

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on February 19, 2004 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department
Mike Heim Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Larry McAulay, Legal Services, Johnson County
Rep. Ward Loyd, Kansas House
Sarah Steele, Gilmore & Bell, P.C.
Lynn C. Myers, Johnson County Sheriff's Office
Rep. Joann Freeborn, Kansas House
Roger Nelson, Cloud County Commission
Terry Finch, Lincoln County Board of Commissioners

Others attending:

See Attached List.

Chairman Vickrey opened the hearing on:

HB 2773 townships; procedure to consolidate

Larry McAulay, Director of Legal Services for Johnson County, testified in support of the bill (Attachment 1). He stated that a township in northwestern Johnson County, Monticello Township, has no residents. He explained that this resulted from annexations by the cities of Lenexa and Shawnee. Mr. McAulay said that without residents, Monticello Township is unable to have a township board, and without a township board, no township business can be conducted. He informed that there are current statutes that provide for disorganization or consolidation of townships but those statutes require that there be a township board to propose such action and that there be residents ("electors") to vote on the proposals.

Written testimony was received from L. Franklin Taylor, the court ordered "Receiver" for Monticello Township (Attachment 2). He explained that **HB 2773** would give the Board of County Commissioners the ability to make decisions about the appropriate disposition of township property, taking into account the circumstances of a particular township.

Chairman Vickrey closed the hearing on **HB 2773**.

Rep. Yonally made a motion for the favorable passage of **HB 2773**. Rep. Reitz seconded the motion. The motion carried.

Chairman Vickrey opened the hearing on:

HB 2793 drainage districts; tax levies for general fund

Rep. Ward Loyd presented testimony on behalf of Rep. Larry Powell and himself in support of HB 2793 (Attachment 3). He explained that they requested the draft of the bill to amend the provisions of K.S.A. 24-639, which would allow the electors of Drainage District No. 1 to authorize, if they so decide by affirmative vote in an election on the proposition, a mill levy for a term of years longer than four, sufficient to retire a bond issue. Rep. Ward said that the bill as drafted does not accomplish their intent

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 19, 2004 in Room 519-S of the Capitol.

with sufficient clarity, and therefore an amendment to the bill has been prepared. He stated that the balloon amendment will be presented with the testimony of Sarah Steele, of Gaar & Bell, P.C.. He urged the Committee's favorable consideration of and action on the bill, in the amended form.

Sarah Steele, Gilmore & Bell, P.C. and, Bond Counsel to Drainage District # 1 of Finney County, testified in support of the bill (Attachment 4). She explained that the requested amendment will grant Drainage District # 1 of Finney County and other drainage districts formed under K.S.A. 24-601 *et seq.* The same power to levy taxes annually as other drainage districts formed under K.S.A. 24-401 *et seq.* or K.S.A. 24-501 *et seq.*.

Frank Rice, a Topeka Attorney, representing Kaw River Drainage District, testified in support of the bill, in the proposed amended form. He provided no written testimony.

Written testimony was received from Cecil O'Brate, Drainage District # 1 of Finney County in support of the bill (Attachment 5).

Chairman Vickrey closed the hearing on **HB 2793**.

Rep. Campbell made the motion to adopt the balloon amendment presented by Sarah Steele. Rep. Lane seconded the motion. The motion carried.

Rep. Campbell made the motion for favorable passage of **HB 2793** as amended. Rep. Reitz seconded the motion. The motion carried.

Chairman Vickrey opened the hearing on:

HB 2725 **cost of maintaining inmates in county jail, fee paid by inmate**

Lynn C. Myers, Sheriff, Johnson County, testified in support of the bill (Attachment 6). He said the bill will allow for the collection of a per diem from prisoners who have been committed to the custody of the Sheriff. He stated that the bill allows local control over the amount of fee that can be collected and also contains important safeguards. He explained that any child support owed, court costs, or fines must be paid before the per diem is collected. Sheriff Myers said the bill also provides for a reduction or waiver of the amount in instances in which an undue hardship would be created if the per diem were collected.

Chairman Vickrey closed the hearing on **HB 2725**.

Rep. Campbell made the motion for the favorable passage of HB 2725. Rep. Gilbert seconded the motion. The motion carried.

Chairman Vickrey opened the hearing on:

HB 2805 **law enforcement consolidation; Lincoln and Cloud counties**

Rep. Freeborn testified in support of the bill (Attachment 7). She explained that she requested the bill on behalf of the Lincoln and Cloud County Commissioners. She said the bill is written, specifically, to accommodate Lincoln and Cloud Counties and their interest in Law Enforcement Consolidation. Rep. Freeborn stated that she has checked with the Association of Counties and that they have recommended county specific legislation regarding the matter.

Roger Nelson, Cloud County Commission, testified in support of the bill (Attachment 8). He said the bill would allow the electorate of Cloud County and Lincoln County to voice their opinion on the creation of a consolidated law enforcement agency in place of the multiple departments currently in place in the respective counties. He explained that they are requesting an amendment that language be deleted which secures the retention of only those current law enforcement employees who hold a law enforcement

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 19, 2004 in Room 519-S of the Capitol.

training certificate. He said that they would like to see all current staff meeting the qualifications for the consolidated law enforcement agency becomes members of the newly created agency should they wish to do so.

Terry Finch, Chairman, Lincoln County Board of Commissioners, testified in support of the bill (Attachment 9). He said that during a seven year period the Lincoln County Sheriff's department has experienced a turnover of 86 employees. He said that with the proposed legislation employees will not have a fear of losing their job each time a new sheriff takes office since the majority of turnovers occur after an election. Mr. Finch explained that the bill would allow for a formalized structure of Lincoln County's law enforcement services. He stated that the creation of a board to appoint a law enforcement administrator would benefit members of each community as they would have a say in the assets, operations, and finances of the agency.

Jeff Bottenberg, Legislative Counsel, Kansas Sheriff's Association, submitted written testimony in opposition to the bill (Attachment 10). He said the sheriff departments of Lincoln and Cloud counties do not believe that there is a need to eliminate the elected position of sheriff. He stated that the Kansas Sheriff's Association believes that having an elected law enforcement officer is good public policy, for unlike the director of law enforcement as envisioned in the bill, the sheriff is directly accountable to the people.

The Chairman closed the hearing on **HB 2805**.

HB 2585 convention and visitor's committees or bureaus; open meetings and open records laws

Rep. Lane made the motion to adopt the balloon amendment (Attachment 11). Rep. Storm seconded the motion. The motion carried.

Rep. Yonally made the motion to table HB 2585 as amended until Tuesday, February 24, 2004. Rep. Horst seconded the motion. The motion carried.

HB 2615 abatement of nuisances, owner has not exceeding 40 days to abate nuisance; current law 10 days

Rep. Lane made the motion to adopt the balloon amendment (Attachment 12). Rep. Campbell seconded the motion.

Rep. Lane withdrew the motion and the second concurred. The motion is withdrawn.

Chairman Vickrey appointed a subcommittee which will meet on Monday, February 23, 2004. Appointed to the subcommittee on **HB 2615** were:

- Chair - Rep. Huy
- Members - Rep. Kassebaum, Rep. Campbell, Rep. Thull, Rep. Lane
- Interested Parties - Kim Gulley, League of Kansas Municipalities

HB 2758 open records act; exemptions; military discharge forms

Rep. Yonally made a motion to adopt the balloon amendment (Attachment 13) and make the further changes as discussed. Rep. Horst seconded the motion. Motion carried.

Rep. Horst made a motion to amend HB 2758 as amended to include language exempting addresses of safe houses and other battered women's shelters from the Kansas Open Records Act. Rep. Yonally seconded the motion. Motion Carried.

No further action was taken. The bill was passed over, not tabled.

HB 2767 open meetings: time to pursue penalties extended to 180 days

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on February 19, 2004 in Room 519-S of the Capitol.

Rep. Yonally made the motion to amend the bill on page 1, in line 28, by striking "180" and inserting "21." Rep. Gilbert seconded the motion. The motion carried.

Rep. Storm made the motion for favorable passage of **HB 2767** as amended. Rep. Reitz seconded the motion. The motion carried.

HB 2654 **annexation by cities, election; extension of municipal services required; procedure to deannex**

Rep. Thimesch briefly presented a proposed amendment to **HB 2654**.

The Chairman adjourned the meeting at 5:40 p.m.

The next meeting is scheduled for February 24, 2004.

HOUSE LOCAL GOVERNMENT

DATE 2-19-04

NAME	REPRESENTING
Terry Finch	Lincoln Co Commission
DEL Vignery	MAYOR OF LINCOLN
John Baetz	Lincoln County
Stan Walker	Lincoln County
Roger C Nelson	Cloud Co. Commission
Bretchen Nelson	Jamestown, Ks.
Dwight Heller	Lincoln Co. Commission
LARRY R. Meitler	MAYOR OF SYLVAN GROVE, Ks
Richard Gannas	KPA
Justin Dragosani - B.	KSHS
Sarah Steele	Gilmore & Bell, P.C.
Bob Keller	Johnson County Sheriff's Office
Danielle Kloe	Johnson County
Larry McAtulay	Johnson County
Garett Schmidt	Rep. Powell
Don Dow	
L R Powell	117 Dist
Erik Sartorius	City of Overland Park
DICK CARTER	TIAC
Randall Allen	Ks. Assn. of Counties
Matthew Johns	Intern for Rep. Sue Storn



JOHNSON COUNTY LEGAL DEPARTMENT

F. LAWRENCE MCAULAY, JR.
DIRECTOR OF LEGAL SERVICES
(913) 715-1901
LARRY.MCAULAY@JOCOGOV.ORG

**TESTIMONY REGARDING HB 2773
HOUSE COMMITTEE ON LOCAL GOVERNMENT
FEBRUARY 19, 2004
F. LAWRENCE MCAULAY, JR.,
DIRECTOR OF LEGAL SERVICES**

Chairman and Committee members, I am Larry McAulay, Director of Legal Services for Johnson County, Kansas. Thank you for the opportunity to speak to you today regarding this matter. I am here today to express the SUPPORT of the Johnson County Board of County Commissioners for HB 2773.

There currently exists a township in northwestern Johnson County, Monticello Township, which has no residents. This resulted from annexations by the cities of Lenexa and Shawnee, the most recent of which occurred in 1999 by Lenexa and in 2003 by Shawnee. Without residents, Monticello Township is unable to have a township board, and without a township board no township business can be conducted.

There are current statutes that provide for disorganization or consolidation of townships, but those statutes require that there be a township board to propose such action and that there be residents ("electors") to vote on the proposals. The current statutes also require consolidation or attachment to be to a "contiguous" township. There is no other township that is contiguous to Monticello Township, because the only land currently in Monticello Township is highway right of way that is totally surrounded by cities. Without residents and without a contiguous township, Monticello Township is unable to function or be consolidated with another functioning township.

Monticello Township has approximately \$72,000.00 cash in bank accounts and owns real estate in Lenexa, a decommissioned sewer lagoon, of undetermined value. The Township has known liabilities of \$2,550.00 to the City of Lenexa for weed mowing charges at the former sewer lagoon site and attorney fees of approximately \$20,000.00. The Township also owns small strips of right of way along K-10 highway just west of K-7 highway of no value. Efforts are underway to have Olathe annex these strips along the highway to clean up the city boundaries.

On February 18, 2004 a receiver was appointed for Monticello Township by the Johnson County District Court, pursuant to K.S.A. 60-1101. Under the general supervision of the court, the receiver intends to marshal and protect the assets of the township and pay the legitimate debts of the township. Prior to debts being paid, public notice will be given and a court hearing will be held.

House Local Government
Date: 2-19-04
Attachment # 1

House Bill 2773 gives boards of county commissioners the following powers, but only when there are no township residents or where there are office vacancies for two consecutive township elections:

The power to:

- Disorganize the township;
- Consolidate the township with another township that is the next geographically closest township within the same county that has a functioning township board and transfer assets to that other township;
- Take possession of all books, papers, records, moneys and other assets of the township;
- Pay township debts;
- Exercise all powers of the township until the disorganization or consolidation is completed;
- Dispose of excess assets in a manner determined by the board of county commissioners to be in the best interests of the former township residents or property owners;
- Prior to acting on a resolution to dissolve or consolidate a township, the board of county commissioners must conduct a public hearing on the advisability of adopting such resolution.

The Johnson County Board of County Commissioners asks for your support of House Bill 2773.

I will be happy to answer your questions or supply you with additional information.

F. Lawrence McAulay, Jr.
Director of Legal Services
Johnson County Legal Department
111 South Cherry St., Suite 3200
Olathe, KS 66061
913-715-1901
larry.mcaulay@jocogov.org

TESTIMONY PRESENTED TO
KANSAS HOUSE OF REPRESENTATIVES
COMMITTEE ON LOCAL GOVERNMENT
IN SUPPORT OF HOUSE BILL NO. 2773

February 19, 2004

130 North Cherry
P.O. Box 550
Olathe, Kansas 66051

Telephone
913-782-2350

Facsimile
913-782-2012

E-Mail
info@nhrk.com

Internet
www.nhrk.com

My name is L. Franklin Taylor. On February 18, 2004, Judge Allen Slater of the Johnson County District Court entered an order appointing me Receiver for Monticello Township.

Monticello Township is a township in Johnson County. Most of its land has been annexed by cities. It has no residents.

The land included in Monticello Township consists of highway right-of-way along Kansas Highway 10 in Olathe. The township owns a lot in the Hirning Woods Subdivision in Lenexa, a former lagoon site that has been remediated by the City of Lenexa. It also has cash in bank accounts of approximately \$71,973.77. Since the township no longer has residents eligible to be elected as township officers, a receiver has been appointed pursuant to K.S.A. 60-1304 *et seq.* to manage its property and wind up its affairs.

Current state law provides at K.S.A. 80-1101 *et seq.* that a township may be disorganized under appropriate circumstances and its property transferred to the next contiguous township. Monticello Township, however, has been annexed out of existence without any township being contiguous to its remaining properties. It has no resident to approve its disorganization or its consolidation with another township. In fact, nearly all the land in the township has been acquired by cities. House Bill No. 2773 would provide the mechanism to address this issue.

In order to wind up the affairs of the township, someone needs to have authority to determine the disposition of its assets. I can marshal assets and pay legitimate bills of the township in the context of the court-supervised receivership, but there is no statutory authority to dispose of remaining township assets. House Bill No. 2773 would give the Board of County Commissioners the ability to make decisions about the appropriate disposition of township property, taking into account the circumstances of a particular township. We need the statutory authority of this legislation to wind up the affairs of Monticello Township.

Joe L. Norton
James R. Hubbard
Thomas E. Ruzicka
Scott Harrison Kreamer
L. Franklin Taylor
Kenneth C. Jones
Gregory D. Kincaid
Frank W. Lipsman
Allan E. Coon
D. Todd Arney
Christopher M. Reece

Of Counsel:
Joseph S. Davis, Jr.
Dwight D. Sutherland, Jr.

House Local Government
Date: 2-19-04
Attachment # 2

WARD LOYD
123RD DISTRICT
"THE HEART OF GARDEN CITY"
E-MAIL: loyd@gcnet.com



TOPEKA
—
HOUSE OF
REPRESENTATIVES

COMMITTEES
CHAIR: CORRECTIONS & JUVENILE JUSTICE
JOINT COMMITTEE ON CORRECTIONS
& JUVENILE JUSTICE OVERSIGHT
MEMBER: JUDICIARY
RULES AND JOURNAL
EXECUTIVE COMMITTEE, THE
COUNCIL OF STATE GOVERNMENTS
CSG LEGAL TASK FORCE

TESTIMONY IN SUPPORT OF HOUSE BILL 2793

BY REPRESENTATIVE WARD LOYD & REPRESENTATIVE LARRY POWELL

BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE

February 19, 2004

Honorable Chairman Vickery and Committee Members,

Times change. Certain drainage district laws have not, but need to.

There are five separate statutory schemes which over the years have been created to deal with drainage, and drainage districts, i.e.

K.S.A. 24-201, *et seq.*, Drainage Within Townships (1879)

K.S.A. 24-301, *et seq.*, Drainage of Swamps, Bottoms or Lowlands in Counties (1886)

K.S.A. 24-401, *et seq.*, Drainage Districts Within Counties or Cities (1905)

K.S.A. 24-501, *et seq.*, Drainage in Valleys (1911)

K.S.A. 24-601, *et seq.*, Drainage in One or More Counties (1911)

A portion of the House Districts Representative Larry Powell and I represent are included within the territory of Finney County Drainage District No. 1, which is organized pursuant to K.S.A. 24-601, *et seq.* A few years ago we sponsored an amendment to the statute on behalf of the district, and it has now come to our attention that further modification to the statute may be appropriate, and particularly to the provisions of K.S.A. 24-639(11).

House Local Government
Date: 2-19-04
Attachment # 3

RESIDENCE
1304 CLOUD CIRCLE
GARDEN CITY, KS 67846
(316) 276-7280

DISTRICT
118 W. PINE ST., BOX 834
GARDEN CITY, KS 67846
(620) 275-1415

CAPITOL (JAN-APR)
ROOM 427-S STATEHOUSE
TOPEKA, KANSAS 66612-1504
(785) 296-7655

Under the current statute, the language sets a cap of four years as the maximum mill levy term a district is authorized to impose, even upon the approving vote of the qualified electors of the district. We understand there are significant improvements needed to the drainage structures in DD #1, and that the only practicable way to accomplish such improvements would be to finance the same by issuance of bonds to pay the cost thereof. The total costs are of a size which a four year mill levy will not and cannot satisfy, and an underwriter will not provide the needed funds (buy the bonds) if the levy has to be reauthorized by a vote of the property owners every four years.

Considering the foregoing, we requested the draft of House Bill 2793 to amend the provisions of K.S.A. 24-639, which would allow the electors of DD#1 to authorize, if they so decide by affirmative vote in an election on the proposition, a mill levy for a term of years longer than four, sufficient to retire a bond issue.

It was our intent that the statute be amended in a manner consistent with the authorizations permitted other forms of drainage districts, particularly under K.S.A. 24-407(11), or K.S.A. 24-512(8). We are advised that HB 2793 as drafted does not accomplish our intent with sufficient clarity, and therefore an amendment to the bill has been prepared. The balloon will be presented with the testimony of Sarah Steele, bond counsel with Gaar & Bell, which we support.

We appreciate the opportunity to appear before the House Local Government Committee, and to provide this testimony. We urge the Committee's favorable consideration of and action on House Bill 2793, in the amended form.

Testimony before the House Local Government Committee
regarding House Bill No. 2793
Thursday, February 19, 2004 at 3:30 p.m.

Presented by

Sarah O. Steele
Gilmore & Bell, P.C.
Wichita, Kansas
Bond Counsel to Drainage District #1 of Finney County, Kansas

Drainage districts may be formed under one of many different articles in Chapter 24 of the Kansas Statutes Annotated (*See* K.S.A. 24-301 *et seq.*, K.S.A. 24-401 *et seq.*, K.S.A. 24-501 *et seq.* and K.S.A. 24-601 *et seq.*). Each article provides for different powers for the drainage district formed under that article.

Drainage Districts formed under K.S.A. 24-401 *et seq.* or K.S.A. 24-501 *et seq.* have the power to annually levy a tax not exceeding five mills on the assessed value of all tangible taxable property within the district to create a general fund. (*See* K.S.A. 24-407 and K.S.A. 24-512).

Drainage Districts formed under K.S.A. 24-601 *et seq.* may levy an annual tax not to exceed five mills on the assessed value of all tangible taxable property located within the district to constitute a general fund to meet the incidental expenses of the district. The board shall not levy a tax pursuant to this subsection for more than four years unless the board adopts a resolution, publishes the resolution and the tax levy is not protested by at least 10% of the electors voting in the last election for the board. (*See* K.S.A. 24-639).

Drainage District #1 of Finney County was formed under K.S.A. 24-601 *et seq.* The board of this particular drainage district is requesting an amendment to K.S.A. 24-639 to allow it to annually levy a tax not exceeding five mills on the assessed value of all tangible taxable property without the requirement to provide for a protest period every four years.

The requested amendment will grant Drainage District #1 of Finney County and other drainage districts formed under K.S.A. 24-601 *et seq.* the same power to levy taxes annually as other drainage districts formed under K.S.A. 24-401 *et seq.* or K.S.A. 24-501 *et seq.*

Thank you for the opportunity to submit written testimony in support of House Bill 2793 as amended by Representative Ward Loyd.

House Local Government
Date: 2-19-04
Attachment # 4

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HOUSE BILL No. 2793

By Representatives Loyd and Powell

2-10

AN ACT concerning drainage districts; relating to the powers and duties of the governing body thereof; amending K.S.A. 2003 Supp. 24-639 and repealing the existing section.

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

Section 1. K.S.A. 2003 Supp. 24-639 is hereby amended to read as follows: 24-639. (a) A district organized under the provisions of K.S.A. 24-601 *et seq.*, and amendments thereto, shall be a body politic and corporate, and shall be known by the corporate name of drainage district number _____ of _____ county.

(b) The board of supervisors of the drainage district shall have the power to:

- (1) Adopt a seal;
- (2) enter into contracts;
- (3) hold real and personal property;
- (4) sue and be sued;
- (5) determine and fix the district boundaries;
- (6) remove all obstructions from the channel of the watercourse;
- (7) commence and maintain suits against any and all persons or corporations unlawfully maintaining dams or other obstructions in the channel of the watercourse to compel the removal of the same;
- (8) exercise the power of eminent domain as to all lands necessary to the construction of cutoffs, spillways and auxiliary channels in accordance with K.S.A. 26-501 through 26-516, and amendments thereto;
- (9) require that all bridges across the watercourses shall be of sufficient length or that they shall be provided with sufficient trestle work to permit the unobstructed flow of the waters at flood time;
- (10) construct cutoffs, spillways and auxiliary channels across railroads and highways, to compel the adequate bridging of the same and to compel the raising of the grades of the railroads and highways;

(11) *subject to the provisions of K.S.A. 2003 Supp. 79-5040, and amendments thereto*, levy an annual tax not to exceed five mills on the assessed value of all tangible taxable property located within the district to constitute a general fund to meet the incidental expenses of the district.

~~The board shall not levy a tax pursuant to this subsection for more than~~

1 ~~four years unless the board adopts a resolution declaring it necessary to~~
 2 ~~continue such levy.~~ Such resolution shall be published at least once each
 3 week for three consecutive weeks in a newspaper of general circulation
 4 within the district. If within 30 days after the last publication of such
 5 resolution, a petition protesting such levy, signed by qualified electors of
 6 the district equal in number to not less than 10% of the electors voting
 7 at the last election for the board of supervisors, is filed with the county
 8 clerk of the county in which the greatest portion of such district is located,
 9 no levy shall be made unless the question of continuing such levy is sub-
 10 mitted to and approved by a majority of the electors of the district voting
 11 at an election called and held thereon. If no petition protesting the levy
 12 is filed within the prescribed time, the drainage district may continue to
 13 levy such tax for four more years. ~~Such resolution shall be submitted for~~
 14 ~~approval by the qualified voters of the drainage district.~~ The election shall
 15 be called and held in the manner provided by the general bond law. If a
 16 majority of the voters voting on the question votes in favor thereof, the
 17 drainage district may continue to levy such tax in accordance with the
 18 resolution, levy limitation may be increased.

If the board determines that a higher tax levy is necessary, it may adopt a resolution proposing to raise the limitation. Any proposed increase of the levy limitation shall be submitted for approval by the qualified voters of the drainage district.

- 19 (12) issue bonds and provide for the payment of the same; and
- 20 (13) perform any other acts not inconsistent with the provisions of
- 21 K.S.A. 24-601 *et seq.*, and amendments thereto.
- 22 (c) Nothing in this section shall be construed as exempting the drain-
- 23 age district from the requirements of K.S.A. 24-126 and 82a-301 *et seq.*,
- 24 and amendments thereto.
- 25 Sec. 2. K.S.A. 2003 Supp. 24-639 is hereby repealed.
- 26 Sec. 3. This act shall take effect and be in force from and after its
- 27 publication in the statute book.

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Testimony before the House Local Government Committee
regarding House Bill No. 2793
Thursday, February 19, 2004 at 3:30 p.m.

I am a member of the board for the Drainage District #1 of Finney County. I am presenting this written testimony to support House Bill No. 2793 with the amendments proposed by Representative Ward Loyd.

Our Drainage District has problems with excessive flooding when it rains in the area. Working with a professional engineer, the board has decided the best solution for the flooding would be to build a drainage ditch through the Drainage District to the Arkansas River. The drainage ditch will benefit the entire Drainage District and needs to be paid for by all the property owners. The cost of constructing the drainage ditch, including a culvert under railroad tracks, is estimated to be approximately \$750,000. The board would like to be able to finance the cost of the ditch over a period of eight to ten years. The board is considering signing a lease-purchase agreement that would be paid back over a period of eight to ten years through a levy of taxes on all the property in the Drainage District.

The law currently prevents our Drainage District from being able to secure an investor to finance a lease-purchase agreement because the board can not levy taxes for more than four years without going back to the property owners with a notice that the levy will continue for another four years. Other Drainage Districts have the power to levy taxes up to five mills without any time limit on how long the levy can continue. Our board would like the same power to be able to levy taxes up to five mills in order to be able to make these improvements and reduce the flooding in the area.

I would be glad to provide further testimony if it would be helpful. Thank you for your consideration.

Very truly yours,

Cecil O'Brate
Drainage District #1 of Finney County

P.O. BOX 1195 • 2814 W. JONES AVE. • (620) 275-7461

GARDEN CITY, KANSAS 67846

1-800-835-9136 • FAX 620-275-7464

House Local Government

Date: 2-19-04

Attachment # 5



Lynn C. Myers
Sheriff

OFFICE OF THE
Johnson County Sheriff

Courthouse
125 N. Cherry
Olathe, Kansas 66061

Telephone
913-791-5800
Fax
913-791-5806

Testimony of:

Sheriff Lynn C. Myers
Johnson County Sheriff's Office
Olathe, Kansas 66061
(913) 791-5805

House Bill #2725

Chairperson Vickery, Members of the House Committee on Local
Government,

My name is Lynn C. (Currie) Myers and I am the Sheriff of Johnson County
Kansas. I am appearing before you today in support of HB2725 that will
allow for the collection of a per diem from prisoners who have been
committed to the custody of the Sheriff.

Prisoners who have been convicted of a crime should be expected to
reimburse the taxpayers of the county a small portion of the cost that it takes
to house and care for prisoners. Currently it costs the taxpayers of Johnson
County \$112.17 per day to house a prisoner in one of my detention facilities.
Would charging a per diem fee of \$5.00 or \$10.00 be unreasonable
compared to the costs the taxpayers must currently bear? I would answer
no. The practice of charging a prisoner per-diem fee is already in place in
sixteen states and not an untried concept.

House Local Government
Date: 2-19-04
Attachment # 6

Collecting the per diem accomplishes two objectives that will have an impact on the prisoner and the county. First, the prisoner experiences the financial implications that accompany criminal behavior and that can serve as a deterrent for future criminal activity. Second, the county recoups some expenses from individuals who are directly using the services.

House Bill #2725 allows local control over the amount of fee that can be collected and also contains important safeguards. By prioritizing restitution, any child support owed, or court costs or fines must be paid before the per diem is collected. The bill also provides for a reduction or waiver of the amount in instances in which an undue hardship would be created if the per diem were collected. It is not my intention to make attempts to collect money from those who are not in a position to pay. The costs of such a venture would quickly outweigh the benefit.

In closing, I would like to thank you for the opportunity to speak to you this afternoon and I ask that you support House Bill 2725. I will be happy to answer any questions you may have.

Sheriff Lynn C. Myers
Johnson County Sheriff's Office
Olathe, Kansas 66061

JOANN LEE FREEBORN
REPRESENTATIVE 107TH DISTRICT
CLOUD, LINCOLN, OTTAWA
AND PART OF DICKINSON COUNTIES
1904 N 240TH RD
CONCORDIA, KANSAS 66901-6825
785-446-3675



TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR: ENVIRONMENT
MEMBER: AGRICULTURE
FEDERAL AND STATE AFFAIRS

STATE CAPITOL, RM. 281-W
TOPEKA, KS 66612-1504
785-296-7645
1-800-432-3924
e-mail: Freeborn@house.state.ks.us

February 19, 2004

To: Federal and State Affairs Committee

Re: Lincoln and Cloud County Law Enforcement Consolidation

Today I stand before you in support of HB 2805. This is a bill that I requested from your committee, on behalf of Lincoln and Cloud County Commissioners. They feel that they will be able to better serve their citizens by consolidating their law enforcement agencies. Both have written me letters signed by all of the county Commissioners in the two counties. I mention this to show the support of this bill from the local officials.

Riley County has already tested the use of Law Enforcement Consolidation. However, HB 2805 is different, as it is written specifically to accommodate the two aforementioned counties currently interested in Law Enforcement Consolidation. At this time, there are no additional counties that have made it known that they wish to be included in the bill. I have checked with the Association of Counties, and they have recommended county-specific legislation in this matter. With all of this in mind, I recommend to you HB 2805.

Sincerely,

A handwritten signature in black ink that reads "Joann".

Representative Joann Freeborn
107th District

House Local Government
Date: 2-19-04
Attachment # 7

CLOUD COUNTY COMMISSIONERS

811 Washington Concordia, Kansas 66901

785-243-8135

Richard Chartier

Gary E. Fraser

Roger C. Nelson

Thursday February 19, 2004

Testimony of Roger C. Nelson, Cloud County Commission, on House Bill 2805

before House Local Government Committee

Room 519-S

3:30 p.m.

Chairman Vickrey, Vice-Chairman Ostmeier, Members of the Committee:

Thank you for allowing me the time to present information on House Bill 2805. This bill would allow the electorate of Cloud County and Lincoln County to voice their opinion on the creation of a consolidated law enforcement agency in place of the multiple departments currently in place in the respective counties.

In the spirit of cooperation and consolidation that we are currently experiencing, there is much reason for such legislation. Unfortunately, current statutes contain restrictions as to valuation and population that debar both Cloud and Lincoln Counties from offering such an option to their citizens.

House Bill 2805 sets out a simple, step-by-step plan for voting on the proposition, setting up a governing board, listing responsibilities of such a governing agency, and, should the need or desire arise, abandonment of such an agency.

House Local Government

Date: 2-19-04

Attachment # 8

Cloud County Stained Glass



A Kaleidoscope of Color!

We believe that such law enforcement consolidation will promote and encourage efficiency and consistency in providing services as well as increased security for our citizens.

But the initial step must be to allow our citizens to express their opinion on the option of consolidated law enforcement. And that is what this bill is designed to do.

We would propose an amendment deleting language inadvertently included. We request that language be deleted which secures the retention of only those current law enforcement employees who hold a law enforcement training certificate. In other words, we would like to see all current staff meeting the qualifications for the consolidated law enforcement agency become members of the newly created agency should they wish to do so. A copy of the applicable page showing the suggested deletion is attached.

Members of the Committee, the Board of County Commissioners of Cloud County asks for your support for House Bill 2805.

If any Committee Members have questions, I would be happy to discuss them.

Thank you for your time.

A handwritten signature in cursive script that reads "Roger C. Nelson".

Roger C. Nelson

Cloud County Commissioner

1 vehicles, property and records belonging to the sheriff's department. If
2 the provisions of this act are adopted in Cloud county, all property of the
3 city of Concordia police department shall be transferred to the agency.
4 A record of all property so transferred shall be prepared and copies
5 thereof filed in the office of the county clerk and with the secretary of
6 the agency. On the date fixed for the transfer of law enforcement au-
7 thority, all staff of any city police department and all staff in the office of
8 the county sheriff on such date, ~~holding a law enforcement training cer-~~
9 ~~tificate and~~ meeting the qualifications established by the county law en-
10 forcement agency, may become members of the law enforcement agency,
11 and upon application shall become members of the law enforcement
12 agency.

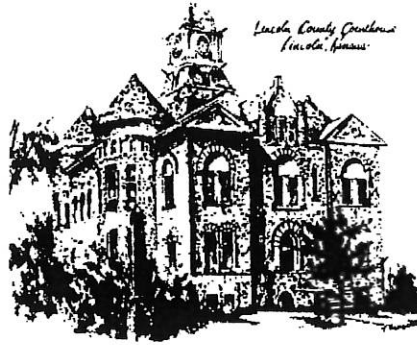
13 Sec. 12. It shall be the duty of the director and officers to keep and
14 preserve the peace, and, for such purpose such director and officers are
15 hereby vested with the power and authority of peace and police officers
16 in the execution of the duties imposed upon them under the provisions
17 of this act. All powers and duties now or hereafter conferred and imposed
18 upon the sheriff and deputies and constables of any county adopting the
19 provisions of this act are hereby conferred and imposed upon the director
20 and officers appointed under the provisions of this act. All the powers
21 and duties now or hereafter conferred and imposed upon the city marshal
22 or chief of police and police officers of cities located within such county
23 relating to the enforcement of the laws of the state and ordinances of
24 such cities, the authority for the enforcement of which has been trans-
25 ferred to and vested in the county department, are hereby conferred and
26 imposed upon the director and officers appointed under the provisions
27 of this act.

28 Sec. 13. The board of county commissioners of any county adopting
29 the provisions of this act shall provide the agency and department with
30 such quarters and facilities as the agency deems necessary. County law
31 enforcement agencies may utilize quarters and facilities previously used
32 by the sheriff of the county and may enter into contracts with cities lo-
33 cated within the county for the use by such agency of city jail facilities.
34 The board of county commissioners may construct or may acquire by
35 purchase, condemnation or lease, buildings and facilities for the use of
36 the agency and department in like manner as that provided by law for
37 the construction or acquisition of public buildings for the use of the
38 county.

39 Sec. 14. The sheriff of any county adopting the provisions of this act
40 shall be and is hereby relieved of all power, authority and responsibility
41 now or hereafter prescribed by law from and after the date fixed for the
42 transfer of such authority and responsibility to the law enforcement de-
43 partment under the provisions of this act, including the power, authority

*Lincoln County Board
of Commissioners*

*Doug Gomel
Dwight Heller
Terry L. Finch*



216 E. Lincoln
Lincoln, KS 67455
785-524-4335
785-524-5008 - Fax

February 19, 2004

House Bill 2805
Lincoln County

Local Government Committee Members,

Good afternoon, my name is Terry Finch, Chairman of the Lincoln County Board of Commissioners. I am here to support House Bill 2805.

Lincoln County located in North Central Kansas consists of 720 square miles. A small rural county with a current final assessed valuation of \$31,269,705 Lincoln County has four cities and twenty townships, with a current population of 3,542. The largest city is the City of Lincoln with a population of 1,328 and the second largest is Sylvan Grove with a population of 316.

During the past 30 years Lincoln County has shared joint law enforcement services with the City of Lincoln. At the request of the Sheriff, on May 5, 1997 Lincoln County and the City of Lincoln Center entered into a formal written contract for Lincoln County to provide law enforcement services. Additionally, for the same reason, the City of Sylvan Grove, on October 17, 1997, entered into a law enforcement contract with Lincoln County to provide law enforcement services. Both cities transferred and delivered to Lincoln County all of their law enforcement equipment including vehicles. In the 1980's the City of Barnard and Beverly discontinued the position of City Marshall and the County Sheriff assumed that role.

In the preceding seven years Lincoln County has elected or appointed three separate sheriffs. The staffing level for the sheriffs department has consisted of the Sheriff, Undersheriff, 6 full-time deputies, 4 full time dispatchers and 2 part time dispatchers. In this seven year period the Lincoln County Sheriff's department has experienced a turnover rate of 86 employees. This amounts to 12.2 employees per year or 1.02 employees per month, a rate that is unacceptable.

House Bill 2805 not only benefits the county, but also greatly benefits employees, by offering greater job security. Employees will not have a fear of loosing their job each time a new sheriff takes office. A majority of turnovers occur after an election. A board would offer diversity in that a wide array of knowledge and expertise would provide a broader resource for the recruitment and retention of quality employees. Currently, the

department's employee with the longest tenure is one that has been employed for less than two years.

The Lincoln County Board of Commissioners have been constantly fielding citizens requests to improve city and county law enforcement services. Commissioners would like for citizens to have the opportunity to choose between a consolidated law enforcement agency or continue with a sheriff led law enforcement organization. House Bill 2805 would be the first step for commissioners to take, allowing citizens a choice.

With experience in consolidated law enforcement for a number of years, House Bill 2805 would allow for a formalized structure of Lincoln County's law enforcement services. The creation of a board to appoint a law enforcement administrator would benefit members of each community as they would have a say in the assets, operations and finances of the agency. Currently the Mayors and Council Members of the cities of Lincoln and Sylvan Grove have voiced concerns over the lack of coverage being provided to their communities. These concerns would be resolved with a board governing assets, operations and finances of law enforcement.

In closing, on behalf of our citizens, the Lincoln County Commissioners would appreciate your consideration, support and passage of House Bill 2805.

Thank you for your time and attention.

Sincerely,

Terry Finch, Chairman, Lincoln County Board of Commissioners
Dwight Heller, Vice-Chairman, Lincoln County Board of Commissioners
Doug Gomel, Member, Lincoln County Board of Commissioners

Attachments: City of Lincoln – Letter of Support
City of Sylvan Grove – Letter of Support
Lincoln County Attorney – Letter of Support



CITY OF LINCOLN CENTER

Phone 785-524-4280
Fax 785-524-3408
E-mail: rmgourley@nckcn.com

153 W. Lincoln Ave.
P.O. Box 126
Lincoln, Kansas 67455

February 18, 2004

Lincoln County Board of Commissioners
216 E Lincoln Ave
Lincoln, Ks 67455

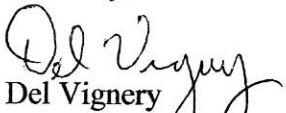
Honorable Board of Commissioners,

As Mayor of the City of Lincoln I am writing this letter in support for passage of House Bill 2805. I support the Lincoln County Commissioners' efforts in posing a question to the residents of Lincoln and Lincoln County to form a consolidated law enforcement agency within Lincoln County and create a board, which would consist of a representative from the City's governing body.

The City of Lincoln entered into a law enforcement contract with Lincoln County on May 5, 1997, and transferred all ownership to equipment and vehicles to the Lincoln County Sheriff's Department. I believe as a representative of the City of Lincoln that the city does not have the resources available or the desire to operate a police department.

In closing, as Mayor of the City of Lincoln, I feel that House Bill 2805 would greatly benefit the citizens of Lincoln.

Sincerely,


Del Vignery
City of Lincoln Mayor

CITY OF SYLVAN GROVE

118 S. MAIN
P.O. Box 68
SYLVAN GROVE, KS 67481

TELEPHONE: 785/526-7188
FAX: 785/526-7189
E-Mail: SYLVANCH@WTCIWEB.COM

February 18, 2004

Lincoln County Board of Commissioners
216 E Lincoln Ave
Lincoln, Ks 67455

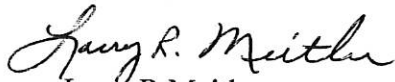
Honorable Board of Commissioners,

The City of Sylvan Grove is writing this letter in support for passage of House Bill 2805. The City of Sylvan Grove's governing body supports the Lincoln County Commissioners' efforts in posing a question to the residents of Sylvan Grove and Lincoln County to form a consolidated law enforcement agency within Lincoln County and create a board, which would consist of a representative from this governing body.

The City of Sylvan Grove entered into a law enforcement contract with Lincoln County on October 17, 1997, and transferred all ownership to equipment and vehicles to the Lincoln County Sheriff's Department. The City of Sylvan Grove does not have the resources available or the desire to operate a police department.

In closing the City of Sylvan Grove believe that House Bill 2805 would greatly benefit the citizens of Sylvan Grove.

Sincerely,



Larry R Meitler
City of Sylvan Grove Mayor

LINCOLN COUNTY ATTORNEY
116 S. Fourth – P.O. Box 36
Lincoln, Ks 67455-0036

JENNIFER R. O'HARE
Lincoln County Attorney

(785)524-4380
FAX:(785)524-5191

February 18, 2004

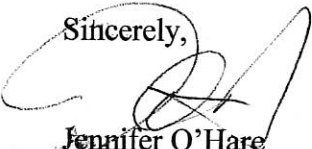
Lincoln County Board of Commissioners
216 E Lincoln Ave
Lincoln, Ks 67455

Honorable Board of Commissioners,

As Lincoln County Attorney, I am writing this letter in support for passage of House Bill 2805. I support the Lincoln County Commissioners' efforts in posing a question to the residents of Lincoln County to form a consolidated law enforcement agency within Lincoln County.

As you may be aware, we have faced several problems in law enforcement over the past year, many of which, has affected my ability to effectively prosecute cases in Lincoln County. House Bill 2805 is a chance for Lincoln County to change the operation of law enforcement in this community.

Sincerely,



Jennifer O'Hare
Lincoln County Attorney

9-45

Memorandum

TO: HONORABLE JENE VICKREY, CHAIRMAN
HOUSE LOCAL GOVERNMENT COMMITTEE

FROM: JEFFERY S. BOTTENBERG, LEGISLATIVE COUNSEL,
KANSAS SHERIFFS ASSOCIATION

RE: HB 2805

DATE: FEBRUARY 19, 2004

Mr. Chairman, Members of the Committee: My name is Jeff Bottenberg and I represent the Kansas Sheriffs' Association, ("KSA"), which is comprised of over 2,100 members, both law enforcement and civilian personnel, that work in county sheriff offices throughout the state. We appreciate the opportunity to present written testimony in opposition to HB 2805.

The KSA opposes this bill because both the sheriff departments of Lincoln and Cloud County oppose this legislation, as they do not believe that there is a need to eliminate the elected position of sheriff. Indeed, if this legislation passes, the voters in each county would have the opportunity to replace the properly elected sheriff with an appointed director of law enforcement, although the KSA is confident that the voters would not support such measure.

Furthermore, the prime reason for creating a county law enforcement office is to consolidate the local police and sheriff departments, as was done in Riley County. Lincoln County, however, does not have a police department within its county. Thus, one must ask, what are the economies of scale that this bill would create? It would appear that the intent of this bill is to replace an elected sheriff with an appointed director of law enforcement. The KSA believes that having an elected law enforcement officer is good public policy, for unlike the director of law enforcement as envisioned in this bill, the sheriff is directly accountable to the people.

Therefore, for the above reasons, the KSA urges this Committee to oppose HB 2805. Please feel free to contact me if you have any questions or concerns regarding this bill.

House Local Government
Date: 2-19-04
Attachment # 10

Amendment
Passed -
Amended Bill Tabled

until 2/24/04

HOUSE BILL No. 2585

By Committee on Local Government

1-23

9 AN ACT subjecting entities receiving certain tax moneys to the open
10 meetings act and open records act.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. Any convention and visitor's bureau or committee ~~or sim-~~
14 ~~ilar organization or group~~ which receives money or revenue derived from
15 a levy imposed pursuant to K.S.A. 12-1693 or 12-1697, and amendments
16 thereto, ~~for other public moneys~~ shall be and is hereby deemed to be a
17 public body and agency and shall be subject to the open meetings act
18 (K.S.A. 75-4317 *et seq.* and amendments thereto) and to the open records
19 act (K.S.A. 45-215 *et seq.* and amendments thereto).

20 Sec. 2. This act shall take effect and be in force from and after its
21 publication in the Kansas register.

Submitted by:
Rep. Lane

House Local Government
Date: 2-19-04
Attachment # 11

HOUSE BILL No. 2615

By Committee on Judiciary

1-28

AN ACT concerning municipalities; relating to the abatement of nuisances; amending K.S.A. 2003 Supp. 12-1617e and repealing the existing section.

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

Sec. 1. K.S.A. 2003 Supp. 12-1617e is hereby amended to read as follows: 12-1617e. (a) The governing body of any city may have removed or abated from any lot or parcel of ground within the city any and all nuisances, including rank grass, weeds or other vegetation. The governing body may have drained any pond or ponds of water, at the cost and expense of the owner of the property on which the nuisance is located, whenever the city, county or joint board of health or other agency as may be designated by the governing body of the city files with the clerk of such city its statement in writing that such nuisance, rank vegetation or pond of water, describing the same and where located, is a menace and dangerous to the health of the inhabitants of the city, or of any neighborhood, family or resident of the city. The governing body of the city, by resolution, also may make such determination.

(b) Except as provided by subsection (c), the governing body of the city shall order the owner or agent of the owner of the property to remove and abate from the property the thing or things therein described as a nuisance within a time, not exceeding ~~10~~¹⁰ days, to be specified in the order. The order shall state that before the expiration of the waiting period, the recipient thereof may request a hearing before the governing body or its designated representative. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(c) If the owner or agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body of a city may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (b) or as provided in this subsection.

Insert attached

10

If the owner or agent receiving the order does not have possession of the property, 40 days shall be allowed to be specified in the order.

Submitted by:
Theresa Kiernan
Revisors Office

House Local Government

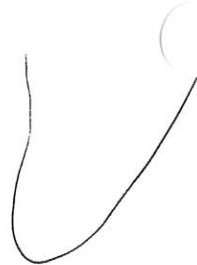
Date: 2-19-04

Attachment # 12

12-1,115. Collection of certain unpaid special assessments; action in district court for debt. If any special assessments levied by the city in accordance with K.S.A. 12-1617e, 12-1617f or 12-1755, and amendments thereto, remain unpaid for a period of one year or more after their initial levy, the city may collect the amount due in the same manner as a personal debt of the property owner to the city by bringing an action in the district court of the county in which the city is located. Such actions may be maintained, prosecuted, and all proceedings taken, including any award of postjudgment interest in accordance with K.S.A. 16-204, and amendments thereto, to the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be and are hereby made available to the city in the enforcement of the payment of such obligations. In such actions, the city also shall be entitled to recover interest at the rate provided in K.S.A. 79-2004, and amendments thereto, from and after the date a delinquency occurs in the payment of special assessments levied in accordance with K.S.A. 12-1617e, 12-1617f or 12-1755, and amendments thereto. ~~The~~ Upon proper order and notice, the city may pursue collection both by levying a special assessment and in the manner provided by this section, but only until the full cost and any applicable interest has been paid in full.

Except as otherwise provided by the person who filed the form, such record and shall not be made available for examination or copying except as follows:

- (a) To the person who is the subject of the form, to a member of that person's immediate family, or to that person's agent or representative duly authorized in writing.
- (b) To a person requesting to examine or copy such record when the event that resulted in the record being made occurred more than 70 years prior to the request.
- (c) To a person who is a licensed funeral director and who has custody of the body of the deceased veteran.
- (d) When ordered by a court
- (e) When required by a department or agency of the federal or state government or a political subdivision thereof.
- (f) To a person conducting research who has received written approval from the commissioner of veteran affairs to view the records.
- (g) If a certified copy of the form is required to perfect the claim of a veteran in service or honorably discharged or a claim of a dependent of the veteran, the certified copy shall be furnished by the register without charge.



Balloon
on
2758

Attachment
Submitted by
Theresa Kiernan,
Revisors Office