

Approved 2-11-87 Ivan Sand
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative Ivan Sand at
Chairperson

1:30 ~~am~~ p.m. on February 10, 1987 in room 521-S of the Capitol.

All members were present except:

Representative Graeber, Excused
Representative Miller, Excused

Committee staff present:

Mike Heim, Legislative Research Dept.
Bill Edds, Revisor of Statutes' Office
Sharon Green, Committee Secretary

Conferees appearing before the committee:

Gerry Ray, Johnson County Board of Commissioners
Bev Bradley, Kansas Association of Counties
Bill Anderson, Water District #1, Johnson County

Chairman Sand called the meeting to order.

Chairman Sand told the committee members about legislation the Shawnee County Clerk had asked the committee to introduce, regarding open records laws.
(Attachment 1)

Motion was made by Representative Acheson and seconded by Representative Empson to introduce the two committee bills recommended by the Shawnee County Clerk. The motion carried.

Mike Heim briefed the committee on HB 2152, stating that the bill amends bidding statutes for larger counties. He stated that the thrust of the bill changes procedures for bids for contracts for road projects.

Gerry Ray testified in support of HB 2152, stating that Johnson County requested the bill because the requirements contained in the existing statutes are restrictive and out of date. She also stated that the bill amends the following areas of the statutes: 1) the amount that can be expended on a road project before competitive bidding is required is increased from \$500 to \$2,000; 2) the county commissioners are granted the authority to designate the county officer responsible for certain administrative functions in the bidding process; and 3) the stipulation that bidders must submit a certified check as a bid surety is replaced by allowing the board of commissioners to prescribe the form in which bid sureties are to be submitted.
(Attachment 2)

Committee members and staff discussed the term "documentation of competition", and found that there is no definition of this term in the statutes. Staff said that they could define it for the committee.

Bev Bradley testified in favor of HB 2152, stating that it does seem appropriate to raise the \$500 amount to \$2,000, and that documentation of competition for amounts from 2,000 to 10,000 and formal bidding for amounts estimated to be over \$10,000 is reasonable. (Attachment 3)

Bill Anderson testified in favor of HB 2153, stating that the proposed changes in this bill only effect Water District #1. Mr. Anderson also stated that the duties of the secretary and treasurer of the District were effectively being performed by staff members. (Attachment 4)

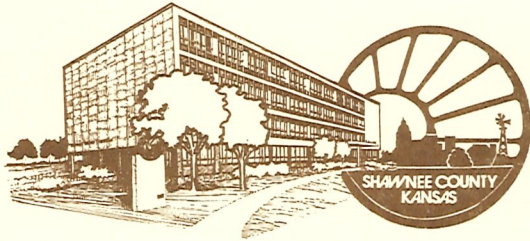
Motion was made by Representative Patrick and seconded by Representative Douville to favorably pass HB 2153. The motion carried.

The minutes of 2-9-87 were approved as presented.

Meeting adjourned.

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.

2-9-87



**Shawnee County
Office of County Clerk**

PATSY A. "PAT" McDONALD

295-4155 Main
295-4159 Accounting

Courthouse - Room 107
Topeka, Kansas 66603-3963

February 9, 1987

Rep. Ivan Sand, Chairman
Local Government Committee
State Capitol Building, 183-W
Topeka, KS 66612

Re: County Clerk Fees

Dear Rep. Sand:

As Legislative Chairman of the County Clerks Association, I would respectfully request the two proposed bills which are attached be introduced.

We have stricken some language from K.S.A. 28-103 which is requiring fees to be collected for services that are either no longer required by the County Clerk or which are not collected for various reasons.

Both of these proposed bills are repealing existing language in the statutes for charges of "ten cents per folio". This language is outdated and impractical. Please see the attached opinion from our former County Counselor for more information.

The new language proposed in both bills refers to a section in the "Open Records Act" which was passed by the legislature in 1984. I feel that these amendments are necessary, so the County Clerks may charge the necessary fees to cover expenses, which cannot be accomplished at "ten cents per folio".

If you have any questions, or I can be of service to you, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

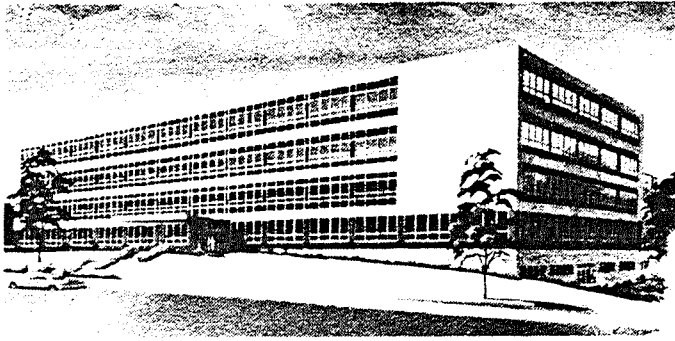
Patsy A. McDonald
Shawnee County Clerk

PAM/llh

Attachment

Attachment 1

2-10-87



Shawnee County Office of County Counselor

DONNA VOTH
County Counselor
JOSEPH W. ZIMA
Asst. County Counselor

Shawnee County Courthouse
Room 203 • 200 E. 7th
Topeka, Kansas 66603
(913) 295-4042

November 12, 1982

MEMORANDUM

TO: Winifred L. Kingman
Shawnee County Clerk

FROM: Donna Voth *DV*
Shawnee County Counselor

RE: Charge for Copies Made by County Clerk's Office

You have inquired about the amount your office may charge the public for making copies of records kept in your office.

K.S.A. 19-306 states:

"It shall be the duty of such clerk to designate, upon every account which shall be audited and allowed by the board, the amount so allowed; and he shall also deliver to any person who may demand it, a certified copy of any record in his office, or any account on file therein, on receiving from such person ten cents for every folio contained in such copy."

This general statute would apply to any copies made of records which are kept in your office.

HOUSE BILL NO. _____

AN ACT relating to fees to be charged by all County Clerks, amending K.S.A. 28-103 and repealing existing sections.

Section 1. K.S.A. 28-103 is hereby amended to read as follows: The county clerk in each county shall collect from the party requiring his services for the use of the county the following fees: ~~Taking and approving bond to be paid by the party making the bond, twenty-five cents; making tax deed, one tract, and acknowledgment, fifty cents; each additional tract or lot, five cents;~~ for recording any mark or brand and giving certificates for the same, twenty-five cents; for recording each certificate of strays and forwarding a description of the same, as provided by law, fifty cents; certificate and seal when the same is required by law to be made by the county clerk, fifty cents; ~~for recording reports, or other papers other than such as pertain to or are required by law to be recorded by the county, or copies thereof, and for making copies of any such report, or record, per folio, twenty cents; filing each paper except such as pertain to county business, ten cents; issuing license to be paid by the person receiving the same, one dollar;~~ taking and certifying affidavits, except upon claims against the county, twenty-five cents.

Section 2. Any other fees collected by the County Clerk that are not specified herein, shall be collected in accordance with a schedule prepared pursuant to K.S.A. 45-219(c), as amended. For any other services for which a fee is now provided by law, the county clerk shall charge such fee as is provided in said law for such services. But in no case shall any of the above fees be charged to the county: Provided, That the fees collected by the county clerks of the respective counties, as hereinbefore specified, shall be covered into the county treasury, which shall become part of the general fund of the county.

28-103. Fees to be charged by all county clerks; fees covered into county treasury. The county clerk in each county shall collect from the party requiring his services for the use of the county the following fees: Taking and approving bond to be paid by the party making the bond, twenty-five cents; making tax deed, one tract, and acknowledgment, fifty cents; for recording any mark or brand and giving certificates for the same, twenty-five cents; for recording each certificate of strays and forwarding a description of the same, as provided by law, fifty cents; certificate and seal when the same is required by law to be made by the county clerk, fifty cents; for recording reports, or other papers other than such as pertain to or are required by law to be recorded by the county, or copies thereof, and for making copies of any such report, or record, per folio, twenty cents; filing each paper, except such as pertain to county business, ten cents; issuing license, to be paid by the person receiving the same, one dollar; taking and certifying affidavits, except upon claims against the county, twenty-five cents. For any other services for which a fee is now provided by law, the county clerk shall charge such fee as is provided in said law for such services. But in no case shall any of the above fees be charged to the county: *Provided*, That the fees collected by the county clerks of the respective counties, as hereinbefore specified, shall be covered into the county treasury, which shall become part of the general fund of the county.

History: L. 1913, ch. 197, § 4; R.S. 1923, 28-103; L. 1949, ch. 260, § 1; L. 1968, ch. 165, § 1; July 1.

Source or prior law:

L. 1861, ch. 28, § 50; G.S. 1868, ch. 39, § 6; L. 1897, ch. 131, § 5.

Cross References to Related Sections:

Account and report of fees, see 28-123.

Research and Practice Aids:

Counties 78(1).
Hatcher's Digest, Counties § 35; Game and Game Laws § 1.
C.J.S. Counties §§ 117, 120.

CASE ANNOTATIONS

Annotations to L. 1897, ch. 131, § 5:

1. Hunting license fees go to state; no portion to county. *The State v. Holcomb*, 80 K. 243; 101 P. 1072.

28-104. Fees to be charged by all county treasurers. The county treasurer in

each county shall charge the party requiring his services for the use of the county the following fees: For issuing warrants for the collection of taxes on personal property, twenty cents; for certificates of sale of land at tax sale, twenty cents; for making out list of land for the printer to be printed, ten cents for each tract advertised. But in no case shall any of the above fees be charged to the county.

History: L. 1913, ch. 197, § 3; R.S. 1923, 28-104; L. 1949, ch. 260, § 2; June 30.

Source or prior law:

L. 1875, ch. 93, § 1; L. 1897, ch. 131, § 3.

Cross References to Related Sections:

Account and report of fees, see 28-123.
Collection of taxes, see 79-2106.

Research and Practice Aids:

Counties 78(2).
Hatcher's Digest, Counties § 35.
C.J.S. Counties § 119.

28-105.

History: R.S. 1923, 28-105; L. 1937, ch. 234, § 1; Repealed, L. 1943, ch. 162, § 20; April 1.

Source or prior law:

L. 1862, ch. 99, § 7; G.S. 1868, ch. 25, § 139; L. 1875, ch. 98, § 1; L. 1877, ch. 110, § 1; L. 1879, ch. 104, § 1; L. 1897, ch. 131, § 7; L. 1899, ch. 141, § 1; L. 1901, ch. 189, § 1; L. 1903, ch. 200, §§ 1, 2, 3; L. 1911, ch. 142, §§ 1, 2, 3; L. 1913, ch. 197, § 6; L. 1915, ch. 223, § 1; L. 1919, ch. 199, § 1.

Revisor's Note:

New act, see 28-167.

CASE ANNOTATIONS

1. Certain items of cost held not in conformity with statute. *The State v. Clay*, 116 K. 724, 726, 229 P. 71.
2. Section cited in considering authority of deputy county attorney to sign information. *The State v. Wilkins*, 118 K. 160, 234 P. 45.

28-105a.

History: L. 1927, ch. 211, § 1; Repealed, L. 1943, ch. 162, § 20; April 1.

Revisor's Note:

New act, see 28-167.

28-105b.

History: L. 1929, ch. 186, § 1; L. 1937, ch. 235, § 1; Repealed, L. 1943, ch. 162, § 20; April 1.

28-105c.

History: L. 1929, ch. 187, § 1; Repealed, L. 1943, ch. 162, § 20; April 1.

28-105d.

History: L. 1931, ch. 167, § 1; Repealed, L. 1943, ch. 162, § 20; April 1.

same period of time or the same travel, and each witness shall be required to make oath that the fees claimed have not been claimed or received in any other case; and no juror shall receive pay as a witness while serving as a juror. Witnesses shall be entitled to receive, for attending before any attorney general, county attorney or assistant attorney general, under any provision authorizing the officers to compel the attendance of such witnesses, the sum of five dollars (\$5) per day, together with mileage at the rate prescribed by law for each mile necessarily traveled in going to and returning from the place of attendance. Such fees shall be paid by the board of county commissioners where the violation of the law being investigated is alleged to have occurred.

History: L. 1913, ch. 197, § 18; R.S. 1923, 28-125; L. 1961, ch. 211, § 1; L. 1965, ch. 256, § 4; L. 1973, ch. 134, § 31; July 1, 1974.

Source or prior law:

L. 1862, ch. 99, § 19; L. 1866, ch. 53, § 1; G.S. 1868, ch. 39, § 15; L. 1871, ch. 84, § 2; L. 1897, ch. 131, § 16.

Research and Practice Aids:

Witnesses—26.
Hatcher's Digest, Witnesses §§ 156 to 159.
C.J.S. Witnesses § 38.
Assessment of costs and disbursements, Kansas Practice Methods § 1700.

28-125a.

History: L. 1927, ch. 218, § 2; Repealed, L. 1955, ch. 216, § 2; June 30.

28-126. Certain officials not to receive witness fees. No person holding any office or appointment under any county, city or other municipality shall be paid any witness fees in any case whatsoever when such person is a witness for the state of Kansas, county, city or other municipality when such state, county, city or other municipality is a party to said suit; nor shall any sheriff or his undersheriff or deputies, while attending court as an officer, claim or be paid any witness fees in such cases: *Provided*, That this act shall not apply where such witness is required to attend court at a place other than where he resides or is employed, nor shall it apply to any such witness who is not a regularly employed and salaried officer or employee of any such county, city or other municipality.

History: L. 1913, ch. 197, § 19; R.S. 1923, 28-126; L. 1974, ch. 446, § 12; L. 1974, ch. 169, § 1; July 1.

Source or prior law:

L. 1907, ch. 183, § 1.

Research and Practice Aids:

Hatcher's Digest, Constitutional Law § 53; Witnesses § 156.

CASE ANNOTATIONS

1. Does not deprive public officers of equal protection of laws. *Claffin v. Wyandotte County*, 81 K. 57, 58, 105 P. 19.

2. City police officer not entitled to fees in state cases. *Anderson v. Shawnee County*, 91 K. 362, 363, 137 P. 799.

28-127.

History: L. 1913, ch. 197, § 22; R.S. 1923, 28-127; L. 1957, ch. 209, § 2; L. 1973, ch. 134, § 32; Repealed, L. 1978, ch. 105, § 29; Jan. 1, 1979.

Source or prior law:

L. 1862, ch. 99, § 17; G.S. 1868, ch. 39, § 13; L. 1885, ch. 127, § 1; L. 1897, ch. 131, § 20; L. 1899, ch. 141, § 1.

28-128. Folio defined. A folio shall consist of one hundred words, and two figures shall be counted as one word.

History: L. 1913, ch. 197, § 23; July 1; R.S. 1923, 28-128.

Source or prior law:

L. 1862, ch. 99, § 35; G.S. 1868, ch. 39, § 33; L. 1879, ch. 101, § 4; L. 1885, ch. 125, § 4; L. 1897, ch. 131, § 21.

28-129. Number of inhabitants. The number of inhabitants shall be determined for the purposes of this act from the last returns of the assessors in each year in their respective counties.

History: L. 1913, ch. 197, § 24; July 1; R.S. 1923, 28-129.

Source or prior law:

L. 1897 ch. 131, § 22; L. 1899, ch. 141, § 1.

Research and Practice Aids:

Hatcher's Digest, Census § 1.

CASE ANNOTATIONS

Annotation to L. 1899, ch. 141, § 1:

1. Act providing for annual census not repealed by later enactment. *Sickly v. Allen County*, 83 K. 740, 112 P. 621.

28-130.

History: L. 1913, ch. 197, § 25; R.S. 1923, 28-130; Repealed, L. 1976, ch. 195, § 1; July 1.

Cross References to Related Sections:

Reporters' fees, see 28-170b.

28-131.

History: L. 1913, ch. 197, § 27; R.S. 1923, 28-131; Repealed, L. 1976, ch. 237, § 3; July 1.

HOUSE BILL No. _____

AN ACT relating to fees charged for certified copies of any record, amending K.S.A. 19-306.

Section 1. It shall be the duty of such clerk to designate upon every account which shall be audited and allowed by the board, the amount so allowed; and he shall also deliver to any person who may demand it, a certified copy of any record in his office, or any account on file therein, ~~on-receiving from-such-person--ten-cents-for-every-foleio-contained-in-such copy-~~ a fee in accordance with the schedule of fees established pursuant to K.S.A. 45-219 (c), as amended.

4. Parol evidence authorized to show vote of board when no record in minutes of meeting. *Ertl v. Board of County Commissioners*, 211 K. 202, 204, 205, 505 P.2d 700.

19-306. Claims allowed, record; fees for certified copies of any record. It shall be the duty of such clerk to designate, upon every account which shall be audited and allowed by the board, the amount so allowed; and he shall also deliver to any person who may demand it, a certified copy of any record in his office, or any account on file therein, on receiving from such person ten cents for every folio contained in such copy.

History: G.S. 1868, ch. 25, § 45; Oct. 31; R.S. 1923, 19-306.

CASE ANNOTATIONS

1. County clerk proper depository for condemnation award; clerk of county commissioners; duties. *Barker v. County of Wyandotte*, 188 K. 750, 754, 755, 366 P.2d 291.

19-307.

History: G.S. 1868, ch. 25, § 46; R.S. 1923, 19-307; Repealed, L. 1968, ch. 375, § 19; July 1.

CASE ANNOTATIONS

1. County clerk proper depository for condemnation award; clerk of county commissioners; duties. *Barker v. County of Wyandotte*, 188 K. 750, 754, 755, 366 P.2d 291.

19-308. Limitation on accounts against county. No account against the county shall be allowed unless presented within two years after the same accrued: *Provided*, That if any person having a claim against the county be, at the time the same accrues, under any legal disability, every such person shall be entitled to present the same within one year after such disability shall be removed.

History: G.S. 1868, ch. 25, § 47; Oct. 31; R.S. 1923, 19-308.

CASE ANNOTATIONS

1. Compensation for land condemned for road within section. *Herdman v. Woodson County*, 6 K.A. 513, 514, 50 P. 946.

2. Section bars costs in criminal case paid by another county. *Davis County v. Riley County*, 9 K. 635, 638.

3. Claim for money paid for tax certificate not within section. *Comm'rs of Saline Co. v. Young*, 18 K. 440, 445.

4. Claim for refund of taxes not barred. *Morgan v. Comm'rs of Miami Co.*, 27 K. 89, 93. (See *Richards v. Comm'rs of Wyandotte Co.*, 28 K. 326, 332.)

5. Section bars claim for refund of taxes in case stated. *Rork v. Comm'rs of Douglas Co.*, 46 K. 175, 180, 26 P. 391.

6. Applied in action to recover disputed claim against county. *Kelly v. Miami County*, 85 K. 38, 43, 47, 116 P. 477.

7. Bars claim for refund of taxes paid under illegal assessment. *Sinclair v. Eddy*, 87 K. 45, 46, 123 P. 873.

8. Bars recovery of illegal taxes paid under protest. *Railway Co. v. Cowley County*, 108 K. 558, 559, 560, 196 P. 234.

9. Claim for services in removing bridge approach must be filed within two years. *Drainage District v. Wyandotte County*, 117 K. 634, 232 P. 1056.

10. Section is not applicable to inheritance taxes illegally exacted. *Boston Safe Deposit and Trust Co. v. Boyd*, 139 K. 411, 413, 32 P.2d 218.

11. Not applicable to claim of one county against another. *Shawnee County Comm'rs v. Wright*, 153 K. 19, 28, 37, 109 P.2d 184.

12. Inapplicable to city's claim against county. *City of Osawatomie v. Miami County Comm'rs*, 153 K. 332, 334, 336, 110 P.2d 748.

19-309. Certification of names and boundaries of townships. The clerk of each county shall, as often as a new township shall be organized in his county, or the boundaries of any township therein shall be altered, and immediately thereafter, make out and transmit to the secretary of state a certified statement of the names and boundaries of the township so organized, and of the boundaries of any township the boundaries of which shall have been altered.

History: G.S. 1868, ch. 25, § 48; Oct. 31; R.S. 1923, 19-309.

Cross References to Related Sections:

New townships, see 19-217.

19-310. Road record as prima facie evidence. It shall be the duty of the county clerk to record in a proper book, to be called the "road record," a record of all proceedings in regard to laying out and establishing roads in the county, which said record shall include the report of the commissioners and surveyor locating such roads, and maps thereof; and such records, or duly certified copies thereof, are hereby declared prima facie evidence of the statements therein contained, in the courts of this state.

History: G.S. 1868, ch. 25, § 49; Oct. 31; R.S. 1923, 19-310.

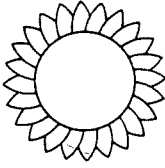
Source or prior law:

L. 1865, ch. 24, §§ 1, 2.

CASE ANNOTATIONS

1. County clerk proper depository for condemnation award; clerk of county commissioners; duties. *Barker v. County of Wyandotte*, 188 K. 750, 754, 755, 366 P.2d 291.

19-311. Record of receipts, expenditures and accounts. The county clerk of each



HOUSE LOCAL GOVERNMENT COMMITTEE
HEARING ON HB 2152
TUESDAY, FEBRUARY 10, 1987
TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR
JOHNSON COUNTY BOARD OF COMMISSIONERS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS GERRY RAY AND I REPRESENT THE JOHNSON COUNTY BOARD OF COMMISSIONERS. THANK YOU FOR THE OPPORTUNITY TO PRESENT TESTIMONY IN SUPPORT OF HOUSE BILL 2152.

THE BILL AMENDS THREE STATUTES PERTAINING TO COUNTY BIDDING PROCEDURES FOR ROAD PROJECTS. JOHNSON COUNTY REQUESTED THE BILL BECAUSE THE REQUIREMENTS CONTAINED IN THE EXISTING STATUTES ARE RESTRICTIVE AND RATHER OUT OF DATE WITH RESPECT TO CURRENTLY ACCEPTED BIDDING PROCEDURES AND THE COST OF ROAD IMPROVEMENTS IN 1987.

HB 2152 AMENDS THE FOLLOWING THREE AREAS OF THE STATUTES:

1. THE AMOUNT THAT CAN BE EXPENDED ON A ROAD PROJECT BEFORE COMPETITIVE BIDDING IS REQUIRED IS INCREASED FROM \$500 TO \$2,000. IT IS NOT NECESSARY TO BE A COUNTY ENGINEER OR A PURCHASING AGENT TO RECOGNIZE THAT TODAY EVEN THE MOST MINIMAL ROAD REPAIRS CANNOT BE DONE FOR \$500. WE FEEL \$2,000 IS MORE REALISTIC BEFORE INCURRING THE EXPENSE OF COMPETITIVE BIDDING PROCEDURES.
2. THE COUNTY COMMISSIONERS ARE GRANTED THE AUTHORITY TO DESIGNATE THE COUNTY OFFICER RESPONSIBLE FOR CERTAIN ADMINISTRATIVE FUNCTIONS IN THE BIDDING PROCESS. THIS ALLOWS EACH COUNTY TO STRUCTURE THE BIDDING PROCEDURES IN A MANNER THAT BEST SUITS THEIR NEEDS.

Attachment #2
2-10-87

3. THE STIPULATION THAT BIDDERS MUST SUBMIT A CERTIFIED CHECK AS A BID SURETY IS REPLACED BY ALLOWING THE BOARD OF COMMISSIONERS TO PRESCRIBE THE FORM IN WHICH BID SURETIES ARE TO BE SUBMITTED.

IN DRAFTING THE BILL WE ATTEMPTED TO RETAIN THE EXISTING STATUTORY LANGUAGE WHEN POSSIBLE. THE MAJORITY OF THE AMENDMENTS ARE MERELY OPTIONS THAT OFFER THE COUNTY COMMISSIONERS FLEXIBILITY TO DETERMINE PROCEDURES THAT ARE MOST APPROPRIATE IN THEIR INDIVIDUAL COUNTY, WHILE MAINTAINING NECESSARY STATUTORY GUIDELINES.

THE JOHNSON COUNTY COMMISSIONERS ASK THAT AFTER THE COMMITTEE CONSIDERS OUR PROPOSAL TO OFFER A BROADER SCOPE OF ALTERNATIVES THAT WILL ADDRESS THE NEEDS OF ALL COUNTIES THAT HOUSE BILL 2152 BE RECOMMENDED FOR PASSAGE.

Kansas Association of Counties

Serving Kansas Counties

212 S.W. SEVENTH STREET, TOPEKA, KANSAS 66603 PHONE 913 233-2271

February 10, 1987

To: Representative Ivan Sand, Chairman
 Members of the House Local Government Committee

From: Bev Bradley, Legislative Coordinator
 Kansas Association of Counties

Re: HB-2152

Thank you Mr. Chairman, I am Bev Bradley, Legislative Coordinator, Kansas Association of Counties. I come before you today in support of HB-2152 representing the Johnson County proposal.

It does seem appropriate to raise the dollar amount from \$500. In 1987 that would represent an extremely small amount of road work. We believe "documentation of competetion" for amounts from \$2000.00 - \$10,000.00 and formal bidding for amounts estimated to be over \$10,000.00 is reasonable.

We would urge your favorable consideration of HB-2152.

Attachment 3
2-10-87

HOUSE LOCAL GOVERNMENT COMMITTEE

Testimony on HB 2153

by

Water District No. 1 of Johnson County

Bill Anderson

Director of Public Affairs

Water District, a publicly-owned water district governed by a 5-member elected board.
Approximately 75,000 customers, serving 250,000 persons in Northeast Johnson County
Annual revenues of \$22-million -- No taxing authority
Only district organized under 19-3501, et. seq.
Proposed changes affect only Water District No. 1

Request for changes in law:

- Sec. 1 --page 2, lines 50 through 52: wish to eliminate Board Members serving as secretary and treasurer of District. Duties of those officers effectively being performed by staff members. Present provisions of law written when District was small and Board Members handled, in fact, secretary and treasurer duties. Following practice almost uniformly of city councils, Shawnee Mission School District.
- Sec. 2 -- page 6, lines 212 through 216: Emergency conditions require quick action. Example of water district's experience of washed-out bridge in 1986-87 season. Safeguard in requiring a Board finding and declaration in public meeting that an emergency exists. Follows Federal Law procedure. 41 U.S.C. Sec. 5
- Sec. 3 -- page 7, lines 222 through 228 and lines 223 through 226. To make the Water District statutes conform to the general provisions on claims pertaining to municipalities K.S.A. 1986 Supp. 12-105b Water District outmoded--"certified by vendor"
- Sec. 4 -- page 7 --Change required because of the proposed change in Section 1 of bill.

Attachment 4
2-10-87

TITLE 41

PUBLIC CONTRACTS

Chapter	Section
6. Service Contract Labor Standards	351
7. Office of Federal Procurement Policy	401
8. Federal Grants and Cooperative Agreements	501
9. Contract Disputes	601

CHAPTER 1—GENERAL PROVISIONS

Sec.	Definitions.	Sec.	Audit.
5a.	Definitions.	48a.	Audit.
6a-2.	Architect of the Capitol, authority for personal services contracts with legal entities.	48b.	Definitions.
11a.	Contracts for fuel by Secretary of Army without regard to current fiscal year.	48c.	Authorization of appropriations.

§ 5. Advertisements for proposals for purchases and contracts for supplies or services for Government departments; application to Government sales and contracts to sell and to Government corporations

Unless otherwise provided in the appropriation concerned or other law, purchases and contracts for supplies or services for the Government may be made or entered into only after advertising a sufficient time previously for proposals, except (1) when the amount involved in any one case does not exceed \$25,000, (2) when the public exigencies require the immediate delivery of the articles or performance of the service, (3) when only one source of supply is available and the Government purchasing or contracting officer shall so certify, or (4) when the services are required to be performed by the contractor in person and are (A) of a technical and professional nature or (B) under Government supervision and paid for on a time basis. Except (1) as authorized by section 1638 of Appendix to Title 50, (2) when otherwise authorized by law, or (3) when the reasonable value involved in any one case does not exceed \$500, sales and contracts of sale by the Government shall be governed by the requirements of this section for advertising.

In the case of wholly owned Government corporations, this section shall apply to their administrative transactions only.

(As amended July 25, 1974, Pub.L. 93-356, § 1, 88 Stat. 390; Dec. 1, 1983, Pub.L. 98-191, § 9(b), 97 Stat. 1332.)

Codification. Section is also set out in D.C. Code, § 1-808.

1983 Amendment. Pub.L. 98-191 substituted "\$25,000" for "\$10,000".

1974 Amendment. Pub.L. 93-356 substituted "\$10,000" for "\$2,500".

Legislative History. For legislative history and purpose of Pub.L. 93-356, see 1974 U.S. Code Cong. and Adm. News, p. 3913. See, also, Pub.L. 98-191, 1983 U.S. Code Cong. and Adm. News, p. 2027.

Cross References

Contracts by Comptroller General for professional services in conducting audit of government

corporations, see section 9105 of Title 31, Money and Finance.

Group life and accident and dismemberment insurance policies, purchase by Civil Service Commission without regard to this section, see section 8709 of Title 5, Government Organization and Employees.

Health benefit plans for government employees, power of Civil Service Commission to contract without regard to this section, see section 8902 of Title 5.

Use of non-government facilities for training of agency employees without regard to this section, see section 4105 of Title 5.

45. CODE FOR MUNICIPAL COURTS; TRIALS AND PROCEEDINGS INCIDENT THERETO.
46. CODE FOR MUNICIPAL COURTS; APPEALS.
49. HOMES FOR AGED.
50. RETIREMENT SYSTEMS.
52. LOCAL RESIDENTIAL HOUSING.
53. EMERGENCY TELEPHONE SERVICES.
54. ASBESTOS CONTROL.

Article 1.—GENERAL PROVISIONS

12-105b. Uniform procedure for payment of claims; presentment of claims; payments in advance of approval; auditing; approval. (a) All claims against a municipality must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.

(b) Claims for salaries or wages of officers or employees need not be signed by the officer or employee if a payroll claim is certified to by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the municipality under authority of law, that the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named.

(c) No costs shall be recovered against a municipality in any action brought against it for any claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. Subject to the terms of applicable insurance contracts, judgments and settlements obtained for claims recoverable pursuant to the Kansas tort claims act shall be presented for payment in accordance with this section or in such manner as the governing body may designate.

(d) Claims against a municipality which provide for a discount for early payment or for the assessment of a penalty for late payment may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may

designate and authorize one or more of its officers or employees to pay any such claim made against the municipality in advance of its presentation to and approval by the governing body if payment of the amount of such claim is required before the next scheduled regular meeting of the governing body in order for the municipality to benefit from the discount provided for early payment or to avoid assessment of the penalty for late payment. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(e) Claims submitted by members of a municipality's self-insured health plan may be authorized to be paid in advance of approval thereof by the governing body. Such claims shall be submitted to the administrative officer of such insurance plan.

(f) Except as otherwise provided, before any claim is presented to the governing body or before any claim is paid by any officer or employee of the municipality under subsection (d), it shall be audited by the clerk, secretary, manager, superintendent, finance committee or finance department or other officer or officers charged by law to approve claims affecting the area of government concerned in the claim, and thereby approved in whole or in part as correct, due and unpaid.

History: L. 1968, ch. 375, § 2; L. 1970, ch. 67, § 3; L. 1979, ch. 186, § 18; L. 1980, ch. 59, § 1; L. 1982, ch. 62, § 1; L. 1983, ch. 56, § 1; July 1.

12-120. Destruction of certain records.