

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on January 26, 1993 in Room 521-S of the Capitol.

All members were present.

Committee staff present: Michael Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Gerry Ray, Johnson County Commission

Others attending: See Guest List (Attachment 1)

The Chairman stated that proposed legislation (**HB 2103**), relating to resuscitation rights of Emergency Medical Services Personnel, will be heard at next Monday's meeting (February 1). Proponents and opponents interested in appearing before the committee that day should contact our Committee Secretary prior to the meeting.

Chairman Brown then distributed to the members a reprint, entitled "Township Consolidation in Kansas" (Attachment 2), and listed the legal parameters of townships and their responsibilities.

Reasons were discussed for proposing **HB 2105**, which would amend the statute for disorganization of a township (including the assets and liabilities) in counties having a population of less than 200 and which have adopted the county road unit system. Questions were raised comparing the effects of the proposal with various situations in some of the members' districts. Representative Mays suggested thought be given that township officials be elected on a non-partisan basis (similar to city commissioners). It was pointed out that this proposal for dissolution has safeguards to protect the rights of electors in effecting or opposing such a dissolution. Even if a township is disorganized, the township and its boundaries continue to exist and its business conducted by the board of county commissioners.

Gerry Ray, Johnson County Commission, stated that this proposal has been brought forth for the past few years and again this year because of a certain township in Johnson County (in which there is only a landfill and a small remaining inactive fund). No one resides in the township, thus, there are no township officials. The passage of **HB 2105** would allow the board of county commissioners to become the governing body and assume the responsibilities of the township. It was noted that the bill is state-wide since other counties and townships have situations where the board of county commissioners might need to act as the governing body.

The Chairman stated that a hearing is scheduled for **HB 2105** tomorrow, when Gerry Ray will provide more complete information on the bill.

The meeting was adjourned at 2:36 p.m. The next meeting is scheduled for 1:30 p.m., January 27, 1993, in Room 521-S of the State Capitol.

[illegible]

# Township Consolidation in Kansas

Little understood and often ignored, townships, despite their slowly shrinking numbers, still constitute the largest number of organized governmental units in Kansas. A total of 1,415 are still in legal existence, the fourth highest number of any state in the nation.

Townships in Kansas reached their peak in number in 1930 when there were 1,552 in existence. From that date until 1970, the number of townships remained fairly stable, the total declining by nine during that 40-year period. Beginning with the 1970s, the number of townships began to diminish at a relatively rapid rate. Since the end of 1980, however, the number has declined by only six.

During the 1970s, over 100 townships were disorganized and merged with other townships. The largest single change occurred during 1971 when 49 townships disappeared through consolidations. In 1978 and through 1980, the total dropped by 47. The largest reductions occurred in Norton, Rawlins and Kiowa Counties.

The current 1,415 total recorded by the League of Kansas Municipalities is not consistent with a 1987 Bureau of the Census report issued in 1988, which reported 1,360 townships in Kansas. The difference appears to be one of definition. The League count is based on those that are in legal existence, whether or not they are active and functioning. The Bureau report apparently includes only those townships that have officers and perform some minimum functions.

Each county in Kansas has at least one township. The number in each county, however, varies widely, from one to 31. The "average" county has 13.5 townships. This also is the approximate median number of townships per county.

Kiowa and Wichita Counties are the only counties to have one township, following by Wyandotte County with two, one of which is inactive. There are 10 counties with four or less townships. The largest number of townships, 31, is found in Reno County. There are 10 counties that have 25 or more townships.

All territory in the state is located within either a township or a city. The territory within cities of the first and second class are excluded from townships by law. Generally, cities of the third class remain within the township

territory. However, not all township services are provided within the boundaries of cities of the third class and not all township tax levies are applied within such cities.

## Townships Nationally

Townships exist in only 20 of the 50 states; in six of these states they are found only in certain counties. The nine states of Illinois, Indiana, Kansas, Michigan, Minnesota, North Dakota, Ohio, Pennsylvania and Wisconsin all have over 1,000 townships, and account for 73.2 percent of the 16,691 in existence. Only Illinois, Minnesota and Pennsylvania have more townships than Kansas.

Townships range widely in scope of governmental powers and responsibilities. Most of them, particularly in the north central states, perform only a very limited range of services for predominantly rural areas. However, in New England, New Jersey, Pennsylvania, Michigan, New York and Wisconsin, townships are vested with relatively broad powers. In many of these states townships are known as "towns" and, where they include closely settled territory, they often perform functions commonly associated with municipal governments. In some New England states, townships are commonly responsible for local schools, as well as other governmental functions.

## Kansas Townships

One of the principal functions of townships in Kansas is the maintenance of township roads in those counties which do not have the county unit road system. However, there are townships which provide such services as fire protection, parks, libraries and cemeteries. Taxes levied by Kansas townships in 1990 totaled \$22.0 million.

The 1990 state-certified population of Kansas townships totaled 540,270, equal to 21.6% of the state's population. However, over half of all Kansas townships have a population of less than 200. The preliminary 1990 federal census shows that there are 295 Kansas townships with a population of less than 100.

## Legal Status

Attorney Michael Heim, in his soon-to-be-published book *Kansas Local Government Law* describes the legal status of Kansas township as follows:

A township is designated in K.S.A 80-101 as "a body politic and corporate," with the ability to sue and be sued and to make all contracts necessary and convenient for the exercise of its corporate powers. Townships do not have home rule powers and therefore are bound by Dillon's Rule, i.e. they have only those powers expressly granted by statute. In *Beach v. Leahy, Treas.* 11 Kan. 23 (1873), the court stated that although townships are described as a body corporate, they are "... known to law, as quasi-corporations rather than as corporations proper. They possess some corporate functions and attributes, but they are primarily political subdivisions-agencies in the administration of civil government and their corporate functions are granted to enable them more readily to perform their public duties ... the mere fact that these organizations are declared in the statute to be bodies corporate has little weight ... Its character, its relations, its functions determine its position and not the mere title under which it passes." In *Powers v. Thorn*, 155 Kan. 758, 763, 129 P.2d 254 (1942), the court described a township as a territorial and political subdivision of the state and county, organized for the convenient exercise of some of the elementary functions of government. Further, in *Cow Creek Valley Flood Prevention Assn. v. City of Hutchinson*, 166 Kan. 78, 83, 200 P.2d 299 (1948), the court described both townships and counties as municipal corporations created by the state "and their powers, rights and duties may be changed as the Legislature sees fit." Also in *Paul v. Topeka Township Sewage District*, 199 Kan. 394, 399, 430 P.2d 228 (1967), the court stated that a township has only such power and authority as may be inferred by statute.

#### **Township Formation**

K.S.A. 19-217 establishes the conditions under which the board of county commissioners may establish new townships. Except for the reorganization of two previously abolished townships in 1973, the five-month existence of Fort

Riley township, and the "new" townships resulting from consolidations, only one new township has been created in Kansas since 1930.

Townships may be disorganized or dissolved as a result of all the township territory being annexed by a city of the first or second class. Townships also may be disorganized or consolidated as a result of the actions of the board of county commissioners or by a petition from township residents, as noted below.

#### **Township Consolidation**

There are five statutory provisions for the disorganization or consolidation of townships.

- The board of county commissioners may consolidate townships with less than 200 residents with one or more contiguous townships, unless a majority of the electors file a petition in opposition (K.S.A. 80-1101).
- For townships with more than 200 population, county commissioners on their own initiative or upon petition, may place the question of disorganizing a township upon the ballot (K.S.A. 80-1101).
- Townships located in counties with fewer than 3,000 inhabitants and which have no township indebtedness may be disorganized and reorganize into new townships, upon a petition and election (K.S.A. 80-1105 *et seq.*).
- The boards of two or more townships in the same state representative district may petition the board of county commissioners to hold an election on consolidating the townships (K.S.A. 80-1109).
- In counties with a county unit road system the board of county commissioners may provide for the disorganization and consolidation of existing townships, subject to a protest petition signed by a majority of the electors in each of the affected townships (K.S.A. 80-1110 *et seq.*).

OVER 100 MEMBER CITIES HAVE CHOSEN  
THE PROFESSIONAL ORDINANCE CODIFICATION  
SERVICES OF THE LEAGUE OF KANSAS MUNICIPALITIES

THE KANSAS EXPERTS IN MUNICIPAL  
ORDINANCE CODIFICATION

FOR MORE INFORMATION CONTACT:  
LEAGUE OF KANSAS MUNICIPALITIES

112 W. 7th  
TOPEKA, KANSAS 66603  
(913) 354-9565

## Number of Townships in Kansas: 1870 - 1991

1870			
1880	365	1972	1,489
1890	1,002	In Wyandotte County, Quindaro, Shawnee and Wyandotte townships were dissolved through annexation, reducing the number from 5 to 2.	
1900	1,509	1972	1,490
1910	1,484	In Riley County, Fort Riley township was created.	
1920	1,498	1973	1,489
1930	1,533	In Riley County, Fort Riley township was consolidated with Madison.	
1934	1,552	1973	1,491
Stanton County disorganized the existing 4 townships and created 3.	1,551	In Morris County, Highland and Overland townships, previously disorganized, were reorganized on petition, increasing the number from 9 to 11.	
1948	1,552	1973	1,480
In Stafford County, South Seward township was formed from part of Seward, increasing the number from 20 to 21.		In Rooks County, the 23 named townships were consolidated into 12 numbered townships.	
1948	1,551	1974	1,472
In Comanche County, Rumsey township was disorganized with part to Logan township and part to Shimer township, reducing the number from 10 to 9.		In Cheyenne County, Alexander, Jefferson, Beaver, Eureka, Dent, Lawn Ridge, Nutty Combe and Porter townships were merged into Bird City and Wano townships, reducing the number from 17 to 9.	
1950	1,550	1974	1,471
In Comanche County, Irwin and Protection townships consolidated into Protection, reducing the number from 9 to 8.		In Coffey County, California township was merged with Pleasant and Lincoln townships, reducing the number from 15 to 14.	
1955	1,549	1974	1,470
In Wallace County, Stockholm and Weskan townships consolidated into Weskan, reducing the number from 7 to 6.		In Rush County, Fairview township was merged with Hampton township, reducing the number from 15 to 14.	
1960	1,548	1976	1,469
In Johnson County, Mission Urban township dissolved (all territory within a city) reducing the number from 10 to 9.		In Barber County, Cedar township was merged with Hazelton township, reducing the number from 19 to 18.	
1960	1,546	1976	1,468
In Clark County, Cimarron and Sitka townships consolidated into Sitka, and Edwards and Center townships consolidated into Center, reducing the number from 10 to 8.		In Ford County, Pleasant Valley township was merged with Bucklin township, reducing the number from 15 to 14.	
1963	1,545	1976	1,467
In Sedgwick County, Wichita township was dissolved (largely attached to the city of Wichita) reducing the number from 28 to 27.		In Rush County, Brookdale township was merged with LaCrosse township, reducing the number from 14 to 13.	
1965	1,544	1976	1,466
In Saline County, Falun and Summit townships consolidated into Falun-Summit, reducing the number from 19 to 18.		In Seward County, Morris township was merged with Seward township, reducing the number from 4 to 3.	
1966	1,543	1978	1,465
In Riley County, Seven Mile township was largely abolished because of U.S. military reservation expansion; balance consolidated with Madison, reducing the number from 15 to 14.		In Cheyenne County, Evergreen township was consolidated with others, reducing the number from 9 to 8.	
1970	1,540	1978	1,448
In Wichita County, the townships of Beaver, Edwards, Leoti and White-woman were consolidated into Leoti township, reducing the number from 4 to 1.		In Norton County, Crystal, Rockwell, Garfield, Aldine, Emmett and Center consolidated into Center District 1. Clayton, Leota, Orange, Noble, Almena, Minora, Modell and Highland consolidated into Highland District 2. Lincoln, West Union, Belle Plaine, Sand Creek and Solomon consolidated into Solomon District 3.	
1970	1,538	1978	1,447
In Clark County, Brown and Vista townships were consolidated with others, reducing the number from 8 to 6.		In Rush County, Bell Prairie was consolidated with Alexander, reducing the number from 13 to 12.	
1971	1,531	1980	1,446
In Ellis County, various townships were consolidated, reducing the number from 16 to 9.		In Gray County, West Hess consolidated with others to reduce the number from 8 to 7.	
1971	1,517	1980	1,445
In Harper County, the 20 named townships were consolidated into 6, designated as townships No. 1 to No. 6, reducing the number from 20 to 6.		In Norton County, further consolidations (see 1978) reduced the number from 6 to 5.	
1971	1,516	1980	1,435
In Lane County, the township of Sutton was consolidated into Blaine township, reducing the number from 9 to 8.		In Rawlins County, the number of townships was reduced from 20 to 10.	
1971	1,509	1980	1,421
In Morris County, the 16 named townships were consolidated into townships No. 1 through No. 9, reducing the number from 16 to 9.		In Kiowa County, the number of townships was reduced from 15 to 1.	
1971	1,497	1981	1,419
In Pratt County, the 19 named townships were consolidated into townships No. 6 through No. 12, reducing the number from 19 to 7.		In Wallace County, the number of townships was reduced from 6 to 4.	
1971	1,496	1982	1,416
In Reno County, North Hayes township consolidated into Hayes township, reducing the number from 32 to 31.		In Woodson County, Belmont, Everett and Owl Creek consolidated with others, reducing the number from 10 to 7.	
1971	1,492	1985	1,415
In Comanche County, Logan, Nescatimga, Shimer and Valley townships were consolidated with others, reducing the number from 8 to 4.		In Woodson County, Eminence was consolidated with others, reducing the number from 7 to 6.	
		1991	1,415