

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairperson Barbara Allen at 1:30 p.m. on March 11, 2004 in Room 423-S of the Capitol.

All members were present except:
Senator Derek Schmidt- excused

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

Conferees appearing before the committee:
Representative Ward Loyd
Senator Steinegar
Sarah Steele, Attorney, Gilmore & Bell - Written testimony only
Marlene Nagel, Community Development Director, MARC, Written testimony only
Pat Rahija, Wyandotte County Election Commissioner
Representative Carol Beggs
Representative Jene Vickrey
Marilyn Nichols, Shawnee County Register of Deeds

Others attending:
See Attached List.

Hearing on:
HB 2793 - Drainage districts; tax levies for general fund

Chairperson Allen welcomed members to the committee and opened the hearing on **HB 2793**.

Representative Loyd recognized by Chairperson Allen spoke in support of **HB 2793**. Representative Loyd stated the bill would amend the provisions of K.S.A. 24-639, which would allow the electors of Drainage District #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 (Attachment 1). Representative Loyd presented written testimony from Sarah Steele, Attorney, Gilmore & Bell in support of **HB 2793** (Attachment 2).

Chairperson Allen welcomed Senator Steinegar to the committee. Senator Steinegar testified in support of **HB 2793** with a proposed amendment. His amendment would apply to counties over 150,000 in population and cities over 140,000 in population, to create an easement for purposes specified in subsection (b) a) hiking, b) bicycle riding, c) horseback riding, and d) walking (Attachment 3).

Marlene Nagel submitted written testimony in support of Senator Steinegar's amendment (Attachment 4).

After questions from the committee and there being no others to testify on **HB 2793**, Chairperson Allen closed the hearing on **HB 2793**.

HB 2758 - Open records act; exemption; military discharge forms

Representative Carol Beggs, recognized by the Chair testified in support of **HB 2758**. He testified as the Legislative Liaison for the Ft. Riley Retiree Council, representing all Military Retirees of the Five State Area surrounding Kansas. **HB 2758** would amend the Kansas Open Records Act (KORA) to add two new exceptions from the openness requirement; 1) military discharge papers and 2) the location of a safe house or shelter (Attachment 5).

Chairperson Allen welcomed Representative Vickrey to committee. Rep. Vickrey testified in support of **HB 2758**. He stated the language is written broadly to encompass any safe house or similar place where

CONTINUATION SHEET

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE at 1:30 p.m. on March 11, 2004 in Room 423-S of the Capitol.

persons are provided safety from abuse (Attachment 6).

Marilyn Nichols, Shawnee County Register of Deeds, testified in support of **HB 2758** (Attachment 7).

There being no others to testify on **HB 2758**, Chairperson Allen closed the hearing.

HB 2641 - Drainage districts: Definition of taxpayer

Chairperson Allen recognized Patricia Rahija, appearing on behalf of the Kansas County Clerks' & Election Officials Association. Her testimony in support of **HB 2641**, provides a definition of "taxpayer" for drainage districts. Ms. Rahija stated there are two drainage districts in Wyandotte County and each has a different definition of "taxpayer". **HB 2641** would clarify it (Attachment 8).

There being no others to testify on **HB 2641**, the Chair closed the hearing.

Testimony was handed out to committee from Ed Jaskinia, President, The Associated Landlords of Kansas. Mr. Jaskinia had testified in support of **HB 2615** at the hearing on March 9. Chairperson Allen had requested Mr. Jaskinia to furnish written testimony to the committee (Attachment 9).

Approval of minutes

Senator O'Connor moved to approve the minutes of January 22, 27, 29, and February 12, 17, 19, 24. Senator Betts seconded the motion and the motion carried.

Chairperson Allen informed the committee it would be meeting next week to take action on bills that were being heard today and Thursday.

The meeting adjourned at 2:30 p.m. The next scheduled meeting is for Tuesday, March 16, 2004.

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 SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

March 11, 2004

Honorable Chairman Allen and Committee Members,

It is said that times change. However, time has not seen certain drainage district laws changed; they 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).

*Senate Elec & Loc Gov
03-11-04
Attachment 1*

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 were advised that HB 2793 as originally drafted did not accomplish our intent with sufficient clarity, and therefore an amendment to the bill was prepared by Sarah Steele, bond counsel with Gaar & Bell, presented to the House Local Government Committee, and adopted.

Looking once again at the HB 2703 as amended, I would also suggest the new language which appears on page one, at lines 40 and 41 is superfluous, and might well be deleted.

We appreciate the opportunity to appear before the Senate Elections & Local Government Committee, and to provide this testimony. We urge the Committee's favorable consideration of and action on House Bill 2793, on behalf of Finney County Drainage District No. 1.

GILMORE & BELL

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

ONE MAIN PLACE

100 NORTH MAIN, SUITE 800

WICHITA, KANSAS 67202-1398

316-267-2091
FAX: 316-262-6523
WWW.GILMOREBELL.COM

KANSAS CITY, MISSOURI
ST. LOUIS, MISSOURI
LINCOLN, NEBRASKA

Testimony before the Senate Elections & Local Government Committee
regarding House Bill No. 2793
Thursday, March 11, 2004 at 1:30 p.m.

Submitted 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 proposed House Bill 2793 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.*

Senate Elec & Loc Gov
03-11-04
Attachment 2

Testimony before the Senate Elections & Local Government Committee
regarding House Bill No. 2793
Page Two

Thank you for the opportunity to submit written testimony in support of House
Bill 2793.

Very truly yours,

A handwritten signature in cursive script that reads "Sarah O. Steele". The signature is written in black ink and is positioned centrally on the page.

Sarah O. Steele

HOUSE BILL No. 2793

By Representatives Loyd and Powell

2-10

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

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2003 Supp. 24-639 is hereby amended to read as
16 follows: 24-639. (a) A district organized under the provisions of K.S.A.
17 24-601 *et seq.*, and amendments thereto, shall be a body politic and cor-
18 porate, and shall be known by the corporate name of drainage district
19 number _____ of _____ county.

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

- 22 (1) Adopt a seal;
- 23 (2) enter into contracts;
- 24 (3) hold real and personal property;
- 25 (4) sue and be sued;
- 26 (5) determine and fix the district boundaries;
- 27 (6) remove all obstructions from the channel of the watercourse;
- 28 (7) commence and maintain suits against any and all persons or cor-
29 porations unlawfully maintaining dams or other obstructions in the chan-
30 nel of the watercourse to compel the removal of the same;
- 31 (8) exercise the power of eminent domain as to all lands necessary to
32 the construction of cutoffs, spillways and auxiliary channels in accordance
33 with K.S.A. 26-501 through 26-516, and amendments thereto;
- 34 (9) require that all bridges across the watercourses shall be of suffi-
35 cient length or that they shall be provided with sufficient trestle work to
36 permit the unobstructed flow of the waters at flood time;
- 37 (10) construct cutoffs, spillways and auxiliary channels across rail-
38 roads and highways, to compel the adequate bridging of the same and to
39 compel the raising of the grades of the railroads and highways;
- 40 (11) *subject to the provisions of K.S.A. 2003 Supp. 79-5040, and*
41 *amendments thereto*, levy an annual tax not to exceed five mills on the
42 assessed value of all tangible taxable property located within the district
43 to constitute a general fund to meet the incidental expenses of the district.

Senate Elec & Loc Gov
03-11-04
Attachment 3

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

- 24 (12) issue bonds and provide for the payment of the same; and
- 25 (13) perform any other acts not inconsistent with the provisions of
- 26 K.S.A. 24-601 *et seq.*, and amendments thereto.

27 (c) Nothing in this section shall be construed as exempting the drain-
 28 age district from the requirements of K.S.A. 24-126 and 82a-301 *et seq.*,
 29 and amendments thereto.

insert new section 2 attached

3 30 Sec. ~~2~~ K.S.A. 2003 Supp. 24-639 is hereby repealed.
 4 31 Sec. ~~3~~ This act shall take effect and be in force from and after its
 32 publication in the statute book.

New Section 2. (a) Whenever a drainage district, or any part thereof, is located in a county having a population of 150,000 or more and a city having a population of 140,000 or more, such drainage district shall, at the request of such city having a population of 140,000 or more, grant the city an unequivocal right to create an easement for the purposes as specified in subsection (b).

(b) (1) The easement shall be granted for and limited to the following purposes:

- (A) Hiking;
- (B) bicycle riding;
- (C) horseback riding; and
- (D) walking.

(2) Motor vehicle traffic other than motor vehicles operated by the drainage district, any contractor operating on behalf of the drainage district or by the unit of city government maintaining the easement, shall be prohibited within any easement granted under this section..

(c) Such easement shall be limited to existing roadways, paths and private ways located within and under the control of the drainage district. No provision of this section shall be construed to require the drainage district to construct any new roadway, path or private way at the expense of the drainage district.

(d) Nothing in this section shall limit in any way any liability of either the city or the drainage district which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity within the easement.

(e) Nothing in this section shall be construed to:

- (1) Create a duty of care or ground of liability for injury to persons or property.
- (2) Relieve any person using the easement for the purposes specified in subsection (b) from any obligation which such person may have in the absence of this act to exercise care in such person's use of the easement and in such person's activities thereon, or from the legal consequences of failure to employ such care.

(f) Except as specifically provided in subsection (d), an owner of land within the drainage district who makes all or any part of such owner's land available to the public for any purpose specified in subsection (b) owes no duty of care to keep the premises, or that part of the premises so made available, safe for entry or use by others for any purpose specified in subsection (b) , or to give any warning of a dangerous condition, use, structure or activity on such premises to persons entering for such purposes. An owner of land who does take actions to keep the premises safe or to warn persons of a dangerous condition, use structure or activity on such premises to any person who enters such land for any purpose specified in subsection (b) .

(g) Unless otherwise agreed in writing, the provisions of subsection (f) shall be deemed applicable to the duties and liability of the city for any land which is the subject of the easement established under this section for the purposes specified in subsection (b).

From: "Marlene Nagel" <MNAGEL@MARC.ORG>
To: <allen@senate.state.ks.us>
Date: Thu, Mar 11, 2004 11:28 AM
Subject: Support for amendment to HB

Senator Allen,

We encourage your support for an amendment to HB 2793 being offered by Senator Chris Steineger that would allow for the creation of an easement for recreational trails in cities of a certain size. This amendment is consistent with priorities identified by the Mid-America Regional Council's MetroGreen (regional greenway trails plan) to develop trail amenities along the Missouri and Kansas riverfronts by using the levee systems. As part of the MetroGreen plan, a random survey of area residents was conducted. The survey found that residents are highly supportive of trails for walking and bicycling, and three-fourths of the metro area's residents want more places to walk and bicycle. Other surveys conducted by local governments and the Kansas City Star show similar results. The amendment limits the uses for the easement to recreational purposes and requires the city to maintain the easement and assume liability for its public use.

If you have questions about our support for this amendment or would like more information about MetroGreen and our interest in pursuing public access along the riverfronts on the levee system operated by drainage districts, please contact me or Steve Rhoades, our MetroGreen Planning Manager. We appreciate your efforts and consideration of this amendment.

Marlene Nagel
Community Development Director

CC: "David Warm" <DWARM@MARC.ORG>, "Steve Rhoades" <srhoades@MARC.ORG>

Senate Elec + Loc Gov
03-11-04
Attachment 4

CAROL EDWARD BEGGS

REPRESENTATIVE, DISTRICT 71

TOPEKA ADDRESS:

STATE CAPITOL —115-5

TOPEKA, KANSAS 66612-1504

(785) 296-7683

SALINA ADDRESS:

P.O. BOX 1222

SALINA, KANSAS 67402-1222

(785) 823-1510



TOPEKA

HOUSE OF
REPRESENTATIVES

VICE-CHAIRPERSON	EDUCATION
MEMBER	TOURISM AND PARKS
	TRANSPORTATION

March 11, 2004

Madame Chairman, Members of the Elections and Local Governments Committee;

Thank you for the opportunity to appear before you. I am here as the Legislative Liaison for the Ft. Riley Retiree Council, representing all Military Retirees of the Five State Area surrounding Kansas.

An issue has been brought to our council by Military Retirees. They are concerned for the privacy and security of their personal information as shown on their Military Discharge Documents. Many of these Documents have been filed with their County Register of Deeds. This was a recommended action at the time for most WWII and subsequent service retirees.

The supplement note on HB 2758 explains the purpose of the bill along with the amended modification as agreed to by the members of the House Committee. HB 2758 reads in part as follows:

HB 2758 would amend the Kansas Open Records Act (KORA) to add two new exceptions from the openness requirement: military discharge papers and the location of a safe house or shelter. Specifically, the exceptions are as follows:

- Any information or material received by the register of deeds of a county from military dischargee, the dischargee's immediate family members and lineal descendants; the dischargee's heirs, agents or assigns; a person who is a licensed funeral director and who has custody of the body of the deceased dischargee; a department or agency of the federal government or political subdivision when required; when the form is required to perfect the claim of military service or honorable discharge or a claim of the dependent of the dischargee; and upon the written approval of the commissioner of veterans' affairs, to a person conducting research.
- Information that would reveal the location of a shelter of safehouse or similar place where persons are provided protection from abuse.

I would be pleased to stand for any questions you may have.

Sincerely,

Carol E Beggs, LTC, VSAR (Retired)
Ft. Riley Retiree Council

Senate Elec & Loc Gov
03-11-04
Attachment 5

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MIAMI COUNTY
502 S. COUNTRYSIDE DR.
LOUISBURG, KANSAS 66053
(913)837.2585

STATEHOUSE-ROOM 115-S
TOPEKA, KANSAS 66612
(785)296.6014
EMAIL: Vickrey@house.state.ks.us



JENE VICKREY
6TH DISTRICT

CHAIRMAN - HOUSE COMMITTEE ON
LOCAL GOVERNMENT

COMMITTEE ASSIGNMENTS
TRANSPORTATION
FINANCIAL INSTITUTIONS

March 11, 2004

Testimony on House Bill 2758

Submitted by: Rep. Jene Vickrey
6th District

Mr. Chairman and Committee Members:

I became aware of the need for the provision for safe homes from local government officers earlier this year. There have been requests of information officers that in their judgment, very likely, could put someone's life in jeopardy.

Without this change, all that can be done by the information officers is to require that the information request for the location of a safe house be submitted in writing and then to wait the full length of hours before releasing the information.

The language is written broadly to encompass any safe house or similar place where persons are provided safety from abuse.

We must provide this exclusion from open records to protect these people and the employees who work at these shelters.

Senate Elec + Loc Gov
03-11-04
Attachment 6

KANSAS REGISTER OF DEEDS ASSOCIATION

Marilyn L. Nichols
Shawnee County Register of Deeds
700 SE 7th Street, Room 108
Topeka, Kansas 66603-3932

TESTIMONY OF THE KANSAS REGISTER OF DEEDS ASSOCIATION
TO THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

HB 2758

KANSAS OPEN RECORDS ACT

March 12, 2004

Senator Allen (Chair) and Members of the Committee:

I am happy to submit testimony on behalf of the Kansas Register of Deeds Association. I thank you for this opportunity that allows me to offer testimony during your decision making process.

Our understanding of the original intent of this bill is to add Exemption No. (47) to the Kansas Open Records Act. Specifically, "Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214) except to the military dischargee." An amendment was then given to this bill in the House Committee that calls for certain other persons or entities or their representatives to have access to those military discharge papers as well. We testified in the House Local Government Committee as a proponent but with a request for just this sort of amendment.

The Register of Deeds is a public office and is responsible for the recording of various instruments concerning real estate transactions for each respective county. Along with the real estate records we do file and preserve the Military Discharge papers for our veterans. K.S.A. 73-210 and K.S.A. 73-210(a) in part states, "Upon request of the person to whom such discharge was issued, his agent or relative, the register of deeds shall prepare and furnish certified copies of any such discharge or records of military service....." The requests made for copies of DD 214's are sometimes made by various persons or by certain entities that assist the veteran or their family members. While we support the proposal that closes these filings as "public records", we are concerned that these records would be inaccessible to those persons and entities

Senate Elec & Loc Gov
03-11-04
Attachment 7

with the legitimate right to the information for the benefit of the incapacitated or deceased veteran. We suggested that the DD 214 be treated similarly to a vital record that is kept at the state level of the Bureau of Vital Statistics. In that office the vital record such as a death certificate or marriage certificate, is obtained only after the applicant has filled out a request form and has shown a governmentally issued photo ID. The reason for the information must be clearly stated on that form as well. The amendment addressed most of our issues and was modeled from another state's statute and we were part of that process. There is no record at this time in the Register of Deeds Office that is closed to the public other than Certificates of Value that are presented with a deed that represents the actual sales price paid for a sale of real estate. We thought the implementation of these restrictions concerning these military discharge papers were reasonable for us to adapt to as well as reasonable for the requestor.

The Kansas Register of Deeds Association supports the veterans right to privacy from public knowledge of their personal information including social security numbers and service numbers. We respectfully request that you pass HB 2758 as amended.

I have included a copy of our original testimony for your reference.

Thank you for your time and attention to this important matter.

TESTIMONY ON HOUSE BILL NO. 2641

Patricia Rahija, Wyandotte County Election Commissioner

I am testifying today on behalf of the Kansas County Clerks' & Election Officials Association.

I am requesting your support of H.B. 2641, which provides a definition of "taxpayer" for drainage districts.

The drainage district statutes are not specific about the definition of a taxpayer in two statutes. K.S.A. 24-414 addresses drainage districts created under the Drainage District Act of 1905 and K.S. A. 24-459 addresses drainage districts created under Acts Supplemental to Drainage Act of 1905

The first statute that we are requesting be amended is K.S.A. 24-414, which imposes different qualifications to vote in an election of drainage district board of directors, based on the size of the county in which the drainage district is located. In counties with population more than 150,000, two additional requirements are imposed. In order to be eligible to vote, a person must be a qualified elector *and* be a taxpayer *and* be a resident of the district.

"Taxpayer" is not defined in the statute. In determining voter eligibility, we have always interpreted "taxpayer" to be a person who either owns land or owns tangible personal property. This assumption is based on K.S.A. 24-410 that says a "qualified elector" must own land or tangible personal property. However that statute does not speak to "taxpayer", which is the language used in K.S.A. 24-414.

In 1999, we were challenged following a drainage district election. An attorney for a candidate contended that eligible voters may have been denied the right to vote. He suggested that since there is not a definition for "taxpayer", that anyone who pays any type of taxes, such as sales tax should be eligible to vote.

The case was dropped, but to avoid possible law suits in the future, we would like to have the definition of the term "taxpayer" set out in statute so there is no doubt what the Legislature intended by its use of the term.

Senate Elec & Loc Gov
03-11-04
Attachment 8

No only am I urging your support of H.B. 2641 as passed by the House, but I am also requesting that Section 2 be amended back into the bill. It is my understanding that the House was not opposed to Section 2. They decided to remove it because they had questions that no one present at the hearing could answer.

H.B. 2641, as passed by the House, only addresses the definition of taxpayer in K.S.A. 24-414. Section 2 of the bill specifically applies to drainage districts created under K.S.A. 24-458. In 1911, Acts Supplemental to Drainage Act of 1905 was implemented to allow for the incorporation of districts where the owners of three-fifths of land are nonresidents (K.S.A. 24-458).

Today, the owners of land in these districts are primarily corporations, companies, trusts, and limited partnerships. The Fairfax Drainage District in Wyandotte County is an example of that type of ownership.

The language in K.S.A. 24-458 and 24-459 only refer to "person" as an owner or director. Therefore, Fairfax Drainage District interprets the statutes to mean that only a "person" who owns land is eligible to vote or file for the board of directors. Therefore, in order to have a "person" be eligible to file for board of director or vote, several corporations have deeded a small parcel of land to an individual in their corporation. This is not a practical solution for most companies.

There are over 100 companies in the Fairfax Drainage District that are considered ineligible to vote; however, they still must pay the drainage district tax. Fairfax would like to see the statute amended so that all land owners that are taxpayers, whether an individual or a corporation have the right to vote and serve on the board of directors.

As county election officers, we do not want the statute left to individual interpretation. We have found that various drainage districts and county election officials have interpreted the language in this statute differently. Section 2 would clearly define the criteria for a director and eligible voters in this type of drainage district.

We urge you to amend Section 2 back into the bill.

1 **As Amended by House Committee**

2 *Session of 2004*

3
4 **HOUSE BILL No. 2641**

5
6 By Committee on Ethics and Elections

7
8 1-29

9
10 AN ACT concerning drainage districts; pertaining to the definition of
11 taxpayer in certain drainage districts; amending K.S.A. 24-414 and ~~24-~~
12 ~~459~~ and repealing the existing ~~sections~~ **section**.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 24-414 is hereby amended to read as follows: 24-
16 414. (a) Elections to choose directors shall be conducted, the returns
17 made and the results ascertained in the manner provided by law for gen-
18 eral county elections except as otherwise provided by law, and all persons
19 desiring to be voted upon as director, in any election, shall, not later than
20 12:00 noon of the Wednesday next following the primary election as such
21 term is defined in subsection (b) of K.S.A. 25-2006, *and amendments*
22 *thereto*, file a declaration of candidacy with the county election officer of
23 the county wherein the district is located, as a candidate in such election,
24 and the election officer in making up the ballots and in placing the names
25 thereon shall place the names on the ballots in alphabetical order, but
26 the returns of all special or bond elections shall be made to the secretary
27 and canvassed by the board of directors. The county election officer of
28 the county wherein the drainage district is situated shall appoint election
29 boards as provided by law for other elections and shall designate places
30 for holding the election. The county clerk shall cause to be ascertained
31 the names of all persons within the district who are also qualified electors,
32 and shall furnish lists thereof to the judges of the election.

33 (b) Notice of the time and place of holding each election, signed by
34 the county election officer, shall be given in a newspaper published in
35 the county and posted in a conspicuous place in the office of the board
36 of directors at least five days before the holding thereof. At all elections
37 and meetings held under the provisions of this act, only persons who are
38 qualified electors shall be entitled to vote. In counties having a population
39 of more than 150,000, at all elections and meetings held under the pro-
40 visions of this act, only persons who are taxpayers and residents of the
41 district who are qualified electors shall be entitled to vote. All election
42 expenses shall be paid for out of the general fund of the drainage district.
43 Election officials shall receive the same compensation as provided under

1 the general election laws.
2 (c) *As used in this section, "taxpayer" means any person who owns*
3 *any real property or tangible property within the district who pays taxes*
4 *assessed on such property.*
5 ~~Sec. 2.—K.S.A. 24-459 is hereby amended to read as follows: 24-459.~~
6 ~~(a) The board of directors of any drainage district incorporated pursuant~~
7 ~~to K.S.A. 24-458 shall consist of three *qualified* persons who own land~~
8 ~~within the district but need not be residents therein *as defined in para-*~~
9 ~~*graph (3) of subsection (c) of this section.*~~
10 ~~(b) The directors for the first term after the incorporation of the~~
11 ~~drainage district shall be selected and designated in the petition for the~~
12 ~~incorporation of the district and shall be declared directors by the county~~
13 ~~commissioners to which the petition is presented.~~
14 ~~(c) The directors shall hold office until the first Tuesday in April next~~
15 ~~after the incorporation of the district, at which time and every four years~~
16 ~~thereafter directors shall be elected and shall hold their office for the~~
17 ~~term of four years and until their successors are elected and qualified.~~
18 ~~(d) Every taxpayer *qualified person* of the district, owning real estate~~
19 ~~therein, whether a resident of the district or not, shall be entitled to vote~~
20 ~~at the election or at any election which may be held in the district.~~
21 ~~(e) *For the purposes of this section:*~~
22 ~~(1) "Owner" or "person who owns land" means any person or entity~~
23 ~~who is the record owner of the fee in any real estate in the district or the~~
24 ~~fee in the surface rights of any real estate in the district, but the owners~~
25 ~~of an oil and gas lease, mineral rights or interest, easements or mortgages~~
26 ~~as such shall not be considered owners, and school districts, cemetery~~
27 ~~associations, and municipal corporations shall not be considered owners.~~
28 ~~(2) "Taxpayer" means any owner who has paid all taxes currently due~~
29 ~~on such real estate.~~
30 ~~(3) "Qualified person" means any taxpayer 18 years of age or older,~~
31 ~~whether a resident of the district or not. A taxpayer who is a qualified~~
32 ~~person and who is not an individual may designate an individual to cast~~
33 ~~its vote or to serve as a director of the district.~~
34 ~~(f) The county clerk shall determine the qualified persons entitled to~~
35 ~~vote at any election in the district. Any entity desiring to vote at an election~~
36 ~~shall register the name of its designated representative with the county~~
37 ~~election officer no later than fourteen days in advance of any such election.~~
38 Sec. 3 2. K.S.A. 24-414 and ~~24-459~~ are hereby repealed.
39 Sec. 4 3. This act shall take effect and be in force from and after its
40 publication in the statute book.

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42
43

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The Associated Landlords of Kansas (TALK) was created in 1981 by a group of people from across Kansas to "Promote a strong voice in the legislature, a high standard of ethics, and provide educational opportunities for landlords." Some of our members helped create The Residential Landlord-Tenant Act of 1975, a model of fair law for both landlords and tenants. Our organization consists of members in 19 chapters across the state, and new chapters are in the process of being formed.

In this 2004 legislative session, we continue to work for fair and decent housing for all.

Testimony House Bill 2615

Under existing state law property owners have ten (10) days to fix nuisances when ordered by the local government.

State Landlord-Tenant laws require that landlords give 14 days notice to the tenant to fix nuisances, or 30 days to move if they refuse.

In an attempt to address this conflict, HB 2615 was originally drawn to allow up to 40 days.

The League of Kansas Municipalities and The Associated Landlords of Kansas (TALK) worked together and reached a compromise that is agreeable to both groups.

This version, as amended by The House Committee and passed overwhelmingly in the House, simply requires local governments to grant extended time to a property owner who "demonstrates that due diligence is being exercised in abating the nuisance."

If we can be of help to you in this or any other areas concerning property, tenants, or landlords, please feel free to contact us.

Ed Jaskinia, President

ZONE 1

Landlords of Lawrence Inc.
Landlords of Johnson County, KS Inc.
K.C.KS. Landlords Inc., serving Wyandotte Co.
Eastern Kansas Landlords Assc., serving Miami Co.
Franklin Co. Landlords Assc.

ZONE 2

Landlords of Manhattan Inc.
Geary County Landlords Inc.
Jackson County Landlords Assc.
Shawnee County Landlords Assc.
Salina Rental Property Providers Inc.
South Central Kansas Landlord Assc.
Serving Sumner County

ZONE 3

Central Kansas Landlords Assc.
Bourbon County Landlords Assc.
Cherokee County Landlords Assc.
Crawford County Landlords Assc.
Montgomery County Landlords Assc.
Allen County Landlords Assc.
Rental Owner Inc., serving Sedgwick County
Labette County Landlords Assc.

Senate Elec & Loc Gov
03-11-04

Attachment 9