

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at
Chairperson

1:38 ~~xxxx~~ p.m. on March 24, 1983 in room 531N of the Capitol.

All members were present except:

Senator Gaines

Committee staff present:

Rainey Gilliland - Legislative Research
Julian Efird - Legislative Research
Norm Furse - Revisor

Conferees appearing before the committee:

Representative Sandy Duncan
John Hipp - Director of Architectural Services
Louis O'Reardon - Taxpayer
Arden Ensley - Revisor
Bill Mitchell - Kansas Land Title

Senator Meyers reported back to the committee on House Bill 2074 regarding the question raised on line 36 with reference to a "qualified member of the Kansas Federation of Women's Clubs." It was pointed out that this was not meant to be discriminatory and that membership in these clubs were available upon payment of dues regardless of the sex of any applicant.

Senator Hein then made the motion to pass House Bill 2074 favorably out of committee. Senator Gaar seconded this. Motion carried.

Representative Duncan brief the committee on House Bill 2191, concerning the State Fire Marshal, as amended to delete the exemption from filing with the Revisor of Statutes those national fire protection codes which the Fire Marshal adopts by reference.

Representative Duncan also explained House Bill 2165 which amends several statutes to provide that the loyalty oaths required of all public employees shall be filed with the employing agency rather than with the Director of Accounts and Reports of the Department of Administration and also makes the knowing failure to file a loyalty oath a class C misdemeanor.

In addition to these, Representative Duncan spoke briefly on House Bill 2169 which would amend several statutes which confer rules and regulations authority upon the Secretary of Administration by making the adoption of regulations under these statutes permissive rather than mandatory. This amended version clarifies that the Secretary of Administration is to include planning, design, and construction standards in construction-related contracts. John Hipp distributed copies of a memorandum on House Bill 2169 to the committee (Exhibit A) and answered questions from the members. Louis O'Reardon elaborated on problems that they were having in his county because of a lack of codes and enforcement provisions. Representative Duncan stated that the bill was needed in one way or another to be sure that the contract was there. Representative Duncan then explained the changes and additions in House Bill 2192 and Arden Ensley distributed copies of the proposed committee report showing the amendments and deletions for this bill. (Exhibit B)

Representative Duncan briefly discussed House Bill 2531 concerning the licensing and regulations of abstracters explaining some changes and pointing out that this bill would authorize examiners to adopt rules and regulations relating to the issuance of inactive licenses and set fees. Many of the changes are designed to clarify the statutes pertaining to abstracters. He also pointed out that House Concurrent Resolution 5014 was amended by the House Committee on Governmental Organization to correct a technical error. Bill Mitchell also appeared in support of the resolution.

CONTINUATION SHEET

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Senator Hein distributed copies of the balloon version of House Bill 2184 and explained the changes and additions as shown. (Exhibit C) After brief discussion it was requested that the word "examined" in line 37 be changed to "read". Senator Hein made a motion to adopt the amended version of House Bill 2184 as corrected. This was seconded by Senator Mulich. Motion carried.

Senator Hein then made the motion to move House Bill 2184 out of committee favorably. Senator Meyers seconded this. Motion carried.

A motion to pass House Bill 2531 favorably out of committee was made by Senator Hein. Senator Mulich seconded; motion carried.

The committee then turned its attention to House Concurrent Resolution 5014 and Senator Hein made a motion to change the word "May" in line 23 to "July". This was seconded by Senator Mulich. Motion carried.

Senator Hein made a motion to pass House Concurrent Resolution 5014 out of committee favorably. This was seconded by Senator Mulich. Motion carried.

A motion was made by Senator Hein to pass House Bill 2165 favorably out of committee. Senator Mulich seconded this. Motion carried.

Senator Hein made the motion for favorable passage of House Bill 2191 and Senator Mulich seconded. Motion carried.

Senator Hein then made the motion that the committee adopt the amended version of House Bill 2192. This was seconded by Senator Mulich. Motion carried.

A motion was then made by Senator Hein to pass House Bill 2192 favorably out of committee. This was also seconded by Senator Mulich and motion carried.

In considering House Bill 2169, Senator Hein made the motion to revert back to the original language using the word "may" in line 247, replacing the word "shall" with the word "may" in line 202, and replacing lines 203 and 204 to the original wording, deleting the words "include in all construction-related contracts" from line 205. Senator Mulich seconded this. Motion carried.

Senator Hein made a motion to pass House Bill 2169 favorably, Senator Mulich seconded. Motion carried.

The meeting was adjourned by the chairman at 2:30 p.m.

GUEST LIST

COMMITTEE: Senate Governmental Organization DATE: Mar 24, 1983

NAME	ADDRESS	COMPANY/ORGANIZATION
JOHN HIPP	TOPEKA	DEPT. OF ADM.
ARTHUR GUNGS	"	" " "
LARRY TENOR	"	ATTY. STATE FIRE MARSHAL
Clifford R. Holland	Russell Co.	State Library Advisory Comm.
William T. [unclear]	Topoka	State Library
Faith [unclear]	Topoka	Dept. of Educ.
Charles E. [unclear]	Topoka	Dept. of Corrections
Gregor [unclear]	Topoka	Ombudsman



DEPARTMENT OF ADMINISTRATION
Division of Architectural Services

JOHN CARLIN,
Governor
JOHN B. HIPPI,
Director

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MEMORANDUM

TO: Joint Committee on Administrative Rules and Regulations

FROM: John B. Hipp, AIA, Director of Architectural Services JBH

RE: Capital Improvement Rules and Regulations

DATE: June 30, 1982

K.S.A. 75-3783 directs the Secretary of Administration, with the advice of the State Building Advisory Commission, to develop and adopt rules and regulations establishing standards for planning, design and construction of buildings and major repairs and improvements to buildings for state agencies, which standards shall include energy conservation standards.

Over the past three years the Division of Architectural Services has developed and adopted various standards and governing documents to apply to all diverse capital improvement projects. These documents have, however, been developed as legal instruments, binding architects, engineers and contractors alike to specific rules and regulations in the design and construction of state building projects.

The determination of such methodology is necessitated by many of the same reasons that exempt highway and bridge projects from formal rules and regulations. Each individual project is unique in both its construction method and its function: i.e., the standards for design of a high rise wet laboratory building at Kansas University may be totally different from those applied to a farrowing house at Kansas State. The broad application of design and construction standards is both too limited and beset with constant change to allow the development of finite regulations.

Nonetheless, it is necessary to apply sound principles of design, management and construction to all building projects to establish the quality levels, construction and safety practices, and conformance required by recognized standards for building projects.

Ex. A

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With the assistance and approval of the State Building Advisory Commission, strict standards and procedures have been developed and promulgated which contain "rules and regulations" that provide unequivocal criteria for quality and performance. The promulgation process consisted primarily of meetings during the development phase with the following groups:

Associated General Contractors	(AGC)
National Electrical Contractors Association	(NECA)
Mechanical Contractors Association	(MCA)
Kansas Society of the American Institute of Architects	(AIA)
Board of Regents Long Range Planning Committee	(LRPC)
State Building Advisory Commission	(SBAC)

The following listing indicates the documents that form the "rules and regulations" governing the state capital improvement program. The initials following each document indicate the groups that participated in the development process. Additionally, it is to be noted again, that each of these documents, by executed contract, becomes a legal instrument binding the contractual parties to the conditions contained therein.

1. General Conditions of the Contract - Exhibit A
(AGC, NECA, MCA, AIA, LRPC, SBAC)
2. Supplemental General Conditions - Exhibit B
(AGC, NECA, MCA, AIA, LRPC, SBAC)
3. General Requirements - Exhibit C
(AGC, NECA, MCA, AIA, LRPC, SBAC)
4. Project Specification - Exhibit D
Note: Project specifications are prepared individually for each project and contain essentially all of the rules and regulations for a building project. Along with the drawings (blueprints) they form the Contract Documents.
5. Construction Contract - Exhibit E
(SBAC, Attorney General)
6. Architect/Engineer Policy and Procedure Manual - Exhibit F
(AIA, LRPC, SBAC)
Note: This Manual will become a part of the Contract between the State and the Architect/Engineer performing professional design services.

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A. Within the Policy and Procedure Manual the following Governing Codes are standards for the design and construction process:

1. Uniform Building Code
2. Uniform Mechanical Code
3. Uniform Plumbing Code
4. National Electric Code
5. Kansas State Boiler Code
6. ANSI A 117.1 - Handicapped Accessibility
7. Kansas Maximum Lighting Standards
8. Kansas Thermal Standards
9. State Fire Marshal - Life Safety Code
10. Department of Health and Environment - Protection Codes

B. The manual has adopted the energy design criteria established by a national effort of three groups: American National Standards Institute, the American Society of Heating, Refrigeration and Air Conditioning Engineers, and the Illuminating Engineers Society. This effort provides prescriptive standards for energy conservation and is primarily known as ASHRAE 90. It is now an integral part of our "rules and regulations".

Additionally, by concurrent Senate Resolution, all major projects in the capital improvement program must undergo a Solar Feasibility investigation for analysis of the use of solar methodology for the building systems.

C. Additional codes and standards which constitute good practice or establish minimum quality performance standards may be required by the Division of Architectural Services. These include:

1. Underwriters Laboratories
2. National Board of Fire Underwriters
3. Nation Fire Protection Association
4. Institute of Electric and Electronic Engineers
5. Nation Welding Society
6. American Society of Mechanical Engineers
7. American Institute of Steel Construction
8. American Concrete Institute
9. OSHA and EPA Guidance Manual for Asbestos

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7. Miscellaneous documents required both by statute and policy and procedure include:

- A. Performance Bond
- B. Public Works Bond
- C. Proof of Insurance
- D. Construction Contract Change Order
- E. Partial Occupancy Certificate
- F. Project Completion Certificate
- G. Affidavit of Contractor - Lien Waiver

Essentially, the rules and regulations governing capital improvement projects are in two parts. One, the Policy and Procedure Manual for architects and engineers; and two, the Contract Documents comprising all elements outlined above. The application of the standards for design is the responsibility of the Project Architect. The application of the standards for construction is the responsibility of the project contractors. In both instances the Division of Architectural Services has oversight control in determining (or demanding) compliance.

All procedures are ultimately directed to the establishment of sound practice and performance, standards of quality and function, and the protection of the public life and safety.

JBH:db

PROPOSED COMMITTEE REPORT

MR. PRESIDENT:

Your committee on Governmental Organization

Recommends that House Bill No. 2192 (As Amended by House Committee)

"AN ACT concerning the rules and regulations filing act; amending K.S.A. 1982 Supp. 77-415, 77-416, 77-420, 77-421 and 77-436 and repealing the existing sections."

Be amended:

On page 10, by striking all of line 359 and inserting in lieu thereof the following:

"Sec. 6. K.S.A. 1982 Supp. 77-424 is hereby amended to read as follows: 77-424. The state rules and regulations board shall meet as soon as possible after December 15 each year to determine which rules and regulations are to be published in ~~the--annual supplement--to~~ the Kansas administrative regulations or annual supplement thereto. For the purpose of avoiding unwarranted expense, the board may authorize and direct the revisor of statutes to withhold publication of any technical rule and regulation of any state agency where such rules and regulations are of limited public interest and are or will be available in published form. In every such case where the rules and regulations are not published in the Kansas administrative regulations or annual supplement, reference shall be made by the revisor of statutes to the rules and regulations omitted therefrom, and shall state how such rules and regulations may be obtained and that the rules and regulations so omitted are on file in the office of revisor of statutes. Rules and regulations adopted jointly by two or more agencies shall not be published in more than one place in the compilation or supplement thereto.

"Sec. 7. K.S.A. 1982 Supp. 77-428 is hereby amended to read as follows: 77-428. (a) At the beginning of each calendar year

Ex. B

the revisor of statutes shall, as soon as possible, assemble all rules and regulations, except temporary rules and regulations, filed during the preceding year in accordance with the provisions of this act. The state rules and regulations board shall determine which of ~~said~~ such rules and regulations are to be published in the Kansas administrative regulations or annual supplement as provided in this act.

"(b) Annual supplements ~~published-and-becoming-effective-in-the-year-1980-and-each-year-thereafter,~~ shall be cumulative and shall include all rules and regulations published in the annual supplement ~~becoming-effective~~ in the next preceding year which remain in force and effect on the effective date of the current supplement, together with all rules and regulations, other than temporary regulations, which were regularly adopted and filed in the office of the revisor of statutes in the year next preceding the year in which such annual supplement is published and becomes effective, and which were approved for publication by the state rules and regulations board.

"(c) The revisor of statutes shall prepare annual supplements to the rules and regulations and material to be published therewith, in one or more paperbound volumes in the form determined by the revisor of statutes. The annual supplement of rules and regulations shall be published and shall include a general index of all rules and regulations contained therein and such notes, cross references and explanatory materials as will facilitate the use of such supplements. All rules and regulations and material published in the annual supplement shall be delivered to and published by the director of printing. Authentication of all supplement volumes shall be in the manner provided in K.S.A. 77-429. The director of printing shall print the number of copies requisitioned by the revisor of statutes.

"Sec. 8. K.S.A. 1982 Supp. 77-430 is hereby amended to read as follows: 77-430. The Kansas administrative regulations shall be printed by the director of printing and delivered to the secretary of state who shall dispose of them as follows:

"First, the secretary of state shall deposit in the supreme court law library and the state library such number of copies as the state law librarian and the state librarian, respectively, shall request for use in the law library and the state library and for the purpose of exchange. The secretary of state shall distribute to the university of Kansas school of law and to Washburn university school of law the number of copies as the librarians of the schools of law, respectively, certify to the secretary of state as necessary for the purpose of exchange. The secretary of state shall retain two copies for use in the secretary of state's office.

"Second, the secretary of state shall distribute:

1 copy to each member of the legislature serving in each regular session held in each odd-numbered year;

1 copy to each elective or appointive state officer;

1 copy to each justice of the supreme court;

1 copy to the clerk of the supreme court;

1 copy to each judge of the court of appeals;

1 copy to each judge of the district court;

1 copy to the state historical society;

2 copies to the Washburn university school of law, for use in the law library;

2 copies to Wichita state university;

2 copies to Washburn university;

2 copies to the university of Kansas;

2 copies to the university of Kansas school of law, for use in the law library;

2 copies to Kansas state university;

2 copies to Emporia state university;

2 copies to Fort Hays state university;

2 copies to Pittsburg state university;

1 copy to the library of congress;

1 copy to each county law library;

1 copy to each county community college;

1 copy to the city library in each city of the first and

second class; and

1 copy to each county library.

"Third, the secretary of state shall distribute to the several offices of the legislative branch of government, the number of copies necessary to conduct the official business of such offices, as certified to the secretary of state by the legislative coordinating council.

"Fourth, the balance of the Kansas administrative regulations after such distribution shall be safely kept by the secretary of state for sale at a price per set ~~to be provided by~~ law of \$50. The ~~1978~~ Kansas administrative regulations may be purchased in complete sets or in single volumes. Single volumes of the ~~1978~~ Kansas administrative regulations shall be sold by the secretary of state at a price per volume ~~to be provided by~~ law of \$17.50. Copies may be delivered by postpaid mail by the secretary of state. All moneys received from such sales shall be paid into the state treasury and the treasurer shall credit the same to the general fund of the state to reimburse the state for costs of publication.

"Sec. 9. K.S.A. 77-430a is hereby amended to read as follows: 77-430a. (a) ~~Two-thousand-five-hundred-(2,500)-copies of-the-1978~~ The revisor of statutes shall edit and prepare for printing and publication volumes of rules and regulations which replace existing volumes of the Kansas administrative regulations when authorized by the legislative coordinating council within the limitations of available appropriations therefor. Replacement volumes shall be published and printed in the same format and in accordance with the same printing specifications used in the volume replaced and shall be authenticated as required by K.S.A. 77-429. Replacement volumes of the Kansas administrative regulations shall be printed by the director of printing and delivered to the secretary of state who shall distribute and sell them in the same manner as provided in the--first,--second--and third--clauses--of K.S.A. 77-430, and amendments thereto, for the distribution and sale of other volumes of the Kansas

~~administrative regulations. The remaining volumes shall be sold by the secretary of state in the manner prescribed in the fourth clause of K.S.A. 77-430.~~

"(b) Whenever it shall become necessary to print additional copies of any volume of the 1978 Kansas administrative regulations, the revisor of statutes shall requisition the necessary number of copies from the director of printing.

"Sec. 10. K.S.A. 1982 Supp. 77-431 is hereby amended to read as follows: 77-431. Copies of the annual supplements to the Kansas administrative regulations shall be printed and delivered to the secretary of state who shall distribute them as follows:

"First, the secretary of state shall transmit the same number of copies of each annual supplement in the same manner as provided in the first, second and third clauses of K.S.A. 77-430, and amendments thereto, for distribution of Kansas administrative regulations.

"Second, the balance of annual supplement volumes after such distribution shall be kept by the secretary of state for sale at ~~the following prices: (a) Annual supplements published in 1976 and 1977 shall be sold for fifteen dollars (\$15) per supplement volume.~~

~~"(b) The annual supplement published in 1979 shall be sold for seven dollars fifty cents (\$7.50) per supplement volume.~~

~~"(c) The annual supplement published in 1980 shall be sold for ten dollars (\$10) per supplement volume.~~

~~"(d) The annual supplements published in 1981 and in each year thereafter shall be sold for fifteen dollars (\$15) \$15 per supplement volume or set of volumes if more than one volume is published for any annual supplement.~~

"Moneys received from the sale of supplements shall be remitted to the state treasurer and deposited in the state treasury to the credit of the state general fund to reimburse the state for cost of publication.

"Sec. 11. K.S.A. 1982 Supp. 77-432a is hereby amended to

read as follows: 77-432a. ~~Notwithstanding any provision of law to the contrary,~~ Whenever the secretary of state and the revisor of statutes determine that any publication volume of Kansas administrative regulations ~~published prior to 1978~~ or any annual supplement to the 1978 Kansas administrative regulations has become obsolete by reason of the publication of a later volume or annual supplement, such officers may provide for the disposition of the remaining copies of such obsolete volumes or supplement volumes by whatever means ~~said~~ such officers determine, without making a charge therefor.

"Sec. 12. K.S.A. 77-430a and K.S.A. 1982 Supp. 77-415, 77-416, 77-420, 77-421, 77-424, 77-428, 77-430, 77-430b, 77-431, 77-432a and";

Also on page 10, in line 361, by renumbering section 7 as section 13; in line 362, by striking "statute book" and inserting in lieu thereof "Kansas register";

In the title, in line 17, preceding "K.S.A." by inserting "K.S.A. 77-430a and"; also in line 17, preceding "and" by inserting ", 77-424, 77-428, 77-430, 77-431, 77-432a"; in line 18, preceding the period, by inserting "and also repealing K.S.A. 1982 Supp. 77-430b";

And the bill be passed as amended.

Chairperson

HOUSE BILL No. 2184

By Committee on Federal and State Affairs

2-1

0018 AN ACT concerning the ~~corrections ombudsman board and the~~
0019 ~~ombudsman of corrections; relating to certain powers, and~~
0020 ~~documents and correspondence thereof.~~

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. The ombudsman of ~~corrections~~ shall have the
0023 power to enter and inspect at any time any premises under the
0024 control of the secretary of corrections and may delegate that
0025 power in writing to any ombudsman associate. (a) The ombuds-
0026 man of corrections may enter and inspect at any reasonable time
0027 any premises under the control of the secretary of corrections
0028 and may delegate that ~~power~~ in writing to any employee of the
0029 office acting as an ombudsman.

0030 (b) If the ombudsman of corrections ~~is~~ denied access to any
0031 premises under the control of the secretary of corrections, the
0032 secretary or the secretary's designee, within 24 hours after the
0033 denial, shall give the ombudsman a written statement of the
0034 reason for the denial of access.

0035 Sec. 2. (a) No documents relating to complaints, investiga-
0036 tions or studies in the possession of the ombudsman of correc-
0037 tions or any employee of the ombudsman shall be ~~read or~~
0038 ~~confiscated~~ by any officer or employee of the department of
0039 corrections.

0040 (b) Correspondence between a person who is in the custody
0041 of the secretary of corrections and the ombudsman of corrections
0042 ~~or the corrections ombudsman board~~ shall be forwarded at once,
0043 unopened, to the addressee.

0044 Sec. 3. The ombudsman of corrections ~~shall have the power~~
0045 to administer oaths and take testimony as specified by rules and

granting the ombudsman access to certain prem-
ises; prohibiting certain actions with respect
to documents in the possession of the ombuds-
man; and authorizing the administration of
oaths

authority

or any employee of the office acting as an om-
budsman who has been delegated in writing the
authority granted under subsection (a)

read
examined, copied or taken
except as authorized by the ombudsman or the
employee of the ombudsman

is hereby authorized

0046 regulations of the corrections ombudsman board and may dele-

0047 gate such ~~power~~ in writing to any ombudsman associate.

0048 Sec. 4. This act shall take effect and be in force from and

0049 after its publication in the statute book.

authority