

Approved: 3-22-07
Date

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 8, 2007 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Representative Don Schroeder
Judy Moler, General Counsel, Legislative Services
David C. Van Parys Leavneworth County Counselor
William Johnson, Butler County Administrator
Vicki Koepsel, Director Saline County Panning and Zoning
Representative Jene Vickrey
J.Michael Davis, Code Official Miami County

Others attending:

See attached list.

Ken Wilke from the Revisor of Statues office gave brief summary of **HB 2058 - Townships transfer of certain moneys.**

Representative Don Schroeder gave testimony in favor of **HB 2058 (Attachment 1).**

Judy A. Moler, General Counselor of Legislative Services gave testimony in favor of **HB 2058 (Attachment 2).**

David C. Van Parys, Leavenworth County Counselor gave a brief testimony in favor of **HB 2058 (Attachment 3)**

William H. Johnson, Butler County Administrator gave testimony in favor of **HB 2058 (Attachment 4).**

Vicki R. Koepsel, Director of Saline County Planning and Zoning testified in favor of **HB 2058 (Attachment 5).**

Hearing closed on **HB 2058.**

Ken Wilke gave brief summary of **HB 2217 Counties; adoption of codes by reference.**

Representative Jene Vickrey gave testimony in favor of **HB 2217 (Attachment 6).**

J.Michael Davis, Code Official of Miami County gave testimony in favor of **HB 2217 (Attachment 7).**

Hearing closed on **HB 2217.**

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL
300 S.W. TENTH STREET
ROOM 110-S
TOPEKA, KANSAS 66612
(785) 296-7644
schroeder@house.state.ks.us



131 14TH AVE
INMAN, KANSAS 67546
(620) 585-6922
dnjschroeder@dtinspeed.net

DON SCHROEDER
74TH DISTRICT

Senate Committee on Elections and Local Government

House Bill 2058

House Bill 2058 is a modification to existing codes court statute, KSA 19-101d. Allowing a codes court enables counties to streamline the process of resolving zoning issues and also could save money for counties and individuals through a simplified court process. The current statute allows only certain counties above a specified population to establish a codes court and is unequal in that regard.

The two counties I represent in the 74th District have expressed a desire for codes court but are currently below the population threshold. Both counties, Harvey and McPherson, are experiencing some growth and could benefit from codes court to resolve zoning issues in a more timely, less expensive manner. A resolution must be passed by the County Commissioners, so the local control element is in tact.

Some concern has been expressed that this bill could cause difficulty for farmers. Currently, KSA 19-2960c spells out an exemption for agricultural use that would protect farm land and buildings from zoning regulations.

I ask for your support of 2058. Thank you.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Don Schroeder', with a long horizontal flourish extending to the right.

Don Schroeder

74th District

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KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY

Before the Senate Elections and Local Government Committee

March 8 2007

HB 2058

By Judy A. Moler, General Counsel/Legislative Services Director

Thank you, Chairman Huelskamp and Members of the Committee for allowing the Kansas Association of Counties to provide testimony on HB 2058.

The Kansas Association of Counties is in support of HB 2058. The KAC has introduced legislation in the past to extend the ability to all counties. Currently, the statute limits code courts ten counties. Presently, the other counties enforce county codes through the already beleaguered district court. Cases involving murder, burglary and the like take priority in district court. Code cases fall to the bottom of the barrel in the docketing of cases. This bill is not extending to the other 95 counties any new powers for code enforcement...only a method to expedite hearings for those found in violation of county codes. The KAC would like to see this afforded to all counties. We have long had this position on our adopted Policy Statement. We strongly support HB 2058.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, education and technical services, and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

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TESTIMONY IN SUPPORT OF HOUSE BILL NO. 2058

Submitted on behalf of the Board of County Commissioners
of Leavenworth County, Kansas

Before the Senate Elections and Local Government Committee

Dear Chairman Huelskamp and
Members of the Committee,

Please accept the following as testimony in support of the approval of House Bill No. 2058. It is the belief of the board of county commissioners of Leavenworth County, Kansas, that the passage of H.B. No. 2058 will benefit the citizens of the state residing in the unincorporated areas of the state by allowing for an expedited and self-funding mechanism for the enforcement of local regulations.

HISTORY

In 1976 the legislature created K.S.A. 19-101d in order to allow for the enforcement of county resolutions passed pursuant to county home rule powers. In 1988 the legislature created the provisions of K.S.A. 19-4701 et seq., which set out the procedures for the enforcement of county resolutions through a codes court. The authority to use such a codes court was limited by an amendment to K.S.A. 19-101d to counties with a population in excess of 300,000 (L.1988 ch. 102). Subsequent to the creation of the codes court procedures several counties have been specifically authorized to utilize the codes court procedures through amendments to K.S.A. 19-101d, specifically through amendments to section (b) (1) of that statute.

Under the current version of K.S.A 19-101d(b)(1) Crawford, Douglas, Franklin, Jefferson, Johnson, Miami, Riley, Sedgwick, Shawnee and Wyandotte counties are authorized to utilize the codes court procedures. Leavenworth county also wishes to be given the discretionary authority to utilize the codes court procedures to enforce local resolutions and believes that it would be an economical use of the time of the legislature to **extend this discretionary authority to all counties** rather than a series of amendments to K.S.A. 19-101d(b)(1) expanding the list of counties so authorized.

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EFFECT OF THE BILL

The effect of the proposed legislation is to authorize the boards of county commissioners throughout the state to elect to utilize the codes court procedures to enforce locally adopted resolutions. This will generally involve actions taken to remedy nuisance situations (illegal dumps, auto graveyards, vicious dogs, burn ban violations, etc.) The legislation **does not require** that a county use the codes court procedures, **but allows the use as an option.**

In the absence of the bill, counties not listed in K.S.A. 19-101d(b)(1) must currently use the code of civil procedure or criminal procedure to enforce resolutions, a more time consuming procedure rather than the procedures utilized under the codes courts statutes.

The codes court statutes provide adequate notice and due process and, in a simplified explanation, alleged violations of county resolutions are handled much in the way of traffic violations. A citation is issued detailing the alleged violation, notice to appear is provided and a hearing before a judge conducted. There do not appear to have been any endemic problems with the system in the counties that have been authorized to utilize the codes courts system of enforcement.

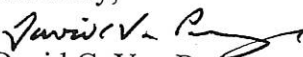
FISCAL IMPACT

Under the procedural provisions set out in K.S.A. 19-4701 et seq. the fiscal impact to the state would be nominally positive. Under K.S.A. 19-4707(b) a \$20 assessment for costs of each filing is provided for. Of that assessment, \$2 is remitted to the state treasurer for disbursement on a 50%-50% basis to the protection from abuse fund and the crime victims assistance fund. The local fiscal impact, in the anticipation of Leavenworth county, would be neutral in that the system would be designed to be self-funding. Leavenworth county does not anticipate a "flood" of filings that would burden the district court. Rather, the use of the codes court procedures is less burdensome to the district court system than the current enforcement procedure available to the county.

Leavenworth county would anticipate utilizing the code courts procedures to address several road advertising sign and automobile graveyard violations along state highways and within the county that have been brought to the attention of the county by KDOT. In that respect, H.B. No. 2058 could actually lessen the enforcement burden on a state agency.

In closing I would ask, on behalf of the board of county commissioners of Leavenworth County, Kansas, that this committee favorably consider H.B. No. 2058. I wish to express the thanks of the board for your time and consideration.

Sincerely,


David C. Van Parys

County Counselor, Leavenworth County
300 Walnut
Leavenworth, KS 66048
913-684-0415



BUTLER COUNTY
ADMINISTRATION DEPARTMENT

March 8, 2007

Senate Elections and Local Government Committee
Senator Huelskamp – Chairperson

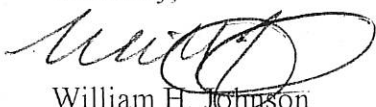
Dear Committee Members:

Butler County would like to thank you for this opportunity to testify on behalf of House Bill 2058. With the removal of population limits concerning a Codes Courts program, Butler County would have the ability to implement such a program, which has been a priority of past County Commissions. Butler County does not promote population or specific county restrictions in legislation and believes HB 2058 resolves the inequity of current legislation. Currently only ten counties in our state are allowed to enforce county codes and resolutions through a special court docket with the district court, some with populations greater than Butler County while others with significantly smaller populations.

Although Butler County currently does not intend to implement a codes court program, the County would like to have the opportunity to do so should the need arise. With Butler County's current growth and proximity to Sedgwick County, the demand for such a program, due to problems such as animal control, illegal dumping, and non-compliance with building codes has continued to escalate. As an example, the demands on programs such as animal control have always been an issue in Butler County, and the only way possible during these stringent fiscal times to implement such a program is through a Codes Court program, which would allow the County to implement and enforce an animal licensing program. Currently, should the County desire to implement such a program we could not, due to the population restrictions of the current legislation.

Speaking directly now to the change of language specified as part of House Bill 2058, Butler County will always support abolishment of population limits such as this in future legislation. Butler County ranks in the top five counties in the State in rural population. As such when population levels such as this are placed in Bills, the majority of the counties affected have less rural population than Butler County and the intent is compromised. We have and always will be against population restrictions in the establishment of policy effecting County Government. Residing in an urban area such as we do makes it essential to offer similar services such as Sedgwick County for economic stability and growth in our County. We support the changes proposed and appreciate the opportunity offered today to testify.

Sincerely,



William H. Johnson
Butler County Administrator
Butler County, Kansas

William H. Johnson, Jr., County Administrator

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**SALINE COUNTY
PLANNING & ZONING
300 W. ASH ROOM 217
P.O. BOX 5040
SALINA, KS 67402-5040
785/309-5813
FAX: 785/309-5811**

Before the House Elections and Local Government Committee,
Representative Mike Burgess, Chairman

Dear Members of the Committee,

Saline County supports House Bill No. 2085 (HB 2058) for the following reasons:

- The use of codes court procedures to enforce county resolutions is far more efficient than the use of the code of civil procedure or code of criminal procedure.
- The codes court procedures are less burdensome on the district court.
- There are ample due process protections contained in the codes court statutes.
- Only 10 counties are currently authorized to use the codes court procedures.
- HB 2058 extends the discretionary authority to utilize the codes court procedures to the other 95 counties of the state.
- HB 2058 has no adverse fiscal impact on either the state or counties.

Point of Contact:

Vicki R. Koepsel, Director
Saline County Planning & Zoning
300 West Ash
Salina, KS 67401

(785) 309-5813
vicki.koepsel@saline.org

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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
ASSISTANT MAJORITY LEADER

VICE CHAIRMAN – HOUSE COMMITTEE
ON LEGISLATIVE BUDGET

COMMITTEE ASSIGNMENTS
CALENDAR & PRINTING
ELECTIONS & GOVERNMENTAL ORGANIZATION
INTERSTATE COOPERATION
TRANSPORTATION

Senate Committee on Elections and Local Government
Testimony – Rep. Jene Vickrey
HB 2217

Thursday, March 8, 2007

Chairman Huelskamp and Committee Members:

Thank you for taking your time to consider HB 2217. This is a change that will save our local governments' budgets the expense of buying three copies of codes. My local Codes Enforcement Office has told me that of their three copies, only one has ever been use. This change would not disallow any government to purchase more copies if needed, only remove the mandate that there copies would be required. I would like to also ask that you please consider amending this to include cities in this bill.

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Testimony in support of HB2217

J. Michael Davis, M.C.P.
Code Official
Miami County, Kansas
201 S. Pearl St, Ste 201
Paola, Kansas 66071-1777
Phone: 913-294-4145 Fax: 913-294-9545

I am here representing Miami County and the Heart of America Chapter of the International Code Council, which represents 54 cities and 9 counties in Kansas.

KSA 12-3301 through 12-3305 establish authority of cities and counties in the state of Kansas to adopt model codes by reference. When I first proposed introduction of this Bill to Rep. Vickrey I failed to fully research the issue and neglected to include revision of Section 12-3010, which contains similar requirements for cities. Attached to this testimony I have included a proposal that would parallel the current proposal and make the requirements for cities and counties compatible and consistent.

KSA 12-3304 and 12-3010 require an adopting jurisdiction to file three copies of an adopted model code in the jurisdiction's city or county clerk's office.

The proposed amendment to KSA 12-3304 reduces the number of model code copies required to be filed the clerk to a single copy.

The proposal is not intended to limit access of information to the public. It is one of unnecessary cost to the public. I fully agree that any rule or law, including model codes, adopted by a public entity need to be accessible and open for review. One copy filed in a jurisdiction's clerk's office could fulfill that goal in nearly every city or county. Passage of the proposal would not prohibit a larger city or county from providing more than the minimum number of model codes in their clerk's office should they determine a need to provide greater public access to the adopted regulations.

In Miami County most individuals that have a question related to a building code bypass the clerks office and come directly to my office. Staff in the Miami County Clerk's office informed me that the codes on file have only been requested to be viewed by the public three or four times over the last several years. In almost every instance the individual, after looking at the books for a short period, asked technical questions and were referred to my office for additional assistance.

Model building codes are published on a three-year cycle. A basic set of codes adopted by most jurisdictions include:

- International Building Code.....\$73.00
- International Residential Code.....\$54.50
- International Fire Code\$59.00
- International Mechanical Code\$48.00
- International Plumbing Code\$48.00
- International Fuel Gas Code\$48.00
- National Electrical Code68.50

\$399.00 X 3 = \$1,197.00

Elections and Local Government

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Additional model building codes that may be adopted include:

- International Property Maintenance Code\$20.00
- International Energy Conservation Code.....\$25.00
- International Existing Building Code\$39.00

* Costs shown are taken from the International Code Council, Product Catalog and are the member prices. Non-member prices are typically 25% on average higher.

- To comply with current law the cost of providing three sets of model building codes for an individual jurisdiction is between \$1,200 and \$1,350 each time their codes are updated.
- It is my rough estimate the cost for full compliance with this statute to all jurisdictions in Kansas is well over \$100,000 per code cycle.
- Passage of the proposed amendment would reduce the cost to each city or county to \$400 to \$450 each time codes are updated.
- A single set of model codes filed in the clerk's office satisfies the needs of the public.

I encourage you to consider the proposal before you today. The impact on the public will be minimal since a copy of adopted codes will remain open to review, but valuable resources will be saved to provide other essential services needed by the citizens we serve.

Thank you for your time.



J. Michael Davis, M.C.P

Chapter 12.--CITIES AND MUNICIPALITIES

Article 30.--ORDINANCES OF CITIES

12-3010. Effect of incorporation by reference; requirements for incorporation and omission; marked copies to city clerk and officials. The provisions of any standard or model code or ordinance, state regulation or statute or portions thereof incorporated in an ordinance by reference shall be as much a part of the ordinance as if the same had been set out in full therein when the ordinance shall have been passed by the governing body of the city and published in the manner provided by law, and any section, article, chapter, part or portion not incorporated shall be clearly and specifically described and declared to be omitted and any provisions changing or adding to the incorporated provisions shall be stated in full and published as a part of the ordinance: *Provided*, That instead of incorporating with omissions, the incorporating ordinance may designate specifically the sections, articles, chapters, parts or portions of the standard or model code or ordinance, state regulation or statute that are incorporated: *Provided further*, That no such ordinance shall be deemed to have incorporated therein any standard or model code or ordinance or state regulation unless the same shall be clearly described in the ordinance by name or title, the name or title of the agency, organization, or group or state officer, board or agency which prepared, compiled, published or promulgated the same, the year or edition of the work or other sufficiently identifying description, and statutes or portions thereof shall be identified by appropriate reference to Session Laws, General Statutes or Supplements thereto: *Provided further*, That not less than ~~three (3) copies~~ one (1) copy of any such standard or model code or ordinance or state regulation shall be marked or stamped "official copy as incorporated by Ordinance No. _____," with all sections or portions thereof intended to be omitted clearly marked to show any such omission or showing the sections, articles, chapters, parts or portions that are incorporated, as the case may be, and to which shall be attached a copy of the incorporating ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable business hours: *Provided further*, That the police department, police judge and all administrative departments of the city charged with the enforcement of any such ordinance shall be supplied, at the cost of the city, such number of official copies of any such standard or model code or ordinance or state regulation similarly marked as may be deemed expedient.

History: L. 1959, ch. 64, § 10; June 30.

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J. Michael Davis, M.C.P.
Code Official
Miami County, Kansas
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Paola, Kansas 66071-1777
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Committee

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I encourage you to consider the proposal before you today. The impact on the public will be minimal since a copy of adopted codes will remain open to review, but valuable resources will be saved to provide other essential services needed by the citizens we serve.

Thank you for your time.



J. Michael Davis, M.C.P

Chapter 12.--CITIES AND MUNICIPALITIES

Article 30.--ORDINANCES OF CITIES

12-3010. Effect of incorporation by reference; requirements for incorporation and omission; marked copies to city clerk and officials. The provisions of any standard or model code or ordinance, state regulation or statute or portions thereof incorporated in an ordinance by reference shall be as much a part of the ordinance as if the same had been set out in full therein when the ordinance shall have been passed by the governing body of the city and published in the manner provided by law, and any section, article, chapter, part or portion not incorporated shall be clearly and specifically described and declared to be omitted and any provisions changing or adding to the incorporated provisions shall be stated in full and published as a part of the ordinance: *Provided*, That instead of incorporating with omissions, the incorporating ordinance may designate specifically the sections, articles, chapters, parts or portions of the standard or model code or ordinance, state regulation or statute that are incorporated: *Provided further*, That no such ordinance shall be deemed to have incorporated therein any standard or model code or ordinance or state regulation unless the same shall be clearly described in the ordinance by name or title, the name or title of the agency, organization, or group or state officer, board or agency which prepared, compiled, published or promulgated the same, the year or edition of the work or other sufficiently identifying description, and statutes or portions thereof shall be identified by appropriate reference to Session Laws, General Statutes or Supplements thereto: *Provided further*, That not less than ~~three (3) copies~~ one (1) copy of any such standard or model code or ordinance or state regulation shall be marked or stamped "official copy as incorporated by Ordinance No. _____," with all sections or portions thereof intended to be omitted clearly marked to show any such omission or showing the sections, articles, chapters, parts or portions that are incorporated, as the case may be, and to which shall be attached a copy of the incorporating ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable business hours: *Provided further*, That the police department, police judge and all administrative departments of the city charged with the enforcement of any such ordinance shall be supplied, at the cost of the city, such number of official copies of any such standard or model code or ordinance or state regulation similarly marked as may be deemed expedient.

History: L. 1959, ch. 64, § 10; June 30.