



**Testimony to House Committee on Local Government**  
**House Bills 2089 and 2118**  
**February 5, 2012**

Thank you for the opportunity to appear before you. I am Patrick Zollner, Deputy Director of the State Historic Preservation Office, which is part of the Kansas Historical Society. It is our responsibility to facilitate the state and federal statutes for historic preservation as they relate to the state of Kansas.

As the custodian of the state historic preservation program we feel the current law works well because:

- It gives the local governing authority control over their own communities, the SHPO only provides comments to the local governing authority
- It allows any community to take over the review process in their community with an agreement with the SHPO office.
- The current preservation programs create considerable economic development in the state. Last year over \$19 million was invested in historic properties through rehabilitation tax credit programs, creating 2,562 jobs.

Information on how the review process works under the current law can be found on the back of this testimony.

There are two bills before this committee – HB 2089 allows cities to opt out of the state preservation law under certain conditions, while HB 2118 eliminates the environs review component of the law across the board. It appears to us that the intent of both bills is to eliminate environs review. If the legislature chooses to enact 2118 then we believe 2089 become unnecessary for the following reasons.

- Cities would have no need to “opt out” because the preservation laws would only affect historic properties on the state or national register and this is a voluntary program. If a city “opts out” and adopts their own standards the historic property owners must still follow the national preservation standards therefore making the “opt out” option confusing and unnecessary.
- A property owner following local standards that were not consistent with national preservation standards may unwittingly render his property ineligible for grants and tax credits despite this bill’s proposed amendment to the Heritage Trust Fund statute. If a property owner receives grants or tax credits then they are obligated to follow the national preservation standards.

If the Legislature determines that the environs issue needs resolving, then we believe that HB 2118 is preferable to HB 2089. HB 2118 will be more efficient in addressing the concerns of those property owners in the environs of a listed historic property while at the same time allow those individuals and corporations that wish to participate in the state and national register to have full access of all portions of the program. HB 2089 will be problematic to administer for the Historical Society unless it is amended to require cities to notify the SHPO office with copies of their city preservation standards. Without this information there could be potential duplication of review, and SHPO offices could inadvertently provide inaccurate and confusing advice to property owners. For these stated reasons, the Historical Society prefers HB 2118 if the Legislature feels the current preservation law must be amended.

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### **How the Current Process Works**

If a project requires a building permit for a property listed in the National Register of Historic Places and/or the Register of Historic Kansas Places (the state register) or within the environs of a listed property, either the State Historic Preservation Office (SHPO) or a Certified Local Government (CLG) is notified. Nine of the state's fifteen CLGs conduct their own state law review including Abilene, Garden City, Hutchinson, Lawrence, Leavenworth, Newton/North Newton, Salina, Topeka, and Wichita. In addition, the University of Kansas has an agreement with the SHPO to review projects affecting their listed buildings.

The state statute allows for the SHPO or the CLG to comment on the project. Our staff evaluates each project based on the Secretary of Interior's *Standards for the Treatment of Historic Properties* for listed properties or the *Standards and Guidelines for Evaluating the Effect of Projects on Environs* for projects within the environs of listed properties. The law limits our comments to either:

- No adverse effect, or
- A determination that the project "encroaches upon, damages, or destroys a listed property or its environs.

**The SHPO or the CLG only comments on the project.** We do not have the authority to formally approve or disapprove a project. Approval or disapproval of the project is the authority of the local governing authority (usually city councils or county commissioners).

By law, the local governing authority is to take the SHPO or the CLG comments into consideration when granting permits. However, even if it is determined that a project will encroach upon, damage, or destroy a listed building or its environs, the local governing authority may determine that there is no feasible or prudent alternative to the proposed project and grant the permit. **Therefore, the state preservation statute as it currently stands gives each county and city government local control over their resident's projects.**

In the vast majority of cases, the SHPO and the CLGs return a "no adverse effect" comment when reviewing projects. In general, the SHPO staff issues comments within four days of receiving notification of a project. We are sensitive to the short timetables that face many property owners starting a construction project.

#### FY 2012 State Law Reviews – SHPO Office

Total Projects Reviewed for Comment	Projects Involving Listed Properties		Projects Involving Environs Reviews	
269	No adverse effect	Encroaches upon, damages, or destroys	No adverse effect	Encroaches upon, damages, or destroys
	115	14	134	6