

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 16, 1994, in Room 531-N of the Capitol.

All members were present except:

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:

Ella Mae Kraus, Wabaunsee County Treasurer
Marita Elliott, President, Lake Wabaunsee Improvement District
David Garcia, Mid-America Regional Council
Michael Howe, City Attorney, Lenexa

HB 2545--Concerning improvement districts; relating to the officers thereof.

Ms. Kiernan explained that the bill allows the treasurer of improvement districts to really act as the treasurer. Currently the treasurer's duties are being done by the county treasurer. This would be subject to a protest petition and an election. The bill applies statewide but remains optional.

Ella Mae Kraus, Wabaunsee County Treasurer, testified in support of the bill. (See Attachment 1)

Sen. Ramirez asked Ms. Kraus if the treasurer's association has a position on the bill. Ms. Kraus said she had not talked to the association because the bill was introduced as a Lake Wabaunsee issue but was amended to apply statewide.

Sen. Ranson asked if the improvement district treasurers would have to meet the same kind of fiduciary responsibilities as county treasurers. Ms. Kraus responded that they would.

Marita Elliott, President, Lake Wabaunsee Improvement District, testified in support of the bill. (See Attachment 2)

Sen. Ranson asked if the officers of the improvement district are paid. Ms. Elliott said they have one full time employee, and the state statute says each director is to be paid \$5.00 per meeting. She clarified that the bill will not cause extra work that could not be handled by the district. The only additional duty would be issuing their own checks.

Sen. Feleciano made a motion to report HB 2545 favorable for passage, Sen. Gooch seconded, and the motion carried.

Substitute for HB 2675--Concerning municipalities; relating to the provision of assistance during times of disaster.

Ms. Kiernan explained that this bill gives authority to cities, counties and townships to establish a policy for provisions in time of disaster and to establish what a disaster is, and such policies would not be subject to the Interlocal Cooperation Act.

David Garcia, Director of Environmental and Emergency Services, Mid America Regional Council, testified in support of the bill. (See Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT, Room 531-N Statehouse, at 9:00 a.m. on March 16, 1994.

Sen. Feleciano asked if the Attorney General has issued an opinion on the bill. Also, he feels that perhaps it would be better to work with the present Interlocal Cooperation structure rather than passing the bill. Michael Howe, City Attorney for Lenexa, informed the committee that he had spoken with the Assistant Attorney General who handles interlocal agreements when the bill was being prepared. Although Mr. Howe does not have a written opinion, he has not received any objections from the Attorney General's office.

Mr. Howe presented his testimony in support of Sub. for HB 2675. (See Attachment 4)

With regard to the Interlocal Cooperation Act, Mr. Howe said it will still serve a much needed purpose in such things as road projects and township fire service protection. In fact, the provisions in this bill would not allow it to be used for regular projects but for emergency situations only. Sen. Feleciano reiterated that he feels the law on the book addresses the problems of which Mr. Howe speaks, and perhaps a better approach would be to simplify the current law rather than circumventing the Interlocal Cooperation Act. Mr. Howe responded that his point is that there is a need to streamline the process, and he feels the bill will not harm the effect of the Interlocal Cooperation Act but will be supplemental to it.

Sen. Ramirez made a motion to report Substitute for HB 2675 favorable for passage, Sen. Downey seconded, and the motion carried.

HB 2846--Concerning boards of county commissioners; relating to the powers and duties thereof.

Ms. Kiernan explained that the bill involves a technical amendment to resolve a conflict between two statutes. The Legislature adjourned last year before the conflict could be resolved. The bill cleans up duplicate sections.

Sen. Feleciano made a motion to report HB 2846 favorable for passage, Sen. Langworthy seconded, and the motion carried.

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

The next meeting is scheduled for March 17, 1994.

Date:

GUEST REGISTER

SENATE

LOCAL GOVERNMENT

NAME

ORGANIZATION

ADDRESS

Michael Howe

City of LENEXA

SAM ELLIOTT

LAKE WABAUNSE

Russ Frey

KUMA

10000

March Elliott

Lake Umbagog.
Essex County Dist.

Lake Wabouzeau

Ellen M. Fox

Wahawawee County

Alma

TESTIMONY FOR HOUSE BILL NO. 2545
ELLA MAE KRAUS, WABAUNSEE COUNTY TREASURER

GREETINGS:

WABAUNSEE COUNTY HAS TWO IMPROVEMENT DISTRICTS, ONE OF WHICH IS STANDARD TO MOST OF THE FIFTY IMPROVEMENT DISTRICTS IN THE STATE OF KANSAS AND ONE THAT IS IN A SEPARATE CLASS. I AM REFERRING TO LAKE WABAUNSEE IMPROVEMENT DISTRICT. THIS DISTRICT HAS THREE FUNDS IN MY HANDS AS COUNTY TREASURER AND THREE FUNDS IN THEIR HANDS. I CARRY A SEPARATE BANK ACCOUNT FOR THE SEWER FUND IN A TOWN CLOSE TO THE IMPROVEMENT DISTRICT, AND THE IMPROVEMENT DISTRICT RECEIVES THE INTEREST EARNED ON THIS ACCOUNT. COLLECTIONS ARE BROUGHT TO ME TWICE EACH MONTH. THE COLLECTIONS CONSIST OF SIXTY OR MORE CHECKS AND SOME CASH. THE COLLECTIONS ARE FOR MISCELLANEOUS LABOR, TRASH HAULING, SEWER USER FEES AND MONTHLY PAYMENTS FOR THE SEWER BOND INDEBTEDNESS. (MOST BOND PAYMENTS ARE ARRIVED FROM LEVIED TAX OR SPECIAL ASSESSMENT TAX COLLECTED ON THE COUNTY TAX ROLL.) I TRANSFER THE SEWER COLLECTIONS BY CHECK AND DEPOSIT WITH THE SERVICES OF THE U.S. POSTAL DEPARTMENT. IN 1993 I MADE 24 TRANSFERS FOR DEPOSITS.

FROM COUNTY TREASURER'S SEWER ACCOUNT, THE LWID BOARD TRANSFERS BY REQUISITION ORDER TO THE BOND RESERVE, PRINCIPAL AND INTEREST AND PUMP RESERVE ACCOUNTS. THIRTY TRANSFERS WERE MADE FOR THIS PURPOSE IN 1993. TWO TRANSFERS WERE MADE BACK TO THE WORKING ACCOUNT FOR BOND AND INTEREST PAYMENTS TO THE STATE TREASURER.

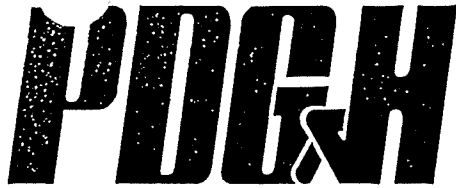
ALONG WITH THE THIRTY-TWO TRANSFERS AND TWO BOND PAYMENTS, I PAID A TOTAL OF EIGHTY-SIX EXPENDITURES FOR THE GENERAL AND ROAD FUNDS FROM THE COUNTY WORKING ACCOUNT AND ONE HUNDRED FOUR EXPENDITURES FOR SEWER FROM THE COUNTY TREASURERS SEWER ACCOUNT FOR LAKE WABAUNSEE IMPROVEMENT DISTRICT.

BILL ERVIN, CHIEF, MUNICIPAL ACCOUNTING SECTION, DEPARTMENT OF ADMINISTRATION HELPED ME WITH INFORMATION ON THE NUMBER OF IMPROVEMENT DISTRICTS IN THE STATE AND THE SIZE OF THEIR BUDGETS. IN DOING SO HE REVIEWED THE BUDGET OF LAKE WABAUNSEE IMPROVEMENT DISTRICT TO FIND THAT IT HAS A BUDGET FAR GREATER THAN SOME CITIES IN KANSAS. THE TOTAL EXPENDITURES FOR LAKE WABAUNSEE IMPROVEMENT DISTRICT FOR 1993 was \$301,100.00.

THE AUDITING FIRM OF POTTBERG, DILL, GASSMAN & HOFFMAN, CHARTERED, ARE CONTRACTED BY WABAUNSEE COUNTY AND ARE OF THE OPINION THAT THE WAY FUNDS ARE CURRENTLY BEING HANDLED IS INEFFICIENT. I HAVE SET UP SPECIAL PROCEDURES TO HANDLE THE FUNDS AS I WANT TO HAVE A GOOD TRACKING SYSTEM FOR ANYONE TO FOLLOW AND CHECK.

I FEEL THE ELECTED OFFICERS OF LAKE WABAUNSEE IMPROVEMENT DISTRICT SHOULD MAINTAIN THEIR OWN FUNDS ENTIRELY.

Senate Local Gov't
3-16-94
Attachment 1



19-2763

Pottberg, Dill, Gassman & Hoffman, Chartered

Certified Public Accountants

816 N. Washington
Junction City, KS 66441
(913) 238-5166

1119 Westloop Place
Manhattan, KS 66502
(913) 537-9700

February 10, 1993

Wabaunsee County Commissioners
215 Kansas Avenue
Alma, KS 66401

Re: Lake Wabaunsee Improvement District

Dear Commissioners:

I received a letter from Ella Mae Kraus concerning Lake Wabaunsee Improvement District and their wish to become an independent agency. I discussed this with John Strain and both of us agree that this poses no problems from our standpoint and should be a welcome move for the county. The way funds are currently being handled is inefficient and opens the door to several possible problems. Allowing Lake Wabaunsee Improvement District to account for their own funds should benefit everyone involved and I urge the county to consider a move in this direction.

Mrs. Kraus also noted that it may be too late for legislation to be passed this year. Regarding this, John Strain has offered to contact Dr. Alex Scott, Representative of the 65th District, to see if an amendment can be added to any current legislation.

If you have any questions or we can be of further assistance, please contact myself at 238-5166 or John Strain at 238-6451.

Sincerely,

Randy, J. Gassman, CPA

RJG/mln

xc: Ella Mae Kraus

Members

American Institute of
Certified Public
Accountants

Kansas Society of
Certified Public
Accountants

H.B. 2545
Statement by Marita Elliott, President
Lake Wabaunsee Improvement District

MARCH 16, 1994

Honorable Members of the Kansas Legislature,

It is a privilege to address you on the subject of H.B. 2545 that is before you. I speak in favor of this legislation.

My name is Marita Elliott. I have been elected to serve a two year term on the Board of Directors of the Lake Wabaunsee Improvement District. I have been chosen to be president by my fellow board members.

For those who do not know, Lake Wabaunsee covers about 500 surface acres and is located in almost the center of Wabaunsee County. Wabaunsee County borders Shawnee County immediately to the west. Our lake community consists of about 220 houses or cabins and we have about 200 people living full time at the lake. This lake was built in the late 1930's and people such as Governor Walter Huxman, Secretary of State Paul Shanahan and other state officials owned property at the lake at one time. Unlike Corps of Engineers lakes, individual families can own property to within 20 feet or less of the shore line -- so you can station your boat almost at the front door if you wish. The City of Eskridge draws municipal water from the lake and controls several parks and picnic areas.

Lake Wabaunsee is in the process of changing. What used to be basically a fishing and boating lake used by "week-enders," is now home to families. It is one of the fastest growing areas in Wabanusee County. The valuation of property within the Lake Wabaunsee Improvement District is \$1,015,988. In our county, among municipalities, that ranks us behind Alma and Maple Hill, but more than Eskridge, Paxico, Alta Vista, Harveyville and McFarland -- all incorporated cities.

The Lake Wabaunsee Improvement District was formed to maintain our roads. About three years ago we took on the additional chore of building and operating a sanitary sewer system and we offer trash pickup on a weekly basis. Our board of directors meet once a month and generally do business in front of 15-25 interested fellow citizen of the lake community.

There are four points I wish to make:

1) The motivation to have us take over our own books came from the county treasurer at the request of the official auditor. We did not seek out this additional task, it came to us. I believe our county treasurer will agree that our improvement district acts very much like a municipality, and the amount of work we have generated has placed a burden on the time of the county treasurer's office.

2) We are ready and able to assume the additional duties associated with taking over our own books. We have a computer in house and will purchase a software program. One has already been recommended by our auditor.

3) We presently have a voucher system. We intend to continue the voucher system so there will always be a check-and-balance bookkeeping system in place. It is now and will be in the future, open to the public.

4) Our books are audited annually by a CPA firm and we intend to continue this practice. This is a necessary safeguard for the citizens.

Thank you for this opportunity to speak in favor of H.B. 2545. I will be happy to be questioned by you at this time.

*Senate Local Gov't
3-16-94
Attachments 2*

600 BROADWAY 300 RIVERGATE CENTER
KANSAS CITY, MISSOURI 64105-1554

816 / 474-4240 VOICE / TDD
816 / 421-7758 FAX

MARC

MID-AMERICA REGIONAL COUNCIL

To: Senator Mark Parkinson, Chairman
Local Government Committee Members

From: David Garcia, Director of Environmental and Emergency Services

Subject: HB 2675 - Emergency Mutual Aid/Disaster Response

On behalf of the Mid-America Regional Council (MARC), thank you for the opportunity to appear today in support of HB 2675. MARC is an organization of local governments in the bistate eight county Kansas City area. Our members counties include Johnson, Leavenworth and Wyandotte counties in Kansas and Cass, Clay, Jackson, Platte and Ray counties in Missouri. The Mid-America Regional Council provides a forum for cooperation among local governments and between the public and private sectors on a number of regional issues, including emergency service issues.

One of MARC's activities in immediate response to the flood of 1993 was to match local governments needing construction equipment, operators and technical expertise with other local governments and private companies that could provide these resources. Area governments provided approximately \$200,000 worth of flood cleanup equipment and recovery services to other cities in the region. While these resources were provided without delay due to concerns regarding reimbursement, one of the issues raised was the liability assumed by local governments providing technical and other assistance. For example, in the process of rendering mutual aid, what would have happened if an incident occurred where people were injured or property was damaged? This was not a new concern; the rendering of fire response and emergency medical service mutual aid across the state line in the Kansas City area is a weekly occurrence, and the liability associated with this activity has been a point of concern for some time.

Under current Kansas law (K.S.A. 12-2901 et seq.), the process of establishing mutual aid agreements between municipalities usually requires the execution of an Interlocal Agreement and subsequent approval by the Attorney General. If the municipalities are located in different states, but within the same metropolitan area, this process would require approval by the Attorney General of each state. The flood of 1993 demonstrates the need for more flexible response procedures to meet the needs of local governments in times of disasters.

Chair
Georgia Erickson
Council Member
Overland Park, KS

1st Vice Chair
Marsha Murphy
County Executive
Jackson County, MO

2nd Vice Chair
T.A. Stolfus, D.V.M.
Mayor
Bonner Springs, KS

Secretary
Gary L. Mallory
County Clerk
Cass County, MO

Treasurer
William McDonald
Council Member
Independence, MO

David A. Warm
Executive Director

*Senate Local Gov't
3-16-94*

Attachment 3

Two MARC committees, the Metro Emergency Preparedness Committee, composed of city and county emergency preparedness directors, and the MARC Emergency Rescue Committee, composed of representatives from ambulance service providers and hospital emergency departments, have discussed this issue several times over the past few years. Last fall, both of these committees expressed an interest in addressing the liability concerns associated with rendering of mutual aid for fires, hazardous materials accidents, natural disasters and other emergencies.

Mr. Mike Howe, the Lenexa City Attorney, was kind enough to provide legal assistance in reviewing current state laws regarding mutual aid and discussing this matter with the Attorney General's office.

In our opinion, the approach outlined in HB 2675 has considerable merit; it does not mandate local action, or raise local costs; essentially, it provides liability protection for existing practices and facilitates mutual aid in responding to emergencies. Under the proposed legislation, municipalities would be able to provide mutual aid with the knowledge that they were doing so without loss of privileges, immunities and protections provided under the law when they operate within their own jurisdictions.

The MARC Board of Directors, a group of twenty-eight elected city and county officials from throughout the Kansas City metro area, and the Kansas City Metro Fire Chiefs Association, which includes over fifty fire departments and fire protection districts in the Kansas City area, have endorsed the approach contained in HB 2675. On behalf of these organizations, I respectfully request your support for HB 2675.

Thank you for the opportunity to testify on this issue today.



Legal Department

Michael P. Howe,
City Attorney

Cynthia L. Harmison,
Assistant City Attorney

Mary D. Curtis
Assistant City Attorney/Prosecutor

Eric R. Arner,
Assistant City Attorney

March 15, 1994

Senator Mark Parkinson, Chairman
Local Government Committee Members
State Capitol, Room 128-S
Topeka, KS 66612

RE: House Bill 2675
Emergency Mutual Aid/Disaster Response

Dear Senator Parkinson and Committee Members:

On behalf of the City of Lenexa I want to express our strong support for House Bill 2675. I have been involved with David Garcia of the Mid-America Regional Council and Theresa Kiernan of the Kansas Revisor's Office, in developing this proposed Bill. Lenexa believes the Bill is good legislation which will allow quick response by cities and counties in times of disasters and emergencies.

The existing statutes in Kansas simply do not afford the flexibility for a community, like Lenexa, to respond on quick notice to requests for assistance to other jurisdictions in Kansas or to communities outside the State of Kansas. As a City Attorney, I would be gravely concerned to have City of Lenexa personnel or equipment respond to a jurisdiction without having an existing interlocal agreement. In a border community such as Lenexa, the aspect of negotiating 50 or 60 separate interlocal agreements which then must be approved by the Kansas Attorney General's office basically assures that there will be no agreements. If there is no interlocal agreement, City personnel or equipment utilized outside of its jurisdiction and without authority of such an interlocal agreement could potentially be the source of a lawsuit and not have the protection of the Kansas Tort Claims immunity provisions. Even more seriously, it could conceivably be argued that Lenexa was acting outside the scope of its authority and thus be subject to damages in excess of the \$500,000 Kansas Tort Claims cap. These concerns and problems are addressed by this legislation in the following manner:

*Senate Local Group
3-16-94*

City of Lenexa / 12350 West 87th Street Parkway / P.O. Box 14888 / Lenexa, Kansas 66285-4888

Telephone 913-492-8800 / Fax 913-492-8623

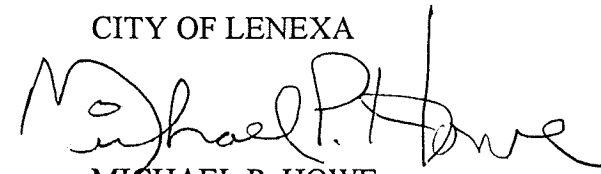
Attachment

- ❖ Municipality may adopt a policy stating it will respond to requests for assistance.
- ❖ When providing assistance, the immunity protection afforded in the Kansas Tort Claims Act will still protect the responding party.
- ❖ The Act will not invalid or entering into the more formal interlocal agreements which will still continue to be approved by the Attorney General's office.

This proposed legislation makes sense and will encourage the spirit of community caring in times of emergencies. It will allow cities and counties to help each other when they need it most. The City of Lenexa strongly supports the passage of House Bill 2675.

Very truly yours,

CITY OF LENEXA



MICHAEL P. HOWE
City Attorney

MPH/skl