

SESSION OF 2015

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2165**

As Agreed to April 29, 2015

Brief*

HB 2165 would amend statutes relating to the local government topics of improvement districts, municipal contracts, sewer districts, and annexation.

Improvement Districts

Regarding appointments to vacancies in the office of a director of an improvement district, the bill would create specific provisions for the Peck Improvement District located in Sumner and Sedgwick Counties. The bill would require, when a vacancy occurs in the office of a director of the Peck Improvement District, the Sumner County Commission would appoint a resident of Sumner County or Sedgwick County to hold the office until the next election. If the Sedgwick County Commission does not reject the appointment within 30 days, the appointment would be considered approved. If the appointment is rejected, the appointment process would be repeated until a director is selected.

Continuing law, which would apply to all other improvement districts, specifies when a vacancy occurs in the office of director of an improvement district, the remaining directors appoint a person to fill the vacancy until the next election.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Municipal Contracts

The bill would expand the definition of “municipality” in KSA 12-2908, which allows contracts between municipalities, to include a school district, library district, road district, water district, drainage district, sewer district, or fire district. Currently, the applicable definition of “municipality” includes only a city, county, or township.

Competitive Bid Threshold for Sewer Districts

The bill would increase the threshold at which sewer districts contracting for construction of all or part of a sewer system must seek competitive bids. The threshold would increase from \$1,000 to \$15,000.

Annexation

The bill would significantly limit unilateral annexation by making the following changes:

- It would require express consent of the board of county commissioners by resolution adopted within 30 days following the date of the city’s required hearing on the proposed annexation under these circumstances:
 - If the land to be annexed is platted and some part adjoins the city;
 - If the land lies at least mainly within the city and has a common perimeter with the city boundary line of more than 50 percent;
 - If the land to be annexed is no more than 21 acres and the annexation will make the city boundary line straight or harmonious; or

- If the land to be annexed is no more than 21 acres and two-thirds of any boundary line adjoins the city.

In continuing law, county approval is not required for annexation when the land adjoins the city and the land:

- Is owned by or held in trust for the city;
 - Is owned by or held in trust for any governmental unit other than another city or a county; or
 - The owner has consented to annexation.
- It would make notification language regarding unilateral annexation of highway right-of-way consistent with language authorizing the annexation; and
 - It would eliminate unilateral annexation of noncontiguous land owned by a city.

The bill also would change provisions regarding consent annexation of noncontiguous land to require the affirmative vote of two-thirds of the members of the board of county commissioners, rather than a simple majority.

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The Conference Committee increased to \$15,000 the threshold at which sewer districts contracting for construction of all or part of a sewer system must seek competitive bids. The Conference Committee also incorporated the provisions of HB 2003, as amended by the Senate Committee on Local Government, regarding annexation.

Background

The bill, as it left the House, dealt only with the Peck Improvement District. The Senate Committee on Local Government amended the bill to add the contents of HB 2163, as amended by the House Committee on Local Government, regarding municipal contracts, and add the contents of HB 2164, as amended by the same House Committee, regarding sewer district contracting, but reduced the competitive bid threshold to \$2,500. As noted above, the Conference Committee further included the provisions of HB 2003 as amended by the Senate Committee on Local Government.

HB 2165, Peck Improvement District

In the House Committee on Local Government, Representative Trimmer testified in support of the bill, explaining the change would affect only one improvement district and is needed because the directors of the district have either resigned or are unwilling to serve. The Assistant County Counselor for Sumner County also testified in support of the bill and provided the following explanation. He said the Peck Improvement District was created in 2003 to provide sewer services to its members. At the most recent election, three candidates were elected – two candidates were on the ballot and one was a write-in candidate. The directors named on the ballot submitted resignations and the write-in candidate had not agreed, as of the time of the Committee's hearing, to sign an oath of office. However, the needs of the district to continue basic operation of the sewer system remain, notwithstanding the lack of a Board. The two counties have provided informal assistance but are legally prohibited from, and have no interest in, assuming control of the improvement district. A representative of Sedgwick County testified the County supports the bill but proposed an amendment to more clearly define the County's right to approve or disapprove Sumner County's appointment of a director.

The House Committee amended the bill to include provisions that further specify the appointment process.

Proponents in the Senate Committee included representatives of Sumner and Sedgwick counties. No neutral or opposing testimony was received.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates the Kansas Association of Counties (KAC) does not expect enactment of the bill to have a fiscal effect on any Kansas county.

HB 2163, Municipal Contracting

The bill was introduced by the House Committee on Local Government. Proponents testifying in the House Committee included representatives of the Johnson County Board of County Commissioners, the Kansas Association of School Boards, and the League of Kansas Municipalities (LKM). Proponents said expanding the definition of municipality in this statute would create more opportunities for cooperative efforts by local governmental entities, thereby enhancing efficiencies, expertise, and cost savings. Contracting was described as a more streamlined method for municipalities to coordinate than *via* interlocal agreements. There was no neutral or opponent testimony.

The House Committee on Local Government amended the bill to include water districts in the definition of municipalities in KSA 12-2908.

A representative of the Kansas Association of School Boards testified favorably to the Senate Committee, and written proponent testimony was received from a Johnson County assistant counselor representing the Johnson County Board of County Commissioners.

The fiscal note prepared by the Division of the Budget on HB 2163, as introduced, indicates the KAC believes

passage of the bill would have no fiscal effect on counties. According to the LKM, passage of the bill could result in some yet-unknown cost savings for districts that enter into interlocal agreements because it would permit those districts to enter into contracts for services with other public entities.

HB 2164, Competitive Bid Threshold for Sewer Districts

The bill was introduced by the House Committee on Local Government. Testimony in support of the bill in the House Committee was presented by representatives of Riley County: the Director of Public Works, the County Counselor, and a County Commissioner. A representative of the KAC also testified in support of the bill. Proponents said the \$1,000 threshold impeded timely response to breakdowns in sewer systems, and they noted a \$25,000 threshold would be consistent with state law requiring competitive bids for repairs to county buildings. No neutral or opponent testimony was presented.

The House Committee amended the bill to raise the threshold for competitive bids for sewer district construction from \$15,000, as proposed in the introduced version of the bill, to \$25,000.

Conferees in the Senate Committee included two proponents: a representative of the KAC and the Director of Public Works of Riley County. Written proponent testimony was received from the Board of Riley County Commissioners. There was no neutral or opponent testimony.

The Senate Committee amended the bill to reduce the threshold for competitive bids for sewer district construction from \$25,000, as proposed in the House Committee version of the bill, to \$2,500.

The fiscal note prepared by the Division of the Budget on HB 2164, as introduced, indicates the KAC estimated the bill could result in counties paying more in construction costs,

while the LKM did not expect passage of the bill to have a fiscal effect on Kansas cities.

HB 2003, Annexation

The bill was requested by Representative Houser in response to a situation in Cherokee County in which land in the county, not contiguous to the City of Galena, came into city ownership and was annexed by the city for use as a landfill. He testified this process provides no checks and balances and fails to protect the rights of property owners in areas surrounding the land to be annexed. Additional testimony in support of the bill in the House Committee was provided by the Chairman of the Board of County Commissioners of Cherokee County and six private citizens. Written testimony in support of the bill was submitted by 32 private citizens. Proponents expressed concern that unilateral annexation of noncontiguous land owned by a city denies county residents representation in the process, and the proposed use of the annexed land for a landfill would diminish property values and pose health and environmental risks to the community.

Written neutral testimony was provided by the Chairman of the Board of County Commissioners of Sedgwick County.

A representative of the LKM testified in opposition to the bill, noting the current annexation process in Kansas was established through negotiation and compromise over several years. The representative expressed concern the proposed requirement for a unanimous vote by the Board of County Commissioners would greatly restrict the ability of a city to annex any land that does not adjoin the city.

The House Committee on Local Government amended the bill to remove provisions regarding consent annexation of noncontiguous land that would have required both a unanimous vote of the Board of County Commissioners and a finding by the Board that the annexation would not cause

manifest injury to the owners of the land surrounding the land proposed to be annexed.

The House Committee of the Whole amended notification language regarding highway right-of-way annexation.

In the hearing before the Senate Local Government Committee, Senator LaTurner, Representative Houser, and a representative of Cherokee County Farm Bureau and Kansas Farm Bureau provided testimony in support of the bill. Written proponent testimony was provided by two residents of Galena. The LKM Executive Director offered neutral testimony on the bill as amended by the House Committee of the Whole. A representative of the Salina City Commission provided written testimony in support of the amendment regarding right-of-way annexation. There was no other testimony.

The Senate Local Government Committee amended the bill to require county commission approval of unilateral annexation under most circumstances and to make the bill effective upon publication in the *Kansas Register*.

The fiscal note prepared by the Division of the Budget on the original bill indicates LKM was unable to determine what the fiscal effect of the bill might be on cities. LKM noted there is potential for litigation between a city and county with regard to the county's determination of an annexation; if so, such litigation could result in a significant fiscal effect. The Kansas Association of Counties anticipates no fiscal effect on counties.

municipality; contract; vacancy; improvement district; construction; sewer system; county commission; annexation

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