

MINUTES OF THE Senate COMMITTEE ON Local Government

The meeting was called to order by Senator Don Montgomery at  
Chairperson

9:06 a.m./~~XXX~~ on Tuesday, February 5, 1985 in room 531-N of the Capitol.

All members were present except: Senators: Bogina, Gaines, and Mulich who were excused.

Committee staff present: Mike Heim, Emalene Correll, Theresa Kiernan, and  
Lila McClaflin

Conferees appearing before the committee:

Joe Furjanic, Kansas Association of School Boards  
Barbara Sabol, Secretary of Kansas Department of Health and Environment  
Jim Kaup, League of Kansas Municipalities

The Chairman called the meeting to order.

Senator Erhlich moved to approve the minutes of the January 30, 1985, meeting seconded by Senator Daniels. The motion carried.

The Chairman opened the hearings on S.B. 48, authorizing the governing bodies to issue bonds for payment of the costs of removal or encapsulation of asbestos in buildings. The first proponent to speak was Joe Furjanic, for the Kansas Association of School Boards. (See attachment 1) He was questioned as to whether schools were under a time frame to remove the asbestos, he replied, there is no federal rule and regulation as to removal, EPA request that it is to be done but it is a local school district decision. By now each school district should have been inspected and all of the paper work completed. Other states have had more pressure to have the asbestos removed or encapsulation than Kansas has.

Barbara Sabol, was introduced and testified in favor of the bill (See attachment 2). She pointed out that on page 2, of her statement the department position they are concerned about the presence of asbestos only when it exists in a form or condition that allows fibers to be released into the air and subsequently inhaled. She also would like to see the bill amended to contain Section G. on page two of her statement. It would read as follows: The Secretary of Health and Environment shall provide, upon request, technical assistance to municipalities in performing asbestos exposure assessments and in selecting appropriate asbestos abatement actions. She recommended also that the term "asbestos" be replaced in the bill with "friable asbestos", and that the bill be amended to include the definition of "friable asbestos - containing material". Secretary Sabol answered questions that the committee had.

Jim Kaup, spoke in favor of the bill. He said he was not sure how many cities were facing the asbestos problem but they appreciated being included. He said sub section "E" would not be necessary if S.B. 113 passed, as it has a similar provision, if S. B. 113 didn't pass S.B. 48 would be worthless. The committee should take into consideration that S.B. 113 might not pass.

There was discussion on changing the percent on line 39 of the bill, this deals with the percent of qualified voters needed on opposition petitions. Senator Langworthy said as a sponsor of the bill they felt it was an important enough issue to exceed 5% of qualified voters. Senator Daniels moved to raise the percent to 10% of qualified voters for protest petitions. Senator Steineger seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Local Government,  
room 531-N, Statehouse, at 9:06 a.m./~~p.m.~~<sup>XXX</sup> on Tuesday, February 5, 1985

A motion to amend the bill to "friable asbestos" each place that now reads "asbestos" was made by Senator Salisbury. Senator Allen seconded the motion. The motion carried.

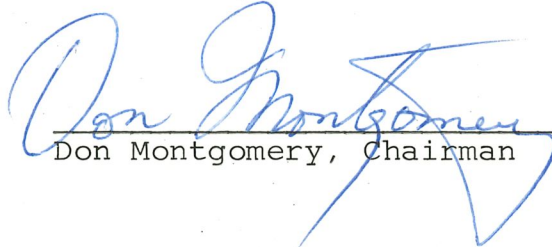
Senator Steinegar moved to strike section C. Senator Daniels seconded the motion. After discussion, the motion carried.

Senator Erhlich moved to recommend the wording in section G of the Secretary of Environment's testimony, be included in the bill. Senator Salisbury seconded the motion. After discussion the motion carried.

Emalene Correll, will follow S.B. 113, which is in the Public Health and Welfare Committee and keep the committee posted on the two bills.

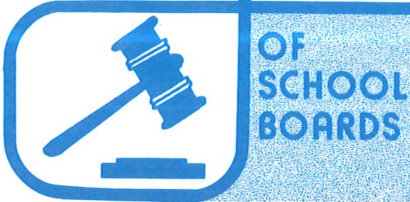
Theresa Kiernan will make reference to S.B. 113 in S. B. 48. The amended bill will be drawn up and brought before the committee before, action is taken.

The meeting adjourned at 9:47 a.m., until Thursday, February 7, 1984, at 9:00 a.m.

  
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Don Montgomery, Chairman







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Testimony on S.B. 48  
February 5, 1985  
by

Joseph M. Furjanic, Staff Legal Counsel  
Kansas Association of School Boards

My name is Joe Furjanic and I am the staff attorney with the Kansas Association of School Boards. I thank all the committee members for this opportunity to speak on behalf of Senate Bill 48.

The issue of asbestos in public schools has become one of increasing national and state concern. Kansas school boards have a vital interest in removing any health hazard that may affect Kansas public school students and employees. A Kansas State Department of Education survey estimated that the cost of removal of all of the asbestos in our state's elementary and secondary school facilities to be over 25 million dollars.

For many years the Kansas Association of School Boards through its membership has maintained a belief that the American system of local and state control of public education by non-partisan, non-salaried lay boards of education is superior to a centralized, national, and/or professional control as exists in all other countries of the world. With this firmly rooted belief in local control comes the weighty burden of local responsibility.

November last, the delegate assembly at the annual KASB convention defeated a resolution calling for state financial assistance to Kansas school districts for the removal of all asbestos hazards in the public schools of the state - not because they did not need more dollars to contain the hazards -

(See attachment 1)

2/5/85

but rather because our member districts felt that this matter could best be handled at the local U.S.D. level.

With this background in mind, KASB firmly supports Senate Bill 48. The avenue of general obligation bonding will not necessitate local school boards utilizing general fund dollars in order to once and for all deal with the asbestos problems facing them. Further, there will be no financial burdens incurred by the state in the funding process. Local districts will take control of their local problems.

Finally, our member districts support that part of the bill which speaks to the bidding process and contractor certification. Presently, the State of Kansas has no licensing or certification requirements for asbestos removal projects. In the past the United States Environmental Protection Agency has been less than clear as to what is required and who to contact for guidance when a school district makes the decision to abate the asbestos in its buildings.

Providing for the State Department of Health and Environment to authorize the licensing and certification of contractors would put a necessary check and balance into the system so that local school administrators and local boards of education could finally look to one state agency for guidance when bids are let for school district asbestos abatement projects.

I wish to thank you for your time and I will try to answer any questions.

Kansas Department of Health and Environment

TESTIMONY ON SB 48

PRESENTED TO Senate Local Government Committee, January 1985

This is the official position taken by the Kansas Department of Health and Environment on SB 48.

BACKGROUND INFORMATION:

Recent years have seen the public health community grow increasingly concerned about the potential long term health risks of exposures to elevated levels of airborne asbestos fibers in such non-occupational settings as public buildings and public schools. Surveys conducted by state and federal agencies have indicated that approximately 10% of the public schools in Kansas have had or have sprayed-on ceiling materials containing asbestos and as many as 35% of the public schools nationwide have easily damaged asbestos materials in either ceiling materials or pipe and boiler insulation. The identification of significant sources of airborne asbestos in these buildings in combination with the risk of irreversible health effects associated with excessive exposures, such as cancer, have resulted in increasing public interest and pressure for the development of responsible building management plans to prevent unnecessary asbestos exposures to building occupants and visitors. Because the health risks from asbestos exposures are greater if these exposures occur in early life, the potential for exposures in our public schools is of particular concern. While current federal regulations restrict the use of asbestos in new buildings, require the identification of asbestos in school buildings, and specify work practices for private employees who work with asbestos, no exposure standards have been established for nonindustrial settings, and no regulations mandate which corrective actions need to be taken in buildings where damaged asbestos-containing materials are found. These latter responsibilities now rest with local government and school administrators who, in the past, have not always had sufficient resources and information available to them to respond effectively to these problems. Senate Bill 48 in the department's view represents a positive step in alleviating some of these problems.

STRENGTHS:

1. Provides a clear recognition of the need for excellence in contractor performance if asbestos abatement projects are to be performed safely in public buildings and schools. Although there is still substantial scientific uncertainty involved in the assessment of exposures to the comparatively low levels of airborne asbestos in well-maintained public buildings, there is substantial agreement that once an asbestos removal project begins, significant exposures can occur to the employees involved and other occupants of the building unless this work is performed carefully in accordance with the proper procedures. The requirement of Section 1(e) of this bill that contractors or persons performing asbestos abatement work be certified or licensed is, therefore, believed to be a critical element of this bill. The Department's detailed testimony on the licensing program, itself, will be provided during hearings on Senate Bill 113 before the Senate Public Health and Welfare Committee on February 6, 1985.
2. Provides a clear financial management tool for municipalities to respond to local concerns for correcting potential asbestos problems and places the responsibility for

(attachment 2 )

2/5/85

deciding the necessity for an asbestos removal or encapsulation project at the local level of government where the financing responsibility also resides.

WEAKNESSES:

None

DEPARTMENT POSITION:

The department believes that Senate Bill 48 addresses an important issue confronting Kansas and supports its passage. We do, however, have two suggestions for improvement for which we ask your consideration:

1. While the department supports the concept of local decision-making in regard to the necessity for asbestos abatement, we are also somewhat concerned about the prospect of the bill providing an unintentional signal to municipalities that all asbestos identified in their buildings will require immediate removal. It is the department's position that the presence of asbestos in a building does not, in itself, create a condition which demands immediate and costly corrective actions. From a public health perspective, we are concerned about the presence of asbestos only when it exists in a form or condition that allows fibers to be released into the air and subsequently inhaled. Such conditions normally only occur when there is damage to or deterioration of, the asbestos material. Each building should, therefore, be evaluated on a case by case basis in order to determine the real health risks involved and the most appropriate actions to be taken to eliminate them. We realize that there are other reasons for which asbestos abatement projects might be funded other than health risk concerns, such as insulation maintenance, building renovation or demolition, and legal concerns; however, we also believe that those municipalities who do not have expert consultation immediately available in regard to performing health risk assessments should be encouraged to seek technical assistance of this type prior to engaging in a major asbestos removal or encapsulation project. Such assessments can be very beneficial in preventing unnecessary costly expenditures of public funds.

The department envisions such consultation to consist of assistance in assessing the severity of an exposure problem as well as the formulation of recommendations as to the most cost-effective long term asbestos abatement program. It is anticipated that this technical assistance can be provided to municipalities by our agency through resources already proposed in the Governor's FY 86 budget. The use of these resources can be encouraged but not required by municipalities by the addition of a Section 1(g) to the bill as follows:

(g) The secretary of health and environment shall provide, upon request, technical assistance to municipalities in performing asbestos exposure assessments and in selecting appropriate asbestos abatement actions.

2. In order to assure that the type and form of asbestos which is recognized as a potential exposure problem is clearly defined, the department recommends that the use of the term "asbestos" be replaced with the term "friable asbestos-containing material" and defined as follows:

Friable asbestos - containing material - any material that contains more than 1% asbestos by weight that is applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building and which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

This clarification will insure that public funds are not expended for the unnecessary removal of non-friable asbestos materials which pose no or limited health risk such as floor and ceiling tiles, shingles, and asbestos-cement products.

In conclusion, we strongly encourage your support of SB 48 and consideration of the issues presented above. Providing a source of funding for correcting asbestos exposure problems in our state's municipal buildings will establish Kansas as a responsible leader in addressing this important public health concern.