

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:38 a.m. on Tuesday, March 8, 2005, in Room 231-N of the Capitol.

All members were present except:  
Senator James Barnett (E)

Committee staff present:  
Athena Andaya, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:  
Mayor James McClinton and Jim Langford, City of Topeka's Budget and Finance Director  
Onis Lemon, Mission Township and Sherwood Improvement District, Topeka  
Richard Johnson, Menoken Township, Topeka  
Richard Maginot, Soldier Township, Shawnee County  
Jane Kelsey, Shawnee County Farm Bureau Association  
Dennis Schwartz, General Manager of Shawnee County Rural Water District No. 8  
Bob Haselwood, Topeka Township  
Al Ward, Clerk of Mission Township, Topeka  
John Alcala, Topeka City Councilman (written)

Others attending:  
See attached list.

Chairman Brungardt noted that copies of written testimony on **SB 263** from Tuck Duncan, on behalf of American Medical Response, was distributed in regard to the March 2 hearing. (Attachment 1) Minutes for the February 17, 22, and 24 meetings were presented for committee review and consideration.

**SB 262 - City and County Consolidation**

**HB 2083 - Consolidation of Topeka and Shawnee County**

Chairman Brungardt continued the hearing on **SB 262** and **HB 2083**.

In response to a committee member's question during the hearing last week on **SB 262** and **HB 2083**, Chairman Brungardt recognized Mayor James McClinton and Jim Langford, City of Topeka's Budget and Finance Director, who appeared to furnish additional information regarding the city's indebtedness. Mr. Langford explained the handouts consisting of a Statement of Indebtedness for the City of Topeka from year 2000 through February 17, 2005, and a Comparison of Indebtedness and Mill Levy for Shawnee County and City of Topeka. (Attachment 2)

Senator O'Connor asked in the Shawnee County mill levy vs the City of Topeka mill levy, how many dollars for every increase in a mill are brought in approximately. Mr. Langford responded that 1.0 mill for the city is about \$900,000, and 1.0 mill for the county is about \$1.3 million.

Mayor McClinton stated that if bonded indebtedness is a question of concern, he felt that could be addressed by the commission. The commission itself could decide who will pay that debt, and make sure that is a fair way of dealing with that issue.

Onis Lemon, Mission Township and Sherwood Improvement District, testified in favor of **HB 2083**. He said it was imperative that the people in the townships and Shawnee County have a voice in whether or not to accept a consolidation plan. He also supported a moratorium on unilateral annexation, because allowing the city to continue its October 2004 annexation plan would cause manifest injury to townships and county voters. Mr. Lemon explained that Mission Township would lose approximately 80% of their

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township budget if the city was allowed to unilaterally annex per its annexation plan. The township people left would not be able to afford a fire department or a road department on 20% of their current budget. ([Attachment 3](#))

Richard Johnson, Menoken Township, spoke in support of **HB 2083**. He said that unilateral annexation amounts to taxation without representation, and that people chose their homes based on the amenities the location offers to them. He stated that Topeka's desire to initiate annexation after elections lacks integrity and suggests a conspiracy to prevent those being annexed from voicing their concerns. Topeka's government wants to control the selection of the consolidation committee, and he believed the selection should remain with the Governor. Mr. Johnson explained that Menoken Township would lose 25% of their tax base, and the carefully selected land to be annexed only takes in 1.5 miles of roadway, which amounts to less money for the township to maintain the existing roads and fire department. He said the annexation of 32,000 acres will be expensive and the city does not have the resources to provide services to its newly acquired citizens in a timely manner. Mr. Johnson, being a retired Topeka police officer, spoke about the number of uniformed police officers in Topeka, and problems associated with more area to cover and citizens to protect with the proposed annexation. He pointed out that Topeka's debt should not be the burden of those who have no vote or representation. ([Attachment 4](#))

Richard Maginot, Soldier Township, testified in favor of **HB 2083**. He explained one of the reasons the vote in November passed was the idea that there would be a dual majority vote required to adopt any consolidation plan. He stated that the passage of this bill gives the citizens living in the unincorporated county a say in their future rather than again being forced into being governed by an entity, the City of Topeka, where those citizens have not chosen to live. Mr. Maginot talked about the annexation plan which discussed annexing up to approximately 50 square miles of land surrounding the city, and the area targeted in Soldier Township for annexation consists of approximately 17 square miles leaving over 50 square miles for the Township to service. Soldier Township would lose 50% of their tax base including more than 95% of all commercial property and many of the larger residential subdivisions from the Township tax base. He shared that in the late 1950's, early 1960's, Topeka annexed large areas from Soldier Township, and to date this area still has many of the same streets, septic tank systems and other features that were in place at the time of annexation with little or no improvements. Mr. Maginot said that this has galvanized the remaining citizens to fight any attempts to annex their properties when the only things they can depend on receiving are out of control spending by the city, higher taxes, skyrocketing debt, and a loss of services.

Mr. Maginot referred to the third page of his written testimony which showed the costs of water, sewer, and stormwater charges for the city and county residents. The water rates for residents outside the city are almost double the rates for city residents, and Soldier Township residents pay an extra \$23 a month in surcharges. Sewer rates are nearly double of those in the city. ([Attachment 5](#))

Senator Reitz asked if the township's sewer system was uniformly distributed throughout the township, or was it a septic tank system. He also inquired about the health issues related to those systems. Mr. Maginot responded that there were two main branches of the sewer system that serves two parts of the township. He said there were approximately 5,000 residents in the township, and estimated that at least half to two-thirds are still on septic or lagoon systems in that area. The areas where the sewers have been extended were modified because there had been some problems with the septic systems in those areas. Those residents are now getting on to that extended sewer line, and are financing that by residents paying connecting fees and through the additional fees paid over and above what the city residents pay.

Senator Reitz expressed his concern for areas like that, and the potential for increased health problems as these types of residential areas grow. Mr. Maginot talked about one subdivision that was built 50-60 years ago which started having septic systems fail, and the County Health Department got involved in those issues as the people in the area were also concerned about it. The County Commission has been very active along with the Health Department and the effected communities, in looking at the problems and working out the solutions for those problem areas.

Jane Kelsey, Shawnee County Farm Bureau Association, testified in support of **HB 2083** with several recommended modifications. She stated that the county association did not support the consolidation

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when it appeared on the 2004 November ballot, but believes that this bill is the fairest bill to all Shawnee County residents. She asked that consideration be given for additional language to clarify that positions currently held by elected officials should not be replaced by appointed officials in the new government. She explained that appointed officials are less accountable to the actual voters and tax payers within their counties. The county association also requested that the ballot question not be conducted by a mail ballot as is currently written in the bill, but done through the General Election of 2006. Ms. Kelsey stated the county association strongly supports the dual majority provision, the requirement to hold at least two public hearings to obtain citizen views on the proposed consolidation plan, the provision that specifies the selection process of commission members, the provision that maintains the bonding limits and payment obligations currently in place, and the provisions of the bill that restrict the annexation authority of the City of Topeka during the development and approval of the consolidation plan. Farm Bureau policy opposes the use of unilateral annexation by cities without input and agreement of a majority of the residents living in an area proposed for annexation. (Attachment 6)

Senator Vratil inquired why Shawnee County Farm Bureau Association opposed a mail ballot election. Ms. Kelsey responded that it was the association's belief that there would not be as many people involved, and it would be easier for citizens to overlook the mail ballot. There would be a better turnout in a General Election than by doing a mail ballot. Senator Vratil asked if that was the history of mail ballot elections in Shawnee County. Ms. Kelsey replied that she had not checked with the County Election Commissioner on this issue; but at the place where she personally votes, there had been only one mail ballot issue and all the rest had been through a General Election. Senator Vratil commented that the history of mail ballot elections state-wide was that there is a better turnout with mail ballots.

Senator Brownlee asked in regard to positions currently held by elected officials and that those positions should not be held by appointed officials; and if the outcome then would be a reduced number of elected officials due to combining a county commission and a city government, would the county association be open to fewer elected officials? Ms. Kelsey said that the thoughts of the county association related to the consolidation of the Sheriff's Office and the City Police Department, and that the county association believed the elected positions should be retained because it gives the citizens of the county the opportunity of more input into the management of that office. Senator Brownlee inquired as to whether the county association would want the commission to make such decisions. Ms. Kelsey replied that they would probably want the opportunity to vote because this whole idea would be a major change in how government has been operated.

Senator Hensley inquired of the Revisor and staff how do these bills deal with the disposition of future bonded indebtedness. The Revisor said she would have to research that point, and get back with the answer. Senator Hensley said he was looking at **HB 2083**, page 4, beginning at line 42 (e), where it says, "Any bonded indebtedness and interest thereon incurred by the city or county prior to consolidation shall remain an obligation of the property subject to taxation for the payment thereof prior to such consolidation." Senator Hensley referenced back to Mayor McClinton's comment when he said he felt like any future disposition of bonded indebtedness should be left with the commission and the commission should make that decision. He noted on page 5, line 33, of **SB 262**, it says, "Any bonded indebtedness and interest thereon incurred by the city or cities or county prior to reorganization or refunded thereafter shall remain an obligation of the property subject to taxation for the payment thereof prior to such reorganization." Senator Hensley commented that it appeared to him the bills were identical, and there was no language in the bills that said it should be left up to a commission.

Dennis Schwartz, Shawnee County Rural Water District No. 8, spoke in favor of **HB 2083**. He testified in strong support of improved efficiency in local government, and believed that the consolidation of some or all of our governmental functions may result in improved delivery of services at a reduced cost to all taxpayers in Shawnee County. Mr. Schwartz stated that the plan that will be developed by the consolidation commission, must provide clear benefits for both the residents of the city and the rural areas of the county for it to be fair and beneficial to all. He said **HB 2083** contains many provisions that address issues that are unique to Shawnee County, and they would never suggest that the provisions of this bill should be applied to all the other counties of Kansas, any more than the law which provided for the Wyandotte consolidation would serve Shawnee County. (Attachment 7)

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Bob Haselwood, Topeka Township, testified in favor of **HB 2083**. He stated he was not in favor of city and county consolidation, but felt that **HB 2083** does a good job of establishing guidelines for commission appointment and includes other provisions that are fair and equitable. He especially liked the provision for the dual majority vote, but there were a couple of points he would like the committee to consider. Mr. Haselwood said he would like to see some kind of limit to the number of commission members as to their residence be it city or county, would like to see some kind of provision in the bill that would guarantee that any regulations in regard to any agricultural operation not be restricted more than what is in current state statute. (Attachment 8)

Al Ward, Mission Township, testified in support of **HB 2083**. He stated it was the consensus of the twelve townships in Shawnee County that the best option for the townships is consolidation of the City of Topeka and Shawnee County governments. He explained that if there was no consolidation of the governments and the City of Topeka could unilaterally annex the township areas, the financial structure of the townships would be destroyed. The townships were in favor of the commission members selection provision, the dual majority vote of city and county residents, the moratorium on unilateral annexations remaining in place while the plan was being developed, and the provision that county owned land may be annexed upon petition of the owners of any such land. Mr. Ward added that there were many suburban residents that own businesses and property within the city limits of Topeka that pay property taxes to the city, contrary to the City of Topeka's contention that suburban residents regularly use city services, but don't pay taxes to the city in return. (Attachment 9)

John Alcalá, Topeka city Councilman, submitted written testimony in favor of **HB 2083** (Attachment 10)

Joseph Ledbetter, Topeka resident, testified in opposition to **HB 2083**. He handed out Topeka and Lawrence, Kansas, maps distributed by WIBW Radio for the committee to use as information and consideration regarding the comparison of growth patterns outside of the city limits. He stated that Lawrence did not have all the appendages around the city limits in comparison to Topeka. He said that Lawrence has always had a policy regarding this, and Lawrence has always been professionally run as a City Manager's city. Topeka has not had that same type of government. He explained that Topeka did not require people be annexed before they got services for the last 30-40 years, and it has only been within the last two years that particular policy has been changed. Mr. Ledbetter told the committee that he had a Masters in Public Administration from Kansas University in the Manager of Government Program, and also has a Political Science degree from Washburn University. He commented that mail ballots have a higher turnout, and he didn't understand the earlier objection to it.

Mr. Ledbetter stated that he was not opposed to all of **HB 2803**, and was very much for consolidation and is on record stating same. He furnished copies of the November 2, 2004, ballot question regarding county consolidation with his written testimony. He said the vote that was taken on the consolidation question and this bill did not have any comparison except for the commission provision. He said he did not have a problem with the makeup of the commission, but what was voted on was to get a commission to make recommendations. All the rest of this bill was not on the ballot, and the ballot as voted on in November is the will of the people. He stated he would have voted against it if there had been a dual majority contained within the ballot question. There was not a dual majority when the vote was done on a county-wide sales tax for twelve years last August, and all road projects are outside the city limits, but we all pay. He suggested that an interim study be done, and no action on this bill be taken unless the provision for dual majority is stricken from the bill. (Attachment 11)

Senator Reitz stated he was very concerned about healthcare and the sewers, and this being an urbanized area and possibly running risks of having health problems with regard to sewer service, then that should be a major issue to be addressed, but there has not been one conferee speak on this important concern. He said the trouble with this issue is that it represents a significant cost to bring it under some sort of jurisdiction that has some clout. He wants reinforcement and fairness, but is not sure we're getting this in this particular body. He emphasized that this bill would have to speak to that in order to get him to support it.

Mayor McClinton asked to make a final comment in regard to consolidation. He said there had been a lot of talk about annexation, and firmly stated that there was no annexation plan. He emphasized that this

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hearing was simply about consolidation, and ask the committee to give the city and county residents an opportunity to save money to create efficiencies. He stated that if everyone could stay focused on this consolidation, he thought this plan could be moved ahead.

Chairman Brungardt closed the hearing on **SB 262** and **HB 2083**.

Senator Hensley stated he had a two-sided handout he wanted to share with the committee members. One side contained the statute, K.S.A. 12-1261, created by the Legislature to establish a Topeka and Shawnee County Public Library. He explained that reference had been made to that statute during the hearing, and referred the committee to sub-paragraph (b) which was a provision that allowed for a dual majority vote in Shawnee County when the question of a consolidated library was brought up to the voters. He said the statute speaks to a majority of the qualified electors within the corporate limits of the city in a separate vote of the voters who reside outside the corporate city limits. On the other side of his handout was a statute, K.S.A. 82a-640, that deals with water districts, and referred to the third sentence which says, "A majority of the members attending such special meeting of each district to be consolidated shall first authorize the consolidation of such districts and approve the assumption and payment of all liabilities and obligations of the districts to be consolidated by the consolidated district." He explained that if there were two or three water districts that were going to merge, a majority vote would be required of each district in order to consolidate. Senator Hensley said that was recently done in Shawnee County, and wanted to share that Kansas does have statutes containing dual majority provisions. (Attachment 12)

The meeting was adjourned at 11:40 a.m. The next meeting scheduled is Wednesday, March 9, 2005.