

# LEAGUE NEWS

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Phone: (785) 354-9565 / Fax: (785) 354-4186 / [www.lkm.org](http://www.lkm.org)

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### 1) Governor to Address City Officials

We are pleased to announce that Governor Mark Parkinson will be the keynote speaker at the 2010 City Hall Day. Governor Parkinson, along with a variety of legislative leaders, will join us to discuss key issues facing the state during the 2010 Legislative Session. Now more than ever, it is important that the voice of cities be heard in the State Capitol.

Plan now to attend and participate in this very important event!

[For More Information and Registration Click Here](#)

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### 2) 911 Bill Clears First Hurdle

[HB 2423](#) (now Sub SB 48) was heard this week in House Utilities Committee. This legislation represents a compromise between the League of Kansas Municipalities (LKM), the Kansas Association of Counties (KAC), and the telecommunications industry with regard to the future of 911 in Kansas.

Under this bill, fees for all users (wireless and wireline alike) will be set at \$.55. These monies will be collected at the state level by LKM and the KAC working together as the Local Collection Point Administrator (LCPA) just as we do now for wireless. 82% of the funds will be distributed directly back to the PSAPs based upon location data provided by the telecommunications provider. The remaining monies will be redistributed to PSAPs in counties with less than 75,000 population. In addition, there will be a grant fund maintained by the LCPA which will be maintained by a 1.1% fee on prepaid wireless services. The primary goal of the legislation is to maintain current revenue flows for PSAPs and to provide a path for going forward with "next generation" technology.

During the debate in Committee, there was an attempt by Sprint to provide for cost recovery for carriers out of the grant fund. PSAPs in this state categorically oppose the use of tax dollars to subsidize this private business in this way. The amendment was defeated in Committee, but we fully anticipate that there will be further attempts during floor debate and in the Senate.

**Action Requested:** Contact your House member and ask them to support Sub SB 48 as a fair and balanced compromise and to oppose any floor amendments to this bill.

For more information, please contact Kim Winn at [kwinn@lkm.org](mailto:kwinn@lkm.org) or by phone at (785) 354-9565.

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### 3) City Primary Bill Up for Hearing

[SB 422](#), amending the law relating to primary city elections, is scheduled for a hearing Thursday, January 28 in Senate Ethics and Elections Committee. City officials will recall that two years ago the number of candidates running that would necessitate a primary election was changed from no more than two candidates, to no more than three candidates for a

position. This change was intended to reduce the number of primary elections. Unfortunately, this law was interpreted by the Secretary of State's office to require that three candidates for every position advanced to the general election, even when a primary election was held. Thus, a candidate could be elected without getting a majority of the vote. In the 2009 Legislative Session, LKM advocated a return to the previous law which had worked well for many years. The Secretary of State's office and the County Clerk's Association, however, advocated amendatory language, but keeping the three candidate primary threshold in place. Neither version passed the Legislature.

Not deterred, the County Clerks Association and Secretary of State's office are again advocating the same three candidate threshold, but with the addition of clarifying language. After the bill did not pass last year, LKM drafted and publicized a charter ordinance that cities could adopt to either do away with primary elections altogether, or return to the previous language with the two candidate threshold. The city election laws have been nonuniform for many years, allowing the use of a charter ordinance. Many cities adopted the charter ordinance or already had charter ordinances eliminating primary elections. LKM's position is that the law needs to be returned to the original language or just left alone at this point. Another amendment to an already confusing law would just mean more cities would adopt charter ordinances, further muddying the waters. The bottom line is that the first change was not needed, because cities could already do charter ordinances to eliminate primaries, so the problem should not be compounded.

For more information, please contact Kim Winn at [kwinn@lkm.org](mailto:kwinn@lkm.org) or Sandy Jacquot at [sjacquot@lkm.org](mailto:sjacquot@lkm.org) or (785) 354-9565.

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#### 4) Amendments to One-Call to be Considered

Next Thursday, January 28 at 9:15 a.m. in Docking Room 785, the House Utilities Committee will be taking up [Sub SB 58](#), which makes a number of significant changes to the current one-call statutes. While it is very confusing to read because the bill attempts to amend the law as it was prior to the 2008 changes, two things are very clear: 1) This is an attempt to take away the Home Rule authority of cities to decide whether or not they want to comply with the one-call statutes; and 2) this is an attempt to remove Kansas One-Call from the requirement to comply with the Kansas Open Meetings Act and the Kansas Open Records Act. LKM will appear in opposition to these changes.

Action Requested. If your city will be affected by the changes, contact Committee Secretary Renae Hansen at (785) 296-7670 to offer written testimony or testimony in person. It is important that the Committee hear from you regarding this issue. Members of the Committee include:

			Capital Address	Capital Phone (785) 296+	E-mail
Rep.	Burgess	Mike	DSOB	7653	<a href="mailto:mike.burgess@house.ks.gov">mike.burgess@house.ks.gov</a>
Rep.	Brown	Tony	DSOB	7648	<a href="mailto:tony.brown@house.ks.gov">tony.brown@house.ks.gov</a>
Rep.	Finney	Gail	DSOB	7668	<a href="mailto:gail.finney@house.ks.gov">gail.finney@house.ks.gov</a>
Rep.	Fund	Rocky	167-W	7671	<a href="mailto:rocky.fund@house.ks.gov">rocky.fund@house.ks.gov</a>
Rep.	Holmes	Carl	(Chair) 174-W	7670	<a href="mailto:carl.holmes@house.ks.gov">carl.holmes@house.ks.gov</a>
Rep.	Johnson	Dan	167-W	7649	<a href="mailto:dan.johnson@house.ks.gov">dan.johnson@house.ks.gov</a>
Rep.	Knox	Forrest	(Vice Chair) 167-W	7671	<a href="mailto:forrest.knox@house.ks.gov">forrest.knox@house.ks.gov</a>
Rep.	Kuether	Annie	(Ranking Minority Member) 452-S	7669	<a href="mailto:annie.kuether@house.ks.gov">annie.kuether@house.ks.gov</a>
Rep.	Long	Margaret	DSOB	7643	<a href="mailto:margaret.long@house.ks.gov">margaret.long@house.ks.gov</a>
Rep.	Moxley	Tom	DSOB	7696	<a href="mailto:tom.moxley@house.ks.gov">tom.moxley@house.ks.gov</a>
Rep.	Myers	Don	561-W	7695	<a href="mailto:don.myers@house.ks.gov">don.myers@house.ks.gov</a>
Rep.	Neighbor	Cindy	DSOB	7687	<a href="mailto:cindy.neighbor@house.ks.gov">cindy.neighbor@house.ks.gov</a>
Rep.	O'Brien	Connie	DSOB	7656	<a href="mailto:connie.o'brien@house.ks.gov">connie.o'brien@house.ks.gov</a>
Rep.	Olson	Rob	561-W	7632	<a href="mailto:robert.olson@house.ks.gov">robert.olson@house.ks.gov</a>
Rep.	Proehl	Richard	50-S	7639	<a href="mailto:richard.proehl@house.ks.gov">richard.proehl@house.ks.gov</a>
Rep.	Seiwert	Joe	DSOB	7699	<a href="mailto:joe.seiwert@house.ks.gov">joe.seiwert@house.ks.gov</a>
Rep.	Slattery	Mike	DSOB	7665	<a href="mailto:mike.slattery@house.ks.gov">mike.slattery@house.ks.gov</a>
Rep.	Sloan	Tom	55-S	7654	<a href="mailto:tom.sloan@house.ks.gov">tom.sloan@house.ks.gov</a>
Rep.	Swanson	Vern	DSOB	7696	<a href="mailto:vern.swanson@house.ks.gov">vern.swanson@house.ks.gov</a>
Rep.	Talia	Milack	DSOB	7646	<a href="mailto:milack.talia@house.ks.gov">milack.talia@house.ks.gov</a>
Rep.	Wetta	Vincent	DSOB	7665	<a href="mailto:vince.wetta@house.ks.gov">vince.wetta@house.ks.gov</a>

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## 5) Construction Bill to be Debated

[HB 2238](#), a holdover from the 2009 Session, proposes amendments to both the Private and Public Construction Contract Acts. It is scheduled for a hearing on Thursday, January 28th, at 9:00 a.m. in the House Commerce and Labor Committee, Docking Building, room 784.

The provisions applying to the Public Construction Contract Act (K.S.A. 16-1901 et seq.) are found in sections 3 and 4 of the bill. Briefly summarized, the proposed changes include:

- The use of "alternative security" in lieu of retainage. Alternative security would include a retainage bond, bank letter of credit, certificate of deposit, or other mutually acceptable items of value equal to or exceeding the amount of the retained funds.
- The definition of "retainage" or "retention" would be modified to clarify that the retainage is to assure timely performance by a contractor or subcontractor for the remainder of the contractor's or subcontractor's work on the project.
- Amending the definition of "substantial completion" to specify that when it relates to release of retainage that it means that portion subject to retainage is in a condition that it can be used for its intended purpose.
- The amount of the allowed retainage is capped at 5% of the amount of the contract. The retainage may be either withheld incrementally from monthly payments at the rate of 10% on the first 50% of the contract or at 5% of the total contract. Total retainage shall not exceed more than 150% of the value of the incomplete work when the incomplete work is not the fault of the contractor.
- A contractor or subcontractor could provide alternative security in lieu of retainage at any time during the project. If provided before the commencement of the project, no retainage would be withheld. If provided at any time after the first payment cycle, any retained funds would be paid with the next regular payment.
- An owner, contractor or subcontractor would not be permitted to withhold any retainage from any party to the contract that has provided a 100% payment bond.
- The time to release retainage is lengthened from 30 to 45 days after substantial completion and is to be paid as part of a regular payment cycle.

The significant changes are the provisions allowing the contractor or subcontractor to use alternative security and the limitations placed upon the amounts retained from each payment and the total amount of retainage that may be held. It is the League's position that parties to a contract should be able to negotiate the terms of the contract. The form of retainage acceptable to the parties, the amounts to be retained, and the method of payments of the retained amounts are simply terms to be negotiated and contained in the project contract.

The League will be appearing in opposition to the proposed changes. If you wish to submit testimony or to appear and testify on the bill, please contact the committee secretary at 785-296-7645. If you have questions or need additional information, please contact Larry Baer at [lbaer@lkm.org](mailto:lbaer@lkm.org) or 785-354-9565.

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## 6) Consolidation Bill Still Moving

[SB 75](#), which passed the Senate last year on a 27-11 vote, is now before the House for their consideration. It will be heard by the House Local Government Committee on Tuesday, January 26th at 3:30 p.m. in room 144-S. This bill was supported by LKM and has been a priority of the Kansas Advisory Council on Intergovernmental Relations (KACIR). [SB 75](#) would create a standard framework for cities and counties to voluntarily consolidate their governments. The bill provides a process for a city governing body and a board of county commissioners to create a consolidation study commission. The consolidation study commission would prepare and adopt a plan addressing the reorganization of the city and county. The plan would include the costs and benefits of reorganizing the city and county and the plan would only be implemented if approved by a majority of voters. LKM will keep you updated as this issue is considered in the House.

For more information on this issue, please contact Don Moler at [dmoler@lkm.org](mailto:dmoler@lkm.org) or by phone at (785) 354-9565.

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## 7) Texting While Driving Bill Heard

[HB 2439](#), which is a new bill that would prohibit texting while driving, was heard by the House Transportation Committee on Tuesday. A wide coalition of groups, including the League, appeared to support the legislation. There was no

opposition. The testimony focused on the public safety concerns which are a result of drivers looking away from the road to send or receive texts. It is anticipated that the bill will move quickly to the House Floor for consideration.

For more information on this issue, please contact Don Moler at [dmoler@lkm.org](mailto:dmoler@lkm.org) or by phone at (785) 354-9565.

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8) Legislative Activities-January 25-29, 2010					
Monday, January 25					
Time	Committee	Location	Bill No.	Topic	Activity
9:30	S,Ju	548-S	<a href="#">SCR 1621</a>	Expenditure of public moneys to finance litigation against the state	Hearing
3:30	H,Ju	346-S	<a href="#">HB 2417</a>	District judge positions converted to district magistrate judge positions if 20% or less of total district judge and district magistrate judge positions in judicial district are district magistrate judge positions	Hearing
	H,Ju	346-S	<a href="#">HB 2429</a>	Allowing the supreme court to eliminate and reassign district magistrate judge and district judge positions based on caseloads	Hearing
	H,Ju	346-S	<a href="#">HCR 5026</a>	Requesting the supreme court to conduct a survey and study of the Kansas court system; judicial study advisory committee	Hearing
Tuesday, January 26					
Time	Committee	Location	Bill No.	Topic	Activity
9:00	H,Tax	DSOB 783	<a href="#">HB 2475</a>	Increase in rate of sales tax (Opponents only)	Hearing
9:30	S,LG	144-S	<a href="#">HB 2125</a>	Requiring receipt for paid real estate tax before recording certain documents	Hearing
10:30	S,WMM	548-S	<a href="#">SB 405</a>	Municipalities; legal notices; web sites alternative	Hearing
3:30	H,LG	144-S	<a href="#">SB 75</a>	Municipalities; consolidation and reorganization; political and taxing subdivisions	Hearing
Wednesday, January 27					
Time	Committee	Location	Bill No.	Topic	Activity
9:00	H,App	346-S	<a href="#">HB 2403</a>	Creating the transparency and accountability in purchasing and state spending act	Hearing and possible action
	H,App	346-S		Presentation on Urban Areas as Partners with State: Carl Breever, Mayor, Wichita Carl Gerlich, Mayor, Overland Park Joe Reardon, Mayor, Kansas City	Presentation
9:30	S,Ju	548-S	<a href="#">SB 369</a>	Open records; reconciling a conflict	Hearing
	S,Ju	548-S	<a href="#">SB 305</a>	Kansas tort claims act; charitable health care providers	Hearing
10:30	S,FSA	144-S	<a href="#">SB 401</a>	Amendments to the Kansas expanded lottery act	Hearing

	S,WM	548-S		Carl Breever, Mayor, Wichita Carl Gerlich, Mayor, Overland Park Joe Reardon, Mayor, Kansas City	Presentation
1:30	S,U	548-S		Summary of Kansas Telecom Legislation: Cindy Lash, Legislative Research Department	
<b>Thursday, January 28</b>					
<b>Time</b>	<b>Committee</b>	<b>Location</b>	<b>Bill No.</b>	<b>Topic</b>	<b>Activity</b>
9:00	H,App	346-S	<a href="#">HB 2442</a>	Establishing the Kansas streamlining government commission; providing an independent review of state agencies of the executive branch of state government; prescribing powers, duties and functions for the commission and certain other state agencies	Hearing and possible action
	H,Tax	DSOB 783	<a href="#">HB 2463</a>	Establishing the simplified state tax structure committee	Hearing
	H,CL	DSOB 784	<a href="#">HB 2238</a>	Amending the fairness in private construction contract act and the fairness in public construction contract act regarding retainage	Hearing
9:15	H,EU	DSOB 785	<a href="#">Sub SB 58</a>	Kansas underground utility damage prevention act amendments	Hearing
9:30	S,EE	144-S	<a href="#">SB 422</a>	City/School Primary Elections Bill	Hearing
	S,Ju	548-S	<a href="#">SB 351</a>	Prohibiting texting while driving; penalties	Hearing
10:30	S,AT	152-S	<a href="#">SB 378</a>	Replace dollar cap limitation with 10% reduction in amount of income tax credit for expenditures for restoration and preservation of certain historic structures for fiscal year 2011	Hearing and possible action
	S,FSA	144-S	<a href="#">SB 301</a>	Repealing statutes concerning land surveys relating to monumentation of corners in boundaries of subdivisions	Hearing
	S,WM	548-S		Claims Against the State concerning Special City-County Highway Fund	Briefing
1:30	S,Edu	152-S	<a href="#">SB 354</a>	School districts; tax levies; property subject to taxation	Hearing

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## 9) Legislative Guide Online

The League has produced the 2010 Legislative Guide, which includes contact information, committees, deadlines, and other helpful information. It is available online [here](#).

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## 10) Upcoming MLAs

February's course, Personnel Management, will be in Scott City on February 12, in Augusta on February 13, and in Olathe on February 26. It will cover the basics of personnel management in today's changing municipal workplace. To

register, please [click here](#).

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