

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on March 16, 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:

Doug Anstaett, Kansas Press Association
Mike Merriam, Kansas Press Association
Harriet Lange, Kansas Association of Broadcasters

Others attending:

See Attached List.

The Chairman opened the hearing on:

HB 2922 public records; exceptions to disclosure

Proponents of the bill were scheduled to appear at today's meeting. Those conferees offering testimony in opposition and also those taking neutral positions will be appearing at the March 18, 2004 meeting.

Doug Anstaett, Executive Director, Kansas Press Association, presented the testimony of Rick Thames, *The Wichita Eagle*, in support of the bill (Attachment 1). He said the change regarding personnel records will allow a judge to consider times when it may be in the public's best interest to open portions of personnel records. He stated that the change pertaining to notes and preliminary drafts assumes that the public has a right to see material that is distributed to a majority of a quorum of a public body. Mr. Anstaett informed that the change concerning invasion of privacy allows the state attorney general to develop some reasonable rules to help custodians of records to determine what constitutes an unwarranted invasion of personal privacy.

Mike Merriam, Kansas Press Association, testified in support of the bill (Attachment 2). He explained that the bill came from discussions with representatives of the Kansas Press Association, Kansas Association of Broadcasters, Kansas Sunshine Coalition and the Attorney General's Office. Proposed amendments to the exceptions are as follows:

- Personnel records - Documentation of disciplinary measures, including termination, of public employees whose duties are a matter of the public trust, should be excluded from the personnel records exception;
- Reference letters - The issue has arisen with some frequency in recent years when elected officials have resigned or been ousted from office and partisan party caucuses elect their successors. While making such caucuses subject to the Kansas Open Meetings Act would be a laudable goal, this provision simply addresses reference letters pertaining to the filling of such elected offices;
- Donations - This change is intended to compliment exception 4, which already makes public the salaries of public employees (and as amended by HB 2889, "actual compensation"). The change would cover employees who effectively receive consideration for their employment from other than public funds;
- Criminal Investigation Records - This measure would require only a citation to that portion of the disclosure criteria relied upon by the custodian;
- Correspondence - This measure is intended to address the problem of influence peddling. It retains the exception for constituent originated correspondence;
- Notes, drafts, data - The amendment here is intended to be supplemented with

CONTINUATION SHEET

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE at 3:30 p.m. on March 16, 2004 in Room 519-S of the Capitol.

- repeal of exceptions 21 and 22, consolidating the three exceptions;
- Public services - This repeal is based on a policy view that the provision of public services is inherently public;
- Personal privacy - This amendment delegates to the Attorney General rule making authority to guide custodians in determining what "clearly unwarranted invasion" means in matters of personal privacy.

Harriet Lange, President/Executive Director, Kansas Association of Broadcasters, appeared in support of the bill (Attachment 3). She explained that this bill reflects the items that were not agreed upon between the members of the working group who brought forth **HB 2889**. She said that the Kansas Association of Broadcasters is in agreement with testimony offered by Mike Merriam, Kansas Press Association.

The Chairman closed the hearing on: **HB 2922**

SB 461 **limitations on acquisition of land by eminent domain by a port authority and county**

Letters from Sen. Goodwin (Attachment 4) and Rep. Shriver (Attachment 5) were distributed to the Committee. Both their letters included a letter written jointly by two of the three Cowley County Commissioners in support of **SB 461**. The letter from the two Cowley County Commissioners urged passage of the bill.

Rep. Yonally made a motion to amend **SB 461** in sections 1 and 3 to make the language specific to only Cowley County. Rep. Lane seconded the motion. The motion carried.

Rep. Ostmeyer made a motion for the favorable passage of **SB 461** as amended. Rep. Yonally seconded the motion. The motion carried.

Minutes

Rep. E. Johnson made a motion to approve the minutes of the March 11, 2004 meeting. Rep. Lane seconded the motion. The motion carried.

The meeting was adjourned at 4:35 p.m.

The next meeting is scheduled for March 18, 2004.



Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

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

March 16, 2004

To: The House Committee on Local Government

From: Rick Thames, editor, The Wichita Eagle; director, The Kansas Press Association

Re: House Bill 2922

I am a proponent of House Bill 2922. It is a reasonable approach that respects the spirit of the Kansas Open Records Act, while accommodating circumstances in which records can be closed when it is in the public's best interest. As you consider the proposed changes in this bill, I appreciate the opportunity to offer the perspective of an organization that regularly gathers information on behalf of citizens, as it relates to three of these exemptions:

Exemption No. 4. Personnel records

The change. As amended, this exemption will allow a judge to consider times when it may be in the public's best interest to open portions of personnel records. This would be limited to a class of employee who "handles public money, works with children or sets public policy," and could only occur when such an employee has resigned, been terminated or otherwise disciplined regarding these responsibilities.

Why this is important. The public now has no access to the government's handling of employees whose behavior was irresponsible, if not criminal.

- In Wichita, the school board continues to deny the public access to the personnel file of a former teacher, Ernest Overton, who continued teaching for five years after raping a student in 1996. We know from a lawsuit that the school system repeatedly missed signals that Overton behaved inappropriately with students prior to the rape. But even though Overton is now in prison and the lawsuit has been settled, school officials refuse to disclose what his file says about his behavior in the classroom in the years following the rape.
- As the law now stands, government employees who embezzle taxpayer funds are still shielded from public disclosure of their personnel history.

Given the opportunity, agencies can — and will — use their discretion under this personnel exemption to protect their own self-interests. This change will allow judges to stop that.

Exemption No. 20. Notes, preliminary drafts

The change. As amended, this assumes that the public has a right to see material that is distributed to a majority of a quorum of a public body.

Why this is important. This is key to citizens understanding the policymaking process. Once material is distributed to a majority, the policymaking begins, even though conversations about

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that material may continue to be one-on-one. The effect is that the ruling body has begun to react. The public has a right to know about that activity.

Exemption No. 30. Invasion of privacy.

The change. As amended, this allows the state attorney general to develop some reasonable rules to help custodians of records to determine what constitutes an unwarranted invasion of personal privacy.

Why this is important. This exemption is often invoked as a "catch-all" clause for matters not specifically exempted by KORA or elsewhere in the statutes. That is precisely the problem with it. Custodians of records arbitrarily apply this exemption, based on their individual views. Several members of the committee indicated they were uncomfortable with such broad and vague language. So are we. Here is but one example of how this can interfere with the public's right to know.

Recently, The Eagle and KWCH television requested the cellular telephone records of Wichita city government employees because their reporters had found indications that these phone privileges (paid for by taxpayers) were being abused. The city attorney rejected our request largely on the grounds that this was an unwarranted invasion of those employees' privacy. The records were only disclosed after we filed a formal complaint with the district attorney, who chose to consider the matter and ruled against the city. Sure enough, employees had run up extensive costs to taxpayers making personal telephone calls.

The ensuing stories forced the city to develop its first formal policy on use of cell phones, saving taxpayers thousands of dollars. It is important to note that all records were disclosed without any actual issues surfacing regarding the unwarranted invasion of personal privacy. The change in the law will offer custodians some wisdom when weighing potential matters of privacy against the public's need to know.

~~_____~~



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March 16, 2004

To: House Local Government Committee

From: Doug Anstaett, executive director, Kansas Press Association

Re: HB 2922

Chairman Vickrey and members of the Committee:

We've spent considerable time during this legislative session on open records. Those associations that represent newspapers and broadcast interests have been trying to close the barn door on new exemptions at the same time we've been trying to meet the Legislature's goal of reviewing all 46 exemptions in the Kansas Open Records Act.

Although we were able to come to a number of accommodations in our previous meetings with the League of Kansas Municipalities, the Kansas Association of Counties, the Kansas Association of School Boards, Kansas NEA and others, we have not been able to eliminate our differences in all areas. Still, what we accomplished working together was nothing short of miraculous and we're perplexed that the Kansas Senate continues to sit on HB 2889, even denying us a public hearing.

Today, I'm asking your consideration of some changes that we believe are necessary to clarify KORA and bring more specificity to a couple of the exemptions.

Exemption 4/Personnel Records

Those who work in our schools and our police departments and those who drive our buses and coach our children have an important calling. When they fall short of our expectations by breaching their public trust, they should not be able to hide behind KORA to shield themselves from public scrutiny. Those who choose to perform jobs that require the trust of the public should know that their actions will be scrutinized more closely than those in private business. After all, they are paid by the taxpayers. The public has a right to know about disciplinary measures taken.

Exemption 14/Correspondence

This change opens up official correspondence between a public agency and a private individual which is initiated by the agency, public official or public employee and involves a tangible gift, compensation, favor, benefit or gratuity being sought by the agency, official or employee. Obviously, we're trying to eliminate the problem of influence peddling.

1-3

~~1-2~~

Exemption 20/Notes, Drafts, Data

This one is particularly important to our newsgathering efforts because it opens up to public scrutiny records that are publicly cited or identified in an open meeting or distributed to a majority of a quorum of the governing body. As it now stands, these kinds of records can be kept secret. We think they should be open to public scrutiny.

Exemption 26/Public Services

Obviously, public services are just that.

Exemption 30/Personal Privacy

Newspapers encounter numerous problems with the personal privacy exemption because there are so many interpretations of what constitutes "public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy."

Because every custodian of a record has a different view of what constitutes an "unwarranted invasion," the application of this exemption is arbitrary and inconsistent from jurisdiction to jurisdiction. We seek this new language to bring more consistency to its use by seeking clarification through the rule-making authority of the Kansas attorney general. Certainly there are instances where information is of such a sensitive nature that it should be kept private. But the law as it stands now is much too vague. The attorney general can, through rules and regulations, clarify the information that qualifies for exemption and that which does not.

Thank you for your time.

MICHAEL W. MERRIAM

LAWYER

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March 16, 2004

House Committee on Local Government
Statement in support of HB 2922

Ladies and Gentlemen:

I am Mike Merriam, a lawyer in Topeka. My clients include many newspapers, broadcasters, wire services, media associations, and other newsgathering interests. I have been practicing media law for about 27 years, and answering open records questions from reporters and citizens around the State on three legal telephone hotlines as well. I have represented the press in litigation under the Kansas Open Records Act at least ten times, and in innumerable KORA requests for access.

The ad hoc group of facilitators who worked cooperatively to recommend re-enactment and amendment of KORA exceptions to disclosure of public records, earlier produced the proposals this committee adopted with only one change, as HB 2889. Press and broadcast interests in that group had made numerous additional proposals during its discussions upon which no agreement was reached, and it was understood and agreed that those suggestions would be put to the Legislature separately, all parties being free to take advocacy positions as they saw fit. Working with Attorney General Kline, the Kansas Press Association, Kansas Association of Broadcasters, and the Kansas Sunshine Coalition for Open Government, assembled the additional proposals you now consider as HB 2922.

1. Exception 4. Page 1, Line 26. Personnel records. The bill contains some garbled language in lines 31-32. The italicized portion beginning in line 31 should read: *The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that . . .* [picking up at line 33].

Note that the court ordered disclosure portion is the same procedure for disclosure of criminal investigation records in exception 10, with an appropriate set of criteria for disclosure of personnel records.

Documentation of disciplinary measures, including termination, of public employees whose duties are a matter of the public trust, should be excluded from the personnel records exception. When we entrust our children to school teachers, bus drivers, coaches, and some others, those employees are discharging public duty of the highest public interest and trust, and if they are

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disciplined regarding a breach of that duty, it should be public. Not just any discipline, performance review, evaluation, tardiness and other matters of strictly employer-employee relations should be disclosed, but rather discipline arising from that particular trust. A similar case exists for anything a police officer does on duty, and for other public employees who serve positions or functions of public trust (anyone handling money; anyone with law enforcement authority, policy makers).

2. Exception 6. Page 1, Line 40. Reference letters. The issue here has arisen with some frequency in recent years when elected officials have resigned or been ousted from office, and partisan party caucuses elect their successors. While making such caucuses subject to the Kansas Open Meetings Act would be a laudable goal, this provision simply addresses reference letters pertaining to the filling of such elected offices.

3. Exception 8. Page 2, Line 3. Donations. This change is intended to compliment exception 4, which already makes public the salaries of public employees (and as amended by HB 2889, "actual compensation"). It would cover employees who effectively receive consideration for their employment from other than public funds.

4. Exception 10. Page 2, Line 12. Criminal investigation records. This exception was amended in HB 2889 at lines 12 and 18 of this bill. The new amendment is at line 28. We originally sought to encourage custodians to make the analysis that a court would make under the A-F criteria in this exception, but that concept lacked enforcement capability. This measure would require only a citation to that portion of the disclosure criteria relied upon by the custodian.

5. Exception 14. Page 3, Line 5. Correspondence. This measure is intended to address the problem of influence peddling. It retains the exception for constituent originated correspondence.

6. Exception 20. Page 3, Line 35. Notes, drafts, data. The amendment here is intended to be supplemented with repeal of exceptions 21 and 22, consolidating the three exceptions. In line 38, it adds the "research" from exception 22 (page 4, line 10) and the "proposed legislation" from exception 21 (page 4, line 2). At lines 40-43, it adds the distribution aspects from both 21 and 22.

In practice, these exceptions have been confusing and redundant, with inconsistent application. Preliminary drafts, for example, could remain confidential even when distributed to a majority of a quorum of a public body. The amendment would treat these similar records similarly.

7. Exception 26. Page 4, Line 23. Public services. This repeal is based on a policy view that the provision of public services is inherently public.

8. Exception 30. Page 5, Line 17. Personal privacy. This amendment delegates to the Attorney General rule making authority to guide custodians in determining what "clearly unwarranted invasion" means in matters of personal privacy.

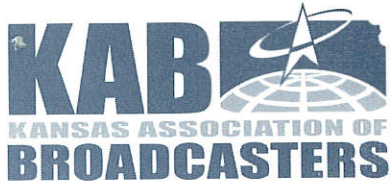
Custodians routinely cite this exception to deny access to any information of a personal nature, even information that is already public elsewhere, such as a person's address. The Sedgwick County Register of Deeds cited this provision to deny access to unredacted *recorded* instruments because they *might* contain a Social Security number, a date of birth, or a mother's maiden name, even though people pay a fee to have these instruments recorded precisely in order to make them part of the public record.

The problem addressed here is the interpretation of the phrase, "clearly unwarranted." That currently is interpreted as a matter of discretion on the part of the custodian which leads to denial of access either from personal bias, or fear of disclosing too much under the vague standard this phrase invites. As Professor Ted Fredrickson observed in his seminal law review article on this law¹, the law places an untenable obligation on the custodian to make what amounts to a policy decision on what is clearly unwarranted and what is not. He concluded in 1985 that such policy decisions were the province of the legislature, not the records custodians, and that this provision should be eliminated. The proposal for rule making is intended to recognize the concerns of modern concepts of personal privacy, such as identity theft, stalking and the like, but to standardize the concept in order to reduce or eliminate the varying views of thousands of custodians.

Thank you for the opportunity to present my statement.

Michael W. Merriam

¹Fredrickson, *Letting the Sunshine In: An Analysis of the 1984 Kansas Open Records Act*. 33 Kansas Law Review, 205, at p 260.



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Testimony
Before House Committee on Local Government
Regarding HB 2922
March 16, 2004
By
Harriet Lange
President/Executive Director
Kansas Association of Broadcasters

Mr. Chairman, Members of the Committee, I am Harriet Lange with the Kansas Association of Broadcasters. KAB serves a membership of radio and television broadcast stations in Kansas. We appreciate the opportunity to appear before you today in support of HB 2922.

As you've already been informed, this bill is the result of further discussions about exceptions in KORA by Attorney General Phill Kline and representatives from KAB, KPA and KS Sunshine Coalition for Open Government. The language in HB 2922 reflects much of what has already overwhelmingly passed the House in the "compromise" bill – HB 2889. We are proposing in HB 2922, those additional items not totally agreed to by the working group involved in HB 2889. These additional items may be found in the bill as follows:

- Section (4), page 1, lines 32-37: Provides for court ordered disclosure of personnel records (similar to criminal investigation records) related to discipline of personnel whose duties are a matter of public trust.
- Section (14), page 3, lines 6-9: The proposed amendment does not include correspondence which originates with constituents, but correspondence initiated by a public official or agency which would be considered influence peddling.

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- Sections (20-22), page 3, lines 38 and 40-42 and page 4, lines 1-17: Primarily technical or “clean-up” in nature, this amendment combines sections already in statute related to notes, drafts and data in which policies or actions are proposed.
- Section (26), page 4, lines 23-26: Information about “public services” provided by “public utilities” or other service should be “public”.
- Section (30), page 5, lines 19-20: In order to standardize what constitutes “clearly unwarranted invasion of personal privacy” and to assist record custodians in making a determination, we support this language which provides for the adoption of rules and regulations.

KAB is in agreement with testimony provided by Mike Merriam and Kansas Press Association and we urge your support of HB 2922.

Thank you for your consideration.

GRETA H. GOODWIN
SENATOR, 32ND DISTRICT
COWLEY AND SUMNER COUNTIES

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER
JUDICIARY
CORRECTIONS/JUVENILE JUSTICE
STATE BUILDING CONSTRUCTION
MEMBER: ASSESSMENT AND TAXATION
TRANSPORTATION
CONFIRMATION OVERSIGHT
KANSAS SENTENCING COMMISSION
STATE CAPITOL RESTORATION
HEALTH CARE STABILIZATION FUND
LEGISLATIVE OVERSIGHT
JUDICIAL COUNCIL JUVENILE OFFENDER/
CHILD IN NEED OF CARE ADVISORY
JUDICIAL COUNCIL PROBATE LAW
ADVISORY

TESTIMONY ON SENATE BILL 461
HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

MARCH 16, 2004

During the March 11, 2004 hearing held in your committee on the above referenced bill, I was asked to secure written verification of the Cowley County Commissioners who publicly supported Senate Bill 461 which I introduced. I have attached a written and signed document which was FAX to me which will verify the support of Cowley County Commissioners Margie Berrie and Randy Storey. Should you desire that they appear before your committee, I would be glad to arrange a date and time.

Sincerely,

Greta H. Goodwin

Senator – 32nd District

House Local Government
Date: 3-16-04
Attachment # 4



OFFICE OF
COUNTY COMMISSIONERS
OF COWLEY COUNTY
311 East 9th
Winfield, Kansas 67156

Chairman
Dick Bonfy

Randy Storey
Margie Berrie

Mr. Jene Vickrey, Chairman
Local Government Committee
Kansas House of Representatives
Topeka, Kansas

March 15, 2004

Dear Mr. Vickrey:

It is our understanding SB-461 will come before your Committee for Consideration on Tuesday, March 16, 2004


We, the Cowley County Commission, have asked our Representatives, Joe Shriver and Judy Showalter to convey our support of SB-461. The question of the bill preventing the Cowley County Commission from using eminent domain for acquiring property for recreational purposes is not a matter of concern to this commission.

We urge the Local Government Committee to move this bill to the house for a vote with a recommendation for approval.

Thank you for your consideration in this matter.

Sincerely:


Margie Berrie, Commissioner


Randy Storey, Commissioner

Cc: Senator Greta Goodwin
Representative Joe Shriver
Representative Judy Showalter

JOE SHRIVER

REPRESENTATIVE, 79TH DISTRICT

COWLEY COUNTY

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TOPEKA

HOUSE OF
REPRESENTATIVES

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FISCAL OVERSIGHT

MEMBER

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GENERAL GOVERNMENT AND HUMAN
RESOURCES BUDGET COMMITTEE
GOVERNMENTAL ORGANIZATIONS &
ELECTIONS COMMITTEE
LOCAL GOVERNMENT COMMITTEE
JOINT COMMITTEE ON SPECIAL CLAIMS
AGAINST THE STATE

March 15, 2004

Jene Vickrey, Chairman
Local Government Committee
Kansas House of Representatives
Statehouse, Room 115-S

Topeka, KS. 66612

Chairman Vickrey:

Enclosed please find a response of the Cowley County Commission on Senate Bill 461. I have also enclosed for your committee, my request of March 2, 2004 for the commission's opinion on Senate Bill 461. I enclosed a copy of KSA 12-3402 in response to the committee question.

If I can be of further assistance, please let me know.

Joe Shriver
State Representative
District #79

JS:hh

Encl.

House Local Government
Date: 3-16-04
Attachment # 5



OFFICE OF
COUNTY COMMISSIONERS

OF COWLEY COUNTY
311 East 9th
Winfield, Kansas 67156

Chairman
Dick Bonfy

Randy Storey
Margie Berrie

Mr. Jene Vickrey, Chairman
Local Government Committee
Kansas House of Representatives
Topeka, Kansas

March 15, 2004

Dear Mr. Vickrey:

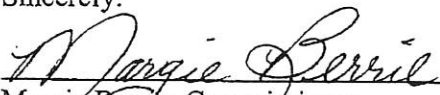
It is our understanding SB-461 will come before your Committee for Consideration on Tuesday, March 16, 2004

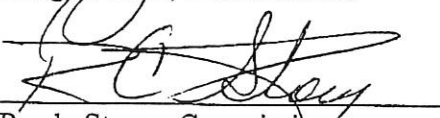
We, the Cowley County Commission, have asked our Representatives, Joe Shriver and Judy Showalter to convey our support of SB-461. The question of the bill preventing the Cowley County Commission from using eminent domain for acquiring property for recreational purposes is not a matter of concern to this commission.

We urge the Local Government Committee to move this bill to the house for a vote with a recommendation for approval.

Thank you for your consideration in this matter.

Sincerely:


Margie Berrie, Commissioner


Randy Storey, Commissioner

Cc: Senator Greta Goodwin
Representative Joe Shriver
Representative Judy Showalter

March 2, 2004

Mr. Jay Newton, Administrator
Cowley County Commission
Cowley County Courthouse
311 E. 9th
Winfield, KS. 67156

Dear Jay:

I would like to know the Commission's opinion on SB 461 which places land restrictions on Cowley County. This bill is in reference to the proposed lake project on the Grouse-Silver Creeks.

This bill passed the Kansas Senate last week and should be assigned to a House Committee today. I have committed to Kent Radcliff, of the Grouse-Silver Watershed Board, that I would support the wishes of the Watershed on this issue by supporting the bill. I do not wish future Cowley County Commissions to use home rule to expand authority under this bill and implement zoning in Cowley County. If that needs to be clarified, the bill can be amended.

I also would ask your current commissioners to help explain to the people of Cowley County that this bill will not stop the lake, as it only puts land use restrictions in place.

The Walnut and Lower Arkansas River Basin issue paper continues and should have a recommendation by early fall for a study of the project. I have supported the study of the issue, as I feel we need to have the information the people in Cowley County support or do not support the project before a decision is made.

Senate Bill 461 puts land use restrictions on property taken by eminent domain by a port authority in Cowley County for thirty years. I just thought the commission may want to voice their opinion.

Thanks!

Joe Shriver
State Representative
House District #79

JS:hh

Incl. Copy of SB 461

5-3

An agricultural, commercial, industrial or manufacturing facility need not be part of or contiguous to another port facility if the governing body of the city or county creating a port authority also determines that such facility will further the purposes of this act and promote the general welfare and economic development of such city or county. If the port authority was created by two or more cities or counties, such determination also shall be made by the governing body of the city or county in which such facility is located. In determining whether agricultural, commercial, industrial or manufacturing facilities, not part of or adjacent to another port facility, will further the purposes of this act and promote the general welfare and economic development of cities and counties, such port authorities and governing bodies shall consider:

- (1) The desirability and economic feasibility of the proposed facility;
- (2) the technical and economic capability of the port authority or private interests to operate the proposed facility;
- (3) the potential economic impact of the proposed facility on the city or county in which the facility will be located;
- (4) the impact such facility will have on the development of interstate and intrastate traffic which will make use of ports within the state;
- (5) the impact such facility may have on the growth of new ports within the state; and
- (6) the impact such facility may have on any existing comprehensive land-use plan covering the proposed location of the facility.

History: L. 1969, ch. 89, § 1; L. 1980, ch. 70, § 1; L. 1981, ch. 76, § 1; L. 1987, ch. 75, § 1; July

Research and Practice Aids:

Municipal Corporations — 1 et seq.
 N.J.S. Municipal Corporations §§ 1, 3, 4, 34.

Attorney General's Opinions:

City councilman as port authority board member. 81-214.
 Railroad rehabilitation loan guarantee fund; limits on guarantee under 1989 House Bill No. 2520 (L. 1989, ch. 275). 89-

Port authorities; purpose; creation; legislative approval. 91-

CASE ANNOTATIONS

Section construed prior to 1981 amendments; definition of "port" did not authorize establishment of industrial use facility independent of a "port." State ex rel. Tomasic v. Kansas Kansas Port Authority, 229 K. 538, 539, 626 P.2d 209.

Cited; arbitration of contract dispute where court refuses to consider matters subject to arbitration examined. Jackson

Trak Group, Inc. v. Mid States Port Authority, 242 K. 689, 694, 751 P.2d 122 (1988).

12-3402. Port authorities; purpose; creation; legislative approval; tax levy; election required; dissolution. (a) It is the purpose of this act to promote, stimulate and develop the general welfare, economic development and prosperity of the state of Kansas by fostering the growth of intrastate and interstate commerce within the state; to promote the advancement and retention of ports within the state; to encourage and assist in the location of new business and industry in this state and the expansion, relocation or retention of existing business and industry when so doing will help maintain existing levels of commerce within the state or increase the movement of commodities, goods and products produced, manufactured or grown within or without the state through existing ports within the state or lead to the development of new ports within the state; and to promote the economic stability of the state by maintaining and providing employment opportunities, thus promoting the general welfare of the citizens of this state, by authorizing port authorities to be established in each city and in each county of the state.

A port authority shall be a public body corporate and politic which if established shall be known as the "port authority" of the city or of the county. Joint port authorities may be created under authority of this act by cooperative agreement executed by the governing bodies of any city or county or cities or counties. Such joint authorities formed by such cooperative agreement shall have all the powers and jurisdiction enumerated in this act. Such creation shall be by ordinance or resolution. Except for port authorities created prior to April 1, 1981, no port authority shall be created without approval of the legislature by concurrent resolution. The authority shall not transact any business or exercise powers hereunder until the passage of a concurrent resolution by the legislature as hereinbefore provided.

A cooperative agreement creating a joint port authority may be amended by the governing bodies of the cities and counties which executed such agreement. Any amendment to such a cooperative agreement, including amendments which allow other cities located within counties which are parties to the original agreement to join in such agreement, shall not require approval by the legislature.