

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on February 23, 1993 in Room 531-N of the Capitol.

All members were present except: Sen. Reynolds

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

Others attending: See attached list

Conferees appearing before the committee:

Brad Avery, Kansas Association of Public Employees (KAPE)
Jim DeHoff, Kansas AFL-CIO
Craig Grant, Kansas National Education Association (KNEA)
Mike Ragland, Shawnee Mission School District custodian
Ida Lemon, KAPE, Salina USD 305
Norman Wilkes, Kansas Association of School Boards
Don Siefert, City of Olathe
Anne Smith, Kansas Association of Counties

SB 173 -- Concerning public officers and employers; relating to public employer-employee relations.

Brad Avery, KAPE, testified in support of the bill. (See Attachment 1).

Mr. Avery clarified for the Chairman that unless a local unit of government has chosen to come under the Public Employee Relations Act (PEERA) which allows a representative for a group to negotiate with a public employer, there is no way for non-professionals to negotiate conditions of employment at present. This bill would allow employees to negotiate because it would obligate the employer to do so.

Jim DeHoff, Kansas AFL-CIO, followed with further support. (See Attachment 2).

Craig Grant, KNEA, testified further in support of SB 173. (See Attachment 3).

Sen. Ramirez asked Mr. Grant to confirm that there is nothing binding in this bill. Mr. Grant stated that it would not be a very binding or rigid law. It just asks for the right to meet and confer.

Mike Ragland, custodian with the Shawnee Mission School District, testified in support of SB 173. (See Attachment 4).

Ida Lemon from Salina USD 305 and KAPE gave testimony in support of the bill. She stated that she feels it is unfair that teachers are allowed by law to negotiate, but classified employees are not. There was a request made in her district for the Board to adopt PEERA, but the effort was rejected by the Board of Education. She concluded that she feels non-professional employees working beside teachers should have the same privilege of negotiating as the teachers have.

First to testify in opposition to SB 173 was Norman Wilkes, Kansas Association of School Boards. (See Attachment 5).

Sen. Ramirez asked if the bill would place professional and non-professional employees all in one category. Mr. Wilkes responded that basically the bill says that the rights should be similar for all public employees.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on February 23, 1993.

Sen. Downey said that successful businesses support the concept that employees are considered as investments and not as costs. Therefore, she asked if the school districts are thinking of operating differently than the business world. Mr. Wilkes answered, no. He added that employee committees are allowed to give input to the boards at present, and all have the same avenue to the boards. He does not feel that SB 173 is the only way or the appropriate way.

The Chairman inquired as to possible legal ramifications of charges that negotiations had not been conducted in good faith. Also, he asked Mr. Wilkes if he has information as to if districts that presently have chosen to come under PEERA are operating better. Mr. Wilkes had no concrete evidence but felt that non-teacher staff salaries are kept at a competitive local level.

Don Siefert, City of Olathe, testified in opposition to the bill. (See Attachment 6).

Sen. Ranson asked what methods of negotiation are used currently. Mr. Siefert answered that there are committees, panels, suggestion teams, etc. composed of representatives from all employee groups that deal with a number of issues. Sen. Ramirez asked if Mr. Siefert felt that non-professional employees from his area are aware of SB 173. Mr. Siefert answered that they probably were not aware of the bill, however, he had come to present the position of his governing body.

Anne Smith, Kansas Association of Counties, testified in opposition to the bill. (See Attachment 7).

Sen. Ramirez stated that he feels non-professionals are not aware of this bill. He feels there is a general attitude that although team work is encouraged, when it gets down to negotiating salaries, this does not exist with school boards. He added that it is time that we have more communication between non-professionals and the school boards. Ms. Smith responded that this should remain a local option rather than becoming a statewide requirement.

Sen. Downey noted that she feels Ms. Smith's reasoning seems contradictory to the definition of home rule. If the purpose of home rule is to decide what is best locally, then opposing the bill denies local employees a right to determine what is locally best. Ms. Smith responded that home rule needs to prevail to allow the local governing body to determine what is best for their particular employee situation.

There being no further time, the Chairman announced that the hearing on SB 173 would be continued to Thursday, February 25.

The minutes of February 18 were approved.

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for February 25, 1993.

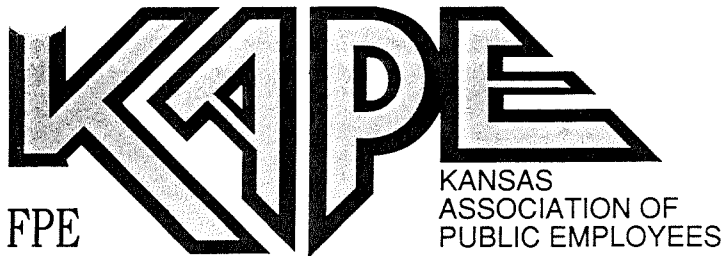
Date: Feb. 23, 1993

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

[illegible]



1300 South Topeka Avenue Topeka, Kansas 66612 913-235-0262 Fax 913-235-8788

TESTIMONY OF BRAD E. AVERY
EXECUTIVE DIRECTOR
KANSAS ASSOCIATION OF PUBLIC EMPLOYEES
REGARDING SENATE BILL 173

Senate bill 173 repeals what is known as the "local option" provision of the Public Employer Employee Relations Act. (PEERA) PEERA is the mechanism by which public employees are permitted to collectively negotiate with their employers concerning conditions of employment.

Under current law, local units of government, which include all cities, counties and school districts, must vote affirmatively to come under the Act and thereby have the option of ignoring its provisions. Employees working for those local units which have failed to vote to come under the act are not covered and thereby cannot collectively negotiate with their employers nor receive the protections provided by the Act.

According to the Public Employee Relations Board, which administers the Act, there are a total of 13 cities 9 counties 4 school districts which have so elected.

Under current law PEERA covers state employees, and the Public Negotiations Act (PNA) provides mandatory coverage to teachers.



However, secretaries, para-professionals, and maintenance personnel working for school districts cannot negotiate, while a professional class of employees, teachers, are fully able to organize, determine a bargaining unit and engage in negotiations.

There are roughly 42,000 state employees and 30,000 teachers within the State of Kansas. Total state and local government employment is over 190,000. Thus, over half the total of public employees are being denied coverage under PEERA because of the local option.

KAPE has requested this bill because of the local government employees who have come to us wanting assistance. Rarely are we approached by one employee who happens to be disgruntled because he or she had an argument with the boss. KAPE is nearly always asked for help by a group consisting of individuals who are leaders and veteran employees.

They are usually frustrated by the action or inaction of their commission, city council or school board. One of the most recent examples was in Cowley County where county employees attempted to organize last fall. I have attached a copy of the Arkansas City Traveler to provide the committee the flavor of the type of environment generated by a confrontation between county employees and the

county commissioners.

You may want to note that one of the acts of the commission that generated so much controversy was voting the employees a 3 percent pay raise and then subsequently rescinding their action. The commission then gave themselves an "overtime bonus" for their own work during tax hearings.

Neither PEERA or SB 173 provide correction for such inequities, but the Act can defuse such situations by giving employees the option of negotiating their conditions of employment through a representative designated by them.

The first paragraph of PEERA states that, "The people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employees." KAPE believes that this is an accurate statement of the interests at stake and that it is true for all public employees and public employers, not just those which decide to recognize the Act.

The final point I would like to make is that from the sparse number of public employers which have recognized the Act, one might conclude that it is somehow oppressive and unfair to local governments.

However, PEERA was based upon a Model Act drafted by the Council of State Governments. With the exception of the local option feature, K.S.A. 75-4321 is taken word-for-word from the Model Act. It provides specific statutory protections to employers during the negotiation process

The
Arkansas
City



Traveler

USPS 031-360 Arkansas City, Kansas

123rd Year, No. 54

Tuesday, October 20, 1992

35¢

24 Pages

2 Sections

Commission decision sets off heated debate

By Sandy West

The Traveler

In a move that sparked a fire storm of anger, the Cowley County Commissioners on Monday denied a request by county employees to come under collective bargaining through the Kansas Public Employer-Employee Relations Act (PERA).

At the Oct. 5 commission meeting, the county employees asked, through Cammie Stevens, a representative of the Kansas Association of Public Employees (KAPE), to let them vote to unionize, which would allow employees to come under collective bargaining.

County employees claim in part that low wages, no salary increases for the past three years, a reduced medical plan and a perva-

sive anti-employee attitude forced them to seek involvement with KAPE. Since the employees first meeting with KAPE, nearly 100 percent of all full-time county employees have returned interest cards signifying their willingness to unionize.

In both commission meetings between Oct. 5 and Tuesday, commissioners have gone into executive session to discuss the employees' request. Tuesday, commissioners revealed the result of their private discussions. The employees were none too happy with the result.

Saying that the commission wanted to deal with the employees on a one-to-one basis, not through a third party, Commissioner Dick Bonfy read the resolution outloud.

The resolution proposes that each department head select a representative to serve on

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The resolution proposes that each department head select a representative to serve on an employees committee. The committee will be charged with meeting the county commissioners to discuss issues and concerns.

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The resolution calls for at least 13 employee representatives to sit on the committee. Further, the resolution states that the committee will have the authority to elect of-

ficers, meet independently from the county commission and present proposals to the commission on issues of interest to county employees.

Commissioner Ross Sherwood quickly added that it was the intention of the commission that employees, not department

heads, serve on the committee.

"I know for myself I want to work with the employees," Sherwood said. "I've always wanted to work with the employees."

But neither the resolution, nor Sherwood's comment, sat well with the employees.

Sheriff's Capt. Craig King asked the commissioners if the committee would be recognized as a bargaining group, to which the commissioners said yes. Stephens then asked if the group could have KAPE to represent them. The commissioners replied no, setting off a heated and vocal debate for more than half an hour.

Barbara Warren, secretary to the county clerk, asked why the commission would recognize an employee committee as a bargaining group, but would not allow the employ-

(See County, Page 9)

ees to come under PERA. The commission responded that they wanted the employees to come to them directly, adding that, in the past, they have been receptive to employee concerns.

Immediately, a chorus of "that's not true" and "that's a lie" emanated from the crowd of more than 25 employees crammed into the commission room.

The employees were overlooking one thing, said Commissioner Bob Ireton, and that was the amount of the county budget and the amount of benefits for all county employees. Several people in the audience pointed out that those figures represented all county employees, including elected department heads and the commission itself, and did not give an accurate reflection of the amount of money spent to provide benefits to full-time employees. In addition, Warren said that those figures did not include vacation and sick pay.

"I had to give up vacation days because I don't have enough time ...," Warren said.

"Well, that's not my fault," replied Ireton.

When the employees said that William Taylor, county counselor, was in essence a third party for the commissioners and that they believed they should be allowed to have their own third party, Commissioner Bonfy said they would have to spend a substantial portion of their own money to pay for union representation. This set off another chorus of chiding, "it's our own money" and "only one hour's pay."

"You make some good points," said Commissioner Bonfy. "But, we're not gonna sit here and negotiate a contract."

King said the employees were simply looking for a commitment that the commissioners would earnestly listen to the employees.

"We have no assurance from what your telling us right here that this isn't some sort of ploy ... to stop the union," said King.

"We want fairness," added Warren. "That's the big thing and there's not any fairness here."

"That depends on what side of the table you're sitting on," said an obviously frustrated Commissioner Bonfy.

As the emotion in the room escalated, commissioners and employees traded accusations of testiness. Warren asked where the money went that was allocated in last year's budget for employee raises.

Questions were asked by employees where money budgeted for raises had gone, why they were not given promised raises and why they have not been paid overtime, when the commission voted themselves a \$240 bonus for working overtime on tax hearings, which is part of their job.

"Maybe I'm wrong but I thought I was an employee," said an agitated Commissioner Sherwood. "I came here to work for Cowley County."

Commissioner Bonfy then told the group that he doubted they would find support in the public sector for raises. He said that no one he had spoken with was behind the employees. In fact, he said, one county resident suggested that if each department could cut spending, they should use that money to fund raises.

The employees immediately jumped on his suggestion asking if the commission would support such an idea. Commissioner Bonfy backed off, saying he was only repeating the sentiment of a constituent who he said was probably representative of the public at large.

At which point, a woman who

identified herself as a taxpayer who works at Winfield State Hospital & Training Center, joined in the heated discussion.

"These people have worked hard to get this far," said the woman. "One simple yes would relieve employee morale. I'd ask you to reconsider."

She went on to say that until she started investigating the situation, she was "ignorant" of the poor relations between the commission and employees and to what extent she feels the situation had been mismanaged.

"Well you're one taxpayer out of 16,000," said one of the commissioners.

After the meeting, Stephens said that the attitude and the decision of the commissioners was typical of what she has seen in her work with other public employees wishing to unionize.

"It's real typical," she said. "They're running scared." She added that if the commissioners intended to negotiate with the employees it would set a precedent.

"If is the key word here," she said emphatically, adding "Employees don't organize unions; unions don't organize unions; management organizes unions. We're just going to continue to educate the public."

She said that she will encourage the employees to take a stance and endorse one of the candidates after the forum they are sponsoring through the auspices of the Cowley County Employee Steering Committee at 7 p.m. Thursday.

All four candidates running for the county commission have agreed to be at the forum which will be held at the Citizen's State Bank in Winfield and will be broadcast live on radio station KWKS-FM and KSOK-AM.



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Testimony Presented To
Senate Local Government Committee
By
Jim DeHoff, Executive Secretary-Treasurer
Kansas AFL-CIO
on
SB 173
February 23, 1993

Mr. Chairman, members of the committee: My name is Jim DeHoff. I am Executive Secretary-Treasurer of the Kansas AFL-CIO and I appear before you today on behalf of our members in the public sector to support the provisions of Senate Bill 173. I want to thank you for the opportunity to appear before you today.

Senate Bill 173 would delete from the Public Employer Employee Relations Act that section which denies employees of political subdivisions the same rights and privileges that state employees and all employees of private business have had for many years. This section says that the governing body of the local government unit must vote to have the provisions of the Public Employer Employee Relations Act extended to the workers they employ. In Kansas, most local units opt not to make that commitment.

The Public Employer Employee Relations Act is the only avenue available to local public employees to address conditions of employment, such as salary, benefits and grievances, with their employer. Without PEERA, there can be no collective negotiating. Indeed, there is no guarantee there will even be negotiations. Currently, if the governmental unit decides not to recognize PEERA, then employees have no recourse.

There is no other category of workers in the State of Kansas whose basic right to organize and bargain collectively is controlled to this extent by their employer. All other workers in Kansas, including state employees, are guaranteed this right by law. The Federal Government and State Government in Kansas have long recognized this basic right for all other public employees. Why should an employee of a city, county, or local school board be denied the rights and privileges their counterparts in state government have experienced for more than twenty years? Is their public service any less noteworthy? Is their dedication to serving their communities any less commendable? We don't believe so. And yet, we know of many instances over the years where public employees of local units of government have tried to organize and been denied this very basic right guaranteed all other Kansas workers.

The repeal of this provision of the Public Employer Employee Relations Act is long overdue. I urge you to grant the employees of our local governing bodies the respect and consideration they deserve. It's time for the legislature to act and give these citizens the rights they have been denied for so long. By passing SB 173 you will only be obligating local units of government and boards of education to meet and confer, in good faith, with their employees. That's all. Give these citizens the very basic right to have a collective voice in their future.

Thank you.

*Senate Local Gov't
2-23-93
Attachment 2*





KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Craig Grant Testimony Before
Senate Local Government Committee
Tuesday, February 23, 1993

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas NEA. I appreciate this opportunity to visit with the committee in favor of SB 173.

Kansas NEA has as part of its membership a category of education support personnel, or ESP. Our ESP members are the secretaries, paraprofessionals, custodians, food service workers and others whose lives touch students each and every school day. They are an important part of the operation of our schools and have made significant contributions toward the education of Kansas children.

Our ESP members have a problem. They often want to have the right to talk to the board of education about salaries and other terms of employment. They are under the PEER act. The PEER act states that a local unit of government may opt in or opt out of the negotiating process. School districts choose to opt out. Some school districts have policies which cover the salaries and terms of employment. However, those policies can be overturned just as easily as they were implemented. As best we can determine, only three districts--Wichita, Hays, and Kansas City--recognize school support workers for negotiations under the PEER act.

It is not that we have not tried. Unit determinations and selection of an agent--the first steps in being recognized--have happened in a number of districts only to have the Board refuse to recognize the unit for discussions. SB 173 will end that arbitrary denial.

Nothing in this bill will require a board or a city or a county to agree to anything. Nothing in this bill will take away any local control. Nothing in this bill requires ESP workers to organize if they do not want to do so. All it will do is to require a Board to talk with its employees if so requested.

That is the basic change. It asks for a basic right--the right to talk with the boss on a collective basis. It is not too much to ask. It is not too much for this committee and the Legislature to grant.

Kansas NEA asks that you pass SB 173 because it is the fair and proper thing to do. Thank you for listening to our concerns.

February 23, 1993

Thank you, Mister Chairperson. I am Mike Ragland, a custodian in the Shawnee Mission School District. I thank you for holding a hearing on SB173. I represent Education Support Personnel for Kansas. As a member of the KNEA Board of Directors I touch school employees of all classifications, secretaries, para-professionals, teacher's aids and others all over the state of Kansas. Bill SB173 will give bargaining rights to all Education Support Personnel. In Kansas that is about 50 % of Public School Employees. I believe it is wrong for teachers to be allowed to bargain with their school boards, while Support Personnel cannot. Kid's education is why we are here and we are in school every day working side by side with teachers, children and parents. We are an integral part of the education system. Bill SB173 will guarantee that we CAN TALK with our school board instead of just being told "This is the way it is, if you don't like it, we will hire someone else".

One major topic on everyone's mind this year is the need for a fair and equitable Reduction in Force Policy. The only guarantee for fairness in the development of such policy is for Support Personnel to be involved in drafting it. This is not likely to happen without the passage of SB173.

I thank you for listening to my testimony.

Senate Local Gov't
2-23-93
Attachment 4



**TESTIMONY ON SENATE BILL NO. 173
BEFORE THE SENATE COMMITTEE ON LOCAL GOVERNMENT**

BY

**NORMAN D. WILKS, DIRECTOR OF LABOR RELATIONS
KANSAS ASSOCIATION OF SCHOOL BOARDS**

February 23, 1993

Mr. Chairman and members of the committee, on behalf of the unified school boards of education which are members of the Kansas Association of School Boards, we wish to express our opposition to the passage of S.B. 173.

The current provisions of the Public Employer-Employee Relations Act recognize the advisability of the governing body determining whether the provisions of the Act are the proper forum for communication with its classified employees. The issue was specifically considered by our Delegate Assembly resulting in a position that the PEER Act remain voluntary. Our members support the concept of local control that allows the board appropriate method of communication with classified employees to determine terms and conditions of employment.

We therefore urge the continuation of the local option portions of the Public Employer-Employee Relations Act. The elected board of education representing all staff, students, taxpayers, and patrons is best able to determine the appropriate form of communication to determine local conditions of employment.

Senate Local Gov't

2-23-93

Attachment 5

In addition, we believe that more formal bargaining procedures with classified staff would take away from other educational pursuits being considered by many local school districts. At a time when districts are considering educational reforms and restructuring, improvement in performance, and outcomes accreditation, additional formal negotiations may take away from or impede such activities.

In the alternative, if it is the will of this committee and the legislature that boards of education be required to engage in formal negotiations at the request of their classified employees, then we should examine the Public Employer-Employee Relations Act and the Professional Negotiations Act and create a single procedure to conduct negotiations with classified and professional public employees. We believe that ease of administration and consistency of all employees covered by the same negotiation rules would result in more consistent application. One set of rules for teachers and another set for classified employees may lead to confusion and additional frustration and expense.

In closing, we urge the committee to oppose S.B. 173, or in the alternative, if it is the will of this committee and the legislature to engage in bargaining with all public employees, that one acceptable negotiations law be applied to all public employees.

Thank you for your consideration in this matter.



MEMORANDUM

TO: Members of the Senate Committee on Local Government

FROM: Donald R. Seifert, Assistant Director, Administrative Services *MS*

SUBJECT: Senate Bill No. 173; PEER Act, Local Option Provision

DATE: February 23, 1993

On behalf of the city of Olathe, thank you for the opportunity to appear today to express opposition to SB 173. This bill would eliminate the local option provision in the Kansas Public Employer-Employee Relations Act.

Local option has been a basic provision of the PEER Act since its enactment in 1971. We view this bill as a fundamental threat to the principle of home rule. SB 173 would make PEER the only structure for public employers in Kansas to conduct employee relations. We believe the PEER process is not necessarily appropriate for every community.

Opposition to this bill does not suggest that Olathe is uncommitted to a positive relationship with its employees. It does not suggest that the PEER Act is a poor statement of public policy or has no merit. Instead, our opposition is solely based on the fact that this bill would obligate the city to come under this particular employee relations system. Just as state government is hesitant to accept federal mandates, you must appreciate our natural opposition at the local level to mandates from Topeka. We believe our current system works well and offers our city the flexibility to be responsive to local conditions.

rc

Senate Local Gov't
2-23-93
Attachment 6



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Executive Director

John T. Torbert, CAE

TO: Senate Local Government Committee
Chairman Mark Parkinson

FROM: Anne Smith
Director of Legislation

DATE: February 23, 1993

RE: SB 173

The Kansas Association of Counties opposes SB 173 because it is a further erosion of home rule powers for the county governing board. Our conference approved policy on home rule states: "The Kansas Association of Counties opposes any legislation that would interfere with, diminish or eliminate the authority or duties of county officials."

The striking of section c of K.S.A. 75-4321 does just that. It eliminates the power of the governing board of the county to make decisions as to whether or not they wish to bring the public employer under the provisions of the Kansas public employer-employee relations law (PEER act). We believe personnel decisions should be made by the local elected board. Therefore we oppose SB 173.

Senate Local Gov't
2-23-93
Attachment 7