

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Sen. Bill Morris at
Chairperson

9:07 a.m./~~p.m.~~ on March 27, 1987 in room 254-E of the Capitol.

All members were present except:
Sen. Doyen and Sen. Hayden

Committee staff present:
Hank Avila, Legislative Research Department
Ben Barrett, Legislative Research Department
Bruce Kinzie, Revisor
Louise Cunningham, Committee Secretary

Conferees appearing before the committee:
Pat Hubbell, Kansas Railroad Association
Ed DeSoignie, Kansas Department of Transportation
Harris Terry, McPherson County
Harley Duncan, Department of Revenue
Marge Van Buren, Office of Judicial Administration

Hearing on H.B. 2239 - Concerning railroad right-of-way, abandonment.

Pat Hubbell, Kansas Railroad Association, said this bill would give the railroads the right to use lines for storage and not have to operate trains. He was asked if a railroad could just put a few cars out there and hold the line indefinitely. Mr. Hubbell said the property would still be on the tax rolls and it would not be to their advantage to keep it if there was no future use for it. A copy of his statement is attached. (Att. 1).

Ed DeSoignie, KDOT, said this bill clarifies abandoned railroad right-of-ways and the Department concurs with the clarifications and supports H.B. 2239. A copy of his statement is attached. (Att. 2).

A motion was made by Sen. Hoferer and was seconded by Sen. Bond that H.B. 2239 be recommended favorably for passage. Motion carried.

Hearing on H.B. 2513 - Disposition of certain fines for vehicular size and weight violations.

Harris Terry, McPherson, spoke in favor of this bill and said McPherson County has a full-time deputy sheriff for the primary duty of weight officer. They have portable scales and check the weight limits on their county roads. They feel the revenue generated should be kept in the county to help pay the salary of the weight officer. They are the only county that has a full-time officer for this job. A copy of his statement is attached. (Att. 3). The Chairman was concerned that all counties could designate a weight officer and ask for the same benefits. There were also concerns about the increase in court cases. Also, local judges would be under pressure to fine everybody that was brought in.

Harley Duncan, Secretary, Department of Revenue, had an amendment because currently if one of the state people would write the fine that money would go to the county so he had an amendment whereby they could keep the money if the citation were issued by a county officer. A copy of the proposed amendment is attached. (Att. 4).

Marge Van Buren, Office of Judicial Administration, said they had concerns about the workload on the court accounting procedures in separating the appropriate fines. There was nothing to prevent each county from designating one officer as a weight officer. Then this would be likely to apply to every county in the state. She submitted a letter from Jerry

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,
room 254-E, Statehouse, at 9:07 a.m. ~~pm~~ on March 27, 1987

Sloan, Budget and Fiscal Officer from the Office of Judicial Administration to Gary Stotts, Acting Director of the Budget dated March 18, 1987. A copy of this letter is attached. (Att. 5).

She also submitted a docket fee change schedule which demonstrates how the workload has increased in the past ten years with no increase in staff. No change has a big impact but the accumulated impact is getting to the point where they can barely cope without requiring additional staff. A copy is attached. (Att. 6). She also supported Secretary Duncan's amendment because it would clarify which fines should go to the county.

Action on H.B. 2458 - Certificate of titles, fee increase.

A motion was made by Sen. Hoferer and was seconded by Sen. Vidricksen to recommend H.B. 2458 favorably for passage. Motion carried with Sen. Martin voting against the bill.

Action on H.B. 2491 - Motor fuel, ethyl alcohol incentive fund.

The Committee discussed this bill and Sen. Frey said it was his experience that these things never sunset, they just keep going on once they are started. If we go in this direction there will be pressure to continue funding in two years. He would rather just delete the exemption as of July 1, 1987 and he made a conceptual motion to that effect. Motion was seconded by Sen. Martin. Motion carried.

A motion was made by Sen. Frey and was seconded by Sen. Martin to recommend H.B. 2491, as amended, favorably for passage.

There was discussion about the volatility in the oil industry and with the Arabs controlling the industry we would be at their mercy in an oil crisis. Also, this would hurt industry in Kansas and there were objections.

There was discussion on how the highways needed these funds and especially now, with all the cutbacks.

The motion carried 5 to 4 with Senators Bond, Thiessen, Francisco and Vidricksen voting against the motion.

On a motion from Sen. Francisco and a second from Sen. Thiessen the Minutes of March 25, 1987 were approved. Motion carried.

Meeting was adjourned at 10:00 a.m.

KANSAS RAILROAD ASSOCIATION

920 S.E. QUINCY
P.O. BOX 1738
TOPEKA, KANSAS 66628

913-357-3392

PATRICK R. HUBBELL
SPECIAL REPRESENTATIVE-PUBLIC AFFAIRS

MICHAEL C. GERMANN, J. D.
LEGISLATIVE REPRESENTATIVE

Statement of the Kansas Railroad Association

Presented to the Senate Committee
on Transportation and Utilities
The Honorable Bill Morris, Chairman

Statehouse
Topeka, Kansas
March 27, 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 Kansas Railroad Association's support for 1987 House Bill No. 2239.

1986 House Bill No. 2998 was enacted last session and was codified by the Revisor of Statutes at K.S.A. 1986 Supp. 66-525. The 1986 legislation arose out of the land sale practices of the trustee in bankruptcy for the Rock Island Railroad. The 1986 legislation was intended to establish an orderly and inexpensive means to clear title to abandoned railroad right-of-way.

H.B. 2239 amends K.S.A. 1986 Supp. 66-525 for the purpose of making two clarifications. The first clarification appears in lines 34 and 35 of the bill. The existing language states that a rail line is not deemed abandoned for purposes of the statute, even though abandonment authority has been issued, if the railroad

or some other entity "continues rail operations over the right-of-way." The amendment states that even though a railroad may have received abandonment authority, a rail line is not deemed abandoned for purposes of the statute so long as the railroad or some other entity "continues to use the right-of-way for railroad purposes."

K.S.A. 1986 Supp. 66-525 was not intended to force rail abandonments nor to close marginal branch lines. Its intent, as previously stated, was to establish an orderly and inexpensive means to clear titles. Although the existing language might be construed to permit the storage of cars and other equipment on lines which have been certified for abandonment by the Interstate Commerce Commission, the proposed language removes any uncertainty in this regard. Also, the proposed change would permit some rail lines certified for abandonment to be kept in a railroad's inventory and be returned to active status if new facilities were to locate on the lines or existing facilities were to return to rail shipping.

The second amendment is intended to more precisely identify the class of property which is subject to the provisions of the statute. Kansas law very clearly establishes that "property acquired in strips for right-of-way" upon abandonment reverts to the servient estate. "Property acquired in strips for right-of-way" is the proposed language appearing in lines 83 and 84 of the bill.

The proposed language will focus the scope of the statute on that class of railroad property which indisputably reverts to the estate from which it was taken when it is no longer used for railroad purposes. Focusing the scope of the statute in this manner will address the vast majority of railroad property, which is reversionary in nature, without unnecessarily raising the expectations of persons who do not possess reversionary property interests.

Thank you for the opportunity to present the Kansas Railroads' position on 1987 House Bill No. 2239. We encourage your favorable consideration of the bill. I will try to respond to any questions which you may have.

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KANSAS DEPARTMENT OF TRANSPORTATION

DOCKING STATE OFFICE BUILDING — TOPEKA, KANSAS 66612-1568
(913) 296 — 3566



HORACE B. EDWARDS, Secretary of Transportation

MIKE HAYDEN, Governor

March 27, 1987

MEMORANDUM TO: The Honorable Bill Morris, Chairman
Senate Transportation and Utilities Committee

FROM: Edward R. DeSoignie
Policy Coordinator

REGARDING: House Bill 2239

Mr. Chairman, members of the Committee, House Bill 2239 amends K.S.A. 1986 Supp. 66-525, enacted by the 1986 Legislature, to make two clarifying changes. Those clarifications are:

1. That railroad right-of-way is not considered abandoned so long as a railroad company or other entity continues to use the right-of-way for railroad purposes, (lines 34 through 35), and
2. Distinguishes railroad property acquired in strips for right-of-way from other property held by a railroad for railroad purposes, such as depots, etc. (lines 83 through 86).

The Department concurs with the clarifications noted and respectfully requests House Bill 2239 be recommended favorable for passage.

Thank you.

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McPHERSON COUNTY

TESTIMONY BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE

BY
HARRIS TERRY, MCPHERSON COUNTY SHERIFF
ON BEHALF OF THE
BOARD OF MCPHERSON COUNTY COMMISSIONERS
MARCH 27, 1987

House Bill No. 2513 addresses an operational issue pertinent to McPherson County's enforcement of state laws and county resolutions regulating vehicular size and weights on **county and township roads**. This proposal would provide for the return to the county of monies from fines imposed for violation of weight and size laws and resolutions on county and township roads, in a county employing a weight officer. McPherson County supports House Bill No. 2513, as it provides financial encouragement for actively supporting the enforcement of weight and size laws on its roads. It is appropriate to consider the return of fines written in our county on **its** roads, by our **designated weight officer**, as an equitable approach to the administration of this local program.

Currently, the McPherson County Sheriff's Office has designated a full-time deputy sheriff for the primary duty of weight officer. The officer is furnished with portable, digital read-out, wheel-axel scales and a vehicle designed to allow easy access to the scales. This equipment provides the officer with the capability of weighing a potential over-weight violation at the location of the stop, as opposed to escorting the vehicle to an elevator or other legal-trade scale. This procedure saves time, and works to keep the officer on the county and township roads. The current cost, per year, for the operation of a weight officer in McPherson County is approximately \$25,000.

The Board of McPherson County Commissioners has adopted, by resolution, weight limits for county roads, which further restrict the size and weight of vehicles using county or township roads. The adoption of these resolutions are predicated on the fact that strict enforcement will extend the life of road surfaces located within the County's boundaries.

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McPHERSON COUNTY COMMISSIONERS

McPherson County
Courthouse

John C. Magnuson, Chairman
District 1

John W. Casebaer
District 2

Tony Wedel
District 3

P.O. Box 676
Phone No. 316-241-8149

At present, ninety percent (90%) of the overweight citations written by the County's Weight Officer are on county roads, where the vehicle is over the locally posted weight limits. The County's Weight Officer does not patrol state roads, except in response to requests for assistance by the Kansas Highway Patrol. The yearly estimated revenue generated by the County's Weight Officer is \$20,000 - \$25,000.

While we are sensitive to possible concerns regarding this program's impact on state coffers, we would respectfully suggest that the limitations contained in the bill, (e.g. the return of **only** those fines written by the full-time, designated County Weight Officer, on county or township roads) will severely restrict the financial impact. Further, McPherson County is the only county which operates this program configuration. Given that the county's main source of revenue is property taxes, the partial funding of this critical program, through fines levied for weight and size violations on county or township roads, will have a two-fold benefit: the weight officer's program will be partially funded through abusers of the road system; and, the taxes used to maintain the roads can be further stretched.

The return of the fines, under the provisions contained in this bill, will help to facilitate the continuation of **local** enforcement of weight and size laws on our **county and township roads**. Further, this program directly benefits the maintenance of the county's investment in its road system. The accomplishment of these two goals, with minimal effect on state coffers, appears to provide adequate justification for the consideration of this measure. McPherson County would respectfully request your support for House Bill 2513.

0101 Annotated on any axle or tandem, triple or quad axles shall not
0102 apply to trucks specifically designed and equipped and used
0103 exclusively for garbage, refuse or solid waste disposal operations
0104 when loaded with garbage, refuse or waste. Except that such
0105 trucks under this subsection shall not exceed the maximum gross
0106 weight limitations contained in the table in K.S.A. 8-1909, and
0107 amendments thereto.

0108 (f) As used in this section, "conviction" means a final con-
0109 viction without regard to whether sentence was suspended or
0110 probation granted after such conviction, and a forfeiture of bail,
0111 bond or collateral deposited to secure a defendant's appearance
0112 in court, which forfeiture has not been vacated, is equivalent to a
0113 conviction.

0114 (g) *All moneys from fines imposed for any size or weight*
0115 *violation which occurred on any highway under the jurisdiction*
0116 *of a county which employs a law enforcement officer to enforce*
0117 *the provisions of article 19 of chapter 8 of the Kansas Statutes*
0118 *Annotated and resolutions adopted by the county, or townships*
0119 *therein, pursuant to K.S.A. 8-1912, and amendments thereto,*
0120 *imposing limitations on the size and weight of vehicles, or*
0121 *which violation occurred on a highway under the jurisdiction of*
0122 *a township in any such county, shall be remitted to the county*
0123 *treasurer of the county in which such violation occurred at the*
0124 *same times moneys from fines are remitted to the state pursuant*
0125 *to K.S.A. 20-2801, and amendments thereto. Moneys remitted to*
0126 *county treasurers hereunder shall be deposited and credited to*
0127 *the county general fund.*

0128 Sec. 2. K.S.A. 1986 Supp. 8-1901 is hereby repealed.

0129 Sec. 3. This act shall take effect and be in force from and
0130 after its publication in the statute book.

and which citation was
issued by the officer
employed by the county
or township



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(913) 296-2256

March 18, 1987

To: Gary Stotts, Acting Director of the Budget
From: Jerry Sloan, Budget and Fiscal Officer
Re: House Bill 2513

This bill would transfer all fines imposed for any size or weight violation which occurred on any highway under the jurisdiction of a county which employs a law enforcement officer to enforce size and weight limitations from the State General Fund to the counties' general funds.

Our caseload data does not break out overweight violations from other cases, so I do not have a figure on the number of cases this might entail. However, information received from the Department of Revenue reports that during FY 1986 \$305,990 was collected from fines for overweight cases that went to court. This bill does not specifically address bond forfeitures, but if these were included, the amounts would be substantially higher.

Because this bill talks about county law enforcement jurisdiction, it would appear that nearly all of this money would be diverted from the State General Fund to the counties' general funds. If this were not the case, there would be a substantial, additional impact on the district court accounting procedures in separating out the appropriate fines. Under these circumstances, I would estimate the need for additional temporary employees to be located where the major volume is. An additional 10,400 hours of temporary help would cost \$63,785.

If all of these fines were to go to the respective counties there would still be some administrative and accounting costs, but it would probably not require as much temporary help because less processing would be needed to determine the appropriate recipient of the fine moneys. Additional temporary money of \$12,757 would be required.

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Gary Stotts
March 18, 1987
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In either case this would require new accounting forms and procedures. There would be some additional costs to the counties in new accounting forms and for those counties that have computerized their accounting process there would be costs for software modifications. I do not have an estimate of these costs.

JS:emk

DOCKET FEE CHANGES

CIVIL.

- 1974-- security for costs of \$25 per civil case changed to a \$35 docket fee. Chapter 168, L. 1974.
- 1982-- Chapter 60 civil case docket fee increase to \$55 from \$35. Chapter 61 civil case docket fee increased to \$30 if the case dollar limit runs from \$500.01 to \$5,000, and decreased to \$10 if the amount is \$500 or less, from \$15. Small claims procedure fee increased to \$10 from \$5. Counties to share civil docket fees. Chapter 116, L. 1982.
- 1984-- probate fees changed from graduated scale to docket fees for various types of cases. Marriage license fees increased to \$25 from \$17. Chapter 147, L. 1984.
- 1986-- small claims procedure docket fee changed to split \$10 or \$30 to parallel limited actions docket fee.

CRIMINAL.

- 1974-- criminal docket fees established; \$40 for misdemeanor, \$70 for felony, \$100 for murder or manslaughter, \$40 for forfeited recognizance, and \$35 for appeals from other courts. Chapter 168, L. 1974.
- 1976-- traffic fees added to criminal docket fee statute, \$14.50 for cases disposed of by trial or hearing, \$10 if no trial or hearing conducted. Chapter 163, L. 1976.
- 1982-- criminal docket fees increased to \$144 for murder or manslaughter from \$100, other felony increased to \$114 from \$70, misdemeanor to \$84 from \$40, forfeited recognizance to \$44 from \$40, appeals from other courts to \$44 from \$35; traffic docket fee set at \$19. The \$4 increments are for distribution as \$3 to the Law Enforcement Training Center Fund and \$1 to the Victims Reparations Fund. Chapter 116, L. 1982.
- 1984-- traffic docket fee increased to \$25 from \$19, and other criminal docket fees increased \$1 so that all the fees are divisible by five. Chapter 148, L. 1984.
- 1985-- all criminal fees including traffic, fish and game, and watercraft violations increased \$1, and the additional dollar allocated to Crime Victims Reparation. Chapter 106, L. 1985.
- 1986-- all criminal docket fees including traffic, fish and game, and watercraft violation increased \$2 and the additional two dollars allocated to the Law Enforcement Training Center Fund. Chapter 146, L. 1986.