



SouthDakota

Legislative
Research
Council

MINUTES
County Gov't Interim Committee

Representative Kristin Conzet, Chair
Senator Bob Ewing, Vice Chair

Third Meeting
2015 Interim
October 28, 2015

Room 414
State Capitol
Pierre, South Dakota

The third meeting of the County Government Interim Study Committee was called to order by **Representative Kristin Conzet, Chair**, at 9:00 a.m. (CDT) in room 413 of the State Capitol.

A quorum was determined with the following members answering the roll call: Representative Kristin Conzet, Chair; Senator Bob Ewing, Vice Chair; Representatives Mary Duvall, Dennis Feickert, Leslie Heinemann, Joshua Klumb, Elizabeth May, and James Schaefer; and Senators Jenna Hagggar, Jim Peterson, and Mike Vehle.

Staff members present included Fred Baatz, Principal Research Analyst; Amanda Jacobs, Research Analyst; Aaron Olson, Principal Fiscal Analyst; and Cindy Tryon, Senior Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.sd.gov>.

Approval of Minutes

A MOTION WAS MADE BY REPRESENTATIVE KLUMB, SECONDED BY SENATOR VEHLE TO APPROVE THE MINUTES OF THE SEPTEMBER 16-17 MEETING. The motion prevailed on a voice vote.

Draft Legislation (Review and Discussion)

Mr. Fred Baatz, Principal Research Analyst, Legislative Research Council, presented draft bills to the committee for their consideration.

Draft #39 – *An Act to eliminate certain reporting requirements for the county general fund.* This bill was suggested by Legislative Audit to repeal a reporting requirement in which the data is not used.

Draft #31 – *An Act to revise certain provisions concerning property tax limitations for counties.* This bill changes the property tax limitations for counties from whichever is less of 3% or the index factor, to whichever is greater of 3% or the index factor.

Draft #53 – *An Act to revise the distribution of the revenue from the alcoholic beverage fund.* This bill revises how the alcoholic beverage fund is distributed. Currently, the state receives 75% and the municipalities received 25%, totaling about \$10.5 million to the state and \$3.5 million to the

municipalities. This bill would change it to the state, counties, and municipalities each receiving 1/3 of the amount.

Draft #51 – *An Act to impose an additional tax upon the sale of certain alcoholic beverages and to distribute the revenue to counties.* This bill raises the tax on alcoholic beverages to about double what the occupational taxes are today. This would raise about \$25 million.

Draft #52 – *An Act to authorize counties to impose sales and use taxes.* This bill would allow the counties to collect up to a 1% sales and use tax countywide. This would raise \$210 – \$220 million if each county taxed the maximum amount allowed.

Draft #67 – *An Act to revise and repeal certain fees that are established to compensate counties for services provided by county officials.* This bill looks at several different fees that are collected by the counties and either repeals the fee or raises the fee to better cover the actual cost of the service.

Draft #50 – *An Act to revise certain administrative functions regarding county government.* This bill addresses some of the antiquated language found in statute regarding the counties. Some of the language dates back to 1907. Several county officials assisted in the drafting of this bill.

Draft #76 – *An Act to require municipalities to reimburse the counties for certain judicial and law enforcement expenditures.* This bill was requested by Senator Haggar and requires municipalities to pay the counties for some judicial and law enforcement costs based on population.

Draft #27 – *An Act to make form and style revisions to certain statutes regarding counties.* This bill addresses some of the antiquated style and form provisions found in Title 7 and revises them to adhere to current style and form practices. Before finalizing the bill, more study needs to be done to make sure none of the changes affect the substance of the law.

Public Testimony

Representative Conzet opened the meeting to public testimony.

Ms. Carol Muller, Human Services Director, and Bob Litz, County Auditor, Minnehaha County, presented a PowerPoint presentation, “*Minnehaha County Financial Projections*” (**Document #1**). The charts and graphs presented demonstrate how the gap between property tax revenue and expenses continues to grow.

Ms. Muller and Mr. Litz also distributed a document showing the Minnehaha County property tax budget projections through 2033 (**Document #2**). Mr. Litz said that they used regression analysis to make the projections. Some presumptions had to be made but the annual forecasts made in the past have been very accurate.

In response to questions, Ms. Muller explained that the decrease in the revenue stream from the jail is because more Minnehaha County prisoners mean fewer beds available to rent to other counties. Ms. Muller added that what the other counties pay in rent does not cover the actual costs. Mr. Litz said that Lincoln County has been a steady participant in renting jail cells from Minnehaha County, but with the growing number of arrests in Minnehaha County, they may not be able to house Lincoln County prisoners in the future.

Representative Leslie Heinemann asked Mr. Litz for his opinion on the legislation requiring the municipalities to pay part of the costs currently paid by the counties. Mr. Litz said that this is an

interesting idea and that they estimated it would mean about \$21 million per year in Minnehaha County, figuring an 80-20 split based on population.

Mr. Duane Sutton, Brown County Commissioner and President of the SD County Commissioners Association, commented that draft legislation #27 should be a working document and that this type of clean-up of the statutes would really help the counties moving forward. Mr. Sutton said that the counties would be happy to assist with continuing work on this legislation.

Mr. Sutton said that any of the proposed bills heard here today that will assist the counties; they will be willing to work with the legislature by talking to the members and by giving supporting testimony.

Mr. Dick Kelly, Minnehaha County Commissioner, said that it is not the counties' goal to increase property taxes, but rather to find solutions to the growing financial problems. Mr. Kelly said that the legislation regarding redistribution of resources would be a far better solution than raising property taxes. Also, having some alcohol taxes go back to the counties would be appropriate as at least 50% of the law enforcement problems are alcohol related.

Ms. Deb Tridle, Lawrence County Treasurer, testified via telephone stating that county fees charged in most other states are much higher than the fees allowed in South Dakota. Ms. Tridle said that Lawrence County is in favor of raising the county fees to be more in line with the fees collected in other states.

Ms. Nancy Trautman, Pennington County Commissioner, distributed a document outlining Pennington County's budget (**Document #3**). Ms. Trautman talked about draft legislation #76 saying that it would be difficult to pass but that there should be a middle ground regarding these issues. Section 2 of that draft refers to court appointed attorneys and that is a very large expense for the counties. There are no qualifications as to who can request a court appointed attorney and there are times when it is known that the defendant can afford an attorney but requests a court appointed attorney anyway. Ms. Trautman said that she would like to see some type of qualifications as to who is allowed a public defender.

Senator Jim Peterson said that he believes that if someone can afford their own attorney then they should not use a public defender. Senator Peterson added that the Attorney General's Office needs to be a part of this discussion before any action is taken.

Mr. Dick Howard, SD Association of Towns and Townships, testified that the Association of Towns and Townships supports the efforts and needs of the counties to raise additional revenue. Mr. Howard said that they would also like to encourage the legislature to take a look at the redistribution of the highway user fees.

Ms. Kathy Glines, County Auditor, Harding County, said that she is surprised that no taxpayers have contacted the committee about not raising taxes. Ms. Glines pointed out that although they are county officials, they are also taxpayers and do not want to pay more in taxes. The committee needs to spend more time discussing possible cuts rather than finding ways to raise more money. She asked that the committee members be advocates for the counties and when some new mandate is proposed that will cost the counties money support the counties in fighting the proposals rather than listening to the lobbyists who propose more spending.

Representative Conzet said that there needs to be specific cuts requested so that the committee can consider them. It is important to keep in mind that something being cut for one county may have an adverse effect on another county.

Representative Dennis Feickert said that he was a county commissioner when the property tax limits were passed and the county really struggled to find the cuts needed to meet those limits. Representative Feickert said that most counties have done everything they possibly can to stay within the limits and have cut everything they possibly can.

Ms. Staci Ackerman, Executive Director, SD Sheriffs Association, said that she took Senator Vehle's question, what things would they have to give up if nothing is done, back to the sheriffs. The responses were that the sheriffs do what is statutorily required of them and they cannot cut any of that. They have, however, cut staff even though more staff is actually needed. They have cut back on time spent on officer training. Some service calls, such as accidents involving motor vehicles hitting deer, may be handled over the phone. The sheriffs' time is consumed by so many other things, the number of traffic tickets being issued has gone down which means that funding source has decreased.

Ms. Ackerman commented on the issue of court appointed attorneys that was discussed earlier in the meeting. Ms. Ackerman said that there is an increase in felony cases and the judges want to make sure each defendant receives proper representation.

Ms. Ackerman said that the sheriffs do not want to see increased taxes but would rather see changes to the distribution of current revenues. Ms. Ackerman pointed out that as some city and town populations dwindle they decide to disband their police force which means the law enforcement then falls on the sheriff's office. The challenges are real and the need for more funding continues to grow.

Mr. Mike Leidholt, Sheriff, Hughes County, said he had been asked to testify regarding fees. According to Mr. Leidholt, Hughes County recoups about 45% of their costs through fees, Minnehaha County recoups about 30%, and Pennington County recoups about 25-30% of their costs. Because of those shortfalls, the Sheriff's support the raising of fees as proposed.

Representative Joshua Klumb asked Mr. Leidholt if there are any services they are currently required to provide that could be removed from statute. Mr. Leidholt said that the sheriffs often transport mental illness patients and that is a huge drain on the sheriffs' budgets.

Mr. Mark Vargo, State's Attorney, Pennington County, testified about how laws passed by the Legislature affect the State's Attorney offices. The Legislature establishes manner and means for the State's Attorneys so that they cannot necessarily do things the best way but have to do things as required by law. The legislature capped the amount the State's Attorney's office can be reimbursed for the youth division program, so that even if they have more kids they cannot receive more money to cover the costs. Also, the rules for victims mandate how certain notifications have to be made, and that does not always include the best way.

Mr. Vargo said that they have quadrupled the number of meth cases in Pennington County but have not quadrupled the number of attorneys to meet the increased trial load. The state provided for additional judges, but the county had to find a way to provide office space for those judges.

Mr. Vargo said that the proposed changes to the alcohol taxes should be seriously considered as 80% of their cases are drug and/or alcohol related. Not all who drink break the law, but alcohol is a major factor in the trial caseload.

Draft Legislation (Action)

Draft #39 – *An Act to eliminate certain reporting requirements for the county general fund.*
A MOTION WAS MADE BY REPRESENTATIVE DUVALL, SECONDED BY SENATOR PETERSON, TO SUBMIT DRAFT #39 AS COMMITTEE LEGISLATION. The motion prevailed on a

roll call vote with 11 voting AYE. Those voting AYE: Duvall, Feickert, Heinemann, Klumb, May, Schaefer, Hagggar, Peterson, Vehle, Ewing, Conzet.

Draft #31 – *An Act to revise certain provisions concerning property tax limitations for counties.*
DRAFT #31 DIED FOR LACK OF A MOTION.

Draft #53 – *An Act to revise the distribution of the revenue from the alcoholic beverage fund.*
A MOTION WAS MADE BY SENATOR EWING, SECONDED BY REPRESENTATIVE HEINEMANN, TO SUBMIT DRAFT #53 AS COMMITTEE LEGISLATION. The motion prevailed on a roll call vote with 11 voting AYE. Those voting AYE: Duvall, Feickert, Heinemann, Klumb, May, Schaefer, Hagggar, Peterson, Vehle, Ewing, Conzet.

Draft #51 – *An Act to impose an additional tax upon the sale of certain alcoholic beverages and to distribute the revenue to counties.*
A MOTION WAS MADE BY REPRESENTATIVE FEICKERT, SECONDED BY REPRESENTATIVE SCHAEFER, TO SUBMIT DRAFT #51 AS COMMITTEE LEGISLATION. The motion failed on a roll call vote with 4 voting AYE and 7 voting NAY. Those voting AYE: Feickert, Heinemann, Klumb, Schaefer. Those voting NAY: Duvall, May, Hagggar, Peterson, Vehle, Ewing, Conzet.

Draft #52 – *An Act to authorize counties to impose sales and use taxes.*
A MOTION WAS MADE BY REPRESENTATIVE MAY, SECONDED BY SENATOR EWING, TO SUBMIT DRAFT #52 AS COMMITTEE LEGISLATION. The motion prevailed on a roll call vote with 6 voting AYE and 5 voting NAY. Those voting AYE: Feickert, Klumb, May, Schaefer, Ewing, Conzet. Those voting NAY: Duvall, Heinemann, Hagggar, Peterson, Vehle.

Draft #67 – *An Act to revise and repeal certain fees that are established to compensate counties for services provided by county officials.*
A MOTION WAS MADE BY REPRESENTATIVE DUVALL, SECONDED BY REPRESENTATIVE HEINEMANN, TO SUBMIT DRAFT #67 AS COMMITTEE LEGISLATION. The motion prevailed on a roll call vote with 11 voting AYE. Those voting AYE: Duvall, Feickert, Heinemann, Klumb, May, Schaefer, Hagggar, Peterson, Vehle, Ewing, Conzet.

Draft #50 – *An Act to revise certain administrative functions regarding county government.*
A MOTION WAS MADE BY SENATOR VEHLE, SECONDED BY REPRESENTATIVE DUVALL, TO AMEND DRAFT #50 TO RETAIN SECTION 2 AND REMOVE SECTION 3. The motion prevailed on a voice vote.
A MOTION WAS MADE BY SENATOR VEHLE, SECONDED BY REPRESENTATIVE KLUMB, TO SUBMIT DRAFT #50 AS AMENDED AS COMMITTEE LEGISLATION. The motion prevailed on a roll call vote with 11 voting AYE. Those voting AYE: Duvall, Feickert, Heinemann, Klumb, May, Schaefer, Hagggar, Peterson, Vehle, Ewing, Conzet.

Draft #76 – *An Act to require municipalities to reimburse the counties for certain judicial and law enforcement expenditures.*
A MOTION WAS MADE BY SENATOR HAGGAR, SECONDED BY REPRESENTATIVE MAY, TO SUBMIT DRAFT #76 AS COMMITTEE LEGISLATION. The motion prevailed on a roll call vote with 7 voting AYE and 4 voting NAY. Those voting AYE: Feickert, Klumb, May, Schaefer, Hagggar, Ewing, Conzet. Those voting NAY: Duvall, Heinemann, Peterson, Vehle.

Draft #27 – *An Act to make form and style revisions to certain statutes regarding counties.* The committee agreed that a caveat be attached to this draft that further discussion and study may lead to changes to the sections within this proposed bill, but no additional sections shall be added.
A MOTION WAS MADE BY REPRESENTATIVE DUVALL, SECONDED BY REPRESENTATIVE HAGGAR, TO SUBMIT DRAFT #50 WITH CAVEAT AS COMMITTEE LEGISLATION. The motion

prevailed on a roll call vote with 11 voting AYE. Those voting AYE: Duvall, Feickert, Heinemann, Klumb, May, Schaefer, Hagggar, Peterson, Vehle, Ewing, Conzet.

Representative Conzet thanked the committee members and the staff for their hard work on this interim study.

Adjourn

A MOTION WAS MADE BY SENATOR HAGGAR, SECONDED BY REPRESENTATIVE FEICKERT, THAT THE COUNTY GOVERNMENT INTERIM COMMITTEE BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The meeting was adjourned at 12:05 p.m.

All committee agendas and minutes are available on the LRC website: <http://legis.sd.gov/>. You may subscribe to electronic delivery of agendas and minutes at E-Subscribe on the LRC website.