

Approved 1-31-83
Date 1-31-83

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin Littlejohn at
Chairperson

1:30 a.m./p.m. on January 25, 1983 in room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Bruce Hurd, Revisor's Office

Conferees appearing before the committee:

Visitor's register, (See Attachment No. 1.)

Meeting called to order by Chairman.

Chair noted that no further conferees this date on HB 2002, so there is a Staff briefing today's meeting on HB 2003, which will have hearings on January 26th.

A letter was distributed to committee members and staff from Mr. Wayne M. Stallard, Attorney at Law, from Onaga, Kansas, regarding proposed changes of Hospital District Laws. The comments in this letter it was noted were based on the original draft and not the bill as is before committee today. Please take this into consideration as you study this letter before the committee meets tomorrow. (See Attachment No. 2.)

Emalene Correll of the Research Department gave a briefing to committee on HB 2003, pointing out changes and differences between the County and District Hospital laws. Distinction on hospital definition is different somewhat in that it includes the emergency or medical ambulance services operated in connection with the operation of medical care facilities.

Qualified elector is a new definition for District Hospital law.

Compilation of some of the existing District laws where a hospital goes across County border lines.

Questions on Sec. 3. (b), on bonified electors and number required on this. Research staff will check into this for committee.

Sec.19., District Hospitals do not presently have the authority to issue no fund warrants, but will in this bill.

Sec. 24., this too is new. It authorizes termination of hospitals (District), or dis-organization of District hospitals. There is currently no provision to do that.

Sec. 25., New authority here as well. It will allow District Hospitals to sell the same as the Hospital Board in County Hospitals. This language was carefully read, and committee urged to look closely at this item.

Ms. Correll answered questions throughout this briefing.

Discussion held after the briefing on different aspects that the bill is adding, changing, etc.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 ~~a.m.~~/p.m. on January 25, 1983.

Chairman noted that in January 24th committee, Mr. Smoot from the Attorney General's office offered help on clarification on Sec. 7. (c), on HB 2002, and a letter has gone out to him asking for this help. We should have some follow-up on this within next few days. Discussion then took place on HB 2002.

Bruce Hurd, Revisor, agreed to look at Sec.5. (a), so the language will be more clear.

There were 15 bills introduced for SRS that should come to our committee. Many of these are clean up bills with just technical changes, but we will be addressing them.

Hearings tomorrow in committee on HB 2003.

Meeting adjourned at 2:45 p.m.

GUEST REGISTER

DATE 1-25-83

PLEASE PRINT

HOUSE
PUBLIC HEALTH & WELFARE COMMITTEE

NAME

ORGANIZATION

ADDRESS

Nickie Stein, R.N.

Ks. state Nurses' Assn.

Topeka

Rebecca Kupper

Ks. Hosp. Assoc.

"

Michele Hinds

Leg. INTERN / Rep. Runnels

Topeka

Past Casey

KDHE

Topeka

(Attachment
no. 1.)

WAYNE M. STALLARD

CHRIS FLATTERY

ATTORNEYS AT LAW

307 LEONARD STREET

PHONE 913 889-4231

ONAGA, KANSAS 66521

November 29, 1982

Hon. Lloyd D. Polson, Chairman
Special Committee on Hospital Laws
62nd District
Vermillion, Kansas 66544

Re: Proposed Changes of Hospital
District Laws, Chapter 80.

Dear Mr. Polson:

I appeared before your committee meeting on November 10 on behalf of Community Hospital District No. 1 of Pottawatomie and Jackson Counties, Kansas, and pointed out several items of concern with the proposed House Bill which would become a general law for district hospitals. I am providing a copy of this letter to the named persons at the end of this letter, and if there are others who should have a copy, either notify me and I shall provide such a copy to them or please forward to them a copy of your letter.

Quite frankly, I join with the majority of those who have responded to the proposed general laws governing hospitals in opposing change. For the most part I believe the operating hospitals are familiar with the laws in which they operate and much confusion is likely to occur in trying to transform the existing hospitals into one general mold. My suggestions for the proposed general law are in keeping with the thought that it is likely that your committee will formulate a general law, and we that are responsible for the hospital operation will have to live with it. Hopefully my suggestions as follow will be beneficial toward a comprehensive general law. My references are to a proposed House Bill No. _____ by Special Committee on Hospital Laws Re Proposal No. 9.

Section 1(b). I believe it is the intention to make this authority quite general, and considerable care should be given to make certain that authority exists for a medical clinic and a nursing home or rest home facility as we generally understand them to be.

Section 1(e). "Political Sub-division." In my opinion this is where confusion starts regarding district hospitals. At our hearing on November 10, 1982, Rebecca Kupper of the Kansas Hospital Association

(Attachment
No. 2.)

reported that there was one township hospital in the state of Kansas. The Kansas township as a political sub-division to operate a hospital is not a very workable unit. Probably Section 1(e) could be eliminated as all persons know what a city is. It is time to take out the township from the statute under the Grandfather Clause in Section 2 as hereinafter discussed.

Section 2. The Grandfather Clause of this act will need to be expanded to definitely cover the existing township hospital. If there be only one township hospital in this state, it appears that the following could be offered:

"Section 2(b). Any existing township hospital established under the laws of this state prior to the effective date of this act shall become a district hospital upon the boundaries of the township hospital on the effective date of this act."

Section 2(b) would then become Section 2(c).

Section 3. I offer the following suggestions for this section:

"(a) Any one, or more, cities are hereby authorized to join with each other or to join together with adjoining or surrounding territories in the creation of a hospital district and in the maintenance, operation, improvement, equipment, enlargement, construction or reconstruction of a hospital within such hospital district or acquisition of an existing hospital."

Next I call your attention to an essential item that should be a part of the general law. It is the prohibition of territory being included in more than one taxing unit for hospital purposes. I propose the following:

"No territory shall be included within the boundaries of a hospital district created hereunder which territory is in any other hospital district. No territory included within the boundaries of a hospital district created hereunder shall thereafter be included within the boundaries of any other hospital district."

At this point I leave the technical bill drafting to the revisor's office, but it is just as essential that a prohibition be in the general law that no county hospital may be formed in a county having an existing district hospital within its boundaries. If this prohibition is not shown in the proposed statute for territory not includible in district hospitals, then reference certainly should be made to the county general hospital law where the prohibition would be clearly set out.

Community Hospital District No. 1 of Pottawatomie and Jackson Counties includes approximately one-third of Pottawatomie County and one-eighth of Jackson County. Certainly a county hospital should be prohibited in both Pottawatomie and Jackson Counties. Under the present law this prohibition is taken care of in K.S.A. 19-1801 by an exception referring to K.S.A. 80-21, 101 to 80-21,122. That exception takes care of Community Hospital at Onaga, but unless you want further complications all over the state, you need to have the same prohibition against county hospitals generally where there exists district hospitals.

You have had presented to you a unique problem with the district hospital at Hanover. If I understood the evidence at your hearing, the county hospital had been authorized but lay dormant at the time of the organization of the Hanover District Hospital. I do not have all of the facts to make a comprehensive proposal for the solution to that problem, but if the Hanover hospital cannot be taken into the county system, then perhaps it behooves the county hospital to become a district hospital without the Hanover district. If there be outstanding bonded indebtedness, then the last proposition probably is not feasible. The reason that I have mentioned the Hanover situation is to point out the possible future involvements between political sub-divisions. In my opinion, if it were possible to do away with county hospitals and change them to district hospitals it should be done to eliminate overlapping tax boundaries. With this in mind, I have suggested previously the elimination of the word "township" from these district laws. I have not researched the possibility of changing county hospitals to district hospitals, so I am not qualified at this time to give any further suggestions.

Section 3(b) outlines the procedure to be followed upon petition to the Board of County Commissioners. May I suggest the following:

"Upon the presentation to the Board of County Commissioners of the county in which the greater portion of the territory is located, of a petition setting forth the boundaries of the proposed hospital district and requesting the formation of such hospital district signed by not less than 51% of the qualified electors of said proposed district who reside outside the limits of incorporated cities and a like petition signed by not less than 51% of the qualified electors who reside within the corporate limits of the cities within said proposed district, the sufficiency of such petitions to be determined by an enumeration taken and verified for this purpose by some qualified elector of said proposed district, it shall be the duty of said Board of Commissioners, at its next regular meeting, to examine said petition. If said Board finds that the petition is regular and in due form as is herein provided, the Board shall enter an order in its proceedings establishing said hospital

district and shall thereupon immediately declare the territory described in the petitions to constitute a public corporation and the inhabitants within such bounds to be incorporated as a hospital district under the name of " _____ Hospital District, No. _____ of _____ County, Kansas," (inserting the name, district number and name of the proper county) and henceforth the said territory and the inhabitants residing therein and their successors shall constitute a body politic and corporate under said corporate name and shall have perpetual succession, have a seal, and have the right to sue and be sued in its corporate name. Provided, however, if any city within the area of the proposed district owns and is operating a hospital at the time the petitions are filed, the petitions shall be accompanied by a copy of a resolution adopted by the governing body of the city within such district which owns the hospital, which resolution shall state that the city agrees to convey the hospital together with all hospital equipment and the tract of land upon which the hospital is located to and for the use of the proposed hospital district. The governing body of the city is hereby authorized and directed to adopt such a resolution and to make such conveyance upon the establishment of the hospital district."

Section 4. The proposed publication cost being taxed to the political sub-divisions is unworkable. On page 4, line 4, it should read as follows:

"The cost of such publication shall be paid from the general fund of the county having jurisdiction of these proceedings."

Section 5. This section has to do with acquiring the city hospital by the district. Rather than say "political sub-division", just say "city".

Section 8. In review of the three methods of election of board members, I'm wondering if we only have two. If we eliminate the one township hospital and cause it to be a district hospital, then do we have any cities and townships appointing board members to a district hospital? I really can't see why a city would have any appointments to the district hospital board.

I would expect that the majority of hospital districts elect their board members at large at the annual meeting of the qualified electors of the hospital district. I can only say that for 26 years this procedure has worked quite well for Community Hospital District No. 1 of Pottawatomie and Jackson Counties.

On page 7, line 3(1) I called to your attention at the hearing on November 10 that the latter portion of the sentence should be eliminated,

and it should read as follows:

" (1) Elections of board members shall be held at the annual meeting of the qualified electors of the hospital district for the positions of the board which are to expire in such year."

It should be provided that either election at large at the annual meeting or the more complicated procedure calling for election on the first Tuesday in April. The Kansas Hospital Association has pointed out preferences regarding the election which you should take note of. In my opinion you would be well advised to leave the selection of board members to the annual meeting of the hospital district. In so doing you do not mix hospital politics with city politics, less emotion and expenses are involved. Furthermore the present hospital boards have terms that end each year and not on each odd numbered years. My suggestion would be to leave the method of selecting board members as open to the district hospitals as possible.

In the report of the Kansas Hospital Association it was suggested that language be added to Section 9(a) prohibiting a hospital board member from serving more than two consecutive three year terms. Speaking for Community Hospital District No. 1 of Pottawatomie and Jackson Counties, we do not believe this is an answer to a problem if it be one. Hospitals are a rather unique organization, and it isn't easy to find qualified persons willing to accept board positions. We believe that if board members need to be changed, then the power of the electors will change them. An arbitrary statute is likely to cause more concern and disruption than a good election.

Section 10. The Kansas Hospital Association has presented good reasoning in suggesting that board compensation be reasonable and be determined by the electors at their annual meeting. We also agree that the board should have the authority to appoint a secretary and/or treasurer within or without its membership and to pay reasonable compensation for such services.

Section 16. This section as written is unworkable for a district hospital. As written it is trying to preserve the entity of the townships and cities included within the district. Once we have created a hospital district, then forget that there are any townships or cities within that hospital district. The hospital district is the taxing unit and levies the taxes with help of the County Clerk. In the state we have large numbers of tax districts in more than one county, particularly school districts,¹ along with fire districts² and hospital districts. I am not going to attempt to write the statute here in full as we have so many examples in the statutes already, and there may be specific problems which need attention. I want to call to your attention that Community Hospital District No. 1 of Pottawatomie

¹ School Districts K.S.A. 72-8204a and 72-8204b

² Fire Districts K.S.A. 19-3626 and 19-3627

and Jackson Counties has had no difficulty whatever in collecting its taxes from both Pottawatomie and Jackson Counties under authority of K.S.A. 80-21, 113 of the 1981 Supplement and K.S.A. 80-21, 120. I believe if you will check with the post-audit department they can provide you with workable budget requirements to meet this statute. Speaking generally, the hospital district is of a larger size, often is in more than one county, and must depend upon valuations to be computed by one or more county clerks. These valuations are not always complete until sometime in July. Budget hearings are normally held the first week in August with the budget to be filed by August 25.

As I understand the problem, you need only to provide that the board of directors is authorized to determine and fix the annual tax and shall certify the rate to the county clerks of each county in which any part of the district lies. This really is accomplished by submitting the budget to the county clerk having jurisdiction of the hospital district which is the hospital that has the largest area of the district. The county clerks cooperate with one another and get the tax levies from the home county of the hospital district. The counties, not being the home of the hospital district, will normally pay taxes collected to the home county of the hospital district which will make distribution to the hospital district treasurer. Again I call your attention specifically to K.S.A. 80-113 of the 1981 Supplement and K.S.A. 80-21, 120 for mechanics used by this district. This procedure is not unique to this district, it is used by all tax districts in more than one county.

Section 19. At page 16, line 1, the proposed levy for no-fund warrants reads, "In addition to the tax levy authorized under Section 16, sufficient to pay not less than 25% of the total amount of the warrants issued under this section and the interest thereon until all of the warrants and the interest thereon has been paid." I find this statement a bit confusing. I believe what it says is that you have four years of levies to pay for the no-fund warrants over and above your tax limit. Perhaps for the sake of uniformity, you should be following language and K.S.A. 79-2939 of the 1981 Supplement wherein it provides for the taxing district to make not more than five equal annual tax levies for the payment of no-fund warrants issued for emergencies.

Section 20. We agree with the Kansas Hospital Association in that Section 20 should be deleted.

Section 21. We also agree with the Kansas Hospital Association. The district hospital is a separate entity and is the owner of its property. Community Hospital District No. 1 was formed under K.S.A. 80-21, 103. It has its name and it has its corporate seal and it is a body politic and corporate. A hospital district is just as much a municipal corporation as any incorporated city in this state.

Section 22. The section as written in the proposal is unworkable because of the presumption of political sub-divisions. I propose the following which follows for the most part existing attachment statutes:

"Any territory adjoining and desiring to be attached to and become a part of any hospital district created under the authority of this act may do so in the manner hereinafter provided. Upon the presentation to the Board of County Commissioners of the county in which the greater portion of the territory of such hospital district is located, of a petition setting forth the boundaries of the area which desires to be attached to said hospital district and signed by not less than 51% of the qualified electors of said area who reside outside the limits of incorporated cities and signed by not less than 51% of the qualified electors who reside within the corporate limits of cities in said area, the sufficiency of such petition to be determined by an enumeration taken and verified for this purpose by some qualified elector of said area, it shall be the duty of the said Board of County Commissioners, at its next regular meeting to examine said petition. If said Board finds that the petition is regular and in due form as is herein provided, the Board shall enter an order in its proceedings attaching the area described in said petition to the existing hospital district; provided, that said petition shall be accompanied by a copy of a resolution adopted by the board of directors of said hospital district, which resolution shall state that said board desired such area to be attached to the hospital district. For tax purposes attachment hereof shall be effective as provided in K.S.A. 79-1807."

"Any area so attached shall be subject to its proportionate share of taxes levied by such hospital district, including taxes levied for the payment of bonds and interest thereon."

The last paragraph concerning paying the proportionate share of bonds may be an optional provision; however reasoning for this is that if it is a part of the attachment statute, then the persons signing the petition for attachment know that they will be assuming bonded indebtedness of the district and paying their share of the taxes like all taxpayers within the district. By assuming bonded indebtedness taxes are equal to all.

Section 23. I am highly doubtful whether or not provisions should be contained in the general law for detachment of territory from hospital districts, but I may well sometime wonder why there aren't provisions. You have tried to be reasonably fair with your proposed detachment section. On page 18 you have made the detachment effective immediately upon entry of the order. You may wish to add:

"For tax purposes detachment hereof shall be effective as provided in K.S.A. 79-1807."

I note that it is necessary for detachment to have a resolution from the board of directors of the hospital district. This provision should effectively stop trickery in these matters.

At page 18, line 11, the bonded indebtedness statement needs to be re-written. I suggest:

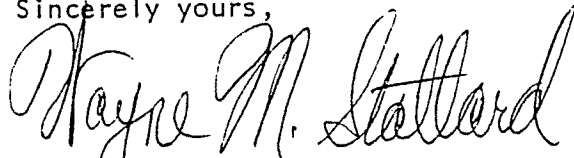
"Such detached area shall be liable for its proportionate share of existing and outstanding bonded indebtedness of the district."

Regarding the provisions concerning the issuance of bonds, I suggest you clear these statements with the bond attorney at the Attorney General's office.

Section 24. As for the disorganization of a hospital district, I suppose you need something, but I am not too certain. I would suggest that you prorate any remaining funds to the general funds of the counties in proportion to location of territory of the district within those counties.

Please accept my comments and suggestions as constructive, and if I can give any further information to assist you, please advise me.

Sincerely yours,



Wayne M. Stallard,
Attorney for Community Hospital
District No. 1 of Pottawatomie
and Jackson Counties, Kansas.

WMS/ss

cc: Sen. Donald Montgomery
Sen. Bert Chaney
Hon. Vic Miller
Hon. Jim Patterson
Hon. Kathryn Sughrue
Sen. Robert Talkington

Emalene Correll
Research Associate,
Legislative Research Department

Avis Schwartzman
Revisor of Statutes

Rebecca Kupper
Kansas Hospital Association