

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 3:30 p.m. on February 11, 2010, in Room 144-S of the Capitol.

All members were present except:

Representative Delia Garcia, Excused
Representative Lana Gordon, Absent
Representative Michael Peterson, Excused
Representative Michael Slattery, Absent

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Kristen Kellems, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Carol Bertram, Committee Assistant

Conferees appearing before the Committee:

Representative David Crum, 77th District
Will Johnson, County Administrator of Butler County
Merle Reschke, Pleasant Township, Butler County
Doug Junger, Pleasant Township, Butler County
Rick Clark, Pleasant Township, Butler County
Representative Clay Aurand, 109th District
Senator Janis Lee, 36th District
J. Russell Jennings, Commissioner, Kansas Juvenile Justice Authority
Glenn Rodden, City Administrator Beloit Kansas
Mike Cooper, Chairman, Mitchell County Commissioners
Karen Pahls, Director of Mitchell County Partnership for Children (MCPC)
Murray McGee, Director, Mitchell County Community Development

Others attending:

See attached list.

After opening the meeting, Chair Schwartz drew the Committee's attention to the minutes of January 28, 2010, for their approval. It was moved by Representative Otto, seconded by Representative Huebert that the minutes of January 28, 2010, be approved as written. The motion carried.

Chair Schwartz opened the hearing on **SB 357 - Authorizing secretary of administration to convey certain real estate on behalf of juvenile justice authority to city of Beloit.**

Representative Clay Aurand, 109th District, appeared before the Committee as a proponent to **SB 357**. He said this bill would authorize the Secretary of Administration to convey the title and interest of the former Beloit Juvenile Correctional Facility to the City of Beloit. He urged the Committee to pass this bill. (No written testimony was submitted.)

Senator Janis Lee, 36th District, appeared before the Committee as a proponent to **SB 357**. She urged the Committee to pass the bill. (No written testimony was submitted.)

Chair Schwartz recognized Martha Dorsey, Legislative Research Department, to explain **SB 357**. She noted that all costs related to the conveyance of the Beloit Juvenile Correctional Facility to the City of Beloit would be paid by the City of Beloit. Also the bill would take effect upon its publication in the *Kansas Register*.

J. Russell Jennings, Commissioner, Kansas Juvenile Justice Authority, appeared before the Committee as a proponent for **SB 357 (Attachment # 1)**. He presented background information of the facility dating back to 1889, and stated that continued state ownership of the property would come with a cost as additional funding would be needed in both 2010 and 2011 to continue to provide routine maintenance to the facility. He pointed

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:30 p.m. on February 11, 2010, in Room 144-S of the Capitol.

out that if the Secretary of Administration determines that the legal description of the parcel described in **SB 357** is incorrect, the Secretary may convey the property utilizing the correct legal description, but the deed conveying the property would be subject to the approval of the Attorney General.

Questions and answers followed.

Glenn Rodden, City Administrator, City of Beloit, presented testimony in favor of **SB 357** (Attachment #2). He stated what the City of Beloit is asking is that the State of Kansas give back the property that was given to the State by the community of Beloit. He asked that the City of Beloit be provided an opportunity to move forward with ideas and plans that will benefit the City of Beloit and the neighboring communities.

Questions and answers followed.

Mike Cooper, Chairman, Mitchell County Commissioners, appeared in support of **SB 357** (Attachment #3). He stated since last August, when the final word was received of the closing of the facility, Beloit went from working on a plan to keep the facility open to a plan on how to recover. He outlined several potential uses of facilities on the property and asked the Committee to allow the City of Beloit the opportunity to work together and invite the State of Kansas to be a part of the collaboration to achieve the goal of rebuilding the community.

Karen Pahls, Director, Mitchell County Partnership for Children (MCPC), offered testimony in support of **SB 357** (Attachment #4). She stated the young families of the Beloit community would appreciate the Committee's support in returning the campus to the City of Beloit, so that MCPC can build on its extensive effort to do its share in a rural part of the state to help Kansas be the best place to raise a child.

Murray McGee, Director, Mitchell County Community Development, offered testimony in support of **SB 357** (Attachment #5). He stated the community has developed plans for usage of the facilities that will be a benefit for the entire community. He said has been very difficult for Beloit to lose a landmark facility, but the community has banded together and looks forward to doing its best to make this a great opportunity for the community and the region.

Questions and answers followed.

No other proponents and no opponents presented testimony.

Chair Schwartz closed the hearing on **SB 357**.

Chair Schwartz opened the hearing on **HB 2524 - Certain townships; prohibit board members from being employed by township.**

Chair Schwartz asked Ms. Dorsey, to give the Committee a brief description of **HB 2524**. Ms. Dorsey reported that this bill would prohibit any member of a township board which has aggregate annual gross receipts of \$200,000 or more from being employed by that township.

Questions and answers followed.

Proponents

Representative J. David Crum, 77th District, presented testimony in support of **HB 2524** (Attachment #6). He stated at the present time there is no provision in state law to prohibit a township board member from serving as an employee of the township, and serving as both a township board member and an employee can create a conflict of interest. He said the passage of this bill would bring a higher level of trust between township board members and their constituency.

William H. Johnson, Jr., Butler County Administrator, offered testimony in support of **HB 2524** (Attachment #7). He stated should the Committee consider a compromise to this bill, Butler County would suggest the

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:30 p.m. on February 11, 2010, in Room 144-S of the Capitol.

Committee consider the requirement of an audit for townships employing board members. An audit requirement would introduce a system for checks and balances for the townships and further provide for fiscal oversight of other conditions which may have the potential to exist as well within the township.

Questions and answers followed.

There being no further proponents to testify before the Committee, Chair Schwartz opened the hearing to opponents.

Opponents

Merle Reschke, Pleasant Township Clerk, offered testimony opposing **HB 2524** (Attachment #8). He presented the Committee with background information as to the operation of the Board for Pleasant Township, as well as how the Township is able to repair its roads on a very tight budget.

Doug Junger of Pleasant Township appeared before the Committee to read the testimony of Glen T. Hosch which is in opposition to **HB 2524** (Attachment #9). He detailed nine reasons why this bill should not be passed, noting that if approved it would be a great disservice to Pleasant Township.

Rick Clark, Trustee of Pleasant Township, appeared before the Committee in opposition to **HB 2524**. He stated when a person has been elected by the people to serve on the township board and is a board appointed employee and meets all the qualifications as an equipment operator and mechanic, then that person should by the laws of Kansas be entitled to serve in both capacities. He also referred to an opinion by the Kansas Office of the Attorney General concerning township board members being compensated for providing services to a township (Attachment #10).

Questions and answers followed.

There being no further opponents to appear before the Committee, Chair Schwartz closed the hearing on **HB 2524**.

Chair Schwartz returned the Committee's attention to **SB 357**.

Representative Goico moved that the Committee recommend SB 357 favorably for passage, seconded by Representative Holmes. The motion carried.

Subcommittee Report on HB 2472 - Kansas uniform common interest owners bill of rights act.

Representative Mah reported that the Subcommittee met twice and took into consideration the concerns raised by conferees at the bill's hearing. The Subcommittee is making two recommendations to amend the bill on (1) the acquisition of loans and (2) special meetings of unit owners. (Copy of the Subcommittee Report is Attachment #11.)

Questions and answers followed.

The next meeting is scheduled for February 16, 2010.

The meeting was adjourned at 4:50 p.m.

S.S.

Representative Sharon Schwartz, Chair

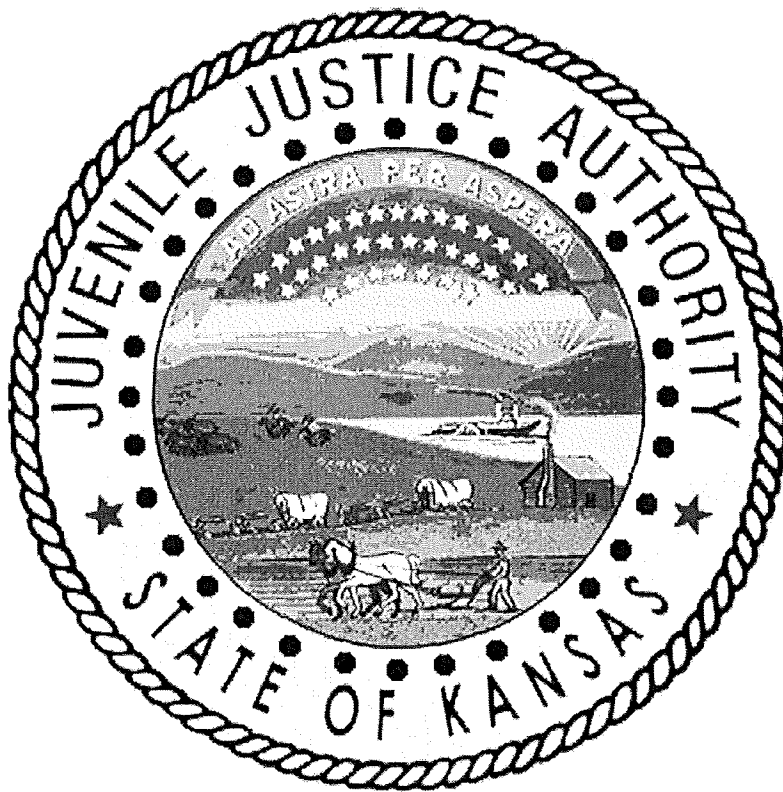
HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: February 11, 2010

NAME	REPRESENTING
Dor Johnson	Federico Consulting
Richard Guto	DOA
William Johnson	Butler County
Nita Redings	Self
Chermaine J. Sullivan	Self
Jim Parker	2 H.O. owners.
Pick Wood	Pleasant Twp Butler
Deey Mays	Clatsop
Merle Reschke	Pleasant Township
Roddy Hamell	Judicial Council
Deey Mays	Pleasant township

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TESTIMONY ON SB 357
TO THE HOUSE LOCAL GOVERNMENT COMMITTEE
BY COMMISSIONER J. RUSSELL JENNINGS
KANSAS JUVENILE JUSTICE AUTHORITY
FEBRUARY 11, 2010



J. Russell Jennings
Commissioner
785-296-0042
rjennings@jja.ks.gov

Local Government

Date: 2-11-10

Attachment # 1

The City of Beloit in Mitchell County served as the home for the only female juvenile correctional facility in the state from 1890 – August 2009. In late August 2009, the 22 youth in residence were moved to the west campus of the Kansas Juvenile Correctional Complex in Topeka. The move became necessary in order to meet reduced budget requirements.

In 1889, the City of Beloit gifted, to the State of Kansas, the real estate the former Beloit Juvenile Correctional facility is located upon. The Juvenile Justice Authority (JJA) sees no future use for the property in the juvenile justice system and has engaged in discussions with other state agencies that also see no use for the property in meeting their missions.

Continued state ownership of the property will come with a cost. The Fiscal Note for SB 357 reflects additional anticipated expenses of \$41,208 for FY10 and \$316,355 for FY11 and beyond. These expenses reflect the cost of minimum staffing and expenses to preserve the property and protect the property from deterioration. JJA has contemplated transfer of the property no later than May 1, 2010. In the event transfer does not occur as planned, JJA will require additional funds for FY10 and FY11 as no funds are contained within the Governor's budget for continued expenses. The expenses illustrated in the Fiscal Note do not include any substantial facility repair expense that would normally be paid with State Institutions Building Funds.

JJA supports SB 357, which provides for the transfer of the Beloit property to the City of Beloit for community use.

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Glenn Rodden, City Administrator
grodden@beloitks.org

**Testimony
Before the Kansas House Local Government Committee
Topeka, KS**

By
Glenn Rodden
City Administrator
Beloit, KS

February 11, 2010

Good afternoon Chairman Schwartz and members of the committee. My name is Glenn Rodden and I am the City Administrator in Beloit, Kansas. I would like to thank you for this opportunity to speak to you about Senate Bill 357 and specifically the former Beloit Juvenile Correctional Facility.

Last summer, our city was informed of the state's plans to close the correctional facility. It was one of the largest employers in our community and an entity that has been a vital part of our community for more than 120 years.

To give you a little history the Beloit Juvenile Correctional Facility was developed as a result of a community effort. In June of 1889, the City of Beloit gave 80 acres of land, valued at \$3,300 to the state for the development of a Girls Reform School. Several members of the committee also donated private money to the State Board of Charities to assist with this effort. As a result the state established the first and only facility in the state of Kansas to serve female youth sentenced by the district courts in Kansas.

There was never a fence built around the facility because our community did not want to see a fence there. Our community cared for the girls who were sent to the correctional facility. We were involved on a regular basis with the facility and the staff. Many members of our community were employed at the detention facility. The Girls Industrial School, also known as the Beloit Juvenile Correctional Facility was a key part of our community for more than 120 years.

Land of the Kansas Post Rock

Local Government
Date: 2-11-10
Attachment # 2

As the City Administrator in Beloit I can tell you the closure of the facility last summer was a heavy blow to our community. We lost more than 50 jobs that were held by members of our community and residents from neighboring counties who depended upon the facility to support their families.

Beloit also lost the benefit of a facility that had a budget of more than \$3.5 million dollars. We have felt the loss of a payroll of more than \$2 million and we face the loss of utility revenues from one of the largest utility users within the City of Beloit.

What we are asking today is for the State of Kansas to return the property that was graciously given to the State so that we may have an opportunity to turn this great loss into a gain for our community.

We have worked together for more than a year in an effort to keep the facility open. And when that effort failed we focused our energy on developing a plan for how our community could utilize the facility to our greatest benefit.

Over the course of the past year we have formed two task force groups to focus on plans for the facility. We have met collectively with representatives from the City of Beloit; Mitchell County Commissioners; USD 273 Board of Education; Solomon Valley Economic Development; Mitchell County Community Development; the North Central Kansas Technical College;; Mitchell County Hospital; Mitchell County Early Learning Center and with representatives from our business community.

The loss of the correctional facility has brought us together to work towards developing plans to turn the loss of the state facility into an "opportunity" for our community. Other members of our community will tell you today some of the ideas we have for the future of this facility.

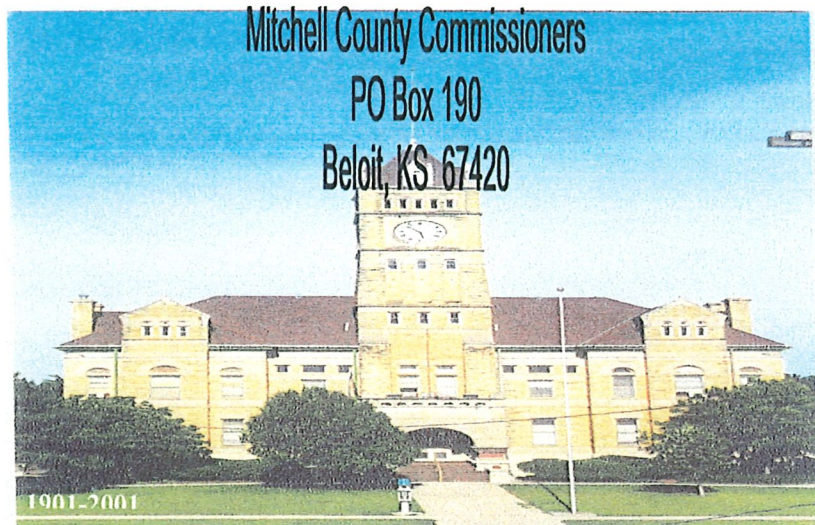
But I want you to know that we are prepared to step up and move forward. Our City Council has already formed a Public Building Commission to receive and move forward with creating activity and bringing life back to this facility once again.

What we are asking of you is to give back the property that was given to you by our community. Provide us an opportunity to move forward with ideas and plans that will benefit the City of Beloit and our neighboring communities.

Chuck Hiedrick
1st Distict

Mike Cooper
2nd District
CHAIRMAN

Virgil Palen
3rd District



Good afternoon Chairman Schwartz, Representatives, and Committee members. My name is Mike Cooper and I am the Chairman of the Mitchell County Commissioners. As I prepared for this, our first time meeting, I thought about the history behind your political careers. I am sure some of you started in a County Commissioners seat, others in some fashion of an elected position. One thing we all share in common is choice of taking office as we felt we would make good community leaders. As Community leaders, our decisions will often affect many of the lives of those we represent. I stand before you today asking you to make one such decision.

A community will come together in a time of need. This has been demonstrated by many Kansas's when a natural disaster hit their area. Although the closing of the Beloit Juvenile Correctional Facility was not a natural disaster, it was a crushing blow to the economy of the area. But much like the devastation of a Kansas tornado, our community has come together to form a recovery plan that may not put us back to a level of a year ago, but it will help to start the rebuilding process.

Since last August, when the final word was received of the closing, we went from working on a plan to keep it open, to a plan on how to recover. It became evident early on that no one agency could financially handle this on its own. Each of us, the County, the City, the School system, and many other individuals went back to their respective organization to discuss what could be done that would help the needs of the all. But, in the same time it must be beneficial to the citizens and groups of the area.

Local Government

Date: 2-11-10

Attachment # 3

As a County, we were in the desire need to upgrade our jail. As you already know, the State and Federal Correction's over burden has trickled down to the County level. With economic conditions of the area, we, the County Commissioners, saw no possible way of financially burdening the property owners for such an expansion. When the possibility of acquiring the use of one building at the Correctional Facility was presented to our law enforcement, we started to see a way to put some sort of silver lining back into what was otherwise a very cloudy outlook.

The potential use of the facility will eventually save us some money to the out going expense of housing prisoners in other jails, but primarily it will put 5 to 7 new jobs back into the area. It will also reach to the borders of Mitchell County by offering an expanded service to our neighboring Counties. Our County meets quarterly with three neighboring Counties. At a recent meeting we discussed the potential expansion to our jail system. We were overwhelmed by the response of our neighbors for possible use of bed space. They too have a problem, but much like us, are not in the position to financially support a new facility.

There are many more prospective commitments I could share with you. All of which lend more creditability to the idea of a community pulling together to work for the common goal of recovery. But first, it is essential for the State to gift the Facility back to us, as economically we cannot afford it any other way.

I would like to share with you one last thought which shows the collaborative efforts being put into process. I cannot articulate the emotional response that would be felt, but I feel you can read between the lines. Karen Pahls, Director of the largest daycare provider and Early Learning Center of our area is currently housed at the Facility. The State has been gracious enough to let them remain, but if they were forced to leave, not only we would feel a hard repercussion to the young working families, but we would also lose more jobs. Even if they were allowed to stay, but was not afforded the cost sharing utility assets of the other bodies involved, they again would forced to close, as they could not afford the expense of the entire campus. With all of us working together, these utility cost would be shared.

A collective effort is when several individuals, or groups, come together to reach a common goal. It is when "self-needs" are no longer the high priority, nor an individual profit is the goal. We are asking you to allow us the opportunity to work together and invite you to be a part of our collaboration to achieve this goal. Thank you.



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Mitchell County Partnership for Children

Funded by Smart Start Kansas

Testimony
Before the Kansas House Local Government Committee
Topeka, KS

By
Karen Pahls
Director
Mitchell County Partnership for Children

February 11, 2010

Good afternoon Chairman Schwartz and all Honorable Committee Members. My name is Karen Pahls. I am the Director of Mitchell County Partnership for Children (MCPC), which is a community agency located on the campus of the Beloit Juvenile Correctional Facility. We have occupied two buildings on the campus since January 2007. MCPC houses a total of 26 staff. Seven staff from our Early Childhood Special Education Program, one Parents as Teachers Parent Educator for our local school district, six MCPC staff as well as the Mitchell County Early Learning Center Child Care Center which employs twelve full-time staff and provides care for 71 full-time children and an additional 17 children on a drop-in basis. I know you understand the need for quality licensed child care in our state. In the urban areas it is somewhat easier to find than in the rural areas, such as North Central Kansas. These children at our Center are from a total of 64 families representing 49 places of employment within our community with 2 parents now participating in workforce training following recent lay-offs.

The children at the child care center range in age from 2 weeks to after school care for children up to age 14 years. We have several children who come from low-income homes as well as many children with special needs. With the MCPC Behavioral Health Consultant, MCPC Registered Nurse, and the Early Childhood Special Education Staff housed within the same campus, the child care staff can meet the needs of all children in our care.

In the spring and fall of 2006 when we were looking for a place to house a Child Care Center, which was a need based on our community assessment, the Beloit Juvenile Correctional Facility cottages were our only option. That remains the case today. If MCPC and the Mitchell County Early Learning Center are not able to remain on this campus, our doors will close simply because there is no other building in Beloit that is even close to the size or conditions we need to house a high-quality licensed Child Care Center. And, neither we nor the community can afford to build one at this time.

MCPC is under the auspices of our local community Resource Council and our local school district, USD 273, who serves as our fiscal agent. The school district is looking at the BJCF school building on campus for consolidation of several programs they currently have in several different locations.

The vision of Mitchell County Partnership for Children is to provide every child and every parent access to quality and affordable childcare, health care, family support and literacy education so that every child enters school ready to learn. Since being located on the campus along with our partner agencies, MCPC is now the place where parents and child care providers go for parenting education, provider workshops, free vision and

Local Government

Date: 2-11-10

Attachment # 4

ng screenings, early childhood special education services, quality child care and materials on parent. and early learning from our parent resource center. Suffice it to say we are proud of what we have been able to accomplish through use of the BJCF cottages and of the very positive reports we have received from KDHE inspections the past three (3) years.

In February 2007, the Kansas Health Foundation began a campaign to challenge all of us to make Kansas the best place to raise a child. From that campaign came the Kansas Early Childhood Comprehensive Systems plan (KECCS), a roadmap to guide the provision of services to young children and families. Mitchell County responded to that initial campaign by opening the Mitchell County Early Learning Center and continues to be guided in implementing and delivering services by following our "early learning roadmap", the KECCS plan.

The young families of our community would appreciate your support in returning the campus to the city of Beloit, so that we can build on our extensive effort to do our share in the rural part of our state to help Kansas be the best place to raise a child. Thank you!



Mitchell County Community Development

P.O. Box 567-Beloit, KS 67420

785.738.2717

Testimony Before the House Local Government Committee Topeka, KS

By
Murray McGee
Director-Mitchell County Community Development
Beloit, KS

February 11, 2010

Good afternoon Chairman Schwartz and members of the committee. My name is Murray McGee. I am the Director of Mitchell County Community Development. I would like to thank you for this opportunity to speak to you.

Today you have heard from several members of our community in support of Senate Bill 357. We are in a very unique situation. From everything we can tell this is the only time the state has been forced to close a facility that was originally given to them by a community. The Girls Industrial School was started by the Women's Christian Temperance Union who helped raise private money and encouraged the City of Beloit in offering land to the state for the facility. They started the girls' reformatory school and encouraged the Kansas Board of Charities to take it over and develop it further.

The state took on the responsibility for developing the facility that over time became known as the Beloit Juvenile Correctional Facility. It served its purpose for over 120 years. Many girls were served. The community benefited from the jobs created and resources and services utilized by the facility and the staff.

The closure of the Beloit Juvenile Correctional Facility was a heavy blow to our community and our neighboring communities who depended upon it for employment. The loss of 50-60 jobs may not seem like a lot to some. But the Correctional Facility was one of our largest employers with one of the largest payrolls. The payroll and benefits totaled nearly \$2.9 million. In Beloit these were high paying jobs compared to those of most of our manufacturing, retail and service businesses. Fifty to sixty jobs may not seem like a lot in a big city. But when you compare it to our population it would be the equivalent of Topeka losing an employer with 1,500 people or Wichita suddenly losing 4,500 jobs.

We struggle with a declining number of residents in our part of the state. With the closure of the correctional facility some staff had to move to pursue other employment. The City lost sales tax revenue as people left and businesses lost revenues from sales of goods and services provided to the facility and the staff who worked there.

Local Government

Date: 2-11-10

Attachment # 5

This has not been our only loss this past year. We have lost over 225 jobs and we are asking you to provide us an opportunity to turn some of this around. This will benefit us and it will benefit the state.

Returning the property to the community means the state will no longer be liable for \$300,000 in staffing and utilities. It will eliminate another piece of real estate from the states excess property inventory. And it will provide us with the opportunity to take a negative and turn it into a positive.

With the work we have done with the City of Beloit, Mitchell County, USD 273, the Early Learning Center and others we are willing to step up and taken the property off the states hands and assume the responsibility for the facilities, maintenance and utilities.

We have developed plans for usage of the facilities that will be a benefit for the entire community. It will benefit our residents, businesses, schools, college, the City of Beloit and Mitchell County. We feel there will also be benefits for our neighbors as well.

This has been very difficult for us to loose a landmark facility. But we have banded together, looked forward as a community and we are prepared to do our best to make this a great opportunity for our community and our region.

J. DAVID CRUM
 STATE REPRESENTATIVE, DISTRICT 77
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 (316) 775-6826

STATE CAPITOL
 TOPEKA, KS 66612
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TOPEKA
 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 TAXATION
 HEALTH AND HUMAN SERVICES
 SOCIAL SERVICE BUDGET

02/11/10

Testimony before the House Local Government Committee

The Honorable Sharon Schwartz Chairman

Thank you very much for the opportunity to testify in support of House Bill 2524.

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. In Butler County we have 29 Townships.

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.

Local Government

Date: 2-11-10

Attachment : 6

At the present time there is no provision in state law to prohibit a township board member from serving as an employee of the township.

Serving as both a township board member and an employee can create a conflict of interest for the following reasons:

1. The township board hires and fires township employees.
2. The township board determines the salary and benefits of township employees.
3. The township board determines the number of hours worked by township employees including any overtime.
4. The township board makes the determination of what equipment will be purchased for use by township employees.

We have a township in Butler County in which the trustee of the board services as a full time employee of the township. There has been concern regarding possible conflicts of interest. Any time there is the perception that an elected official is benefiting financially from their position of influence there is concern by the public which has the potential to undermine the political process. Passage of House Bill 2524 would bring a higher level of trust between township board members and their constituency.

Thanks again for the chance to address this important legislation.



February 11, 2010

Committee on Local Government
Representative Schwartz -Chairperson

RE: HB 2524 Testimony

Dear Committee Members:

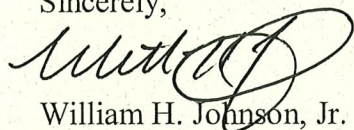
Butler County would like to thank you for this opportunity to testify on behalf of House Bill 2524. We would like to express our support for HB 2524, which would not allow any member of a township board that has aggregate gross receipts of \$200,000 or more to be employed by such township. Butler County believes this is a simple issue of the separation of powers between an elective board and the individuals employed by the board. Allowing the employment of board members in any organization including townships, introduces the opportunity for abuse and fraud while portraying a poor image to the public.

The inclusion of a minimum threshold is necessary to protect smaller townships across the state where limited population and budget authority limits the opportunity to hire and retain qualified employees. The proposed \$200,000 threshold provides adequate budget authority to recruit and hire qualified individuals to perform the functions required, without having to depend upon the employment of board members.

While this will not resolve all the potential conflicts that may exist or arise, we believe it is progressive legislation and a good starting point. Unfortunately, the way in which the bill is constructed will have immediate impact on some individuals across the state. Should the committee consider a compromise to the bill, Butler County would suggest the Committee consider a requirement of an audit for townships employing board members. An audit requirement would introduce a system for checks and balances for the townships. The requirement of audits further provides for fiscal oversight of other conditions which may have the potential to exist as well within the township.

Butler County appreciates the opportunity to testify before this committee and hopes that you will take into consideration our support and testimony to this bill.

Sincerely,



William H. Johnson, Jr.
Butler County Administrator

William H. Johnson, Jr., County Administrator

Butler County Courthouse, 205 W. Central, El Dorado, Kansas 67042

Local Government

Date: 2-11-10

Attachment # 7

Merle Reschke
PLESANT TOWNSHIP CLERK

1. This is the first township board out of the 3 that I have been the clerk on, that all 3 board members were at the same level. The first 2 boards I was on, the head trustee made all the decisions without the other 2 members having any say. The head trustee did all the hiring and firing without any approval as a board. Our township had some of the worst roads and operators. The second boards head trustee that I was on hired Rick Clark to be our operator which was the best thing he done. This was still done on his own with no input from the other board members. Rick has been around construction all his life. The first head trustee was a house builder, with little knowledge of road maintenance. The second head trustee was a clothing salesman with very little knowledge of road maintenance. There was a lot of harsh words as to fixing the roads, Rick Clark therefore ran for the head trustees job and won the election. This made the old trustee very angry.

2. When Rick took over as the new trustee we had very little money, and our roads were still very bad. We had a lot of family members that had tore up some of the equipment and used a lot of the money for pay roll. There is still no blade operator to take Ricks place as the operator. We found out that there were a lot of board members running equipment for lack of money in the township funds. Rick ran our blade till the next election. Rick hasn't had a pay raise for several years now, and he has never complained. This is when we met with the county for our annual meeting. The County Attorney was there and they ask her about the board members running the equipment. She said we can't do it. She then asked how many were doing this and about 2/3 of the people raised there hands. She was amazed. She said to go ahead and do this till the state does something to prevent it. She knew that the townships couldn't find help with our pay level.

3. The first thing this board did was to meet with the Butler County Clerk to find out what our rights were and how to work as a board should. This is the first time there was any real working as a 3 member board in all the years I have been a clerk on this board. We have made mistakes, but we have tried to fix them and move on. If we were doing real bad I don't think any of us would have been re-elected for another term.

4. It doesn't seem right to single out certain townships for this punishment, and not all. The size of a township doesn't affect any other part of government function. We all do the same jobs just like the others with a small amount of money to work with. I think you will find board members running the equipment all over the state for the same reason. A VERY TIGHT BUDGET.

5. We are one of the townships that are the closest to Wichita so we have a lot more traffic than most of the other townships. We also have a lot of city people moving to the country that want our gravel roads like the paved streets they had in town, which we can't do.

6. The state said we have to have a C. D. L. drivers license to operate any equipment over 20,000 lbs, and try to find somebody to do this for township wages.

This is not right to ruin any township board member over some bidder people who lost there election.

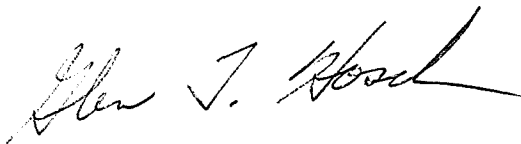
Local Government
Date: 2-11-10
Attachment # 8

Thank you for accepting my input on H.B. 2524.

This bill should not be approved for the following reasons:

1. This bill is limited by an arbitrary "aggregate annual gross receipts of \$200,000 or more." How was this number determined? Who determined this number? How many townships does this affect? If this dollar value targets just a few townships, why single out some and not include every township?
2. The exclusion of employment by the township is more appropriately managed at the township level. This is congruent with the philosophy that the voters are best suited to decide what is best for their township. Accountability of the employment decisions are validated or nullified at each election by the voters in each township.
3. Section 2 of the bill appears to be an attempt to reverse the outcome of an election. To force an elected official out of office requires the recall protocol that has been clearly defined in present statutes.
4. The logic that township board members may not be employed by the board is implying that equipment operators may never become elected officials. Who better knows the problems of the roads than the people that routinely repair the roads?
5. Employment of qualified and experienced operators and maintenance personnel in Kansas is difficult in the best of times and this recession makes recruitment more difficult with the mass exodus of those persons from Kansas.
6. Historically in Pleasant Township, the Trustee was elected and re-elected by the voters with full knowledge the Trustee was an employee of the township. The voters approved of this arrangement. The board members also approved of this employment in open meetings. To my recollection, no one spoke in opposition to this employment at the time of the vote. The board has NEVER held an executive session to my knowledge and the public is invited and encouraged to attend each monthly township meeting.
7. After inheriting a deficit from the previous board, Pleasant Township Trustee/Employee, Rick Clark, exhibited leadership in the spirit of cooperation to maximize services for the township. The roads today are better now than I have ever seen in my 12 years living here. My neighbors will say better than they can recall. Such leadership, expertise in road maintenance and mechanical repair are rarely found in the same individual. To replace this employee would be difficult if not impossible for the dollars spent. Therefore, to suggest a conflict of interest is self defeating and financially erroneous.
8. Every time I have approached the Trustee/Employee he has been professional, polite and accommodating even while disagreeing on issues. I promised that I would be a "woodpecker on his head" from the first meeting as Trustee/Employee and the fact of the matter is I am exactly that.
9. Approving H.B No. 2524 will be a great disservice to Pleasant Township and in my opinion, an illegal political maneuver to circumvent the recall process. Although time does not permit me to circulate a petition, I feel that most of the voters and residents of Pleasant Township would not like to see the Trustee forced out of his elected office. Please vote against H.B. 2524.

Sincerely,
The woodpecker on your head



Glen T. Hosch

Local Government
Date: 2-11-10
Attachment # 9

Good afternoon. My name is Rick Clark. I am here to discuss the reasons why I think HB2524 should NOT be approved.

I am currently serving my second elected term as the Trustee of Pleasant Township. I have been employed by the township for the last 9 years. I worked for 4 years under the former trustee of Pleasant Township, as the equipment operator and mechanic. For the last 5 years, I have been the trustee, equipment operator and mechanic. I am also the coordinator for all FEMA disaster projects.

HB 2524 is currently before you today. It is to "prohibit any member of a township board where the township has an aggregate annual gross receipt of \$200,000 from being employed by the township". Why has this become an issue? Prior to my first election, I spoke with County Attorney Jan Satterfield about being an elected official and a board appointed employee of the township. She requested an opinion from the Attorney General on the rules pertaining to this. Kansas Laws 80-207 and 80-208 and Opinion No. 2004-18 dated June 29, 2004, states that a township officer can also be an employee of the township.(see attached) I was informed that the township board is a self governing body and is accountable to the public. The only limitation was that I should abstain from voting on any salary increase for myself. We also spoke to Ron Roberts, Butler County Clerk, about these issues. He stated that the Trustee can be the operator with no problem in the Kansas laws. He also stated that no one board member has the right to make decisions without at least two members voting.

We operate our board in accordance with the rules of the Kansas law. We retain an accountant for preparing our payroll and to prepare our annual reports.

This bill also appears to be an attempt to reverse the outcome of an official election. To remove an elected official from office, you must follow the protocol clearly defined in the present Kansas statues.

In conclusion, when you have been elected by the people to serve on the township board and are a board appointed employee and you meet all the qualifications as an equipment operator and mechanic, then you, by the laws of Kansas, are entitled to serve in both capacities. Who better to do both jobs?

Local Government
Date: 2-11-10
Attachment # 10

Office of the Attorney General
State of Kansas

Opinion No. 2004-18
June 29, 2004

Re: Roads and Bridges--County and Township Roads--Township Board of Highway
Commissioners; Compensation

Synopsis: Township board members can be compensated for providing services to the township provided the services fall within the parameters of "township business" or are identified specifically in the statutes. However, while a township board may be authorized to appoint or employ one of its members to perform services for the township, its members must comply with all state governmental ethics laws. Cited herein: K.S.A. 68-525; K.S.A. 2003 Supp. 68-526; K.S.A. 68-530; 75-4301a, 75-4304; 75-4305; 80-202; 80-207; K.S.A. 2003 Supp. 80-208; K.S.A. 80-301; 80-302; 80-304; 80-401; 80-406; K.S.A. 2003 Supp. 80-410; K.S.A. 80-501; 80-1201; 80-1407; K.S.A. 2003 Supp. 80-1544; K.S.A. 80-2002.

Jan Satterfield
Butler County Attorney
201 W. Pine, Suite 104
El Dorado, Kansas 67042

Dear Ms. Satterfield:

You inquire whether township board members can receive compensation for services provided to the township. Specifically, you indicate that there are concerns about members providing mowing and general labor services on township roads and other township property. While former Attorney General Carla J. Stovall opined on this subject in 1995, [FN1] the laws mentioned in that opinion have since been amended, and, therefore, its value is limited. We also note that the propriety of a township board or board member's action will depend upon the specific facts of each situation, and, therefore, we offer this opinion only for general guidance.

The governing body of a township is comprised of a township trustee, clerk, and treasurer. [FN2] These officers are entitled to "receive compensation for their services while actually and necessarily conducting township business." [FN3] In the absence of a statutory definition of "township business," or an appellate court decision limiting its scope, the governing body has discretion in determining the parameters of "township business" for which its members will be compensated. Presumably, "township business" would include the statutory duties of a township board and its individual members. [FN4]

K.S.A. 80-207 establishes the procedure for compensating township board members where the total amount of annual compensation per member exceeds \$100:

"(c) The township board, by adoption of a resolution, may fix the amount of compensation to be received by members of the board. Such resolution shall be published at least once each week for two consecutive weeks in a newspaper of general circulation within the township. If the total amount of compensation to be received annually by each member of the board is \$100

or less, such resolution shall not be required to be published and shall be effective upon adoption of the resolution. A resolution providing for an increase in compensation shall not be effective until 30 days following the date of the last publication of the resolution." [FN5] In addition to board members being compensated for "township business," there are a variety of statutes that authorize board members to perform specific compensated services for the township. The following is a brief list:

1. A township board, serving as a board of highway commissioners, [FN6] "may employ one or more... [board] members to perform work and labor on the township roads... and bridges." [FN7]
2. A township board may appoint one of its members to serve as the road overseer who is responsible for the "construction and maintenance of all township roads, bridges, and culverts, under the supervision of the township board and the county engineer." [FN8]
3. A township board serves as an auditing board, which examines and audits all claims against the township for which the member can receive compensation for "attending to the township business." [FN9]
4. Township board members can receive compensation for their services "in the supervision of the operation" of the township water system, [FN10] as members of the governing body of a township fire district, [FN11] and for services as members of the governing body of a township sewage district. [FN12]

Clearly, township board members can be compensated for providing services to the township provided the services fall within the parameters of "township business" or are identified in the statutes. We also note that state law contemplates the employment of township officers by virtue of K.S.A. 2003 Supp. 80-208 which provides, as follows:

"A township officer who also is an employee of the township shall abstain from voting for or participating in any motion of the township board to increase the compensation, salary, or benefits to be paid to such person as an employee of the township." [FN13]

However, while a township board may be authorized to appoint or employ one of its members to perform services for the township, [FN14] its members must comply with all state governmental ethics laws, including K.S.A. 75-4304 and 75-4305. K.S.A. 75-4304 prohibits a local governmental officer or employee from making or participating in a contract in which the officer or employee has a "substantial interest." [FN15] K.S.A. 75-4305 requires a local governmental officer or employee to file a statement of substantial interests with the county election officer before "acting upon any matter which will affect any business in which the officer or employee has a substantial interest." [FN16] Therefore, depending upon the facts, the member being considered for appointment or employment should avoid participating, as a board member, in the making of any contract for that purpose, and abstain from taking any action in regard to the matter. [FN17]

You also query whether a board member can take "unilateral action" to perform a compensated service. This issue was addressed in Attorney General Opinion No. 81-141, which concluded that where a statute requires action by a township board, such action can be taken only by the board - not individual members. [FN18] Moreover, to the extent there is conflicting statutory language dealing with duties delegated to a township officer and also to the township board, the more recent statute controls. [FN19] The better practice may be for the township board to take formal action appointing the individual to perform the service and establishing the compensation. [FN20]

Finally, you inquire regarding the legal propriety of a township board member hiring a relative to perform compensated services for the township. There are no statutes prohibiting nepotism

80-207. Township officers; reimbursement for expenses; compensation.

(a) The township officers of any township shall be reimbursed for any expenses incurred while actually and necessarily attending to township business.

(b) Members of the township board shall receive compensation for their services while actually and necessarily conducting township business.

(c) The township board, by adoption of a resolution, may fix the amount of compensation to be received by the members of the board. Such resolution shall be published at least once each week for two consecutive weeks in a newspaper of general circulation within the township. If the total amount of compensation to be received annually by each member of the board is \$100 or less, such resolution shall not be required to be published and shall be effective upon adoption of the resolution. A resolution providing for an increase in compensation shall not be effective until 30 days following the date of the last publication of the resolution.

History: L. 1982, ch. 429, § 4; L. 1996, ch. 184, § 5; L. 1997, ch. 17, § 1; July 1.

ATTORNEY GENERAL'S OPINIONS

Compensation of members of township boards. 95-113.

80-208. Compensation, salary or benefits, increases; limitations.

A township officer who also is an employee of the township shall abstain from voting for or participating in any motion of the township board to increase the compensation, salary or benefits to be paid to such person as an employee of the township.

History: L. 2002, ch. 15, § 1; July 1.

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February 9, 2010

To: Representative Sharon Schwartz, Chairperson
Members of the House Committee on Local Government

From: Representative Ann Mah, Chairperson, Subcommittee on HB 2472
Representative Bill Otto
Representative Joe Seiwert

Re: Subcommittee Report on HB 2472 (As Introduced)

The House Local Government Subcommittee on HB 2472 met twice, on February 1 and February 3, 2010. The Subcommittee considered in detail the concerns raised by conferees at the bill's hearing and others who attended the Subcommittee meetings, has concluded its deliberations, and makes the following recommendations to amend the bill:

- Acquisition of loans – Remove subsection (d) from New Section 8, regarding the board of directors' authority to borrow money. (Page 4, Line 43 - Page 5, Line 14)
- Special meeting of unit owners – Reduce from 25 percent to 10 percent the proportion of unit owners who must request that the board of directors call a special meeting in order to require the board to hold such a meeting. (Page 6, Line 25)

Numerous other concerns and requests were considered by the Subcommittee. Among these were notice of proceedings, voting by proxy, taking emergency action, audit requirements, mediation, delinquent assessments, and scope of the bill. In most cases the Subcommittee determined that the language of the bill was sufficient and appropriate. After discussion and deliberation, the Subcommittee decided to recommend the House Committee adopt the above two amendments and leave the remainder of the bill intact.

Subsequent to the Subcommittee meetings, a number of residents contacted the Committee Chairperson concerning the issue of notice of board of director meetings. Chairperson Mah will present that issue separately from the Committee report for your consideration.

MBD/jl