

Approved

Ivan Sand

Date 3/3/88

MINUTES OF THE House COMMITTEE ON Local Government

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

1:30 A.M./P.M. on March 2, 1988 in room 521-S of the Capitol.

All members were present except:
Representative Patrick, absent
Representative Sawyer, absent

Committee staff present:
Mike Heim, Legislative Research Dept.
Bill Edds, Revisor of Statutes' Office
Lenore Olson, Committee Secretary

Conferees appearing before the committee:
Steve Wiechman, Council for Kansas Association of Counties
Jim Snyder, Kansas Funeral Director's Association
John Wine, Secretary of State's Office
John Peterson, Kansas Cemetery Association
Jim Kaup, League of Kansas Municipalities

The minutes of February 29 and March 1, 1988 were approved.

Steve Weichman testified in favor of HB 3046, stating that these old statutes should be repealed, but he is not advocating any constitutional law change. (Attachment 1)

A motion was made by Representative Fry and seconded by Representative Acheson the act for HB 3046 effective in the State Register instead of in the statute book. The motion carried.

A motion was made by Representative Graeber and seconded by Representative Holmes to pass HB 3046 as amended. The motion carried.

Mike Heim gave an overview of HB 3042.

A motion was made by Representative Miller and seconded by Representative Holmes to pass HB 3042. The motion carried.

Mike Heim gave an overview of HB 3043.

John Wine testified in favor of HB 3043, stating that this bill would correct simple funding problems they have with these audits.

Jim Snyder testified on HB 3043, stating that his association has no objection to this bill and that the Secretary of State should have access to this money.

John Peterson testified in favor of HB 3043, stating that the Kansas Cemetery Association supports this bill.

Chairman Sand closed the hearing on HB 3043.

A motion was made by Representative Miller and seconded by Representative Acheson to pass HB 3043. The motion carried.

Bill Edds gave an overview of HB 3040.

A motion was made by Representative Douville and seconded by Representative Baker to pass HB 3040 and place it on the Consent Calendar. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government,
room 521-S, Statehouse, at 1:30 a./m./p.m. on March 2, 1988

Representative Miller gave a report on the subcommittee meeting on HB 2946, stating that he didn't have a problem with the concept of this bill, but feels that further research is needed before any action is taken on this bill.

A motion was made by Representative Brown and seconded by Representative Miller to delete Section 2 from HB 2974. The motion carried.

A motion was made by Representative Brown and seconded by Representative Miller on HB 2974, to make a technical amendment that counties cannot exercise home rule powers relating to sewer district. The motion carried.

A motion was made by Representative Brown and seconded by Representative Miller to pass HB 2974 as amended. The motion carried.

A motion was made by Representative Schauf and seconded by Representative Dean to strike line 28 and in line 29 of HB 2726, to change from 10 days to 6 days. The motion carried.

A motion was made by Representative Schauf and seconded by Representative Miller to pass HB 2726 as amended. The motion carried.

A motion was made by Representative Schauf and seconded by Representative Miller to remove the word "friable" from HB 2696. Representative Schauf withdrew this motion.

A motion was made by Representative Schauf and seconded by Representative Miller to conceptually amend HB 2696 to technically correct the bill regarding the use of the words "friable" and "non-friable." The motion carried.

A motion was made by Representative Baker and seconded by Representative Kennard to Pass HB 2696 as amended. The motion carried.

Jim Kaup testified on HB 2699, stating that he has an alternative proposal to the original bill which consists of some technical changes and to change the notice provision in Section 2. (Attachment 2)

A motion was made by Representative Holmes and seconded by Representative Baker to pass HB 2698. The motion carried.

The meeting adjourned.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

DATE 3/2/88

NAME

ADDRESS

REPRESENTING

Jim Snyder	TOPEKA	Ks Juvenile Dir. Assn.
Ken Baker	Topeka	Ks Cemetery Assn.
LINDA McGILL	"	KFDA
MACK SMITH	"	State Board of Mortuary Arts
Law Basel	Williamsburg	Williamsburg H. S.
Jan Reekie	Williamsburg	W'Burg H. S.
John Peterson	"	Ks County Assn
John Wine	Topeka	Sec of St.
Jim Kamp	Topeka	League of Municipalities
Ric Silber		DOB
Dean Oroke	Leavenworth	Board of County Commissioners

Please don't take this pen!

Kansas Association of Counties

Serving Kansas Counties

HB 3046

HOUSE COMMITTEE ON LOCAL GOVERNMENT

March 2, 1988

CHAIRMAN SAND AND DISTINGUISHED MEMBERS
OF THE HOUSE LOCAL GOVERNMENT COMMITTEE:

I am Steven R. Wiechman, appearing on behalf of the Kansas Association of Counties. We are here today in support of HB-3046 which was introduced at our request.

In 1973, the social welfare statutes were enacted transferring many of the functions for welfare from the county to the state. Several statutes were created one of which was to provide a way by which counties could respond and provide emergency welfare to its residents.

This discretionary authority however, gave use to conflicting interpretations. This resulted in a lawsuit being filed against a Board of County Commissioners because of the Boards refusal to exercise the discretionary authority set forth in the statute. However, when you look at KSA 39-749 closely, you'll find an interesting twist. That twist is that even though a resident has been denied or has failed or is not qualified for public assistance from federal or state sources, the Board could grant the assistance and the State, statutorily is required to reimburse the local units of government. This is required, even if the State is out of funds, has no program available, or the recipient is not qualified. The statute created a dual welfare system, both of which is funded by the State.

attachment 1
3/2/88

March 2, 1988

The attached newspaper accounts cover part of the concerns at hand. However, we are not advocating any constitutional law change and believe that this bill will go far to solving the conflict.

If you have questions, I will attempt to respond. In any case, I want to express my appreciation and consider it a privilege to appear before you.

Respectfully submitted,

STEVEN R. WIECHMAN
General Counsel
Kansas Association of Counties

Suit asks county to pay for indigent

By David Goldstein
Of the Metropolitan Staff

Although few county officials in Kansas appear to know anything about it, a court case scheduled for Thursday in Crawford County could cause their governments serious financial problems and saddle them with a new responsibility: caring for the poor.

The case involves Lila Catanzaro, 51, of Pittsburg, who sued the Board of County Commissioners of Crawford County in 1986 after the state limited the number of public assistance payments she could re-

ceive.

Her suit contends that she was indigent and that Crawford County also has a financial responsibility for public welfare under Kansas law.

Attorneys on both sides said the case probably would be appealed, regardless of the outcome, and could end up before the Kansas Supreme Court. Several county officials in Kansas, after being apprised of the issue, said they were fearful about the potential impact of the case on their county budgets.

"It could be devastating," said Reno

County Commissioner Mildred Bauman, president of the Kansas County Commissioners Association.

Catanzaro is a high school graduate, naval veteran and has about 50 hours college credit. She was married, has a daughter and was a homemaker for many years. She could not be reached for comment, but her attorney, Eric Rosenb, managing attorney for Legal Service Southeast Kansas, said she was separated from her husband several years ago and worked in a college cafeteria between 1

See KANSAS, B-4, C

Kansas woman's suit asks counties to pay

Continued from Page B-1

and 1984. She then worked occasionally as an attendant to home-bound adults.

Catanzaro had been enrolled in the state's Transitional General Assistance program, which provided financial aid to low-income people with marginal job skills or little, if any, employment experience.

In fiscal year 1987 — July 1986 through June 1987 — the state cut back payments to Catanzaro and others from 12 a year to four. She received payments from July through October 1986. The state subsequently reduced payments to one month and then eliminated the program in 1987 because of budget cuts.

She sued Crawford County in district court for \$723.60 in assistance that she contended she needed to live on in November and December of 1986.

She sued, Rosenblad said, because the Kansas Constitution says counties shall provide, according to state law, for people who "by reason of age, infirmity or other misfortune, may have claims upon the aid of society."

That clause, plus Kansas law concerning emergency aid to people on public assistance, is the basis of Catanzaro's claim.

Crawford County has argued that it has no obligation under the constitution or state law.

"She wasn't a person we would construe as being in need, even in the event we did have an obligation to pay such people," Crawford County Attorney Carla Stovall said.

She said the state constitution says county responsibility for public welfare is determined by state law. The state law in this case, Kansas Statute 39-749, says counties "may" spend money on emergency aid for people who qualify for public assistance, but they don't have to, Stovall said.

"It's permissive and not obligatory," she said.

The Crawford County commissioners could not be reached for comment.

The state's public welfare program is a safety net for Kansas residents who don't qualify for federal aid programs. Among the low-income people it covers are those with medical disabilities, those in vocational and mental health rehabilitation programs and families with children not eligible for federal aid.

In fiscal year 1986 — July 1985 through June 1986 — 11,068 people statewide were covered under the Transitional General Assistance program, costing the state more than \$5 million; 745 of them were in Wyandotte County, receiving \$340,700 in state payments, and 114 were in Johnson County. Those people received \$52,143 in state payments.

Mike VanLandingham, area director of the Olathe office of the Kansas Department of Social and Rehabilitation Services, which administers the state's assistance programs, said the lawsuit raised serious questions.

"Suppose the courts declare counties are responsible," he said. "How far could the courts go in specifying that responsibility? How are counties going to fund that?"

County's responsibility to poor at issue in court case

PITTSBURG (AP) — A court case scheduled for today in Crawford County could decide whether Kansas county governments are responsible for caring for the poor.

Lila Catanzaro, 51, of Pittsburg, sued the Board of County Commissioners of Crawford County in 1986 after the state limited the number of public assistance payments she could receive.

Her suit contends she was indigent and that Crawford County has a financial responsibility for public wel-

fare under Kansas law.

Catanzaro had been enrolled in the state's Transitional General Assistance program, which provided financial aid to low-income people with marginal job skills or little, if any, employment experience.

In fiscal year 1987 the state cut back payments to Catanzaro and others and subsequently eliminated the program because of budget cuts.

Catanzaro sued Crawford County in district court for \$723.60 in assistance that she contended she needed

to live on in November and December of 1986.

John Torbert, executive director of the Kansas Association of Counties, said the case could result in a "blank check" on the county property tax dollar.

"Does that mean every time the state cuts funding to a certain social welfare program, people are going to turn to us?" he said. "I think you can make a rational case that leads you down that path."

1/28/88

HOUSE BILL No. 2699

By Committee on Local Government

1-25

Jim Kemp
Legislative
Council

attached &
3/2/88

0017 AN ACT relating to historic preservation and the protection of
0018 historic property; defining certain terms; amending K.S.A. requiring notice to the state and
0019 75-2716 and repealing the existing section. and K.S.A. 1987 Supp. 75-2724
sections.

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

0021 Section 1. K.S.A. 75-2716 is hereby amended to read as fol-
0022 lows: 75-2716. As used in this act, unless the context otherwise
0023 requires:

0024 (a) "Historic preservation" means the study, identification,
0025 protection, restoration and rehabilitation of buildings, structures,
0026 objects, districts, areas and sites significant in the history, archi- the
0027 tecture, archeology or culture of this state, its communities or the of Kansas
0028 nation.

0029 (b) "Historic property" means any building, structure, object,
0030 district, area or site that is significant in the history, architecture,
0031 archeology or culture of the state of Kansas, its communities or
0032 the nation.

0033 (c) "Project" includes: (1) Activities directly undertaken by
0034 the state or any political subdivision of the state, or any instru-
0035 mentality thereof;

0036 (2) activities undertaken by a person which are supported in
0037 whole or in part through grants, subsidies, loans or other forms of
0038 financial assistance from the state or any political subdivision of
0039 the state, or any instrumentality thereof; and

0040 (3) activities involving the issuance of a lease, permit, li-
0041 cense, certificate or other entitlement for use, to any person by
0042 the state or any political subdivision of the state, or any instru-
0043 mentality thereof.

0044 (d) "State or any political subdivision of the state" means the
0045 state of Kansas, any office, department, agency, authority,

2.2

0046 bureau, commission, board, institution, hospital, college or uni-
0047 versity of the state, or any county, township, city, school district,
0048 special district, regional agency, redevelopment agency or any
0049 other political subdivision of the state.

0050 (e) "Person" means any individual, firm, association, organi-
0051 zation, partnership, business, trust, corporation or company.

0052 (f) ~~"Environs" means the property adjoining the historic~~
0053 ~~property, excluding public rights of way.~~

Sec. 2. K.S.A. 1987 Supp. 75-2724 is hereby amended to read as follows:

75-2724. The state or any political subdivision of the state, or any instrumentality thereof, shall not undertake any project which will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property until the state historic preservation officer has been given notice/and an opportunity to investigate and comment upon the proposed project. ~~The state historic preservation officer shall solicit the advice and recommendations of the historic sites board of review with respect to such project and may direct that a public hearing or hearings be held thereon. If the state historic preservation officer determines that such proposed project will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property, such project shall not proceed until: (a) The governor, in the case of a project of the state or an instrumentality thereof, or the governing body of the political subdivision, in the case of a project of a political subdivision or an instrumentality thereof, has made a determination, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting~~

, as provided herein,

Notice to the state historic preservation officer shall be given by the state or any political subdivision of the state when the proposed project, or any portion thereof, is located within 500 feet of the boundaries of an historic property located within the corporate limits of a city, or within 1000 feet of the boundaries of an historic property located in the unincorporated portion of a county. Notwithstanding the notice herein required, nothing in this section shall be interpreted as limiting the authority of the state historic preservation officer to investigate, comment and make the determinations otherwise permitted by this section regardless of the proximity of any proposed project to the boundaries of an historic property.

may

, with or without having been given notice of the proposed project

2.3

from such use and (b) five days' notice of such determination has been given, by certified mail, to the state historic preservation officer.

Any person aggrieved by the determination of the governor or governing body may appeal such determination to the district court of the county in which such historic property is located. Review by the district court shall be *de novo*, and the district court may substitute its own findings for those made by the governor or governing body.

The failure of the state historic preservation officer to initiate an investigation of any proposed project within 30 days from the date of receipt of notice thereof shall constitute such officer's approval of such project.

0054	Sec. 2 . K.S.A. 75-2716 4 hereby repealed.	3
0055	Sec. 3 . This act shall take effect and be in force from and	and K.S.A. 1987 Supp. 75-2724 are
0056	after its publication in the Kansas register.	4