

ROADS AND HIGHWAYS COMMITTEE MEETING - FEBRUARY 7, 1972

The Roads and Highways Committee met in room 510 S at 2:45 P. M. on February 7, 1972. Chairman Dierdorff called the meeting to order and all members were present except Hughes, Rosenau and Weaver.

John McNeal of the State Highway Department was the conferee on House Bills Nos. 1987, 2064, 2081 and 2065.

A roster of others registering their presence is attached.

Mr. McNeal explained the bills and said they were necessary because of new Federal regulations. All of the bills were sent over by the State Highway Department with the request they be introduced as Committee bills.

HOUSE BILL 1987 - AN ACT authorizing the state highway commission to adopt a sign manual pertaining to traffic control devices and regulating traffic by traffic control devices; amending KSA 8-510 and 8-512 and KSA 1971 Supp. 8-514, and repealing the existing sections.

Mr. McNeal said there are errors in this bill and he wants to correct them and come before the committee at a later date.

HOUSE BILL 2064 - AN ACT to encourage and facilitate the construction of replacement housing for persons displaced on account of acquisition of real property by a state or other governmental agency.

Mr. McNeal said this bill is incorrect. He offered a substitute proposal, Exhibit I, attached.

HOUSE BILL 2081 - AN ACT providing for relocation assistance and authorizing payments to persons displaced by acquisition of real property by state and local agencies; and repealing KSA 1971 Supp. 74-2018, 74-2019 and 74-2020.

Mr. Hayes made a motion, second by Mr. Wingert, that HB 2081 be passed. The motion carried.

HOUSE BILL 2065 - AN ACT relating to the acquisition of real property, and providing for the reimbursement of the owner from whom the property is acquired, of certain expenses, and for allowance of reasonable attorney, appraisal and engineering fees to the owner under certain circumstances, and establishing procedure to be followed prior to the filing of condemnation proceedings, and prescribing certain prerequisites to be complied with before the condemnor is entitled to possession of acquired real estate.

Mr. McNeal said this bill is incorrect. He offered a substitute proposal, Exhibit II, attached.

HOUSE BILL 1989 - AN ACT relating to registration fees on certain vehicles; amending KSA 1971 Supp. 8-143, and repealing the existing section.

This bill had been explained on February 3, 1972. It eliminates exemption on trailers under 2,000 pounds.

Mr. Dugan made a motion, second by Mr. Allison, that HB 1989 be passed. The motion carried.

HOUSE BILL 1691 - AN ACT amending the uniform act regulating traffic on highways; requiring bicycles to be equipped with certain lamps and equipment; amending KSA 1971 Supp. 8-587 and repealing the existing section.

This bill was explained on February 3, 1972.

Mr. Jacobs made a motion, second by Mr. Wilson, that HB 1691 be passed.

Mr. Ratner said there is an error in the bill. (c) is the new part of the bill and it is not italicized.

The Chairman asked that action on the bill be delayed until the bill can be checked out.

HOUSE BILL 1662 - AN ACT relating to streets and highways; authorizing and requiring the establishment and maintenance of foot-paths and bicycle trails; providing for the payment of the cost thereof; authorizing the adoption of rules and regulations providing for signs and regulations governing the use of such paths and trails; declaring certain acts to be a misdemeanor and prescribing penalties for the violation thereof.

This bill was explained on February 3, 1972.

Mr. Davis made a motion, second by Mr. Spotts, that HB 1662 be not passed. The motion carried.

HOUSE BILL 1962 - AN ACT providing for a driver's license credential, including important medical and other personal information; providing certain acts unlawful and prescribing penalties for violation.


This bill was explained on February 3, 1972.

Mr. Davis made a motion, second by Mr. Gray, that HB 1962 be not passed. The motion carried.

The meeting was adjourned.

Fran Stafford, Recording Secretary

APPROVED:


ARDEN DIERDORFF, CHAIRMAN
February 9, 1972

ROADS AND HIGHWAYS COMMITTEE

GUESTS

NAME	ADDRESS	FIRM OR CORPORATION REPRESENTED
John H. Campbell	Topeka	Kansas Motor Carriers
Bud Grant	"	KACI
Walter W. Kieker	Topeka	KANSAS MOTOR CARRIERS
HARRY G. WILES	TOPEKA	STATE HISTORICAL COMMISSION
JOE PRIZNER	TOPEKA	" " "
John McNEAL	"	" " "

AN ACT to facilitate the availability of replacement housing for persons displaced on account of acquisition of real property by the State Highway Commission, or by any county, city or other political subdivision in the State of Kansas, for use in the State Highway System or for highway, road or street purposes in the State, for which Federal-Aid funds, or funds made available from the Federal government for highway, road or street purposes, are available.

Be it enacted by the Legislature of the State of Kansas:

Section 1. In the event that a highway, street or road program or project of the State Highway Commission, or of any county, city or other political subdivision in this State which program or project would be eligible to participate in the benefits to be secured from federal-aid funds or funds made available from the Federal government for highway, road or street purposes, if all requirements of federal legislation were complied with, cannot proceed to actual construction because comparable sale or rental housing is not available as required by Federal legislation, rules and regulations, and the State Highway Commission or the governing body of the County, City or other political subdivision of the State involved determines that such required housing cannot otherwise be made available, it may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project.

Section 2. The State Highway Commission or any County, City or other political subdivision of the State acquiring real property for the State Highway System or for highway, road or street purposes in the State, may adopt such rules and regulations as shall be deemed necessary or appropriate to implement this Act.

Section 3. This Act shall take effect and be in force from and after its publication in the official state paper.

II

BILL NO. 1

AN ACT relating to the acquisition of real property by the State Highway Commission, or by any County, City or other political subdivision of the State for use in State Highway System or for use for highway, road, or street purposes in this State, for which the benefits to be secured from federal-aid funds, or funds made available from the federal government for highway, road or street purposes are available if all requirements of federal legislation are complied with, and providing for allowance of reasonable attorney, appraisal, and engineering fees to the owner under certain circumstances, and establishing procedure to be followed prior to the filing of condemnation proceedings, and prescribing certain prerequisites to be complied with before a purchaser or condemnor is entitled to possession of acquired real estate.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The State Highway Commission, or any County, City or other political subdivision of the State, acquiring real property by purchase or under the eminent domain or condemnation laws of this State for use in the State Highway System or for use for highway, road or street purposes in this State, and for which the benefits to be secured from federal-aid funds, or funds made available from the federal government for highway, road or street purposes, are available if all requirements of federal legislation are complied with shall, as soon as practicable after the date of payment of the purchase price or after the date of deposit into court of funds to satisfy the award

of compensation in a condemnation proceeding to acquire real property, reimburse the owner, for fair and reasonable expenses which he necessarily incurred for: (a) recording fees, transfer taxes and similar expenses incidental to conveying such real property; (b) penalty costs for prepayment for any pre-existing recorded mortgage entered into in good faith encumbering such real property; and (c) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title or the effective date of possession of such real property in the taking authority whichever is earlier.

Section 2. Where a condemnation proceeding is instituted under the laws of this State by the State Highway Commission, or by any County, City or other political subdivision in this state to acquire real property for use in the State Highway System or for use for highway, road or street purposes in this State, and for which the benefits to be secured from federal-aid funds, or funds made available from the federal government for highway, road or street purposes, are available if all requirements of federal legislation are complied with, and (i) the final judgment is that the real property cannot be acquired by condemnation or (ii) the proceeding is abandoned, the owner of any right, title or interest in such real property shall be paid such sum as will, in the opinion of the Court, reimburse such owner for his reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceedings. The award of such sums will be paid by the State Highway Commission, or any County, City or other political subdivision in this State which sought to condemn the property.

Section 3. Where an inverse condemnation proceeding is instituted versus the State Highway Commission, or any County, City or other political subdivision in the State, by the owner of any right, title or interest in real property, used or to be used in the State Highway

System, or for use for highway, road or street purposes in this State, and for which the benefits to be secured from federal-aid funds or funds made available from the federal government for highway road or street purposes, are available if all requirements of federal legislation are complied with, the Court rendering a judgment for the plaintiff in such proceeding awarding compensation for the taking of property, or the attorneys representing the parties in effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or as a part stipulation of settlement, such sum as will, in the opinion of the Court rendering the judgment, or in the opinion of the said attorneys representing the parties to a stipulated settlement, reimburse such plaintiff for his reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of such proceeding.

Section 4. The State Highway Commission or any County, City or other political subdivision of the State shall, prior to instituting an action to acquire real property under the eminent domain or condemnation laws of this State for use in the State Highway System or for use for highway, road or street purposes in this State and for which the benefits to be secured from federal-aid funds, or funds made available from the federal government for highway, road or street purposes, are available if all requirements of federal legislation are complied with, shall comply with the following procedures:

a. Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

b. Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

c. Before the initiation of negotiations for real property, an amount shall be established which it is reasonably believed is just compensation therefor and such amount shall be offered for the property. In no event shall such amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation.

d. No owner shall be required to surrender possession of real property before the agreed purchase price is paid, or before there is deposited with the court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner, the amount of the award of compensation in the condemnation proceeding for such property.

e. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least 90 days written notice from the date by which such move is required.

f. If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

g. In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

h. If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring authority shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

Section 5. The Board of County Commissioners of any county, and the governing body of any City or other political subdivision of the State, may at the time of acquiring real property for any highway road or street purposes, for which the benefits of Federal-aid funds are not at the time of such acquisition available, but for which the same may be available under subsequent federal legislation for the purpose of additional construction, improvement, reconstruction or maintenance of said highway, road or street, elect to comply with the provisions of this Act, to the same extent as though such benefits of Federal-aid funds were at the time of such acquisition available to the County, City or other political subdivision, for the construction, improvement, reconstruction or maintenance of said highway, road or street, the provisions of any other statute of the State to the contrary notwithstanding.

Section 6. This Act shall take effect and be in force from and after its publication in the official state paper.