

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Mark Parkinson at 9:00 a.m. on March 10, 1994, in Room 531-N of the Capitol.

All members were present except: Sen. Feleciano - Excused

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

Conferees appearing before the committee:

Anne Smith, Kansas Association of Counties
Frank Hempen, County Engineer, Douglas County
Larry Emig, Kansas Department of Transportation (KDOT)
Chris McKenzie, League of Kansas Municipalities
Larry Knoche, Bureau of Environmental Remediation

Others attending: See attached list

HB 2639--Concerning joint county engineer districts; relating to the creation thereof.

Ms. Kiernan explained that the bill amends the statute that allows counties to form joint county engineer districts. It eliminates some restrictions and, thus, makes it easier for counties to form these districts and to dissolve them.

Anne Smith, Kansas Association of Counties, testified in support of the bill. (See Attachment 1)

The Chairman asked why the statute originally limited the number of counties to six. Ms. Smith could not answer but referred the question to Larry Emig, Kansas Department of Transportation (KDOT). Mr. Emig said the number was relative to the assessed valuation when it was put into effect in 1961.

Frank Hempen, Douglas County, County Engineer, explained the function of joint county engineer districts. They are the major technical administrator of a county, they advise on the technical condition and design issues dealing with the county roadways, and they work with the Kansas Department of Transportation on its highway programs.

Sen. Ramirez began a discussion as to why the formation of these districts is subject to the approval of the Secretary of Transportation. Mr. Emig explained that when this law was first passed, the engineering licensing law was also being passed, and the two were tied together in technical requirements. Mr. Emig added that he has been made aware of a specific situation where a couple of counties want to form a county engineer district, and this bill would help them to do so.

Sen. Reynolds made a motion to report HB 2639 favorable for passage, Sen. Ranson seconded.

Sen. Tillotson began a discussion as to if the bill needed to be amended with regard to the approval of the Secretary of Transportation. Ms. Kiernan noted that the Secretary approves the district, not the engineers. Mr. Emig informed the committee that there are other statutes that do require that engineers be approved by the Secretary of Transportation. Mr. McKenzie stated that there has always been a strong relationship between KDOT and counties which provides continuity in the connection between KDOT and the county engineers.

Upon a call for a vote on Sen. Reynolds' motion, the motion carried.

HB 2712--Concerning redevelopment of certain environmentally contaminated areas.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on March 10, 1994.

Ms. Kiernan explained that the bill amends the tax increment tax law and allows cities to create districts where environmental contamination occurs within and without the city limits and to use tax increment financing to clean up the contamination.

Chris McKenzie, League of Kansas Municipalities, testified in support of HB 2712 focusing on a situation which occurred in the City of Hutchinson. (See Attachment 2)

Larry Knoche, Bureau of Environmental Remediation, testified in further support of the bill. (See Attachment 3) With regard to the carbon tetrachloride found in well water in Hutchinson, Mr. Knoch explained that this chemical causes damage to the kidneys and liver and can cause cancer. He also informed the committee that \$2 million is available at present to begin with and that, long term, it will cost no more than \$8 million.

Sen. Gooch made a motion to report HB 2712 favorable for passage, Sen. Tillotson seconded, and the motion carried.

The minutes of February 25 and March 8 were approved.

Ms. Kiernan distributed copies of amendments for HB 2434 regarding legal publications in newspapers. (See Attachment 4) The bill had been previously heard, and the Chairman asked committee members to study the amendments in order to be ready to work the bill next week.

The meeting was adjourned at 9:55 a.m.

The next meeting is scheduled for March 14, 1994.

Date:

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

NAME

ORGANIZATION

ADDRESS

Ann Smith	Ks. Assoc of Counties	Topeka
Larry W. Ermit	Ks. Dept. of Energy	Topeka
PORTER V BROWN	CITY OF HUTCHINSON	HUTCHINSON, KS.
Larry Knoche	KDHE	Topeka
Kevin Robertson	KCE	Topeka
Chris McKenzie	League of Ks Mun.	Topeka



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Executive Director

John T. Torbert, CAE

TO: Senate Local Government Committee
Senator Mark Parkinson

FROM: Anne Smith
Director of Legislation

DATE: March 10, 1994

RE: HB 2639

HB 2639 is legislation being sought by the Kansas County Highway Association. It is also supported by the Kansas Association of Counties and is part of the KAC platform.

Current law states that not more than six counties shall be included in any one county engineer district, and any district composed of two or more counties shall not include more than \$100 million assessed valuation. This law restricts the counties' ability to consolidate services.

HB 2639 removes the limits currently in law and, if passed, will allow counties to more readily form joint county engineer districts.

Thank you for your consideration of this bill.

Senate Local Gov't
3-10-94
Attachment 1



**League
of Kansas
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: Senate Local Government Committee

FROM: Chris McKenzie, Executive Director

DATE: March 10, 1994

SUBJECT: Support for House Bill No. 2712

Thank you for the opportunity to appear today on behalf of the League of Kansas Municipalities, and particularly the City of Hutchinson, in support of HB 2712. The League was active in the development of the original tax increment financing law, K.S.A. 12-1770 et seq., which was amended in 1991 to allow its use in financing the remediation of environmental contamination in designated areas. The 1991 amendments made possible the assessment of environmental contamination in downtown Wichita and the implementation of a rational plan for the clean-up of contamination that could have literally devastated the downtown economy.

HB 2712 represents a fine tuning of that law to address an environmental contamination problem that spans city boundaries. In 1985 the City of Hutchinson was ordered by the Kansas Department of Health and Environment to take public water well #8 out of service because of the discovery of unacceptable levels of carbon tetrachloride in the well. From 1985 to 1988 the City attempted to return the well to service, but the levels of contamination continued to be unacceptable for public consumption. In May, 1988 the City agreed to construct water mains to supply safe drinking water to residents in the area who were using private wells.

The U.S. Environmental Protection Agency subsequently conducted a listing site inspection of the area, now referred to as the 4th and Carey site as this was the location of the discontinued city well. In that study the EPA identified several sources of ground water contamination--both within and without the city limits of Hutchinson. Due to this fact, the current tax increment financing/environmental contamination remediation law cannot be used.

A remedial investigation/feasibility study of the 4th and Carey site must now be conducted to ascertain the extent of the ground water contamination in the area and how it can best be cleaned up. Based on its experiences with EPA and KDHE, the City believes that KDHE can perform the oversight of the investigation better and less expensively than EPA. In meetings with EPA and KDHE a tentative agreement was reached that the businesses in the area will raise sufficient funds (est. at \$2 million) to fund the remedial investigation/feasibility study. After the study, the City will attempt to use tax increment financing to help fund the cost of the cleanup. KDHE will be the lead agency in the investigation/feasibility study.

*Senate Local Gov't
3-10-94
Attachment 2*

The City of Hutchinson has taken this step because its officials know from the experience of Wichita a few years ago that listing on the National Priorities List (a/k/a Superfund sites list) by the EPA will reduce property values in the area approximately 40%, causing hardships to residential and commercial property owners in the area. Tax increment financing is presently being used successfully by the City of Wichita to fund the cleanup of the Gilbert and Mosley site in that city in the downtown area.

Since the current tax increment financing law may only be used on property wholly within the city, the amendment contained in HB 2712 has been requested. The amendment would allow property located within environmentally contaminated areas located within and without cities to be included in a tax increment "redevelopment" district for purposes of this act. To safeguard the rights of the County, the amendment on page 2, lines 33 - 41, provides the consent of the County Commission is needed to extend the redevelopment district into the unincorporated area. A similar requirement for school district and county approval of the acquisition of private land is contained in paragraph (f) of page 3.

The City of Hutchinson met with both the Reno County Commission and the Board of USD 308 to brief them on this proposal. They presently have no reason to believe either the County or school district object to the proposal.

RECOMMENDATION: The League, and the City of Hutchinson, recommend your approval of this bill at your earliest opportunity.

Thank you for your consideration of this proposal.



Department of Health and Environment

Robert C. Harder, Secretary Reply to:

Testimony presented to

Senate Local Government Committee

by

The Kansas Department of Health and Environment

House Bill 2712

KSA 12-1770, et seq. provides cities with the opportunity to include environmentally contaminated areas in a redevelopment district. Contaminated sites exist in many areas throughout the state, both within and without a city, but areas located outside the city cannot be included in the redevelopment district. This amendment will allow cities, with the consent of the board of county commissioners, to establish a redevelopment district that includes land outside the boundaries of the city.

If cities take advantage of this option, the funding mechanism available to cities to cleanup contaminated sites would be extended to include areas outside the city. This would result in the remediation of more sites, many of which are currently not being addressed due to lack of funding. Benefits would include restoration of the environment and protection of citizens from the continued exposure to hazardous substances, many of which have serious health consequences. In addition, economic development opportunities in the area would be increased and property value reductions due to environmental contamination and the resulting erosion of tax base would be halted.

Testimony presented by: Larry Knoche
Bureau of Environmental Remediation
Division of Environment
March 10, 1994

Section 1. K.S.A. 64-101 is hereby amended to read as follows:

64-101. Newspapers in which legal publications may be made. (a) Except as provided by K.S.A. 12-1651, and amendments thereto, the governing body of each city shall designate by resolution a newspaper to be the official city newspaper. Once designated, the newspaper shall be the official city newspaper until such time as the governing body designates a different newspaper.

(b) The board of county commissioners of each county shall designate by resolution a newspaper to be the official county newspaper. Once designated, the newspaper shall be the official county newspaper until such time as the board designates a different newspaper.

(c) Except as provided by K.S.A. 12-1651, and amendments thereto, no legal notice, advertisement or publication of any kind required or provided by any of the laws of the state of Kansas, to be published in a newspaper shall have any force or effect as such unless the same be published in a newspaper having the following qualifications:

(1) It must be published at least weekly 50 times a year and have been so published for at least five years prior to the publication of any official publication;

(2) it must be entered at the post office of publication as second class mail matter;

(3) it shall have general paid circulation on a daily, weekly, monthly or yearly basis in the county and shall not be a trade, religious or fraternal publication; and

(4) it must be printed in the state of Kansas and published in the county publishing the official publication, or if there is no newspaper published in the county, then in a newspaper printed in Kansas and having general paid circulation in the county. ~~The provisions of this section requiring publication for at least five years prior to the publication of any official publication shall not apply to any newspaper which is qualified to publish official publications under the provisions of this section.~~ Nothing contained in this section shall invalidate the publication in a newspaper which has resumed publication after

having suspended publication all or part of the time that the United States has been engaged in war with any foreign nation and six months next following the cessation of hostilities if such newspaper resumes publication in good faith under the same ownership as it had when it suspended publication. Nothing in this section shall invalidate the publication in a newspaper which has simply changed its name or moved its place of publication from one part of the county to another part, or suspended publication on account of fire, flood, strikes, shortages of materials or other unavoidable accidents for not to exceed 10 weeks within the year last preceding the first publication of the legal notice, advertisement or publication. Nothing in this section shall apply to counties wherein no newspaper has been published the requisite length of time. All legal publications heretofore made which would be otherwise valid, that have been made in a newspaper which, on account of flood, fire, strikes, shortages of materials or other unavoidable accident, has suspended publication for a period of not exceeding 10 weeks, are hereby legalized.

, except as provided by subsection (d)

(d) In counties having a population of less than 10,000, a newspaper may be designated as the official county newspaper if it meets the qualifications stated in paragraphs (2), (3) and (4) of subsection (c) and it is published at least weekly 50 times a year and has been so published for at least one year prior to the publication of any official publication by any such county.

(e)

Senate Local Gov't
3-10-94
Attachment 4

Sec. 2. K.S.A. 1993 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271--74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the

proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 to 19-4625, inclusive, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 to 12-1,109, inclusive, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto. Any charter resolution adopted by a county prior to July 1, 1983, exempting from or effecting changes in K.S.A. 19-430, and amendments thereto, is null and void.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto. Any charter resolution adopted by a county, prior to the effective date of this act, exempting from or effecting changes in K.S.A. 13-13a26, and amendments thereto, is null and void.

(17) Counties may not exempt from or effect changes in K.S.A. 71-301, and amendments thereto. Any charter resolution adopted by a county, prior to the effective date of this act, exempting from or effecting changes in K.S.A. 71-301, and amendments thereto, is null and void.

(18) Counties may not exempt from or effect changes in

K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto. Any charter resolution adopted by a county prior to the effective date of this act, exempting from or effecting changes in such sections is null and void.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 1993 Supp. 12-1260 to 12-1270, inclusive, and 12-1276.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 1993 Supp. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 1993 Supp. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in K.S.A. 64-101, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection

is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.