



## JANUARY 2020

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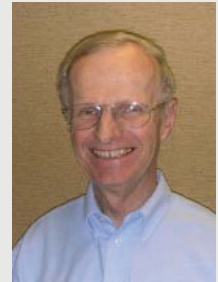
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## ON THE ROAD

By Norm Bowers, Local Road Engineer

### Private Pipelines on Public Right-of-way



On occasion, private companies or individuals request permission to install a pipeline on county right-of-way. Common examples include crude oil lines between an oil well and a tank battery, an irrigation pipe, a water line from a well to a house, and a pipe carrying animal waste from a feed lot to a lagoon. Counties are used to granting permission for public utilities to install their lines on right-of-way and the request from a private company does not seem much different. However, there is a lot of difference.

When county roads were first opened in the 1800s the public, in the name of the county, acquired an easement for a public road. The county does not own the land, they just have a road easement. Normally the use of an easement is restricted to a specific purpose, and the use of the easement cannot be expanded without an additional grant by the underlying land owner. However, at the time the roads were originally opened no one thought about electric lines, phone lines, gas lines, and broadband that would later be invented and become public necessities. As these utilities started to emerge there were a series of court cases and state laws that expanded the permitted use of road right-of-way to include these public utilities.

In Kansas the authority to place public utilities in road right-of-way has been established by a series of Kansas Supreme Court decisions and were best summarized by *Mall v. C. & W. Rural Elec. Coop. Ass'n Inc.*, 213 P.2d 993,996 (Kan. 1950). These court cases generally allow the use of road right-of-way by public utilities, provided that it does not “seriously impede or endanger public travel or unnecessarily interfere with the reasonable use of the highway by other members of the public and there is no invasions of the rights of the owners of abutting lands.” There are specific statutory provisions for electric cooperatives (KSA 17-4601), sewerage corporations (KSA 16-623-4), telegraph and telecommunications (KSA 17-1901), wind power (KSA 17-4654), and then in 2016 broadband (KSA 66-2019).

State statutes allow cities to have franchise agreements with utility companies which authorize these utilities to occupy the city’s

right-of-way for a fee, and provide service to city customers (KSA 12-2001 et seq.). State statutes do not allow Counties to have franchise agreements.

There are a limited number of public utility companies which can legally occupy the right-of-way, but there are an unlimited number of private companies that could request to use the right-of-way. Since our right-of-ways are already crowded with public utilities, there is rarely enough room for private utilities. Working with public utilities is troublesome, and there are a lot of difficult issues that continually arise. However, there are much more serious long-term issues involved with private utilities.

- The company may not be a member of Kansas One-Call system so the line may not be flagged when there is construction work in the area.
- There is no guarantee that the facilities will be maintained properly.
- The owner may not have the financial capability to pay for road damage that may occur, or to perform relocation for necessary road work.
- The ownership of the line may change and the new owner may not realize their responsibility for the pipeline in the right-of-way.
- The owner may not be available to respond in an emergency.

As you can see from this list, there are no benefits to the county to have a private line on the right-of-way.

Since the county only has a road easement, it is most people's opinion that the county does not have authority to grant an easement or a permit to a private party to install facilities in the right-of-way. As you might imagine this situation has occurred many times in the past. In fact, there are four attorney general opinions (81-242, 82-27, 82-228 & 99-53), which have opined that the county does not have authority to grant an easement or a permit



**FIGURE 1.** Private lines are not always installed to normal standards.

to a private party for facilities in the right-of-way. The best policy is to not allow parallel lines in the right-of-way, but allow pipeline crossings. If a company needs to cross the road, they have already obtained permission to install the line from the adjoining land owners, so there are no issues with the county having authority to grant the permit. Where pipelines cross the road they should be clearly marked, as few private companies are members of One-Call.

Many times pipeline owners come to the county for permission to install their line on the right-of-way because they can't get permission to lay their line on private property. I can sympathize with the company, but their difficulties do not make it the county's obligation to stretch the law and allow the use of the public right-of-way for private purposes. ■

*If you like roads, and who doesn't, you may be interested in my twice monthly email on current road issues and road items of statewide interest. If you would like to receive these emails just send me an email request with position, and county or company at [bowers@kansascounties.org](mailto:bowers@kansascounties.org).*

## COUNTY COMMENT

County Comment is published monthly as the official newsletter of the Kansas Association of Counties. Questions or comments are welcome and may be forwarded to [Dana Wethington, Editor](mailto:Dana.Wethington@kansascounties.org).

Kansas Association of Counties  
715 SW 10th Ave.  
Topeka, KS 66612

Bruce Chladny, Executive Director  
Chip Westfall, KAC President

*Layout design by Becky Arensdorf*

## 2019 IN REVIEW

By Jay Hall, Legislative Policy Director & General Counsel

**B**efore we fully dive into 2020 and the legislative session starting January 13, 2020, I think it is probably a good idea to look back at 2019 to see what happened and what we accomplished here at KAC for counties.

### Election Laws

Several changes were made to advance ballots and other election rules. The Substitute for Senate Bill 130 requires county officials to attempt to contact voters if signatures do not match the signature on file. Many counties were already doing this before, but this makes the practice consistent statewide. Additionally, the bill gave counties the option of allowing voters to vote at any polling place in the county. While this does not require the practice, it gives counties that option as election technology continues to advance.

The constitutional requirement of a census adjustment for military personnel and students was on the November 2019 ballot after passing through the legislature. The amendment passed, meaning that, starting with the 2020 census, there will no longer be an adjustment for students and military personnel in Kansas (most states do not make this type of adjustment anymore).

### County Jails

The fee for keeping civil prisoners in county jails had not been updated since the 1960s, when it was set at \$1.50. HB 2097 changed that amount to the amount equal to the amount provided for daily maintenance by the county. This allows the amount to increase over time as the daily rate increases periodically, rather than requiring legislative action to keep pace with the current rates.

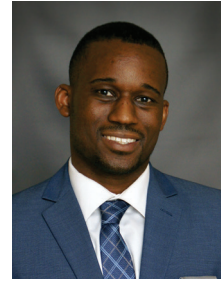
### 911 Emergency

The Kansas 911 Act was amended in 2019. The per line fee was increased from \$0.60 to \$0.90, with the local share increasing from \$0.60 to \$0.66 and the balance going to the 911 Council and the 911 Grant Fund. The minimum distribution for each Public Service Answering Point was increased from \$50,000 to \$60,000.

### Local Sales Taxes

Five counties – Dickinson, Jackson, Russell, Thomas and Wabaunsee – were authorized to

submit a sales tax question to their respective electors. The 2017 election held in Finney County was also ratified. House Bill 2140 also adjusted the process with the Director of Taxation to ensure that any future errors with tax elections would not result in the tax being collected prior to authorization by the legislature.



### Home Rule

Although Constitutional Home Rule authority was not given a floor vote, there was an informational hearing in the House Local Government Committee. While this item did not move forward in 2019, providing legislators and the public with more information about the benefits and importance of Constitutional protection for County Home Rule authority will be crucial when this item does make its way to the floor in the future. ■



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# WHAT IS PUBLIC HEALTH EMERGENCY PREPAREDNESS (PHEP)?

By Dennis Kriesel, Executive Director of the Kansas Association of Local Health Departments



Every single Kansas county is presently involved in the public health emergency preparedness program. The understanding of PHEP, and what it does, remains something of an enigma to many county officials. This is in no small part due to the word “emergency” in the title, which often induces

visions of emergency management. The KAC recently held a workshop at the latest KAC Annual Conference on the topic of what PHEP is. This article attempts to provide some basics about PHEP, what the State does and the locals do, and how it helps protect the health and safety of Kansans.

The Kansas Department of Health and Environment’s (KDHE’s) preparedness program administers PHEP. They provide leadership to protect the health of Kansans through efforts to mitigate, prepare for, respond to, and recover from disasters, infectious disease, terrorism, and mass casualty emergencies. Most KDHE’s PHEP time is spent on reporting and monitoring the grants issued to local governments and other entities. There are a lot of grants that are issued.

Preparedness is a small piece of emergency management in Kansas. Its focus is chiefly on something the Federal Emergency Management Agency (FEMA) refers to as Emergency Support Function #8 (ESF #8). ESF #8 speaks to public health and medical services, and the coordination necessary during a public health or medical emergency.

When an emergency event happens, pretty much everything flows through the Kansas Department of Emergency Management (KDEM) at the State level. KDHE focuses on the health and medical sector and thus is the primary agency of ESF #8. KDHE does this work via lots of contracting. Most of the contracts are with county local health departments, but tribes and other entities also serve via contract. In all cases, the focus is really on preparedness and mitigation. This differs from KDEM which is more response oriented.

PHEP is a cooperative agreement: the federal government mandates lots of reporting and communication, far more than a grant would entail. KDHE is involved in reporting to the federal level at least monthly and other communication happens at least twice a week. For Kansas, the federal support for PHEP is presently \$6.2 million, half is used by KDHE and half goes to local contracts (this includes the county contracts, a contract with KALHD, a contract with the tribes, and regional contracts that relate to the counties).

Presently, local health department PHEP funding consists of a base rate (\$7,918) and then a population factor applies. County annual payments range from as low as \$8,619 to as high as \$339,714. Regardless of amount, all money must be tied to a workplan (a list of activities that must be completed). KDHE drafts the workplans based around what activities meet the federal requirements and then meets with KALHD to work through the local health department concerns. Non-KALHD members also receive outreach from KDHE for feedback. The goal is to find consensus around workplan deliverables that meet federal demands and are achievable at the local level.



As a way to better prepare, Kansas established 15 PHEP regions to help with meeting PHEP workplan activities, outcomes, and performance measures. Regional members self-select but must have at least three counties and must be contiguous. There are 13 regional coordinators to help manage the work of the 15 regions (a couple coordinators are shared across more than one region). The regional funding for PHEP comes out of the local share as the regions are local entities and were devised with the aforementioned “bottom-up” approach.

PHEP goals include early identification and investigation of an incident that impacts public health. This means:

- Timely implementation of public health interventions and controls.
- Emergency operations continuity throughout a surge of a public health incident.
- Timely communication of full situational awareness and risk information by all public health partners.
- The procurement and expedited staffing to support medical countermeasure distribution and dispensing in a timely manner.
- Enhanced coordination and support of response activities with health care and other partners.

Local health departments report progress quarterly via workplan updates, programmatic and fiscal deliverables, and supporting documentation. KDHE Preparedness reviews benchmark deliverables prior to submission to the CDC. The KDHE compliance officer monitors trends and histories to identify widespread challenges of sub-awardees. PHEP is an investment in quality of life. There are direct, indirect, and intangible costs faced when disasters and outbreaks happen. PHEP is designed to reduce these costs via mitigation and preparing ahead of time. Small investments now to prevent large expenses in the future. ■

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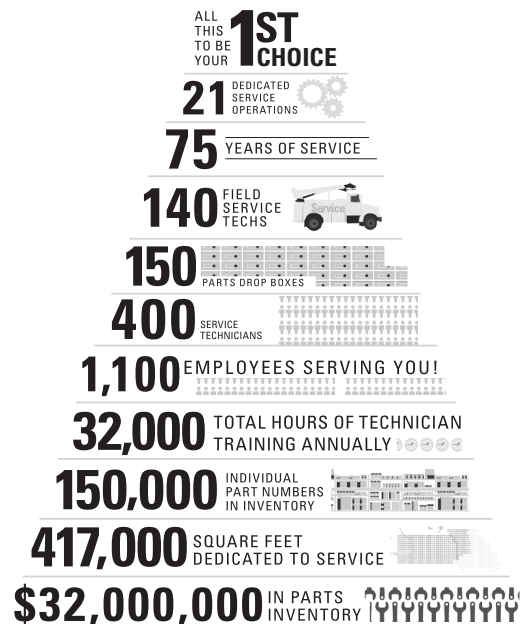
Contact: Don Regan, Program Director  
Address: 535 16th St., Suite 320  
Denver, CO, 80202  
Phone: 309-660-2917  
Fax: 855-282-7912  
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# EMPLOYMENT OPPORTUNITIES

## Saline County Attorney's Office Attorney

Responsible for prosecution of felony/misdemeanor criminal and traffic cases from charging to trial and appellate work. Ability to work in a fast-paced, busy office. Must be a graduate of accredited law school, possess a Juris Doctorate and be admitted to practice law in the State of Kansas. Salary, benefits and to apply at [www.saline.org](http://www.saline.org). Position open until filled.

## Economic Development Director – Coffey County

Coffey County, Kansas is seeking to hire a full time Economic Development Director. The Economic Development Director is expected to enhance the economic vitality of Coffey County through the attraction of new businesses, retention and expansion of existing businesses, infrastructure development, tourism, leadership development, and to build awareness of the mission and priorities of Coffey County. A Bachelor's degree in economic development, public or business administration, marketing, finance, or economics from an accredited college or university is preferred. Certified Economic Developer (CEcD) preferred. Minimum of two to three years of economic, real estate or community development, grant writing, entrepreneurial and business planning, or related experience in a similar capacity. Any combination of education, training and experience that provides equivalent knowledge, skill and ability to perform the duties of the position will be considered. Must reside in Coffey County within 90 days of employment. Salary negotiable depending on qualifications and experience. Applications can be accessed at [www.coffeycountyks.org](http://www.coffeycountyks.org) on County Services under employment opportunities. For questions please call: 620-364-8780. Applications accepted until position is filled. Pre employment drug testing is required with conditional offer of employment. Coffey County is an Equal Opportunity Employer.

## Engineering Technician – Riley County

Administrative and technical work which involves monitoring and overseeing on-going activities of Public Works construction sites and projects to ensure procedures and materials comply with plans, codes, specifications and standards. High school graduate or equivalent and 4 years experience in engineering and construction inspection work required. Must possess a Kansas Department of Transportation L.P.A. basic Certification or be able to acquire within six months of employment. Applicant shall have or be able to obtain a valid Kansas driver's license. Salary range is \$21.30 - \$23.55 per hour. Application and resume are required. Applicants who receive a conditional offer of employment must submit to a pre-employment drug test. Applicant available at Riley County Clerk's Office, 110 Courthouse Plaza, Manhattan, KS 66502, or online, [www.rileycountyks.gov](http://www.rileycountyks.gov). Applications accepted until filled. Women and minorities are encouraged to apply. Riley County is an Equal Opportunity Employer.

## Infrastructure and Construction Services Manager – Leavenworth County

Leavenworth County Public Works Department is seeking 1 Full Time Infrastructure and Construction Services Manager. Salary range \$85,000-127,000. To see a complete job description, please visit <https://www.leavenworthcounty.gov/employment.asp>

## Purchasing Coordinator – Leavenworth County

Leavenworth County Administration Department is seeking 1 Full Time Purchasing Coordinator. Salary range \$55,000-66,000. To see a complete job description, please visit <https://www.leavenworthcounty.gov/employment.asp>

## Director of Planning & Zoning – Leavenworth County

Leavenworth County Planning & Zoning Department is seeking 1 Full Time Director of Planning & Zoning. Salary range \$69,000-83,000. To see a complete job description, please visit <https://www.leavenworthcounty.gov/employment.asp>

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## 2020 Course Schedule

Below are the classes currently scheduled for 2020. We will add workshops/classes as we have further confirmation of instructor availability or strong interest from you. We must have **at least eight people** signed up 10 days prior to the scheduled session to hold a class or webinar. If we do not have sufficient enrollment, we will cancel the class and you will be notified via email.

### Pricing

All full day workshops include morning coffee and lunch. Fees are \$65, \$75 or \$100 depending up on instructor, location costs and other costs KAC incurs.

### 2020 Classroom Session Schedule

Certificate(s) Requirement	Workshop	Location	Date/Time/Fee	Presenter(s)
<i>Foundations in County Government / Roads Scholar Level III</i>	<b>304 Budgeting and Finance</b>	Butler County EMS Station 1, 701 N Haverhill Rd, El Dorado, KS	Friday, February 21 9 am – 3 pm \$100	Ryan Adkison Butler County Assistant Administrator/ Finance Director
<i>Foundations in County Government / Roads Scholar Level III</i>	<b>308 Overview of Human Resource Management</b>	Saline County Hwy. Dept. training facility 3424 Airport Road Salina, KS	Friday, March 6 9 am – 3 pm \$100	Lisa Eickholt, Sr. Consultant, McGrath Human Resources Group
<i>Foundations in County Government / Roads Scholar Level III</i>	<b>304 Budgeting and Finance</b>	Ellis County Fire Dept. 1105 East 22 <sup>nd</sup> St. Hays, KS	Friday, March 20 9 am – 3 pm \$100	Ryan Adkison Butler County Assistant Administrator/ Finance Director

Certificate(s) Requirement	Workshop	Location	Date/Time/Fee	Presenter(s)
<i>Foundations in County Government / Roads Scholar Level II</i>	<b>203 Legal Aspects of Management</b>	DeSoto; Location TBA  This class is being offered in conjunction with League of Kansas Municipalities	Friday, March 27 10 am - 5 pm	Tara Eberline, Folston Siefkin LLP; Nathan Eberline, VP Operations, Accreditation Council for Business Schools and Programs
<i>Foundations in County Government / Roads Scholar Level I</i>	<b>County Government 101</b>	KAC Office 715 SW 10 <sup>th</sup> St. Topeka	Thursday, July 24 9 am – 12 pm \$65	Bruce Chladny, KAC Executive Director
<i>Foundations in County Government / Roads Scholar Level I</i>	<b>City Government 101</b>	KAC Office 715 SW 10 <sup>th</sup> St. Topeka	Thursday, July 24 1 am – 4 pm \$65	Trey Cocking, Deputy Director, League of Kansas Municipalities
<i>Foundations in County Government</i>	<b>Ethical Considerations</b>	KAC Office 715 SW 10 <sup>th</sup> St. Topeka	Friday, July 31 9 am – 12 pm \$65	Jay Hall, Legislative Policy Director & Legal Counsel, KAC

**Budgeting and Finance** Budgeting and Finance is a required role of the county commission as well as other elected officials and staff. The number and scope of county services have expanded in response to intergovernmental mandates and long devolution trends. The dizzying pace of technology innovations promises long-term efficiencies for county operations, but in the short run, requires a significant financial investment. This course defines the role of the county commission as financial policy makers and related roles of citizens, other elected officials and staff. In addition, **this class will address current tips on how to manage the Tax Lid in your county.**

- Establish the legal parameters for the county budget and identify the functions of a capital and annual operating budget;
- Propose processes for preparing, adopting and managing the budget;
- Explain how county government is financed and suggest techniques for estimating county revenues;
- Identify leadership strategies that contribute to wise, effective and responsible financial decisions;
- Identify how to challenge county department heads and staff, and outside agencies to the county to use the budget process to think more strategically, more seriously, and more collaboratively about how goals can be accomplished in more creative and cost-effective ways;
- Consider the adequacy of cash balances or reserves, i.e. how much is enough, not enough, or too much, and how cash balances can be managed;

- Evaluate revenue sources other than the property tax to finance county programs and services;
- Consider how the county's fund structure enables or detracts from the ability of the board of county commissioners to effectively manage the county budget; and
- Learn of ways to effectively communicate county budget information to citizens, groups, and the news media.

Instructor: **Ryan Adkison** is the Assistant County Administrator/Finance Director for Butler County. One of his primary duties is crafting the organization's annual CIP/operating budget, which has won the Government Finance Officers Association's (GFOA) Distinguished Budget Presentation Award the past seven years.

**Overview of Human Resource Management** Human resource management covers more ground than people might initially imagine. Some may define it as interactions between employer and employee in the period between which an employee is hired until they are terminated. While this is true, human resources management begins even before this, with the policies that are created by the institution and the laws that govern workplace relations.

Human Resource Management is the process of working with people so that they and their organizations reach full potential even when change precipitates the need to acquire new skills, assume new responsibilities and form new relationships. This course is designed to give you an overview of the key elements of human resource management.

Instructor: **Lisa Eickholt**, Sr. Consultant, McGrath Human Resource Group

**Legal Aspects of Management** The government's dedication to assuring a fair workplace has meant greater legal complexity in all aspects of supervision. This workshop will help supervisors navigate the most current legal provisions associated with the public-sector workplace and translate them into plain-English guidelines. This class will:

- Review the concept of equal employment opportunity and its application in interviewing, supervision, promotion and termination;
- Understand the most current definitions of sexual harassment, and what to do if it is reported or suspected;
- Learn how to conduct a legally-compliant performance appraisal;
- Expand knowledge of how to prevent legal problems when responding to poor performers;
- Increase awareness of legal issues associated with electronic communication; and
- Learn when to seek assistance from legal or human resource management specialists.

Instructors are Tara Eberline, Partner with Folston Siefkin LLP; Nathan Eberline, Vice President of Operations for the Accreditation Council for Business Schools and Programs.

**105 County Government 101** Instructor: Bruce Chladny, KAC Executive Director

**106 City Government 101** Instructor: Trey Cocking, LKM Deputy Director

NOTE: These courses apply toward completion of *Level 1 Roads Scholar* program. You will take either County Government 101 OR City Government 101.

These workshops offers front-line employees a practical primer on county/city government to enhance understanding of what influences and shapes their day-to-day jobs. The workshop will also enhance participants' skills in educating citizens about government services. Because the information is valuable to anyone serving in local government, persons with other levels and types of responsibilities are welcome to attend.

**Ethical Considerations** This workshop is intended to raise awareness of the myriad of the ethical considerations which face county leaders. An extensive use of case studies is used to provide real world examples of challenging ethical situations that confront county leaders daily.

Instructor: Jay Hall, KAC Legislative Policy Director & General Counsel



The Kansas Association of Counties is jointly hosting Local Government Day with the League of Kansas Municipalities on **Wednesday, January 22, 2020**

3-4 pm **Legislative Update:** Jay Hall, KAC Legislative Policy Director & General Counsel  
*Pioneer Room*

4-5 pm **Speakers:** House and Senate Leadership (invited)  
*Shawnee Ballroom*

5-7 pm **Reception:** Meet with your

invited legislators and fellow local government leaders during the reception. The room will be divided by regions to encourage interaction.

*Emerald Ballroom*

**Location:** Capitol Plaza Hotel, 1717 SW Topeka Blvd, Topeka, KS.

**Registration Required:** All Local Government Day events are **free**; however, we ask that you **register by noon on Thursday, January 16** so we can better manage our programs and menu. To register, click [here](#).

### **KAC Open House**

Stop by the new Kansas Association of Counties office!

When: Wednesday, January 22 from 9 – 11 am

Where: 715 SW 10<sup>th</sup> Avenue, Topeka, KS

Light refreshments will be served.