

Approved 3-18-87 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 ~~XXX~~ a.m./p.m. on March 17, 19⁸⁷ in room 521-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Fred Rowley, Legislative Committee, Funeral Directors Association
Jim Snyder, Funeral Directors Association
Dennis Priest, Social and Rehabilitation Services
John Wassberg, Funeral Security Plans
Representative Michael Peterson

Chairman Sand called the meeting to order.

Mike Heim briefed the committee on SB 150, stating that the bill was suggested by the Kansas Cemetery Association during hearings on SB 11 dealing with casket sales. The bill would raise the amount of a prearranged funeral contract that a person may make irrevocable and still be eligible for public assistance. He also stated that the bill raises the amount of a prearranged funeral contract which may be made irrevocable from \$2,000 to \$3,000.

Fred Rowley testified on SB 150, stating that the increase to \$3,000 is not necessary because personnel of SRS have informed him that caskets shall remain exempt because of the federal rulings and not because of any state laws. He proposed amendments to the bill, the first (c) insures that irrevocable contracts are abialable only to those initially going under assistance-- either state or federal; (d) provides that those people who purchase a revocable contract and then find in later years they need assistance, shall be able to convert the revocable contract to an irrevocable contract without penalty; and (e) clarify the law so that after the funeral services are completed and paid for, if any amounts remain in the fund, it shall go to the estate of the deceased. (Attachment 1)

Jim Snyder answered questions from the committee on SB 150. He stated that caskets would be exempt as per SB 11, and that SRS would lose federal funds if the \$3,000 cap were enacted.

Dennis Priest testified in opposition to SB 150, stating that by increasing the allowable limits established by the bill, a cash or medical assistance client will now be able to transfer up to \$3,000 of his assets into an irrevocable burial fund which could have otherwise been used to meet that client's ongoing maintenance and medical needs. He also stated that the bill does not reflect the fact that persons may also prepurchase funeral and burial merchandise through separate irrevocable agreements under current state law, and that the state's own Burial Program administered through SRS generally provides only up to \$1,150 total for all funeral and cemetery expenses. (Attachment 2)

John Wassberg testified in support of SB 150, stating that an average funeral expense is around \$2,700 to \$2,900 and that the \$3,000 cap is appropriate.

Chairman Sand closed the hearing on SB 150.

Bill Edds gave the committee an overview on SB 245, stating that Senator Talkington requested the legislation to help clarify a problem of his

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 ~~a.m.~~^{XXX} p.m. on March 17, 19 87

constituent. Mr. Edds stated that the constituent claimed there is conflicting language in the statutes dealing with official newspaper publications.

Representative Peterson testified on SB 245, proposing an amendment to the bill. He stated that Senator Talkington had no problem with his amendment. He stated that his amendment would require a proof of publication of each notice, advertisement or publication shall be submitted to the state of Kansas or any political subdivision who requested the notice, advertisement or publication to be published. Representative Peterson stated that his amendment would make uniform requirements in K.S.A. 28-137b. (Attachment 3)

A discussion was held regarding the proposed amendment by Representative Peterson. Chairman Sand stated that a public notice needed to be furnished and another hearing regarding SB 245 and the proposed amendment would be set up for next week.

The minutes of March 16 were approved as presented.

Meeting adjourned.

REMARKS BY FRED ROWLEY REPRESENTING
THE KANSAS FUNERAL DIRECTORS ASSOCIATION
BEFORE THE KANSAS HOUSE LOCAL GOVERNMENT COMMITTEE
TUESDAY, MARCH 17, 1987

Mr. Chairman, members of the Committee, my name is Fred Rowley. I operate the funeral home in Lebo, Kansas and serve on the Legislative Committee of the Kansas Funeral Directors Association. We appear today to provide a brief background on SB 150 and to propose amendments.

Senate Bill 150 would amend K.S.A. 16-303, subparagraph (c) which is a section of the funeral directors pre-need law. I'm sure I don't have to explain pre-need to this committee as you heard testimony relating to Senate Bill 11 (the casket bill) earlier this session. At any rate the original purpose of this legislation was to increase the limit of making a contract irrevocable from \$2,000 to \$3,000.

Irrevocability of funeral preneed funds was enacted in 1982 for the express purpose of allowing Kansas citizens attempting to become eligible for assistance of some type through SRS to place funds aside for their funeral and having these funds exempted as a resource since the consumer could no longer have this money available to them. This has been an excellent law for it enabled Kansas consumers to become eligible for assistance and still have some peace of mind regarding a future funeral. Remember, this money is the consumers funds...and the only crime these people ever committed was outliving their savings.

Since the enactment of providing \$2,000 irrevocable, federal rulings also have provided that the preneed purchase of a vault (or grave enclosure) and a casket, along with other cemetery items such as a grave space, the marker, etc., should also be exempt as a resource.

There was concern during the Senate Committee hearings on Senate Bill 11 (the

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Attachment 1

casket bill) that enactment of that piece of legislation would remove caskets from their exempt status for those people wishing assistance. Therefore Senate Bill 150 was introduced.

Since Senate Bill 150 passed the Senate, however, we have been in contact with personnel of SRS and have been informed that caskets shall remain exempt because of the federal rulings and not because of any State laws. Therefore the increase to \$3,000 is not necessary.

However, we do propose some amendments. The first (c) insures that irrevocable contracts are available only to those initially going under assistance--either state or federal. Amendment (d) provides that those people who purchase a revocable contract and then find in later years they need assistance, shall be able to convert the revocable contract to an irrevocable contract without penalty. Also, in (e) we propose that the law be clarified so that after the funeral services are completed and paid for, if any amounts remains in the fund, it shall go to the estate of the deceased.

I shall be happy to answer any questions.

SENATE BILL No. 150

By Committee on Local Government

2-4

0017 AN ACT concerning prearranged funeral agreements; relating to
0018 irrevocable agreements; amending K.S.A. 1986 Supp. 16-303
0019 and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1986 Supp. 16-303 is hereby amended to
0022 read as follows: 16-303. (a) Except as authorized by K.S.A.
0023 16-308, and amendments thereto, all payments made under such
0024 agreement, contract or plan, and any earnings or interest thereon,
0025 shall remain with such bank, trust company, credit union or
0026 savings and loan association until the death of the person for
0027 whose service the funds were paid or, except as provided in
0028 subsection (c), until demand for payment is made by the pur-
0029 chaser of the merchandise or services to the bank, trust company,
0030 credit union or savings and loan association, and upon such
0031 payment to the purchaser, the contract shall terminate.

0032 (b) At the option of a purchaser, any installment contract may
0033 provide for additional payments by the purchaser for the cost of
0034 group credit life insurance at such rate as is approved from time
0035 to time by the insurance commissioner. In the event of the death
0036 of the purchaser, the proceeds shall be treated as funds in
0037 accordance with K.S.A. 16-304, and amendments thereto.

0038 (c) At the option of ~~the~~ purchaser, such agreement, contract
0039 or plan may be made irrevocable as to the first ~~\$2,000~~ \$3,000 of
0040 the funds paid plus any interest and earnings accumulated under
0041 the agreement, contract or plan. This option shall not prohibit
0042 the purchaser to designate a different funeral home at any time
0043 prior to death, after written notice to the current funeral home,
0044 and upon such notification all documents and funds shall be
0045 transferred as necessary.

any

who would be eligible for assistance under K.S.A. 39-708c or 39-709,
and amendments thereto, determined without regard to the amount paid
and made irrevocable under this subsection

\$2,000

(d) If a purchaser has established a revocable agreement,
contract or plan pursuant to K.S.A. 16-301, et seq., and
amendments thereto, and subsequently becomes eligible for
assistance under K.S.A. 39-708c or 39-709, and amendments
thereto, determined without regard to the amount paid and
earnings and interest accumulated thereon and made irrevocable
under this subsection, such purchaser may make the agreement,
contract or plan irrevocable with respect to the first \$2,000 of
the funds paid therefor together with any interest and earnings
accumulated on that amount from the time of such payment for the
agreement, contract or plan, and all such payments, interest and
earnings accumulated in such agreement, contract or plan,
regardless of the amount thereof, shall not be taken into
consideration for determination of eligibility for such
purchaser's initial or subsequent application for assistance
under K.S.A. 39-708c or 39-709, and amendments thereto.

(e) All payments made upon the death of a purchaser of an
irrevocable agreement, contract or plan established pursuant to
subsection (c) or (d) shall be in accordance with the provisions
of K.S.A. 16-304, and amendments thereto.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Testimony in Opposition to S.B. 150

I am appearing today to present testimony in regards to the proposed legislation contained within Senate Bill No. 150.

The bill amends the current State statute regarding the establishment of irrevocable prearranged funeral agreements, contracts, or plans by increasing the limit on the maximum amount which can be made irrevocable in such agreements. The maximum increases from the current \$2,000 cap to a proposed \$3,000 cap (including any interest and earnings which accumulate under the agreement). The Department is unable to support the bill due to several concerns.

First, in accordance with K.S.A. 39-709, the Secretary is mandated to exempt the principal and interest held in such irrevocable agreements when determining eligibility for the State's cash and medical assistance programs. By increasing the allowable limits established by the bill, a cash or medical assistance client will now be able to transfer up to \$3,000 of his or her assets into an irrevocable burial fund which could have otherwise been used to meet that client's ongoing maintenance and medical needs.

Secondly, the bill does not reflect the fact that persons may also prepurchase funeral and burial merchandise (such as caskets, burial vaults, burial spaces, grave markers, etc.) through separate irrevocable agreements under current State law. For example, a person can establish a \$1,000 agreement for a casket, a \$500 agreement for a burial vault, and a \$1,000 agreement for a burial plot, all in addition to establishing a \$3,000 funeral agreement as specified by the bill. In contrast to the cap placed on prearranged funeral agreements, there is no cap placed on these merchandise agreements. Since prepurchased burial merchandise is exempt from consideration for eligibility purposes under current federal and state regulations, such agreements cannot be considered as countable resources in the cash and medical assistance programs. In addition, for aged, blind, and disabled medical clients, life insurance with a face value of up to \$1,500 per individual is also exempt under federal and state regulations.

By combining the effect of this bill with the above provisions, a client could easily transfer in excess of \$5,000 of assets into exempted funeral and burial resources. As more and more clients are establishing such agreements, the effect on the Department's expenditures in the cash and medical assistance programs could become significant over a period of time.

Finally, it should be noted that the State's own Burial Program administered through this Department generally provides only up to \$1,150 total for all funeral and cemetery expenses. This takes into account \$750 for an adult casket, \$250 for cemetery expenses, and \$250 for an outside container. The contrast is important as only those clients with sufficient financial resources to establish an irrevocable agreement will be advantaged by the bill.

For the above reasons, the Department does not support S.B. 150.

Robert C. Harder
Secretary
Social and Rehabilitation Services
913-296-3271

March 17, 1987

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Proposed Amendment to SB 245

On page 2, after line 74, by inserting the following:

"(d) No legal notice, advertisement or publication required or provided by the laws of the state of Kansas or any political subdivision as defined by K.S.A. 28-137b, and amendments thereto, to be published in a newspaper shall have any force or effect unless the same shall be published as follows:

(1) Such notice, advertisement or publication shall be published in strict compliance with the provisions of K.S.A. 28-137, and amendments thereto, relating to type size and column width. The type size and column width shall be the same as stated in the newspaper's rate card filed in accordance with K.S.A. 28-137(c), and amendments thereto, and not varied. When any notice, publication, or advertisement, because of its composition, cannot be published in accordance with this section, the proof of publication and the verified statement of fees and charges shall contain a detailed explanation of the reason for the variance and the price adjustment.

(2) Proof of the publication of each notice, advertisement or publication shall be submitted to the state of Kansas or any political subdivision who requested the notice, advertisement or publication to be published. A copy of the legal notice, advertisement or publication shall be attached to the proof of publication, and the proof of publication shall clearly state that the notice, advertisement or publication has been published together with the dates published and a verified statement of the fees and charges signed by the publisher.

(e) Any newspaper designated as an official newspaper pursuant to subsection (a) or (b) that does not strictly adhere to the provisions of this act shall be liable to the state or any political subdivision for any fees paid for any notice, advertisement or publication published and, with respect to any political subdivision, forfeit the official designation as the official newspaper for that subdivision.";

Attachment 3
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