

SESSION OF 2018

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2597**

As Agreed to April 4, 2018

Brief*

HB 2597 would amend law regarding designation as an urban area; when a mayor is considered a member of a governing body; and the compensation, supervision, personnel, and budgeting policies of election commissioners.

Designation as an Urban Area

The bill would designate Sedgwick County as an urban area as permitted by Article 2, Section 17 of the *Kansas Constitution*. The designation would allow the Kansas Legislature to pass laws specific to those areas.

The bill would also clarify a provision exempting certain cemeteries from requirements related to cemetery maintenance funds to state any cemetery owned and operated by a nonprofit corporation located in a county designated as urban on or before March 1, 1968, would be exempt.

Mayor as a Member of a Governing Body

Based on the form of government utilized by a city, a mayor would be considered a member of a governing body, as follows:

*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>

- In commission and commission-manager cities, the mayor would be considered part of the city governing body in all matters; and
- In mayor-council, modified mayor-council, and mayor-council-manager cities, the mayor would be considered part of the city governing body for the purpose of voting on the passage of charter ordinances:
 - In order to be considered part of the governing body for purposes of voting on any other matter in mayor-council, modified mayor-council, and mayor-council-manager cities, an ordinance would need to be adopted by a two-thirds majority of the council establishing the matters on which a mayor may vote.

All existing ordinances and charter ordinances relating to a mayor being considered part of the city governing body would remain in effect until amended or repealed by such city.

County Election Commissioners

The bill would amend law regarding the supervision of election commissioners and their budgetary and personnel policies and procedures.

Compensation

The bill would allow a board of county commissioners (Board) to decide the amount and method used to compensate an election commissioner (Commissioner). A Commissioner would be allowed to appoint more than one assistant election commissioner and other staff, as necessary, and set the salaries for these positions. (Under current law, in a county with a population exceeding 200,000, the election commissioner shall appoint two assistant election

commissioners.) The bill would authorize the Commissioner to hire additional staff as needed to effectively operate the office and conduct elections as required by law. The Commissioner would set the salaries of the additional staff, but would be required to comply with the compensation policies and pay plan adopted by the Board.

Supervision

The Commissioner would be required to operate under the general supervision of the Secretary of State and comply with the statutes, rules, regulations, standards, and directives relating to registration of voters and conduct of elections.

Personnel and Budgeting Policies

The bill would require actions taken in the administration of the office of the Commissioner be subject to the same personnel, compensation and benefits, purchasing, budgeting, financial, and auditing policies and procedures applicable to all county departments, agencies, and officials.

The bill would remove provisions that require the election commissioner to certify, by each July 15, to the Board an itemized statement showing the amount necessary to pay the expenses of the office, including salaries, and for county commissioners to include that amount in the county budget for the subsequent year.

The bill would require the Commissioner to submit a budget request to the Board each year, specifying the funding necessary to pay salaries of the office's employees, including the Commissioner, and projected costs and expenses of the office for the next budget year. The Board would be required to consider the budget request in the same manner as it considers budgets of other county departments and agencies. The bill would require the Board to adopt, as part of the county budget, a budget for the office of the Commissioner in

an amount the Board determines is sufficient and adequate for the performance of the Commissioner's duties and conduct of elections as required by law.

Conference Committee Action

The Conference Committee agreed to the provisions of HB 2597, as amended by the Senate Committee of the Whole, with following changes:

- Include the provisions of HB 2505, as recommended by the House Committee on Local Government;
- Include the provisions of HB 2509, as recommended by the House Committee on Local Government; and
- Make all provisions effective upon publication in the statute book.

Background

The Conference Committee report contains provisions of HB 2597, HB 2505, and HB 2509.

HB 2597 (Designation as an Urban Area)

House Action

The bill was introduced at the request of Representative Carpenter. In the House Committee on Local Government hearing, a representative of the Sedgwick County Board of County Commissioners testified as a proponent of the bill. The representative provided a history of the designation, and explained that the designation would allow the Kansas

Legislature to pass laws specific to Sedgwick County without impacting the operations of other counties.

Senate Action

In the Senate Committee on Ethics, Elections and Local Government hearing, a representative of the Sedgwick County Commissioners provided proponent testimony, stating Johnson, Wyandotte, Shawnee, and Greeley counties already have this designation and this designation does not allow a county to do anything beyond making a request for specific legislation for that county from the Legislature.

Opponent testimony was provided by the Deputy Assistant Secretary of State for Business Services, stating the bill could have unintended consequences related to the regulation of cemetery trust funds and requesting an amendment. No other testimony was provided.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [Note: The Conference Committee did not retain this amendment.]

The Senate Committee of the Whole amended the bill as requested by the Deputy Assistant Secretary of State for Business Services. [Note: The Conference Committee retained this amendment.]

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on HB 2597, as introduced, the Kansas Department of Revenue indicates the bill would have no fiscal effect on state property taxes. However, the Kansas Department of Revenue and the Kansas Association of Counties (KAC) indicate future powers granted to Sedgwick County by the Legislature could result in future fiscal effects

that cannot be estimated. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.

HB 2505 (Mayor as a Member of a Governing Body)

House Action

The bill was introduced at the request of the League of Kansas Municipalities (League). In the House Committee on Local Government hearing, a representative of the League testified as a proponent of the bill and stated the bill would eliminate confusion regarding when a mayor is considered a member of a city's governing body.

No other testimony was provided.

Senate Action

In the Senate Committee on Ethics, Elections and Local Government hearing, a representative of the League provided proponent testimony, stating the bill would provide clarity by redefining when a mayor is considered a member of the city's governing body while giving cities the ability through local control to modify the general rule to best suit their situations. No other testimony was provided.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [Note: The Conference Committee did not retain this amendment.]

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on HB 2505, as introduced, the Office of Judicial

Administration and the League state the bill would have no fiscal effect.

HB 2509 (County Election Commissioners)

House Action

The bill was introduced at the request of Representative Orr. In the House Committee on Local Government hearing, representatives of the Johnson County Board of County Commissioners, the KAC, the Shawnee County Board of Commissioners, and the Unified Government Wyandotte and Kansas City, Kansas, appeared in support of the bill. They generally stated the intent of the bill was to give the board of county commissioners some oversight of the office practices of the election commissioner. The proponents stated the board of county commissioners is elected by taxpayers, while the election commissioner in each county with a population exceeding 130,000 is appointed by the Secretary of State. Written-only testimony in support of the bill was provided by the Sedgwick County Board of Commissioners.

Testimony in opposition to the bill was presented by Representative Esau and representatives of the Johnson County Elections Office, the Kansas Secretary of State, the Sedgwick County Elections Office, and the Shawnee County Elections Office. The opponents generally stated there were no issues with current law and expressed concern that allowing boards of county commissioners to limit election commissioner budgets would result in budget cuts, which would impact the successful administration of elections. Written-only testimony in opposition to the bill was provided by the Wyandotte County Elections Office.

No other testimony was provided.

SB 299

The provisions of SB 299 are identical to those of HB 2509.

The bill was introduced in the Senate Committee on Ethics, Elections and Local Government, at the request of the KAC. In the Senate Committee hearing, representatives from the Johnson County Board of County Commissioners, KAC, Shawnee County Board of County Commissioners, and the Unified Government of Wyandotte County and Kansas City, Kansas provided proponent testimony, stating the bill is a compromise in which the Secretary of State maintains the authority to appoint election commissioners in the largest four counties, but the board of county commissioners retains authority over the county budget and local policies. They noted Attorney General Opinion 2017-11 concludes a board of county commissioners must appropriate funds requested by the election commissioner. Written-only proponent testimony was provided by the Sedgwick County Board of County Commissioners.

Opponent testimony was provided by the Election Commissioners of Johnson, Sedgwick, Shawnee, and Wyandotte counties, as well as by the Director of Elections, Office of the Secretary of State. Opponents stated budget decisions made by the board of county commissioners could have potentially negative effects on the conduct of elections. Written-only opponent testimony was provided by Representative Esau.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on HB 2509 and SB 299, the KAC indicates enactment of the bill could have a fiscal effect on counties, as it would place election commissioners under the budget authority and personnel policies of the counties, giving the board of county commissioners the authority to reduce the commissioner's budget if necessary.

counties; cemeteries; city governing bodies; cities

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