

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 a.m. on February 10, 2004 in Room 527-S of the Capitol.

All members were present except:

Senator Dave Jackson- excused

Senator David Adkins- absent

Committee staff present:

Hank Avila, Legislative Research Department

Bruce Kinzie, Revisors of Statutes

Marian F. Holeman, Committee Secretary

Conferees appearing before the committee:

Senator Derek Schmidt

Darryl C. Lutz, P.E., Butler Co. Engineer

Larry Emig, KDOT Policy Chief, Bureau of Local Projects

Others attending:

See Attached List.

**SB 289: Governors of Kansas home town heritage act**

Senator Schmidt presented a proposed balloon amendment to deal with the questions raised in the hearing on February 4, 2004. He met with Kansas Department of Transportation personnel and those concerned with including the territorial governors. The balloon covers the maintenance and design problems to the satisfaction of concerned parties, and adds the territorial governors. Senator Goodwin moved to adopt the balloon amendment and pass SB 289 as amended. Senator Schodorf seconded the motion. Motion carried.

**SB 446: Roads & highways, duties & liabilities during repairs or improvements**

Mr. Darryl C. Lutz, P.E., Director of Public Works, Butler County Engineer, and Chair, Legislative Committee, of the Kansas County Highway Association (KDHA). Representing this association of, Mr. Lutz has four bills relating to county road and bridge issues. The intent is to repeal conflicting statutes, outdated statutes, and to revise other statutes to appropriately address current issues. They have worked closely with KDOT throughout this process. This work is included in the Kansas Association of Counties 2004 legislative platform.

The first of the bills is **SB 446**. It deals particularly with requirements relating to detour routes. Basically, it is to change the requirement for posting and establishing detour routes for local traffic from "shall" to "may". This is only for county and townships roads. The second part deals with warning lights. The third part deals with the mandate to improve and maintain detour routes on township roads. He offered two amendment to the bill. One to clarify language to make Sec. 3 consistent with Sec. 2. The second amendment deals with revising the first portion of 68-2107 rather than repealing this section which is referenced in 68-2106 (Attachment 1). Members discussed the bill and proposed amendments. They agreed they had no problem with the revisions and amendments. However since questions were raised concerning the detour issue, Mr. Lutz stated they could take another look at this section if that is desired. Hearing closed.

**SB 447: Constructing culverts or new entrances on public roads**

Does not change underlying intent of original statutes. Just changes language to clarify responsibilities for payment of costs. Larry Emig, KDOT Policy Chief, Bureau of Local Projects advised members this bill just clarifies current practices. . Mr. Lutz requested an amendment to the bill as drafted. It would remove "...and the township clerk on townships roads..." to read "...and the township board on township roads..." (Attachment 2). Senator Salmans moved to adopt the amendment. Senator Goodwin seconded the motion. Motion carried.. Hearing closed..

CONTINUATION SHEET

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE at 8:30 a.m. on February 10, 2004 in Room 527-S of the Capitol.

**SB 448: Repealing statutes related to certain roads & highways**

This bill repeals several statutes that are either redundant, out of date, no longer used or conflict with other statutes. In reviewing the bill as written they discovered some statutes that should be studied further before they are repealed. Requested amendments to the bill as drafted to not repeal 68-560, 68-561, 68-572 and 68-1109 (Attachment 3). Mr. Emig answered questions regarding 68-1134; surplus materials. Senator Salmans moved adoption of the amendments. Senator Schodorf seconded the motion. Motion carried. Hearing closed.

**SB 449: Roads and highways, bids**

This bill makes minor revisions concerning bids. Following further review of these proposed revisions need to request amendments to the bill as drafted. Do not repeal Sec. 3. Change Sec. 4, Line 20. New language clarifies that all bidding contractors shall be "qualified." Sec. 6, change to allow bid openings in advertised public setting without having to convene a meeting of board of county commissioners (Attachment 4). Question raised regarding policy change related to letting of bids in Sec. 6. , KSA 68-1115. Referred back to Sec. 4 amendment which would add the word "qualified" before bidders. Chairman Donovan requested interested parties look into the matter of a policy change and present the findings to the Committee. Hearing continued on **SB 449**.

**SB 194: Requiring electrically operated traffic control devices at intersection of K-7 & Clear Creek Parkway**

Chairman Donovan reported this bill, which was introduced last year, is no longer needed. The problem which led to introduction of the bill has been resolved without recourse to legislation. Senator Schodorf moved to recommend SB 194 be not passed. Senator Lyon seconded the motion. Motion carried.

The Chair also requested information be obtained regarding local ordinances forbidding the use of backup warning signals on trucks in the early morning hours.

**Approval of minutes**

Senator Goodwin moved to approve minutes of the February 4, 2004 meeting. Senator Salmans seconded the motion. Motion carried.

The meeting adjourned at 9:25 a.m.

The next meeting is scheduled for February 11, 2004

SENATE TRANSPORTATION COMMITTEE  
GUEST LIST

DATE: February 10, 2004

NAME	REPRESENTING
Ron LACHES	GBBA
GARY DUNFORD	Ks Motor CARRIERS ASSN
Larry Erzig	Kans Dept. of Transp.
charlie klingler	Leavenworth Leadership
Steve Wynn	Leavenworth Lansing Leadership
Eun Land	Sen Adkins
Darryl Lutz	Ks Co. Highway Assoc.

**TESTIMONY**

**SB 446**

**RE: An act concerning duties and liabilities during repairs or improvements to roads and highways.**

**Senate Transportation Committee  
Senator Les Donovan, Chairman**

Presented by: Darryl C. Lutz, P.E., Butler County Engineer  
February 10, 2004

To: Mr. Chairman and Members of the Senate Transportation Committee

I am here today to testify in support of this bill and to propose minor amendments.

I am Darryl Lutz, P.E., Director of Public Works and County Engineer for Butler County. I have served in this position for nearly 13 years. I am a member of the Kansas County Highway Association (KCHA) and currently Chair the Legislative Committee of that organization. The KCHA is an affiliate organization of the Kansas Association of Counties (KAC) and is a statewide organization of County Engineers, Public Works Directors, Highway Administrators, and other highway officials. The primary purpose of the KCHA is to provide technical programs and educational opportunities for its members to advance their knowledge and skills related County road, bridge and public works functions and to develop their skills as administrators of their respective County departments.

The Kansas County Highway Association (KCHA) began work over 2 years ago to revise and recodify the sections of Chapter 68 of the Kansas Statutes that relate to County road and bridge issues. The intent of the KCHA's quest is to repeal statutes that are conflicting with other statutes or are outdated and to revise other statutes to appropriately address current issues. The KCHA has worked closely with the KDOT to develop the proposals that resulted in drafting this bill. Work to update the County road statutes has been endorsed by the Kansas Association of Counties and is included in the adopted 2004 legislative platform. SB 446 has been introduced by the Senate Transportation Committee at the request of the Kansas County Highway Association.

Senate Bill 446 proposes revisions to the K.S.A. 68-2101 through 68-2103 related designating detour routes and signing the same. This bill does the following:

- Removes the mandatory requirement to designate an official detour route for all projects in which a road is closed to the public. It is felt that many county and township projects are small, are located on local service roads and do not justify the cost or need to construct a detour route. Engineering judgment and servicing public needs should dictate when a detour route is to be designated and to what level it should be improved. This proposal, however, does not remove the need to properly sign projects for road closing.

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- Removes the requirement to use warning lights. The need for using warning lights is stipulated by the MUTCD. Warning lights should only be used when warranted by the MUTCD. Requiring warning lights when they are not warranted or justified creates a liability concern for counties.
- Removes the mandate that Counties are required to improve and maintain detour routes on Township roads from the road funds of the County. In most cases, this is an acceptable requirement and the county would do this a matter of duty. In some cases, however, it will not be necessary to make any improvements to a detour route due to the existing condition of the route or the minimal amount of traffic that would use the route. The mandate creates a liability concern for counties when improvement or maintenance is not required or justified.
- Repeals 68-2107. Do not repeal this section as it is referenced in 68-2106 and contains penalties for violation of the act. Please refer to a proposed revision below.

Following are requested amendments to the bill as drafted:

- Sec. 3, Paragraph 2. Strike the reference in Lines 17 & 18 to supplementing warning signs in the nighttime with warning lights. Also strike the term "lights" and "warning lights" in 2 other locations in the same paragraph. These changes will make Sec. 3 consistent with Sec. 2 which is the one of the purposes of this legislation being proposed.
- Do not repeal 68-2107. This statute is referenced in 68-2106. Thus, add a new section in this bill to revise to the first portion of 68-2107 as follows: Strike the phrase in the first sentence "Any person or the officers of any municipality, commission or district failing, neglecting or refusing ..." and replace with the following phrase: "Any person failing, neglecting or refusing ...". This revision will make the penalties referenced in 68-2106 and indicated in 68-2107 applicable to persons that fail to obey posted warning signs and barricades for construction projects.

Thank you for consideration of SB 446 with the proposed amendments. I stand ready for questions from the committee.

## TESTIMONY

### SB 447

**RE: An act relating to roads and highways; concerning culverts and new entrances.**

### Senate Transportation Committee

Senator Les Donovan, Chairman

Presented by: Darryl C. Lutz, P.E., Butler County Engineer  
February 10, 2004

To: Mr. Chairman and Members of the Senate Transportation Committee

I am here today to testify in support of this bill and to propose minor amendments.

I am Darryl Lutz, P.E., Director of Public Works and County Engineer for Butler County. I have served in this position for nearly 13 years. I am a member of the Kansas County Highway Association (KCHA) and currently Chair the Legislative Committee of that organization. The KCHA is an affiliate organization of the Kansas Association of Counties (KAC) and is a statewide organization of County Engineers, Public Works Directors, Highway Administrators, and other highway officials. The primary purpose of the KCHA is to provide technical programs and educational opportunities for its members to advance their knowledge and skills related County road, bridge and public works functions and to develop their skills as administrators of their respective County departments.

The Kansas County Highway Association (KCHA) began work over 2 years ago to revise and recodify the sections of Chapter 68 of the Kansas Statutes that relate to County road and bridge issues. The intent of the KCHA's quest is to repeal statutes that are conflicting with other statutes or are outdated and to revise other statutes to appropriately address current issues. The KCHA has worked closely with the KDOT to develop the proposals that resulted in drafting this bill. Work to update the County road statutes has been endorsed by the Kansas Association of Counties and is included in the adopted 2004 legislative platform. SB 447 has been introduced by the Senate Transportation Committee at the request of the Kansas County Highway Association.

Senate Bill 447 clarifies responsibilities for payment of costs for installing culverts and entrances along county, township or city roads and streets. Following is an overview of the proposed legislation:

- Where no ditches exist along a public road and a ditch needs to be constructed and existing access to a property is to be obstructed, the public entity will construct an entrance at the public entity's cost.
- If a culvert is required or requested by the property owner and an existing culvert does not exist, the public entity may require the property owner to pay the cost of the culvert.

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- If the property owner requests an additional or new entrance or culvert, the public entity may install the culvert and require the property owner to pay costs for such work.

Following is the requested amendment to the bill as drafted:

- New Sec. 1, Line 18. Change the following "... and the township clerk on township roads ..." to read "... and the township board on township roads ..." .

Thank you for consideration of SB 447 with the proposed amendment. I stand ready for questions from the committee.

## TESTIMONY

### SB 448

**RE: An act to repeal several statutes related to roads and highways.**

### Senate Transportation Committee

Senator Les Donovan, Chairman

Presented by: Darryl C. Lutz, P.E., Butler County Engineer  
February 10, 2004

To: Mr. Chairman and Members of the Senate Transportation Committee

I am here today to testify in support of this bill and to propose minor amendments.

I am Darryl Lutz, P.E., Director of Public Works and County Engineer for Butler County. I have served in this position for nearly 13 years. I am a member of the Kansas County Highway Association (KCHA) and currently Chair the Legislative Committee of that organization. The KCHA is an affiliate organization of the Kansas Association of Counties (KAC) and is a statewide organization of County Engineers, Public Works Directors, Highway Administrators, and other highway officials. The primary purpose of the KCHA is to provide technical programs and educational opportunities for its members to advance their knowledge and skills related County road, bridge and public works functions and to develop their skills as administrators of their respective County departments.

The Kansas County Highway Association (KCHA) began work over 2 years ago to revise and recodify the sections of Chapter 68 of the Kansas Statutes that relate to County road and bridge issues. The intent of the KCHA's quest is to repeal statutes that are conflicting with other statutes or are outdated and to revise other statutes to appropriately address current issues. The KCHA has worked closely with the KDOT to develop the proposals that resulted in drafting this bill. Work to update the County road statutes has been endorsed by the Kansas Association of Counties and is included in the adopted 2004 legislative platform. SB 448 has been introduced by the Senate Transportation Committee at the request of the Kansas County Highway Association.

Senate Bill 448 proposes the repeal of several statutes that are either redundant, out of date, no longer used or conflict with other statutes. Following is the basis for the repeal of the each statute.

- 68-507 - This statute was created in 1917 and deals with designating certain county line roads as county roads and also deals with dividing maintenance responsibilities for such county line roads. This statute is redundant inasmuch as 68-527 already provides for division of maintenance of county line roads and Counties also have the authority to enter into interlocal agreements for such activities. 68-572 gives specific authority for cities, townships and counties to enter into agreements to construct and maintain roads.

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- 68-515a - This statute pertains to extension of the county road system. The statute places a limitation for adding mileage to the County road system. The statute is unnecessary. In today's time it is highly unlikely that a County will want to add more than 25 miles of road to the County road system at one time, however, the Boards of County Commissioners in their respective counties should be able to make a reasonable determination of extending the county road system without limitations.
- 68-528 - This statute was created in 1917 and stipulates that the secretary of transportation determines the cost of improvements on disputes over improving county line roads. It is not known of any occasion in recent time that this statute has been used.
- 68-533 - This statute was created in 1917 and stipulates that road improvements be done in a timely manner and in accordance with the requirements of the secretary of transportation. Again, it is not known of any occasion in recent time that this statute has been used.
- 68-560 & 561 - **These statutes should not be repealed at this time.** These statutes provide for Township road maintenance for individual townships be turned over to the County when the township voters petition and favorably pass by majority vote such action. They were originally proposed to be repealed because of a newer more recent statute that does a similar thing. The new statute does not utilize the same method for turning roads over to counties. The KCHA will likely study both statutes and try to combine them together.
- 68-572 - **Do not repeal this statute at this time.** It is felt that this is a good statute since it gives specific permission to cities, counties and townships to enter into agreements for road maintenance and construction. This statute should also be kept since 68-507 is proposed for repeal.
- 68-901 through 68-908 - This group of statutes relates to damming of draws, creek and watercourses as a result of opening and constructing county and township roads. These statutes were enacted in 1915 when section line roads were being opened are outdated. The damming or obstructing of waterways is now under the jurisdiction of the department of agriculture, division of water resources. The provisions in this group of statutes no longer apply or are allowed.
- 68-1109 - **Do not repeal this statute at this time.** This statute sets minimum widths for bridges and culverts on county roads and on township roads. This statute has road classification language which is related to other statutes that will be proposed for revision next year. This statute should be reviewed again by KDOT and the KCHA prior to recommending repeal or revision.
- 68-1123 - This statute deals with inter-county bridges. The statute requires a bridge be built across a county line divided by a waterway by petition and favorable vote of the people of both counties. This statute was originally adopted in 1917. The KCHA is not aware of this statute being used in recent history or ever.
- 68-1131 & 1132 - These statutes set penalties for violation of the act. It appears, however, that the act was contained in 68-1130 which was repealed in 1970, thus these statutes no long have relevance.

- 68-1134 - This statute requires that the secretary of transportation allow counties to take possession of materials from bridges on county roads for roads that have been taken over as a state highway and the bridge will be removed and not proposed for use by the secretary at another location. This type of action can be dealt with through agreements without having to have this statute. The statute was created in 1935 and probably no longer has relevance.
- 68-1231 - This statute pertains to a specific project in Geary County over the Smoky Hill River and was created in 1961. This statute required a question to build the bridge and to issue up to \$400,000 in general obligation bonds to be put to a vote. This statute is not relevant to any other county and probably is no longer needed.

Following are requested amendments to the bill as drafted:

- Do not repeal 68-560, 68-561, 68-572 and 68-1109.

Thank you for consideration of SB 448 with the proposed amendments. I stand ready for questions from the committee.

**TESTIMONY**

**SB 449**

**RE: An act relating to roads and highways; concerning bids.**

**Senate Transportation Committee**

**Senator Les Donovan, Chairman**

Presented by: Darryl C. Lutz, P.E., Butler County Engineer  
February 10, 2004

To: Mr. Chairman and Members of the Senate Transportation Committee

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Senate Bill 449 proposes the following:

- Sec. 1, Paragraph 1. Removes the stipulation that the Secretary of Transportation approves all costs paid for materials for County road projects. This is an outdated statute and probably is not followed. County Commissioners have the ability through county staff, consultants or on their own to determine the reasonableness of costs paid on materials. In most cases, materials are purchased through a specification based competitive bidding process.
- Sec. 1, Page 2 & 3. Strikes language that is outdated and is no longer applicable.

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- Sec. 3. After further review by staff from KDOT, it has been requested to not make any revisions to this statute at this time. Please see proposed amendments below.
- Sec. 4. Removes the requirement that bidding proposal blanks be approved by KDOT. In many cases, counties use KDOT's bidding forms for letting road or bridge contracts. In some cases, however, counties utilize their own documents that have been drafted or reviewed by their own legal counsel or may conform to another format develop by one of many national associations.
- Sec. 5. Changes the bid security from 10% to 5% for bridge contracts. This change makes the bid security uniform with KDOT requirements and with the requirements for County road projects which in both cases is 5%.
- Sec. 6. This section is proposed to be amended from the present form proposed in this bill. Please see proposed amendments below.
- Sec. 7. This section increases the amount of time for a bidder to return contracts from 10 days to 30 days. This gives contractors a more reasonable time frame to obtain signatures on contracts and to secure required bonds and insurance and to place contract approval on the county commission agenda.
- Sec. 8. This section allows the county counselor to review and approve bidding documents and contracts and bonds as an alternative to the county attorney.
- Sec. 9. Changes the word "superintend" to "inspect" in regards to county oversight of construction projects. This change more accurately defines the relationship of the county to project construction activities.
- Sec. 10. Changes the retainage for project payments to contractors from 10% to 5%. This is the retainage used by KDOT and by many counties already. A 5% retainage is a sufficient amount to entice a contractor to finish his work and make the appropriate submittals in a timely manner.
- Sec. 12. Removes the reference to Township "bridge". By statutory definition, bridges on Township roads belong to counties.

Following are requested amendments to the bill as drafted:

- Sec. 3. Do not revise this statute. After further comment from KDOT staff, they feel that some county bridge plans may need to be reviewed by KDOT, particularly in some counties that do not have county engineers. This statute also deals with County Engineer duties. The KCHA in conjunction with KDOT and KU Transportation Center is currently working on a proposal for statute revisions that involve county engineer duties. This proposal will likely be made to the legislature in 2005.
- Sec. 4, Line 20. Add the word "qualified" in front of the word "bidders". The sentence should read as follows: "... in such a manner as to give free, open competition, and all (qualified) bidders shall be ...". This clarifies that contractors bidding on county bridge work shall be qualified as is required by KDOT on their projects.
- Sec. 6, Change the first sentence to add the wording in parenthesis as follows: "... be opened publicly by the board (or the board's designee) at the place ... recorded in detail in the minutes of the board of county commissioners (or a record kept for

that purpose by the county clerk). Some counties utilize bid committees to open bids for contracts, equipment, commodities or other purchases. The proposed revision will provide for opening of construction bids in an advertised public setting without having to convene a meeting of the board of county commissioners. The award of bid and the approval of contracts, however, are still made by action of the Board of County Commissioners in public meeting.

Thank you for consideration of SB 449 bill with the proposed amendments. I stand ready for questions from the committee.