

MINUTES

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

September 15, 2003

Room—Statehouse

Members Present

Representative Jene Vickrey, Chairman
Senator Mark Gilstrap
Senator Kay O'Connor
Senator Jean Schodorf
Representative Roger Reitz
Representative Roger Toelkes
Representative Ralph Ostmeyer
Representative Tom Thull
Representative Jim Yonally

Staff Present

Mike Heim, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Ken Wilke, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office

Others Present

Joe Lawhon, Division of Legislative Post Audit
Randy Allen, Kansas Association of Counties
Don Moler, League of Kansas Municipalities
Paul Degenor, Topeka
Greg Dye, Wichita

Morning Session

Topic No. 1—Kansas Open Records Act

Norman Furse, Revisor of Statutes, distributed a memorandum regarding Topic No. 1—the public records exceptions review. (See Attachment 1.) He noted the study topic calls for the following: study all exceptions to the Kansas Open Records Act (KORA) and recommend any needed changes. A law enacted in 2000 provides that all exceptions to disclosure in existence on July 1, 2005, and any new exceptions to disclosure or substantial amendment of an existing exception, shall expire on July 1 of the fifth year after enactment, unless the Legislature acts to reenact the exception. The Revisor of Statutes currently is in the process of identifying statutes which contain such exceptions.

Mr. Furse noted that the first certification of the Revisor of Statutes will be on June 1, 2004, for the sections which expire July 1, 2005. His memorandum contains a list of more than 350 separate statutes containing an exception to disclosure, ranging from certified public accountant peer review information to certain banking records, criminal expungement records, and abortion records, to name just a very few.

Representative Vickrey said the Committee would hold hearings to identify those exceptions to openness which need to be repealed or amended rather than requiring different agencies, interest groups, or persons to come before the Committee and defend the particular exception to openness that they are interested in.

Mr. Furse said the Revisor's Office would continue to research statutes that contain exceptions to openness as required by federal law. He suggested that state agencies be notified of the Committee's review and the list of the exceptions to openness be mailed to each agency. He said the Committee may want to amend the Kansas Open Records Act to make the review less onerous, *e.g.*, by delaying the sunset provisions. He also suggested the Committee direct staff to conduct a preliminary review of the various exceptions and to place those into various categories.

Representative Reitz made a motion that state agencies be notified of the Committee's review of KORA exceptions and that the agencies be asked to review the exceptions that apply to them to see if any of the exceptions are obsolete. The motion was seconded by Representative Yonally. The motion carried.

Representative Vickrey said a public hearing would be held on October 23 to deal with this issue.

The Committee adjourned for lunch.

Afternoon Session

Topic No. 2—Modernization of Local Governments

Theresa Kiernan, Revisor of Statutes Office, reviewed the provisions of SB 238 as it passed the Senate. (See Attachments 2 and 3.) SB 238 would allow any city within a county to consolidate

with the county to form a city-county government. The bill is patterned after the current law applying to the Unified Government of Wyandotte County/Kansas City, Kansas.

The bill was amended by the House Committee to delete the consolidation provisions and to substitute a bill dealing with business practices of meat packers. The amended version of SB 238 is now in the House Agriculture Committee.

Mike Heim, Kansas Legislative Research Department, distributed copies of a memorandum providing an overview of current Kansas laws that authorize the consolidation of cities, Wyandotte County and Kansas City, Kansas, school districts, and various other local governments. (See [Attachment 4.](#))

Mr. Heim also distributed several articles on city-county consolidation, including a listing of city-county consolidations in the United States. (See [Attachment 5.](#))

Joe Lawhon, Division of Legislative Post Audit, reviewed a new performance audit entitled "Local Governmental Reorganization: Assessing the Potential for Improving Cooperation and Reducing Duplication." The following is a brief overview of the audit findings (excerpted from the Executive Summary, Legislative Division of Post Audit; September 2003).

The structure of local government in Kansas has remained relatively unchanged over the years, despite the state's changing demographics. The Kansas system of cities, counties, and townships was established well over a century ago, while special districts (such as cemetery, hospital, and drainage districts) have been added over time. In 2002, these local governments levied about \$2.6 billion in property taxes. Townships and special districts represent 70 percent of all units of local government in Kansas, but levy only about \$150 million of that amount, or 6 percent of the total.

U.S. Census data show that Kansas has significantly more local government units than other states, but those comparisons can be misleading. Only California, Illinois, Pennsylvania, and Texas were reported to have more units of local government than Kansas. Compared to surrounding states, Kansas appears to have more special districts and townships, but appears to be in-line in terms of the number of counties, cities, and educational districts. Some nearby states have entities that are similar to Kansas' townships and cemetery districts, but the Census Bureau does not count them because of the way they are funded in those states. Kansas also appears to be in line in terms of per-capita spending to finance local units of government.

The first question asked of the audit was: What opportunities exist for city and county governments to save money through reorganization and improved cooperation?

Numerous opportunities exist to streamline city and county governments. These opportunities generally fall into three main categories:

- Merging whole units of government;
- Consolidating departments from two or more cities or counties into a single department; and
- Sharing staff, facilities, equipment, and other resources, and using cooperative purchasing agreements.

Realistically, there is little likelihood that additional city and county governments in Kansas will merge. It seems unlikely that voters would agree to give up the local control and autonomy they have now under the current county structures in Kansas. In addition, because state law prohibits the merger of one county with another, any decision to merge counties would have to be approved by the Legislature. State law does allow cities to merge, but the distance separating most Kansas cities makes consolidation impractical. Successful city and county consolidation occurred in Kansas City and Wyandotte County, but generally, a unique set of conditions must be present in order for city-county mergers of this type to take place. Considering there have been only 33 mergers of city and county governments in the country since 1805, the potential for additional mergers in Kansas seems small.

Many of the common opportunities for consolidating or sharing government services occur in such areas as public safety, administration, and public works. Kansas may be able to encourage more consolidation, sharing, and cooperation among cities and counties by amending laws and taking actions other states have considered.

The second question asked was: Are there opportunities for reorganizing or improving cooperation among townships and special districts of various kinds?

Townships, cemetery districts, and drainage districts comprise more than half the state's units of local government. In all, these local units account for 2,106 of the 3,827 local units of government reported for calendar year 2002.

There is a potential for eliminating township governments, cemetery districts, and drainage districts and reassigning their duties and funding to city or county governments. That is mainly because cities and counties generally already provide the same types of services as these units. For example:

- **Townships.** Seventy-three of the state's 105 counties already have taken over maintenance of the township roads in their counties—one of the primary functions of a township.
- **Cemetery Districts.** Cities and counties already provide essentially the same types of services that cemetery districts perform, such as maintaining public grounds that require mowing and trimming.
- **Drainage Districts.** Some municipalities, like Lawrence and Sedgwick County, already maintain levees and other flood control structures along major waterways.

In many cases, the savings may be relatively small that could be achieved by eliminating townships, cemetery districts, and drainage districts and reassigning their responsibilities. That is because these units have fairly small budgets to begin with, and most of the moneys they spend are for direct services that still would have to be provided. One potential benefit from eliminating smaller units of government is that the costs of their services would be spread over a larger tax base, eliminating some of the taxing inequities that currently exist.

Local officials expressed concerns about the loss of local control and the potential for services to deteriorate if these local units were eliminated. They were concerned that problems would not be addressed as quickly, and there would be a loss of local knowledge about what has and has not been done to address problems in the past.

Randy Allen, Kansas Association of Counties, said his association neither supported nor opposed city-county consolidation. He suggested there are other ways besides consolidation to modernize local governments, including allowing the use of the Internet as a means of publication of legal notices. (See Attachment 6.)

Don Moler, League of Kansas Municipalities, supported the concept of city-county consolidation contained in SB 238. (See Attachment 7.)

Paul Degener, Topeka, spoke in opposition to consolidation of city-county governments. (See Attachment 8.)

Greg Dye, Wichita, opposed city-county consolidation and said city home rule power was not a good idea. (See Attachment 9.)

After Committee discussion, the meeting adjourned.

Prepared by Mike Heim

Approved by Committee on:

November 18, 2003

(date)