

Approved

Stephen R. Cloud
Date 2-27-84

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Rep. Stephen R. Cloud at
Chairperson

9:09 a.m./p.m. on February 21, 1984 in room 522-S of the Capitol.

All members were present except:

Rep. Smith - Excused

Committee staff present:

Avis Swartzman - Revisor
Russ Mills - Legislative Research Department
Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

Rep. Matlack - HB 2859 sponsor
Jeff Southard - Attorney General's Office
John Wine - Secretary of State's Office
John Peterson - Kansas Cemetery Association
Hap Bledsoe - Wichita cemetery owner
David W. Newcomer - Prairie Village, KS., cemetery owner and Chairman, KS. Cemetery Ass

The meeting of the House Governmental Organization Committee was called to order at 9:09 a.m. by Chairman Stephen R. Cloud. He announced that HB 2859 was being heard in Committee today and introduced Rep. Matlack, bill sponsor.

HB 2859 - Kansas Cemetery Board; established

Rep. Matlack distributed copies of her testimony. This bill establishes a cemetery board similar to a real estate board. It would consist of 7 members, five appointed by the Governor, the Secretary of the Department of Health and Environment and the Secretary of State or one of their designees. Rep. Matlack explained that some areas of the bill need to be changed or amended. (See Attachment) I

Jeff Southard, Attorney General's Office, Consumer Protection Division, passed around pictures of a cemetery that has not been provided the proper care and maintenance. He stated that cemeteries are one of the few industries in the state dealing directly with the people that are not being regulated. Amendments to this bill are being drawn up at this time. This bill will deal with private, not city cemeteries.

John Wine, Secretary of State's Office, said that they have been auditing the permanent maintenance fund since 1974. The merchandise trust accounts will undergo their first audit in 1984. The bank examiner can audit, but has never done so. The people being audited are definitely notified before the auditors appear. There is a random audit of 6 cemeteries a year. Mr. Wine feels like this is adequate. In reply to the Chairman's question of how many significant problems he feels there have been in the last ten years, Mr. Wine stated that he felt there were possibly 5 or 6, with discussions on several others now taking place. The auditing vacancy that is presently in the Secretary of State's office will be taken care of soon. The Chairman requested a letter from the Secretary of State's office notifying him of the established time frame for getting the position filled. Corporate reorganization is going on at this time, but, since most cemetery auditing is done in the summer, this has been no problem.

Rep. Matlack interjected that Mr. Cozine will be sending testimony to the Committee.

Chairman Cloud asked if there were any others present to speak in support of HB 2859. As there were none, he introduced John Peterson, Kansas Cemetery Association. Mr. Peterson said that every present today wants to insure that funds are available to provide the perpetual care for the families who have individuals in the cemeteries. There is current law in the statute books. Mr. Peterson read from K.S.A. 17-1308 and 17-1311a. He provided the Committee with a news article entitled, Part of cemetery case settled. (See Attachment) II
The name of the corporation accused of failing to keep a permanent maintenance fund, providing inadequate records and abandoning its cemeteries, is Memory Gardens.

Mr. Hap Bledsoe spoke next in opposition to HB 2859. Mr. Bledsoe stated that his concern is that state boards get so wrapped up in bureaucratic affairs that funding for them gets totally out of hand. The state that this bill was drafted after (Arkansas) has a board and it has not solved their problems.

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.

SAC

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,

room 522-S, Statehouse, at 9:09 a.m./p.m. on Feb. 21, 1984.

Only 12 states have boards now. He answered a question from Rep. Walker by saying that he thinks present laws are adequate but the penalty could be strengthened and the initial deposit should be increased.

David Newcomer, owner of Johnson County Memorial Gardens. He stressed the idea of keeping in mind what the cemetery people are trying to do. If there is a wrong doer, punish him. Let that person make restitution. This is the way the system works. Nobody wants added bureaucracy. If additional legislation is needed, he would be willing to respond and work for a solution to the problem. Possibly an interim committee could study this or whatever is felt necessary. Don't punish everyone connected with the business because of one bad situation.

After an additional comment from Mr. Bledsoe, the Chairman mentioned that this constituted the public hearing on HB 2859.

Subchairperson Hassler presented the Committee with copies of the Subcommittee B Report. Rep. Harder reported that the subcommittee recommends the Milk Advisory Commission be continued and stricken from HB 2619. The subcommittee recommended that the Weather Modification Advisory Committee be abolished, or, left in HB 2619.

Rep. Walker reported that the Subcommittee recommended abolishment of the State Telecommunications Advisory Committee, thus leaving it in HB 2619. The subcommittee recommends retaining the Land Survey Advisory Committee, striking it from HB 2619.

Rep. Hassler reported that the Subcommittee recommended abolishment of the Anhydrous Ammonia Advisory Committee, keeping it in HB 2619 and the abolishment of the Pesticide Advisory Board, keeping it in HB 2619.

Rep. Walker moved adoption of the Subcommittee B Report. Rep. Sprague gave a second to the motion. The motion carried.

The Chairman announced Thursday's agenda and adjourned the meeting at 10:22 a.m.

TESTIMONY FOR HB 2859
HEARING BEFORE THE GOVERNMENTAL ORGANIZATION COMMITTEE
Chairman, Rep. Stephen R. Cloud
on Tuesday, February 21, 1984
BY REP. ARDENA MATLACK

This bill came about because I had read in newspapers for several years about the problems with cemeteries, their upkeep and financial integrity. Then a friend came to me and suggested that this bill should be introduced.

The development of this bill since it was introduced has been rather interesting. Cemeterians who had been contacted to testify felt this bill was a good idea but because of their superiors not wanting them to testify, or reasons of "conflict of interest," they would rather not. Mortuary operators also thought it was a good idea but did not want to "fan the flames" of competition and hard feelings between mortuary operators and cemetery operators by testifying.

This bill establishes a cemetery board similar to the mortuary board or the real estate board. The board would consist of seven members, five appointed by the Governor plus the Secretary of the Department of Health and Environment and the Secretary of State or their designees. Three of the five members would be owners or operators of cemeteries in the State and would be appointed from a list of five names for each appointment to be made submitted by the Kansas Cemetery Association. Two members shall be appointed by the Governor which shall not have an interest in a cemetery or funeral home. The board would have the power to conduct periodic examinations of the company, investigate the financial condition of the company, and enforce trust fund laws. The examination could be made by members of the board or by a CPA. It would also require a certificate of need and permit for operation of a new cemetery or for additions to existing cemeteries. Any permit would be accompanied by a \$100 fee, plus other necessary information.

It is the intent of the bill that the pre-need sales provisions and the permanent maintenance fund provisions are not changed from present law except that the permanent maintenance fund deposit would increase from 15% to 20%. The bill also inadvertently changed the penalty section 20 to say "a class D felony to a class E felony." This should be changed back to "a class D felony" as the law presently is. A spokesman for the Attorney General's

Atch. I

TESTIMONY
Rep. Ardena Matlack

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February 21, 1984

office will submit those amendments with which I certainly agree. I am sure he will be able to answer your questions about the present cemetery law and tell you the need for this bill. I would appreciate your favorable consideration of HB 2859.

Thank you.

Part of cemetery case settled

From staff and wire reports

TOPEKA — An out-of-court settlement has been reached in part of a case in which the attorney general accused a business of violating state cemetery law.

A spokesman for Attorney General Robert Stephan, said Thursday that Memory Gardens Association, which operates six Kansas cemeteries, was accused of failing to have a permanent maintenance fund for its cemeteries, providing the Kansas secretary of state with adequate records on the cemeteries and of abandoning the cemeteries. The parties settled out of court on those issues this week.

The attorney general is responsible for enforcing provisions of state cemetery law. Stephan had filed an action against Harold Matney, Kansas City, and Robert Pinet, Ottawa, said Neil

Woerman, a Stephan spokesman. The two lawyers did business as the Memory Gardens Association, which operated cemeteries in McPherson, Hays, Chanute, Great Bend, Garden City and El Dorado.

A third allegation, still being litigated in Butler County District Court at El Dorado, was a consumer protection complaint, charging that the organization had failed to provide vaults and other items individuals had ordered and paid for.

Norman Anderson, El Paso, Texas, former owner of Memory Gardens Association, is also listed in the consumer protection complaint, Woerman said. That case will probably be heard early this summer at El Dorado.

As part of the settlement, \$206,000 was to be deposited in a trust fund as the permanent maintenance fund for

the cemeteries, Woerman said. In addition, the association must sell all six cemeteries, subject to Stephan's approval, by Jan. 1, 1983.

If the cemeteries are not sold by Jan. 1, Stephan can place them into receivership and the receivers will sell the cemeteries, Woerman said.

Cemeteries involved in the action are McPherson's Crestwood Memorial Park, Garden City's Sunset Memorial Garden, Hays' Fort Hays Memorial Garden, Great Bend's Hillcrest Memorial Park Cemetery, Chanute's Greenlawn Memorial Park and El Dorado's Walnut Valley Memorial Park.

"The settlement brings about everything that we could have wanted to get in court," Woerman said. "The money (\$206,000) was the amount that should have been in the permanent maintenance fund."

Atch. II

SUBCOMMITTEE REPORT

February 15, 1984

TO: House Governmental Organization Committee

FROM: Subcommittee B

RE: Anhydrous Ammonia Advisory Committee

Pursuant to its review of H.B. 2619, the Subcommittee makes the following recommendation concerning the Anhydrous Ammonia Advisory Committee which is advisory to the State Board of Agriculture.

1. The Anhydrous Ammonia Advisory Committee should be abolished, effective July 1, 1984. The Subcommittee notes that the Secretary of the Board of Agriculture supports the continuation of the Advisory Committee. In addition, the Subcommittee recognizes the active role individual members of the Committee have played when accidents have occurred involving the handling, storage, and transportation of anhydrous ammonia.

It is the Subcommittee's opinion, however, that local and state officials responsible for emergency preparedness would continue to utilize the expertise of persons in each part of the state who could be of assistance in the event of an emergency. The Subcommittee does not believe the abolition of the Advisory Committee would jeopardize the emergency preparedness network which already exists.

The Subcommittee notes that the Anhydrous Ammonia Advisory Committee held no meetings in FY 1982 and FY 1983. (The Subcommittee is aware that, according to testimony, telephone contact has been maintained between the agency and members of the Advisory Committee.)

Subcommittee Members:

Representative Elaine Hassler, Chairperson
Representative Ginger Barr
Representative Jesse Harder
Representative Jim Murphy
Representative Tom Walker

CR/pb

SUBCOMMITTEE REPORT

February 16, 1984

TO: House Governmental Organization Committee

FROM: Subcommittee B

RE: Pesticide Advisory Board

Pursuant to its review of H.B. 2619, the Subcommittee makes the following recommendation concerning the Pesticide Advisory Board which is advisory to the State Board of Agriculture.

1. The Pesticide Advisory Board should be abolished, effective July 1, 1984. The Subcommittee calls attention to the fact that the Advisory Board held no meetings in FY 1982 and FY 1983. In addition, ten of the Board's 17 members are, by law, ex officio members who hold positions in various state agencies. It is the Subcommittee's opinion that interaction among the state officials who are named to the Board will continue even if the Board is abolished. In addition, although the Subcommittee believes input from the regulated industry to the Board of Agriculture is important, it is of the opinion that manufacturers and users of pesticides and operators of pesticide equipment will continue to have access to the Board and are not dependent upon their minority representation on the Board to ensure that access. (Only five of the 17 members of the Board are required to be representatives of manufacturers and users of pesticides and pesticide equipment.)

Subcommittee Members:

Representative Elaine Hassler, Chairperson
Representative Ginger Barr
Representative Jesse Harder
Representative Jim Murphy
Representative Tom Walker

CR/pb

SUBCOMMITTEE REPORT

February 16, 1984

TO: House Governmental Organization Committee
FROM: Subcommittee B
RE: Milk Advisory Committee

Pursuant to its review of H.B. 2619, the Subcommittee makes the following recommendation concerning the Milk Advisory Committee which is advisory to the State Board of Agriculture.

1. Milk Advisory Committee should be continued and, thus, should be deleted from H.B. 2619. The role of the Advisory Committee has evolved over the years to that of periodically reviewing the state's geographic milk inspection areas and determining whether changes in farm and plant workloads warrant the reassignment of counties in order to better distribute staffing loads among the areas. The Committee's most recent recommendation to restructure the areas was made in February, 1984. The Subcommittee believes the Advisory Committee has been active and that, given the diversity of operations in the milk industry, it cannot be assumed that various segments of the industry would participate as fully in the milk inspection program if the Advisory Committee did not exist.

Subcommittee Members:

Representative Elaine Hassler,
Chairperson

Representative Ginger Barr
Representative Jesse Harder
Representative Jim Murphy
Representative Tom Walker

CR/db

SUBCOMMITTEE REPORT

February 16, 1984

TO: House Governmental Organization Committee
FROM: Subcommittee B
RE: State Telecommunications Advisory Committee

Pursuant to its review of H.B. 2619, the Subcommittee makes the following recommendation concerning the State Telecommunications Advisory Committee which is advisory to the Department of Administration.

1. The State Telecommunications Advisory Committee should be abolished, effective July 1, 1984. The Advisory Committee is made up of representatives of divisions, departments, and state agencies using telecommunications services. According to the Secretary of Administration, members were appointed to the Committee when it was created in 1974, but the Committee has never met and no members are currently serving. The Secretary supports the recommendation that the Committee be abolished.

It is the Subcommittee's observation that the Secretary of Administration has ready access to officials in state agencies which use telecommunications services and that the Advisory Committee is unnecessary.

Subcommittee Members:

Representative Elaine Hassler,
Chairperson
Representative Ginger Barr
Representative Jesse Harder
Representative Jim Murphy
Representative Tom Walker

SUBCOMMITTEE REPORT

February 16, 1984

TO: House Governmental Organization Committee
FROM: Subcommittee B
RE: Land Survey Advisory Committee

Pursuant to its review of H.B. 2619, the Subcommittee makes the following recommendation concerning the Land Survey Advisory Committee which is advisory to the Secretary of State.

1. The Land Survey Advisory Committee should be continued in existence and, thus, should be deleted from H.B. 2619. The Advisory Committee was created by the 1982 Legislature to advise the Secretary of State in the development of rules and regulations and assist in the implementation of new legislation which imposed filing requirements upon land surveyors and assigned new duties to the Secretary of State. According to testimony before the Subcommittee, the process of implementing the new provisions is taking place but additional work remains before the law is fully implemented.

It appears to the Subcommittee that the Advisory Committee has actively performed its role in the short time since it was created (July 1, 1983). It is possible that, at some future date, the Committee will have accomplished its purpose and should be abolished. At the present time, however, the Subcommittee believes the Advisory Committee has a useful role to perform in assisting the Secretary of State and in working with the various professional groups whose cooperation is necessary to ensure the successful implementation of legislation affecting land surveyors.

Subcommittee Members:

Representative Elaine Hassler,
Chairperson
Representative Ginger Barr
Representative Jesse Harder
Representative Jim Murphy
Representative Tom Walker

SUBCOMMITTEE REPORT

February 16, 1984

TO: House Governmental Organization Committee
FROM: Subcommittee B
RE: Weather Modification Advisory Committee

Pursuant to its review of H.B. 2619, the Subcommittee makes the following recommendation concerning the Weather Modification Advisory Committee which is statutorily advisory to the Executive Director of the Kansas Water Resources Board and currently operates as advisory to the Director of the Kansas Water Office.

1. The Weather Modification Advisory Committee should be abolished, effective July 1, 1984. The Advisory Committee was most active during the 1970s when state and federal funds were available for weather modification research projects. Since the early 1980s when these funds were eliminated, the function of the Advisory Committee has been to assist the Director of the Kansas Water Office in the review of applications for permits and licenses to conduct weather modification activities. The Subcommittee recognizes the value to the Director of having input on weather modification activities from a variety of persons who possess the appropriate technical expertise, but it believes this input will continue and is not dependent upon the existence of the Weather Modification Advisory Committee.

The Advisory Committee has not met since 1981, although the review of some applications for permits and licenses to conduct weather modification activities has taken place by mail. A representative of the Kansas Water Office testified before the Subcommittee that the Water Office is not opposed to the abolition of the Advisory Committee.

Subcommittee Members:

Representative Elaine Hassler,
Chairperson

Representative Ginger Barr
Representative Jesse Harder
Representative Jim Murphy
Representative Tom Walker

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