

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT

The meeting was called to order by Chairman Tim Huelskamp at 1:40 P.M. on March 21, 2005 in Room 423-S of the Capitol.

All members were present except: Donald Betts- absent
Roger Reitz- absent

Committee staff present: Martha Dorsey, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Janet Engel, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list.

Continued discussion of **HB 2018 - Acquisition of rural water district by another district.**

This bill, as amended by committee, is still on the floor from the meeting on March 17.

Senator Francisco distributed a copy of testimony presented by Kansas rural Water Association with part of it underlined. (Attachment 1)

Following discussion, the motion to amend failed.

A new set of amendments was distributed by Senator Francisco (Attachment 2). Senator Francisco moved to amend as presented. The motion failed for lack of a second.

Senator Donovan moved and Senator Pyle seconded to amend page 1, line 36 to remove "or part" and change "or" to "and" per attachment 2. The motion to amend carried.

Senator Francisco moved and Senator Pyle seconded to accept the amendments on page 3 of Attachment 2. The motion to amend carried.

Senator Francisco moved and Senator Peterson seconded to strike "or both" from line 28 on page 2 of Attachment 2. The motion to amend carried.

Senator Francisco moved to amend page 2, line 8 to insert the language proposed in the margin of Attachment 2 as presented. The motion failed for lack of a second.

Senator Francisco moved to amend page 2, lines 3 - 26 as marked on Attachment 2 to remove "acquired" language and insert language as marked. The motion failed for lack of a second.

Senator Francisco moved to amend page 2, lines 33 - 42 as marked on Attachment 2. The motion failed for lack of a second.

Senator Donovan moved and Senator Wilson seconded to report favorably as amended. The motion carried with Senator Francisco asking to have her "no" vote recorded.

Senator Francisco thanked the committee and expressed that she still has concerns.

Discussion of **HB 2139 - Fence viewers' designees of board of county commissioners.**
Senator O'Connor moved and Senator Wilson seconded to send this bill out favorably and place on the consent calendar. The motion carried.

Senate Resolution

A proposed senate resolution requiring the Secretary of the Senate to provide a report about voter verified

CONTINUATION SHEET

MINUTES OF THE Senate Elections and Local Government at 1:40 P.M. on March 21, 2005 in Room 423-S of the Capitol.

electronic voting was distributed (Attachment 3). Senator Francisco moved that the committee introduce this resolution. The motion carried.

Closing

There being no further business, the meeting was adjourned at 2:20 p.m.



KANSAS
RURAL
WATER
association

Quality water, quality life

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March 10, 2005

Senate Committee on Elections
and Local Government

Re: House Bill 2018

Dear Chairman Huelskamp and Members of the Committee:

The Kansas Rural Water Association (KRWA) has received requests from several of its rural water district members for an alternative procedure for combining of rural water districts. We recognize the goal of reducing the number of rural water districts in order to insure the long-term viability of public water supplies. Frequently, efficiencies can be realized by combining of smaller systems into larger ones.

The only option available under current law is for consolidation under K.S.A. 82a-639 et seq. This process allows for the boards of directors of two or more rwd's to agree to consolidate, followed by a meeting of the members of each district where the question is placed to a vote, followed by a petition for approval by the board of county commissioners of a county in which at least one of the districts is located.

This statute has been used successfully in a number of instances, but is awkward in others. For example, that consolidation statute provides that following action by the county commissioners ordering consolidation, the district is to be governed by a board of directors consisting of the combined boards of the consolidated districts until the next annual meeting of the consolidated district. We believe this provision alone is preventing some consolidations from occurring as the prospect of, for example, nine members of the board of directors of a district serving 50 customers could be combined with a district having a five-member board serving 3,000 customers, resulting in the smaller districts board effectively controlling the management of this complex business enterprise for as much as a year. We believe that at least in some of these instances, the smaller district wants no part of the management of the larger enterprise, and welcomes the opportunity to end those responsibilities, but are unable to do so under the current law.

House Bill 2018 is modeled after K.S.A. 19-3512 and K.S.A. (2004 Supp.) 82a-649, providing for the annexation of territory by Water District No. 1, Johnson County (WaterOne) and acquisition of rural water districts by cities, respectively. As is provided by those statutes, H.B.

Senate Elections & Local Govt.
Date: 3/21 / 2005
Attachment 1

2018 provides for acquisition of the assets and territory, assumption of the debts and liabilities of the acquired district, and assumption of service responsibilities to its customers. The process is streamlined, providing for acquisition to occur upon agreement of both districts' boards of directors, subject to a protest petition by 10% of the customers of the district to be acquired. In the event of a valid protest, the matter would be placed to a vote.

House Bill 2018 provides an alternative procedure, and not a replacement for the current consolidation statute. We believe that the current consolidation statute would continue to be used in those instances where neighboring districts are comparable in terms of territory and/or customers being served, and that H.B. 2018 would be most useful in those other situations where it is appropriate for a larger system to essentially assume the assets, liabilities and responsibility for service to a smaller system's customers.

Section 2 of H.B. 2018 corrects what we believe to have been an error in K.S.A. (2004 Supp.) 82a-647. Currently, that statute provides for an alternative, streamlined procedure for release of territory from one rural water district and attachment to another. Unfortunately, the reference to "K.S.A. 82a-640" has the effect of requiring notice of the proposed release and attachment to be mailed to every member of the district rather than just those being affected by the proposed attachment and release. This is not consistent with the other attachment and release statutes, and can present a considerable burden and expense on districts trying to comply. The change proposed by Section 2 of H.B. 2018 cures this problem.

For the reasons summarized above, the Kansas Rural Water Association respectfully requests that the Committee favorably act on H.B. 2018.

Very truly yours,



GARY H. HANSON

GHH:de

cc: Elmer Ronnebaum, General Manager
Kansas Rural Water Association

HOUSE BILL No. 2018

By Representative Sloan

12-27

9 AN ACT concerning certain rural water districts; providing procedures
10 for acquisition of such districts' water supply and distribution systems
11 by other rural water districts and providing procedures for the acqui-
12 sition of the area within the boundaries of such districts by other rural
13 water districts; amending K.S.A. 2004 Supp. 82a-647 and repealing the
14 existing section.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. (a) As used in this section, unless the context clearly
18 requires otherwise:

19 (1) "Acquired district" means a rural water district organized under
20 K.S.A. 82a-612 et seq., and amendments thereto, that wishes to transfer
21 its assets, liabilities and the area contained within its boundaries to an-
22 other rural water district organized under K.S.A. 82a-612 et seq., and
23 amendments thereto.

24 (2) "Acquiring district" means a rural water district organized under
25 K.S.A. 82a-612 et seq., and amendments thereto, that wishes to receive
26 from an acquired district, the acquired district's assets, liabilities and the
27 area contained within the acquired district's boundaries.

28 (b) The board of directors of an acquiring district and the board of
29 directors of an acquired district may enter into a memorandum of un-
30 derstanding containing, but not necessarily limited to, terms and condi-
31 tions for: (1) The transfer to the acquiring district of control and owner-
32 ship of the acquired district's water supply and distribution system,
33 including all property, equipment, contracts, records, reports and funds;
34 (2) continued service, at an agreed upon rate, by the acquiring district to
35 customers served by such system; (3) assumption by the acquiring district
36 of all ~~or part~~ of the revenue bond liability ~~or other outstanding obligations~~ and
37 of the acquired district; (4) establishment of a policy for connecting new
38 customers to the acquired water distribution system; and (5) the acqui-
39 sition by the acquiring district of the area within the acquired district's
40 boundaries.

41 (c) The terms contained in a memorandum of understanding entered
42 into pursuant to this act shall take effect by operation of law when: (1)
43 The board of directors of the acquiring district and the board of directors

and

and whether or not
such agreements
have been approved
by the holders of
all outstanding
revenue bonds and
promissory notes

1 of the acquired district each adopt a resolution approving such terms; (2)
 2 a copy of the memorandum of understanding is filed for public inspection
 3 in the office of the county clerk of each county where there is located
 4 any portion of the area served by the acquired district; (3) the board of
 5 directors of the acquired district causes notice of the approval of the terms
 6 of the memorandum of understanding, the reasons for such approval and
 7 a copy of the memorandum of understanding to be mailed to each par-
 8 ticipating member of the acquired district; (4) the board of directors of
 9 the acquired district causes to be published once in a newspaper or news-
 10 papers of general circulation in the areas served by the acquired district's
 11 water supply and distribution system notice of the approval of the mem-
 12 orandum of understanding and the reasons for such approval, together
 13 with a statement that the terms of the memorandum of understanding
 14 shall take effect unless there is presented to the board of directors of the
 15 acquired district a petition as provided by subsection (d); and (5) if a
 16 petition is presented as provided by subsection (d), a majority of the
 17 participating members of the acquired district approve the memorandum
 18 of understanding as provided by subsection (d).

either
each

no later than
five days
following the
publication
of the notice
in a newspaper

either

that

19 (d) If, within 60 days after publication of notice pursuant to subsec-
 20 tion (c), there is presented to the board of directors of the acquired dis-
 21 trict a written petition which is signed by participating members of the
 22 acquired district equal in number to not less than 10% of the total number
 23 of participating members of the acquired district according to the records
 24 of the acquired district and requests an election on whether the terms of
 25 the memorandum of understanding shall take effect, the board of direc-
 26 tors of the acquired district shall call an election on the approval of the
 27 terms of such memorandum. The election may be held at a meeting called
 28 for that purpose or may be by mail ballot, or both. If such an election is
 29 held, the terms of the memorandum of understanding shall not take effect
 30 unless they are approved by a majority of the participating members vot-
 31 ing at the election to approve such terms.

either

that

32 (e) Notwithstanding the provisions of K.S.A. 82a-629, and amend-
 33 ments thereto, an acquired district shall be dissolved whenever that dis-
 34 trict enters into a memorandum of understanding pursuant to this section
 35 and such memorandum provides for: (1) Total transfer of the acquired
 36 district's water supply and distribution system and all other assets of the
 37 acquired district; (2) continuation of water supply and distribution service
 38 to all customers of the acquired district; (3) assumption by an acquiring
 39 district of all revenue bond liability and all other obligations of the ac-
 40 quired district; (4) a policy for connecting new customers to the water
 41 supply and distribution system; and (5) acquisition by an acquiring district
 42 of the area within the acquired district's boundaries.

is identified as
being acquired in

has taken effect.

43 (f) At the time of the effective date of the acquisition, and unless

1 otherwise provided by the memorandum of understanding: (1) All the
 2 property of the acquired district shall be combined and administered as
 3 one unit with that of the acquiring district, and the acquiring district shall
 4 thereupon be invested with all the property benefits, franchises and priv-
 5 ileges of the acquired and acquiring districts and shall have all of the
 6 powers of rural water districts; ~~and~~ (2) all revenue bonds, promissory
 7 notes or other liabilities theretofore incurred by the acquired district shall
 8 be paid in accordance with the terms thereof from revenues and facilities
 9 of both the acquired and acquiring districts

*and (3) notification
 a copy of the
 memorandum of
 understanding, and
 a map showing
 the boundaries of
 the consolidated
 district shall be
 filed with the
 chief engineer of
 the division of
 water resources at
 the secretary of sta*

10 Sec. 2. K.S.A. 2004 Supp. 82a-647 is hereby amended to read as
 11 follows: 82a-647. (a) As an alternative to the procedure contained in
 12 K.S.A. ~~82a-630~~ 82a-646, and amendments thereto, the owners of land
 13 located in a rural water district who desire for their land to be released
 14 from such district and attached to a different district may proceed in
 15 accordance with this section. A petition to release such land shall be filed
 16 with the board of directors of the district in which such land is located.
 17 The petition shall:

- 18 (1) Describe the land sought to be released;
- 19 (2) state the name and number of the rural water district to which
- 20 the owners seek to have such land attached; and
- 21 (3) state that such release is sought conditioned upon the attachment
- 22 thereof by such other rural water district.

23 Such petition shall be signed by at least 75% of the owners of the land
 24 affected. The ownership shall be determined by an enumeration of land-
 25 owners taken from the tax rolls of the county in which the land is located.

26 Within 30 days of receipt of such petition the board of directors of the
 27 district shall call and hold a hearing on the advisability of granting such
 28 petition. The board shall give notice of such hearing in the same manner
 29 provided by K.S.A. ~~82a-640~~ 82a-646, and amendments thereto. On the
 30 date of such hearing, the board shall approve or disapprove such release
 31 based on its determination of the best interests of the district and the
 32 petitioning landowners.

33 (b) Following approval of such petition for release, a petition for at-
 34 tachment of such lands shall be filed with the board of directors of the
 35 district to which such land is sought to be attached. The petition shall:

- 36 (1) Describe the land sought to be attached;
- 37 (2) request that the owners thereof seek to have such land attached
- 38 to the district; and

39 (3) have attached to it a copy of the approval of release of such land
 40 by the board of directors of the district in which such land was condi-
 41 tionally released. Such petition shall be signed by at least 75% of the
 42 owners of the land affected. Ownership shall be determined by an enu-
 43 meration of landowners taken from the tax rolls of the county in which

1 the land is located.

2 Within 30 days of receipt of such petition the board of directors of the
3 district shall call and hold a hearing on the advisability of granting such
4 petition. Notice of such hearing shall be provided in the manner provided
5 by K.S.A. ~~82a-640~~ 82a-646, and amendments thereto, by the board of
6 directors. On the date of such hearing, the board shall approve or dis-
7 approve such attachment based on its determination of the best interests
8 of the district and the petitioning landowners. If the board does not ap-
9 prove of such attachment, it shall notify the district from which release
10 had been sought, which district shall then declare such release to be void.

11 (c) If the district to which release is sought approves of the release
12 of such lands and the district to which attachment is sought approves of
13 attachment of such lands, copies of the approval of such action by the
14 boards of directors of each district shall be transmitted to the chief en-
15 gineer. Copies also shall be filed with the county clerk, who shall note
16 the change of such district's boundaries.

17 (d) Nothing in this section shall be construed as limiting landowners
18 from using the procedures for attachment or release of property other-
19 wise provided in K.S.A. 82a-622 et seq., and amendments thereto.

20 Sec. 3. K.S.A. 2004 Supp. 82a-647 is hereby repealed.

21 Sec. 4. This act shall take effect and be in force from and after its
22 publication in the Kansas register.

SENATE RESOLUTION NO. _____

By Committee on Elections and Local Government

A RESOLUTION requesting a report from the secretary of state on the costs, benefits and effectiveness related to implementing voters verified paper trail alternatives for electronic voting systems in the state of Kansas to be in compliance with the help America vote act of 2002.

WHEREAS, Voting is a fundamental right of every American citizen and the foundation of our democracy; and

WHEREAS, Voting should not be an act of faith on the part of Kansas citizens but an act of record which can be checked and corrected by voters, as well as counted on a vote-by-vote basis in every situation in which a voting recount is necessary; and

WHEREAS, It is a right of every citizen to feel secure that such citizen's voting choices are recorded accurately; and

WHEREAS, Certainty of accurate vote-tallying is necessary to protect the value and importance of voting to Kansas voters; and

WHEREAS, Current electronic voting systems may fail to protect the integrity of our elections against user and operator errors and irregularities, and fail to protect against faulty election results caused by computer malfunctions, faulty software or hardware imperfections; and

WHEREAS, Electronic voting without a voter verified paper trail does not guarantee voters that their votes were properly entered into the computer voting system, and fails to allow for vote-by-vote election recounts in case of perceived vote-tallying errors; and

WHEREAS, The electronic voting machines, which will be purchased by the state for Kansas voting precincts in order to comply with the help America vote act of 2002, may replace traditional paper ballots and optical scan ballots which provided voter verified paper trails; and

WHEREAS, Electronic voting machines that do not produce a voter-verified paper trail make errors and irregularities occurring during the voting process and are difficult or impossible to discover; and

WHEREAS, The removal of voter verified paper trails from Kansas voting processes endangers voter confidence and the

guarantee of security in the electoral process which assures that votes are correctly recorded: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the secretary of state shall prepare a report concerning the feasibility of implementing electronic voting systems with voter verified paper trail capabilities in compliance with the help America vote act of 2002; and

Be it further resolved: That the secretary of state's report shall also consider the costs, availability and efficiency of the alternative voter verified paper trail system options that could be implemented in the state of Kansas; and

Be it further resolved: That the secretary of state shall provide a copy of its report to the President of the Senate and the chairperson of the Senate Elections and Local Government Committee on or before January 17, 2006; and

Be it further resolved: That the Secretary of the Senate provide an enrolled copy of this resolution to the Secretary of State.