

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on March 21, 2006 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

None

Others attending:

See attached list.

Senator Huelskamp opened with taking motion on **HB 2720** - Planning and zoning; plat approval procedure; reasons for non-approval; off the table.

Ken Wilke distributed amendment (Attachment 1) and gave explanation.

Senator Reitz moved to favorable send **HB 2720** to full Senate.

Seconded by Senator Wilson.

Motion carried.

Senator Huelskamp introduced **HB 2667** - Recreational commissions; removal of members.

No discussion.

Senator Reitz motioned to favorably send **HB 2667** to full Senate.

Seconded by Senator Betts.

Senator Huelskamp introduced **HB 2582** - An act concerning homeowners associations; restrictive covenants.

Senator Betts motioned to favorable send **HB 2582** to full Senate.

At this time the amendment to **HB 2582** was handed out by Ken Wilke for review. The balloon handed out would only deal with this section (Attachment 2) dealing with budget requirements.

Motion on the floor to move out **HB 2582** was replaced with a substitute motion to amend **HB 2582** by Senator O'Connor with a balloon eliminating section 2 and also declares the taking out of title.

Motion seconded by Senator Wilson.

Motion carried.

Senator Betts moved to report **HB 2582** with amendment to full Senate.

Senator Wilson seconded.

Motion carried.

Senator Huelskamp moved to send out **HB 2667** with a balloon (Attachment 3) to the full Senate.

Senator Huelskamp suggested it be sent out maintaining consistency with our recall statues.

Senator O'Connor made motion on the 3rd page of balloon that simply accepts that no petition for the recall may be filed during the last 200 days of the term of such member and that is to make it conform with the rest of the law that has similar excepts.

Senator Huelskamp, it has been moved by Senator O'Connor and seconded by Senator Reitz to amend **HB 2667** with the balloon.

Discussion.

Motion carried.

Senator O'Connor moved to favorably send **HB 2667** with balloon to full Senate.

Seconded by Senator Pyle.

Discussion.

Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Elections and Local Government Committee at 1:30 P.M. on March 21, 2206 in Room 423-S of the Capitol.

Ken Wilke handed out balloon to SB 545 (Attachment 4).

Senator Huelskamp asked if there was a motion for clarification.

Senator Wilson moved and Senator Donovan seconded to retain current language on VIPS/CAMA.

Discussion.

Motion carried.

Senator Huelskamp said that leaves three issues in underlined bill for consideration. One would be the mailing fee, postage fee and retain age amount in bill. Lines 30-36, section 2 to allow treasurer to retain money for registration. And third issue still on bill is additional two dollar fee for renewal.

Senator Huelskamp asked if any discussion.

Senator Wilson asked who offered the change in section three and what does it do. Senator Huelskamp said subcommittee did and pulled balloon apart did a brief scan as we agreed it was technical just three issues left, the maintenance fee, retain amount and two dollar fee for the renewals.

Discussion.

Senator Francisco made a motion that we pass the bill favorable with just the amendment we made.

Seconded by Senator Donovan to report SB 545 favorably as amended.

Discussion.

Senator O'Connor I am opposed to fee increase and have been for years. I will not be able to support the bill as long as the fee increase is in there. I don't have a problem with retention change. Senator O'Connor made a substitute motion to bring it back to the original three and at that point I would pass the bill out.

Senator Huelskamp, is there a second on the substitute motion? Seconded by Senator Pyle.

Discussion.

Motion failed.

Senator Huelskamp called for a vote; we are back on the substitute motion 3.50 registration fee and other changes of bill.

Motion failed.

We are back on underline motion by Senator Francisco to report SB 545 favorably with amendment to Senate.

Motion carried

Committee minutes approved.

Meeting adjourned for year.

Respectfully submitted,

Zoie C. Kern, Committee Secretary

JOHN T. SMITH

Land planning, development & management # investments # real estate brokerage
404 N Kansas # Liberal, KS 67901-3330 # vox/fax 620-624-1834 # jtsa@liberal.net

Tuesday, March 07, 2006

Sen. Tim Huelskamp, Chm.
Elections & Local Govt.
Capitol Office 423-S
Topeka, KS 66612

Re: HB 2720

Dear Chm Huelskamp & Committee Mbrs,

It is well recognized in the planning profession, as well as in enabling legislation generally related to land subdivision and development, that planning boards interpret and implement the subdivision rules and regulations established by the governing body. In Kansas this is covered under subparagraph (b) of KSA 12-752 wherein a subdivision is processed through review with the land owner or owners, the charge being stated in the first sentence as "*The planning commission or the joint committee shall determine if the plat conforms to the provisions of the subdivision regulations.*"

The resulting approved final subdivision plat is then submitted to the governing body for the acceptance of dedications of that part of the plat intended for public use, if any. In Kansas this is covered in subparagraph (c) of the same KSA section, the first sentence reading "*The governing body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the governing body following the date of the submission of the plat to the clerk thereof.*"

There have been few, if any, changes in our planning legislation in the last 12-15+ years. There have been, however, many instances state wide where the roles of the respective entities, that is the planning commission or joint committee and the governing body, have deviated from the legislative intent referenced above related to subparagraphs (b) & (c). In testimony presented before the house it was pointed out there remains much confusion about these roles on the part of part of planning professionals, elected officials and the Kansas courts.

The House has made a valiant attempt to clarify this process and responsibility in HB 2720. This is a welcome step and its 124:1 margin of passage is indicative not only of the need for clarification but also its nature as essentially a house keeping matter.

Careful review of HB 2720 suggests there may still be some ambiguity in the attempt to clarify. In keeping the focus of the action on the statutory intent of the acceptance being based on compliance with requirements established by the governing body, and as emphasized by the House amendments, the following suggested wording change to the first sentence of the above referenced subsection (c) would further clarify the intent.

The governing body shall accept ~~or refuse~~ the dedication of land for public purposes, **except in cases of noncompliance with the requirements established by the governing body**, within 30 days after the first meeting of the governing body following the date of the submission of the plat

to the clerk thereof.

Incorporation of the above wording in the amended bill would further clarify the statutory intent of the provisions regarding the subdivision of land. Your support of the House's amendments to HB 2720 with the above change would most certainly aid in clarifying the original statutory intent and would be greatly appreciated.

Sincerely,

John T. Smith, AICP

Master in Urban Planning (Mich St Univ)
Certified Planner (Am Inst of Certified Planners)

\\sec32\legis hb 2720 hearing s

HOUSE BILL No. 2582

By Representative Huntington and Feuerborn

1-10

10 AN ACT concerning ~~discrimination~~ [homeowners associations]; relat-
11 ing to certain ~~discriminating~~ restrictive covenants; **concerning no-**
12 **tification of the annual meeting and budget**.
13

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

15 Section 1. (a) No declaration or other governing document of an as-
16 sociation shall include a restrictive covenant in violation of K.S.A. 44-1016
17 and 44-1017 and amendments thereto.

18 (b) ~~Notwithstanding any other provision of law or provision of the~~
19 ~~governing documents~~ [Within 60 days of the effective date of this
20 act], the board of directors of an association shall amend any declaration
21 or other governing document that includes a restrictive covenant in vio-
22 lation of K.S.A. 44-1016 and 44-1017, and amendments thereto, by re-
23 moving such restrictive covenant. Such amendment shall not require the
24 approval of the ~~dwellings owned by~~ members of the association. No other
25 change shall be required to be made to the declaration or [other] gov-
26 erning document of the association pursuant to this section. [Within 10
27 days of the adoption of the amendment, the amended declaration
28 or other governing document shall be recorded in the same man-
29 ner as the original declaration or other governing document. No
30 fee shall be charged for such recording.]

31 (c) ~~From and after January 1, 2006, if~~ [If] the commission, a city or
32 county in which the association is located provides written notice to an
33 association requesting that the association delete a restrictive covenant in
34 violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the
35 association shall delete the restrictive covenant within 30 days of receiving
36 the notice. If the association fails to delete the restrictive covenant in
37 violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the
38 commission, a city or county in which the association is located, or any
39 person adversely affected by such restrictive covenant may bring an action
40 against the homeowners association for injunctive relief to enforce the
41 provisions of subsections (a) and (b) of this section. The court may award
42 attorney's fees to the prevailing party.

43 (d) For the purposes of this section:

2-1

- 1 (1) "Association" means a non-profit homeowners association as de-
- 2 fined in K.S.A. ~~2005 Supp.~~ 60-3611 and amendments thereto.
- 3 (2) "Commission" means the Kansas human rights commission as de-
- 4 fined in K.S.A. 44-1002 and amendments thereto.
- 5 ~~(3) "Dwelling" means a dwelling as defined in K.S.A. 2005 Supp. 60-~~
- 6 ~~4701 and amendments thereto.~~
- 7 (e) This section shall be supplemental to and a part of the Kansas act
- 8 against discrimination.
- 9 **[Sec. 2. (a) An association shall:**
- 10 **[(1) Open all meetings of the board of the homeowner's asso-**
- 11 **ciation to all homeowners; and**
- 12 **[(2) adopt an annual budget and within 30 days after the adop-**
- 13 **tion of such budget mail a copy by first-class mail to all homeowner**
- 14 **members.**
- 15 **[(b) For the purposes of this section "association" means a non-**
- 16 **profit homeowners association as defined in K.S.A. 60-3611, and**
- 17 **amendments thereto, which collects dues or fees.]**
- 18 **Sec. 2 [3.]** This act shall take effect and be in force from and after
- 19 its publication in the statute book.

2-2

HOUSE BILL No. 2667

By Committee on Governmental Organization and Elections

1-19

10 AN ACT concerning recreation systems; relating to members of recrea-
11 tion commissions; amending K.S.A. 2005 Supp. 12-1922 and 12-1926
12 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 2005 Supp. 12-1926 is hereby amended to read as
16 follows: 12-1926. (a) Except as provided by subsection (c), recreation
17 commissions shall consist of five members to be appointed as follows: (1)
18 Upon the adoption of the provisions of this act by the city or school district
19 acting independently, the governing body of such city or school district
20 shall appoint four persons who are residents of the taxing district to serve
21 as members of the recreation commission, the first appointee to serve for
22 four years, the second for three years, the third for two years, and the
23 fourth for one year, and the fifth member who also shall serve for four
24 years shall be appointed by the four appointee members of such com-
25 mission; or (2) upon the adoption of the provisions of this act by the city
26 and school district acting jointly, the governing bodies each shall appoint
27 two persons who are residents of the taxing district to serve as members
28 of the recreation commission, and the persons so selected shall select one
29 additional person, and all of such persons shall constitute the recreation
30 commission.

31 Of the members of the commission first selected by the school district,
32 one shall serve for a term of one year, and one for a term of four years;
33 one of those first selected by the governing body of the city shall serve
34 for a term of two years, and one for a term of three years. The additional
35 member shall serve for a term of four years. Thereafter, the members of
36 the commission shall be selected in the same manner as the member such
37 person is succeeding and the term of office of each shall be four years.
38 ~~Any member of the recreation commission may be removed from the~~
39 ~~commission, by the appointing authority, for any cause which would jus-~~
40 ~~tify removal of an appointive officer of the city or school district.~~ Except
41 for members first appointed to the commission, all commissioners not
42 filling a vacancy shall hold office for a term of four years and until their
43 successors are appointed and qualified. Whenever a vacancy occurs in the

3-2
②-③

1 membership of the commission, a successor shall be selected to fill such
2 vacancy in the same manner as and for the unexpired term of the member
3 such person is succeeding. The commission shall elect a chairperson and
4 secretary from their membership. The commissioners are hereby em-
5 powered to administer in all respects the business and affairs of the rec-
6 reation system. The treasurer of the city or school district to which is
7 certified the budget of the recreation commission shall serve as ex officio
8 treasurer of the recreation commission. Such treasurer shall keep an ac-
9 curate record of all money and property received and disbursed and shall
10 make a report thereof monthly to the commission, or as often as the
11 commission requires. Members of the commission and the ex officio trea-
12 surer of the commission shall serve without compensation.

13 (b) Any recreation commission established pursuant to K.S.A. 12-
14 1901 *et seq.*, and amendments thereto, prior to the effective date of this
15 act may continue as constituted on the effective date of this act or may,
16 upon a majority vote of the commissioners, reorganize into a five-member
17 commission as provided by subsection (a). If the commission continues
18 as constituted on the effective date of this act, upon the expiration of the
19 term of a member, a person shall be appointed to the commission in the
20 same manner as the member such person is succeeding. The term of
21 office shall be four years. Whenever a vacancy occurs in the membership
22 of the commission, a successor shall be selected to fill such vacancy in
23 the same manner as and for the unexpired term of the member such
24 person is succeeding.

25 (c) Any recreation commission having more than five members and
26 established prior to July 1, 2002, may continue as constituted on June 30,
27 2002, or upon a majority vote of such commissioners, may reorganize into
28 a five member district as provided in subsection (a). If a recreation com-
29 mission having more than five members and established prior to July 1,
30 2002, continues as constituted on June 30, 2002, upon the expiration of
31 the term of a member, a person shall be appointed to the recreation
32 commission in the same manner as the member such person is succeed-
33 ing. The term of office shall be four years. Whenever a vacancy occurs in
34 the membership of a recreation commission, a successor shall be selected
35 to fill such vacancy in the same manner as and for the unexpired term of
36 the member such person is succeeding.

37 Sec. 2. K.S.A. 2005 Supp. 12-1922 is hereby amended to read as
38 follows: 12-1922. When used in ~~this act~~ K.S.A. 12-1923 through 12-1934
39 and sections 3 ~~through 14~~ and 4, and amendments thereto:

- 40 (a) "City" means any city in the state of Kansas;
41 (b) "School district" means any unified school district in the state of
42 Kansas.
43 (c) "Recreation system" means any system of public recreation and

1 playgrounds established pursuant to this act.

2 (d) "Taxing district" means (1) the area within the corporate limits of
3 a city in the case of a city-established recreation system; (2) subject to the
4 provisions of K.S.A. 2005 Supp. 12-1922a, and amendments thereto, the
5 area within the boundary lines of a school district in the case of a school
6 district-established recreation system; or (3) subject to the provisions of
7 K.S.A. 2005 Supp. 12-1922a, and amendments thereto, the area within
8 the corporate limits of a city or the area within the boundary lines of a
9 school district, whichever has the greater assessed valuation, in the case
10 of a jointly established recreation system.

11 New Sec. 3. (a) Any member of the recreation commission ap-
12 pointed pursuant to K.S.A. 12-1926, and amendments thereto, may be
13 removed from the commission, by the appointing authority, for any cause
14 which would justify removal of an appointive officer of the city or school
15 district or as provided by section 4, and amendments thereto.

16 New Sec. 4. (a) In addition to the procedure provided by section 3,
17 and amendments thereto, a member of a recreation commission ap-
18 pointed pursuant to K.S.A. 12-1926, and amendments thereto, may be
19 removed from the commission by petition and election as provided by
20 this section.

21 (b) A petition requesting an election approving the removal of a
22 member of a recreation commission shall be submitted to the governing
23 body of the city or school district which appointed such person. Upon
24 presentation of such a petition signed by qualified voters residing in the
25 taxing district equal in number to not less than 5% of the voters in the
26 taxing district who voted for the office of president of the United States
27 at the last preceding general election, the governing body shall adopt a
28 resolution removing such person from the commission. Such resolution
29 shall not be effective until the question has been submitted to and ap-
30 proved by a majority of the voters of the taxing district voting at an elec-
31 tion thereon. Such election shall be called and held in the manner pro-
32 vided by the general bond law.

33 Sec. 5. K.S.A. 2005 Supp. 12-1922 and 12-1926 are hereby repealed.

34 Sec. 6. This act shall take effect and be in force from and after its
35 publication in the statute book.

except that no petition for the recall of a member of a recreation commission may be filed during the last 200 days of the term of such member

SENATE BILL No. 545

By Committee on Federal and State Affairs

2-10

9 AN ACT concerning county treasurers; relating to fees and compensa-
10 tion; amending K.S.A. 8-129 and K.S.A. 2005 Supp. 8-145 [and 8-145d]
11 and repealing the existing sections.
12

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

14 Section 1. From and after January 1, 2007, K.S.A. 8-129 is hereby
15 amended to read as follows: 8-129. (a) Applications for the registration of
16 a vehicle required to be registered shall be made by the owner, by mail,
17 on-line, electronically or otherwise, in the office of the county treasurer
18 of:

19 (1) The county in which such owner resides; or
20 (2) the county in which the owner has a bona fide place of business,
21 if such vehicle is garaged in such county for a period exceeding 90 days.
22 Such place of business shall not be an office or facility established or
23 maintained solely for the purpose of obtaining registration.

24 Such applications for registration shall be made upon appropriate forms
25 furnished by the department and every application shall contain the name
26 of the owner, such owner's residence address or bona fide place of busi-
27 ness, a brief description of the vehicle to be registered and such other
28 information as may be required by the department. If the owner is not a
29 resident of or does not have a bona fide place of business in this state,
30 the owner may make application for registration in any county which the
31 department shall designate, except that in the case of members of the
32 armed forces of the United States, the application may be signed by the
33 owner's spouse, parent, eldest brother or sister, in the order named. If
34 the application is made by mail, on-line or electronically, such application
35 shall be accompanied by a fee of \$.50 for postage and other expenses
36 incidental to mailing the license plates, which fee shall be in addition to
37 the registration fee, and the county treasurer shall deposit the sum in the
38 special fund provided by K.S.A. 8-145, and amendments thereto, to be
39 used for the purpose of paying the postage, necessary help and expenses.
40 With reference to every foreign vehicle which has been registered outside
41 of this state, the owner shall exhibit to the department the certificate of
42 title and registration card, or other evidence of such former registration
43 as may be in the applicant's possession or control, or such other evidence

Senate Elections + Local Govt.
March 21, 2006
Attachment 4

Elections and Local Government
March 21, 2006
Attachment 4

4-2

1 cial fund. Any balance remaining in such fund at the close of any calendar
2 year shall be withdrawn and credited to the general fund of the county
3 prior to June 1 of the following calendar year.

4 (c) The county treasurer shall remit the remainder of all such fees
5 collected, together with the original copy of all applications, to the sec-
6 retary of revenue. The secretary of revenue shall remit all such fees re-
7 mitted to the state treasurer in accordance with the provisions of K.S.A.
8 75-4215, and amendments thereto. Upon receipt of each such remittance,
9 the state treasurer shall deposit the entire amount in the state treasury
10 to the credit of the state highway fund, except as provided in subsection
11 (d).

12 (d) (1) Three dollars and fifty cents of each certificate of title fee
13 collected and remitted to the secretary of revenue, shall be remitted to
14 the state treasurer who shall credit such \$3.50 to the Kansas highway
15 patrol motor vehicle fund. Three dollars of each certificate of title fee
16 collected and remitted to the secretary of revenue, shall be remitted to
17 the state treasurer who shall credit such \$3 to the ~~VIPS/CAMA~~ [VIPS], _____ VIPS/CAMA
18 technology hardware fund.

19 (2) For repossessed vehicles, \$3 of each certificate of title fee col-
20 lected and remitted to the secretary of revenue, shall be remitted to the
21 state treasurer who shall credit such \$3 to the repossessed certificates of
22 title fee fund.

23 (3) Three dollars and fifty cents of each reassignment form fee col-
24 lected and remitted to the secretary of revenue, shall be remitted to the
25 state treasurer who shall credit such \$3.50 to the Kansas highway patrol
26 motor vehicle fund. Three dollars of each reassignment form fee collected
27 and remitted to the secretary of revenue, shall be remitted to the state
28 treasurer who shall credit such \$3 to the ~~VIPS/CAMA~~ [VIPS] technology VIPS/CAMA
29 hardware fund.

30 Sec. 3. [From and after January 1, 2007, K.S.A. 2005 Supp. 8-145d is
31 hereby amended to read as follows: 8-145d. In addition to the annual
32 vehicle registration fees prescribed by K.S.A. 8-143, 8-143b, 8-143c, 8-
33 143g, 8-143h, 8-143i, 8-167, 8-172 and 8-195, and amendments thereto,
34 and K.S.A. 2005 Supp. 8-143l, and amendments thereto, any applicant
35 for vehicle registration or renewal thereof for registration shall pay a serv-
36 ice fee in the amount of ~~\$3~~ \$5 to the county treasurer at the time of
37 making such application. In addition to such service fee, the county trea-
38 surer may charge any applicant for vehicle registration or renewal thereof
39 for registration, a satellite registration fee in an amount not to exceed \$5
40 per vehicle registration or renewal thereof for registration, when such
41 application is made at a satellite registration facility established by the
42 county treasurer. The county treasurer shall deposit all amounts received
43 under this section in the special fund created pursuant to K.S.A. 8-145,

4-3

1 and amendments thereto, and such amounts shall be used by the county
2 treasurer for all purposes for which such fund has been appropriated by
3 law, and such additional amounts are hereby appropriated as other
4 amounts deposited in such fund.

5 Sec. 4.] K.S.A. 2005 Supp. 8-145 is hereby repealed.

4 6 Sec. 5.] From and after January 1, 2007, K.S.A. 8-129 [and K.S.A. 2005
7 Supp. 8-145d are hereby repealed.

5 8 Sec. 6.] This act shall take effect and be in force from and after its
9 publication in the statute book. _____ is