

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 11, 1994, 1994 in Room 521-S of the Capitol.

All members were present except: Representative Alldritt (excused)
Representative Holmes (excused)
Representative Mills (excused)
Representative Powers (excused)

Committee staff present: Theresa Kiernan, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: None.

Others attending: See attached list (Attachment 1).

Chairman Brown welcomed the members and briefly discussed the 1994 goals and objectives of the committee (see Attachment 2).

Chairman Brown asked that prior to the introduction of bills concerning local government issues, that members visit with her as a courtesy. She advised that on Thursday the committee will consider a proposal recommended by the Flooding Task Force concerning counties and road and bridge bidding procedures during a gubernatorially declared disaster.

Theresa Kiernan reported on the interim committee reports of both the House and Senate Local Government committees (see Attachment 3). Chairman Brown reported that the bill proposed by the Interim Committee concerning training standards for Hazardous Materials Responders caused some concern among responders and the State Emergency Response commission due to some misunderstandings and the circulation of a draft which was not adopted by the Committee. Responding to a challenge by the Chairman, the State Emergency Response Committee convened a committee which will be meeting on Thursday, January 13, to review the draft. It will then be presented for consideration to the Local Government Committee.

Chairman Brown stated that **HB 2565**, concerning the cash-basis law, will be heard on Wednesday, January 12, and **SB 153**, concerning financing for public improvements, is scheduled to be heard by the committee on Thursday, January 13.

Chairman Brown reported that subcommittees will be formed to consider subject areas on which recommended legislation has been developed (see Attachment 4). The Committees will include: Division of Emergency Preparedness, Hazardous Materials Training, Fire District Consolidation, Special District Review, and Do Not Resuscitate Orders.

Representative Welshimer reported on her summer's review of her proposal regarding contractor licensing to

protect from unscrupulous contractors. After conferring with building trade representatives, questions remain as to the establishment and enforcement of standards. She asked if anyone can provide suggestions to solve the questions to please share them with her.

The meeting was adjourned at 2:03 p.m. The next meeting is scheduled for Wednesday, January 12, 1994 at 1:30 p.m., in Room 521-S of the Capitol.

GUEST LIST

COMMITTEE: House Local Government

DATE: January 11, 1994

[illegible]

LOCAL GOVERNMENT - 1994 GOALS AND OBJECTIVES

INTERIM COMMITTEE REQUESTS

(House/Senate/Flooding Task Force)

Special Districts:

Recreation Commission Survey: The survey was mailed to all recreation commissions, to be returned to Legislative Research on December 1, 1993. A report will be made to the committee in the near future. Further action will be delayed until the survey is completed.

HB 2565 - Cash Basis Law: This legislation was recommended by the Interim Committee. The bill extends the cash basis law to any municipality which is supported with tax funds.

Hearing to be held Thursday, January 13.

The Interim Committee also recommended the review of Fire and Special District statutes (see below).

Senate - Mandates:

The Senate Interim Committee meeting on Mandates resulted in the introduction of two bills in the Senate. The first deals with the preparation of fiscal notes and states that the Director of Budget shall consult with the League of Municipalities, Association of Counties, and School Boards on bills, amendments and rules and regulations. The second involves mandates on municipalities and states that a mandate must have a compelling state interest, and that the mandate will be excluded from the tax levy limit.

Flooding Task Force:

The Flooding Task Force recommended that two bills be drafted through the House Local Government Committee.

HB - : An Act concerning counties, expenditure of funds, bidding procedures:

This bill was requested by the Doniphan County Attorney during the Flooding Task Force Hearings and was recommended by the Committee for introduction. Basically the bill states that current bidding procedures, which delay road and bridge projects, will not apply during a gubernatorial declared disaster. ***The Committee will introduce the bill on Tuesday and hear it on Thursday.***

Update on Division of Emergency Preparedness Statutes - see following.

SUBCOMMITTEES TO BE FORMED:

DIVISION OF EMERGENCY PREPAREDNESS

The Flooding Task Force completed their work in December. One of their recommendations was for the Local Government Committee to update and modernize the Emergency Preparedness Statutes (previous revision 1970s).

A subcommittee will be formed to begin work immediately with a short timeline in order to bring a draft to the committee as soon as possible.

HAZARDOUS MATERIALS TRAINING

The Local Government Interim Committee studied hazardous materials training and had a bill drafted to establish criteria for state-wide training. The State Emergency Response Committee reviewed the bill and is suggesting a revised bill which they would like the committee to consider.

Prior to introduction, a subcommittee will be formed to determine if the interim committee bill should be revised prior to introduction and hearings.

FIRE DISTRICT CONSOLIDATION

The interim committee agreed to pursue drafting of legislation regarding fire districts with the goals of allowing easier consolidation.

A subcommittee will be formed to undertake the task of amending statutes involving the consolidation of fire districts.

SPECIAL DISTRICTS

The interim committee agreed to investigate the possibility of the drafting legislation to establish uniform procedures for the creation, consolidation, and dissolution of special districts.

A subcommittee will be formed to undertake the task of amending statutes involving the special districts.

DO NOT RESUSCITATE ORDERS

HB 2103 was referred to the Silver-Haired Legislature last year after hearings. The Silver-Haired Legislature supported and included the bill in their legislative package. The Kansas Medical Society has suggested a revised bill which they would like to substitute for HB 2103. The KMA bill was supported by the Emergency Medical Services Board.

A subcommittee will be organized to review both versions of the bill and report their recommendations to the full committee prior to hearings.

BILL TO BE INTRODUCED OR CONSIDERED:

SB 153: This bill was heard last year, but was amended at the last minute. With agreement among the parties involved, the amendments will be stripped and a substitute will be considered, which is the bill as originally heard. (The amendments may become a separate bill and heard in the Senate.)

This bill will be heard in committee on Thursday, January 13.

HB _____ - Blue Valley Recreation Commission: A request for introduction will be made for special legislation for Blue Valley. After much consideration regarding alternative ways to govern the Recreation Commission, it was decided (much to the dismay of the Local Government Chairman) that special district legislation is the best possible option for governance and accountability.

To be introduced on Wednesday, January 12, as a committee bill.

The Emergency Medical Services Board will be requesting several bills to be introduced by the House Local Government Committee. They are currently in the process of being drafted.

The League of Municipalities will not be requesting any bill introductions from the House Local Government at this time.

The Kansas Association of Counties will be requesting the introduction of one bill which is in their 1994 County Platform book (page 15) dealing with joint county engineer districts, allowing counties to more readily create joint districts.

Individual requests will be considered, but the chair prefers a meeting with the committee member prior to introduction. No requests from a non-legislator will be considered without a meeting with the Chairman, Vice-Chairman or Ranking Minority member. It is common courtesy for any individual or organization to meet with the Chairman prior to the request for introduction of any bills by the committee.

Legislation (1993) already in Committee will not be heard unless specific requests are made to the Chairman, Vice-Chairman or Ranking Minority member. Committee Chairs have been requested to "clean up their books", so any legislation that can be "killed" and deleted from our books will be considered in the next few weeks. Please let the Chair know if this action causes any concern.

SENATE COMMITTEE ON LOCAL GOVERNMENT

COMMITTEE MEETINGS

The Senate Local Government Committee met for four days, two each in August and in October. One day of each two-day meeting was used as a joint meeting with the House Local Government Committee.

COMMITTEE ACTIVITIES

The Committee reviewed two topics: state mandates on local governments and the duties and functions of special district governments and their accountability to taxpayers. The latter topic was studied jointly with the House Local Government Committee.

State Mandates

The Senate Committee heard from representatives of the League of Kansas Municipalities, the Kansas Association of Counties, the Advisory Commission on Intergovernmental Relations, the Division of Budget, Johnson and Rice counties, and Salina and Oberlin. The conferees representing local units of government emphasized the costs incurred by local governments in complying with the increased number of mandates from both the state and federal government. It was pointed out that the more mandates that are imposed the less funds there are available to spend for needs which are determined at the local level. Mandates represent a narrowing of the ability to decide issues locally. Examples of recent mandates include: community based treatment for the mentally ill; community corrections programs; dog pound construction standards; bloodborne pathogen control; a host of environment mandates in regard to clean air and clean water; the new motor voter legislation; and the proposed health care reform. It was also pointed out that local governments have controls on their taxing powers, e.g., the tax lid.

Recommendations included the passage of a constitutional amendment to excuse local governments from compliance with state mandates where funding sources are not provided; in-depth studies of legislation containing mandates on local governments before passage; the recreation of a state advisory commission on intergovernmental relations; legislation to exempt local governments from the tax lid to permit funding of mandates; and legislation to require by statute that the Division of Budget consult with local governments before preparing fiscal notes on legislation affecting local governments.

Special District Governments

The House and Senate Local Government committees met jointly to study the organization, powers, duties, and accountability of special district governments. The committees heard from representatives of the League of Kansas Municipalities, the Advisory Commission on Intergovernmental Relations, Kansas Inc., the Municipal Accounting Section of the Division of Accounts and Reports, fire districts, rural water districts, the Kansas Rural Water Association, the Kansas Groundwater Management District Association, the Kansas State Library, the Kansas Recreation and Park Association, and a library district. Others who testified included a professor of public policy at Penn State University (by speaker phone) a professor from Wichita State University, and the Director of the Colorado Special District Association (by speaker phone).

The testimony of most of the conferees was geared to inform the committees about the powers, duties, and functions of the special districts which they represented and to describe the ways in which the special districts were accountable to taxpayers. A number of general recommendations were made as well as more

specific changes to particular laws. General recommendations included: that special districts should be required to report certain basic information annually to a state agency much like private corporations are required to report annually to the Secretary of State; that counties be given more flexibility in forming special districts; that county governments be given more authority to consolidate services and to reorganize special districts; and that a general law be enacted for the formation, consolidation, and dissolution of special districts. Some of the more specific recommendations made included: to extend the cash basis and budget laws to all special districts or to those which have taxes levied on their behalf by another governmental entity; to make library boards and districts independent taxing districts or to clarify that local governments creating library entities could limit library entity taxing power; to permit a city to require territory within its boundaries which is a part of a drainage district to be de-annexed from the district; to allow rural water districts to annex lands across county lines; to permit all fire districts to consolidate (now only some may consolidate); and to permit county commissions to have more control over rural water districts and to permit the creation of a county manager for rural water districts within the county.

CONCLUSIONS AND RECOMMENDATIONS

State Mandates. The Committee concluded that the best approach to deal with the issues of state mandates and relief for local governments was through the passage of legislation rather than by amendment of the *Kansas Constitution*. The Committee believes a statutory approach is the most expedient and the most likely avenue that would be acceptable to the Legislature. The Committee therefore endorses legislation to exempt local governments from the tax lid for taxes raised to meet state mandates and to provide that any law which mandates expenditures on local governments and which contains civil or criminal penalties for failure to comply shall only be binding if the Legislature makes a finding that compliance without full funding serves a compelling state interest.

The Committee further recommends a bill which amends the law dealing with the preparation of fiscal notes and the adoption of rules and regulations by state agencies to require that consultation be made with the League of Kansas Municipalities, the Kansas Association of Counties, and the Kansas Association of School Boards when preparing the cost impact on local governments of the proposed law or rule or regulation.

Special District Governments. The Senate Local Government Committee deferred to the House Local Government Committee in regard to specific recommendations on the topic of special district governments.

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HOUSE COMMITTEE ON LOCAL GOVERNMENT

COMMITTEE MEETINGS*

The House Local Government Committee met for four days, two each in August and in October. One day of each two-day meeting was used as a joint meeting with the Senate Local Government Committee.

COMMITTEE ACTIVITIES

The Committee reviewed two topics: the training of persons who have to deal with hazardous materials released in the environment and the powers, duties, and functions of special district governments and their accountability to taxpayers. The latter topic was studied jointly with the Senate Local Government Committee.

Hazardous Materials Training

The Committee heard from representatives of the Division of Emergency Preparedness, the University of Kansas Firefighter Training Program, the Heartland Chapter of the Academy of Certified Hazardous Materials Managers, the Department of Health and Environment, the State Fire Marshal, the Emergency Medical Services Board, the Department of Human Resources, the Department of Transportation, the Kansas Corporation Commission, the Kansas Highway Patrol, the Kansas Firefighters Association, four city fire chiefs, and the Assistant Dean of Continuing Education at the University of Kansas.

The various representatives of state agencies, local fire departments, and the private sector indicated they had their own hazardous materials training programs some of which were compatible with some of the other programs and some of which were not. For example, the representative of the Division of Emergency Preparedness said his agency's training utilized OSHA regulation 29 CFR 1910.20 for a standard for awareness, operation, technician, specialist, and instant command training. He said training also recognized the standards used by the National Fire Protection Association for emergency medical service personnel. The Director of the University of Kansas Firefighter Training Program noted that his training program is in accordance with the National Fire Protection Association's standard certification program and has been accredited by the International Fire Service Accreditation Congress and the National Board of Professional Fire Service. Instructors trained by the Division of Emergency Preparedness would not necessarily be accepted by the KU program because of the difference in the standards although KU instructors apparently would be accepted by the Division. Several of the conferees supported the idea of one state agency setting standards for training of persons who respond to hazardous materials releases into the environment.

A bill draft was prepared for discussion purposes for the second meeting on this topic based on a California law. The bill would designate the Division of Emergency Preparedness as the agency responsible for hazardous curriculum training approval and instructor training approval. It would create by statute a 17-member curriculum development advisory committee within the Division of Emergency Preparedness. The Committee would have the responsibility for assisting the Division in developing course curricula, ensuring curricula is accredited by the Division, and defining equivalent training. The Division would be given the power to classify different levels of emergency response personnel, qualifications and training requirements of personnel and instructors and for their certification, and requirements for approval of classes.

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Attachment # 3-3

* H.B. 2565 accompanies this report.

11/1/94

The concept of the bill was supported by the Division of Emergency Preparedness, the State Fire Marshal's Office, the Emergency Medical Services Board, and several city fire chiefs.

Special District Governments

The House and Senate Local Government committees met jointly to study the organization, powers, duties, and accountability of special district governments to the taxpayers. The Committee heard from representatives of the League of Kansas Municipalities, the Advisory Commission on Intergovernmental Relations, Kansas Inc., the Municipal Accounting Section of the Division of Accounts and Reports, fire districts, rural water districts, the Kansas Rural Water Association, the Kansas Groundwater Management District Association, the Kansas State Library, the Kansas Recreation and Park Association, and a library district. Others who testified included a professor of public policy at Penn State University (by speaker phone) a professor from Wichita State University, and the Director of the Colorado Special District Association (by speaker phone).

The testimony of most of the conferees was geared to inform the Committee about the powers, duties, and functions of the special districts which they represented and to describe the ways in which the special districts were accountable to taxpayers. A number of general recommendations were made as well as more specific changes to particular laws. General recommendations included that special districts should be required to report certain basic information annually to a state agency much like private corporations are required to report annually to the Secretary of State; that counties be given more flexibility in forming special districts; that county governments be given more authority to consolidate services and to reorganize special districts; and that a general law be enacted for the formation, consolidation, and dissolution of special districts. Some of the more specific recommendations included: to extend the cash basis and budget laws to all special districts or to those which have taxes levied on their behalf by another governmental entity; to make library districts or boards independent taxing districts or to give local governments creating them clear authority to limit their taxing power; to permit a city to require territory within its boundaries which is a part of a drainage district to be de-annexed from the district; to allow rural water districts to annex lands across county lines; to permit all fire districts to consolidate (now only some may consolidate); and to permit county commissions to have more control over rural water districts and to permit the creation of a county manager for rural water districts within the county.

CONCLUSIONS AND RECOMMENDATIONS

Hazardous Materials Training. The Committee concluded that a more coordinated approach to training of persons involved in hazardous materials mishaps was needed. The Committee therefore agreed to introduce that does the following:

1. It declares it necessary to establish a single, coordinated, and standardized hazardous materials incident response training and education plan for firefighters, law enforcement, emergency rescue, and environmental health personnel. Further, the bill declares it necessary to designate a single state agency to be responsible for the development of minimum standards for course content and subject matter training and education of hazardous materials incident response personnel.
2. The bill requires the Division of Emergency Preparedness within 18 months of the effective date of the legislation to establish and manage, subject to the approval of the State Emergency Response Commission, the program cited above.
3. The curriculum shall include first responder training; on-scene manager training and training for manager personnel; hazardous material specialist training; environmental monitoring; activities at ports; and hazardous materials management.

4. A 17-member curriculum development advisory committee is created to be chaired by the head of the Division of Emergency Preparedness.
5. The Division is given the authority to adopt rules and regulations to deal with: classification of personnel; qualification and training requirements of personnel and instructors and certification requirements of instructors; and various other matters.

Special District Governments. The Committee agreed to conduct a survey of recreation commissions in conjunction with the Kansas Recreation and Park Association and have the data tabulated for review during the 1994 Session.

The Committee concluded that all special districts that are supported by tax moneys should be brought under the cash basis law. The Committee therefore recommends the introduction of H.B. 2565 to accomplish this.

The Committee also agreed to pursue the drafting of legislation at the start of the 1994 Session to provide a means for all fire districts to consolidate. It was further agreed to continue to investigate the possibility of drafting legislation which would establish uniform procedures for the creation, consolidation, and dissolution of special districts.

HOUSE LOCAL GOVERNMENT
Attachment # 3-5
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Session of 1994

HOUSE BILL No. 2565

By Committee on Local Government

12-16

8 AN ACT concerning municipalities; relating to the cash-basis law; amending K.S.A. 10-1101 and repealing the
9 existing section.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 10-1101 is hereby amended to read as follows: 10-1101. The following words, terms and
13 phrases, when used in this act, shall, ~~for the purpose of this act,~~ have the meanings respectively ascribed to
14 them in this section, except in those instances where the context clearly indicates a different meaning:

15 (a) "Municipality" ~~shall be construed and held to mean~~ means any county, township, city, municipal university,
16 school district, community junior college, drainage district, and any other ~~similar political subdivision or taxing~~
17 ~~district or political subdivision of the state which is supported with tax funds.~~

18 (b) ~~The words "governing body" shall be construed and held to mean board of county commissioners of any~~
19 ~~county, township board of any township, mayor and councilmen or board of commissioners of any city, board~~
20 ~~of education of any school district, board of trustees of any community junior college, board of regents of any~~
21 ~~municipal university, board of directors of any drainage district, board of park commissioners of any city, and~~
22 ~~any other governing body or board of a municipality having authority under the laws of this state to create~~
23 ~~indebtedness against the municipality "Governing body" means the governing body of a municipality.~~

24 (c) ~~The word "person" shall be construed and held to mean persons, partnerships, associations and corporations~~
25 ~~"Person" means any person, partnership, association or corporation.~~

26 (d) ~~The word "claim" shall be construed and held to mean "Claim" means any claim arising on contract~~
27 ~~express or implied, or a claim determined by final judgment, but shall not include claims arising from alleged~~
28 ~~tort or negligence on the part of the municipality.~~

29 Sec. 2. K.S.A. 10-1101 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE LOCAL GOVERNMENT

Attachment # 3-6

11 / 94

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TOPEKA

January 11, 1994
 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

LOCAL GOVERNMENT, CHAIRMAN
 TAXATION

COMMUNITY DEVELOPMENT BLOCK GRANT
 ADVISORY BOARD

EMERGENCY MEDICAL SERVICES BOARD
 NCSL STATE-LOCAL-TRIBAL RELATIONS,

CHAIRMAN
 NCSL THE WOMEN'S NETWORK BOARD

To: House Local Government Members

From: Nancy Brown

Re: Selection of Subcommittees - Local Government

The following subcommittees will be formed, which will result in an additional time commitment (though the intent is to provide time during the regularly scheduled meeting from some committees to meet). Please select the subcommittee on which you would like to serve. Every effort will be made to give you the subcommittee of your choice (but recognize that there must be an attempt to balance philosophy and geography of the members).

Please check your 1st, 2nd, 3rd, 4th, and 5th choice:

_____	Division of Emergency Preparedness
_____	Hazardous Materials Training
_____	Fire District Consolidation
_____	Special District Review
_____	Do Not Resuscitate Orders

Please return your requests to Lois, Room 183-W, as soon as possible. Thank you, as always for your support!

HOUSE LOCAL GOVERNMENT
 Attachment # 4
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