

Approved March 25, 1987  
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Jeanne Hoferer at  
Chairperson

10:00 a.m./~~XXX~~ on March 23, 1987 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~ Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Talkington and Winter.

Committee staff present:

Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Gordon Self, Office of Revisor of Statutes

Conferees appearing before the committee:

Representative O'Neal  
Ron Smith, Kansas Bar Association  
Pat Hubbell, Kansas Railroad Association  
Jeffrey S. Southard, KPL Gas Service  
Steve Montgomery, Coalition for Consumer Rights  
Lee Kinch, Kansas Trial Lawyers  
Ron Calbert, United Transportation Union

House Bill 2258 - Removal of limits on those present at oral deposition.

Representative O'Neal, sponsor of the bill, stated he had introduced this legislation in the past and the bill had passed in the House but there was not time to work the bill in the Senate. The reason he introduced the bill is to make sure that legal assistants and support staff could be present at deposition hearing without any objection.

Ron Smith, Kansas Bar Association, testified subsection (h) is not presently as part of the federal rules of civil procedure. If working in federal court will not have available subsection (h) in the federal code. The benefit of the subsection it becomes a statutory order. The Bar feels the better system is to put into subsection (h) the legislative intent of who shall attend deposition hearings in writing. The language in lines 229 through 234 is the better approach.

House Bill 2452 - Venue of personal injury actions against utilities.

Pat Hubbell, Kansas Railroad Association, testified in support of the bill. He stated a civil justice system is not in balance which permits a plaintiff, whose cause of action arose in Elkhart and who is a resident of Newton, to bring suit in the District Court of Wyandotte County, some 455 miles from the location of the incident giving rise to the cause of action. This bill addresses the problem of "venue shopping" in Kansas. It specifies personal injury actions against public utilities, common carriers and transportation systems must be brought in the county of residence of the plaintiff or in the county in which the incident giving rise to the cause of action occurred. A copy of his testimony is attached (See Attachment I). A committee member inquired if he had any problem if other corporations were treated the same way? Mr. Hubbell replied, if you want to treat us like everyone else. This bill is broader than the present workers compensation statutes.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,  
room 514-S, Statehouse, at 10:00 a.m. ~~xxx~~ on March 23, 1987

House Bill 2452 continued

Jeffrey S. Southard, KPL Gas Service, testified in support of the bill. He stated this bill would correct a current provision in Kansas law which is unfair to public utilities and common carriers. The proposed change would add a Subsection (b) to the statute, would make the venue for civil actions against public utilities and common carriers more consistent with the standard of care applied by juries to such defendants. A copy of his testimony is attached (See Attachment II).

Steve Montgomery, Coalition for Consumer Rights, testified it is the position of the coalition that this legislation is unwarranted. However, in a spirit of compromise, we would support an amendment by this committee, so that the three groups specified in the bill will be treated for venue purposes like all other similarly situated defendants. Under our proposed amendments, if a railroad corporation satisfies these criteria and either is transacting business in Wyandotte County at the time of the filing of the petition or maintains its registered office in Wyandotte County, a personal injury suit would be brought against the railroad in Wyandotte County. Copies of his testimony with the proposed amendment are attached (See Attachments III). During considerable committee discussion concerning forum shopping a committee member suggested the district judge's transfer shall be a presumptive transfer until finding by district judge has a hardship of the party. Mr. Montgomery said he could not support that kind of amendment. Another committee member asked Mr. Montgomery for their list of people who are consultants with their organization. Mr. Montgomery replied they were Ron Calbert, Don Seiberger, Lee Jones and Roger Barr.

Lee Kinch, Kansas Trial Lawyers, testified KTL oppose this amendment because it is incompatible with the prevailing venue notion that corporations ought to be subject to legal action in counties in which they transact business. He stated he will echo the remarks of Steve Montgomery who testified before him. It is important to have the right to hear these cases where we have ready access. A copy of his testimony is attached (See Attachment IV).

Ron Calbert, United Transportation Union, testified the union opposes the bill because it unfairly discriminates against only one class of plaintiffs and legal actions, mainly, employees and individuals sustaining injury and death due to the negligence of common carriers, public utilities, and transportation systems. The bill is unnecessary because the existing law gives the trial courts discretion to dismiss a case if the place of trial is inappropriate. A copy of his testimony is attached (See Attachment V).

The meeting adjourned.

A copy of the guest list is attached (See Attachment VI).

A copy of a memorandum from William W. Sneed is attached (See Attachment VII).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-23-87

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Joel Morris	Box 196, McLouth <sup>66054</sup> KS	(Page)
Pat Sullivan	R.R. #2 Box 131A <sup>McLouth, KS 66054</sup>	(Page)
Hosie L. Evans	5403 N. 60 <sup>th</sup> Terr K.C.K	Maint. & Way Union
Pat Hubbard	Topeka	Kans RR Assoc.
ROBERT LOUGHBOM	148 ANN KCKS 66101	LAWYER
Lee Kinich	Box 306 Wichita 67201	K-T-A
Ron CALBERT	NEWTON	U. J. U.
Heather Jones	Hutchinson 2100 Madison	Girl Scout
Diana Bygaw	Lawrence <sup>142 Montevly</sup> Way	Girl Scouts
Leanne Wennich	Wichita 1629 Denver	Girl Scouts
Tom Taylor	Topeka	KPL Gas Service
Rick Zandy	"	" " "
Mike Germain	Topeka	Ks Railroad Ass'n.
Woody Woodman	KC Mo	KCP&L
Jeff Southern	Topeka	KP&L
CARL T. Ratner	Wichita	CFCR
Heroy Jones	Overland Park	B. L. E.
Don Lindsey	OSAWATOMIE	INDIVIDUAL
Valard Wilson	Topeka	KTCA
Bob Gumbert	"	KTLA
Ron Smith	"	KBA
Lori Callahan	Topeka	am. & ew. assoc.
Barb Remert	"	KPOA
Jolene Miller	Topeka	KLAS
BOB ANDERSON	<del>Centerville</del> Topeka	COMMISSION FOR CONSUMER RIGHTS

Off. JD  
 Sen. Jud.  
 3-23-87





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PATRICK R. HUBBELL  
SPECIAL REPRESENTATIVE-PUBLIC AFFAIRS

MICHAEL C. GERMANN, J. D.  
LEGISLATIVE REPRESENTATIVE

## Statement of the Kansas Railroad Association

Presented to the Judiciary Committee  
of the Kansas Senate  
The Honorable Robert G. Frey, Chairman

Statehouse  
Topeka, Kansas  
March 23, 1987

\* \* \* \* \*

Mr. Chairman and Members of the Committee:

My name is Pat Hubbell. I am the Special Representative - Public Affairs for the Kansas Railroad Association. I want to thank you for giving me the opportunity to express the Railroad Association's support for House Bill No. 2452.

The railroad industry has been concerned for a number of years with disturbing trends in the civil justice system. Statistics compiled by the railroad industry reveal that the number of lawsuits filed and the size of jury awards in personal injury actions are increasing at an alarming rate. From 1979 through 1985 work-related injuries to railroad employees decreased 47%, but the number of personal injury lawsuits for work-related injuries filed by railroad employees increased by more than 69%. An even more shocking statistic, during this period of declining injuries, is that the total dollars paid out in judgments increased 292%.

*Attach. I  
Sen. Jurd.  
3-23-87*

Kansas railroads are principally self-insured. The statistics set forth above are of great concern to us. We believe the Kansas Legislature must take action to return some balance to the civil justice system, and H.B. 2452 is a step in that direction.

A civil justice system is not in balance which permits a plaintiff, whose cause of action arose in Elkhart and who is a resident of Newton, to bring suit in the District Court of Wyandotte County, some 455 miles from the location of the incident giving rise to the cause of action.

A civil justice system is not in balance which permits a plaintiff to bring suit in the District Court of Wyandotte County, but whose cause of action arose in La Plata, Missouri (172 miles from Kansas City), who resides in Niota, Illinois (284 miles from Kansas City), who was initially treated by a physician in Kirksville, Missouri, and who later was treated in hospitals located in Rochester, Minnesota, and Fort Madison, Iowa (a few miles from the plaintiff's residence).

Both of these cases were brought against the Santa Fe Railway Company ("Santa Fe") under the Federal Employers' Liability Act ("FELA") (45 U.S.C. §51). From 1981 through 1986 more FELA actions were brought against Santa Fe in the state district courts of Kansas than in the Federal District Court for the District of Kansas. Of the FELA actions filed in the state district courts of Kansas from 1981 through 1986, all but two were filed in Wyandotte County District Court. A significant number of the actions filed in Wyandotte County District Court were managed by two non-Kansas

law firms - - one located in Kansas City, Missouri, and the other located in Houston, Texas. In almost 40% of the FELA actions filed in Wyandotte County District Court, the plaintiff neither resided in Wyandotte County nor did the incident giving rise to the cause of action occur in Wyandotte County. Similar experiences are reported by other Kansas railroads.

The problem reflected by the two examples and the statistics cited above is commonly known as "venue shopping." H.B. 2452 addresses the problem of "venue shopping" in Kansas. The bill would amend K.S.A. 60-606 to specify that personal injury actions against public utilities, common carriers and transportation systems must be brought in the county of residence of the plaintiff or in the county in which the incident giving rise to the cause of action occurred. The fairness of this proposal is compelling, because:

(1) Persons having material knowledge or information about an incident giving rise to a cause of action normally reside near the location of the incident.

(2) If a lawsuit is filed in a location distant from the site where the incident occurred, legal process may not be available to compel the attendance of key witnesses.

(3) Witnesses who are willing to attend a trial held in a distant jurisdiction do so at a great loss of their own time, incur unnecessary expenses and lose income.

(4) An action brought in a distant jurisdiction, a jurisdiction having no particular interest in the controversy, adds to the congestion of that jurisdiction's docket.

(5) An action brought in a place distant from the location where the incident occurred forecloses the possibility of the jury viewing the scene of the incident.

We believe H.B. 2452 represents a fair balance between the interests of plaintiffs and defendants. We urge your favorable consideration of the bill. I will try to respond to any questions which you may have.

# # # #



TESTIMONY OF JEFFREY S. SOUTHARD,  
DIRECTOR OF LITIGATION,  
THE KANSAS POWER AND LIGHT COMPANY,  
ON 1987 HOUSE BILL NO. 2452,  
BEFORE THE SENATE JUDICIARY COMMITTEE,,  
MARCH 23, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I appreciate the opportunity to appear before you today to comment upon 1987 House Bill No. 2452, which is now before the Committee. I am the Director of Litigation for The Kansas Power and Light Company (KPL) and as such am involved in legal actions of all types affecting the Company. This bill would correct a current provision in Kansas law which is unfair to public utilities and common carriers.

The bill seeks to amend K.S.A. 60-606, which deals with civil procedure and concerns the venue for civil actions brought against public utilities. While there are a number of venue laws in Article 6 of Chapter 60, K.S.A. 60-606 is the only one which establishes special rules for a certain class of defendants. The statute provides that:

"Any action brought against a public utility, common carrier, or transportation system for any liability or penalty or forfeiture, may be brought at any county into or through which such public utility, common carrier or transportation system operates regularly."

The proposed change would add a Subsection (b) to the statute, requiring lawsuits seeking damages arising out of personal injury to be brought in the county in which the injury

*Atty. Gen. J. S. Southard*  
*Sen. J. S. Southard*  
3-23-87

occurred, or in the county where the plaintiff resided at the time of the injury. This change would make the venue for civil actions against public utilities and common carriers more consistent with the standard of care applied by juries to such defendants. By allowing a jury in one county to decide what is local good practice for another county 200 miles away, the present law is inherently unfair, and imposes a burden on public utilities and common carriers not shared by other corporate defendants.

Much has been said and written in the recent past concerning the existence of a "liability crisis." Many commentators have concluded that one of the contributing factors to this crisis is the practice of "venue shopping" by plaintiff's attorney solely to select the court in which he expects a jury to give the largest possible award.

My company has in the past few years been before juries in several instances where the venue selected by plaintiff had no connection whatever with the persons or facts of the case -- it was chosen solely for the size of the award to be expected, based on past experience. On two such occasions, the jury's award has been shockingly disproportionate to the damages suffered. One of the cases was reversed by the Kansas Supreme Court; the other is presently the subject of post-trial motions. I don't intend criticism of the attorneys; they are taking legitimate advantage of the law for the benefit of their clients. But the result is sometimes grossly unfair. It

should be the objective of the laws of civil procedure to make the opportunity for equal justice available to both sides of a lawsuit. Corporate defendants in personal injury cases bear a heavy burden to begin with. They are often perceived as possessing unlimited wealth and painted as lacking in concern for the safety of the public. Their management is considered remote and unaffected by the damage the company is alleged to have caused. These disabilities are inherent in civil litigation brought by an injured individual against most private business entities. But the law in its present form, which unfairly singles out public utilities and common carriers as the special victims of venue shopping, places an additional obstacle in the way of even handed justice.

This bill provides the legislature with an opportunity to end a discriminatory practice that is employed for the purpose of producing maximum jury awards. I urge its approval by this Committee.

**ALDERSON, ALDERSON & MONTGOMERY**

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C. DAVID NEWBERY

MEMORANDUM

**TO : Senate Judiciary Committee**  
**FROM : Steven C. Montgomery, Coalition for Consumer Rights**  
**DATE : March 23, 1987**  
**RE : Testimony in Opposition to House Bill No. 2452**

My name is Steve Montgomery. I am appearing on behalf of the Coalition for Consumer Rights as an opponent of House Bill 2452. The Coalition for Consumer Rights is an association of individuals recently formed for the purpose of expressing to the legislature the harmful effect of HB 2452 upon the general public and upon employees of common carriers, public utilities and transportation systems.

HB 2452 proposes to change the applicable venue statute in personal injury cases brought against members of three particular groups: public utilities, common carriers and transportation systems. Presently, any persons or entities falling within these three groups may be sued in any county in which the person or entity is regularly operating. The proposed amendment would change the venue only to counties in which the cause of action occurred or in which the plaintiff resides.

It is our understanding that the basis for this proposal is that the railroads do not want personal injury cases to be heard in Wyandotte County. We believe that HB 2452 represents a radical departure from the historically-accepted basis for establishing venue for civil actions. This bill has several serious flaws, each of which is discussed below, and should not be adopted in its current form.

*Attach. III  
Sen. Jud.  
3-23-87*

**1. There is no basis for believing Wyandotte County juries are prejudiced.**

We are aware of no evidence, and proponents have offered none, which indicates that verdicts of juries in Wyandotte County District Court are different from jury verdicts in other district courts of this state. We believe that the citizens of Wyandotte County undertake their responsibilities as jurors as conscientiously as the citizens of any other county.

**2. The scope of House Bill 2452 is too broad.**

HB 2452 affects not just railroads, but also motor carriers, pipeline companies, electric companies, gas companies and a number of other entities. It should be noted that this bill gives no consideration to the many common motor carriers who are individuals, rather than corporations, and the potential difficulty the proposed changes would create for them. In short, there has been no indication from all entities affected that the current law creates an undue hardship.

**3. House Bill 2452 applies only to personal injury cases.**

It is significant to note that HB 2452 proposes to change venue requirements only in the instance of personal injury cases. It is our position that the distinction which has been drawn between personal injury actions and other types of actions is artificial and exposes this legislation as an attempt to codify forum shopping for particular special interest groups. We believe that the legislature should act decisively to avoid such a dangerous precedent.

A-III

**4. House Bill 2452 is contrary to basic venue principles.**

The provisions contained in K.S.A. 60-606 and its predecessor statutes, G.S. 1949 60-505 and 60-506, had their origin in laws enacted near the turn of the century. It is the belief of our organization that these provisions are still viable. Moreover, even though we recognize that laws should be changed when a need arises, amendments should not be made so as to confer a special advantage upon any particular class. However, that is the result sought by the proponents of HB 2452.

The apparent objective of the proponents of this legislation is to make it more difficult and costly for persons injured in railroad accidents to recover for their injuries. Currently, a substantial number of personal injury actions against railroads are filed either in Wyandotte or Sedgwick County, but there are several practical and common sense reasons for this, none of which relate to the court systems or juries in these counties.

Notably, most of the lawyers who have recognized expertise in these actions, particularly those cognizable under the Federal Employers' Liability Act (FELA), practice in these counties. Also, many of the seriously-injured plaintiffs in these actions receive care and treatment from the medical care facilities in these counties, and are under continuing care and treatment from these facilities at the time the action is commenced. A third and perhaps most compelling reason is that several railroads transact a significant amount of business in these counties.

With respect to the latter point we note, for example, that the Santa Fe Railroad had a 1986 ad valorem valuation in Wyandotte County of \$2.7 million. The Union Pacific Railroad had an ad valorem valuation in 1986 of \$1.6 million in Wyandotte County. These two particular railroads obviously have extensive holdings and business transactions occurring in Wyandotte County.

A-III



While we do not concede the need for change in our current venue statutes, we strongly urge that, if an amendment is to be made in K.S.A. 60-606, the defendants identified in that statute be treated no differently than other defendants. Consequently, our organization proposes that for personal injury cases, the venue provisions found in K.S.A. 60-603, 60-604 and 60-605, which are applicable to all other persons and corporations, should be applicable in personal injury actions to the entities specified herein--public utilities, common carriers and transportation systems. (A copy of of our proposed amendment is attached to this testimony.)

Specifically, we believe that railroad or utility corporations, like all other corporations, foreign or domestic, should be amenable to suit in any county in which they are transacting business. Whether a corporation is transacting business in a particular county must be determined by the courts on a case-by-case basis, and several judicially-recognized factors are considered in making this determination, including: (1) the nature and scope of business operations; (2) the extent of activities within the county; (3) the continuity of those activities; and (4) the corporation's contacts within the county.

Thus, under our proposed amendments, if a railroad corporation satisfies these criteria and either is transacting business in Wyandotte County at the time of the filing of the petition or maintains its registered office in Wyandotte County, a personal injury suit could be brought against the railroad in Wyandotte County. It is the basic principle of venue statutes that businesses must "take the gravel with the gravy." That is, if an entity transacts business and has significant operations in any particular county, one of the aspects of doing business

in this location is that the business has exposure to the filing of suits in this location. It would be contrary to all principles of venue if, for example, the Santa Fe Railroad could not be sued in all cases in Shawnee County, even though Santa Fe has located its principal Kansas office in Shawnee County.

It is the position of the Coalition for Consumer Rights that this legislation is unwarranted. However, in a spirit of compromise, we would support an amendment by this Committee, so that the three groups specified in the bill will be treated for venue purposes like all other similarly situated defendants. Under this amendment and in accordance with established judicial standards, a court will have the discretion, on a case-by-case basis, to find that an action has been improperly filed in a particular county because the defendant corporation is not transacting business in that county. Furthermore, even if the action is properly filed, a court will have the statutory discretion to transfer the action to a more appropriate county in order to serve the interests of justice.

We suggest that the venue statutes currently in effect for all other people and corporations within the State of Kansas, in conjunction with the judicial discretion to dismiss improperly filed actions and to transfer actions to provide equal protection to all parties, provide the appropriate checks and balances to assure that fair and equal justice is provided to all litigants in Kansas courts. Accordingly, there is no justification for providing a special advantage to railroads and other utilities, an advantage which is not enjoyed by other defendants.

A-III

## HOUSE BILL No. 2452

By Committee on Judiciary

(By request)

2-23

0018 AN ACT concerning civil procedure; relating to venue of certain  
0019 actions; amending K.S.A. 60-606 and repealing the existing  
0020 section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 60-606 is hereby amended to read as fol-  
0023 lows: 60-606. (a) *Except as provided by subsection (b), any*  
0024 *action brought against a public utility, common carrier, or trans-*  
0025 *portation system for any liability or penalty or forfeiture, may be*  
0026 *brought in any county into or through which such public utility,*  
0027 *common carrier or transportation system operates regularly.*

0028 (b) *Any action brought against a public utility, common*  
0029 *carrier or transportation system for damages arising from per-*  
0030 *sonal injury, resulting in death or otherwise, shall be brought in*  
0031 ~~*either the county in which the injury occurred or in the county*~~  
0032 ~~*in which the plaintiff resided at the time of injury.*~~

0033 Sec. 2. K.S.A. 60-606 is hereby repealed.

0034 Sec. 3. This act shall take effect and be in force from and  
0035 after its publication in the statute book.

the district court of the county in which there is proper venue, as provided in K.S.A. 60-603, 60-604 or 60-605, as the case may be.

THE  
A

CURRENT LAW

**I. K.S.A. 60-606: Public Utilities, Common Carriers and Transportation Systems.**

Suit may be brought wherever the entity regularly operates.

**II. K.S.A. 60-604: Domestic Corporations.**

Suit may be brought in the following counties:

1. Where a registered office is located,
2. Where the cause of action arose,
3. Where the defendant is transacting business at the time suit is filed, or
4. Where personal property is located, which property is the subject of a suit for possession of the property.

ANALYSIS AND COMMENT  
CONCERNING HOUSE BILL 2452

By E. L. Lee Kinch

House Bill 2452 amends K.S.A. 60-606, the venue statute applicable to public utilities and common carriers, by carving out an exception which applies only to actions for personal injuries and death. The present law provides that any action against a public utility or common carrier may be brought in any county into or through which the public utility or common carrier operates regularly. HB 2452 amends the existing law by providing that actions for damages arising out of personal injury or death shall be brought in either the county in which the injury occurred or in the county in which the Plaintiff resided at the time of injury.

The proposed amendment is not only inconsistent with the general rule of venue under K.S.A. 60-606 which permits the public utility or common carrier to be sued in counties in which they do business, but it is also inconsistent with the venue statute applicable to domestic and foreign corporations which provides that a corporation may be sued in the county "in which the Defendant is transacting business at the time of the filing of the Petition." (K.S.A. 60-604)

We oppose this amendment because it is incompatible with the prevailing venue notion that corporations ought to be subject to legal action in counties in which they transact business.

We oppose this legislation because it carves out an exception to the general venue rule which discriminates against only one class of plaintiffs, i.e., individuals who sue public utilities and common carriers as a result of personal injury or death.

*attch. IV*  
*Sen. Jud.*  
*3-23-87*

We oppose this legislation because it imposes inappropriate constraints upon the rights of individuals sustaining death and disability at the hands of public utilities and common carriers to select the most appropriate forum in which to prosecute their actions while retaining that right unimpaired for all other classes of plaintiffs.

We oppose this legislation because it ignores the existence of the doctrine of forum non conveniens which gives the trial judge discretion to dismiss the Plaintiff's case if the county in which the case is filed is found to be an inconvenient and inappropriate forum in which to try the case.

In addition to the common law doctrine of forum non conveniens, the District Courts of Kansas have statutory authority under K.S.A. 60-609 to transfer civil actions upon finding that a transfer would service the convenience of the parties and witnesses and the interests of justice.

We oppose this legislation because employees of railroads and public utilities not infrequently are employed and reside in rural counties and not infrequently are injured in rural counties whose tax base and economy depend upon railroads and utilities. The corollary is that the citizenry of such counties some of whom will sit on its juries may not be disposed to render a verdict that may be perceived as impacting the local economy.

We oppose this legislation because in serious personal injury cases, adequate medical treatment is unavailable in small rural communities. Specialized medical care for head injuries, spinal cord injuries, burn injuries and other profound disabilities is available only in large metropolitan centers. Moreover, modern

A-IV



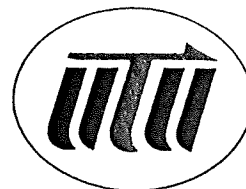
litigation requires facilities, experts and consultants who are located primarily in those same large metropolitan communities and it is accordingly most appropriate to file the lawsuit in the county in which such expert witnesses and litigation support services are readily available. If plaintiffs are compelled to litigate these cases in rural communities far removed from the expert witnesses and consultants, the cost of the litigation to the plaintiff will escalate dramatically. Indeed, it will frequently be impractical if not impossible to persuade busy medical specialists and other experts to travel to such communities for the purpose of testifying.

Finally, we oppose this legislation because it unfairly discriminates against one class of individuals and one class of claims, i.e., plaintiffs in personal injury and death cases, without any valid justification. In candor, this legislation represents special interest legislation designed to protect the interests of economically powerful common carriers, transportation systems and public utilities at the expense of injured individuals.

Thank you for your consideration.

3-23-87

**united  
transportation  
union**



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R. E. (RON) CALBERT  
DIRECTOR/CHAIRMAN

KANSAS STATE LEGISLATIVE BOARD

Statement Re: House Bill No. 2452

Presented to: Senate Judiciary Committee

March 23, 1987

Mr. Chairman, and members of the Committee, I am Ron Calbert, Director, Kansas State Legislative Board, **United Transportation Union**.

The **United Transportation Union** opposes House Bill No. 2452 because it unfairly discriminates against only one class of plaintiffs and legal actions, mainly, employees and individuals sustaining injury and death due to the negligence of common carriers, public utilities, and transportation systems.

House Bill No. 2452 would drastically change the present venue statute K.S.A. 60-606. In a personal injury or death action a public utility, common carrier, or transportation system could no longer have an action commenced against it in any county in which it regularly operates. An action could only be brought in the county where the injury occurred or in the county where the plaintiff resided at the time of the injury. This would restrict plaintiff to a two county maximum and one county if the plaintiff was not a Kansas resident.

The bill makes a drastic change in law and deprives citizens of valuable rights. The injured person has the burden of proving the case. Therefore, he or she has always had the right to file suit against a corporation in any county where the company operates regularly, and where the injured person believes he or she would get a fair trial.

*Attach. I  
Sen. Jud.  
3-23-87*

House Bill No. 2452 would allow public utilities, common carriers and transportation systems to have suit for personal injury or death commenced against them in fewer counties than if the same suit was to be commenced against an individual Kansas resident or any other kind of corporation.

The bill is unnecessary because the existing law gives the trial courts discretion to dismiss a case if the place of trial is inappropriate.

We respectfully urge you to vote no on this bill.

M E M O R A N D U M

TO : The Senate Judiciary Committee

FROM : William W. Sneed, Legislative Counsel  
Kansas Association of Defense Counsel

RE : House Bill 2025

DATE : March 19, 1987

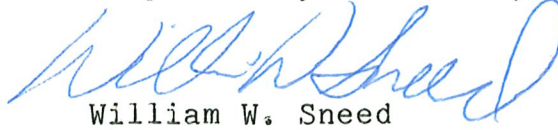
On behalf of the Kansas Association of Defense Counsel, please be advised that we are in support of House Bill 2025 relating to punitive damages. KADC has long been a proponent of reform relative to punitive damages. As discussed through the Interim Summer Committee, there are many views on exactly how punitive damages should be awarded. Although the Bill is a compromise in certain areas, we believe that such changes encompassed in the Bill, for public policy purposes alone, are needed.

Although we have mentioned this in prior legislative hearings, we would again reassert that the Committee strongly review whether or not wanton conduct, as defined by PIK, should be utilized for punitive damages. Our Association understands that wanton conduct in certain instances should provide for punitive damage relief. However, because of its definition, it is possible to utilize the wanton conduct definition to cover a broad range of activities that may or may not be applicable to punitive recovery. Again, we simply bring this up for the Committee's

*Atch. III*  
*Sen Jud.*  
*3-23-87*

review when discussing the Bill, and do not in any way wish to infer that changes in the definition of "wanton" would make this Bill and the intentions behind it fail.

Respectfully submitted,



William W. Sneed