers, Sheriff, Harper County, presented testimony in support of the bill on behalf of the Kansas Sheriff's Association (Attachment 2). He explained the recent ruling by the Kansas Supreme Court (Attachment 3) essentially states that the authority to hire, fire, terminate, promote, demote, or dismiss any employee of the sheriff's office was the sole responsibility of the elected county sheriff, and was not a power that was vested in the boards of county commissioners. He encouraged the committee to support this legislative bill, or any other legislation, that changes or removes the language found in this particular statute, in order to ensure that the sheriff's office, and its employees remain under the control and authority of the individual that is elected by the voters of the county to serve as the Sheriff.

Rep. Dan Johnson, appeared as a proponent of the bill (Attachment 4). He requested that the bill be expanded to include all elected officials in the county. He believes elected officials should be able to run their offices as they wish.

Jerry Carson, Labette Co. Commissioner, appeared as an opponent of the bill (Attachment 5). He expressed deep concern over the proposed amendments to K.S.A. 19-805 which would empower the Sheriff of a county to establish personnel policies and procedures for employees of the Sheriff's department that remove the ability of a county commission to establish personnel policies and procedures that are uniform for all employees of a county.

Gene Merry, Coffey County Commissioner, testified in opposition to the bill (Attachment 6). He stated that the purpose of county government is to focus on and provide services to the citizens of the county and that the focus should not be on one part, or department of local government.

CONTINUATION SHEET

MINUTES OF THE AAA at TIME on February 4, 2003 in Room 519-S of the Capitol.

Randall Allen, Executive Director, Kansas Association of Counties, offered neutral testimony to the bill (Attachment 7). He stated that the Kansas County Commissioners Association and the Kansas Sheriff's Association, as well as nine other affiliate associations, are all member of the Kansas Association of Counties, each with representation on the Kansas Association Governing Board which hired him. He urged the committee to send the issues being discussed back to the counties and the respective associations with a charge to work the problems out locally.

The Chairman closed the hearing on **HB 2082**.

Chairman Vickrey opened the hearing on:

HB 2085 **Cities and counties; legal publications on the internet**

Don Moler, Executive Director, League of Kansas Municipalities, appeared as a proponent of the bill (Attachment 8). He stated the bill would allow cities and counties to, as a matter of local choice, publish legal notices, which are required by law, on the Internet as opposed to in a local newspaper. He testified that a conservative estimate, based upon a survey which was recently completed by the League, would suggest that a savings of up to \$3,000,000.00 per year could be realized by cities and counties in Kansas if they are allowed to publish on the Internet. He said the League of Kansas Municipalities believes the time has come for the State to recognize a commonly used technology which has a benefit to the Kansas taxpayer and which provides a far superior method of distributing the information.

Randall Allen, Executive Director, Kansas Association of Counties, testified in support of the bill (Attachment 9). He stated that the proposed legislation is a creative proposal to both improve the governance and decision making process of local government while reducing costs and saving tax dollars. He informed that by allowing boards of county commissioners the authority to designate internet sites as their official publication sites, counties can benefit the public in many ways, including the following:

- making information about county government accessible to the public on a 24/7 basis, enhancing the likelihood that citizens are better informed and aware of discussions that potentially affect their lives.
- saving county taxpayers significant money at a time when governments at all levels are looking for ways to trim costs while not jeopardizing services.

Written testimony in support of the bill (Attachment 10) was received from:

- Jim Edwards, Governmental Relations Specialist, Kansas Association of School Boards

He states that the bill, as written, does not include provisions for the legal notices of school districts being disseminated electronically. He testified that in conversations with the organizations requesting the bill, they found complete willingness to have school boards listed as one additional body of government that can use electronic means for legal notice distribution. He informed that a copy of the proposed amendment has been attached to his written testimony.

David Corliss, Assistant City Manager & Director of Legal Services, City of Lawrence, testified in support of the bill (Attachment 11). He stated the City of Lawrence supports legislation removing the unfunded State mandate to post legal notices, ordinances and resolutions in newspapers and allowing the option to publish on the Internet. He said that tight fiscal times require questioning all government expenses and that newspaper postings are an annual expense that can be reduced or eliminated.

Mike Taylor, Government Relations Director, City of Wichita, appeared as a proponent of the bill (Attachment 12). He stated that allowing the City of Wichita to publish legal notices on its own city government website will save taxpayers a significant amount of money and will improve public access to information. He said that in Year 2002, the City of Wichita spent more than \$234,375.00 publishing legal notices.

David Cooper, Senior Assistant City Attorney, testified in support of the bill (Attachment 13). He said that the net result for citizens, under **HB 2085**, would be easier access to government information at lower cost. He informed that last year, the City of Lenexa, spent almost \$19,000 to publish legal notices in traditional print sources.

CONTINUATION SHEET

MINUTES OF THE AAA at TIME on February 4, 2003 in Room 519-S of the Capitol.

Don Siefert, Policy Development Leader, City of Olathe, appeared as a proponent of the bill ([Attachment 14](#)). He said that the City of Olathe has spent more than \$80,000 in the last two years on legal publications. He explained that in our current fiscal environment, where cities face a \$1.5 million loss in state aid in Year 2004, we need to honestly examine all opportunities to save costs.

Mike Pepoon, Director, Government Relations, Sedgwick County, testified in support of the bill ([Attachment 15](#)). He stated that Sedgwick County spent over \$54,000 last year on publications in *The Derby Reporter*. He said the bill would allow Sedgwick County to save even more money while reaching a larger segment of the county with their publications.

Written testimony only in support of the bill was received from:

- Danielle Noe, Intergovernmental Relations Coordinator, Johnson County ([Attachment 16](#))

She stated that Johnson County spend more than \$52,000 on official publication each year.

John Lewis, Past President, Kansas Sunshine Coalition for Open Government, appeared as an opponent of the bill ([Attachment 17](#)). He stated the bill would create judicial chaos, public confusion, a morass of inconsistent laws and a legislative mess.

Doug Anstaette, Immediate Past President, Kansas Press Association and Editor and Publisher, *The Newton Kansan*, testified in opposition to the bill ([Attachment 18](#)). He stated that the concept of public notice is as old as our republic.

Dan Simon, Publisher, *The Olathe News*, appeared as an opponent of the bill ([Attachment 19](#)). He said that newspapers provide government with a service and have been reliable partners. He stated that like all services government provides, legal advertising comes with a cost to residents.

Dane Hicks, Publisher, *The Anderson County Review*, testified in opposition to the bill ([Attachment 20](#)). He summarized that removing public notices from newspapers in a monumentally bad idea. He said that it doesn't work to inform people, it unfairly neglects senior citizens who are least likely to use the Internet, and it won't save any money.

David Powls, Publisher, *Holton Recorder* and *Sabetha Herald*, appeared as an opponent of the bill ([Attachment 21](#)). He stated that if a legislative body contemplates replacing newspaper publication of local government notices with any other method of giving constructive notice to the general population - in this case posting public notices at a government-controlled, remote web site - that method must meet the rigorous requirements of law that newspapers have already met.

Patrick Lowry, Publisher, *Atchison Daily Globe*, testified in opposition to the bill ([Attachment 22](#)). He emphasized that public notices are no less an option that other contracted municipal services. He believes that **HB 2085** would actually allow government to conduct its business behind closed doors, which flies in the face of our country's Founding Fathers.

Written testimony in opposition to the bill was received from:

- Andy Taylor, Editor, *Montgomery County Chronicle* ([Attachment 23](#))

He informed that in the case of delinquent tax lists, the delinquent taxpayer is responsible for paying the publication fees. He said a publication fee is assessed to the delinquent taxpayer when he or she pays his or her taxes and that those taxpayers who pay their taxes in a timely manner do not pay for the publication of that list.

- Mike Merriam, Legal Counsel, Kansas Press Association ([Attachment 24](#)).

He gave the opinion that the bill would corrupt the definitional purpose of the existing language in K.S.A. 64-101 which serves as a reference for numerous other Kansas statutes that require notices not placed by city or county governments or school boards to be published in a qualified newspaper. He said these bills would result in references in those other statutes to statutory language in K.S.A. 64-101 that no longer exists because the qualifying definitions would only apply to cities, counties and school boards.

The Chairman closed the hearing on **HB 2085**.

CONTINUATION SHEET

MINUTES OF THE AAA at TIME on February 4, 2003 in Room 519-S of the Capitol.

HB 2044 **fire protection; powers and duties of certain municipalities**

Rep. Campbell made a motion to amend the bill to make it effective upon publication in the *Kansas Register*. Rep. Horst seconded the motion. The motion to amend the bill carried.

Rep. Campbell made a motion for the favorable passage of the bill as amended. Rep. Storm seconded the motion. The motion carried.

The meeting adjourned at 5:20 p.m.

Next meeting is scheduled for February 11, 2003.

HOUSE LOCAL GOVERNMENT

DATE 2-4-03

NAME	REPRESENTING
Sheriff Greg Riet	Pottawatomie County, KS
Jerry Gibson	LeBette Co. Comm
SHERIFF STAN COX	BUTLER COUNTY SHERIFF'S OFFICE
Brian Swingle	Sumner County Sheriff office
Scott Kilgus	Sumner County Sheriff Dept.
Mary E. Steed	Sedgewick Co. Sheriff
Carl Bolder	Trego Co. Sheriff
Mark Rane	Harpur County Sheriff
John Nachtmann	Dickinson Co. Sheriff
Cur + Bennett	" " "
Gerri Hamburger	Sun Publications
MARK LANE	" "
Jason Moses	Logan Co. Sheriff
Allan Wepfer	Gove Co Sheriff
Capt. P. J. Howell	Reno Co. Sheriff's office
Dennis E. Sten	Woodstock Reno Co.
Don Simon	The Outstarkers
David Stokely	Anderson County Police
John Lewis	KANSAS Sunshine Coalition
Jeff Burkhead	KS Press Assn
KIRK W. ROGERS	HARPER COUNTY SHERIFF'S OFFICE
Jerry Williams	Montgomery Co. Sheriff's office

HOUSE LOCAL GOVERNMENT

DATE 2-4-03

NAME	REPRESENTING
Sheriff Lawrence Hunsaker	DONIPHAN COUNTY SHERIFF DEPT
Undersheriff Dustin Hansen	Doniphan Co. S.O.
Lt. Greg Taylor	Neosho Co. Sheriff's Office
Lt. Michael E Coover	Neosho Co Sheriff's office
Sheriff Jim Keath	Neosho County
David M Cooper	City of Lenexa
Sheriff Janet J. Harrington	Elk Co. Sheriff's Office
Sheriff J. Dalton	Atchison County S.O.
Sheriff Jim Garrison	Leavenworth County
Sheriff James Jamboree	Kearny Co SO
Sheriff Al Ray	Rocks Co
Chuck Dumas	Clay Co S.O.
Larry Stanton	Phillips Co. S.O.
Sheriff Douglas Daugherty	Mitchell Co. SO
Sheriff Curtis M. Price	Osborne Co. SO.
Sheriff Roy DUNNWAY	T Jefferson Co. Sheriff's Office
CAPTAIN Sam Phatter	OSBORNE Co Sheriff
Jason LaRue	Morton County Sheriff Dept.
Norman Chinn	PRATT CO. SHERIFF
Sheriff Darin Delsing	Anderson Co. S.O.
Sheriff [Signature]	Morton Co SO
Sheriff Fred Sullivan	Hodgeman Co.

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE & NATURAL
RESOURCES BUDGET
APPROPRIATIONS
FINANCIAL INSTITUTIONS
INSURANCE

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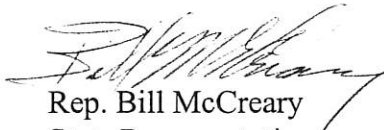
Mr. Chairman and Committee Members:

Thank you for hearing HB 2082. The need for this bill was brought to my attention by Kirk Rogers, Harper County Sheriff.

Since the introduction of HB 2082, other county elected officials have voiced their desire to have their departments included in this legislation.

Even though, the Supreme Court (88-844) decision issued on Friday, January 31, 2003 is concurrent with the intent of this bill, I think the state statutes need to be changed to conform with that decision.

Sincerely


Rep. Bill McCreary
State Representative
80th District

House Local Government
Date: 2-4-2003
Attachment # 1

KIRK W. ROGERS
SHERIFF

MARK RINE
UNDERSHERIFF



CAROL BALDWIN
COMMUNICATIONS DIRECTOR

DIANA L. CORBETT
OFFICE ADMINISTRATOR

HARPER COUNTY SHERIFF'S DEPARTMENT

115 EAST STEADMAN STREET
ANTHONY, KANSAS 67003
(620) 842-5135
FAX (620) 842-3251

**TESTIMONY IN SUPPORT OF
HOUSE BILL #2082**

Submitted By Harper County Sheriff Kirk W. Rogers

I would like to take this opportunity to express my support, as well as the Kansas Sheriff's Association's support, for House Bill #2082, which proposes a change in the language found in Chapter Nineteen, Section 805 of the State Statutes of the State of Kansas.

The specific language in the statute, which, in our opinion, needs to be changed, can be found in Chapter Nineteen, Section 805, Subsection D, and currently states in it's entirety that:

(d) Any personnel action taken by the sheriff under this section shall be subject to the following: (1) Personnel policies and procedures established by the board of county commissioners for all county employees other than elected officials; (2) any pay plan established by the board of county commissioners for all county employees other than elected officials; (3) any applicable collective bargaining agreements or civil service system; and (4) the budget for the financing of the operation of the sheriff's office as approved by the board of county commissioners.

Over the past year and a half, or possibly longer, this particular statute has been used by several different Boards Of County Commissioners to expand the power, and authority, that they could exercise over the sheriff's office. This statute has been interpreted in manners that give the boards of county commissioners the exclusive authority to hire, and fire, employees of the sheriff's office; and the exclusive authority to administer disciplinary action against employees of the sheriff's office. Essentially, this statute has been used by the numerous boards of county commissioners to enact policies and procedures that grant them many powers and authorities over the employees of the sheriff's office that haven't been accordingly addressed by state statutes. The general opinion seems to be that as long as the boards of county commissioners have the authority to dictate policies and procedures related to the Office Of The Sheriff, then they can amend them, or enact them, in a manner that would allow them more of a "hands-on" administrative roll in the office.

House Local Government
Date: 2-4-2003
Attachment # 2

Our system of government is based upon a system of "checks-and-balances" in order to prevent a single office holder, or a single branch of government, from becoming too powerful, or over-exerting its authority. This particular system, dictated by the United State Constitution, and the Constitutions of several state governments, can also be found in varying degrees in county and municipal government as well. In terms of the Office Of The Sheriff, the board of county commissioners have the sole authority to grant the budget of the sheriff's office in regards to personnel, equipment, vehicles, building repairs, and operating expenses. This budgetary authority is a powerful tool over the sheriff's office that the county commissioners have according to statute, and serves as a manner to keep the sheriff's office "in check". By that same notion, the sheriff has traditionally had the authority to hire, and manage, the employees of the sheriff's office without the employees experiencing any unnecessary influence from outside of the office, to include the board of county commissioners. This insures that the employees of the sheriff's office are free to operate without "political pressure" from other elected officials other then the sheriff.

Unfortunately, unless the language of this statute is changed, I feel that many of the boards of county commissioners will continue to increase the power and authority that they have over the Office Of The Sheriff by amending, or enacting, policies and procedures that grant them this authority.

Accordingly, the language that we believe needs to be changed in this statute is the phrase that stipulates that any personnel action taken by the sheriff shall be subject to the "personnel policies and procedures established by the board of county commissioners for all county employees other then elected officials". However, in my opinion, it should also be specifically stipulated in the statute that the board of county commissioners does not have the authority to hire, fire, terminate, or assign employees to the sheriff's office; or initiate or approve of disciplinary action against an employee of the sheriff's office. Therefore, I would submit that the language that has been added to this bill, that addresses these particular issues, remains unchanged

It should also be noted that the Kansas Supreme Court reviewed a recent court case entitled "The Board Of County Commissioners Of The County Of Lincoln, Kansas, vs. Wray Nielander And Jack Jackson", and their opinion regarding this case was released on January 31, 2003. In this particular case, the Lincoln County Sheriff hired a deputy, who was fired a short time later by the Lincoln County Board Of County Commissioners. The Lincoln County Sheriff continued to employ the deputy, despite the termination by the county commission, and in return, the county commission refused to pay the deputy any wages for the hours that were worked. Accordingly, someone stepped in, and stated that as long as the deputy was working, he had to be paid for the hours that were worked (I am not completely familiar with all of the facts and circumstances surrounding this particular aspect of the incident, but have included it for a complete synopsis of the case). Accordingly, the Lincoln County Board Of County Commissioners, utilizing this particular statute, amended the policies and procedures regarding the hiring, and firing, of employees of the sheriff's office, essentially granting them the sole authority to hire and

fire any employee of the sheriff's office. After approving the policy changes, the Lincoln County Board Of County Commissioners once again terminated the employment of the deputy. A civil suit was then filed in order to get a definitive answer regarding whether or not the board of county commissioners had the authority to enact policy and procedure, regarding the sheriff's office, that gave them the exclusive right to hire, fire, and discipline employees of the sheriff's office. In the decision later handed down by the District Court Of Lincoln County, the judge issued a ruling that indicated that, according to this specific state statute, the Lincoln County Board Of County Commissioners could amend, or enact, policies and procedures that gave them the authority to hire, and fire, employees of the sheriff's office.

One of the primary reasons that resulted in this lawsuit came as the result of a policy and procedure that was enacted by the Lincoln County Board Of County Commissioners regarding the ability to hire, and fire, all county employees. Utilizing the language currently found in Chapter 19, Section 805, the Lincoln County Board Of County Commissioners enacted a policy that stated, in it's entirety, that:

“The authority to hire or discharge any Lincoln County employee is vested solely in the Board Of County Commissioners of Lincoln County. Elected officials and department heads may recommend the hiring or discharge of an individual, but approval by the Board Of County Commissioners is required, and no personnel action is effective unless and until such approval is granted. The Board Of County Commissioners may also effect personnel actions without elected officials or department head recommendation.”

Essentially, by utilizing a broad interpretation of this statute, the Lincoln County Board Of County Commissioners enacted a policy that granted them the exclusive authority to hire, fire, and discipline employees of the Sheriff's Office. As a result, the only employee that the Sheriff had the sole authority to discipline, hire, or fire, without the outside influence or authority of the Board Of County Commissioners was the Undersheriff, who is appointed by the Sheriff according to state statute.

In the court case that followed, Lincoln County Sheriff Wray Nielander argued that “the sheriff is an independently elected officer whose office, duties, and authorities are established and delegated by the legislature. The sheriff is not a subordinate of the board of county commissioners and neither are the undersheriff or the sheriff's deputies and assistants. Rather, the sheriff is a state officer whose duties, powers, and obligations derive directly from the legislature and are coextensive with the county board. The undersheriff and the sheriff's deputies and assistants are subordinates of the Office Of The Sheriff. The board of county commissioners is the means by which the legislature finances the operation of the Office Of The Sheriff. The board of county commissioners is not free to usurp the powers of the Office Of The Sheriff by controlling the hiring and firing of the deputies and assistants appointed by the Sheriff (Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, Kansas Supreme Court, 2003).”

The Lincoln County Board Of County Commissioners then countered this claim by taking a broad interpretation of the language found in Chapter 19, Section 805 of the state statutes that says “any personnel action taken by the sheriff under this section shall be subject to the following: (1) personnel policies and procedures established by the board of county commissioners for all county employees other than elected officials”, and argued that this state statute “vests boards of county commissioners with the authority to supersede personnel decisions of sheriffs (Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, Kansas Supreme Court, 2003).”

In response to this particular court case, the Lincoln County Sheriff’s Office, with support from the Kansas Sheriff’s Association, the Kansas County Treasurers Association, the Kansas Registers Of Deeds Association, and the Kansas County Clerks And Election Officials Association, filed an appeal regarding the decision, to the Kansas Supreme Court. However, for over a year, while the case was waiting to be heard by the Kansas Supreme Court, the decision from Lincoln County served as the most current court case regarding the board of county commissioners authority over the sheriff’s office. As a result, for the past year, several boards of county commissioners have exercised this new discretionary authority over the sheriff’s office to dismiss, or discipline, employees from numerous Sheriff’s Offices throughout the State of Kansas.

In the appeal that followed in the Kansas State Supreme Court, Lincoln County Sheriff Wray Nielander contended that “the district court’s conclusion that there were no statutes that would restrict the [board of county commissioners] from being the only word on hiring and discharging [county employees] was incorrect in that it conflicts with the powers of appointment provided to the sheriff by the legislature” according to state statutes (Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, Kansas Supreme Court, 2003). Furthermore, the Kansas Sheriff’s Association, the Kansas County Treasurers Association, the Kansas County Clerks And Election Officials Association, the Kansas Registers Of Deeds Association, filed a motion in support of this appeal in order to “preserve what they believed was a clear statutory authority giving their members the power to control the operation of their respective officers with regard to appointment, hiring, firing, promotion, and demotion of their deputies and assistants (Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, Kansas Supreme Court, 2003).” These associations also argued that “a decision upholding the [Lincoln County] district court’s injunction will lead boards of county commissioners to adopt rules or regulations that would place them in complete control of personnel issues for all county employees”, and that “this would render meaningless the statutory authority of elected county officials (Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, Kansas Supreme Court, 2003).”

Accordingly, the issue that was addressed in this particular court case was “the potential conflict between the [Board Of County Commissioners] general home rule authority under K.S.A. Supplement 19-101 a(a) and the sheriff’s authority to appoint, promote, demote, and dismiss undersheriffs, deputies, and assistants under K.S.A. 19-805(a) and

19-810 (Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, Kansas Supreme Court, 2003)”.

In the decision of the Kansas Supreme Court, as written by Supreme Court Justice J. Abbott, the court ruled that “the board of county commissioners may not exempt from or effect changes to the provisions of K.S.A. 19-805(a), which allows a sheriff to appoint, promote, demote, and dismiss additional deputies and assistants necessary to carry out the duties of the office (Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, Kansas Supreme Court, 2003)”. Furthermore, the ruling of the Kansas Supreme Court, as written by Supreme Court Justice J. Abbott, stated in its entirety that:

“[The court] finds that the legislative history of S.B. 46 and K.S.A. 19-805(a) demonstrates the legislature’s intent to vest sheriffs, not boards of county commissioners, with the authority to appoint, promote, demote and dismiss additional deputies and assistants. Moreover, under the plain language of K.S.A. 2001 Supplement 19-101a(a)(15), boards of county commissioners are prohibited from effecting changes to the provisions of K.S.A. 19-805(a).

Here, the Board attempted to vest itself with the sole authority to hire or discharge any Lincoln County employee and to limit the power of elected county officials to recommending the hiring or discharging of an individual. Immediately after the Board passed the amended Employee Rules And Regulations, the Board terminated Jackson’s employment. The Boards actions were an attempt to effect changes to the sheriff’s grant of authority under K.S.A. 19-805(a) to appoint, promote, demote, and dismiss deputies, and under K.S.A. 2001 Supplement 19-101a(a)(15), the Board was prohibited from effecting such a change.

The language of K.S.A. 19-805(d) indicates that boards of county commissioners may establish personnel policies and procedures for all nonelected county personnel, pay plans for all nonelected county personnel, collective bargaining agreements or a civil service system, and the budget for the financing of the operation of the sheriff’s office. The introductory phrase of K.S.A. 19-805(a), any personnel action taken by the sheriff, however, must not be ignored. While personnel actions taken by sheriff’s are subject to personnel policies, payment plans, collective bargaining agreements, and budgets established by boards of county commissioners, K.S.A. 19-805(d) does not give county commissioners the ability to supersede a sheriff’s power to appoint, promote, demote, or dismiss his or her personnel.”

To put this ruling into plain language, the Kansas Supreme Court essentially stated that the authority to hire, fire, terminate, promote, demote, or dismiss any employee of the sheriff’s office was the sole responsibility of the elected county sheriff, and was not a power that was vested in the Boards Of County Commissioners.

However, I believe that the language in this statute needs to be changed so that the specific intent of the statute is readily identifiable to all, and in order to insure that a "broad" interpretation of the statute cannot be taken by a Board Of County Commissioners again.

I would encourage you to provide your support for the passage of this bill which proposes a change in the language found in the existing statute, so that plain, and simple language could be added to this statute that is consistent with the decision that has been handed down by the Kansas State Supreme Court. By supporting House Bill #2082, and approving of the changes made in the language of the statute, the opinions expressed by Kansas Supreme Court Justice J. Abbott in Lincoln County Board Of County Commissioners vs. Wray Nielander And Jack Jackson, are easily apparent, and would not, and could not, be interpreted in any other manner.

I appreciate your time, and consideration, regarding the importance of this situation, and I would strongly encourage you to support this legislative bill, or any other legislation, that changes or removes the language found in this particular statute, in order to insure that the sheriff's office, and it's employees, remain under the control and authority of the individual that is elected by the voters of the county to serve as the Sheriff.



IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 88,844

THE BOARD OF COUNTY COMMISSIONERS OF

THE COUNTY OF LINCOLN, KANSAS,

Appellee,

v.

WRAY NIELANDER and JACK JACKSON,

Appellants.

SYLLABUS BY THE COURT

1. Interpretation of a statute is a question of law in which appellate review is unlimited.
2. Home rule powers are those granted by the Kansas Constitution or by legislative act to units of local government to transact local business and perform such local and administrative duties as these local units may deem appropriate, subject to certain limitations imposed upon such grant of power. Home rule powers were granted to cities by constitutional amendment in 1961. Kan. Const. art. 12, § 5. In 1974, the legislature passed an act granting powers of home rule to counties. Counties in Kansas are now empowered to transact all county business and perform such powers of local legislation and administration as may be appropriate, subject, however, to the restrictions and prohibitions set forth in K.S.A. 2001 Supp. 19-101a.
3. Interpretation of a statute is a question of law, and it is the function of the court to interpret a statute to give it the effect intended by the legislature. It is a fundamental rule of statutory construction, to which all other rules are subordinate, that the intent of the legislature governs if that intent can be ascertained.
4. In determining legislative intent, courts are not limited to consideration of the language used in the statute, but may look to the historical background of the enactment, the circumstances attending its passage, the purpose to be accomplished, and the effect the statute may have under the various constructions suggested. In construing statutes, the legislative intent is to be determined from a general consideration of the entire act.
5. The legislative history of S.B. 46 and K.S.A. 19-805(a) demonstrates the legislature's intent to vest sheriffs, not boards of county commissioners, with the authority to appoint, promote, demote, or dismiss additional deputies and assistants. Moreover, under the plain language of K.S.A. 2001 Supp. 19-101a(a) (15), boards of county commissioners are prohibited from effecting changes to the provisions of K.S.A. 19-805(a).
6. The introductory phrase of K.S.A. 19-805(d), "[a]ny personnel action taken by the sheriff," must not be ignored. While personnel actions taken by sheriffs are "subject to" personnel policies, payment plans, collective bargaining agreements, and budgets established by boards of county commissioners, K.S.A.

House Local Government

Date: 2-4-2003Attachment # 3

19-805(d) does not give county commissioners the ability to supersede a sheriff's power to appoint, promote, demote, or dismiss his or her personnel.

7. Where a board of county commissioners has approved a budget including necessary expenses, the sheriff cannot be required to obtain advance approval for purchases within the limits of the approved budget regardless of the amount. If an expenditure falls outside of the budget, *i.e.*, over budget, then the sheriff must request advance approval of the board regardless of the amount. The board must approve the expenditure if it is necessary for a sheriff to carry out his or her statutory duties. If a board fails to approve a necessary expenditure, then the sheriff's remedy is to mandamus the board.

Appeal from Lincoln district court; THOMAS M. TUGGLE, judge. Opinion filed January 31, 2003. Affirmed in part and reversed in part.

David R. Cooper, of Fisher, Patterson, Sayler & Smith, L.L.P., of Topeka, argued the cause, and *Julie A. McKenna*, of McKenna & Trochek, of Salina, was with him on the brief for appellants.

Wendall F. Cowan, of Shook, Hardy & Bacon L.L.P., of Overland Park, argued the cause, and *Michael T. Jilka*, of the same firm, was with him on the brief for appellee.

Alan F. Alderson, of Alderson, Alderson, Weiler, Conklin, Burghart & Crow, L.L.C., of Topeka, was on the brief for *amici curiae* Kansas County Treasurers Association, Kansas Registers of Deeds Association, Kansas County Clerks and Election Officials Association, and Kansas County Sheriffs Association.

The opinion of the court was delivered by

ABBOTT, J.: This is an appeal from an injunction that permitted a board of county commissioners to fire a deputy sheriff and enjoined the sheriff to secure advance approval by the board of county commissioners for expenditures in excess of \$250.

Jack Jackson, who resided in Salina, Kansas, was employed by Lincoln County Sheriff Wray Nielander as a part-time deputy from November 3, 2001, until January 1, 2002, at which time Jackson became a full-time deputy. The Board of Lincoln County Commissioners (Board) twice took action to discharge Jackson for the stated reason of unsatisfactory job performance. The second attempt by the Board followed adoption of a personnel policy purporting to grant the Board exclusive authority to hire and fire county employees.

Nielander disputed the Board's authority to discharge a duly appointed deputy sheriff and continued Jackson's employment. The Board sought and obtained an injunction prohibiting Nielander from employing Jackson and enjoining Jackson from holding, or seeking to hold, employment with Lincoln County.

On January 22, 2002, the Board terminated Jackson's employment pursuant to Lincoln County Employee Rules and Regulations. Minutes from the January 22 Board meeting stated: "John Kobbeman moved to terminate Law Enforcement Officer Jack Jackson, for unsatisfactory job performance, effective immediately, seconded by Doug Gomel. Motion carried unanimously."

Nielander continued Jackson's employment.

On February 28, 2002, the Board amended its Employee Rules and Regulations to read:

EMPLOYMENT RELATIONSHIP

"All employees of Lincoln County are employees at will unless an employee has an express, written contract of employment with Lincoln County. As an employee at will, the employee can be discharged at any time, with or without cause. Similarly, an employee can resign at any time, with or without notice or cause. Only the Board of County Commissioners can make exceptions to this policy or enter into employment contracts, which must be in writing and signed by the Chairperson of the Board.

"These Employee Rules and Regulations do not constitute in any way a contract of employment. Lincoln County reserves the right to amend its personnel policies and procedures at any time, for any reason, with or without advance notice.

"The authority to hire or discharge any Lincoln County employee is vested solely in the Board of County Commissioners of Lincoln County. Elected officials and department heads may recommend the hiring or discharge of an individual, but approval by the Board of County Commissioners is required, and no personnel action is effective unless and until such approval is granted. The board of County Commissioners may also effect personnel actions without elected official or department head recommendation."

Immediately after it passed the amended Employee Rules and Regulations, the Board again terminated Jackson's employment for unsatisfactory job performance, effective February 28, 2002. The same day, the Board released Jackson's February 2002 gross payroll warrant in the amount of \$2,304.83.

Nielander resisted the efforts of the Board to terminate Jackson and continued to employ him. Jackson continued to work full-time throughout the litigation at the district court level and asserted that he would continue to do so until Nielander decided otherwise.

Prior to the commencement of Nielander's service, the Board adopted a purchase policy on September 10, 2001. The Board's purchase policy stated:

"All county departments, except the highway department, must receive approval from the County Commissioners prior to the purchase of any equipment and/or supplies if said purchase should exceed \$250.00. County department heads should complete a purchase request form, forms located in the County Clerk's Office, with all appropriate *[sic]* items and an expected purchase costs. *Note- Department head must present at least two cost quotations for purchases exceeding \$250.00.

....

"All Lincoln County departments will abide by their fiscal year budget, if a department appears to be exceeding their budget limitations, the following actions will be mandated:

"The department head **must** have **all** purchases pre-approved, *regardless of the cost*, prior to ordering such equipment and/or supplies. Purchase request forms can be located at the County Clerk's Office."

The Board and Nielander stipulate that Nielander exceeded his calendar year 2001 budget by approximately \$37,000. Nielander also stipulates that despite his knowledge of the purchase policy, "there have been occasions when he has not obtained approval from the County Commissioners prior to the purchase of equipment and/or supplies in excess of \$250."

The Board filed a verified petition for an ex parte restraining order and a temporary and permanent injunction against Nielander and Jackson on March 6, 2002. In the petition, the Board sought injunctive

relief from the Lincoln District Court, prohibiting Nielander from employing Jackson as a deputy and from making any purchase in excess of \$250 without prior Board approval.

The district court concluded that Nielander was subject to the Lincoln County Employee Rules and Regulations and that the Board acted within its authority when it discharged Jackson on February 28, 2002. The district court also found that the Board's purchase policy requiring prior approval for purchases of supplies or equipment in excess of \$250 was reasonable. The court ordered Jackson discharged as an employee of Lincoln County and enjoined him from working or attempting to work there. The district court in like manner enjoined Nielander from attempting to continue Jackson's employment. In addition, the district court entered an order mandatorily enjoining Nielander to comply with the Lincoln County purchasing policy.

Nielander and Jackson timely appealed the decision of the district court and moved for a stay pending the outcome of the appeal. After listening to arguments of counsel by conference call, District Judge Thomas M. Tuggle found that no compelling reason was presented justifying the grant of a stay. Therefore, the district court denied Nielander and Jackson's application for stay. On appeal, Nielander and Jackson challenge the authority of the Board to terminate a deputy's employment and to require preapproval of expenditures by a sheriff.

For their first assertion of error on appeal, Nielander and Jackson contend that the Board did not have the constitutional or statutory authority to hire or fire the duly appointed assistant to an elected county official.

The sheriff is an independently elected officer whose office, duties, and authorities are established and delegated by the legislature. The sheriff is not a subordinate of the board of county commissioners and neither are the undersheriff or the sheriff's deputies and assistants. Rather, the sheriff is a state officer whose duties, powers, and obligations derive directly from the legislature and are coextensive with the county board. The undersheriff and the sheriff's deputies and assistants are subordinates of the office of sheriff. The board of county commissioners is the means by which the legislature finances the operation of the office of the sheriff. The board of county commissioners is not free to usurp the powers of the office of sheriff by controlling the hiring or firing of the deputies and assistants appointed by the sheriff.

The parties agree that the issue before this court involves statutory interpretation. "Interpretation of a statute is a question of law in which appellate review is unlimited." *In re Marriage of Phillips*, 272 Kan. 202, Syl. ¶ 1, 32 P.3d 1128 (2001).

The Board argues that K.S.A. 2001 Supp. 19-101a(a) authorizes boards of county commissioners to "transact all county business and perform all powers of local legislation and administration it deems appropriate." In addition, the Board maintains that K.S.A. 19-805(d) vests boards of county commissioners with the authority to supersede personnel decisions of sheriffs.

Nielander and Jackson state that Article 2, § 1 and Article 9, § 2 of the Kansas Constitution vest the legislature with the power to establish necessary county officers. They note that the legislature has created counties, corporate entities with boards of county commissioners to transact county business, as well as the offices of county clerk, county treasurer, register of deeds, and sheriff by way of various statutes. See K.S.A. 19-101; K.S.A. 2001 Supp. 19-101a; K.S.A. 19-201; K.S.A. 19-301; K.S.A. 19-501; K.S.A. 19-1201; K.S.A. 19-801a. Nielander and Jackson maintain that, although the Board is authorized to transact all county business and to engage in local legislation subject to certain statutory exceptions in K.S.A. 2001 Supp. 19-101a(a), sheriffs are expressly authorized by K.S.A. 19-805(a) to appoint, promote, demote, and dismiss deputies and assistants as the sheriff deems necessary to carry out the mandatory duties and obligations of his or her office. See K.S.A. 19-810; K.S.A. 19-811; K.S.A. 19-812; K.S.A. 19-813. Nielander and Jackson contend that the district court's conclusion that there were no

3-4

statutes that would restrict the Board from "being the only word on hiring and discharging" is incorrect in that it conflicts with the powers of appointment provided to the sheriff by the legislature in K.S.A. 19-805(a) and K.S.A. 19-810. In addition, they argue that the district court's construction of K.S.A. 19-805(d), which begins "[a]ny personnel action taken by the sheriff under this section shall be subject to the following," reads the introductory clause out of the statute. Nielander and Jackson argue that the Board's personnel policy and the district court's injunction neglect the separation of powers and duties provided by the legislature and, thus, contend that the district court has unconstitutionally and unlawfully expropriated the powers of the office of sheriff in favor of the Board.

The Kansas County Treasurers Association, the Kansas Registers of Deeds Association, the Kansas County Clerks and Election Officials Association, and the Kansas County Sheriffs Association, as *amici curiae*, seek to preserve what they believe is clear statutory authority giving their members the power to control the operation of their respective offices with regard to appointment, hiring, firing, promotion, and demotion of their deputies and assistants. The *amici curiae* assert that a decision upholding the district court's injunction will lead boards of county commissioners to adopt rules or regulations that would place them in complete control of personnel issues for all county employees. According to the *amici curiae*, this would render meaningless the statutory authority of elected county officials. The *amici curiae* ask this court to find that the Board acted in conflict with K.S.A. 19-805 when it passed the February 28, 2001, resolution and voted to terminate Jackson.

The legislature by statute has given elected officials, including the county clerk, treasurer, sheriff, and register of deeds, similar if not equivalent discretion and authority over employees and personnel matters. *Cf.* K.S.A. 19-302(a); K.S.A. 19-503(a); K.S.A. 19-805(a); K.S.A. 19-1202(a); Att'y Gen. Op. No. 93-64. Employing identical statutory language, the legislature also subjected personnel action taken by county clerks, sheriffs, registers of deeds, and treasurers to certain restrictions. See K.S.A. 19-302(c); K.S.A. 19-503(c); K.S.A. 19-805(d); K.S.A. 19-1202(c). The issues on appeal highlight the potential conflict between the Board's general home rule authority under K.S.A. 2001 Supp. 19-101a(a) and the sheriff's authority to appoint, promote, demote, and dismiss undersheriffs, deputies, and assistants under K.S.A. 19-805(a) and 19-810.

K.S.A. 19-805 provides:

"(a) In addition to the undersheriff, the sheriff also may appoint, promote, demote and dismiss additional deputies and assistants necessary to carry out the duties of the office, for whose official acts the sheriff is responsible. Persons may also be deputized by such sheriff or undersheriff, in writing, to do particular acts. The sheriff and sureties of the sheriff shall be responsible, on the official bond of the sheriff, for the default or misconduct of the undersheriff and deputies.

"(b) Within the limitations of the budget for the financing of the operation of the sheriff's office as approved by the board of county commissioners, the sheriff may attend and may require the undersheriff, deputies and any assistants to attend any meeting or seminars which the sheriff determines will be beneficial to the operation of the sheriff's office.

"(c) The sheriff shall submit a budget for the financing of the operation of the sheriff's office to the board of county commissioners for their approval.

"(d) Any personnel action taken by the sheriff under this section shall be subject to the following: (1) Personnel policies and procedures established by the board of county commissioners for all county employees other than elected officials; (2) any pay plan established by the board of county commissioners for all county employees other than elected officials; (3) any applicable collective bargaining agreements or civil service system; and (4) the budget for the financing of the operation of the sheriff's office as approved by the board of county commissioners."

3-5

A sheriff's authority to hire and fire personnel must be juxtaposed against a board of county commissioners' authority to determine local affairs. In general, a board of county commissioners may exercise its powers of home rule to determine its local affairs in the manner and subject to the limitations provided by K.S.A. 2001 Supp. 19-101a and other laws of this state. See K.S.A. 19-101; K.S.A. 2001 Supp. 19-101a.

"Home rule powers are those granted by the Constitution or by legislative act to units of local government to transact local business and perform such local and administrative duties as these local units may deem appropriate, subject to certain limitations imposed upon such grant of power. [Citation omitted.] Home rule powers were granted to cities by constitutional amendment in 1961. Kan. Const. art. 12, § 5. In 1974, the legislature passed an act granting powers of home rule to counties. L. 1974, ch. 110. [See K.S.A. 19-101 *et seq.*] 'Counties in Kansas are now empowered to transact all county business and perform such powers of local legislation and administration as may be appropriate, subject, however, to the restrictions and prohibitions set forth in K.S.A. 19-101a.' [Citation omitted.]" *Board of Trego County Comm'rs v. Kansas Dept. of Revenue*, 261 Kan. 927, 930, 933 P.2d 691 (1997).

K.S.A. 2001 Supp. 19-101a contains a list of limitations, restrictions, and prohibitions on boards of county commissioners' powers of local legislation and administration. That statute reads, in pertinent part: "(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto."

Thus, a board of county commissioners may not exempt from or effect changes to the provisions of K.S.A. 19-805(a), which allow a sheriff to "appoint, promote, demote, and dismiss additional deputies and assistants necessary to carry out the duties of the office."

This court has indicated that a county sheriff "is the official responsible for his department and is subject to follow personnel policies of the county in relation to the county employees under his supervision. See K.S.A. 19-805(d)." See *State ex rel. Stovall v. Meneley*, 271 Kan. 355, 372, 22 P.3d 124 (2001).

In 1983, K.S.A. 19-805 was amended to its present form by S.B. 46. See L. 1983, ch. 91, § 6.

The *amici curiae* point to statements made by legislators about S.B. 46 and by others testifying before the Senate Committee as evidence of the lawmakers' intent to give elected county officials power over hiring and firing while limiting boards of county commissioners' authority to budgetary concerns.

"Interpretation of a statute is a question of law, and it is the function of the court to interpret a statute to give it the effect intended by the legislature. It is a fundamental rule of statutory construction, to which all other rules are subordinate, that the intent of the legislature governs if that intent can be ascertained.

"In determining legislative intent, courts are not limited to consideration of the language used in the statute, but may look to the historical background of the enactment, the circumstances attending its passage, the purpose to be accomplished, and the effect the statute may have under the various constructions suggested. In construing statutes, the legislative intention is to be determined from a general consideration of the entire act." *In re Tax Exemption Application of Lietz Construction Co.*, 273 Kan. ___, Syl. ¶¶ 3, 4, 47 P.3d 1275 (2002).

Mike Billinger, Ellis County Treasurer, distributed copies of his testimony to the Senate Committee and stated that "Senate Bill 46 was important to all County Treasurers in Kansas because it would effectively make them the administrators of their employees." *Hearings on S.B. 46 before the S. Comm. on Gov't Org.*, 1983 Kan. Leg. (Feb. 10, 1983).

3-6

Emery Rome, Ellis County Clerk, presented testimony addressing Section 2 of S.B. 46 "in which the Clerk is given the authority to appoint a deputy and hire and/or fire any additional help the Clerk would deem necessary." He expressed the feeling that "someone who worked with employees on a daily basis would be the best qualified to evaluate their performance." *Hearings on S.B. 46 before the S. Comm. on Gov't Org.*, 1983 Kan. Leg. (Feb. 10, 1983).

Harold Kraus, Ellis County Commissioner, testified concerning the lack of "statutory guidelines to insure County Commissioners of their rights to control the budgetary processes in the various elective offices in the counties." *Hearings on S.B. 46 before the S. Comm. on Gov't Org.*, 1983 Kan. Leg. (Feb. 10, 1983).

We find that the legislative history of S.B. 46 and K.S.A. 19-805(a) demonstrates the legislature's intent to vest sheriffs, not boards of county commissioners, with the authority to "appoint, promote, demote and dismiss additional deputies and assistants." Moreover, under the plain language of K.S.A. 2001 Supp. 19-101a(a)(15), boards of county commissioners are prohibited from effecting changes to the provisions of K.S.A. 19-805(a).

Here, the Board attempted to vest itself with the sole authority to hire or discharge any Lincoln County employee and to limit the power of elected county officials to recommending the hiring or discharging of an individual. Immediately after the Board passed the amended Employee Rules and Regulations, the Board terminated Jackson's employment. The Board's actions were an attempt to effect changes to the sheriff's grant of authority under K.S.A. 19-805(a) to appoint, promote, demote, and dismiss deputies, and under K.S.A. 2001 Supp. 19-101a(a)(15), the Board was prohibited from effecting such a change.

The language of K.S.A. 19-805(d) indicates that boards of county commissioners may establish personnel policies and procedures for all nonelected county personnel, pay plans for all nonelected county personnel, collective bargaining agreements or a civil service system, and the budget for the financing of the operation of the sheriff's office. The introductory phrase of K.S.A. 19-805(d), "[a]ny personnel action taken by the sheriff," however, must not be ignored. While personnel actions taken by sheriffs are "subject to" personnel policies, payment plans, collective bargaining agreements, and budgets established by boards of county commissioners, K.S.A. 19-805(d) does not give county commissioners the ability to supersede a sheriff's power to appoint, promote, demote, or dismiss his or her personnel.

We hold that the district court erred when it concluded that the Board acted within its authority when it discharged Jackson on February 28, 2002. We vacate the district court's injunction discharging Jackson as a deputy, enjoining Jackson from working or attempting to work as an employee of Lincoln County, and enjoining Nielander from attempting to continue Jackson's employment.

Next, Nielander and Jackson argue that the district court erred by issuing an injunction mandating Nielander's compliance with the Lincoln County purchasing policy requiring advance Board approval for the purchase of any equipment or supplies in excess of \$250. Nielander and Jackson contend that the district court's injunction upholding the Board's purchase policy conflicts with a sheriff's statutory obligation to fulfill his or her duties within the limits of the approved budget.

The Board maintains that by virtue of home rule powers and authority to manage the financial affairs of the county, boards of county commissioners possess exclusive control over county expenditures, subject only to the limitation that such boards may not use their powers to deny elected officials the means to carry out the statutory duties of their office. The Board concedes in its brief that its authority to veto purchases of optional or discretionary items must yield in the case of expenditures necessary for an elected official to fulfill statutory duties. The Board maintains that the injunction issued by the district court is consistent with the general principles articulated in Attorney General Opinion 99-29.

3-7

Nielander and Jackson agree that boards of county commissioners have general authority over their county purse and that an exception to this general power is triggered when the expenditure or obligation is necessary in order for an elected official to carry out statutorily imposed duties. However, Nielander and Jackson contend that the district court's injunction enjoining the sheriff to secure advance approval from the Board before expending more than \$250 conflicts with statutes requiring him to fulfill his duties within the limits of the approved budget.

In addition, Nielander and Jackson state that "[t]here is no contention here that Nielander exceeded the budget approved by the [Board] or that the expenditures in excess of \$250 were not necessary for the Sheriff to fulfill the obligations of his office." The Board requested the equitable remedy of injunctive relief, seeking protection from *prospective* injury. See *Empire Mfg. Co. v. Empire Candle, Inc.*, 273 Kan. ___, ___, 41 P.3d 798, 808 (2002). Nielander's past expenditures in excess of \$250 are not at issue.

The Board argues on appeal that boards of county commissioners, not sheriffs, must be given the final authority to decide which expenditures are necessary and which are discretionary in order to enable those boards to control discretionary spending. This argument is outside the purview of the district court's order and was not raised below. Issues not raised before the trial court cannot be raised on appeal. *Dalmasso v. Dalmasso*, 269 Kan. 752, 765, 9 P.3d 551 (2000).

The issue before this court is whether the district court correctly concluded that the Board has statutory authority to require Nielander to obtain advance approval for purchases in excess of \$250.

We hold that where a board of county commissioners has approved a budget including necessary expenses, the sheriff cannot be required to obtain advance approval for purchases within the limits of the approved budget regardless of the amount. If an expenditure falls outside of the budget, *i.e.*, over budget, then the sheriff must request advance approval of the board regardless of the amount. The board must approve the expenditure if it is necessary for a sheriff to carry out his or her statutory duties. If a board fails to approve a necessary expenditure, then the sheriff's remedy is to mandamus the board.

Kansas Attorney General Opinions, although not binding, serve as persuasive authority. See *CPI Qualified Plan Consultants, Inc. v. Kansas Dept. of Human Resources*, 272 Kan. 1288, Syl. ¶ 3, 38 P.3d 666 (2002). For Attorney General opinions generally addressing this issue, see Attorney General Opinion Nos. 99-29; 87-37; 86-166; 84-53; 82-85; 80-69.

After examining the statutes in question, this court finds that where the expenditure in question is optional or discretionary, a board of county commissioners' authority over county expenditures will generally control. K.S.A. 19-212, K.S.A. 19-229, and K.S.A. 2001 Supp. 19-101 permit boards of county commissioners to require preapproval for discretionary purchases over \$250 which are outside the sheriff's budget. A board of county commissioners may not require an elected official to obtain prior approval by the board for expenditures that are necessary for the elected official to carry out statutory duties, however.

In this case, the district court entered an order mandatorily enjoining Nielander to comply with the Lincoln County purchasing policy. The district court failed to find that Nielander need not obtain the Board's preapproval for expenditures within the sheriff's budget. This court reverses the district court and vacates the district court's injunction as being inconsistent with our holding.

For their final assertion of error, Nielander and Jackson argue that the district court's injunction is beyond the scope of the relief sought by the Board in that it enjoins Jackson from "working or attempting to work as a Lincoln County employee," while the Board only sought to enjoin Jackson "from working as a Deputy Sheriff in the Lincoln County Sheriff's Department."

... here a trial court's decision regarding an injunction is based on undisputed facts, an appellate court reviews the scope of the injunction de novo. *State Bd. of Nursing v. Ruebke*, 259 Kan. 599, 610-11, 913 P.2d 142 (1996).

The Board contends that the tenor of the district court's opinion makes it clear that the focus of the injunction was directed toward Jackson's activities as deputy sheriff and that the discrepancy in the phrasing employed by the district court is harmless error. According to the Board, the wording of the injunction is purely academic because Jackson has not worked in any other capacity for Lincoln County, nor has he applied to do so.

K.S.A. 60-906 mandates that "[e]very order granting an injunction . . . shall set forth the reasons for its issuance; shall be specific in terms; *shall describe in reasonable detail*, and not by reference to the petition or other document" (Emphasis added.)

If the injunction enjoining Jackson from "working or attempting to work as a Lincoln County employee" refers to Jackson's employment as a deputy, it fails to describe in reasonable detail the activity to be enjoined. If the phrase is read literally as prohibiting Jackson from "working or attempting to work as a Lincoln County employee," it exceeds the scope of the relief sought by the Board. Viewed either way, the district court's injunctive order fails to meet the requirements of K.S.A. 60-906.

This court, however, has vacated the district court's injunction discharging Jackson as deputy and enjoining Jackson from working or attempting to work as an employee of Lincoln County. Due to our holding, the issue is moot. Pursuant to the general rule, appellate courts do not decide moot questions or render advisory opinions. *In re T.D.*, 27 Kan. App. 2d 331, 333, 3 P.3d 590, *rev. denied* 269 Kan. 933 (2000).


Affirmed in part and reversed in part.

DAVIS, J., not participating.

CAROL A. BEIER, J., assigned.¹

¹**REPORTER'S NOTE:** Judge Beier, of the Kansas Court of Appeals, was appointed to hear case No.88,844 vice Justice Larson pursuant to the authority vested in the Supreme Court by K.S.A. 20-3002 (c).

END

 | Keyword | Name » SupCt - CtApp | Docket | Date |

Comments to: [WebMaster, kscases@kscourts.org](mailto:kscases@kscourts.org).
Updated: January 31, 2003; revised: January 31, 2003.
URL: <http://www.kscourts.org/kscases/supct/2003/20030131/88844.htm>.

3-9

STATE OF KANSAS

DAN JOHNSON
REPRESENTATIVE, 110TH DISTRICT
BARTON, ELLIS, ROOKS, RUSH
AND RUSSELL COUNTIES
P.O. BOX 247
1461 HOMESTEAD RD.
HAYS, KANSAS 67601-0247

COMMITTEE ASSIGNMENTS
CHAIRMAN: AGRICULTURE
MEMBER: BUSINESS, COMMERCE AND LABOR
ENVIRONMENT



TOPEKA

HOUSE OF
REPRESENTATIVES

STATE CAPITOL, ROOM 426-S
TOPEKA, KANSAS 66612-1504
785-296-7639
1-800-432-3924

LOCAL GOVERNMENT COMMITTEE

RE: HB 2082

February 4, 2003

Topeka, Kansas

Presented by

Representative Dan Johnson

Mr. Chairman and members of the committee, I appear before you today in support of HB 2082.

I would like the bill to be expanded to include all elected officials in the county. I believe elected officials should be able to run their offices as they wish.

An elected official is responsible to the voters and if they are not doing a satisfactory job, the voters will replace them in the next election.

I encourage your support of this position and appreciate the opportunity to appear before you today. I will be happy to stand for questions.

House Local Government
Date: 2-4-2003
Attachment # 4

To: Members of the House of Representatives, Local Government Committee

Re: HB 2082

PAGE 1

Mr. Chairman and Members of the Committee

I am Jerry D. Carson; I am a CPA and a Labette County Commissioner.

The proposed amendments to K.S.A. 19-805 cause me deep concern.

It empowers the Sheriff of a County to establish personnel policies and procedures for employees of the Sheriff's department which removes the ability of a County Commission to establish personnel policies and procedures that are uniform for all employees of a County.

From my thirty-eight (38) years in private business this would be much like giving department heads in a business the ability to establish different personnel policies and procedures for each department based on their personal desires rather than the needs of the entire business. If a Sheriff has the need for additional policies such as uniforms, etc. that situation can easily be handled as a separate department policy. The recent Kansas Supreme Court Case of *Board of Lincoln County Commissioners v. Wray Nielander* confirmed a Sheriff's ability to hire and fire his or her own employees.

The Supreme Court decision did not change the established authority of a board of County Commissioners to establish personnel policies and procedures.

House Local Government
Date: 02-4-2003
Attachment # 5

To: Members of the House of Representatives, Local Government Committee

Re: HB 2082

PAGE 2

While a situation may exist where the Commissioners and Sheriff do not agree this should be a matter for the voters to rectify.

I respectfully request that you remove this bill from your hearing calendar.

**Jerry D. Carson, CPA
Labette County Commissioner
3434 Durr
Parsons, Kansas 67357**

620-421-2476

Coffey County Commissioners

Phone 620-364-2683
Courthouse
Burlington, Kansas 66839

Board of Commissioners
Gene L. Merry, District #1
Larry Crotts, District #2
Fred Rowley Jr., District #3
Timothy A. Sipe, District #4
R. Kraig Kirchner, District #5
Board Meets Every Monday

February 4, 2003

To: Representative Jene Vickery
House Local Government Committee

From: Commissioner Gene L. Merry
Coffey County, Kansas

Re: Testimony in opposition of HB 2082

Coffey County respectfully submits testimony in opposition of HB 2082.

- The purpose of county government is to focus on and provide services to the citizens of the county. The focus should not be on one part, or department, of local government.
- Citizens elect a Board of County Commissioners to oversee all operations of county government. A board comprised of at least three members maintains the checks and balances all citizens rely upon. The voice of the board should be representative of their constituents. The voice of one elected official, the sheriff, does not necessarily represent the needs of the majority of county constituents.
- In order to maintain the integrity of a team working together in county government, all departments should be treated in the same manner, i.e., have the same policies and procedures to follow. Two operating standards can only be derisive. Two operating standards implies one departmental entity is better than another and deserves special consideration. This double standard is counter productive in county government.
- Mutual respect among county departments is imperative for the smooth operation of county government. Departments can agree to disagree, however, there should be only one defined decision making body for the overall operation of the government entity. That said, the governing body should be sensitive to and knowledgeable of special departmental specific issues.

House Local Government
Date: 2-4-2003
Attachment # 6



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
concerning House Bill No. 2082
re. Sheriff's Department Personnel Actions
House Local Government Committee

Presented by Randall Allen, Executive Director
Kansas Association of Counties
February 4, 2003

Chairman Vickrey and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to offer comments about HB 2082 for you to consider in light of other testimony.

The Kansas Association of Counties is an umbrella organization comprised of county officials – elected and appointed – from many different perspectives and positions in county government. The Kansas County Commissioners Association and the Kansas Sheriffs Association, as well as nine other affiliate associations, are all members of the KAC, each with representation on the KAC Governing Board which hired me.

The issues in HB 2082 are contentious among county officials. Yet, realistically, we have a responsibility to deal with them within our association and make every effort to resolve them as much as possible so local issues are not brought to your agenda for resolution.

In lieu of acting on the bill favorably or unfavorably, I urge the committee to send the issues back to us, back to counties, and back to our respective associations with a charge to work it out locally. This is consistent with our principles, and is consistent with the long-standing reaction of legislative bodies to issues of more local concern. We will do our best to have good dialogue with all those persons affected and keep this committee apprised of our progress.

Thank you for the opportunity to comment on 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 Randall Allen or Judy Moler 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
Date: 2-4-2003
Attachment # 7



League of Kansas Municipalities

300 SW L...venue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: House Local Government Committee
From: Don Moler, Executive Director
Re: Support for HB 2085
Date: February 4, 2003

First I would like to thank the Committee for allowing the League to testify today concerning a bill that we requested, HB 2085. As a bit of background, I would like to stress that the impetus for this bill comes from the need of local government in Kansas to cut costs and to look for ways to be as efficient as possible. This is especially true given the serious nature of both state and local budgets and the fact that local governments are now looking at the loss of \$150,000,000 in State Demand Transfers over the coming 18 months.

The proposal in HB 2085 is a very simple one indeed. In a nutshell, this bill would allow cities and counties to, as a matter of local choice, publish legal notices, which are required by law, on the Internet as opposed to in a local newspaper. A conservative estimate, based upon a survey which was recently completed by the League, would suggest that a savings of up to \$3,000,000 per year could be realized by cities and counties in Kansas if we are allowed to publish on the internet. With only about half the cities and counties reporting, we can safely assume that statewide the amount spent in 2002 reached approximately \$3,000,000. This is not an inconsiderable amount of money and the continued requirement that cities and counties publish in newspapers, at this considerable expense, amounts to a mandate on the local property taxpayers.

I am sure you will hear from representatives of the press that this is an issue about public access and the public's right to know. That is the typical battle cry, however, we would suggest that this is in fact a red herring which obfuscates what is really at stake. Quite frankly, publishing legal notices on an Internet site is a far superior method to that which is currently being used. First of all, it is free to the public. Currently the public, also known as the taxpayers, are paying twice for this information. They pay the first time when the public entity has to pay a fee to have the legal notice inserted in the back of the newspaper near the classified ads. The public then pays a second time to obtain the information because they must then buy the newspaper for access to this information. Under HB 2085, the information would be maintained without having to pay a placement fee and the information could be obtained by the public, without charge, from literally anywhere on earth. We believe that this new technology offers a better solution.

Furthermore, we would argue that what is really at issue here is not the public's right to know, but a subsidy of newspaper publishers. According to the League survey, which I have attached to this testimony, you will note that we estimate, based on the numbers we have received, that somewhere in the neighborhood of \$3,000,000 is spent annually by cities and counties on legal notices and publications in local newspapers. This number would expand significantly if USD's and other units of government, which are required to publish legal notices, were to be included in this legislation. We

believe the time has come for the State to recognize a commonly used technology which has a benefit to the Kansas taxpayer and which provides a far superior method of distributing the information.

The League finds it highly interesting that while the newspapers are here decrying the placement of legal notices on websites, the Kansas Press Association appears to be using their website as their main communication tool with their members. For the Committee's information, I have attached page 1 of the Member Resources Page off of the Kansas Press Association home page. You will note that not only does it lobby to inform members how to stop SB 77 and HB 2085, but it also provides: talking points; a copy of both bills; a list of senate committee members and their contact information; a list of house committee members and their contact information; along with various ads that the newspapers can run in their newspapers attacking these initiatives; and finally a series of editorials which have already run in newspapers in Kansas. Clearly the KPA believes that the Internet and website are very effective when trying to stop legislation and interact with their members. We wonder why they do not feel that the Kansas public, and Kansas taxpayers, are not as well served by legal notices being published on websites. We would suggest that this is merely a monetary issue and what is at stake is \$3,000,000 a year of the taxpayer's money. We urge this Committee to see through the smoke screen that is going to be put up from the KPA, find in favor of the Kansas taxpayer, and allow HB 2085 to be advanced to the floor for action by the entire Senate. Thank you very much for introducing this bill and allowing the League to come before you today and testify in its favor.



memberresources

Contact the KPA office at (785) 271-5304 or info@kspress.com for more information on how you can help save the public's right to know.

Help Stop SB 77 and HB 2085

Facts and Arguments.

- [Talking Points](#)
- [Senate Bill 77](#)
- [House Bill 2085](#)
- [Senate Committee members](#)
- [House Committee members](#)

Ads On Public Notice.

- [Quarter Page 1](#)
- [Quarter Page 2](#)
- [Quarter Page 3](#)
- [Ad shared by The Ottawa Herald](#)

Editorials.

- [Don't Hide Public Notices on Internet](#)
- [Salina Journal](#)
- [Lawrence Journal-World](#)
- [Atchison Daily Globe](#)
- [Leavenworth Times](#)
- [Smith County Pioneer](#)

Kansas Newspaper Readership Survey.

A survey commissioned by Kansas Press Association (in October 2001) and conducted by Infomark Research on Kansas newspaper readership may be helpful in opposing SB 77 and HB 20-85. [Click here](#) to download a summary of the results. KPA member newspapers are welcome to use these handouts or the statistics therein for promotional materials.

Readership House Ads.

KPA member newspapers may click on the links below to download house ads to promote newspaper readership. The ads utilize statistics from the October 2001 Kansas Newspaper Readership Survey.

PASS size ads:



memberresources

- [Awards of Excellence](#)
- [Convention](#)
- [Helpful Links](#)
- [Legal Hotline](#)
- [Legislative Issues](#)
- [Media Law Library](#)
- [Statehouse Reporters](#)
- [Upcoming Events](#)
- [Who to Contact](#)

contactus

Kansas Press Association, Inc.
5423 SW 7th Street
Topeka, Kansas 66606

Phone (785) 271-5304
Fax (785) 271-7341

info@kspress.com

8-3

Technical Amendments to HB 2085

- Section 1(d): add the words "be deemed to" in front of the word comply
- Section 2(d): add the words "be deemed to" in front of the word comply
- Section 2(h): add the words "be deemed to" in front of the word comply

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF ABBYVILLE	127	\$67.50
CITY OF ABILENE	6468	
CITY OF ADMIRE	176	
CITY OF AGENDA	78	
CITY OF AGRA	302	
CITY OF ALBERT	179	
CITY OF ALDEN	165	
CITY OF ALEXANDER	73	\$66.40
CITY OF ALLEN	209	\$285.00
CITY OF ALMA	785	
CITY OF ALMENA	461	
CITY OF ALTA VISTA	434	\$837.00
CITY OF ALTAMONT	1076	\$825.77
CITY OF ALTON	114	
CITY OF ALTOONA	482	\$150.35
CITY OF AMERICUS	931	\$717.44
CITY OF ANDALE	782	\$1,461.71
CITY OF ANDOVER	7189	\$17,063.00
CITY OF ANTHONY	2316	\$4,008.15
CITY OF ARCADIA	386	
CITY OF ARGONIA	524	
CITY OF ARKANSAS CITY	11720	\$12,246.00
CITY OF ARLINGTON	452	
CITY OF ARMA	1504	\$1,325.00
CITY OF ASHLAND	962	
CITY OF ASSARIA	447	\$884.56
CITY OF ATCHISON	10140	\$4,175.65
CITY OF ATHOL	50	\$77.63
CITY OF ATLANTA	252	
CITY OF ATTICA	618	\$4,037.23
CITY OF ATWOOD	1258	\$3,542.98
CITY OF AUBURN	1111	\$1,913.62
CITY OF AUGUSTA	8437	\$6,706.71
CITY OF AURORA	77	
CITY OF AXTELL	439	
CITY OF BALDWIN CITY	3503	
CITY OF BARNARD	122	
CITY OF BARNES	148	\$40.00
CITY OF BARTLETT	122	
CITY OF BASEHOR	2324	\$4,010.05
CITY OF BASSETT	22	\$45.00
CITY OF BAXTER SPRINGS	4514	\$2,031.23
CITY OF BAZINE	298	
CITY OF BEATTIE	273	
CITY OF BEL AIRE	6065	
CITY OF BELLE PLAINE	1697	\$302.73
CITY OF BELLEVILLE	2165	\$1,879.58
CITY OF БЕЛОIT	3925	

8-5

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF BELPRE	100	\$130.39
CITY OF BELVUE	227	
CITY OF BENEDICT	103	
CITY OF BENNINGTON	627	\$1,041.48
CITY OF BENTLEY	374	
CITY OF BENTON	821	
CITY OF BERN	200	
CITY OF BEVERLY	198	\$0.00
CITY OF BIRD CITY	472	\$857.38
CITY OF BISON	229	\$263.00
CITY OF BLUE MOUND	277	\$400.93
CITY OF BLUE RAPIDS	1073	\$850.00
CITY OF BLUFF CITY	78	
CITY OF BOGUE	174	\$249.00
CITY OF BONNER SPRINGS	6772	\$10,463.75
CITY OF BREWSTER	280	
CITY OF BRONSON	346	
CITY OF BROOKVILLE	257	
CITY OF BROWNELL	46	
CITY OF BUCKLIN	713	
CITY OF BUFFALO	281	
CITY OF BUHLER	1344	\$1,112.72
CITY OF BUNKER HILL	99	
CITY OF BURDEN	558	
CITY OF BURDETT	247	
CITY OF BURLINGAME	1018	\$505.21
CITY OF BURLINGTON	2765	
CITY OF BURNS	271	
CITY OF BURR OAK	249	
CITY OF BURRTON	929	
CITY OF BUSHONG	54	
CITY OF BUSHTON	307	\$581.00
CITY OF BYERS	50	
CITY OF CALDWELL	1264	
CITY OF CAMBRIDGE	102	
CITY OF CANEY	2048	
CITY OF CANTON	826	\$945.02
CITY OF CARBONDALE	1480	
CITY OF CARLTON	38	
CITY OF CASSODAY	127	
CITY OF CAWKER CITY	510	
CITY OF CEDAR	26	
CITY OF CEDAR POINT	53	
CITY OF CEDAR VALE	709	\$376.00
CITY OF CENTRALIA	518	\$274.00
CITY OF CHANUTE	9217	\$7,573.95
CITY OF CHAPMAN	1233	\$3,020.00
CITY OF CHASE	482	\$257.25

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF CHAUTAUQUA	110	
CITY OF CHENEY	1807	\$3,156.29
CITY OF CHEROKEE	715	
CITY OF CHERRYVALE	2339	
CITY OF CHETOPA	1257	\$1,044.12
CITY OF CIMARRON	1939	\$783.50
CITY OF CIRCLEVILLE	183	\$358.05
CITY OF CLAFLIN	691	\$404.30
CITY OF CLAY CENTER	4525	
CITY OF CLAYTON	65	
CITY OF CLEARWATER	2173	
CITY OF CLIFTON	542	\$240.66
CITY OF CLIMAX	65	
CITY OF CLYDE	723	\$270.83
CITY OF COATS	110	
CITY OF COFFEYVILLE	10728	\$8,045.88
CITY OF COLBY	5369	\$3,544.66
CITY OF COLDWATER	789	\$839.75
CITY OF COLLYER	129	
CITY OF COLONY	399	
CITY OF COLUMBUS	3355	\$561.73
CITY OF COLWICH	1256	\$1,270.00
CITY OF CONCORDIA	5548	
CITY OF CONWAY SPRINGS	1308	
CITY OF COOLIDGE	86	
CITY OF COPELAND	339	
CITY OF CORNING	166	
CITY OF COTTONWOOD FALLS	962	
CITY OF COUNCIL GROVE	2328	
CITY OF COURTLAND	322	\$94.00
CITY OF COYVILLE	71	
CITY OF CUBA	224	
CITY OF CULLISON	98	\$700.00
CITY OF CULVER	167	
CITY OF CUNNINGHAM	504	\$112.50
CITY OF DAMAR	154	
CITY OF DANVILLE	58	
CITY OF DE SOTO	4665	
CITY OF DEARING	413	\$356.00
CITY OF DEERFIELD	892	
CITY OF DELIA	179	
CITY OF DELPHOS	470	\$121.48
CITY OF DENISON	229	\$664.44
CITY OF DENTON	187	
CITY OF DERBY	18115	
CITY OF DEXTER	358	\$221.77
CITY OF DIGHTON	1223	\$2,190.90
CITY OF DODGE CITY	25049	

8-87

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF DORRANCE	199	
CITY OF DOUGLASS	1801	\$2,003.03
CITY OF DOWNS	1017	\$419.70
CITY OF DRESDEN	51	\$0.00
CITY OF DUNLAP	82	
CITY OF DURHAM	114	\$471.00
CITY OF DWIGHT	332	
CITY OF EARLTON	80	
CITY OF EASTBOROUGH	819	
CITY OF EASTON	369	\$225.53
CITY OF EDGERTON	1486	\$3,034.25
CITY OF EDMOND		\$135.00
CITY OF EDNA	418	
CITY OF EDWARDSVILLE	4370	
CITY OF EFFINGHAM	588	\$528.94
CITY OF EL DORADO	12011	
CITY OF ELBING	214	\$189.40
CITY OF ELGIN	81	
CITY OF ELK CITY	301	\$290.42
CITY OF ELK FALLS	110	
CITY OF ELKHART	2156	\$2,206.69
CITY OF ELLINWOOD	2130	
CITY OF ELLIS	1852	
CITY OF ELLSWORTH	2946	\$1,601.46
CIT OF ELMDALE	50	
CITY OF ELSMORE	72	
CITY OF ELWOOD	1176	\$2,324.21
CITY OF EMMETT	278	
CITY OF EMPORIA	26469	\$8,918.12
CITY OF ENGLEWOOD	107	\$778.66
CITY OF ENSIGN	212	\$507.93
CITY OF ENTERPRISE	825	\$671.85
CITY OF ERIE	1191	\$1,389.43
CITY OF ESBON	140	\$113.10
CITY OF ESKRIDGE	582	\$1,095.72
CITY OF EUDORA	4411	
CITY OF EUREKA	2940	\$3,355.99
CITY OF EVEREST	311	
CITY OF FAIRVIEW	269	
CITY OF FAIRWAY	3930	\$3,400.00
CITY OF FALL RIVER	158	
CITY OF FLORENCE	673	\$915.00
CITY OF FONTANA	150	\$1,868.58
CITY OF FORD	315	
CITY OF FORMOSO	122	\$50.03
CITY OF FORT SCOTT	8261	\$6,706.00
CITY OF FOWLER	571	
CITY OF FRANKFORT	839	\$572.00

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF FREDERICK	11	
CITY OF FREDONIA	2555	
CITY OF FREEPORT	6	\$81.61
CITY OF FRONTENAC	2996	\$2,260.21
CITY OF FULTON	184	
CITY OF GALATIA	60	
CITY OF GALENA	3247	
CITY OF GALESBURG	149	
CITY OF GALVA	718	\$285.28
CITY OF GARDEN CITY	27984	
CITY OF GARDEN PLAIN	797	\$1,941.00
CITY OF GARDNER	10203	\$31,216.00
CITY OF GARFIELD	191	
CITY OF GARNETT	3391	\$6,106.00
CITY OF GAS	555	\$804.22
CITY OF GAYLORD	141	
CITY OF GEM	95	
CITY OF GENESEO	269	\$408.10
CITY OF GEUDA SPRINGS	212	
CITY OF GIRARD	2743	
CITY OF GLADE	112	
CITY OF GLASCO	520	\$977.50
CITY OF GLEN ELDER	428	\$986.42
CITY OF GODDARD	2331	\$1,984.04
CITY OF GOESSEL	561	\$1,388.80
CITY OF GOFF	177	\$644.00
CITY OF GOODLAND	4775	\$9,643.40
CITY OF GORHAM	348	\$293.51
CITY OF GOVE	103	
CITY OF GRAINFIELD	321	
CITY OF GRANDVIEW PLAZA	1157	\$1,813.73
CITY OF GREAT BEND	15142	
CITY OF GREELEY	330	\$260.00
CITY OF GREEN	145	
CITY OF GREENLEAF	349	\$486.36
CITY OF GREENSBURG	1495	
CITY OF GRENOLA	227	\$53.20
CITY OF GRIDLEY	367	\$393.77
CITY OF GRINNELL	323	\$213.00
CITY OF GYPSUM	409	\$291.26
CITY OF HADDAM	165	
CITY OF HALSTEAD	1880	\$6,200.00
CITY OF HAMILTON	339	
CITY OF HAMLIN	52	\$21.00
CITY OF HANOVER	632	
CITY OF HANSTON	268	
CITY OF HARDTNER	194	
CITY OF HARPER	1519	\$2,957.41

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF HARTFORD	499	\$210.00
CITY OF HARVEYVILLE	262	
CITY OF HAVANA	85	
CITY OF HAVEN	1172	\$278.45
CITY OF HAVENSVILLE	145	
CITY OF HAVILAND	590	
CITY OF HAYS	19817	\$7,000.00
CITY OF HAYSVILLE	9077	\$13,801.25
CITY OF HAZELTON	141	
CITY OF HEPLER	152	
CITY OF HERINGTON	2517	\$3,853.00
CITY OF HERNDON	146	
CITY OF HESSTON	3531	\$1,476.31
CITY OF HIAWATHA	3410	
CITY OF HIGHLAND	983	\$1,003.98
CITY OF HILL CITY	1543	
CITY OF HILLSBORO	2862	
CITY OF HOISINGTON	2918	
CITY OF HOLCOMB	1993	
CITY OF HOLLENBERG	30	
CITY OF HOLTON	3334	\$2,056.00
CITY OF HOLYROOD	460	\$1,314.26
CITY OF HOPE	366	\$671.05
CITY OF HORACE	142	
CITY OF HORTON	1935	
CITY OF HOWARD	790	
CITY OF HOXIE	1207	\$2,307.50
CITY OF HOYT	573	
CITY OF HUDSON	132	
CITY OF HUGOTON	3643	\$1,955.02
CITY OF HUMBOLDT	1964	\$3,045.00
CITY OF HUNNEWELL	82	
CITY OF HUNTER	75	
CITY OF HURON	87	\$0.00
CITY OF HUTCHINSON	40349	\$18,278.64
CITY OF INDEPENDENCE	9607	\$4,988.58
CITY OF INGALLS	331	\$310.05
CITY OF INMAN	1139	\$959.32
CITY OF IOLA	6193	\$3,000.00
CITY OF ISABEL	105	
CITY OF IUKA	184	
CITY OF JAMESTOWN	390	
CITY OF JENNINGS	143	\$488.28
CITY OF JETMORE	933	
CITY OF JEWELL	458	\$389.00
CITY OF JOHNSON CITY	1524	\$1,266.40
CITY OF JUNCTION CITY	18063	\$11,287.74
CITY OF KANOPOLIS	541	\$338.18

8-10

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF KANORADO	240	
CITY OF KECHI	1072	
CITY OF KENSINGTON	518	\$328.50
CITY OF KINCAID	179	\$0.00
CITY OF KINGMAN	3301	\$4,347.59
CITY OF KINSLEY	1592	
CITY OF KIOWA	1022	
CITY OF KIRWIN	224	\$279.00
CITY OF KISMET	487	\$73.50
CITY OF LA CROSSE	1346	\$692.86
CITY OF LABETTE	67	
CITY OF LACYGNE	1128	\$3,090.63
CITY OF LAHARPE	700	
CITY OF LAKE QUIVIRA	935	\$508.38
CITY OF LAKIN	2336	
CITY OF LANCASTER	292	
CITY OF LANE	255	\$132.50
CITY OF LANGDON	71	\$33.75
CITY OF LANSING	9430	\$10,400.00
CITY OF LARNED	4062	\$6,823.00
CITY OF LATHAM	162	\$91.20
CITY OF LATIMER	21	
CITY OF LAWRENCE	79979	\$46,803.12
CITY OF LEAVENWORTH	35652	
CITY OF LEAWOOD	28141	\$6,600.00
CITY OF LEBANON	296	\$234.63
CITY OF LEBO	955	\$1,187.00
CITY OF LECOMPTON	602	
CITY OF LEHIGH	216	\$602.00
CITY OF LENEXA	40787	\$17,724.00
CITY OF LENORA	300	\$398.46
CITY OF LEON	641	
CITY OF LEONA	88	
CITY OF LEONARDVILLE	375	\$111.69
CITY OF LEOTI	1601	\$1,760.28
CITY OF LEROY	588	
CITY OF LEWIS	471	\$706.07
CITY OF LIBERAL	19562	\$6,165.00
CITY OF LIBERTY	94	
CITY OF LIEBENTHAL	110	
CITY OF LINCOLN CENTER	1335	\$169.98
CITY OF LINCOLNVILLE	226	\$225.00
CITY OF LINDSBORG	3334	
CITY OF LINN	415	\$293.25
CITY OF LINN VALLEY	577	\$2,601.12
CITY OF LINWOOD	378	\$1,017.00
CITY OF LITTLE RIVER	528	\$1,299.61
CITY OF LOGAN	589	

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF LONE ELM	27	
CITY OF LONG ISLAND	152	
CITY OF LONGFORD	92	\$248.22
CITY OF LONGTON	384	\$544.38
CITY OF LORRAINE	135	
CITY OF LOST SPRINGS	71	
CITY OF LOUISBURG	2668	
CITY OF LOUISVILLE	210	
CITY OF LUCAS	427	
CITY OF LURAY	197	\$146.50
CITY OF LYNDON	1038	
CITY OF LYONS	3652	
CITY OF MACKSVILLE	513	\$518.99
CITY OF MADISON	862	\$584.82
CITY OF MAHASKA	104	\$53.21
CITY OF MAIZE	1915	
CITY OF MANCHESTER	101	
CITY OF MANHATTAN	42960	
CITY OF MANKATO	923	\$172.15
CITY OF MANTER	179	
CITY OF MAPLE HILL	469	\$1,218.00
CITY OF MAPLETON	98	
CITY OF MARION	2103	\$4,868.90
CITY OF MARQUETTE	537	
CITY OF MARYSVILLE	3202	\$8,581.00
CITY OF MATFIELD GREEN	60	
CITY OF MAYETTA	312	\$642.20
CITY OF MAYFIELD	112	
CITY OF MCCRACKEN	208	
CITY OF MCCUNE	424	
CITY OF MCDONALD	155	
CITY OF MCFARLAND	266	
CITY OF MCLOUTH	865	\$428.59
CITY OF MCPHERSON	13762	\$6,706.49
CITY OF MEADE	1667	
CITY OF MEDICINE LODGE	2126	\$1,538.30
CITY OF MELVERN	433	\$1,197.45
CITY OF MENLO	57	
CITY OF MERIDEN	701	
CITY OF MERRIAM	10947	\$3,000.00
CITY OF MILAN	136	
CITY OF MILDRED	36	
CITY OF MILFORD	483	\$407.00
CITY OF MILTONVALE	504	
CITY OF MINNEAPOLIS	2061	\$1,733.30
CITY OF MINNEOLA	721	\$178.00
CITY OF MISSION	9959	\$1,896.00
CITY OF MISSION HILLS	3577	\$5,951.45

8-12

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF MISSION WOODS	164	
CITY OF MOLINE	447	
CITY OF MONTEZUMA	968	\$1,146.98
CITY OF MORAN	562	\$782.58
CITY OF MORGANVILLE	197	
CITY OF MORLAND	159	
CITY OF MORRILL	270	\$258,101.43
CITY OF MORROWVILLE	164	
CITY OF MOSCOW	243	
CITY OF MOUND CITY	826	
CITY OF MOUND VALLEY	413	\$575.00
CITY OF MOUNDRIDGE	1595	
CITY OF MOUNT HOPE	829	\$1,131.60
CITY OF MULBERRY	573	\$400.00
CITY OF MULLINVILLE	267	
CITY OF MULVANE	5245	\$11,157.46
CITY OF MUNDEN	119	
CITY OF MUSCOTAH	200	
CITY OF NARKA	91	\$83.62
CITY OF NASHVILLE	109	
CITY OF NATOMA	355	
CITY OF NEODESHA	2806	
CITY OF NEOSHO FALLS	180	
CITY OF NEOSHO RAPIDS	274	
CITY OF NESS CITY	1485	
CITY OF NETAWAKA	168	
CITY OF NEW ALBANY	73	\$31.90
CITY OF NEW CAMBRIA	151	
CITY OF NEW STRAWN	420	\$815.04
CITY OF NEWTON	17224	\$6,480.00
CITY OF NICKERSON	1187	
CITY OF NIOTAZE	119	
CITY OF NORCATUR	167	\$172.50
CITY OF NORTH NEWTON	1548	\$2,173.65
CITY OF NORTON	2943	
CITY OF NORTONVILLE	613	
CITY OF NORWICH	543	\$336.55
CITY OF OAK HILL	35	\$32.25
CITY OF OAKLEY	2106	
CITY OF OBERLIN	1965	
CITY OF OFFERLE	213	
CITY OF OGDEN	1714	\$1,805.76
CITY OF OKETO	86	
CITY OF OLATHE	96518	
CITY OF OLIVET	65	
CITY OF OLMITZ	136	
CITY OF OLPE	502	\$1,469.38
CITY OF OLSBURG	189	

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF ONAGA	697	\$1,057.57
CITY OF ONEIDA	68	
CITY OF OSAGE CITY	3043	
CITY OF OSAWATOMIE	4635	\$7,740.00
CITY OF OSBORNE	1565	\$821.49
CITY OF OSKALOOSA	1159	
CITY OF OSWEGO	2006	\$1,604.48
CITY OF OTIS	321	
CITY OF OTTAWA	11844	\$11,000.00
CITY OF OVERBROOK	974	
CITY OF OVERLAND PARK	154450	
CITY OF OXFORD	1162	\$935.18
CITY OF OZAWKIE	555	
CITY OF PALCO	244	\$314.48
CITY OF PALMER	105	
CITY OF PAOLA	5033	\$8,573.91
CITY OF PARADISE	62	
CITY OF PARK	148	
CITY OF PARK CITY	5944	
CITY OF PARKER	283	\$822.87
CITY OF PARKERVILLE	73	
CITY OF PARSONS	11384	\$8,357.98
CITY OF PARTRIDGE	259	
CITY OF PAWNEE ROCK	351	
CITY OF PAXICO	210	
CITY OF PEABODY	1379	\$2,358.10
CITY OF PENALOSA	26	
CITY OF PERRY	906	\$682.00
CITY OF PERU	179	
CITY OF PHILLIPSBURG	2602	
CITY OF PITTSBURG	19067	\$7,616.00
CITY OF PLAINS	1171	
CITY OF PLAINVILLE	2000	
CITY OF PLEASANTON	1392	
CITY OF PLEVNA	98	
CITY OF POMONA	931	\$1,210.03
CITY OF PORTIS	120	
CITY OF POTWIN	449	\$3,827.00
CITY OF POWHATTAN	90	
CITY OF PRAIRIE VIEW	138	\$342.00
CITY OF PRAIRIE VILLAGE	21962	
CITY OF PRATT	6495	
CITY OF PRESCOTT	280	
CITY OF PRESTON	163	
CITY OF PRETTY PRAIRIE	610	\$898.51
CITY OF PRINCETON	315	\$95.90
CITY OF PROTECTION	555	\$1,386.79
CITY OF QUENEMO	469	

8-14

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF QUINTER	937	\$164.05
CITY OF RADIUM	40	
CITY OF RAMONA	94	\$130.00
CITY OF RANDALL	84	
CITY OF RANDOLPH	168	\$72.68
CITY OF RANSOM	326	\$347.68
CITY OF RANTOUL	242	\$365.90
CITY OF RAYMOND	94	\$402.65
CITY OF READING	246	\$326.92
CITY OF REDFIELD	140	
CITY OF REPUBLIC	156	
CITY OF RESERVE	99	
CITY OF REXFORD	156	
CITY OF RICHFIELD	47	
CITY OF RICHMOND	510	\$1,932.84
CITY OF RILEY	848	
CITY OF ROBINSON	212	
CITY OF ROELAND PARK	6772	
CITY OF ROLLA	467	\$1,133.20
CITY OF ROSE HILL	3525	
CITY OF ROSELAND	99	
CITY OF ROSSVILLE	1009	
CITY OF ROZEL	176	
CITY OF RUSH CENTER	174	
CITY OF RUSSELL	4567	
CITY OF RUSSELL SPRINGS	31	
CITY OF SABETHA	2574	
CITY OF SALINA	45729	
CITY OF SATANTA	1222	\$394.25
CITY OF SAVONBURG	91	\$181.80
CITY OF SAWYER	122	\$85.80
CITY OF SCAMMON	490	\$655.10
CITY OF SCANDIA	419	
CITY OF SCHOENCHEN	214	
CITY OF SCOTT CITY	3765	\$1,500.00
CITY OF SCOTTSVILLE	21	
CITY OF SCRANTON	725	
CITY OF SEDAN	1312	\$681.80
CITY OF SEDGWICK	1549	\$4,371.82
CITY OF SELDEN	194	\$295.76
CITY OF SENECA	2082	\$975.00
CITY OF SEVERANCE	109	
CITY OF SEVERY	366	
CITY OF SEWARD	63	\$50.00
CITY OF SHARON	206	
CITY OF SHARON SPRINGS	811	\$1,707.09
CITY OF SHAWNEE	50971	
CITY OF SILVER LAKE	1354	

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF SIMPSON	110	
CITY OF SMITH CENTER	1887	
CITY OF SMOLAN	216	\$104.64
CITY OF SOLDIER	123	
CITY OF SOLOMON	1064	
CITY OF SOUTH HAVEN	388	\$289.01
CITY OF SOUTH HUTCHINSON	2525	\$3,257.73
CITY OF SPEARVILLE	817	\$422.00
CITY OF SPEED	43	
CITY OF SPIVEY	79	
CITY OF SPRING HILL	3063	
CITY OF ST FRANCIS	1471	\$1,025.66
CITY OF ST GEORGE	442	\$1,400.10
CITY OF ST JOHN	1301	
CITY OF ST MARYS	2221	
CITY OF ST PAUL	663	\$674.64
CITY OF STAFFORD	1145	\$353.87
CITY OF STARK	105	\$82.22
CITY OF STERLING	2607	
CITY OF STOCKTON	1535	
CITY OF STRONG CITY	585	\$1,069.21
CITY OF SUBLETTE	1583	
CITY OF SUMMERFIELD	208	
CITY OF SUN CITY	79	
CITY OF SUSANK	56	
CITY OF SYLVAN GROVE	319	\$516.50
CITY OF SYLVIA	295	\$703.00
CITY OF SYRACUSE	1822	
CITY OF TAMPA	152	\$464.00
CITY OF TESCOTT	343	
CITY OF THAYER	496	
CITY OF TIMKEN	82	
CITY OF TIPTON	240	\$101.51
CITY OF TONGANOXIE	3030	\$5,240.82
CITY OF TOPEKA	121885	
CITY OF TORONTO	307	\$1,303.00
CITY OF TOWANDA	1319	\$1,494.96
CITY OF TREECE	148	\$209.20
CITY OF TRIBUNE	814	
CITY OF TROY	1053	\$1,903.90
CITY OF TURON	432	\$127.25
CITY OF TYRO	224	
CITY OF UDALL	786	
CITY OF ULYSSES	5857	
CITY OF UNIONTOWN	286	
CITY OF UTICA	216	\$278.12
CITY OF VALLEY CENTER	4913	
CITY OF VALLEY FALLS	1240	\$322.00

8-16

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF VERMILLION	104	
CITY OF VICTORIA	1201	\$1,774.00
CITY OF VINING	57	
CITY OF VIOLA	212	
CITY OF VIRGIL	114	
CITY OF WAKEENEY	1850	\$269.79
CITY OF WAKEFIELD	841	\$283.32
CITY OF WALDO	47	\$238.99
CITY OF WALDRON	17	\$0.00
CITY OF WALLACE	66	
CITY OF WALNUT	218	
CITY OF WALTON	287	
CITY OF WAMEGO	4220	
CITY OF WASHINGTON	1197	
CITY OF WATERVILLE	664	\$446.25
CITY OF WATHENA	1358	
CITY OF WAVERLY	581	
CITY OF WEBBER	35	
CITY OF WEIR	773	
CITY OF WELLINGTON	8515	
CITY OF WELLSVILLE	1607	
CITY OF WEST MINERAL	241	
CITY OF WESTMORELAND	628	
CITY OF WESTPHALIA	166	\$154.70
CITY OF WESTWOOD	1521	\$3,848.00
CITY OF WESTWOOD HILLS	374	\$426.08
CITY OF WETMORE	355	\$148.00
CITY OF WHEATON	91	\$119.45
CITY OF WHITE CITY	514	\$675.95
CITY OF WHITE CLOUD	241	
CITY OF WHITEWATER	646	\$845.20
CITY OF WHITING	206	\$281.10
CITY OF WICHITA	344631	\$234,000.00
CITY OF WILLARD	87	\$217.53
CITY OF WILLIAMSBURG	351	\$370.44
CITY OF WILLIS	68	
CITY OF WILLOWBROOK	88	
CITY OF WILMORE	57	
CITY OF WILSEY	191	\$419.37
CITY OF WILSON	791	
CITY OF WINCHESTER	585	\$617.09
CITY OF WINDOM	137	
CITY OF WINFIELD	12158	\$13,606.00
CITY OF WINONA	220	
CITY OF WOODBINE	205	
CITY OF WOODSTON	114	\$415.22
CITY OF YATES CENTER	1586	
CITY OF ZENDA	121	

2002 City
Legal Publications

City	Population	2002 City Legal Publications
CITY OF ZURICH	125	\$273.80
UNIFIED GOVERNMENT	146218	
Total With 291 Cities Reporting		\$1,116,544.12

8-18

2002 County Legal Publications

County	Population	2002 County Legal Publications
Allen County	14193	\$13,982.20
Anderson County	8136	\$851.21
Atchison County	16687	\$17,969.00
Barber County	57	\$2,500.00
Barton County	27810	
Bourbon County	15371	
Brown County	10630	\$8,280.00
Butler County	60194	\$25,700.00
Chase County	3033	\$4,126.68
Chautauqua County	4270	\$5,837.15
Cherokee County	22333	\$4,720.68
Cheyenne County	3114	
Clark County	2371	
Clay County	8771	\$6,065.90
Cloud County	9985	\$5,274.51
Coffey County	8815	
Comanche County	1961	
Cowley County	35929	\$16,040.80
Crawford County	37927	
Decatur County	3432	\$12,838.00
Dickinson County	19155	
Doniphan County	8303	\$6,724.12
Douglas County	100005	\$40,977.00
Edwards County	3325	
Elk County	3189	\$1,952.86
Ellis County	27247	\$12,682.94
Ellsworth County	6488	\$7,307.45
Finney County	40082	\$30,000.00
Ford County	32314	\$11,708.00
Franklin County	24943	\$26,930.72
Geary County	26799	
Gove County	3008	
Graham County	2845	
Grant Count	7790	
Gray County	5946	
Greeley County	1503	\$213.00
Greenwood County	7771	
Hamilton County	2671	\$7,300.60
Harper County	6335	\$5,343.00
Harvey County	33031	\$15,259.25
Haskell County	4285	\$5,500.00
Hodgeman County	2154	
Jackson County	12742	
Jefferson County	18610	\$27,011.94
Jewell County	3591	
Johnson County	465058	
Kearny County	4562	

8-19

2002 County Legal Publications

County	Population	2002 County Legal Publications
Kingman County	8512	
Kiowa County	3132	
Labette County	22483	
Lane County	2091	
Leavenworth County	70261	\$32,158.95
Lincoln County	3547	
Linn County	9685	\$37,578.04
Logan County	2957	
Lyon County	35560	\$18,632.76
Marion County	13423	
Marshall County		\$6,069.11
McPherson County	29618	\$400.00
Meade County	4647	
Miami County	28780	
Mitchell County	6778	\$1,904.89
Montgomery County	35520	\$23,664.18
Morris County	6112	\$5,394.90
Morton County	3385	\$1,917.42
Nemaha County	10516	\$8,878.90
Neosho County	16759	
Ness County	3340	
Norton County	5841	\$6,698.00
Osage County	16903	\$12,853.99
Osborne County	4345	\$5,281.55
Ottawa County	6190	\$10,763.09
Pawnee County	6979	\$7,078.29
Phillips County	5873	\$6,012.75
Pottawatomie County	18336	
Pratt County	9544	\$5,000.00
Rawlins County	2918	
Reno County	64237	\$26,587.08
Republic County	5646	\$0.00
Rice County	10588	
Riley County	60368	\$21,872.63
Rooks County	5614	\$29,146.10
Rush County	3488	\$3,496.82
Russell County	7166	
Saline County	53646	\$37,000.00
Scott County	5002	
Sedgwick County	455516	
Seward County	22434	\$11,111.44
Shawnee County	170080	\$45,000.00
Sheridan County	2726	
Sherman County	6528	
Smith County	4436	\$7,223.83
Stafford County	4755	\$6,725.00
Stanton County	2408	\$4,517.22

8-20

2002 County Legal Publications

County	Population	2002 County Legal Publications
Stevens County	5379	\$614.00
Sumner County		\$8,516.00
Thomas County	8080	
Trego County	3195	\$430.00
Unified Government	157461	
Wabaunsee County	6843	
Wallace County		\$2,450.00
Washington County	6321	\$450.00
Wichita County	2538	\$2,510.50
Wilson County	10235	
Woodson County	3758	
Total With 61 Counties Reporting		\$721,034.45
City Total		\$1,116,544.12
County Total		\$721,034.45
Grand Total		\$1,837,578.57

8-21



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
concerning House Bill No. 2085
re. Publications of Notices on the Internet
House Local Government Committee

Presented by Randall Allen, Executive Director
Kansas Association of Counties
February 4, 2003

Chairman Vickrey and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to support HB 2085 and to urge you to report it favorably for passage.

HB 2085 is a creative proposal to both improve the governance and decision making process of local government while reducing costs and saving tax dollars. By allowing boards of county commissioners the authority to designate internet sites as their official publication sites, counties can benefit the public in many ways, including the following:

- 1) making information about county government accessible to the public on a 24/7 basis, enhancing the likelihood that citizens are better informed and aware of discussions that potentially affect their lives;
- 2) saving county taxpayers significant money at a time when governments at all levels are looking for ways to trim costs while not jeopardizing services. In a quick survey of county officials to project savings from the implementation of HB 2085, we learned that following counties spent the following monies on publications in newspapers in 2002:

Clay	\$ 6,066
Coffey	\$ 13,199
Finney	\$ 29,401
Grant	\$ 2,214
Leavenworth	\$ 19,182
Reno	\$ 11,370
Riley	\$ 8,536
Sumner	\$ 8,516

If the above counties are even roughly similar to the experience of other counties, we estimate that county governments across Kansas could save at least \$1.2 million annually by publishing their notices on an official county internet site in lieu of publishing in an official county newspaper.

One last comment about HB 2085. I am sure you will hear opponents who will argue the merits of the bill. They may indicate that not everyone has internet access, or they may argue that the counties cannot be trusted to post

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House Local Government
Date: 2-4-2003
Attachment # 9

publications on their own web sites and therefore publication should be centralized on an official state or public web site. The fact is: we do not care about how the Legislature determines which internet sites are eligible to be designated for publication (as long as they are effectively maintained). If the Legislature is more comfortable with an internet site such as Access Kansas to receive and publish all notices of local governments, that is fine. An online *Kansas Register* containing all state and local government publications is actually very appealing, even if there were some modest fee associated with publication. I only know that you must tire of people who come before the Legislature asking for money when there are ways of getting things done for less. And, in this case, readership of the publications would likely exceed that of publication in a newspaper. Thank you for the opportunity to comment on 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 Randall Allen or Judy Moler by calling (785) 272-2585.

**KANSAS
ASSOCIATION**



**OF
SCHOOL
BOARDS**

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on **HB 2085**
before the
House Local Government Committee

by

Jim Edwards, Governmental Relations Specialist
Kansas Association of School Boards

February 4, 2003

Mr. Chairman and members of the Committee:

I appreciate the opportunity to appear before you today to express KASB's support for the concepts included in HB 2085, a measure which would permit local units of government the option of using the internet as a means of publishing their legal notices.

The Kansas Legislature and local units of government are constantly looking for means by which they can reinvent what they do and how they go about doing it. HB 2085 is simply one of these means. It is one that could allow the legal notices much broader distribution than they already receive, at no additional cost to the reader or the local unit of government.

The bill, as written, does not include provisions for the legal notices of school districts being disseminated electronically. In conversations with the organizations requesting the bill, we found complete willingness to have school boards listed as one additional body of government that can use electronic means for legal notice distribution. A copy of the proposed amendment has been attached to my testimony.

As you begin your deliberations, we would ask that you view HB 2085 as an example of creativity in local governance and how these local units might better meet the changing needs of those being governed.

Thank you for the opportunity to appear on HB 2085 and I would stand for questions.

House Local Government
Date: 2-4-2003
Attachment # 10

PROPOSED AMENDMENT

(i) ~~(e)~~ Whenever the board of education of a school district is required to publish a legal notice, advertisement or other publication in a newspaper having general circulation in the school district, *the school district may publish the required item in a newspaper or on an Internet site* ~~such newspaper shall be one which:~~

(j) *If a newspaper is selected for the school district publication, it shall be one which has the following qualifications:*

- (1) Is published at least weekly 50 times each year and has been so published for at least one year prior to the publication of any school district publication;
- (2) is entered at the post office in the school district of publication as periodical class mail matter;
- (3) has general paid circulation on a daily, weekly, monthly or yearly basis in the school district and is not a trade, religious or fraternal publication; and
- (4) is published in the school district publishing the official publication. If there is no newspaper published in the school district, the newspaper shall be published in Kansas and shall have general paid circulation in the school district.

(k) *If an Internet site is selected for the school district publication, it shall be one which has the following qualifications:*

- (1) *The internet site must not be password protected;*
- (2) *It must be accessible to members of the general public;*
- (3) *There must not be a fee associated with accessing the site.*

(l) ~~(d)~~ Nothing contained in this section shall invalidate the publication in a newspaper which has resumed publication after having suspended publication all or part of the time that the United States has been engaged in war with any foreign nation and six months next following the cessation of hostilities if such newspaper resumes publication in good faith under the same ownership as it had when it suspended publication. Nothing in this section shall invalidate the publication in a newspaper which has simply changed its name or moved its place of publication from one part of the county to another part, or suspended publication on account of fire, flood, strikes, shortages of materials or other unavoidable accidents for not to exceed 10 weeks within the year last preceding the first publication of the legal notice, advertisement or publication. All legal publications heretofore made which otherwise would be valid, that have been made in a newspaper which, on account of flood, fire, strikes, shortages of materials or other unavoidable accident, has suspended publication for a period of not exceeding 10 weeks, are hereby legalized.



City of Lawrence KANSAS

CITY COMMISSION

MAYOR
SUE HACK

COMMISSIONERS
DAVID M. DUNFIELD
JAMES R. HENRY
MARTIN A. KENNEDY
MIKE RUNDLE

MIKE WILDGEN, CITY MANAGER

CITY OFFICES 6 EAST 6th
BOX 708 66044-0708 785-832-3000
TDD 785-832-3205 FAX 785-832-3405

www.lawrenceks.org

To: Chair, Senator Allen & Committee Members
Senate Committee on Elections & Local Government
Chair, Representative Vickery & Committee Members
House Committee on Local Government

From: David Corliss, Assistant City Manager & Director of Legal Services
City of Lawrence

Date: February 4, 2003

Re: Senate Bill 77 & House Bill 2085 - Legal Publications on Internet

The City of Lawrence appears in support of legislation removing the unfunded State mandate to post legal notices, ordinances and resolutions in newspapers and allowing the option to publish on the Internet. For many cities and counties, publishing on the Internet would be a superior substitute to posting in a newspaper. The public policy question should be: What is the best means - given limited tax dollars - to disseminate legal notices and ordinances to citizens? **AND** Who should decide this public policy question: the State Legislature or local governing bodies? The legislature should allow locally elected officials to represent their constituents and choose the appropriate type of publication for their communities.

Posting in a newspaper costs tax dollars

The City of Lawrence spent \$35,965 for newspaper publication of legal notices, ordinances and resolutions in 2002 and spent \$46,803 in 2001 for these postings. These are significant amounts of tax dollars, which could be better used for public services or reduced reliance on other revenue sources. Tight fiscal times require questioning all government expenses - newspaper postings are an annual expense that can be reduced or eliminated. Locally elected officials should have the option to determine where best to spend these significant tax dollars - hire another police officer or firefighter.

House Local Government

Date: 2-4-2003

Attachment # 11



for legal postings in a newspaper. Internet postings of legal notices can be easily posted on the City's website without additional staff.

Posting on the Internet is a superior form of notifying the public

Internet Use is high and growing

According to *A Nation Online: How Americans Are Expanding Their Use of the Internet* (www.ntia.doc.gov/ntiahome/dn/) from the U.S. Department of Commerce, February 2002, over fifty percent of American households have Internet Access. The rate of growth on Internet use in the United States is currently two million new Internet users per month. This study indicated that in 2001, 50.9 percent of Kansas households had access to the Internet. Of course, others have Internet access at their place of work or school. With a majority of Kansas households with Internet access, this access to the public is superior to newspaper circulation.

Free access to the Internet is available in the public libraries of Kansas

A possible argument against Internet publication is that not all Kansans have access to the Internet. Virtually all of the public libraries in Kansas provide free access to the Internet. According to Office of the State Library, at the end of 2001, 311 Kansas public libraries provided free Internet access, 14 did not.

Internet publication is more accessible to the people who need to know

With Internet publication of legal notices, someone in London can access a public notice from Troy, Kansas via the Internet. Someone owning property in Liberal - but living in Lenexa or Luxembourg can find a zoning notice or annexation ordinance impacting that property. This is not meaningless - instead it gets at the heart of the reason of publishing notices - notifying the people who need to know about the pending or completed actions of their government. Someone wanting to know what their local government is up to doesn't look in the back of the classified ads to see if today is the day a notice on their issue is published - they contact City Hall, frequently via the Internet. The legal due process value of newspaper postings is decreasing given the availability of Internet access.

Internet publication not limited to one day

One of the difficulties with newspaper posting is that it frequently is posted for only one day – citizens having no idea when the information is posted, which day's newspaper to look into. Internet posting is 24/7 – notice gets to the public more than one-day or one newspaper publication. Remember the reason for publication – notifying the public about the pending and completed actions of their government.

Internet publication is quicker, easier to read and use

Internet publication does not have to wait for space to be allocated in a newspaper among garage sale and used car ads. Internet publication can happen immediately. Time is frequently an important consideration in these publications: immediate effectiveness of an ordinance, a property owner waiting for a rezoning to take effect. Internet publication can be read with larger print and saved. Individuals with disabilities can use certain software to better “read” Internet published material. There will be no question of whether the newspaper staff mistyped a city notice or ordinance – the actual ordinance will be published, not a retyping or word-processed document.

Internet publication is increasingly used by the State of Kansas versus newspaper publication

The State does not publish its' laws in newspapers. In fact, the State has increasingly moved to publication via the Internet. See for example, K.S.A. 64-103: *All proclamations issued by the governor which are not published in the Kansas register shall be published on the official Kansas Internet website.* It is appropriate that State law give the same publication flexibility to local governments that it enjoys itself and remove this unfunded mandate.

Kansas should be a leader – not a follower

In earlier days, laws required cities to have horse troughs and hitching posts. Those horse and buggy days are gone and so are those laws. Kansas should be a leader in seeking to reduce the cost of government – Internet publication of legal notices - with most Kansans having household Internet access – shows we want to be a leader.



TESTIMONY

City of Wichita

Mike Taylor, Government Relations Director

455 N Main, Wichita, KS. 67202

Wichita Phone: 316.268.4351

Topeka Phone: 316.648.6236

mtaylor@wichita.gov

House Bill 2085 Legal Publications on the Internet

Delivered February 4, 2003
House Local Government Committee

The City of Wichita supports House Bill 2085. Allowing the City of Wichita to publish legal notices on its own city government website has a double benefit for citizens. It will save taxpayers a significant amount of money and it will improve public access to this information.

In 2002, the City of Wichita spent more than \$234,375 publishing legal notices. Publishing these notices on the City of Wichita website (www.wichita.gov), will cost basically nothing because we already have fulltime staff who maintain and update the website on a daily basis.

In most budget years, \$234,375 may not sound like a significant amount of money in comparison to other budget items. But this year is different. The City of Wichita will lose \$9.7-million in promised state funds over the next 18 months. The cuts made by former Governor Graves cost Wichita \$4.3-million and the cut proposed by Governor Sebelius will cost our residents an additional \$5.4-million. Given the severe reductions in city services being considered as a result of the state withholding these promised funds, \$234,375 is a very significant amount of money.

But saving taxpayers money is only one benefit of House Bill 2085. The other is giving the public better access to public information. A citizen interested in reading legal notices in the Wichita Eagle must arm themselves with a magnifying glass and play a game of hide-and-seek on each and every page of the daily paper. These notices are not printed in one easy to find section on any specific day. They are instead scattered randomly throughout all pages of the newspaper and in microscopic print. The notices also appear for a limited number of days.

If the City of Wichita could post these notices on its own city government website, they would be posted in one easy to find spot, in readable type and could be remain posted or months. The City would also advertise this fact on our City of Wichita cable television channel and promote it in the news media. Citizens would know exactly how and where to find legal notices and they could find them over a longer period of time.

There is bound to be concern about how many people would actually have access to the City of Wichita website on the Internet. Personally, I know more people who subscribe to Internet access than subscribe to the daily Wichita Eagle. And for people without Internet access, the City of Wichita offers free access at all public libraries and there are plans for an information kiosk at City Hall. In 2002, there were more than 1-million visitors to the City of Wichita website and more than 2.8-million individual pages viewed. The City of Wichita website is already a wealth of information about government and the community which is used on a regular basis by the media, residents and visitors. It is a logical, convenient and cost-effective repository for public information such as legal notices.

I urge the committee to support and approve House Bill 2085. You will be saving Wichita taxpayers more than \$234,000 a year and making it easier for the public to access these public documents.

House Local Government
Date: 2-4-2003
Attachment # 12

To: House Local Government Committee
From: David M. Cooper
Senior Assistant City Attorney
Re: HB 2085 – Using the Internet for Official Publications
Date: February 4, 2003

The City of Lenexa, like many other Kansas cities, is always looking for ways to streamline government operations while meeting all legal obligations and without sacrificing customer service. To that end, one of the organizational goals formally adopted by the City of Lenexa is to “Use technology to work smarter.” House Bill 2085 will significantly enhance the City’s ability to achieve that goal.

Last year, the City spent almost \$19,000 to publish legal notices in traditional print sources. However, those notices could easily have been posted on the City’s web site, or on another designated web site, at minimal cost. The financial advantage to the City is obvious, but the advantage to the citizen is, perhaps, not as obvious.

The City’s current designated legal publications require individual subscriptions. So, if a citizen does not subscribe to those sources, the City’s legal notices are not readily accessible. On the other hand, with access to the internet becoming the norm in households, a citizen could access the City’s legal notices twenty-four hours a day without having to subscribe to the current print sources. At the very worst, a citizen who does not have internet access in the home would have to make a trip to the public library, where internet access is provided free of charge. This is no greater burden than what is imposed on citizens who do not currently subscribe to the print sources and must also make a trip to the public library to read those publications. Furthermore, providing legal notices in electronic form would make it easier for a citizen to search for relevant names, terms or addresses in each notice. The net result for citizens, under House Bill 2085, would be easier access to government information at lower cost. This, we believe, is an excellent example of using technology to work smarter.

Consequently, the City of Lenexa respectfully requests that the Local Government Committee report this bill favorably to the House.

House Local Government
Date: 2-4-2003
Attachment # 13

MEMORANDUM

TO: Members of the House Committee on Local Government

FROM: Don Seifert, Policy Development Leader *DS*

SUBJECT: HB 2085; Use of Internet as Official Publication

DATE: February 4, 2003

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of HB 2085. This bill would allow cities to designate by resolution a qualified Internet web site as its official publication source. If designated, the web site would satisfy statutory publication requirements for notices, bid advertisements, ordinances, and resolutions of the city.

Results from a recent Olathe citizen survey indicate 75% of Olathe adults accessed the Internet from home in the week prior to the survey. In today's digital environment, we believe posting information to a web site offers the opportunity to reach more citizens for a longer period of time than the traditional legal notice in the back of the newspaper. Legal publication requirements are meant to inform residents about specific local government matters and generally promote an informed citizenry. With this in mind, this bill offers an option for legal publications that may be right for some cities in meeting their citizens' needs.

Opponents of this measure argue that HB 2085 is an attempt to "hide the public's business away from public view." This is certainly not our motivation. Using technology to make government more accessible and responsive to Olathe citizens is a primary goal of our governing body. The city uses its web site, local government cable television channel, and local print media to provide all manner of public information about the city. Citizens today demand more information in electronic format, and the city has responded with a web site that grows in content and value daily. Indeed, since last October, our entire weekly City Council agenda packet is posted on the Internet the Friday before each council meeting, including each resolution, ordinance, and contract to be considered. Thus, citizens have access to legal documents before they are adopted, rather than after the fact.

In addition to enhanced communication, the city also supports this bill because it offers the potential to save taxpayers dollars on publication costs. The city has spent more than \$80,000 in the last two years on legal publications. In our current fiscal environment, where we face a \$1.5 million loss in state aid in 2004, we need to honestly examine all opportunities to save costs. HB 2085 provides a local option to accomplish this while expanding the public's access to information. We urge the committee to support this bill.

House Local Government
Date: 2-4-2003
Attachment # 14



GOVERNMENT RELATIONS

Sedgwick County Courthouse
525 N. Main, Suite 365
Wichita, KS 67203
Phone: (316) 660-9378
Fax: (316) 383-7946

Michael D. Pepoon
Director

TESTIMONY HB 2085 Before The House Committee on Local Government February 4, 2003

Honorable Chairman Vickrey and members of the committee, I appreciate the opportunity to testify in support of HB 2085. I am the Director of Governmental Relations for Sedgwick County and have also been a lawyer in the County Counselor's Office for the past nineteen years. I am appearing on behalf of the Board of County Commissioners of Sedgwick County in support of this legislation.

HB 2085 would allow counties to select an internet website to be the official publication source for resolutions and other legal notices in lieu of using a newspaper for such publications. Sedgwick County supports legislation that would allow for the publication of such legal notices on the internet. Currently we publish numerous such publications and notices in the County's official newspaper, *The Derby Reporter*. Even though the Derby newspaper meets the statutory requirements needed to be the official county newspaper, it doesn't have a significant readership throughout the County, but rather has by far the majority of its subscribers in the City of Derby. The County selected the Derby newspaper in part because of cost considerations—it being cheaper to publish notices in the Derby newspaper than in *The Wichita Eagle*. No one has ever questioned the County's use of a newspaper with such a limited countywide circulation because, as everyone knows, no one reads these notices anyway.

This bill would allow Sedgwick County to save even more money while reaching a larger segment of the County with our publications. The County spent over \$54,000.00 last year on publications in *The Derby Reporter*. With our state funding being drastically reduced this year, every little bit helps. Furthermore, more people in Sedgwick County would have access to these notices. Sedgwick County's website, www.sedgwickcounty.org, increased in the number of visitor sessions in 2002 a whopping 44% over the same period the year before. On average, on weekdays 3352 visitor sessions occurred with an average of 77,682 hits. On weekends this figure comes to 4309 visitor sessions and 63,898 hits. The trend is certainly for citizens to find out about important County news on the internet, rather than find it in the newspaper. And certainly more people would have access to County notices posted on our website than in the Derby Reporter.

For the above reasons Sedgwick County strongly supports HB 2085.

House Local Government
Date: 2-4-2003
Attachment # 15

"...To Be The Best We Can Be."



Johnson County, Kansas

OFFICE OF THE COUNTY MANAGER

Testimony in support of HB 2085

presented to the

House Local Government Committee

by

Danielle Noe

Intergovernmental Relations Coordinator

February 4, 2003

Mr. Chairman and Members of the Committee:

I am writing on behalf of Johnson County in support of HB 2085 relating to official publications. HB 2085 would allow the County to designate either a newspaper or an internet site as the official publication site. Sufficient safeguards are included in the bill to ensure accessibility of these official notices by members of the public.

Johnson County spends more than \$ 52,000 on official publications each year. These costs include official publications for the Board of County Commissioners, County Clerk, County Treasurer, Planning Department, Office of Fiscal Management, Budget Department, Wastewater Department and Legal Department.

The flexibility this bill provides would allow the county to save time, money and staff resources, all of which facilitate more effective and efficient local government.

For these reasons, the Johnson County Board of County Commissioners urges you to support HB 2085.

House Local Government
Date: 2-4-2003
Attachment # 16

House Bill 2085

**Testimony of John Lewis, Past President
Kansas Sunshine Coalition for Open Government**

Mr. Chairman and members of the committee:

Expecting people to just “happen onto” a public notice on the Internet is simply unrealistic.

For example, if a hearing is scheduled about locating a proposed landfill across the street from your neighborhood, you won't know about that hearing unless you are disciplined enough to search the Internet every day and just happen to discover: 1) that such a landfill proposal is even being planned, and 2) the time and place of the hearing so that you can go to speak out about it.

Are you going to search the Internet every day to find out what the city council and county commission are planning for your life?

Sticking a notice on a Web site does not give public notice. A Web site is a place you go to chat about your favorite sports team, to check stock prices, or even to shop on e-bay. But it's not a place you go to be notified about something that you aren't even expecting to be notified about.

For example, if you had no idea that the new landfill was going to be built near your home, would you have learned about it if you depended on the Internet? No. And you would have missed the public hearing where you could have voiced your objections.

You see, the Internet would require you to search for a public notice about something (like a new landfill) that you don't even know you should be looking for. That's not giving public notice. In fact, that's the opposite of giving public notice. That's making citizens do all the work, in fact it is guesswork, to see if their local government has anything planned for them.

But a public notice in the local newspaper is easily seen by the people in a community. Local newspapers present public notices to citizens amid a broad array of important information about their communities – from news reports on city council meetings to coverage of the high school football game.

Public notices in America have been placed in newspapers for 214 years, and the reason is because local governments have a fundamental responsibility to inform citizens about certain actions that it is taking. Slapping it up on a Web site does not give public notice to citizens.

House Local Government
Date: 2-4-2003
Attachment # 17

But placing them in newspapers does. Ninety-two percent of Kansans read Kansas newspapers, and more than 75 percent read the public notices in their local newspaper. They're right there alongside the news and ads that they are reading anyway.

Two years ago, the Kansas Legislature passed sweeping open government reform legislation that has given the citizens of this state unprecedented access to their government. Today's bill, however, flies directly in the face of that public-spirited legislation. The bill we are discussing today holds open government in very low regard.

But apart from its antagonism towards open government, I want to point out an enormous error in this bill as it attempts to re-write K.S.A. 64-101. This bill changes 64-101 so that it would apply only to city governments, county governments and school boards. It has carelessly chopped out all of the publishing requirements for non-government public notices – those public notices that have nothing to *do* with city governments, county governments and school boards. I'm talking about important notices for foreclosures, estates and many others. In other words, this bill throws the baby out with the bathwater.

The existing language in K.S.A. 64-101 sets out the publication requirements for all public notices of any kind, whether they are government notices or non-government notices. These requirements mandate that the newspaper be published at least weekly, that it have paid subscribers, that it have a periodicals postal permit, and that it be at least one year old. The reason for these requirements is so that the notice appears in a legitimate newspaper and not some fly-by-night rag.

But this bill recklessly yanks out all of these requirements for non-government public notices, such as those placed by attorneys, banks, businesses and private citizens in foreclosure actions, probate cases, vehicle auctions and other proceedings. These notices are required by various other statutes to be published in legitimate newspapers, in accordance with the provisions of 64-101. If this bill were to pass, those referenced provisions would suddenly vanish. They'd be gone. Stripped out as if these other statutes didn't refer to them at all.

What would happen to these kinds of public notices? Where would they be published? Would they still have to be published? Who knows?

We would be left with massive statutory inconsistencies. Judges, lawyers, agency heads, vehicle towing companies, bank trust departments, warehouses, storage businesses and regular citizens who are trying to place their own notices, according to law, would be left scratching their heads, wondering, "I'm supposed to publish my notice in a newspaper that meets the requirements of K.S.A. 64-101, but those requirements have been removed! What am I supposed to do now? That revised statute now talks only about city governments, county governments and school boards."

Passage of this bill would therefore result in utter chaos.

- For example, K.S.A. 60-2410 states that in a private real estate foreclosure action, the notice of the sale must be placed in a newspaper “which meets the requirements of K.S.A. 64-101.” But this bill completely removes those requirements from 64-101. It only talks about county governments, city governments and school boards. Therefore, K.S.A. 60-2410 would be referring to language that doesn’t exist anymore. Chaos.
- K.S.A. 60-2409 states that in a sale of private personal property, notice of the sale “shall be given by publication ... in some newspaper meeting the qualifications prescribed by K.S.A. 64-101.” But this bill removes those qualifications from 64-101.
- The same is true of K.S.A. 59-2209, which states that a notice of a probate hearing must be published in a newspaper “authorized by law to publish legal notices.” That authority is granted by the existing requirements of K.S.A. 64-101. But this bill removes those requirements from 64-101.
- And K.S.A. 58-4003, which deals with notice to people who have loaned items to museums in the state, says: “[N]otice is deemed given if the museum publishes notice ... in a newspaper ... having the qualifications to publish legal notices pursuant to K.S.A. 64-101.” But this bill removes those qualifications from 64-101.

The same is true of all of the following statutes, which rely on the newspaper requirements that this bill strips out of K.S.A. 64-101:

- K.S.A. 59-709 states that, in a petition for administration or probate of a will, notice to creditors shall be published in a newspaper “authorized to publish legal notices.” That authority is granted by the requirements of K.S.A. 64-101.
- K.S.A. 60-307 states that service of process by publication in divorces, annulments, actions against foreign corporations or nonresidents, non-foreclosure real estate actions, where service of summons upon a defendant cannot be made, where a defendant has left the state with the intent to defraud creditors, or the officers of an undissolved corporation have left the state occur in a “newspaper authorized by law to publish legal notices” and that service be proved by the publisher’s sworn affidavit. That authority is granted by the provisions of K.S.A. 64-101.
- And even some *government* notices would be affected. Certain newspaper publishing requirements for water districts, irrigation districts, drainage districts, townships, and even the Kansas Corporation Commission would be referring to language in 64-101 that wouldn’t exist anymore, because this bill strips it out.

And even *these* are just a *few* of the statutes that this bill would leave in limbo. There are simply too many to list, and they all depend on the specific language in K.S.A. 64-101 that this bill carelessly deletes. In fact, we found more than 400 places in the Kansas Statutes where references were made to newspaper public notice requirements.

Vital non-government public notices would have no governing publication authority if this bill were to be passed.

You see, public notices aren't required for just city governments, county governments and school boards. Do you know that the Kansas City law firm that files the largest number of real estate foreclosure actions in this state insists on publishing a newspaper public notice in every single case it handles, even when it doesn't have to do so? It wants to make sure that all of the defendants and other parties, some of whom may be unknown, have been given the greatest opportunity to be notified that they might be losing their home if they don't rectify their situation.

Many other notices are also required by innumerable other statutes and agency regulations to comply with the provisions of K.S.A. 64-101. But this bill removes those provisions. It only talks about county governments, city governments and school boards. All of those statutes and regulations would therefore be referring to something that doesn't exist anymore.

And one more thing: By removing these provisions, some notices could conceivably be published in any publication that someone just decides to call a "newspaper," because this bill has removed the strict definition, that is embodied in the existing statute, of what a qualified newspaper is. For such notices as a warehouse's sale of goods and the sale of abandoned vehicles, there would be no requirement that the notice even be published in a legitimate newspaper. There would be no specific restriction against simply placing the notice in a so-called newspaper like the one here in Topeka that's dedicated to strip clubs and x-rated video stores. This bill strips out those restrictions.

In so many ways, this bill would create judicial chaos, public confusion, a morass of inconsistent laws and a legislative mess.

Feb. 4, 2003

To: Members, Senate Elections & Local Government Committee
Members, House Local Government Committee

From: Doug Anstaett, immediate past president, Kansas Press Association
Editor and Publisher, The Newton Kansan

The concept of public notice is as old as our republic. We have believed from the very beginning of this great experiment we call America that an informed citizenry is the best insurance we have against tyranny and corruption.

Yet today, we seem to run into example after example of government trying to do just the opposite. For example, the Newton City Commission voted a few years ago to change the quorum requirements so two commissioners could meet in private and discuss the public's business outside the council chambers. And we have boards and commissions trying year after year to get their legislators to eliminate requirements that they be proactive in informing the public and media about when they are meeting or what they are doing.

This bill to shift the publication of notices to the Internet would be a step backward, for a number of reasons.

First, it is folly to believe that the average person has the time or the energy to search through web sites trying to find such information. It is not our nature. We don't go searching for something we don't know exists. Putting public notices in the local newspaper puts the information at a citizen's fingertips. And, if he or she doesn't have the time to read the newspaper that day, the likelihood is that a neighbor or friend will point out the information at the coffee shop or across the backyard fence.

Second, the Internet is not easy to navigate, nor is it inexpensive. If you've tried to find a specific piece of information lately, you know there are literally thousands of subjects that come up on an Internet search. And while we believe Internet use is high for some population segments, it is not for the poor or the elderly, partly because of the technology, partly because of cost. The average Internet hookup is five to 10 times more expensive per month than a subscription to the local newspaper.

Third, newspapers provide "Affidavits of Publication" as proof that a notice has been published. Who is going to "prove" that publication took place when it is placed on the Internet? Do you want your city and county commissioners to take on that added responsibility and exposure? Courts routinely accept these newspaper affidavits as proof that the public was notified of the information. They will have great difficulty accepting notice through the Internet as adequate.

House Local Government
Date: 2-4-2003
Attachment # 18

Fourth, the public reads these notices in newspapers. In Newton a few years ago, a public notice about our Board of Education's renewal of the school district's capital outlay levy spurred a protest election. Had the information not appeared in the newspaper, it's doubtful anyone would have "noticed."

Finally, cities and counties aren't equipped to build such sites or to maintain them. Newspapers have had their own share of experience with the Internet. Building and maintaining a site is expensive and it's time-consuming to maintain. This is no cash cow. It is a cash drain.

Government exists to serve the people. Newspapers exist to keep people informed about what the government is doing. Yes, it's an adversarial relationship, but it's one that works. The public's right to know must not be held hostage to the whims of elected officials who mostly are — but sometimes are not — looking out for the public's best interests.

THE OLATHE NEWS

Established
1861

February 4, 2003

Chairman Vickrey and Members of the Local Government Committee:

Thank you for the opportunity today to participate in Democracy. As both a voting Kansan and Publisher of The Olathe News, I am grateful for your time.

Kansans rely on their hometown newspapers to find out everything from the spectacular to the mundane. Some read for information on the nation's preparations for war in Iraq or to find out what happened to the space shuttle. Others use the newspaper for information no other media provide. Friends, family and neighbors see pictures from the local parade or are featured in high school sports coverage, honor rolls and business news highlighting new stores coming to town, who has been promoted, etc. Kansans hang these newspaper clips with pride on their refrigerators. In Kansas, being featured in the newspaper is still special.

Believe it or not, some read the paper specifically for the advertising (keep this in mind next election cycle!). Classifieds are still one of the best-read sections of the newspaper. Readers find everything from garage sales to legal notices. I urge you to protect citizens' rights to open government by continuing to require municipalities and school districts to publish legal notices in a local newspaper of record.

Of all that government aspires to do, providing public notification of its activities should be at the top of the list. Citizens rely on their hometown newspapers to track their government's actions. Newspapers, and legal notices, are "paid guests," information people want and are willing to pay to receive. They are easily accessible, archived in libraries across the state and above all, relevant to their lives.

Consider these facts:

*92 percent of Kansans read newspapers, six of 10 reading a daily newspaper either every day or several times a week (Infomark Research)

*More than 75 percent of Kansans read legal notices in the newspaper (Consumer Data Research)

*Kansas newspaper readers are interested in the political process: 77 percent of Kansas newspaper readers voted in the last election and nearly 65 percent rely on newspapers as their local news source (Infomark Research)

In Kansas, the internet, while a valuable partner when used with newspapers in making local information more accessible, is not widely available to even the most urban communities. In Olathe, by most accounts the fastest or one of the fastest growing communities in the state, one of four Olathe homes (ETC Institute, 2001) does not use the internet. However, virtually every Olathe household gets The Olathe News, The Kansas City Star or either paper's total market coverage publications.

House Local Government
Date: 2-4-2003
Attachment # 19

Connectivity speed is an additional area of concern. Of Olathe homes with internet access, almost half have a 56K modem or less (ETC Institute, 2001). Statewide, about 60 percent of Kansas zip codes had no access to high-speed internet as recently as last summer (testimony given 1/21/03 to House Utilities Committee by Guy McDonald, Senior Telecommunications Analyst, Kansas Corporation Commission). Additionally, Mr. McDonald testified, only 13 percent of Kansans subscribe to a broadband (higher speed) service. Given the length, complexities and often graphics-intensive nature of legal notices, newspapers clearly offer the most accessible and easily understood way for Kansans to follow their government's actions.

Finally, some will say newspapers are only interested in protecting their revenue. What business isn't? Losing legal advertising probably would result in the necessity for The Olathe News to cut staff.

But of equal importance is our desire to protect the rights of the people. That many newspapers' legal advertising rates are lower than published classified rates is an indication of our interest in informing as much or more than turning a profit.

Newspapers provide government with a service and have been reliable partners. Like all services government provides, legal advertising comes with a cost to residents. Because newspapers are the best way to reach the most people it's money well spent.

I respectfully submit to you my belief that allowing government to conduct its business online is not in the people's best interest. In 1789, the first Congress ordered every bill, order, resolution and vote "publish(ed) in at least three of the public newspapers printed within the United States. Today, as then, government is to conduct business in full view of its constituents. This is best done through the continued partnership with local newspapers.

Most sincerely,



Dan Simon
Publisher
The Olathe News

February 4, 2003

Testimony to the House Committee on Local Government

Re: HB 2085 – removing public notices from newspapers, posting on Internet
From: Dane Hicks, Publisher
The Anderson County Review
Garnett, Ks.

Chairman, members of the committee,

Tough times don't constitute an assault on citizenship:

We all know these are the toughest of financial times for the State of Kansas. But through all the hub-bub over budget cuts due to state revenue shortfalls, the senate and house bills which would remove critical information about my government from daily and weekly circulation in newspapers and hide that information away as microns in the vast digital universe of the Internet is the only suggestion I've heard so far that makes an assault on basic citizenship in the name of saving a few pennies.

The three best arguments against this bill are:

- 1) People "read" newspapers while they "surf" the internet;
- 2) Removing notices from the Internet unduly neglects senior citizens who aren't Internet savvy, and prevents them from obtaining government information;
- 3) Publication costs are minutia when compared as a percentage to city and county budgets

The research has been compiled from nearly all quarters everywhere. The Internet provides a phenomenal opportunity to retrieve indexed information and to transfer data, but it fails as a reading medium because it simply isn't comfortable to read on a computer screen. Newspapers have been the standard accessible medium for centuries, because we allow you to read and digest information— traits that are critical to participatory government. And Public Notices get read. The most recent reader survey conducted at the Miami County Republic in Paola, Ks., showed that 76% of the papers' readers read public notices either sometimes or all the time.

Removing notices about new city ordinances, county zoning requirements, special use permits, budgets, etc., from newspapers would rip that information away from the sector of our rural populations who need it most: senior citizens. They make up the mainstay of newspaper readership, and they make up the mainstay of property taxpayers, and they make up the mainstay of the voting public. They do not, however, "do" the Internet in any large numbers. Remove public notices from newspapers, and you disinform senior citizens.

Yes, newspapers have the audacity to charge for the publication of public notices. It helps us pay for things like the free notice the city clerk wants us to run announcing the change

House Local Government
Date: 2-4-2003
Attachment # 20

in trash collection routes over the holidays, or the free picture of the 10-year employee service award given to the county road grader operator by the county commission. But as a factor in city, county, and school district budgets, those few thousand dollars per year in public notices barely even make a line item in the budget. The City of Garnett, for example, spent \$6,100 on legal publications in 2002, or .0006427 percent of its \$9.5 million annual budget. Cities would also incur additional expenses in training, software, hardware and web hosting if public notice pages were selected, and we all know that everything you try to do on a computer is 2/3 more trouble and 2/3 more expensive than you planned.

In summary, removing public notices from newspapers is a monumentally bad idea. It doesn't work to inform people, it unfairly neglects senior citizens who are least likely to use the Internet, and it won't save any money.

To House/Senate Committees:

Newspapers, with their audited, general circulation, have been the unchallenged method of protecting the public's right to know, through the publication of public notices, since the beginning of democracy in this country. Newspapers are still the unchallenged method of achieving true public notice.

The first 10 amendments to the United States Constitution contain declarations so precious to the general public that those amendments were demanded before the Constitution would be accepted by the early leaders of our country. Those amendments, known as the Bill of Rights, contain a provision that no government power can take anything from any citizen without "due process of law."

Newspapers are used to officially notify the public of how the government is operating because they are closely related to an individually addressed notice delivered to a person's home by the U.S. Postal Service. No other medium comes close to accomplishing this accountability.

Public notices printed in newspapers are permanent, cannot be altered and are related to government entities' geographic area. The same cannot be said of electronic media. Taxpayers in all communities – not just their newspaper publishers – believe there is something inherently wrong when government entities seek to control their own dissemination of information about how they operate. Public notices printed in newspapers are not only unchallenged proof of citizens' notice in courts of law, they are the most trusted form of protecting the rights of citizens.

Newspapers assist with the operation of good government. If government entities were required to print more public notices, such as in the earlier days of this state when cities, counties and schools were required to print monthly expenditures, for example, maybe we would not be here today trying to find ways to sidestep the public notice process under the guise of saving money.

Most public officials are good people, but even good people need to be held accountable when handling the public's money. Public notices printed in newspapers provide the accountability that courts recognize and they also discourage frivolous government spending.

Courts require precision to be effective and legal notices for the legal community must be precise. If a legislative body contemplates replacing newspaper publication of local government notices with any other method of giving constructive notice to the general population – in this case posting public notices at a government-controlled, remote web site – that method must meet the rigorous requirements of law that newspapers have already met.

Good government is the same no matter what the economic barometer reads. The printing of public notices in newspapers, with its unchallenged acceptance in courts of law, allows the work of government to move forward without expensive "due process" delays. I respectfully ask members of this committee to vote against this public notice bill for it would really give very little, if any, public notice at all.

2-4-03

From David Powls, publisher of the Holton Recorder and Sabetha Herald newspapers

House Local Government
Date: 2-4-2003
Attachment # 21

Atchison Daily
GLOBE

Founded by E. W. Howe in 1877

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Esteemed members of the House Local Government Committee

Good afternoon. My name is Patrick Lowry and I am publisher of the Atchison Daily Globe. I thank you for allowing me to speak to you regarding House Bill 2085. I would like to begin by offering some anecdotes from our country's illustrious and glorious past.

In 1787, Thomas Jefferson wrote: "The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate to prefer the latter."

In Article 1, Section 9, of the Constitution of the United States, it states "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

In 1789, the First Congress expanded this concept and legislated every bill, order, resolution and vote to be "publish(ed) in at least three of the public newspapers printed within the United States."

I am not here to offer a debate about the different roles that government and newspaper play in our society. What I am here for is to remind the members of this committee of the distinct and necessary roles we do play.

Because of long-standing statutes, governmental bodies are required to inform the citizenry about numerous actions that they take, have taken, or plan to take. Historically, newspapers have been utilized for such public notice because of their third-party and constitutionally guaranteed independence, as well as their widespread availability, cost-effectiveness and their role as the primary provider of news to the tax-paying and voting public.

While a strong argument can be made that newspapers have indeed declined in circulation during the past 30 years, all other factors that I just mentioned have remained the same. What medium has emerged to capture this industry's reduced numbers? If one stands above the rest, it would be television. It most certainly is not the Internet. I will leave it to others testifying here today to argue the inherent problems the Internet possesses and why it should not be utilized to disseminate vital public information. For my purposes, I'll simply state that it is not advisable and will fall woefully short of informing the public.

I believe that House Bill 2085 actually will allow government to conduct its business behind closed doors, which flies in the face of our country's Founding Fathers.

Clearly the intent of our nation's founders was to disseminate timely and vital information in an attempt to inform the electorate. After all, we are a government of the people – not of the elected representatives. It was determined long ago that it was not enough to post notices in a county courthouse or city square. As accessible as these places might or might not be, they have been determined inadequate as a venue to inform taxpayers how their hard-earned money is spent.

I will disclose right here that the Atchison Daily Globe derives revenue from the publishing of items legally required for this county, and all of its cities, school districts and other governmental and quasi-governmental bodies. It is one of our duties as the designated newspaper of record.

We must emphasize that public notices are no less an option than other contracted municipal services. Furthermore, it is such an important service that it assists in the smooth and efficient operation of all government. An informed electorate shares in the power and is a critical component of our checks-and-balances system.

Proponents of this dangerous legislation insist it is a cost-saving measure necessary in these trying times. We would offer that it would be equally dangerous for cities across Kansas to save money by eliminating police and fire departments. No sane argument for our continued physical safety could be found to justify such an approach. Nor should there be any sane argument to be found for jeopardizing the safety of our very democracy.

I ask the esteemed members of this panel to reject House Bill 2085 and not allow it onto the floor.

Thank you for your time, your attention and your assistance.

House Local Government

Date: 2-4-2003

Attachment # 22

Taylor Family Newspapers

202 W. 4th Street, P.O. Box 186
Caney, KS 67333-0186
Phone: 620-879-2156
Fax: 620-879-2855

Feb. 3, 2003

Legislators:

I am Andy Taylor, editor of the Montgomery County Chronicle, a weekly newspaper based in Caney and Cherryvale, Kansas. The Montgomery County Chronicle is one of seven weekly newspapers of the Taylor Newspaper Family. All seven newspapers are based in southeast Kansas.

In regard to SB0077 regarding posting of legal notices on city-owned Web sites, here's some issues I have faced with city Web sites:

- Two weeks ago, the City of Caney, Kansas, had its Web site sabotaged. The incident remains under investigation. Any amateur computer hobbyist with access to Web site security passwords can play havoc with information. The dissemination of legal notices, especially the delinquent tax lists, is based on the theory that the information is correct. By posting it on a Web site owned by a municipality, there is too much chance for the Webmaster to either remove names because of pressure from friends or elected officials . . . or, as in the case of the City of Caney, there typically is too many chances for the Web site itself to be sabotaged.
- In all of the cities covered by the Taylor Newspaper Family (10 in all), all are second or third class towns. Only three have official city Web sites (Sedan, Caney and Oswego). None are used for any kind of dissemination of city matters. It's a great source for finding out the elevation of the communities and to see who the mayor was four years ago. The Web sites are rarely maintained.
- High-speed Internet has spoiled most Internet users. Until all of Kansas has access to broadband, high-speed Internet, it would be counterproductive to post the memory-intensive information like a delinquent tax list on a city-owned Web site.
- Many of our readers are older, elderly residents who are not Internet savvy. Nor do they own a computer. They still rely on local newspapers as the primary source for information.

If the concern of the Legislature is to save money for cities and counties, I would remind them that there is a cost for conducting the government's business. Legal notices are required for dissemination by state law. In the case of delinquent tax lists, the delinquent taxpayer is responsible for paying the publication fees. A publication fee is assessed to the delinquent taxpayer when he or she pays his or her taxes. Those taxpayers who pay their taxes in a timely manner do not pay for the publication of that list.

Thank you for allowing me the chance to express my concerns.

Andy Taylor, editor

House Local Government
Date: 2-4-2003
Attachment # 23

MICHAEL W. MERRIAM

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February 3, 2003

Mr. Jeff Burkhead
Executive Director
Kansas Press Association
5423 SW 7th
Topeka, KS 66606

Mr. John Lewis
The Legal Record
213 E. Santa Fe
Olathe, KS 66061

Re: Senate Bill 77 and House Bill 2085

Gentlemen:

In my opinion, SB 77 and HB 2085 would corrupt the definitional purpose of the existing language in K.S.A. 64-101 which serves as a reference for numerous other Kansas statutes that require notices not placed by city or county governments or school boards to be published in a qualified newspaper. These bills would result in references in those other statutes to statutory language in K.S.A. 64-101 that no longer exists because the qualifying definitions would only apply to cities, counties and school boards.

Very truly yours,



Michael W. Merriam

House Local Government
Date: 2-4-2003
Attachment # 24