

Approved 3/26/84
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~p.m.~~ on March 22, 1984 in room 254-E of the Capitol.

All members were present except:

Senators Francisco and Vidricksen, who were excused.

Committee staff present:

Fred Carman, Assistant Revisor of Statutes
Russell Mills, Legislative Research
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Jim Snyder, Kansas Funderal Directors Association
Larry McElwain, Lawrence, Kansas

SB744 - relating to cemetery corporations and undedication of property.

The Chairman called the Committee's attention to SB744. He said that following the Committee's hearing a proposed amendment to SB744 that the Kansas Funeral Directors' Association had requested to be heard again. The Chairman recognized Jim Snyder, who in turn introduced Larry McElwain, of his organization. Mr. McElwain presented a written statement to the Committee. A copy is a part of these Minutes as Attachment #1.

Also attached is a copy of a letter from Maurice Connolly, M.D., of Salina, Kansas. It is Attachment #2 of these Minutes.

Following Mr. McElwain's testimony there was discussion among the members of the Committee. Senator Gannon moved that the Committee recommend SB744 not favorable for passage. 2d by Senator Daniels. Motion carried.

HB2813 - relating to cost of land survey.

The Chairman called the Committee's attention to HB2813, which had been heard at an earlier date. Senator Meyers moved to amend the bill on line 62 by striking "authorized and". 2d by Senator Parrish. Motion carried. Senator Meyers moved that HB2813 be reported favorably as amended. 2d by Senator Parrish. Motion failed.

Senator Winter asked the Committee's cooperation to introduce a bill that was technical in nature. Senator Winter moved to introduce a bill to amend 1984 SB509 by adding to subsection (b) the following: This subsection (b) shall not be deemed to affect the outcome of litigation which was pending at any stage in any district court or appellate court of the state of Kansas on the effective date of the amendment under which this subsection (b) was enacted. 2d by Senator Pomeroy. Motion carried.

The Chairman called the Committee's attention to proposed legislation concerning the crime reparations fund. Senator Parrish moved that a bill be drafted for the Committee to look at to amend the crime victims' reparations act to permit recovery for personal injury to persons injured by persons convicted of driving under the influence of alcohol or drugs and that a surcharge be assessed for each DUI conviction to replenish the crime victims' reparations fund. 2d by Senator Gannon. Motion carried.

The Chairman stated that he had been asked by the Kansas Manufactured Housing Institute to consider a compromise on removing the sales tax on manufactured homes. No action was taken on the matter.

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 SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on March 22, 1984

The Chairman said that Senator Montgomery had asked the Committee to recommend passage of SB746 and "run it on its own merits." There was Committee discussion but no action was taken.

The Chairman asked the Committee to consider a proposal concerning water districts; authorizing the creation of a joint water district. The proposed legislation is a part of these Minutes as Attachment #3, and is 3RS1796. Senator Morris moved the introduction of the proposed legislation as a Committee bill. 2d by Senator Pomeroy. Motion carried.

Senator Pomeroy moved that the Minutes of the Meeting of March 21, be corrected in paragraph 2, line 8, by deleting "as amended" and that the Minutes be approved as corrected; and that the Minutes of the Meeting of March 20, 1984, be approved. 2d by Senator Meyers. Motion carried.

The meeting was adjourned at noon.

3/22/84
Attachment #1

REMARKS REGARDING SENATE BILL 744

March 22, 1984

Mr. Chairman, members of the committee. The Kansas Funeral Directors Association, once again, appears in opposition to Senate Bill 744 -- even with the proposed amendment. As far as we can tell, this amendment would make the bill even more unpalatable and harmful to consumers rights as it would prevent any dedicated cemetery property to be placed on the tax rolls unless it is specifically designated for a mortuary or funeral home.

You'll note, we do not mention the other items provided for by the amendment as these presently are not effected by the dedication process. Cemeteries now have the power to place mausoleums, chapels, and maintenance-purpose buildings on the property.

In the case of having a mortuary on the property, however, there presently are four mortuaries in Kansas on or adjacent to cemetery land. In each case they were not built on previously dedicated land. And, in the case of Roselawn, there was available land adjacent to the cemetery, but the owner chose to disregard this possibility. Also, as was mentioned at the original hearing on this matter, the lawsuit was filed during the first two weeks of construction and the chance of losing the lawsuit did not deter the completion of the building.

Another item mentioned earlier was the fact the lawsuit was brought by a doctor and a funeral director. This is true. It should be noted, though, the funeral director's only son -- killed in a 1963 car wreck-- was entombed at the cemetery...and the doctor's wife was buried there. In addition, nearly a year before construction began in 1972, a petition with more than 60 lot owners' names was filed in opposition to the re-zoning of the property. And, the attorneys of both the city and county during the zoning process told their respective governmental bodies that they did have power over zoning, but the dedication situation would rest with the courts. In spite of this, the cemetery owner went ahead with construction.

For these reasons we feel, should the legislature make a policy decision in favor of Senate Bill 744 (whether or not amended), it would cause problems across Kansas and for the benefit of only one individual. We are sure Kansas government does not work in this manner and enlist your support in an unfavorable report on this bill.

Attachment #1

3/22/84
Attachment #2

March 20, 1984

Senator Edward R. Reilly, Jr.
Third District
430 Delaware
Leavenworth, KS 66048

RE: Roselawn Memorial Park

Dear Senator Reilly:

This is to advise that, in connection with Senate Bill No. 744, I am in favor of the passage of said Bill.

I have no desire to see Mr. Frobenius lose his ability to operate a mortuary at the location in the Roselawn Cemetery in Salina, Kansas, and sincerely hope that the State Legislature will do all that it can to make certain that the Bill permitting that use is passed.

Very truly yours,

Maurice Connolly JK
Maurice Connolly, M.D.

R.R # 3
Salina KS

cc: Mr. R. E. Frobenius

NOTATION: Dr. Maurice Connolly (the above) was the originator of the lawsuit against Roselawn Memorial Park and Robert F. Frobenius

Attachment # 2

SENATE BILL NO. _____

By

AN ACT concerning water districts; authorizing the creation of a joint water district.

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

Section 1. (a) The governing body of any city of the second class and the governing body of any township adjoining such city may establish a joint water district. The joint water district shall be governed by a nonpartisan board elected in the manner provided by subsection (b). Such board shall be independent of the township and city.

(b) Such district shall be governed by a five member board. The members of the board shall be residents of the joint district and shall be elected on an at-large basis. Except as provided by subsection (c), board members shall hold office for a term of four years and until their successors are elected and qualified. An election to choose board members shall be held on the first Tuesday in November, 1984, and every two years thereafter. If a vacancy occurs on the joint water district board, a successor shall be appointed by the remaining board members and shall hold office until the next regular election.

(c) At the first election, the two members receiving the largest number of votes shall hold office for a term of four years. The three remaining members shall serve for a term of two years. At all succeeding elections all members shall be elected for terms of four years.

(d) All assets and liabilities of any existing township water district shall be transferred to the joint water district. All bonds issued or other indebtedness outstanding prior to the establishment of the joint water district shall remain the liability of and lien against the property to which the liability

attached prior to the establishment of the joint water district.

(e) The joint water district board shall be responsible for the maintenance, operation, improvement and extension of the district's water system. The joint water district board shall establish rates for the district's customers.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.