

Approved: 3/25/08
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 11, 2008 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Ken Wilke, Revisor of Statutes
Jerry Donaldson, Legislative Assistant
Zoie Kern, Committee Assistant

Conferees appearing before the committee:

Representative J. David Crumb, Representative Ann Ma, Gale Anderson, Chad Austin, Paul Peck,
Gary Gibson

Others attending:

See attached list.

Opened hearing on **HB 2628**.

Ken Wilke gave summary of **HB 2628**.

Representative J. David Crum gave testimony as a proponent to **HB 2628 (Attachment 1)**.

Discussion.

Gary Gibson gave testimony as a proponent to **HB 2628 (Attachment 2)**.

Discussion.

Closed hearing on **HB 2628**.

Open hearing on **HB 2749**.

Ken Wilke gave summary on **HB 2749**.

Representative Ann Ma gave testimony in favor of **HB 2749 (Attachment 3)**.

Discussion

Kent Olson Director Division of Accounts and Reports Kansas Department of Administration submitted written testimony in support of **HB 2749 (Attachment 4)**.

Discussion.

Gayle Anderson Topeka CPA gave testimony in favor of **HB 2749 (Attachment 5)**.

Discussion.

Hearing closed on **HB 2749**.

Opened hearing on **HB 2757**.

Ken Wilke gave summary on **HB 2757**.

Written testimony on **HB 2757** from Chad Austin, Vice President Governmental Relations (**Attachment 6**).

Written testimony on **HB 2757** from Paul Beck President Kansas Legislative Policy Group (**Attachment 7**)

Discussion

Senator Huelskamp presented **HB 2628**.

Discussion.

Senator Donovan moved and seconded by Senator Reitz to report bill out favorable.

Motion carried.

Back to HB 2749.

Discussion.

Senator Reitz moved and seconded by Senator Donovan to move **HB 2794** out favorable.

Motion carried.

Back to **HB 2757**.

Senator Donovan moved and Senator Mike Petersen seconded to move **HB 2757** out favorable.

Discussion.

Senator Donovan moved and Senator Barone seconded to take out the word "personal" and retain itemized

CONTINUATION SHEET

MINUTES OF THE Senate Elections and Local Government Committee at 1:30 P.M. on March 11, 2008
in Room 423-S of the Capitol.

statement in **HB 2757**.

Motion carried.

Senator Donovan moved and Senator Barone seconded to amend **HB 2757**.

Motion carried.

Senator Donovan moved and Senator Reitz seconded to move **HB 2757** out as amended.

Motioned carried.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern Committee Assistant

STATE OF KANSAS

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TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
TAXATION
HEALTH AND HUMAN SERVICES
SOCIAL SERVICE BUDGET

03/11/08

Testimony by Representative David Crum before the Senate Committee on Elections and Local Government, Senator Tim Huelskamp, Chairman.

Regarding- HB 2628

Senator Huelskamp and committee members.

Thank you very much for the opportunity to testify in support of HB 2628. This bill would specify a procedure to follow when township boards dispose of personal property.

According to the 2002 census there are 1,299 townships within the state of Kansas. Although townships provide limited self-government they play a very important role in our predominantly rural state. By far the most important function of townships at this time in our history is the construction and maintenance of township roads. Townships can also provide services such as a fire department, EMS and others.

As of 2002 there were 32 counties in Kansas that still have the Township Road System. The other 73 counties have adopted the County Unit Road System or the General Rural County Highway System.

Kansas townships currently have three officials, elected for four year terms, who compromise the township board. The officials are the trustee, clerk and treasurer. The trustee is the chief officer of the township. The trustee can levy tax for road maintenance but only in consultation with the board of county commissioners. The county commissioners can supercede the trustee in regard to township taxes. The trustee is required to make an annual report to the board of county commissioners regarding the audit of township affairs.

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Government 3-11-08
Attachment 1*

At the present time although township real property must be sold by competitive bid there is no provision in state statute that speaks to the disposal of personal property such as road graders, mowers or dump trucks. Although the vast majority of township boards dispose of this property in a proper manner there have been exceptions.

Under the new provision when disposing of personal property valued at greater than \$1,000.00 the township board must approve the sale of the property. Public notice would be required one time in a newspaper of general circulation in the township containing specific information regarding the property. The sale must be by competitive bid and awarded to the highest and best bidder. The board may reject all bids and resubmit for a new competitive bid procedure.

The township board may develop an alternative method as long as it provides for public notice of the sale, a description of the property to be sold and the method of sale.

Passage of HB 2628 would benefit both township board members and township residents by bringing greater transparency and credibility to the sale of personal property. With passage of this bill would come a higher level of trust between township board members and their constituency.

March 11, 2008
Testimony before the Elections and Governmental Affairs
Committee

Chairman and committee members, I am Gary Gibson from the Rock Creek Township located on the southern side of Butler County where my Great Grandfather, Gideon Walker Gibson, in 1873 bought 160 acres from the Osage Trust Lands for the price of \$1.25 an acre. My great grandfather remained there until 1923 and while living there, helped to establish Rock Creek Township. My grandfather served on this township and my father was treasure for the township for 45 plus years. I started cutting trees when I was 16 yrs old and have operated graders to maintain this township for 5 different trustees through the years. In those years the board members, trustee, clerk, and treasurer had the roads and there maintenance for the people as a primary concern for the community. The trust of those board members was seldom questioned.

Times have changed and with the migration of people to the country on small acreages, the moral and ethical responsibility of these people has deteriorated. In 2006 the trustee of our township with the cooperation of the other two board members sold our tractor mower to her husband for \$1500. It was a machine that just 3 months earlier the township had spent over \$2000 in repairs on. There was no advertising done or any attempt to do so. He was allowed to make payments which were never verified. Although these are public meetings, no one was allowed to question if the payments were made or if the transaction was ever completed.

The amendment David Crum is proposing is a necessity to the correct operations of townships.

Thank you

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Government 3-11-08
attachment 2*

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
EDUCATION
FEDERAL AND STATE AFFAIRS
GOVERNMENT EFFICIENCY AND
TECHNOLOGY

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SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT

TESTIMONY - HB 2749

Mr. Chairman and Committee:

Thank you for hearing our testimony today. HB 2749 corrects a problem for townships in transferring funds for large equipment purchases. Townships used to have a number of funds on the books (i.e., road or street) and made transfers from those funds to the special machinery fund to purchase road equipment. Townships were encouraged to consolidate the various funds into one general fund. However, Kansas law does not allow transfers from the general fund to a special machinery fund except under certain circumstances. Without being able to make those transfers, the townships face a bond issue or tax increase as their only source of funding.

We have today experts from a township and the Department of Administration to explain the issue and how HB 2749 will resolve it. I appreciate your attention and consideration.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read "Ann Mah". The signature is fluid and cursive.

Rep. Ann Mah

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Attachment 3*

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**Kansas Department of Administration
Duane Goossen, Secretary**

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**Elections and Local Government Committee
HB 2749 – Municipalities; allowing certain general fund transfers**

**Kent Olson, Director
Division of Accounts and Reports
March 11, 2008**

Good afternoon Mr. Chairman & members of the committee, thank you for the opportunity to discuss HB 2749 with you.

Although the Department of Administration maintains a neutral position on legislation concerning municipalities, in our opinion, HB 2749 could alleviate the problem experienced by townships in trying to accumulate enough funds to purchase road equipment by allowing a transfer from the general fund to an equipment reserve fund.

K.S.A. 80-1406b only allows a township to transfer from the general fund to another fund when the general fund has excess monies, and the township did not make a tax levy for the general fund the preceding year. When townships consolidate funds, they often only have one tax levy fund, and that is the general fund.

Due to this statute, townships can only accumulate funds for machinery and equipment acquisition by line item in the general fund. When a township follows this practice, taxpayers can become confused on the goals of the line item accumulation, and question why the township is levying taxes when there appears to be excess cash in the fund

HB 2749 would provide townships the authority to perform the transfers to purchase road equipment as necessary.

Again, thank you for allowing me to appear before you today and for considering HB 2749. I welcome the opportunity to respond to any questions that you may have.

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ELECTIONS AND LOCAL GOVERNMENT
HB 2749
TESTIMONY – MARCH 11, 2008

I am a CPA here in Topeka and my firm presently does accounting work for several townships. For years, the townships have been able to use a special equipment fund to accumulate monies to purchase major pieces of equipment.

With the advent of the personal computer age and the encouragement of the State, most townships have gone to just one general fund. Prior to that time there were two statutes (KSA 68-141g and KSA 80-1406b) that authorized transfers to the special machinery fund. KSA 68-141g authorized such transfers from the road, bridge or street fund. KSA 80-1406b authorized such transfers as long as no tax was levied in that fund.

With the elimination of all funds except the general fund, these transfers became impossible.

Being able to budget these transfers over a period of years allowed the township to keep their tax levies at a constant level as opposed to up and down spikes. The use of the special equipment fund was the only practical way to accumulate enough money to purchase large items like road graders, dump trucks, loaders, road mowers and the like. Some of these items may have a price tag of as much as \$150,000.

The purpose of the bill before you is to provide statutory authority for townships to provide long range plans for equipment replacement by budgeting an amount each year to be transferred to the special equipment fund so that equipment can be replaced when necessary without entering into expensive bond issues or lease purchase arrangements.

Submitted by:

Gayle Anderson

*Elections and Local
Government 3-11-08
Attachment 5*



Thomas L. Bell
President

March 11, 2008

TO: Senate Committee on Elections and Local Government

FROM: Chad Austin
Vice President, Government Relations

RE: Substitute for HB 2757

The Kansas Hospital Association appreciates the opportunity to comment on Substitute for House Bill 2757. This legislation was introduced at our request due to a recent court decision by the U.S. Court of Appeals, Tenth Circuit, that jeopardizes many employment contracts between hospital administrators and governmental hospitals.

In an opinion filed January 25, 2008, in the case of Kimberly B. Aldorfer v. The Board of Trustees of Edwards County Hospital and Healthcare Center, No. 06-3341, D. Kan. (D.C. No. 05-CV-1084-MLB), the United States Court of Appeals, Tenth Circuit, entered an Order and Judgment nullifying an employment contract entered between Edwards County [Kansas] Hospital and Healthcare Center and the Hospital's administrator. The Court's Order and Judgment ruled that the board lacked authority under Kansas law to enter into an express or implied fixed-term employment contract with the administrator. The broader implication of the ruling is to render *void ab initio* employment contracts that may be in existence between certain Kansas governmental hospitals and their administrators or chief executive officers.

After further review of this issue, the House accepted recommended changes to the legislation to include other types of governmental hospitals. The amendments were designed to give the boards of these hospitals express authority to enter a fixed-term employment contract with their administrators or chief executive officers. It is settled law that governmental agencies and corporations, including municipal corporations, are creatures of the legislature and have only such powers as are conferred by law or as may be necessarily implied to give effect to those powers specifically granted. Boards of these hospitals would be severely hampered in securing executive leadership of their hospitals without the authority to provide the employment security of fixed-term employment contracts to their administrators and chief executive officers. Nullifying extant employment contracts, which is the result of the Tenth Circuit decision, throws into chaos the employment relationship between governmental hospitals and their executive leadership. The proposed statutory revision will return order to that chaos.

KHA urges this committee to favorably pass HB 2757. Thank you for your consideration of our comments.

Kansas Hospital Association

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*Elections and Local
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Attachment 6*



KANSAS LEGISLATIVE POLICY GROUP

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**Testimony of
Paul Beck, President
Kansas Legislative Policy Group
To the Senate Elections and Local Government Committee
RE: House Bill No. 2757**

Chairman Huelskamp and Members of the Committee:

Kansas Legislative Policy Group (KLPFG) is pleased to offer testimony in support of House Bill No. 2757. KLPFG is a bipartisan, voluntary, independent, non-profit corporation of elected county commissions that represent the interests of more than 30 counties located in western Kansas.

To provide the best health care services for our communities we must be able to recruit and retain the best providers. This is especially important when working with our hospital administrators. If we cannot provide firm commitments to the leaders of our hospitals in our employment contracts, we cannot be successful in attracting the quality individuals we need to run and manage our facilities. House Bill No. 2757 amends K.S.A. 19-4610 to clearly state that a county hospital board can negotiate and enter into fixed-term compensation contracts with administrators. It is important that we have that clear authority in the law as we move forward this legislative session.

We encourage the Committee to favorably consider House Bill No. 2757.

Thank you for your consideration and the opportunity to present these written remarks.

March 11, 2008

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