

MINUTES OF MEETING
STATE AFFAIRS COMMITTEE
April 3, 1961

The meeting was called to order and Senator Ball appeared to discuss S.B. 339, dealing with insurance for state vehicles. He went into the history of the thinking that resulted in this measure and presented the committee with a prepared statement (see attached). There was considerable discussion as to the cost and the result of this measure, and further discussion on the type of insurance. It was established that the Highway Department presently insures its vehicles, and with the addition of the vehicles in other departments this would be approximately 5,000 vehicles. It was stated that the Dept. of Administration feels that by changing the type of insurance, that the entire fleet can be insured for little more than what it is now costing to insure the highway department cars now; however, it was felt by the insurance men on the committee, that it would cost more than estimated by the department of administration.

Mr. Mikesic introduced Mr. John Burkaty of Wyandotte County, to discuss S.B. 121. He is attorney for the County Park Board of Wyandotte County. He states that this measure is designed to give reimbursement for expenses to the Park Commissioners for the reason that they have served without pay for a considerable period of time and that the operation has grown greatly and is demanding more and more time, and that they deserve to be compensated for the money expended for expenses.

Mr. Taylor stated in regard to S.B. 398, the retirement bill, that two amendments had been adopted and that there were two more that should be considered at this time. Mr. Fribley explained the proposed amendments in regard to the insurance section (TIAA) and stated that although the insurance people were not entirely satisfied that they were willing to go along with no complaints. (See amendments attached.) Thereupon, Mr. Fribley moved the adoption of the amendments. Motion was seconded by Mr. Ford and carried unanimously. Considerable discussion was had at this point, with Mr. Unruh stating his feelings with regard to retirement for state employees. He wished to be on record as being in favor of raising salaries to a reasonable scale and letting these people fall under Social Security just the same as everyone else. He states that just because 44 other states have a similar plan doesn't mean that it is the thing to do; that it seems to be the trend nowadays to expect to "be taken care of" instead of planning it for ourselves.

It was then moved by Mr. Fribley, seconded by Mr. Ford, that 398, as amended, be recommended favorably. Motion carried by a vote of 8 to 5.

The Chairman then requested additional consideration for S.B. 339, and after considerable discussion pro and con Mr. Peppercorn moved and Mr. Ford seconded that the measure be recommended favorably. A committee poll was called for and the motion carried 10 to 5.

It was then moved by Mr. Gardner, seconded by Mr. Ford and carried unanimously that S.B. 121 be reported favorably.

Meeting was adjourned.

Mr. Chairman and Members of the Committee:

As every lawyer knows we got our basic law from the common law of England. That law had a fiction that the king could do no wrong, and hence the government was immune from liability for acts for which all others were held responsible.

We proved in the revolutionary war that the king could be wrong, but strangely enough the governments, both federal and state, which succeeded to the sovereignty of the crown, clung to this same fiction so far as the misdeeds of governmental employees were concerned.

This was not so bad when governments were small, and the modes of transportation were slow and relatively safe. But as governments extended their functions and as rapid means of transportation over vast systems of highways came into being it became obvious that to allow hordes of government employees to drive up and down the land with the government assuming no responsibility for the safety of other citizens using the highways was both outmoded and unjust.

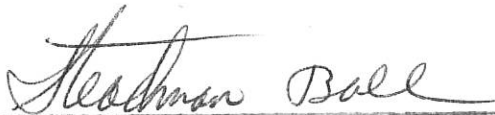
Many years ago the federal government waived its immunity from liability for the negligent acts of its offices and employees. New York did likewise. Most other states have adopted measures to increase their responsibility for the acts of those employed to carry out the functions of government. Kansas is among the few lagging behind in assuming its responsibility.

In 1931 the legislature passed a law which went further than Senate Bill 339. Unfortunately two subjects got mixed up in the title and it was declared unconstitutional by the Supreme Court for that reason. Thirty years have gone by; highways have expanded; automobiles have become bigger and more powerful; the state has greatly increased its functions and personnel. Today approximately 5,000 motor vehicles are in use by the state; far more than used by any other business in Kansas. Almost half of these are being

used by the highway department and are insured, but the other half are not required to have any insurance, and if one comes into the wrong lane of a highway disabling you for life or killing you, widowing your wife, and making orphans of your children its just too bad.

Our Judiciary Committee voted overwhelmingly that this obvious injustice should be corrected and that all state vehicles should carry insurance against liability for negligence. I was requested to have such a bill drawn. When I presented it, some changes were voted, and it was redrawn in the form introduced, to cover these changes. Estimates on cost had been secured from the research department, and it was determined that the cost was not a major problem. I personally told the committee I thought the estimates were low, and it was still determined that this unconscionable and unjust situation should not be allowed to continue. The committee voted 13 to 3 to introduce this bill.

This is not a lawyers bill. It is a bill for the protection of the citizens of Kansas. If it is not passed by this session, be careful that the state vehicle which makes a life long invalid of you or which kills you is driven by an employee of the highway department, and not by a state employee driving one of the other 2,500 vehicles operated by the state of Kansas.


Vice-Chairman, Senate Judiciary Committee

SUGGESTED AMENDMENTS TO SENATE BILL NO. 398

to sec 25
(To be adopted if insurance amendments adopted)

In line 19 of the title by striking the word "nonprofit"; also in line 24 of the title by striking the word "such" and inserting in lieu thereof the word "certain"; also in said line 24, by inserting after the word "companies" the words "issuing such retirement annuity contracts"

SUGGESTED AMENDMENTS TO SENATE BILL NO. 398

In Section 2, by inserting a new paragraph immediately following line 56 which shall read as follows:

"Nothing contained in this subsection shall prevent or be construed as preventing any person who is covered by or eligible for or will become eligible for retirement benefits under the state school retirement system if he is not a current contributing member to the state school retirement system from being an employee if the person is otherwise an employee within the definition contained in subsection 14 of this section and with respect to such persons the employer shall be deemed an eligible employer: Provided, That this provision shall not be construed as entitling any such person to prior service credit or participating service credit for any of the time that he was employed in school service as that term is defined in section 72-5501 of the General Statutes Supplement of 1959 or acts amendatory thereof.";

In Section 2, line 61, by striking the words "elective state officer" and inserting in lieu thereof the following: "employee whose compensation is limited by the constitution of the state of Kansas";

In Section 2, line 72, by striking the semicolon after the word "law" and inserting in lieu thereof a colon and adding the following: "Provided, That nothing contained in this subsection shall prevent or be construed as preventing any person who is covered by or eligible for or will become eligible for retirement benefits under the state school retirement system if he is not a current contributing member to the state school retirement system from being an employee if the person is an appointed or an elective officer or employee of a participating employer and his employment is ^{not} / seasonable or temporary ~~xxx~~ and requires at least one thousand (1,000) hours of work per year and if he is not within the exceptions specified in clauses (a), (c), (d), or (e) of this subsection but this proviso shall not be construed as entitling any such person to prior service credit or participating service credit for any of the time that he was employed in school service as that term is defined in section 72-5501 of the General Statutes Supplement of 1959 or acts amendatory thereof;"

In section 10, line 8, by striking all after the word "employer"; and by striking all of lines 9, 10 and 11; and in line 12 by striking the words "favor thereof" and by inserting in lieu thereof the following: "except by the adoption of a resolution therefor, which shall be published once each week for two (2) consecutive weeks in the official county, city or township newspaper or, if there is none, in a newspaper of general circulation therein and no such resolution shall take effect until sixty (60) days after its final publication, and if within sixty (60) days of its final publication a petition signed by a number of electors equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular election in such county or township in the case of counties and townships and the last regular city election in such city in the case of cities shall be filed in the office of the clerk of such county, city or township demanding that such resolution be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon";

In section 25, by striking all of lines 39 to 54, inclusive, and inserting in lieu thereof the following: "(2) For the purposes of this section the board may contract with: (a) Any life insurance company authorized to do business in this state; or (b) any life insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions by issuing insurance and annuity contracts only to or for the benefit of such institution and individuals engaged in the services of such institutions, whether or not such company be authorized to do business in Kansas, and no premium tax or income tax shall be due or payable on such annuity contract or contracts for such retirement programs issued by a company such as described in this clause (b): Provided, however, That neither the purchase nor the issuance of such retirement annuities from or by a company such as is described in clause (b) hereof shall constitute the effecting of a contract of insurance.";