

Approved Ivan Sand 2/7/84  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at  
Chairperson

1:30 ~~xxx~~ a.m./p.m. on FEBRUARY 2, 19 84 in room 521-S of the Capitol.

All members were present except: Representative R. D. Miller, Excused  
Representative Elizabeth Baker, Excused  
Representative Jim Patterson, Excused

Committee staff present:

Mike Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes Office  
Gloria Leonhard, Secretary to the Committee

Conferees appearing before the committee:

Mr. Dan Morgan, Ass't. Executive Director, Assoc. General  
Contractors of Kansas, Inc.  
Mr. Kim C. Dewey, Sedgwick County, Kansas, HB 2741  
Representative LeRoy F. Fry, HB 2736  
Ms. Rebecca Kupper, Kansas Hospital Assn., HB 2736

Chairman, Ivan Sand, called for introduction of new legislation by Mr. Dan Morgan, Assistant Executive Director, Associated General Contractors of Kansas, Inc. Morgan suggested that the committee consider certain amendments to K.S.A. 75-3740a regarding contracts for purchases with non-resident bidders. (See Attachment I.) Morgan stated that the proposed amendments do not change the scope of the present law.

Representative Kenneth D. Francisco made a motion to introduce the proposed legislation as a committee bill. Representative Darrel M. Webb seconded the motion. The motion carried.

Chairman Sand called for hearings on the following House Bills:

HB 2741, concerning county jails; relating to the maintenance of prisoners and the cost thereof;

Mike Heim, Staff, gave an overview of the bill. (See Attachment II.)

The question of how the tax would be determined was raised. Heim stated that the levy could be set by the County Commissioners.

Mr. Kim C. Dewey, Sedgwick County, appeared in support of the bill. (See Attachment III.) Dewey's proposal called for adding in Line 0051 the language "as well as the costs of maintaining county prisoners;" and in Line 0048 striking the words "and state."

When questioned, Dewey stated that if there were a surplus from the amount collected in a given year, there would be a budget restriction for the use of the funds; that the funds would go to reduce the tax levy the following year; that the intent is not to raise funds for capital projects; that double taxation of counties and cities would not result as cities would not be billed.

Ms. Dolly Scheller, County Commissioner, Leavenworth County, spoke as an opponent to the bill. Scheller stated that Leavenworth County currently has two state prisons and she wouldn't want to ask County taxpayers to pay for state prisoners held in county jails; that there is no way to anticipate the cost involved with such prisoners.

The hearing on HB 2741 was closed.

HB 2736, concerning hospital districts in certain townships; relating to tax levies for the operation and maintenance of the hospital;

Mike Heim, Staff, gave an overview of the bill. (See Attachment IV.)

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 LOCAL GOVERNMENT,  
room 521-S, Statehouse, at 1:30 ~~xx~~/p.m. on FEBRUARY 2, 1984

Representative LeRoy F. Fry, sponsor of the bill, appeared to give background and intent. Fry stated that the purpose of the bill is to allow the Board of Directors of a hospital district to submit their tax levy and budget to the county clerk who would then levy the tax on property in the hospital district; that the proposed levy and budget would pass through a CPA representing their agency.

Ms. Rebecca Kupper, representing the Kansas Hospital Association, appeared in support of the bill and gave statistics regarding county and district hospitals.

The hearing on HB 2736 was closed.

HB 2741

Chairman Sand re-directed the committee's attention back to HB 2741 on which testimony had been heard a few minutes earlier and asked for a formal motion to amend the bill.

Representative Kenneth D. Francisco made a motion that in Line 48 of the bill the words "and state" be removed; that in Line 51 of the bill the words "as well as the costs of maintaining county prisoners." be added; in Line 55 of the bill the words "or state" be added after the word "federal." Representative Mary Jane Johnson seconded the motion. Motion carried.

Chairman Sand directed Staff to prepare a balloon incorporating the suggested amendments for the bill to be reconsidered at a later meeting.

HB 2675

Chairman Sand requested that the committee consider action on HB 2675 which had been heard on January 24, 1984.

Representative LeRoy F. Fry moved and Arthur W. Douville seconded that the bill be passed. Motion carried.

The minutes of the meeting of January 31, 1984, were approved as presented.

Meeting adjourned.



SUGGESTED LANGUAGE, K.S.A. 75-3740a

AN ACT concerning contracts and purchases by the state; relating to contracts for public works, improvements and purchases with nonresident bidders; amending K.S.A. 75-3740a and repealing the existing section.

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

K.S.A. 75-3740a is hereby amended to read as follows.  
75-3740a. Contracts for public works, improvements or purchases with nonresident bidders. To the extent permitted by federal laws and regulations, whenever the state of Kansas, or any department, division, bureau or agency thereof, or any municipality, county, school district, special improvement district, or other public body, shall let for bid any contract for the erection, construction, alteration or repair of any public building or other structure or for making any addition thereto, or for any public work or improvement or for any purchase of any goods, merchandise, supplies or equipment of any character, the contractor domiciled outside the boundaries of Kansas shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible contractor domiciled in Kansas as would be required for such a Kansas domiciled contractor to succeed over the bidding contractor domiciled outside Kansas on a like contract being let in his domiciliary state.



**Associated General Contractors  
of Kansas, Inc.**

DAN MORGAN  
ASS'T EXECUTIVE DIRECTOR

200 W. 33rd • TOPEKA, KANSAS • 66611  
OFFICE: 913/266-4015

(ATTACHMENT I)



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75, § 39; L. 1968,  
 50, § 1; April 18.

75-2106, 75-2107, 75-

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 107 to 68-410.

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the state or who has failed to perform on a previous contract with the state. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law. Before the awarding of any contract for a building or the making of repairs upon any building, the director of purchases shall see that the bids conform with the plans and specifications prepared by the director of architectural services, so as to avoid error and mistake on the part of the contractors; and in all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract. All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five (5) years, unless reproduced as provided in K.S.A. 75-3737, and shall be open to public inspection at all reasonable times.

**History:** L. 1953, ch. 375, § 40; July 1.

**Source or prior law:**

76-101, 76-101a, 76-101b, 76-101c, 76-103.

**75-3740a. Contracts for purchases with nonresident bidders.** To the extent permitted by federal law and regulations whenever the state of Kansas or any agency thereof or any municipality of the state shall let bids for contracts for any purchases, the contractor domiciled outside the state of Kansas, to be successful, shall submit a bid the same percent less than the lowest bid submitted by a responsible Kansas contractor as would be required of such Kansas domiciled contractor to succeed over the bidding contractor domiciled outside Kansas on a like contract let in his or her domiciliary state.

**History:** L. 1972, ch. 336, § 1; July 1.

**75-3741. Buildings, major repairs or improvements; competitive bids; duties of director of architectural services and administrative heads.** Subject to the applicable provisions of K.S.A. 75-3739 and 75-3740, all contracts for the construction of buildings, major repairs, or improvements specifically authorized by the legislature for the use and benefit of any state agency shall be let by the director of purchases to the lowest

responsible bidder based on plans and specifications prepared or approved and submitted by the director of architectural services and approved by the administrative head of the state agency concerned.

The director of purchases under the supervision of the secretary of administration shall have charge of the erection of all such buildings, major repairs or improvements, except that the inspection and interpretation of plans and specifications shall be the responsibility of the director of architectural services, and except that the original construction contracts may be changed only by the director of purchases with the consent of the administrative head of the state agency concerned: *Provided*, The director of purchases, if he or she believes there is collusion and combination, may reject any and all such bids and let the work by private contract, on condition, however, that the cost thereof shall not exceed the lowest responsible bid that had been offered. In the event of a disagreement between the director of architectural services and the administrative head of the state agency concerned in carrying out the provisions of this section, the secretary of administration shall submit the matter to the finance council and its decision shall be final.

The provisions of this section shall not be construed to prohibit the administrative head of any state agency from making any improvement or improvements when the same can be made by institutional labor or the use of material manufactured in any state institution.

**History:** L. 1953, ch. 375, § 41; July 1.

**Source or prior law:**

76-101, 76-103.

**Revisor's Note:**

Referred to in 75-1207.

#### CASE ANNOTATIONS

1. Cited; duty of finance council hereunder not constitutionally permissible; violative of inherent constitutional doctrine of separation of powers; such duty devolves upon governor. State, *ex rel.*, v. Bennett, 219 K. 285, 295, 547 P.2d 786.

**75-3742. Same; plans and specifications.** At the request of the director of purchases or the director of the budget, the director of architectural services shall assist in all matters relating to the preparation of plans and specifications for prospective buildings, major repairs and improvements

**75-3740a.** Contracts for purchases with nonresident bidders. To the extent permitted by federal law and regulations whenever the state of Kansas or any agency thereof or any municipality of the state shall let bids for contracts for any purchases, the contractor domiciled outside the state of Kansas, to be successful, shall submit a bid the same percent less than the lowest bid submitted by a responsible Kansas contractor as would be required of such Kansas domiciled contractor to succeed over the bidding contractor domiciled outside Kansas on a like contract let in his or her domiciliary state.

[public works, improvements or

[, or any department, division, bureau

[, county, school district, special improvement district, or other public body,

[the erection, construction, alteration or repair of any public building or other structure or for making any addition thereto, or for any public work or improvement or for

[of any goods, merchandise, materials, supplies or equipment of any character

History: L. 1972, ch. 336, § 1; July 1.

MEMORANDUM

January 31, 1984

TO: House Local Government Chairman  
FROM: Kansas Legislative Research Department  
RE: H.B. 2741

H.B. 2741 permits counties to levy a tax outside the tax lid to pay for the cost of the maintenance of prisoners in the county jail in lieu of charging city and state authorities for such costs. No revenues from the tax could be used to pay the cost of federal prisoners or prisoners of other counties or cities located in other counties.

(ATTACHMENT II)

MH





## SEDGWICK COUNTY, KANSAS

### BOARD OF COUNTY COMMISSIONERS

JACK SPRATT  
CHAIRMAN

COMMISSIONER THIRD DISTRICT

DONALD E. GRAGG  
CHAIRMAN PRO-TEM  
COMMISSIONER FIRST DISTRICT

TOM SCOTT  
COMMISSIONER  
SECOND DISTRICT

COUNTY COURTHOUSE • SUITE 320 • WICHITA, KANSAS 67203-3759 • TELEPHONE (316) 268-7411

Testimony of Kim C. Dewey  
House Local Government Committee  
HB 2741  
February 2, 1984

The Sedgwick County Jail is the largest detentional/correctional facility in Kansas which is not operated by the State. It serves all twenty incorporated cities in Sedgwick County, State and Federal authorities, and frequently, surrounding cities and counties.

Revenues to support the daily operation of this facility come from two primary sources, general ad valorem taxes and per day prisoner charges to City, State and Federal authorities. We average a daily population of 270 inmates, which at times has ranged as high as 310.

We have not always followed the practice of charging our cities for prisoner housing. We instituted this practice due to aggregate levy restrictions which limit our ability to levy for adequate support of the jail. The funds collected from cities simply reduces our ad valorem tax requirements, giving additional room within aggregate levy limitations to fund those services within them.

Our experience with collecting revenues from the cities has not been favorable. The amounts collected have varied greatly from year to year, complicating our budget process. We can attribute much of this to the difficulty the cities have in budgeting adequately for this expense. It is a cost which cannot be controlled. Often a city may not have sufficient amounts budgeted to cover their County jail bill because of an unusually high number of prisoners committed to the jail.

We feel that it would be of mutual benefit to the cities and the County to discontinue the practice of charging for prisoner housing and finance that expense through a countywide levy in the manner that the cost of housing County prisoners is financed.

(ATTACHMENT III)



As was noted earlier, we originally began charging cities because of the aggregate levy limitations, and we do not feel that we could absorb this expense within the levy limitations. HB 2741 would provide exemptions from K.S.A. 79-5001 et. seq. for the amount levied to pay the costs of housing city prisoners. We had originally intended that the legislation be drafted to include the amount levied for the cost of housing county prisoners. We do question whether we could segregate a levy in such a manner, primarily because the prescribed State budget forms do not provide for it. If the Committee were to recommend this legislation favorably, we would suggest adding in line 0051 the language "as well as the costs of maintaining county prisoners."

We have also been in contact with officials of the State Department of Corrections and understand that it would be their desire to continue the practice of paying counties for the housing of parole violators. This would be accomplished by striking out the words "and state" in line 0048.

I have provided in the following table, the aggregate levy limit for Sedgwick County the past five years and the amount levied under these limits. Although we have been levying less than the aggregate limit in 1984 and 1983, projections for 1985 are that we will have to levy the full amount of the aggregate limit just to maintain current levels of service. The Board of County Commissioners cannot assume additional uncontrollable costs under aggregate levy limits. These limitations loom as a much greater problem in the future given the rapidly escalating expense of operations such as the District Courts and the Jail which the Board of County Commissioners has no control over. We encourage the Committee to amend HB 2741 and report in favorable for passage.

<u>Year</u>	<u>Aggregate Levy Limit</u>	<u>Amount Levied</u>
1984	\$12,275,116	\$11,291,264
1983	\$11,384,155	\$ 9,832,619
1982	\$11,347,164	\$11,347,164
1981	\$10,671,894	\$10,671,894
1980	\$11,979,894	\$11,979,894

MEMORANDUM

January 31, 1984

TO: House Local Government Chairman  
FROM: Kansas Legislative Research Department  
RE: H.B. 2736

H.B. 2736 amends a hospital district statute apparently as a cleanup measure. The bill provides the board of directors of the hospital district shall certify the amount of taxes to be levied together with its budget, to the county clerk instead of the board of county commissioners and the county clerk shall levy such tax.

(ATTACHMENT IV)

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