

SESSION OF 2008

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2217**

As Agreed to May 1, 2008

Brief*

HB 2217 deal with several local government issues: electronic filing of budget forms, approval of mayoral appointments, abandoned cemeteries, fire districts, and township dissolution and consolidation. Details of the bill follow.

Electronic Filing of Budget Forms

The bill would require all taxing subdivisions and municipalities to file electronically all required annual budget forms and related information, beginning in 2009.

Approval of Mayoral Appointments

The bill would require the governing body of any city to act upon any appointment made by the mayor, which is subject to approval, within 45 days of the mayor's appointment. The bill would require further that the city governing body approve the appointment unless the governing body passes a resolution stating the person is not fit or not qualified to hold the office or position in question. If not acted upon within 45 days, the mayor's appointment would be deemed approved.

Abandoned Cemeteries

Effective upon publication in the *Kansas Register*, this portion of the bill would amend existing law to void all liens on

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abandoned cemeteries for which the title has been vested in the municipality where the cemetery is located, pursuant to KSA 17-1367. The bill would void existing liens on such property on and after January 1, 2003.

New Johnson County Consolidated Fire District; Other Fire District Law Revisions

SB 574 would allow for the creation of a new, consolidated fire district between the City of De Soto and Johnson County Fire District No. 3. The bill also would increase the number of governing body members for Johnson County Fire District No. 2, and it would increase the maximum mill levy and make other changes for consolidated fire districts in general.

In detail, the bill would:

- Name the new district (involving the City of De Soto and Johnson County Fire District No. 3) the Northwest Consolidated Fire District (NCFD).
- Require NCFD to have a five-member governing body and specify the membership.
- Require the NCFD governing body members to serve staggered, three-year terms.
- Increase from five to seven the number of governing body members for Johnson County Fire District No. 2, by requiring the Board of County Commissioners to appoint the two additional members on July 1, 2008.
- Increase the maximum mill levy for consolidated fire districts from 11 to 15 mills.
- Remove the requirement that all funds in a consolidated fire district's treasury, at the time of consolidation, be applied to the payment of any outstanding indebtedness, making this provision permissive instead. Further, the bill would allow these funds to be transferred to the treasury

of the new consolidated fire district as determined by the board of county commissioners. Provisions also are made relating to any debt service fund of a consolidated fire district.

Township Dissolution, Disorganization and Consolidation

This portion of the bill adds and makes changes to the laws authorizing dissolution, disorganization or consolidation of townships. Among the bill's major changes are the following:

- Permit the board of county commissioners to establish a county service taxing district when a township has been dissolved or disorganized due to (a) consolidation with another township, (b) attachment of its territory to another township, or (3) transfer of the township's duties to the county by adoption of a resolution.
 - Procedures for notification are provided in the bill.
 - A protest petition signed by a majority of qualified voters in the territory of the proposed county service taxing district can cause the district's creation to be abandoned prior to the effective date of creation. A protest petition with the same signature requirement would trigger a process for the dissolution of the county service taxing district after its creation.
 - The district's budget must include provisions for the operation of the district, including the ability to levy a property tax or service charge (both applied within service district boundaries) or impose special assessments, or any combination of these levies and charges.
- Eliminate the exemption from the annual audit requirement *for the first time* for specific municipalities (unified school districts, recreation commissions with more than \$150,000 annual gross receipts, other municipalities with more than \$275,000 in either aggregate annual gross receipts or

outstanding general obligation or revenue bonds) if the municipality requests assistance in complying with the required accounting procedures.

- The bill also would eliminate the exemption from the annual audit requirement in any year for townships that are required to have an audit.
- Add the alternative of allowing the board of county commissioners to deposit funds into the county general fund, transferred by a township to the county when the township board chooses to transfer all its powers, duties and functions to the county. To do so would require a 2/3 vote of all board members that all duties and funds transferred by the township are to be assumed by the county. (Current law requires transferred township funds be placed in a special fund.)
 - The bill also would remove the authority of the township voters to petition the county commissioners to return the powers, duties and functions to the township board.
- Add two conditions to the one currently in statute allowing the board of county commissioners to proceed to disorganize a township and attach all or part of its territory to another township or townships. Current law allows the county commissioners to do so when the number of residents of the township is less than 200. While the bill would repeal the current statute and replace it with a new one, the new law contains this condition as well. Under the bill, only one of the resulting three conditions would have to be met. The additional two conditions are:
 - A vacancy exists for two consecutive years in the office of township trustee, clerk or treasurer.
 - The township fails to file an annual budget for two consecutive years.

- Repeal current law and reinstate it in revised form, providing for a petition process to keep the board of county commissioners from disorganizing a township. The language includes a notification requirement of the board's intent to disorganize the township, and a number equal to 10 percent of those voting in the last general election must sign the petition to submit the proposition to the electorate.
- Specify that certain statutory provisions for disorganizing a township (KSA 80-1110 *et seq.*) are for townships with more than 200 residents.
- Eliminate the requirements for townships to license billiard halls, pool halls, roller skating rinks, and bowling alleys.

Conference Committee Action

The Conference Committee deleted the contents of the bill (which were placed in 2007 HB 2058 and approved by the Governor on April 18, 2007). The Conference Committee added the contents of the following bills, with changes as noted:

- The portion of HB 2331, as amended by the Senate Committee on Elections and Local Government, that addresses electronic filing of budget forms. Not included were the changes to the Kansas Open Meetings Act dealing with serial meetings.
- HB 2648, as amended by the House Committee of the Whole, regarding approval of mayoral appointments. The deadline for the city governing body to act on the appointment was increased from 30 to 45 days following the mayor's appointment.
- HB 2935, as amended by the House Committee on Elections and Governmental Organization.
- SB 574, as amended by the Senate Committee of the Whole.

- SB 460, as amended by the Senate Committee on Federal and State Affairs with changes. Language in existing law was reinserted in a revised form, regarding the ability to petition to keep a township intact under certain circumstances. New language was added allowing for a procedure to dissolve a county service taxing district after its creation.

Background

Testifying in favor of the original **HB 2331** were representatives of the Kansas Advisory Council on Intergovernmental Relations (KACIR), a township, and the League of Kansas Municipalities. No opposing testimony was received. The KACIR representatives stated the bill's purpose was to promote efficient government, with the anticipated result being the availability of more useful information.

The House Committee amended the bill to:

- Require county clerks to provide assistance to the taxing subdivisions and municipalities in complying with the requirement, if they request assistance; and
- Change the year for which the electronic filing requirement would begin from 2008 to 2009.

The House Committee of the Whole adopted a technical and conforming amendment.

The Senate Committee amended the bill to:

- Delete the requirement that the county clerk provide assistance on request to the taxing subdivision or municipality in complying with the electronic filing requirements; and

- Add the changes to the KOMA regarding serial meetings. (Note: the Conference Committee did not include these changes.)

The fiscal note indicated passage of the bill potentially could have a fiscal effect on some municipalities that do not have appropriate computer equipment or Internet connectivity. Data were not available to estimate the potential impact.

Representative Mike O'Neal and the Mayor of Girard testified in favor of **HB 2648**. A League of Kansas Municipalities representative testified in opposition.

The House Committee amended the bill to:

- Add the consequence that would occur if the appointment is not acted upon by the governing body.
- Expand the reasons for not approving a mayor's appointment to include "not qualified." The original bill allowed only that the appointee be deemed not fit to hold the office or position to which the mayor makes the appointment.

The House Committee of the Whole made a technical amendment to the bill.

Passage of the bill would not have a fiscal effect on cities, according to the fiscal note.

With respect to **HB 2935**, under existing law, when the Attorney General determines a cemetery has been abandoned, the cemetery corporation is dissolved, and title to all property owned by the corporation is vested in the municipality where the cemetery is located. The municipality becomes responsible for maintaining the cemetery.

Shawn Leisinger, Assistant Shawnee County Counselor, testified in support of the bill, and Sue Hack, Mayor of Lawrence, submitted written testimony in support of the bill.

Both municipalities are in the process of assuming responsibility for abandoned cemeteries.

The House Committee made a technical amendment to the bill.

The fiscal note prepared by the Division of the Budget indicates passage of the bill would have no effect on the state budget.

Senator Julia Lynn and the De Soto City Administrator testified in favor of **SB 574**. The De Soto official indicated current law does not provide acceptably for the consolidation of a city and county fire department.

The Senate Committee amended the bill to:

- Name specifically the two entities – the City of De Soto and Johnson County Fire District No. 3 – that are consolidating into the new fire district, and name the new district.
- Remove revisions to current law, contained in the original bill, that would have addressed governing board membership when consolidating any fire districts governed by more than one political or taxing subdivision. These provisions were replaced with new language addressing board membership for the specific consolidation between the City of De Soto and Johnson County.
- Add the changes to current law dealing with a consolidated fire district's treasury and debt service fund.
- Make technical and clarifying changes.

The Senate Committee of the Whole amended the bill to increase the membership of the Johnson County Fire District No. 2 governing body.

The fiscal note indicates there would be no additional expenditures to counties from the passage of SB 574. However, due to the increase on the mill levy cap, additional revenues could result. Insufficient information was available to determine an accurate estimate of the bill's fiscal effect at this time.

Proponents of **SB 460** included Joan Wagon, Secretary of Revenue and Chairperson of the Kansas Advisory Council on Intergovernmental Relations (KACIR); Randall Allen, Executive Director, Kansas Association of Counties (KAC); and Jack Rowlett, Jr., KACIR. No opponents testified.

According to the fiscal note, the KAC indicates the bill would allow counties to receive funds and provide county services in areas where townships have been consolidated or dissolved. The League of Kansas Municipalities indicated that the bill's passage may increase costs for a limited number of cities that may be required to obtain an audit because they no longer would be able to receive a first-time exemption as allowed under current law.