

MINUTES OF THE SENATE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Vicki Schmidt at 9:30 a.m. on January 28, 2009, in Room 446-N of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Carolyn Long, Committee Assistant

Conferees appearing before the committee:

Anthony Hensley, Kansas Senator
Pat Apple, Kansas Senator
Mick Urban, Manager, Governmental Affairs, Kansas Gas Services
Ron Gaches, Atmos Energy

Others attending:

See attached list.

Bill Introduction

Chairman Vicki Schmidt requested introduction of a bill that would incorporate a constitutional amendment to Section 2, Article #5 denying those with a mental illness the right to vote. She requested removal of the mental illness restriction at the request of NAMH (National Association of Mental Health). Senator Apple moved, Senator Wysong seconded. Motion carried.

The Chairman opened the hearing on **SB 2–Governmental ethics; placing two years restriction on certain state officers, employees and appointees before becoming lobbyist.**

Senator Anthony Hensley spoke in favor of this bill indicating the State of Kansas currently has in place a restriction on individuals who either retire or leave the employee of the State being unable to work for a contractor of the State but nothing about becoming a lobbyist. Senator Hensley indicated that he had introduced a form of this bill approximately half a dozen times and felt that it was time to close what he felt was a revolving door and that this had been a persuasive issue for many years. The Chair requested Senator Hensley submit his testimony in written form to the committee.

There being no further conferees the hearing on **SB 2** was closed.

The Chairman opened the hearing on **SB 38–Hospital districts; formation, Linn county.**

Senator Apple appeared in support stating that this bill would allow two townships to create a hospital district in Linn County. This requires 10% of the registered voters to sign a petition to put this item on the ballot. If passed it gives the newly created district the right to levy a tax not to exceed two mills (Attachment 1).

Representative Shirley Palmer rose in support of **SB 38** representing Linn County and is in favor of continued responsible health care, especially for senior citizens.

There being no further conferees the hearing on **SB 38** was closed.

The Chairman opened the hearing on **SB 80–Certain cities; sale of utility systems; elections**

After a brief explanation of the current bill by staff, Mick Urban, Kansas Gas Service, spoke in favor of the bill adding they would like the wording of the current law to change. In its present form it requires a majority vote of the qualified electors of the city before a sale can be made. The revision would change the vote requirement to a majority of those voting (Attachment 2).

CONTINUATION SHEET

Minutes of the Senate Ethics And Elections Committee at 9:30 a.m. on January 28, 2009, in Room 446-N of the Capitol.

Ron Gaches, representing Atmos Energy, testified in favor of the bill stating that in most elections the general public is accustomed to outcomes being determined by those who vote, not on a percentage of all registered voters and that smaller communities are in favor of this bill (Attachment 3).

Written testimony in support of **SB 80** was submitted by:

Wes Ashton, Government Affairs, Black Hills Energy (Attachment 4)

There being no questions from the committee the Chair thanked both gentlemen for appearing.

The meeting adjourned at 10:04 a.m. The next meeting is scheduled for January 29, 2009.



TOPEKA

SENATE CHAMBER

COUNTIES
ANDERSON, FRANKLIN,
LINN & MIAMI

COMMITTEE ASSIGNMENTS

CHAIRMAN: UTILITIES
VICE CHAIRMAN: ETHICS AND ELECTIONS
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Testimony Presented To
The Senate Ethics and Elections Committee
By Senator Pat Apple
January 28th, 2009
concerning Senate Bill 38

Thank you for the opportunity to come before the Senate Ethics and Elections Committee in support of Senate Bill(SB) 38. SB38 allows for the creation of a hospital district in Linn County, specifically Mound City Township and Paris Township.

SB38 states that when a petition signed by not less than 10% of the qualified electors of the two townships, and filed with the county commission requesting the formation of a hospital district, the county commission shall put to a vote of the qualified electors the formation of a hospital district. If successful the hospital district board is formed and may levy a tax not to exceed two mils.

The Mound City Medical Group Inc. is a group of concerned citizens that are working to keep health care services in their community. They are working with the Linn County Commission, Olathe Medical Center and individuals in their community to build a medical facility. Their budget is around \$400,000 and they have over 75% of their funds in hand. The facility will be built without this legislation but this legislation will allow for funding the maintenance of the facility, if approved by the voters. I am extremely proud of their accomplishments and think this represent the best of Kansans, seeing a problem and doing something about it. We all know that quality of life in our smaller communities is dependent on keeping a doctor and pharmacy in town.

I ask for your support of this legislation and please let me know if there are questions regarding this legislation.

Very Truly Yours,

Pat Apple
Kansas Senate, District 12

Senate Ethics and Elections Cmte
Date 1-28-2009
Attachment 1



Before the Senate Committee on Ethics and Elections
SENATE BILL 80
Testimony of Mick Urban, Manager Governmental Affairs
Kansas Gas Service
7421 West 129th Street, Overland Park, KS
913-319-8801
January 28, 2009

Good morning madam chair and members of the committee. My name is Mick Urban and I represent Kansas Gas Service. Kansas Gas Service is the largest natural gas distribution company in the state serving more than 642,000 customers in approximately 342 communities. I am testifying in support of Senate Bill 80.

SB 80 addresses a situation that occurs when a City of the Third Class wants to divest itself of its ownership and responsibility for operating certain utility services (electric light or waterworks plant, electric transmission line, or water, gas or electric distribution system). A city of the third class has 2,000 residents or less.

K.S.A. 15-809 requires a majority vote of the qualified electors of the city before a sale can be made. Qualified electors include people who vote at an election, people who don't vote at an election, and people who have moved away or have died and have not been removed from the voter registration rolls. Given generally low voter turnout in most jurisdictions, especially for city elections, achieving this vote requirement can be difficult, if not impossible even with strong community support for a sale.

SB 80 would change the vote requirement to that of all other elections, that is, the vote of a majority of those voting.

Senate Ethics and Elections Cmte

Date 1-28-2009

Attachment 2

In recent years there has been growing interest by smaller cities to sell their natural gas distribution systems. Kansas Gas Service has received several requests regarding the potential sale of small municipal natural gas distribution systems.

Small cities are finding it more and more challenging to operate their natural gas distribution systems, which are often aging and in need of ongoing maintenance and repair. Federal and state safety requirements can add significant financial and technical burdens upon municipal systems and increase operational costs, which may or may not be able to be economically spread across a declining customer base.

In many cases a larger utility, such as Kansas Gas Service, can operate a local distribution system more safely and efficiently than a small city, due to the depth of expertise within the company, operational capabilities and comprehensive safety programs.

Passage of this bill will facilitate the sale and purchase of utilities owned and operated by cities of the third class. Citizens of the community will continue to have the right to vote on the question of whether the utility should be sold to a third party. The proposed change makes such elections the same as the vote on other elections, namely, the vote of the majority of people voting at the election.

I thank you for the opportunity introduce this bill and for the chance to be here today and will gladly stand for questions.



GACHES, BRADEN & ASSOCIATES

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Testimony before the Senate Ethics and Elections Committee

On behalf of Atmos Energy

Regarding SB 80

Presented by Ron Gaches

Wednesday, January 28, 2009

Thank you Chairman Schmidt and members of the Committee:

My name is Ron Gaches and I am appearing today on behalf of Atmos Energy in support of SB 80. Atmos Energy is the second largest natural gas utility, serving Kansans throughout the greater Kansas City market, southeast Kansas, southcentral Kansas and extending into the southwest corner of the State.

Atmos supports Kansas Gas Service Company in its efforts to change the threshold regarding the number of votes necessary to approve the sale of utility systems and equipment to a public utility by a city of the third class.

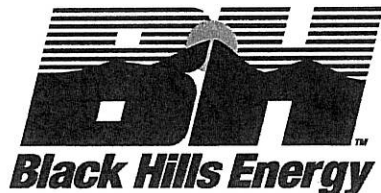
In most elections the general public is accustomed to outcomes being determined by those who vote, not to a percentage of all registered voters. We don't require the Governor to be elected by a majority of all registered voters. Nor do we require that 50% of all registered voters support election of their state senator. It seems reasonable that the same standard used to elect our public officials should be adequate to protect the public's interest in the circumstance of transferring ownership of utilities assets as described in Senate Bill 80.

Thanks for your consideration and I would be glad to answer any questions the committee might have regarding this matter.

Senate Ethics and Elections Cmte

Date 1-28-2009

Attachment 3



Wes Ashton
Government Affairs for Kansas &
Colorado
Wes.ashton@blackhillscorp.com

**Legislative Testimony of Wes Ashton
Government Affairs, Black Hills Energy
Before Senate Ethics & Elections Committee
January 28, 2009**

Good morning, Madam Chair and members of the Committee. I am Wes Ashton, Government Affairs for Black Hills Energy for Kansas and Colorado. I appreciate the opportunity to offer legislative testimony in support of SB 80.

Before I address SB 80, I wanted to mention for the members of the Committee some details about Black Hills Energy, which may be unfamiliar to some members of the Committee. Last July the Black Hills Corporation, headquartered in Rapid City, South Dakota, in a joint effort with Kansas City Power & Light purchased and divided all of the assets of Aquila. KCPL acquired all of the assets in Missouri, and Black Hills purchased all of Aquila's natural gas assets in Kansas, Iowa, Nebraska and Colorado, as well as the electric assets in Colorado. Black Hills Energy now serves more than 750,000 gas and electric customers across seven states, and more than 110,000 customers across the state of Kansas. Please let me know if you would like any additional information.

Black Hills Energy would like to offer our support to SB 80, which would amend Kansas statutes to allow cities of the third class to allow a majority vote on the purchase of gas and electric assets of the votes cast in a special election. The issue this bill addresses is more of a philosophical question for the committee, and allows for a public policy that is in the best interests of the customers at issue.

When discussing cities of the third class, these special elections are often dealing with a small number of voters, and voter turnout is often a concern. By the time an election is extended to the citizens of a city, it must have already been approved by the city council. Public notice is required, and the current requirement essentially counts all those who do not vote as a vote against the sale. Those citizens who are opposed to such a sale are likely to be the most likely to show up to vote. Those citizens who are neutral or don't care are most likely to not vote, and low voter turnout in a special election makes any election more difficult.

Black Hills Energy works closely with our communities and will assist any municipality that is interested or looking at options of getting out of the natural gas business. Any city of the third class with have gone through an extensive negotiation and bid process, a favorable vote of its elected representatives on the council and finally a public vote of its citizens to decide the issue. That decision should be determined by those members that show up to vote on the issue, not by those who do not.

Thank you for the opportunity to offer testimony today and I will be happy to stand for any questions on this bill at the appropriate time.

Senate Ethics and Elections Cmte
Date 1-28-2009
Attachment 4