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MEMORANDUM

To: The special committee on ethics, elections and local government
From: Daniel Yoza, Assistant Revisor
Date: November 20, 2015
Subject: The legal powers and duties of school boards

I was asked to brief the committee on Kansas laws regarding the responsibilities and legal status of local school boards. Although local school boards are mentioned in the Kansas constitution, their powers and duties are granted by the legislature, and they are supervised by the state board of education. They are granted certain powers and duties by statute. They are required or allowed to establish certain programs and perform certain functions by statute.

1) The state law and local control

The Kansas constitution states:

“Local public schools **under the general supervision of the state board of education** shall be maintained, developed and operated by **locally elected boards**. When authorized by law, such boards may make and carry out agreements for cooperative operation and administration of educational programs under the general supervision of the state board of education, but such agreements shall be subject to limitation, change or termination by the legislature.”

Kans. Const. Art. 6, § 5

“(a) **The legislature shall provide for a state board of education which shall have general supervision of public schools**, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.”

Kans. Const. Art. 6, § 2(a)

Kansas caselaw has generally recognized that local school boards are political subdivisions of the state with their authority granted by the legislature. See *Tecumseh School Dist. No. 7, Shawnee County v. Throckmorton*, 195 Kan. 144, 403 P.2d 102 (1965) and *State ex rel. Dix v. Board of Ed.*, 215 Kan. 551, 527 P.2d 952 (1974).

2) General powers granted by statute

The legislature has granted local school boards certain powers. Local boards have the authority to set courses of study, adopt rules for teaching, govern the district and adopt suitable textbooks subject to the plans, methods, rules and regulations of the state board of education. They may also transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools. K.S.A.

72-8205. The legislature has also generally limited the power of school boards. The power do not relieve the board from compliance with state law or create any responsibility

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assume the duties or responsibilities which are required of another unit of government. Local boards may acquire title to real property by condemnation through the exercise of eminent domain. K. S.A. 72-8212a. Local boards may sue and be sued, execute contracts, hold real and personal property and delegate to the superintendent of schools the power to purchase of goods and services under \$20,000. K.S.A. 72-8201. However, the legislature has set certain limitations on school districts ability to contract. See K.S.A 72-8201a through 72-8201e. School districts have various other powers and responsibilities in regard to teachers and other school personnel. For example, state laws regulate professional negotiations under K.S.A. 72-5413 et seq.

3) Examples of functions and programs

There are many programs that school boards administer as described in chapter 72 of the Kansas statues. This list simply provides a non-exhaustive set of examples of these programs.

School districts must:

Maintain, offer and teach kindergarten and grades one through twelve. K.S.A. 72-8212;

Provide special education. K.S.A. 72-961 *et seq.*;

Provide hearing tests. K.S.A. 72-1204 *et seq.*;

Provide dental inspections. K.S.A. 72-5201;

Provide vision testing. K.S.A. 72-5205;

Provide health immunization checks. K.S.A. 72-5209;

School districts may:

Purchase or lease grounds for public recreation and playgrounds. K.S.A. 72-1625;

Establish recreation commissions. K. S.A. 12-1922 *et seq.*;

Establish food service programs. K.S.A.72-5112 *et seq.*;

Establish a fee system for providing materials and supplies supplemental to textbooks. K.S.A.72-5389;

Provide transportation to students. K.S.A. 72-8301 *et seq.*;

Adopt rules regulating the suspension and expulsion of students. K.S.A. 72-8901*et seq.*;

Establish policies on bullying. K.S.A. 72-8256;

Establish alternative schools for students unable to benefit from other schools in the district for grades seven or above. K.S.A. 72-9201;

Establish cooperative elementary guidance programs. K.S.A. 72-9301; and

Establish cooperative bilingual education programs under K.S.A. 72-9501 *et seq.*