

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Jan Meyers at  
Chairperson

10 a.m. on February 9, 1984 in room 526-S of the Capitol.

All members were present except:

Senators Hayden, Roitz, and Vidricksen  
Senator Francisco, excused

Committee staff present:

Emalene Correll, Legislative Research Department  
Bill Wolff, Legislative Research Department  
Norman Furse, Revisor of Statutes Office

Conferees appearing before the committee:

Brad Smoot, Attorney General's office  
Fred Allen, Kansas Association of Counties  
Wayne Ryan, Attorney for Clay County Hospital, Clay Center, Kansas  
Marla Luckert, Attorney for Kansas Hospital Association  
Jim Clark, County District Attorney's Office  
Wayne Stallard, Attorney, Onaga, Kansas

Others present: see attached list

HB 2002 - Counties, establishment and operation of a hospital

Brad Smoot, Attorney General's office, testified that they supported this bill in its current unamended form, and said it is a great improvement over the statutes. He stated that the bill, as presented, is uniform, but the provision proposed in New Section 3 would make the bill non-uniform, and if this bill is non-uniform, you might as well not have a bill. They would like to have a bill that says what the Legislature thinks is important to have across the state. Mr. Smoot recommended not adopting the proposed amendment to Section 3, and deleting New Section 27. The cleaner the bill and the more uniform it is, the easier it will be to apply it over the state, according to Mr. Smoot.

There was some discussion concerning clarification of Senator Montgomery's proposed amendment on HB 2003.

Fred Allen, Kansas Association of Counties, testified that at their meetings last year the counties were generally satisfied with HB 2002. He said the only problem is in their home rule procedures. They don't have any problem with this bill being uniform and not being subject to home rule. He declared that it is inappropriate for a home rule statute to be continuously lengthened with more restrictions.

Wayne Ryan, Attorney for Clay County Hospital, Clay Center, Kansas, submitted to the committee proposed amendments to HB 2002, in addition to the amendments submitted by the Kansas Hospital Association. (Attachment #1). Mr. Ryan said Clay County Hospital is the one and only county hospital in Kansas which has an elected board. They like it the way it is, have not had problems, and they do not want to change. All they want is an opportunity to continue to be an elected board.

Marla Luckert, attorney for KHA, reviewed Sections 3, 6, 16, 19, 22, 23, and New Section 23 of HB 2003, and explained the amendments proposed by KHA. The amendments concerned clarification that the district is a municipal corporation; prohibiting a district hospital from forming over another district hospital; specifying a procedure for changing the number of board members; adding the phrase "paying general expenses" to the list of purposes for which the taxes may be levied; making collection of taxes for district hospitals more workable; clarifying provisions relating to no-fund warrants; allowing territory to be moved from one hospital district

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S, Statehouse, at 10 a.m. ~~pm~~ on February 9, 1984

to another; and providing the power of eminent domain. Ms. Luckert said that with these proposed amendments the Kansas Hospital Association supports HB 2003, and KHA also supports HB 2004, 2005, 2006, and 2007 without amendments. (Attachment #2, 2/8/84). She also stated that KHA supports Senator Montgomery's amendment.

Jim Clark, County District Attorney's office, testified that they don't really have a position on this bill.

Wayne Stallard, Attorney, Onaga, Kansas, stated that a real effort was made on the part of the county and district hospitals to work out these amendments and would like to see them adopted; and the home rule statute, as it stands now, takes care of a double taxation problem.

There was discussion on HB 2007 concerning county attorneys and their requirement to represent a county hospital.

Senator Meyers said that tomorrow the committee would take action on the hospital bills.

Senator Bogina moved that the minutes of February 7, 1984, be approved. Senator Gordon seconded the motion and it carried.

The meeting was adjourned.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-9-84

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Jon S Robison  
Wayne W. Ryan  
Jeanne Temple  
Keith R Landis  
Marla Luckert  
Fred Allen  
Brook Smoot  
Rebecca Kupper  
Wayne M. Stalder  
Frank Darity  
Deane Bobbitt  
Jim Clark  
Bob Miller

Clay County Hospital, Clay Center, KS  
" " " " " "  
CHRISTIAN SCIENCE COMMITTEE  
ON PUBLICATION FOR KANSAS  
Kansas Hospital Association  
K.A.C.  
Atty. Gen.  
KHS  
Albany Communities  
Hospital, Oregon, OR  
Ks Hosp Assoc  
KSNA  
KCOAA  
Juten

MEMORANDUM

February 8, 1984

TO: Members of the Senate Public Health and Welfare Committee

FROM: CLAY COUNTY HOSPITAL

SUBJECT: Public Hospital Laws (H.B. No. 2002)

Supplementing the KANSAS HOSPITAL ASSOCIATION'S Memorandum of February 6, 1984, and Summary of the Consensus filed therewith, it appearing the principals agreed upon in the interim meetings are incorporated in said H.B. 2002 (as amended), the CLAY COUNTY, KANSAS HOSPITAL joins with the other county and district hospitals (73) in requesting said H.B. No. 2002, as amended, be favorably acted upon.

A detailed study of said H.B. No. 2002, as amended, indicates there is room for several minor amendments. The CLAY COUNTY HOSPITAL appreciates your attention to said suggested amendments set out in the itemized data filed herewith.

Respectfully Submitted,

CLAY COUNTY HOSPITAL  
 617 Liberty Street  
 Clay Center, Kansas 67432

Phone: (913) 632-2144

*Feb. 1*

Proposed Amendments to House Bill 2002,  
same to be in addition to the amendments  
submitted by KANSAS HOSPITAL ASSOCIATION

New Section 5, sub-section F, following the word "commission" on  
Line 0181, insert:

*"or, in case of an elected board, the board."*

New Section 7, sub-section C, following the word "commission" on  
Line 0252, insert:

*"or, in case of an elected board, to the County Clerk."*

and at the end of said Section C, add:

*"provided, in case of an elected board  
submission of the budget to the commission  
shall not be required."*

New Section 9, following the word "commission" on Line 0301 and Line 0302  
and Line 0309, insert:

*"or, in case of an elected board, the board."*

New Section 12, after the word "commission" on Line 0378, insert:

*"or, in case of an elected board, the board."*

New Section 13, after the word "commission" on Line 0384, insert:

*"or, in case of an elected board, the board."*

New Section 14, after the word "commission" on Line 0389, insert:

*"or, in case of an elected board, the board."*

New Section 16, after the word "commission" on Line 0396 and on Line 0405,  
insert:

*"or, in case of an elected board, the board."*

New Section 17, after the word "commission" on Line 0422 and Line 0425,  
insert:

*"or, in case of an elected board, the board."*

New Section 20, after the word "commission" on Line 0483, insert:

*"or, in case of an elected board, the board."*

New Section 21, after the word "commission" on Line 0494 and Line 0495  
and Line 0497, insert:

*"or, in case of an elected board, the board."*

New Section 24, after the word "county" on Line 0522, insert:

*"or, in case of an elected board, the board."*

New Section 25, after the word "commission" on Line 0524 and after the  
word "commission" in sub-section (a) on Line 0527, insert:

*"or, in case of an elected board, the board."*

TESTIMONY OF THE KANSAS HOSPITAL ASSOCIATION  
Before the Senate Public Health & Welfare Committee

February 8, 1984

House Bills 2002, 2003, 2004, 2005, 2006, 2007

Thank you, Madame Chairperson and members of the committee. I am Marla Luckert, of the law firm of Goodell, Stratton, Edmonds, Palmer & Wright, which is general counsel for the Kansas Hospital Association. The Kansas Hospital Association appreciates the opportunity to comment on the bills before you today. As you are aware, there have been two legislative interim studies on public hospital laws during which there has been a great deal of debate, revision and redrafting. We have now passed through a third interim period during which the Kansas Hospital Association met to again discuss H.B. 2002 and 2003. As has been explained, the consensus of the public county and district hospitals is reflected in the amendments which have been given to you.

We would like to review with you the amendments which the Kansas Hospital Association respectfully submits for your consideration.

House Bill 2002

Section 3. As you may remember, one of the concerns which has been raised during the consideration of these bills is the potential for two hospitals to be formed with overlapping territories. Taxpayers could thus be required to pay taxes to maintain two hospitals. The Kansas Hospital Association proposes that Section 3 of H.B. 2002 be amended so that a county hospital cannot be formed if there is a district hospital presently within the county unless a majority of the qualified electors in the overlapping portion of the district vote to be included in the county hospital should it be established within a period of two years from the date of the election. If the voters approve, the territory will be detached from the district and will join the county hospital. However, a phase-in period is provided which will allow the district hospitals to plan for the loss of the territory. Additionally, bonds which have been issued or authorized will not be affected by the detachment. Taxpayers of the detached area will still be liable on any bonds issued by the district.

Atch. 2  
(2/8/84)

The Kansas Hospital Association feels that such a provision will give the electors the choice and thereby avoid the potential for there to be two hospitals formed from the same territory. By allowing the phase-in time both hospitals should be able to plan the transition.

Section 5. One of the amendments which is very important to the hospitals is found in Section (c). This amendment allows the hospitals to continue with the present system of selecting boards. Hence, boards which are elected will continue to be elected. For example, Clay County, which has had an elected board, would be guaranteed they could continue with an elected board unless and until the electors, by referendum, decide otherwise. The new section (c) which is proposed would allow the electors to request a referendum at which the method of selecting a board could be changed from an appointed board to an elected board or vice-versa. In the view of the hospital association, such a procedure would give the electors the power to determine the manner of selection, but yet, not be a procedure whereby a small group of unhappy people could pressure the commission into taking action which a majority of the electors would not support. This method gives the ultimate control to the electors.

The members of the Kansas Hospital Association also propose an amendment to Section 5 of H.B. 2002 which would guarantee that all hospitals be operated by a board. The hospitals feel it is important, even where there is a management contract or lease situation, that a board of local individuals be involved with the direction and control of the hospital. Obviously this makes the hospital more accountable to the local taxpayer rather than allowing divestiture to some removed management group.

Additionally, KHA proposes allowing the hospital boards to arrange for the management of the hospital under a management contract. The county commission would have the right to lease the facility. It seems appropriate that if the hospital board is given the power to manage and control a hospital and, absent a management contract, would be hiring the hospital administrator, that it be the hospital board who would, in essence, hire the manager via the management contract.

A final amendment to Section 5 would clarify that board members would be elected on a nonpartisan basis. It was the opinion of the members of the Kansas Hospital Association that hospital board members should be elected in a manner similar to school boards, i.e., that members should be voted on in an election at large and on a non-partisan basis. A non-partisan election would encourage all qualified candidates to run for the hospital board.

Section 6. Amendments are proposed to Section 6 which would allow elected boards to levy taxes and issue bonds. As the bill now reads only the county commissioners would be able to do these acts. However, where a hospital board is directly elected by the people and are thereby directly answerable to the electors, there is no real purpose in requiring commission action. The Kansas Hospital Association understands the reluctance to give taxing power to non-elected officials. However, where the public elects a board the members will be forced to be responsive to the opinions of the electors.

Section 14. The Kansas Hospital Association proposes an amendment to the provision which would require the approval by the commission of all plans and specifications for hospital buildings and additions. The amendment would require this approval only where bond proceeds were being used for the construction. It was the feeling of the members of the Kansas Hospital Association that if monies from private donations and other sources was used to construct the building that no purpose was served in requiring the commission to review the plans and specifications.

New Section 27. The final proposed amendment to H.B. 2002 is an amendment to K.S.A. 19-101a, the county home rule statute. The proposed amendment would change Section 12. This section was amended last session in conjunction with the changes which were being made to the bills you are now considering. It is now necessary to make that statute consistent with the present amendments which are being proposed.

The present statute does not allow the establishment of a county hospital where there is a district hospital. The amendment which the Kansas Hospital Association has proposed today allows for the detachment of territory and the establishment of the county hospital. K.S.A. 19-101a can be easily adapted by deleting the language which makes an absolute prohibition on the establishment of the hospital but restricts the establishment to the procedure in K.S.A. 19-101a.

Even if the proposed amendments to Section 3 are not adopted and, therefore, K.S.A. 19-101a is not inconsistent with the present statute, the Kansas Hospital Association suggests that portion of the statute still needs amendment. The present statute states that counties may not exempt from or effect changes in the procedure for establishing hospitals "and/or health related facilities." The phrase "and/or health related facilities" creates confusion. The term is not a defined phrase. Nor do the statutes include a provision for establishing any facilities independent of a hospital. Therefore, the Kansas Hospital Association feels that to avoid the ambiguity created and thereby avoid future problems of interpretation, the phrase should be deleted.



With these proposed amendments, the Kansas Hospital Association supports H.B. 2002.

### H.B. 2003

The Kansas Hospital Association also proposes some amendment to H.B. 2003 which, if adopted, will satisfy the concerns of the member district hospitals.

Section 3. The first amendments are found at Section 3. To avoid any future problems with a hospital district's status with regard to the application of various statutes, the Kansas Hospital Association proposes that it be made clear that the district is a municipal corporation. This amendment is proposed in an effort to avoid future questions.

The second amendment which is proposed to Section 3 is a provision which would prohibit a district hospital from forming over another district hospital. Provision is made, however, for the electors in the overlapping territory to vote to detach from one district and join the new district. Again, these provisions are aimed at avoiding a double taxation situation.

Section 6. The district hospitals propose a new section to Section 6 which would specify a procedure for changing the number of board members. Presently, the section allows changing the number of board members by voting at any annual meeting. The problem with this provision is that a change in the number of board members could easily result in a substantial policy change for the hospital. Yet, by voting at an annual meeting this change could occur by the vote of a handful of people. The district hospitals feel that such changes should only result from the input of a large portion of the electorate. To ensure this is the result, it is necessary to utilize the special question election rather than the annual meeting. The question shall be submitted at the next general election so that the expense of a special election is avoided.

Section 16. The first proposed change is to add the phrase "paying general expenses" to the list of purposes for which the taxes may be levied. K.S.A. 80-2145, K.S.A. 80-2163, K.S.A. 80-2191, and K.S.A. 80-21,113 (the present district hospital statutes) include this phrase. It is felt that the inclusion of this phrase will clarify that taxes in the future may be levied for the same purposes as at the present time. Basically, the purpose of the proposed amendment is to avoid any potential confusion between the wording of the present and the proposed statutes.

The second amendment proposed to Section 16 merely reflects the fact this bill was carried over. The proposal would be to change the reference from 1982 to 1983 so that the levy could be for the amount authorized in the year before these statutes become effective.

The remaining amendments are an attempt to make the collection of the taxes for district hospitals more workable. The method proposed in H.B. 2003 follows the present procedure for township hospitals. However, this is not the procedure most commonly followed by district hospitals. The district hospital statutes contain no real procedure. The amendments which the Kansas Hospital Association proposes approximate the procedure now used. The section borrows heavily from the school district laws. Also, an attempt has been made to tie the proposed statute to the procedures currently used by the Department of Administration, Division of Accounts and Reports.

Section 19. An amendment is proposed to Section 19 which would make it clear that the provisions of K.S.A. 79-2925 to 79-2968 are available to hospital districts. These provisions relate to no-fund warrants. Arguably, the sections which apply to any taxing subdivisions or municipalities would apply. However, this provision would eliminate any ambiguity.

Actually the provisions of those sections are, in many ways, more restrictive than the present Section 19. However, many hospital boards and administrators stated they would be more comfortable in using no-fund warrants if they had to follow the procedures of the general no-fund warrant statute, including the requirement of approval by the Board of Tax Appeals. This provision would make it clear that this option was available to the hospitals and that Section 19 did not displace or eliminate that option.

Section 22. Amendments are proposed which would make Section 22 a detachment and an attachment section. The proposed amendment allows territory to be moved from one hospital district to another. Both hospital boards and the county commission must approve the attachment. The purpose of the procedure is to avoid a detachment simply because of a community fight. Presumably, for both boards to agree there would have to be a valid reason. The amendment incorporates K.S.A. 79-1807 which specifies the effective date for tax purposes of any changes in the boundaries of a taxing district.

Section 23. Section 23 arose as an attempt to provide for the situation where the territory of a district hospital was being detached to join a county hospital. The amendments which have been proposed to H.B. 2002 and to Section 3 and 22 of this bill cover the situation of territory being transferred from one hospital to another. It is the position of the Kansas Hospital

Association that there is no need for a section such as Section 23 which merely allows for the detachment of territory. As stated, through other amendments which the Kansas Hospital Association has proposed, detachment can occur when coupled with attachment. Therefore, Section 23 can be eliminated.

New Section 23. The Kansas Hospital Association proposes a new Section 23 which would provide the power of eminent domain. This is a provision which the district hospitals presently have available to them. (K.S.A. 80-2153; K.S.A. 80-2176; K.S.A. 80-2197; and K.S.A. 80-21,121). This proposed section is the same section as is provided in these statutes. Since the hospital district is a separate political subdivision, it is necessary that they have an eminent domain procedure.

With these amendments the Kansas Hospital Association supports the adoption of H.B. 2003.

#### House Bills 2004, 2005, 2006, 2007

The Kansas Hospital Association supports House Bills 2004, 2005, 2006 and 2007 without amendment.

The Kansas Hospital Association thanks the members of the committee and the staff for your consideration and attention to these matters.