

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on March 11, 2003 in Room 245-N of the Capitol.

All members were present.

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

Conferees appearing before the committee: Judy Moler, Association of Counties
David Yearout, Baughman & Co.
John Todd, citizen of Wichita
Kelly Wendeln, citizen of Chanute
Tom Wiggins, citizen of Valley City
Gary Simpson, citizen of Sumner County
Robert Goode, citizen of Sumner County
Cole Smith, citizen of Wellington
Gary Hansen, Kansas Rural Water Association
Gayle Bayless, Manager; Water District #7
Meryl Dye, Special Assistant to City Manager, Hutchinson
Karl McNorton, Chief Deputy State Fire Marshal
Neil Dobler, Director Department of Public Works, Topeka
Don Rankin, Superintendent Water Division For Department
Public Works, Topeka

Others attending: See attached list.

Hearing on:

HB 2112 - Enforcement of county codes and resolutions

Chairperson Allen started the meeting by announcing the opening of the hearing on **HB 2112**.

Judy Moler from the Association of Counties testified on behalf of **HB 2112** (Attachment 1), stressing that this bill does not give counties any more power that they already have. David Yearout of Baughman & Company appeared before the committee representing Kansas Association of Planning and Zoning Officials, also reiterating this provides for no increase in county power as part of his support for **HB 2112** (Attachment 2). The committee members asked a few questions of the proponents and then Chairperson Allen asked for any additional proponents wishing to testify; no one came forward. In opposition to the bill, the following citizens testified against the passage of **HB 2112**: John Todd testified and discussed possible changes (Attachment 3), Kelly Wendeln (Attachment 4), Tom Wiggins (Attachment 5), Gary Simpson (Attachment 6), Robert Goode (Attachment 7), and Cole Smith (Attachment 8). The common theme in their testimony was concern for the amount of power the counties would then have to infringe on property rights of the rural populations. Chairperson Allen requested that Mr. Todd provide the committee with balloons for the amendments he mentioned in his testimony. Chairperson Allen called for anyone else wishing to testify as an opponent of **HB 2112**; no one came forward. Chairperson Allen asked for any questions of the committee. Senator O'Connor raised a question regarding the mill levy and the ability of the counties to raise taxes and fines and now make money off of this bill should it pass. After numerous conferees attempted to speak, the question was directed to staff member, Mike Heim. Mr. Heim attempted to explain that power to tax and fine already belongs to the local areas, this could possibly be seen as making it easier to enforce and collect on these fines. Once all questions were answered the hearing was closed.

CONTINUATION SHEET

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE at on March 11, 2003 in Room 245-N of the Capitol.

Hearing on HB 2003 - Rural water supply districts; acquisition of system by adjoining municipality

Chairperson Allen announced the opening of the hearing and the distribution of written testimony provided by Representative Sloan, who was unable to be present, the testimony is given to support the passage of **HB 2003 (Attachment 9)**. Gary Hansen, General Counsel for Kansas Rural Water Association was the first to appear as a proponent to **HB 2003 (Attachment 10)**. Gayle Bayless, Manager for Water District #7 in Shawnee County also testified her support of **HB 2003 (Attachment 11)**, pointing out the discrepancy in water costs which currently exist and the benefit this bill will bring to those most in need of this cost reduction.

Due to Chairperson Allen's concern for time, and the conferee on the next bill had driven in from Hutchinson, Kansas, she announced that the hearing on **HB 2003** was being held open and at this time the committee opened the next hearing.

Hearing on HB 2201 - Fires and explosions; persons who may investigate

Meryl Dye, Special Assistant to the City Manager for the City of Hutchinson, testified in favor of **HB 2201 (Attachment 12)**. In addition, Karl McNorton, Chief Deputy State Fire Marshall, provided testimony to support the passage of **HB 2201 (Attachment 13)** including a slight amendment which was also given to committee members. Chairperson Allen called for anyone else wishing to testify for or against the bill or for any questions. No response. Chairperson Allen closed the hearing on **HB 2201**.

Chairperson Allen announced the return to the hearing on **HB 2003 - Rural water supply districts; acquisition of system by adjoining municipality**.

Neil Dobler, Director Department of Public Works for the City of Topeka was recognized. He testified in support of **HB 2003 (Attachment 14)**. Don Rankin, Superintendent for Water Division of the Department of Public Works, Topeka, also promoted the passage of **HB 2003 (Attachment 15)**.

Chairperson Allen announced that the hearing on **HB 2003** would remain open, there would be no meeting on March 12, 2003, but when the committee meets on Thursday, March 13, 2003 the first few minutes will be devoted to addressing any questions of the committee on **HB 2003** so the hearing can be concluded then.

Adjournment

Meeting Adjourned at 2:30 p.m.

SENATE
ELECTIONS AND LOCAL GOVERNMENT
GUEST LIST

Date June 11

Gary Hanson	Kansas Rural Water Assoc.
Gary Bayless	Rural Water District #7
Shirley R Dale	Os Co Land Use Lynden, KS.
Karl McVinton	Ks State Fire Marshal's Office
DON RANKIN	CITY OF TOPEKA, WATER/PW
Neil Dobler	Public Works, Topeka
Whitney Damron	
Gary Simpson	
Robert Eugene, Goble	
John R. Todd	
Meryl Dye	City of Hutchinson
Twila D. Gread	DOB
Ken Hoppick	KS Dairy Assn



TESTIMONY

Before the Senate Elections and Local Government

March 11, 2003

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

Thank you Chairman Allen and Members of the Committee Committee for allowing the Kansas Association of Counties to provide testimony on HB 2112.

The Kansas Association of Counties supports HB 2112. Currently, the statute allows those counties with a population of over 150,000 to do so.

Currently, these less populous counties have the ability to seek enforcement of these codes through the district court. In many counties, these districts courts are already burdened with cases that are more severe in nature. Thus, these code cases fall to the bottom of the barrel in terms of docketing the cases. We are asking for those counties who wish to do so, to be given a level playing field with the four most populous counties. **This is not extending to counties any new powers for code enforcement officers only a method to expedite hearings for those found in violation of the county codes.**

The Kansas Association of Counties strongly supports the passage of HB 2112.

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 Randy Allen or Judy Moler by calling (785) 272-2585.

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Senate Elec & Loc Gov
03-11-03
Attachment 1

SENATE ELECTIONS AND LOCAL
GOVERNMENT COMMITTEE

HB 2112

Tuesday, March 11, 2003

TESTIMONY

of

David L. Yearout, AICP

on behalf of the

Kansas Association of County Planning
and Zoning Officials

Senate Elec + Loc Gov
03-11-03
Attachment 2

Honorable Barbara Allen, Chair, and Members of the Senate Elections and Local Governmental Committee, thank you for the opportunity to appear before you today in support of HB 2112. My name is David Yearout. I am a Planning and Zoning Consultant with over 30 years experience working with cities and counties in Kansas. I am also a member of the Kansas Association of County Planning and Zoning Officials (KACPZO), which is affiliated with the Kansas Association of Counties. I am a member of the Legislative Committee of KACPZO and appear before you today as the spokesman for that committee.

HB 2112 is a simple bill that, if enacted, would remove a population restriction on the establishment of County Codes Courts. Presently, the law restricts the use of this court system to counties with a total population of 150,000 or more. As such, only 4 counties in Kansas are eligible to use this process; namely Johnson, Sedgwick, Wyandotte and Shawnee counties as you can see from the attached listing of county populations (blue sheets). Of these, only Johnson and Sedgwick counties have implemented and are using the Codes Court system to date. So you can see, this is not a mandatory provision of law and the amendment within HB 2112 does not change that. All this bill does is make this Court system available to all counties without regard to population.

However, it is my belief that the need for this Court system has nothing to do with the population of a county. It has everything to do with enabling counties to deal

with local issues through a proven Court system without having to depend solely upon finding docket space in the District Courts. There are a couple of points I wish to make supporting my belief this law should be available to any county wishing to use it.

First, the jurisdiction of any county code or resolution that would be considered in a County Codes Court is the unincorporated area of that county only. No county adopted code or resolution has any jurisdiction inside an incorporated city. Therefore, it is important to understand which people are affected by county codes and resolutions and that any administration and enforcement action which might ultimately be necessary is done so in the interest, primarily, of those people in the unincorporated areas. Please note the listing of county populations attached (yellow sheets) that are sorted by the rural population. This lists the counties, in order, based on that rural population only. As you can see, there is a significantly different perspective of where the affected people are when you look at the population figures in this manner.

Additionally, if you take into consideration the rural population as a percentage of the total county population and list the counties based on this percentage, as shown on the green sheets, the order of the counties is even more enlightening. In this listing please note that the last three counties listed are three of the four counties presently allowed to utilize a County Codes Court; namely Wyandotte, Johnson and Sedgwick. My point is only to show that a total county population does not tell the true story of a county's obligation and responsibilities when you are dealing with county adopted

codes and resolutions. You must exclude the city populations in order to get a true picture.

My second point is that the population within a county is no indication of the potential need for this Court system. I know that some very rural counties within Kansas have adopted and are administering and enforcing Zoning Regulations on a countywide basis. Many of these I have had the privilege to work with over the past few years. I can tell you for a fact that Hodgeman County (which is ranked 101st in total county population) has adopted Zoning Regulations and that Wallace County (which is ranked 104th in total county population) has proposed Zoning Regulations before the County Commissioners, even though those Regulations have yet to be adopted. By my count, well over half of the counties across Kansas have Zoning Regulations in some form on the books. Further, almost all counties have adopted sanitation codes, the enforcement of which would benefit by this court system. And many have other local resolutions and codes dealing with nuisances and other matters of local concern. I believe an objective evaluation of the local needs would show that this Court system should be available to ANY COUNTY that decides it is needed locally.

The key point to all of this is the Codes Court system DOES NOT enable any county to expand or otherwise enhance its abilities to provide for the administration and enforcement of local codes and regulations. It DOES, however, allow those actions to be considered by the judicial system in a timely, efficient and cost effective manner.

Some who have opposed this legislation have made claims that it will empower counties to be more aggressive on citizens who are in violation of the local laws or pursue a "vendetta" against such people. This is not true. There are no violations within the local codes or regulations that can not be pursued within the District Court system when the County Attorney agrees to file charges and the District Courts find time to docket the case. But this course of action has often been difficult to follow because of heavy case loads within many County Attorney offices and District Courts, and quite honestly, there is not often a lot of "glamour" in trying a zoning or sanitation violation. This is not meant to diminish the importance to the surrounding landowners and citizens, but such difficulty in getting these cases heard in court has a detrimental impact on the effectiveness of the County to uphold its laws on behalf of all its citizens.

The Kansas Association of County Planning and Zoning Officials believes this Court system has proven itself as an efficient and effective method of providing reasonable enforcement of county codes and resolutions in our larger counties. And these efficiencies are provided without adding to the burden of the District Courts.

Please approve HB 2112 without any changes so that efficiency can be used by any county that chooses to do so. Thank you for your time today and we ask for your support of this bill.

Copop2002Only

Total Population - 2001	County	Rural Population - 2001	Percentage Rural - 2001
465058	Johnson	15189	3.26
455516	Sedgwick	47956	10.53
170080	Shawnee	44634	26.24
157461	Wyandotte	52	0.03
100005	Douglas	11510	11.51
70261	Leavenworth	19078	27.15
64237	Reno	15228	23.71
60368	Riley	14318	23.72
60194	Butler	22852	37.96
53646	Saline	6436	12
40082	Finney	10105	25.21
37927	Crawford	9149	24.11
35929	Cowley	9982	27.78
35560	Lyon	6200	17.44
35520	Montgomery	9681	27.26
33031	Harvey	6298	19.07
32314	Ford	5420	16.77
29618	McPherson	7570	25.56
28780	Miami	15787	54.85
27810	Barton	6147	22.1
27247	Ellis	4163	15.28
26799	Geary	7096	26.48
25749	Sumner	9350	36.31
24943	Franklin	8888	35.63
22483	Labette	5740	25.53
22434	Seward	2385	10.63

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Total Population - 2001	County	Rural Population - 2001	Percentage Rural - 2001
22333	Cherokee	9466	42.38
19155	Dickinson	6340	33.1
18610	Jefferson	11986	64.41
18336	Pottawatomie	8974	48.94
16903	Osage	7658	45.31
16759	Neosho	4858	28.99
16687	Atchison	5380	32.24
15371	Bourbon	6056	39.4
14193	Allen	3998	28.17
13423	Marion	4701	35.02
12742	Jackson	7435	58.35
10772	Marshall	3884	36.06
10630	Brown	3895	36.64
10588	Rice	2473	23.36
10516	Nemaha	4395	41.79
10235	Wilson	3864	37.75
9985	Cloud	2223	22.26
9685	Linn	4922	50.82
9544	Pratt	2322	24.33
8815	Coffey	3139	35.61
8771	Clay	2669	30.43
8512	Kingman	3829	44.98
8303	Doniphan	3108	37.43
8190	Anderson	3644	44.49
8080	Thomas	2069	25.61
7790	Grant	1933	24.81
7771	Greenwood	2927	37.67
7166	Russell	1220	17.02

Total Population - 2001 County**Rural Population - 2001 Percentage Rural - 2001**

6979 Pawnee	2303	33
6843 Wabaunsee	3834	56.03
6778 Mitchell	1469	21.67
6528 Sherman	1513	23.18
6488 Ellsworth	1615	24.89
6335 Harper	1678	26.49
6321 Washington	2680	42.4
6190 Ottawa	2522	40.74
6112 Morris	2570	42.05
5946 Gray	2157	36.28
5873 Phillips	1711	29.13
5841 Norton	2027	34.7
5646 Republic	2072	36.7
5614 Rooks	1442	25.69
5379 Stevens	1493	27.76
5163 Barber	1290	24.98
5002 Scott	1237	24.73
4755 Stafford	1561	32.83
4647 Meade	1238	26.64
4562 Kearny	1334	29.24
4436 Smith	1518	34.22
4345 Osborne	1174	27.02
4285 Haskell	1480	34.54
4270 Chautauqua	1760	41.22
3758 Woodson	1685	44.84
3591 Jewell	1580	44
3547 Lincoln	1573	44.35
3488 Rush	945	27.09

Total Population - 2001 County**Rural Population - 2001 Percentage Rural - 2001**

3432 Decatur	1105	32.2
3385 Morton	715	21.12
3340 Ness	969	29.01
3325 Edwards	949	28.54
3195 Trego	1216	38.06
3189 Elk	1231	38.6
3132 Kiowa	780	24.9
3114 Cheyenne	1171	37.6
3033 Chase	1323	43.62
3008 Gove	1176	39.1
2957 Logan	654	22.12
2918 Rawlins	1359	46.57
2845 Graham	969	34.06
2726 Sheridan	1325	48.61
2671 Hamilton	763	28.57
2538 Wichita	937	36.92
2408 Stanton	705	29.28
2371 Clark	581	24.5
2154 Hodgeman	953	44.24
2091 Lane	868	41.51
1961 Comanche	560	28.56
1706 Wallace	829	48.59
1503 Greeley	547	36.39

Copop2002RuralOnly

<u>Rural Population - 2001</u>	<u>County</u>	<u>Total Population - 2001</u>	<u>Percentage Rural - 2001</u>
47956	Sedgwick	455516	10.53
44634	Shawnee	170080	26.24
22852	Butler	60194	37.96
19078	Leavenworth	70261	27.15
15787	Miami	28780	54.85
15228	Reno	64237	23.71
15189	Johnson	465058	3.26
14318	Riley	60368	23.72
11986	Jefferson	18610	64.41
11510	Douglas	100005	11.51
10105	Finney	40082	25.21
9982	Cowley	35929	27.78
9681	Montgomery	35520	27.26
9466	Cherokee	22333	42.38
9350	Sumner	25749	36.31
9149	Crawford	37927	24.11
8974	Pottawatomie	18336	48.94
8888	Franklin	24943	35.63
7658	Osage	16903	45.31
7570	McPherson	29618	25.56
7435	Jackson	12742	58.35
7096	Geary	26799	26.48
6436	Saline	53646	12
6340	Dickinson	19155	33.1
6298	Harvey	33031	19.07
6200	Lyon	35560	17.44

Rural Population - 2001	County	Total Population - 2001	Percentage Rural - 2001
2223	Cloud	9985	22.26
2157	Gray	5946	36.28
2072	Republic	5646	36.7
2069	Thomas	8080	25.61
2027	Norton	5841	34.7
1933	Grant	7790	24.81
1760	Chautauqua	4270	41.22
1711	Phillips	5873	29.13
1685	Woodson	3758	44.84
1678	Harper	6335	26.49
1615	Ellsworth	6488	24.89
1580	Jewell	3591	44
1573	Lincoln	3547	44.35
1561	Stafford	4755	32.83
1518	Smith	4436	34.22
1513	Sherman	6528	23.18
1493	Stevens	5379	27.76
1480	Haskell	4285	34.54
1469	Mitchell	6778	21.67
1442	Rooks	5614	25.69
1359	Rawlins	2918	46.57
1334	Kearny	4562	29.24
1325	Sheridan	2726	48.61
1323	Chase	3033	43.62
1290	Barber	5163	24.98
1238	Meade	4647	26.64
1237	Scott	5002	24.73
1231	Elk	3189	38.6

Rural Population - 2001	County	Total Population - 2001	Percentage Rural - 2001
1220	Russell	7166	17.02
1216	Trego	3195	38.06
1176	Gove	3008	39.1
1174	Osborne	4345	27.02
1171	Cheyenne	3114	37.6
1105	Decatur	3432	32.2
969	Ness	3340	29.01
969	Graham	2845	34.06
953	Hodgeman	2154	44.24
949	Edwards	3325	28.54
945	Rush	3488	27.09
937	Wichita	2538	36.92
868	Lane	2091	41.51
829	Wallace	1706	48.59
780	Kiowa	3132	24.9
763	Hamilton	2671	28.57
715	Morton	3385	21.12
705	Stanton	2408	29.28
654	Logan	2957	22.12
581	Clark	2371	24.5
560	Comanche	1961	28.56
547	Greeley	1503	36.39
52	Wyandotte	157461	0.03

Copop2002RuralPercentOnly

Percentage Rural - 2001	County	Total Population - 2001	Rural Population - 2001
64.41	Jefferson	18610	11986
58.35	Jackson	12742	7435
56.03	Wabaunsee	6843	3834
54.85	Miami	28780	15787
50.82	Linn	9685	4922
48.94	Pottawatomie	18336	8974
48.61	Sheridan	2726	1325
48.59	Wallace	1706	829
46.57	Rawlins	2918	1359
45.31	Osage	16903	7658
44.98	Kingman	8512	3829
44.84	Woodson	3758	1685
44.49	Anderson	8190	3644
44.35	Lincoln	3547	1573
44.24	Hodgeman	2154	953
44	Jewell	3591	1580
43.62	Chase	3033	1323
42.4	Washington	6321	2680
42.38	Cherokee	22333	9466
42.05	Morris	6112	2570
41.79	Nemaha	10516	4395
41.51	Lane	2091	868
41.22	Chautauqua	4270	1760
40.74	Ottawa	6190	2522
39.4	Bourbon	15371	6056
39.1	Gove	3008	1176

Percentage Rural - 2001 County**Total Population - 2001 Rural Population - 2001**

38.6 Elk	3189	1231
38.06 Trego	3195	1216
37.96 Butler	60194	22852
37.75 Wilson	10235	3864
37.67 Greenwood	7771	2927
37.6 Cheyenne	3114	1171
37.43 Doniphan	8303	3108
36.92 Wichita	2538	937
36.7 Republic	5646	2072
36.64 Brown	10630	3895
36.39 Greeley	1503	547
36.31 Sumner	25749	9350
36.28 Gray	5946	2157
36.06 Marshall	10772	3884
35.63 Franklin	24943	8888
35.61 Coffey	8815	3139
35.02 Marion	13423	4701
34.7 Norton	5841	2027
34.54 Haskell	4285	1480
34.22 Smith	4436	1518
34.06 Graham	2845	969
33.1 Dickinson	19155	6340
33 Pawnee	6979	2303
32.83 Stafford	4755	1561
32.24 Atchison	16687	5380
32.2 Decatur	3432	1105
30.43 Clay	8771	2669
29.28 Stanton	2408	705

Percentage Rural - 2001 County**Total Population - 2001 Rural Population - 2001**

29.24 Kearny	4562	1334
29.13 Phillips	5873	1711
29.01 Ness	3340	969
28.99 Neosho	16759	4858
28.57 Hamilton	2671	763
28.56 Comanche	1961	560
28.54 Edwards	3325	949
28.17 Allen	14193	3998
27.78 Cowley	35929	9982
27.76 Stevens	5379	1493
27.26 Montgomery	35520	9681
27.15 Leavenworth	70261	19078
27.09 Rush	3488	945
27.02 Osborne	4345	1174
26.64 Meade	4647	1238
26.49 Harper	6335	1678
26.48 Geary	26799	7096
26.24 Shawnee	170080	44634
25.69 Rooks	5614	1442
25.61 Thomas	8080	2069
25.56 McPherson	29618	7570
25.53 Labette	22483	5740
25.21 Finney	40082	10105
24.98 Barber	5163	1290
24.9 Kiowa	3132	780
24.89 Ellsworth	6488	1615
24.81 Grant	7790	1933
24.73 Scott	5002	1237

Percentage Rural - 2001 County**Total Population - 2001 Rural Population - 2001**

24.5 Clark	2371	581
24.33 Pratt	9544	2322
24.11 Crawford	37927	9149
23.72 Riley	60368	14318
23.71 Reno	64237	15228
23.36 Rice	10588	2473
23.18 Sherman	6528	1513
22.26 Cloud	9985	2223
22.12 Logan	2957	654
22.1 Barton	27810	6147
21.67 Mitchell	6778	1469
21.12 Morton	3385	715
19.07 Harvey	33031	6298
17.44 Lyon	35560	6200
17.02 Russell	7166	1220
16.77 Ford	32314	5420
15.28 Ellis	27247	4163
12 Saline	53646	6436
11.51 Douglas	100005	11510
10.63 Seward	22434	2385
10.53 Sedgwick	455516	47956
3.26 Johnson	465058	15189
0.03 Wyandotte	157461	52

John R. Todd
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March 11, 2003

Members
Senate Elections and Local Government Committee
State Capitol
Topeka, Kansas 66612

Subject: **OPPOSITION TO HOUSE BILL #2112** (County Code Enforcement)

Dear Committee Members:

My name is John Todd. I am a licensed real estate broker and I live in Wichita. I am here to speak as a private citizen, and as an opponent of House Bill #2112.

We now have the system you are considering in Sedgwick County, and I would ask that you take a few moments to consider some of the problems it has caused rural private property owners.

Consider for a moment Grandma and Grandpa who have lived on their farm in Sedgwick County for many years. They have a couple of outbuildings that need paint or repair, and maybe even a couple of old vehicles, a tractor, or a parts combine that needs attention, but they are doing the best they can. Then along comes a new neighbor who has some definite ideas about how this older couple should be taking care of their place. The new Code Enforcement Laws you are trying to put in place become the vehicle the new couple can use to force the old couple to meet their standards. An anonymous telephone call by the new couple to the County Code Enforcement officials brings the full force of Sedgwick County against this vulnerable couple. This scenario is just one example of how inequitable the enforcement of these laws can be.

Senate Elec + Loc Gov
03-11-03
Attachment 3

Sedgwick County can be used as a good example of what seem to be a good idea gone awry. The abuse occurs in the imposition and enforcement of the Codes by the County Officials. Code violations are subjective at best, and the private property owner can be at the mercy of over zealous County Officials who are given broad policing powers with very little training.


Unfortunately, we have become a society with very little tolerance for other people and their property rights. The Sedgwick County Court is a good example of rule by the use of a big stick in which the judge attempts to beat private property owners into submission. Is there a better method? Absolutely, it is called *mediation*, and the Wichita Bar Association already offers the service.

Should people be allowed to anonymously report their neighbors to County Officials? Absolutely not! Nothing undermines neighborhoods and the good will between people like "snitches". Therefore Code violation notices need to be in writing and signed by the complaining person with a copy to the accused.

What happens if mediation fails to solve the problem? We still have district Courts with real judges and real juries where people can go to seek justice and the due process of law that is part of our system.

Please oppose passage of HB#2112 unless you amend it as suggested above. Thank you for allowing me to speak. I would be glad to answer questions.

Thanks,


John R. Todd

Testimony for
The Kansas Senate Elections and Local Government Committee
Concerning
HB 2112, enforcement of county codes and resolutions

On March 11, 2003

From

Mr. Kelly Wendeln
919 S. Highland
Chanute, KS 66720

Synopsis of Speech

Sedgwick County mistreatment of property owners
Sedgwick County government "Peyton Place" mentality

Senate Elec & Loc Gov
03-11-03
Attachment 4

I'm Kelly Wendeln from Chanute. I understand this bill 2112 would expand the kind of power that Sedgwick County has to all Kansas Counties. One of the previous speakers said this does not give counties any new powers, but then he turns around and says this bill would empower all counties to handle cases like Sedgwick County.

Over the last 5 years, I have been in Sedgwick County enough to witness how property owners have been harassed, bullied, lied to, and generally mistreated by certain Sedgwick County officials who abuse their power and I would not wish this on citizens in other counties. I know of one pathetic case where an elderly farmer blames the starvation death of his wife on Sedgwick County officials.

A famous quote is appropriate here. "No man's life, liberty or property is safe while the legislature is in session. I believe a New York State judge said that about 150 years ago.

Over the last year, it has come to my attention that not only do these certain officials not respect property owners, but that they do not respect women and that this reaches from lower levels of county government clear up into the Sedgwick County Commission! Sedgwick County government is a regular little Peyton Place! When a man makes lewd comments concerning how well a woman is endowed, or pats or pinches a woman's butt while riding on the elevator, that is sexual harassment. Thank you.

HB 2112

Members of the Senate Committee,

My Name is Tom Wiggins.
RR Valley Center, Ks
316 755 1796
email wigginst@zcloud.net

As the President of KARZ (Kansans Advocating Responsible Zoning), I am here to oppose HB 2112 for the following reasons;

What protection do the Farmers have from this Bill?

A Dairy Farmer in Sedgwick County was fined \$300 for having a pile of used tires on his property that he used to hold down the cover over his silage pit. He wasn't going to pay the fine, but his mother paid it. If the fine had not been paid and the farmer had been stopped for a traffic violation, Due to a warrant being issued for his arrest, he would have been taken to the county jail and his vehicle would have been impounded!

The farmers are suppose to have a right to farm law that would exempt them from these codes. But the code inspectors don't seem to know what a farm is!

Why should the farmers be able to violate the same codes that the suburban dwellers are cited for? Example; In Sedgwick County it is illegal for a citizen who has less than 20 acres, to have a brush pile for longer than 30 days!

The Supplement Note on HB 2112 says "The Code applies to cases involving violations of a codes and resolutions, but does not apply to traffic cases, "nor in situations where violation of a county code provision could result in arrest, detention, or deprivation of a persons liberty"

The Sedgwick County Court Judge has put citizens in jail for not paying their fines!

The citizens do not get a fair trial in a county court! The following reasons are;
The County Commissioners hire the Code Agent, the prosecutors, and the Pro Tem Judge.
All three are under the full control of one entity, the Commisioners!

In some jurisdictions, the Pro Tem Judges don't have to be a licensed attorney!!

Where is the seperation of power?

In Sedgwick County, most cases that were appealed DeNovo before a real District Court Judge were dismissed!

Tom Wiggins

Senate Elec & Loc Gov
03-11-03
Attachment 5

Testimony in opposition to H.B. 2112

To: Senate Elections and Local Government Committee, Kansas State Senate, Senator Barbara Allen, Chairperson.

From: Gary Simpson, 1668 W. 100th Ave. N., Milton, Kansas, Sumner County.

- 1.) Opening Remarks: I'm a 4th generation Kansas farmer. I'm educated as a physician. This bill further enables and empowers the counties to usurp our Constitutional and Common Law property Rights.
- 2.) Socialist government planning and control is being engineered at the county level. The word county historically means the property of a Count or Lord. Increasingly, county officials view themselves as our Lords and we as their peasants.
- 3.) The Kansas Assoc. of Counties and the National Assoc. of Counties are funded by our tax dollars. They lobby for bills to take away our Rights and increase the wealth and power of the county bureaucrats.
- 4.) James Carville was key note speaker at the N.A.C. convention 2 years ago. The theme of his speech was how to play hardball politics to get what they want against the will of the people and the Rights of property owners.
- 5.) The K.A.C. recently gave a lecture which our Planning and Zoning Director attended (at our expense) which instructed him and others how to circumvent opposition from the people.
- 6.) Three years ago my county tried to sneak through a highly unconstitutional nuisance code. I helped rally the people. We had about 500 people show up at the public hearing and we temporarily stopped it. But they keep coming at us. We have had to spend considerable time and money trying to preserve our Rights from them.
- 7.) The county creates advisory boards. They put a couple of their opponents on the board to create the impression of fairness, although it is only a token gesture. They stack the deck with their cronies. They win the vote and then they say: See, this is Democracy in action.
- 8.) We are not supposed to have a democracy in this country when it comes to the Rights of the People. Our property Rights are inalienable Rights referred to in the Declaration of Independence and in the 9th and 10th Amendments to the Constitution. These Rights cannot be voted away or legislated away.

Senate Elec + Loc Gov
03-11-03
Attachment 6

Testimony Opposing H.B. 2112

To: Kansas Senate Elections and Local Government Committee,
Senator Barbara Allen, Chairperson.

From: Robert Eugene, Goode; Milton, Kansas, Sumner County.

- 1.) I'm a 5th generation Kansas farmer. I have a copy of the original homestead deed on some land I farm. It says it is an allodial deed. My dictionary defines allodium as "land owned absolutely, not subject to any rent, service, or other tenurial right of an overlord." I'm not even supposed to pay tax on this land, let alone have a zoning officer force me into court because he doesn't like the way my grass looks or he thinks my stuff (my treasure) is an eyesore.
- 2.) We the People have the God given and Common Law Right to enjoy our own property as we see fit, as long as we don't actually hurt somebody else. Nuisance codes try to regulate beauty. Beauty is in the eye of the beholder. You don't have any right to tell me how my property ought to look and I don't have any right to tell you how your property should look.
- 3.) Nuisances: The only real nuisances are the bureaucrats and elected representatives who persist in trying to trample on our Rights. There are other laws to take care of an actual health threat.
- 4.) This bill allows counties to increase taxes and to make money off of fines for their nuisance codes. The people are in hard times economically. Most people are so far in debt they will never get out. We don't need this.
- 5.) You, our elected representatives, are supposed to be our voice as our trusted servants. Jesus said the best people are supposed to serve their fellow man and he showed what he meant by washing the feet of his disciples. I ask you, would a good servant pass laws that threaten the property of his masters? You are not supposed to be listening to and doing the bidding of bureaucrats and their lobbyists. You are here to safeguard the liberties of We the People.
- 6.) I fought for my country as a Marine against the communists in Korea and was severely wounded. That effort should have been enough. Why should I have to continue to fight here for our freedoms?

Robert Eugene, Goode

Senate Elec & Loc Gov
03-11-03
Attachment 7

From : Cole Smith
1316 E. Harvey
Wellington Ks, 67152
620-326-2620

To: Senate committee on Local Government

Regarding : HB 2112

Dear Chairperson and Committee Members

My name is Cole Smith And I am a Resident of Sumner Co.

I am against HB 2112 Pro Tem Judges in counties with populations under 150,000.

We already have a procedure to enforce (TRUE) nuisance Violations, Therefore we have no need to burden our citizens with more taxes to employ a pro tem Judges and special courts.

I beg you on behalf of the citizens of Sumner Co. not to pass this Bill for the following reasons.

1. A pro tem Judge is a employee therefore obligated to rule in behalf of their employer not in what is just or unjust. I will tell you why the answer is Simple (Human Behavior) their is a unconscious force called Survival that tells a person to protect oneself by what ever means necessary and since ones employment is this means of survival in today's world, it is only (Human Behavior) for that person to make a conscious decision to protect his job by ruling in favor of what would please their Employer . Thus Destroying any balance or justice in the decision made by this individual.
2. The supporters that say special courts can handle public nuisance and similar violations at a lower cost are wrong. These special courts are only a rubber stamp for zoning officials to enforce unconstitutional and fibulas laws against our citizens that otherwise would not be heard in a district court because they are unfounded and with out legal grounds to prosecute. The cost is very high because our constitutional rights are priceless. and these courts would take these rights away.
3. Zoning laws are so restrictive that a property owner no longer has the right to have and own property for his own enjoyment. It seems that before you can do anything on your property in the state of Kansas one has got to ask a zoning officer or the guy next door if it would be alright. Zoning officers seem to forget that only the owner of the property can say what to do with the property. Zoning officers do have certain rights of control of your property and they do abuse the powers they have very often. (show example of salvage laws changed to nuisance laws under the health and safety provision)
4. By the creation of this special court you would open a door for people with grudges against others to use the system for revenge by complaining to the dept. of zoning against individuals they do not like thus creating a whole new problem for the courts on the district level this time.

PLEASE DO NOT PASS THIS BILL.

Thank you
Cole Smith

Senate Elec & Loc Gov
03-11-03
Attachment 8

- >
- > The following words, terms and phrases, when used in this article, shall
- > have the meanings ascribed to them in this section,
- >
- > Page 1
- >
- >
- > Revised Nuisance Resolution 4 except where the context clearly indicates
- > a different meaning:
- >
- > Agricultural activities means the use of any land for the purpose of
- > growing plants, crops, trees and other agricultural or forestry products
- > or for the purpose of raising livestock, poultry or dairy products.
- >
- > County means all of the county other than the land areas within cities.
- >
- > Inoperable vehicle means any vehicle that is unable to operate or move
- > under its own power. This term shall also mean any vehicle that is in an
- > abandoned, wrecked, dismantled, scrapped, junked or partially dismantled
- > condition which includes having uninflated tires, no wheels, or lacking
- > other parts necessary for the normal operation of the vehicle. It shall
- > also mean any vehicle that because of mechanical defects, a wrecked or
- > partially wrecked frame or dismantled parts, cannot be operated in a
- > normal and safe manner. An inoperable vehicle shall not include vehicles
- > that need only the installation of a battery or the addition of fuel to
- > operate.
- >
- > Property means any real property within the county which is not a street
- > or highway.
- >
- > Recycling facility means a fixed location that utilizes machinery and
- > equipment for processing only recyclables, and is licensed as a solid
- > waste processing facility pursuant to K.S.A. 65-34 01, et seq.
- >
- > Salvage material means material, including but not limited to, scrap
- > brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc and
- > all other scrap metals and alloys, bones, rags, used cloth, used rope,
- > used rubber, used tinfoil, used bottles, play ground equipment, old or
- > used machinery of any type, used tools, used appliances, used fixtures,
- > used furniture, used utensils, used lumber, used boxes or crates
- > (fabricated of any material), used pipe or pipe fittings, used conduit
- > or conduit fittings, used automotive parts, used tires, and other
- > manufactured goods that are so worn, deteriorated or obsolete as to make
- > them unusable in their existing condition.
- >
- > Salvage yard means any property licensed by the state of Kansas for
- > operation as a salvage yard pursuant to K.S.A. 8-2401, e t seq. and
- > amendments thereto.
- >
- > Page 2

County Commission
February 24, 2003 1:30 p.m.

The Board of County Commissioners met in regular session in the Commission room of the Sumner County Courthouse. Those present were Commission Chairman Robert Courtney, Commissioner Gene Bongiorno Jr., and Commissioner Eldon Gracy. Also present was County Clerk Shane J. Shields. The meeting was opened with the Pledge of Allegiance.

The Commission reviewed and unanimously approved the minutes for February 18.

Appraiser Della Rowley and Carolyn Farley, staff member, met with the Commission regarding a project under the Neighborhood Revitalization Plan. The project involved a house that was damaged by fire. After discussion, the Commission authorized the Appraiser to re-adjust the assessment due to the circumstances involved.

At 1:52 p.m., the Commission entered into executive session with County Clerk Shields until 2:10 p.m. to discuss non-elected personnel. At 2:04 p.m., the Commission reconvened in open session.

Planning and Zoning Director Jon Bristor and Assistant Director Mary Jenkins met with the Commission. They provided the proposed revised permit and inspection fee schedule for planning and zoning services. The Planning Commission had unanimously recommended the new fee schedule. Director Bristor advised that the final fees proposed are comparable on average to other similar counties. After lengthy discussion, the Commission advised they would take the proposal under advisement for further review.

Director Bristor discussed the proposed contact from Riggs Associates for professional planning services to review and update county zoning and sub-division regulations. He advised that the Planning Commission wished to encourage the County to proceed with the next step in the process. The Commission expressed their commitment to proceed with the next step, but funding is an issue that must be considered. Director Bristor was asked to research if any grants would be available for the work.

Treasurer Carolyn Heasty met with the Commission regarding the Special Auto fund. The currently proposed State legislation affecting the fund, as well as the Register of Deed's technology fund, was discussed. The legislation was created due to recent problems in Shawnee and Sedgwick counties. Treasurer Heasty advised that the Kansas County Treasurer's Association executive committee issued a statement last week that they do not condone the actions of the Shawnee County Treasurer. Treasurer Heasty asked for the Commission's support in opposing the legislation. After discussion, the Commission unanimously authorized Chairman Courtney to draft a letter to the Kansas Association of Counties encouraging their efforts to mediate problem between the Treasurers and Commissioners Associations without the need for legislative action.

The Commission returned a phone call to David Yearout. Planning and Zoning Director Jon Bristor was also present. Mr. Yearout discussed HB2112, which gives counties the option to have county code courts. He asked the Commission to consider contacting their legislators in support of the bill. The Commission advised that they have not been supportive of the bill. Mr. Yearout reviewed the details of the proposed legislation and what it would provide. After discussion, the Commission determined that they still do not wish to support the county code court proposal.

The Commission further discussed the proposed new Planning and Zoning fee schedule. They met again with Director Bristor to discuss several specific areas.

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTYSTATE CAPITOL BUILDING
ROOM 446-N
TOPEKA, KANSAS 66612-1504
(785) 296-7677
1-800-432-3924772 HWY 40
LAWRENCE, KANSAS 66049-4174
(785) 841-1526
sloan@house.state.ks.usTOPEKA
HOUSE OF
REPRESENTATIVES

TESTIMONY ON HB 2003 – Senate Elections and Local Government Committee

Thank you, Madam Chairman, Members of the Committee, I am chairman of Douglas County Rural Water District #1 and have over the past 20 years helped write most of the laws related to city-rural water district relations – especially those concerning annexations of RWD customers and facilities. Statutes exist to compensate water districts for the loss of patrons when a city expands, for the merger of two rural water districts, and for the formation of public wholesale water districts.

However, no procedure exists for a rural water district to be acquired in whole by a city. The statute that permits a rural water district to disband, does not address this situation because the city would have no way to acquire the district's capital equipment, patron billing information, etc. Similarly, when a city annexes part of a district, a water district board of directors exists to receive the compensation and continue serving the remaining customers, but no legal entity would exist if the entire district were annexed.

HB 2003 authorizes a city to acquire and operate the assets of a rural water district and provides a process by which the district's board of directors and city commissioners must publicly approve the acquisition. In addition, the bill establishes public notification and protest petition process so that district patron interests are protected. The bill further requires the city to provide information about rates, new connection policies, and other operational matters to protect rural water district patron interests. The bill does not permit the "hostile" take-over of rural water districts by cities.

HB 2003 was requested to facilitate the acquisition of a Shawnee County RWD by the City of Topeka. Both the rural water district's board of directors and the City desire the acquisition to proceed. Other conferees will provide additional specific information on that situation. My sponsorship of HB 2003 is simply to permit RWD boards of directors to best serve their constituencies in partnership with their urban colleagues to cost-effectively protect public health, while wisely managing a natural resource and patron interests.

I encourage you to recommend HB 2003 favorably for passage and will be pleased to respond to questions.

Senate Elec & Loc Gov
03-11-03
Attachment 9



P.O. Box 226 • Seneca, KS 66538 • 785/336-3760
FAX 785/336-2751 • <http://www.krwa.net>

March 11, 2003

Senator Barbara Allen
Chairperson, Senate Committee on
Elections and Local Government

Re: Testimony in Support of House Bill 2003

Dear Chairperson Allen and Members of the Committee:

As general counsel of the Kansas Rural Water Association, I am testifying in support of HB 2003.

RWD No. 7 is a rural water district organized under K.S.A.82a-612 et seq. It serves approximately 170 farms and homes in southern Shawnee County.

The City of Topeka Water Department has proposed to acquire RWD No. 7. Under the proposed agreement, the City would assume responsibility for service to all of RWD No. 7's customers, take title to its assets, pay all of its debts, and provide for service to future customers. The governing body of the District supports the proposed agreement because it would result in a higher level of service to the District customers, while average monthly water bills would be reduced by approximately one-half. For these reasons, the District's board of directors expects that its customers would also support the agreement.

On behalf of the District, I requested an Attorney General's Opinion on the legality of the proposed agreement. The Attorney General's Opinion, dated June 25, 2002, is that although the transfer "may be quite sensible and in the parties best interests, it is my opinion that there is no statutory authority" for the transfer. (See, Attorney General's Opinion Letter attached.)

House Bill 2003 would provide this authority. It is modeled after K.S.A. 19-3512, a statute concerning Water Supply and Distribution Districts, under which Water District No. 1 in Johnson County has successfully annexed territory and acquired water systems on several occasions.

House Bill 2003 provides a tool by which a city could acquire the territory and facilities of a rural water district if the governing body of the city and of the water district agree. Protections are provided to the water district customers in that the agreement, along with a statement of the reasons therefor, must be mailed to all customers of the district, a copy of the agreement is filed in the office of the County Clerk of each county where the water district provides water service, and

Senate Elec & Loc Gov
03-11-03
Attachment 10

also published in the newspapers for the area. If a petition signed by at least 10% of the participating members (customers) of the water district requests an election on whether the agreement should take effect, then the agreement cannot take effect until that election is held and approved by a majority of the members.

As the case of RWD No. 7 and the City of Topeka shows, there are instances where considerable efficiency can be obtained by merging a small water system like RWD No. 7 into a larger one. In many instances, there is no way to achieve this end under existing law. House Bill 2003 would provide a tool that water systems statewide could use in realizing these efficiencies. We urge you to give your favorable support of HB 2003.

Sincerely,



GARY H. HANSON

GHH:de

cc: Elmer Ronnebaum, General Manager KRWA

Gayle Bayless, Manager, RWD No. 7
Shawnee County, Kansas



State of Kansas

Office of the Attorney General

120 S.W. 10th Avenue, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

June 25, 2002

MAIN PHONE: (785) 296-2215
FAX: 296-6296

Gary Hanson
Stumbo, Hanson & Hendricks
2887 S.W. McVicar
Topeka, Kansas 66611

Elsbeth Schafer
Office of the City Attorney
215 S.E. 7th
Topeka, Kansas 66603

Re: Proposed Acquisition of RWD No. 7's Assets and Liabilities by the City of Topeka

Dear Gary and Beth:

After reviewing Gary's letter of June 18, it is my opinion that the Water District (District) has no express or implied authority to transfer all of its assets and liabilities to the City of Topeka.

As you know, the District is a creature of statute¹ and, therefore, can only do what the statutes expressly authorize it to do or by implication in order to "give effect to powers specifically granted."² The statutory authority upon which you rely is the District's ability to contract and hold real property.³ The Attorney General opinion that you cited⁴ sanctions the sale of District assets as an implied power that emanates from the express power to hold title. However, the opinion is limited to sales of property necessary "for the successful operation of the district." Your proposed transfer would divest the District of its ability to operate. Moreover, while the District has the authority to contract, I do not believe the Board of Directors has the authority to enter into a contract that will essentially emasculate the District.

¹*Dedeke v. Rural Water Dist. No. 5 Leavenworth County*, 229 Kan. 242 (1981).

²Attorney General Opinion No. 2001-4; 87-19.

³K.S.A. 82a-619(a)(3)(4).

⁴Attorney General Opinion No. 87-146.

Gary Hanson
Elsbeth Schafer
Page 2

My opinion is buttressed by the fact that the District statutes set forth only two ways for a rural water district to cease operations, which, in effect, is what you propose: K.S.A. 82a-629 which provides for dissolution by the Board of County Commissioners and K.S.A. 82a-637 which, under certain conditions, provides for transfer of assets to a city of the first class.

While this transaction may be quite sensible and in the parties' best interests, it is my opinion that there is no statutory authority which would allow the Board of Directors to transfer all of the District's assets and liabilities to the City of Topeka.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL



Mary Feighny
Assistant Attorney General

MF:jm

3-11-2003

House Bill 2003

Shawnee County Rural Water District #7

This rural water district possesses a very well built water distribution system. The cost of the improvements to this system, which were performed in the early 1990's, is such that our customers pay very high water rates. Our rates are among the highest in northeast Kansas.

The City of Topeka wishes to acquire this water system. With their large customer base, they can absorb that cost, and spread it in such a way that that current rural water district customers would see their water bills cut in half. The average family of four who uses 6000 gallons per month now pays a water bill of \$60.00 plus tax each month. A \$360.00 yearly reduction in that family's water bills would be very substantial.

The district would also benefit from the the improved management level the City of Topeka has to offer. There are currently no full time employees, and no one to answer the phone during the day in this district.

Reduced water bills and full time active management would be huge benefits to the patrons of this district.

In conclusion, passage of house bill 2003 would allow this to occur. We ask for your favorable action on this bill. Thank you very much.

Senate Elec & Loc Gov
03-11-03
Attachment 11



P.O. Box 1567 / Hutchinson, KS 4-1567

Telephone:

Office Of: 620.694.2608

CITY
MANAGER

TESTIMONY OF THE CITY OF HUTCHINSON, KANSAS
BEFORE THE KANSAS SENATE
COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT
(H.B. 2201)

MARCH 11, 2003

The City of Hutchinson supports the concept of home rule authority. Home rule authority is the right for a community to govern itself.

We support enabling legislation that would allow local Fire Chiefs to designate any other qualified person to make investigations deemed necessary of any fire or explosion, or an attempt to cause any fire or explosion if there is reason to believe that the fire was of an incendiary origin or was an attempt to defraud an insurance company.

Further, we support legislation that would include the power of such persons designated by the local Fire Chief to enter buildings, to make criminal complaints, to issue cease and desist orders, and would also bestow specific police powers to such person to arrest and to conduct searches.

Presented by:

Meryl Dye, Special Assistant to the City Manager
meryld@hutchgov.com



City Hall Fax 620-694-2673
Central Purchasing Fax 620-694-1971
Fire Fax 620-694-2875

Flood / Refuse Fax 620-694-2650
Inspection Fax 620-694-2691
Municipal Court Fax 620-694-2858

Police Fax 620-694-2859
Public Works Fax 620-694-1980
Waste Water Plant Fax 620-694-2604

Senate Elec & Loc Gov

03-11-03

Attachment 12



OFFICE OF THE
KANSAS STATE FIRE MARSHAL

Gale Haag
Kathleen Sebelius
Fire Marshal
Governor

700 SW JACKSON ST, SUITE 600, TOPEKA, KS 66603-3714

PHONE (785) 296-3401 / FAX (785) 296-0151

**Testimony on House Bill 2201
Relating to investigations of fires and explosions
Senate Elections and Local Government**

Date: March 11, 2003

By: Karl W. McNorton
Chief Deputy State Fire Marshal
Kansas State Fire Marshal's Office

The Kansas State Fire Marshal's Office stands as a proponent for House Bill 2201 as amended. We feel this will assist those municipalities continue to provide previous services to their community without incurring the added costs for training and certifying a new investigator.

We have identified an additional concern not related to the original change but may have an impact on services provided by fire districts. On lines 5 and 6 the statute identifies who is authorized to perform fire inspections and investigate fires. The statute identifies the fire marshal and his staff and also the chief of any organized fire department of any municipality. What we realized is that a municipality includes cities, counties and townships but wouldn't include fire districts.

We would like to propose a balloon amendment to add the words 'fire district or' after organized on line 6 and line 26.

The new line would read: "The state fire marshal, deputies of the fire marshal, the chief of any organized fire district or fire department of a municipality,....."

Many fire districts are performing these services and we feel this would clarify their authority. We urge the Committee to adopt the proposed amendment and pass the bill out favorably.

"Where fire safety is a way of life."

Senate Elec & Loc Gov
03-11-03
Attachment 13

HOUSE BILL No. 2201

By Committee on Local Government

2-5

AN ACT concerning fire and fire protection; relating to investigations of fires and explosions; amending K.S.A. 31-137 and repealing the existing section.

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

Section 1. K.S.A. 31-137 is hereby amended to read as follows: 31-137. The state fire marshal, his deputies of the fire marshal, the chief of any organized fire department of any municipality, whether such fire department is regular or volunteer, or any member of any such fire department who has been duly authorized by the chief thereof, shall enforce the provisions of this act and any rules and regulations adopted pursuant thereto. ~~Said~~ Such persons are authorized to make any investigations deemed necessary of any fire or explosion occurring within this state; ~~and they.~~ Such persons shall make an investigation of any fire or explosion occurring within this state, if there is reason to believe that the fire was of an incendiary origin or was an attempt to defraud an insurance company. In addition, the chief of any organized fire department of any municipality may designate other qualified persons to conduct such investigations in such municipality. In order to carry out such investigations, the state fire marshal and those persons herein designated by or authorized to be designated by this section shall have the right and authority at all times of day or night to enter upon or examine, in accordance with existing laws and regulations, any building or premise premises where any fire or explosion or attempt to cause a fire or explosion shall have has occurred. Every person designated herein Such persons shall make a written report of the findings of any investigation conducted by him pursuant to this section which shall be filed in the office of the state fire marshal.

fire district or

Sec. 2. K.S.A. 31-137 is hereby repealed.

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



CITY OF TOPEKA

Department of Public Works • Administration
515 S. Kansas Avenue 4th Flr.
Topeka, Kansas 66603-3422
Phone 785-368-3801
Fax 785-368-3806

March 11, 2003

Chairman Allen
Senate Committee on Elections and Local Government

RE: Testimony in Support of House Bill 2003

Dear Chairman Allen and Members of the Committee:

I am the Director of Public Works for the City of Topeka and I am here with Mr. Don Rankin, the Manager of Topeka Water, a Division of the Public Works Department, to testify in favor of House Bill 2003. We appeared on January 23, 2003 in front of the House Committee on Local Government in support of this bill and I appreciate the opportunity to appear before this distinguished committee today.

Last year, after learning that Rural Water District No. 7, a district that borders the south city limits, was interested in merging with another water supplier, we began discussions with them concerning acquisition of RWD 7 by the City of Topeka.

As our discussions commenced, it became apparent that the acquisition would be a win-win situation for both entities. The City is currently engaged in a major economic development initiative in that area and has plans to enhance the water infrastructure in that zone to facilitate future intense development. The District has been well-run and provided excellent service to their customer/owners, but has focused primarily on residential service. As some of this area transitions to more industrial use, the Topeka Water is in a better position to fund the necessary infrastructure improvements.

In the course of our discussions, it also became apparent that acquisition by the City of Topeka would result in a substantial reduction in the average monthly water bill for the District's customers.

Even though both the District and the City agree on the acquisition terms, it appears that adequate legislation is not in place to allow us to proceed. The bill under consideration would remedy that situation. On behalf of the Mayor and the Department of Public Works, I ask for your support of House Bill 2003.

Sincerely,

Neil Dobler, PE, Director

cc: Mayor Felker
Dave Graversen, CAO
Don Rankin

Senate Elec & Loc Gov
03-11-03
Attachment 14



CITY OF TOPEKA

Water Division
3245 Waterworks Drive
Topeka, Kansas 66606

March 11, 2003

Chairperson Allen
Senate Committee on Elections and Local Government

RE: TESTIMONY IN SUPPORT OF HOUSE BILL 2003

The Honorable Barbara Allen, Chair
And Members of the Senate Committee on Elections and Local Government:

I am the Manager of Topeka Water, a Division of the City Public Works Department and I am here with Mr. Neil Dobler, Director of Public Works for the City of Topeka to testify in support of HB 2003. We testified in front of the House Committee on Local Government on January 23, 2003 in support of this bill and I appreciate the opportunity to appear before this distinguished committee today.

The City of Topeka Water Division provides water to the entire City of Topeka and surrounding area including 9 wholesale customers of which 8 are Rural Water Districts. These Rural Water Districts, in-turn, resell the water to other communities and other Rural Water Districts. We are a regional water supplier providing water to most of Shawnee County, much of Jackson and Osage Counties as well as some parts of Douglas and Wabaunsee Counties. We conservatively estimate that over 150,000 Kansans are served with water produced at the Topeka Water Treatment Plant.

The desire to merge a Rural Water District system into a City system should be no surprise. Rural Water Districts (RWDs) were created under K.S.A. 82a-612 et seq. to serve a need for water in rural communities. Some of these rural communities were established in close proximity to larger Cities such as Topeka. The RWD tends to enjoy a larger customer base being located next to a City but with urban growth, Cities tend to extend their limits into the RWD boundaries. If and when City limits expand into an area served by a RWD, the following issues need to be resolved or acknowledged:

- The RWD will generally lose some of their more densely populated areas that also provide most of their revenue. They may still have most of the same overhead costs but with less revenue to support their operations

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- The water mains installed by the RWD are often undersized to provide fire service that the City water system provides. Costly new water mains have to be installed as well as new fire hydrants in order to provide the required fire protection.
- The existing fire hydrants, valves and water meters may not be compatible with the City standards for fire hydrants, valves and water meters necessitating costly replacements.
- If RWD assets such as treatment plants, pump stations or water towers are in an area acquired through City growth, it may not be clear as to who owns, operates and maintains the assets. This creates situations where expensive resources are inefficiently deployed as each tries to reliably serve their customer base.
- It may be difficult for the RWD or City to serve certain customers without using infrastructure owned by the other entity.
- Dead end water mains may become operational problems for both the RWD and the City.
- Complex metering arrangements between the City and the RWD may be required to provide water to the remaining RWD customers.

HB2003 offers the opportunity for the RWD and the City to work together for the common good of all of their customers without obligating either to accept undesirable conditions. HB2003 does not create the opportunity for a City to perpetrate an unfriendly acquisition of a RWD nor does it obligate a City to merge a Rural Water District into the City's system. HB2003 does create the clear legal means to merge a RWD into a City system when both parties agree it is for the best interest of their respective customers.

Even if urban growth and extension of City limits into a RWD is not an issue between the RWD and the City, it may still be in the best interest of the RWD and the City to merge the RWD into the City system. The City system usually has more resources to serve customers in the best and most economical manner, allowing the City to serve the area, unencumbered, for economic development.

HB2003 provides Cities and RWDs the ability to remedy problems before they occur and to harbor an atmosphere of trust and cooperation as they work together for the greater good of their customers. On behalf of the Mayor and the City of Topeka, I ask for your support of House Bill 2003.

Sincerely,



Don Rankin
Water Superintendent

Cc: Mayor Felker
Dave Graversen, CAO
Neil Dobler, Director of Public Works