

Approved

Ivan Sand

Date 3/23/88

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 17, 1988 in room 521-S of the Capitol.

All members were present except:
Representative Dean, absent

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

Conferees appearing before the committee:
Mike George, SRS
Steve Wiechman, Kansas Association of Counties
Gerry Ray, Johnson County Commissioners
Jim Kaup, League of Kansas Municipalities
Larry Rute, Kansas Legal Services
Eric Rosenblad, Kansas Legal Services, Pittsburg

The minutes of March 17, 1988 were approved.

Jim Kaup testified on SB 510, stating that this bill does three things: (1) reduces the minimum required retention period for certain financial records, (2) cleans up some of the language, and (3) specifies that a microfilm copy may be made, with the original destroyed at any time. (Attachment 1)

A motion was made by Representative Bowden and seconded by Representative Holmes to pass SB 510. The motion carried.

Steve Wiechman testified in favor of HB 3046, stating that he is concerned about KSA 39-749. He also stated that this statute developed a discretionary authority and he feels that HB 3046 is good legislation.

Gerry Ray testified in support of HB 3046, stating if the old statutes remain on the books, all Kansas counties are in jeopardy of having to defend themselves from legal action. (Attachment 2)

Mike George testified in support of HB 3046, stating that SRS supports this bill and that there is no reason for the current statutes to be on the books.

Larry Rute testified against HB 3046, stating that they prefer the use of KSA 39-749. (Attachment 3)

Eric Rosenblad testified against HB 3046, stating that KSA 39-749 deals with certain transitional statutes. He also stated that there are gaps in the social safety net.

A motion was made by Representative Patrick and seconded by Representative Acheson to pass HB 3046. The motion carried with Representatives Kennard and Sawyer recorded as voting no. This bill had originally been passed as amended on March 2, 1988.

The meeting adjourned.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

RE: SB 510--Destruction of Certain City Financial Records
TO: Chairman Sand and Members of the House Committee on Local Government
FROM: Jim Kaup, General Counsel
DATE: March 17, 1988

SB 510 was requested by the League to reduce the time period cities are required to retain certain financial records and to clearly authorize the retention of microfilm copies in lieu of the original.

Background: The current statute, K.S.A. 12-120, was enacted in 1949. While phrased as an "authorization" to destroy certain records, it is in effect a limitation, since other, non-specified financial records may be destroyed at any time--see K.S.A. 12-121, below.

Explanation: SB 510 does three things: (1) reduces the minimum required retention period for certain financial records, (2) cleans up some of the language, and (3) specifies that a microfilm copy may be made, with the original destroyed at any time.

Advantages: For some cities the present extended retention time period for certain records causes a burdensome storage problem. The bill is intended to facilitate city records management and eliminate unnecessary storage.

Comments: The revised time periods are the consensus recommendations of a number of city clerks and finance officers. The specific bill was approved by the League's Finance and Taxation Committee. The records listed in the bill appear to have no historical value (see line 55).

Other Records; State Manual

One of the interesting things about K.S.A. 12-120 is that it specifies a retention period for a number of city financial records, but does not cover many other records, some of which are of greater significance. A part of the 1949 law which created K.S.A. 12-120 is K.S.A. 12-121, which reads as follows:

12-121. Same; application of act. Nothing in K.S.A. 12-120 shall be deemed to apply to records, documents or papers not specifically mentioned nor to authorize the destruction of records, documents or papers which in their nature should be preserved permanently, nor to prohibit destruction of records, documents or papers obviously of only temporary value after a reasonable time.

Presumably, the record custodian is granted discretion by this 1949 statute to decide which records should be preserved permanently and which are "obviously of only temporary value...."

President: Carl Dean Holmes, Mayor, Plains - Vice President: Douglas S. Wright, Mayor, Topeka - Past President: John L. Carder, Mayor, Inla -
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Richard U. Nienstedt, City Manager, Stockton - David E. Retter, City Attorney, Concordia - Judy M. Sargent, City Manager, Russell - Joseph E.
Steiniger, Mayor, Kansas City - Arthur E. Treece, Mayor, Coffeyville - Executive Director: F.A. Mosher

*Attachment 1
3-17-88*

The Kansas State Historical Society, Department of Archives, in 1985 issued the "Kansas Local Government Records Manual." Included in the section on "Financial Records" are approximately 400 different entries, compared to the 11 items listed in K.S.A. 12-120.

Following are some of the financial records listed in the Archivist's Manual which are not covered by K.S.A. 12-120. The list also includes the manual's recommended retention period.

--Treasurer's Records (K.S.A. 10-118)--retain permanently if clerk's copy not preserved.

--Appropriation Journals--retain 20 years.

--Audit Reports--retain permanently.

--Budgets and Financial Statements--retain permanently.

--Check Registers--retain permanently.

--Ledgers, General--retain permanently.

--Receipts and Expenditures, Registers of--retain 10 years.

--Warrant or Warrant Check Registers--retain permanently.

The point of the above is that there is, apparently, no statutory retention schedule for the city general accounting and other major financial records as there is for some of the specific financial records enumerated in K.S.A. 12-120.

Volume of Certain Records

Utility Stubs. City utility billing practices vary. A city with a water utility, electric utility and gas utility, and which charges also for sewerage services and refuse collection, has a lot of duplicate utility bills or stubs. A city of 4,000, with a water utility only and monthly billings, would accumulate about 21,000 duplicates a year, or 105,000 in 5 years.

Cancelled Checks. The City of Topeka issued about 59,200 checks in 1987. At this rate, the 5-year total would be 296,000.

Claims. Excluding payroll checks, Topeka issued about 18,200 checks in 1987 to pay claims. Each check is supported by a claim, voucher, purchase order or other supporting document. Frequently, each check covers from 3 to 5 claims to a single vendor. Figuring an average of 2 claims per check means about 36,400 claims per year, or 546,000 in 15 years, the present retention period.

Comparison With School Districts

Reprinted below is K.S.A. 72-5369, relating to the destruction of certain school district financial records. The following compares the retention schedules for records held by both cities and USDs.

1-2

<u>Record</u>	<u>Schools (K.S.A. 72-5369)</u>	<u>Cities Under SB 510</u>
Warrants or warrant checks	6 months after audit (d)	5 years (subsec. 2)
Receipt duplicates	6 months after audit (d)	3 years (3)
Cancelled checks	6 months after audit (d)	5 years (9)
Requisitions	6 months after audit (d)	3 years (10)
Duplicates or stubs of receipts	6 months after audit (d)	3 years (3)
Claims	5 years (a)	5 years (1)
Purchase Orders	5 years (a)	3 years (10)
Claims with purchase orders attached	5 years (a)	5 years (1)
Vouchers	5 years (a)	? (if with claims, 10 years) (1)
Official bonds	5 years (e)	10 years (7)
Insurance policies	5 years (f)	5 years (8)
Bonds and coupons	6 months after audit (g)	5 years (11)

72-5369. Destruction of records by school districts and community junior colleges. The board of education of any school district or the board of trustees of any community junior college may, by resolution, provide for and authorize any officer, official or employee charged with or having custody of the following records, documents or other papers to destroy the same at the time indicated herein, and if more than one time can be made to apply, the longer time shall apply:

(a) Bookkeeping and accounting records which are original books of entry, claims, vouchers and purchase orders, five (5) years.

(b) Formal audit reports, five (5) years.

(c) Financial papers of any type relating to programs supported by federal funds, three (3) years or such longer time as may be required by applicable federal law.

(d) All financial papers not otherwise specified in this section may be destroyed at any time after formal audit reports have been completed and filed in the appropriate offices for a period of six (6) months, and this provision shall apply to the following: Warrants, warrant checks, receipts, canceled checks, and requisitions.

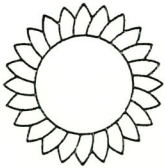
(e) Official bonds of surety or indemnity, five (5) years after the termination of the term of employment.

(f) Insurance policies, five (5) years after the expiration of the term thereof.

(g) Bonds and coupons stamped paid or canceled and returned by the state fiscal agent, six (6) months after the next following annual formal audit of the school district.

History: L. 1955, ch. 335, § 1; L. 1970, ch. 282, § 1; L. 1975, ch. 372, § 1; July 1.

13



HOUSE LOCAL GOVERNMENT COMMITTEE

THURSDAY, MARCH 17, 1988

HEARING ON HOUSE BILL 3046

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR
JOHNSON COUNTY BOARD OF COMMISSIONERS

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS GERRY RAY, REPRESENTING THE JOHNSON COUNTY BOARD OF COMMISSIONERS. THANK YOU FOR THE OPPORTUNITY TO SPEAK IN SUPPORT OF HOUSE BILL 3046.

WHEN THE BILL WAS PRESENTED TO THE COMMITTEE AT AN EARLIER HEARING JOHNSON COUNTY DID NOT OFFER TESTIMONY BECAUSE WE VIEWED THE BILL AS A CLEAN UP MEASURE TO REPEAL OBSOLETE STATUTES. DUE TO SUBSEQUENT PROBLEMS THAT AROSE AND THE RETURN OF THE BILL TO COMMITTEE WE FELT IT APPROPRIATE TO INDICATE OUR SUPPORT OF THE PROPOSAL.

WE ASSUME THE STATUTES IN QUESTION WERE ADOPTED BY THE 1973 LEGISLATURE AS TRANSITIONAL MEASURES NEEDED DURING THE TRANSFER OF RESPONSIBILITY FOR SOCIAL WELFARE FROM COUNTIES TO THE STATE. WE WERE UNAWARE OF THE EXISTENCE OF THESE STATUTES UNTIL RECENTLY, WHEN THEY WERE ABRUPTLY BROUGHT TO OUR ATTENTION DUE TO LITIGATION AGAINST A COUNTY FOR NOT PROVIDING SOCIAL WELFARE. IF THESE LAWS REMAIN ON THE BOOKS ALL KANSAS COUNTIES ARE IN JEOPARDY OF HAVING TO DEFEND THEMSELVES FROM THE SAME TYPE OF LEGAL ACTION.

WE BELIEVE THE OBJECTIONS TO HB 3046 RAISED BY THE PLAINTIFF IN THE PENDING CASE DO NOT JUSTIFY THE LIABILITY IMPOSED ON COUNTIES BY RETAINING OBSOLETE STATUTES FOR ANOTHER YEAR. WE ASK THIS COMMITTEE'S HELP IN CARRYING OUT THE ORIGINAL INTENT OF THE LEGISLATURE BY PASSING THE BILL AND THUS RELIEVING COUNTIES OF THIS LIABILITY.

*Attachment 2
3-17-88*

TESTIMONY OF LARRY R. RUTE AND ERIC ROSENBLAD
BEFORE THE COMMITTEE ON LOCAL GOVERNMENT
IVAN SAND, CHAIRPERSON

HOUSE BILL 3046

March 17, 1988

Mr. Chairperson, Members of the Committee, I very much appreciate the opportunity to appear before you today. My name is Larry R. Rute. I am the Deputy Director of Kansas Legal Services, Inc. Also appearing with me is Mr. Eric Rosenblad, who is the Managing Attorney of Legal Services of Southeast Kansas.

As this is our first appearance before your committee, I think it would be useful to provide you a little information with respect to the organization and mission of Kansas Legal Services. Kansas Legal Services is a non-profit corporation whose mission is to provide a wide variety of legal services for low income Kansans. We serve all 105 Kansas counties through twelve service offices regionally located throughout the state. To be eligible for legal services, our clients must meet financial eligibility guidelines which are established annually by the Kansas Legal Services Board of Directors. Last year our fifty staff attorneys provided advice/representation to more than 15,500 low income Kansans.

We are here today in opposition to House Bill 3046, introduced by the Kansas Association of Counties. Specifically, we are in opposition to the removal of K.S.A. 39-749, which provides:

The board of county commissioners of any county may authorize expenditures from the county general fund to provide assistance in emergency circumstances to any person qualified under the provisions of this act to be a recipient of public assistance. The county shall be reimbursed from the state social welfare fund for any such expenditures up to a maximum amount of one hundred dollars (\$100) for each case.

We believe that the repeal of K.S.A. 39-749 will have profound public policy implications for Kansas citizens. You will note that as we review the development of Kansas Public Assistance programs below, that **the Kansas Legislature has never failed to provided a means for assisting the poor who are in need.** Repeal of this statute will, for the first time in our history, leave a significant portion of indigent Kansas citizens without the protection of the public assistance safety net. We believe that when the facts are fully set out this committee will properly reject any repeal of this statute.

Development of Kansas Public Assistance

To more fully understand our position it is important that we review the development of Kansas Public Assistance laws.

The first of three major periods in public assistance began with the adoption of the Wyandotte Constitution on July 29, 1859. Art. 7, §4 provided:

§4. Aged and infirm persons. The respective counties of the state shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

Following admission to the Union, the legislature passed An Act For the Relief of the Poor. (1862 Kan. Sess. Laws, Ch. 163.) At Section 4, the statute provided:

SEC. 4. Every county shall relieve and support all poor and indigent persons lawfully settled therein, whenever they shall stand in need thereof, and the board of county commissioners may raise money for the support and employment of the poor in the same way and manner as in the twenty-ninth section of this act is provided.

The principal elements of this Act established County responsibility for public assistance and made "legal settlement" or residency a key matter in eligibility for assistance.

The 1862 Act provided a basic framework of strict County responsibility for public assistance and remained substantially unchanged for more than 70 years.

The second major period of public assistance began in the 1930s. The Federal government developed many major programs creating a new need for centralized state administration in order to participate in these programs. To remove any lingering doubt that the state could participate in these programs, Art. 7, §4 of the Kansas Constitution was amended in 1936 to add the following:

Provided, however, The state may participate financially in such aid and supervise and control the administration thereof.

With the Constitution amended, the legislature enacted statutes creating the State Board of Social Welfare in 1937 (1937 Kan. Sess. Laws, Ch. 327). This statute made the County Commissioners the sole members of newly created County Boards of Social Welfare. The counties continued to be responsible for day to day operation of public assistance programs through the County

Board of Social Welfare. Major responsibility for funding public assistance remained with the counties. The most significant change from the 1862 system was the state's responsibility to provide oversight, direction, and guidance, and to hear and settle disputes arising from the County Boards, largely due to Federal requirements.

In 1972, Art. 7, §4 of the Constitution was amended in a major effort to update the entire Constitution. This technical amendment exchanged "Provided, however" for a period to punctuate §4 into two sentences as it presently appears in our Constitution.

Basic county responsibility for public assistance existed from 1862, through the 1937 statutes until 1973. The present system of public assistance administration began with the creation of the State Department of Social and Rehabilitation Services (SRS). (1973 Kan. Sess. Laws, Ch. 163.) The County Boards of Social Welfare were abolished and all duties of those boards, **not the counties**, were transferred to SRS. The same Act that gave SRS broad and sweeping authority also included the provision now found at K.S.A. 39-749 regarding provision of emergency public assistance by the counties.

Legislative History and Intent

K.S.A. 39-749 was enacted as part of the legislation creating SRS in 1973. This legislation was considered as 1973 House Bill 1039 and recorded in Statutes at Large in Ch. 186 (1973).

A review of the legislative history shows that the provisions of K.S.A. 39-749 were not part of the original H.B. 1039. On January 23, 1973, the House Public Health and Welfare Committee, John C. Peterson, Chair, heard testimony in support of H.B. 1039. This bill, presented by the State Director of Social Welfare, would establish state administration and regionalization of the various welfare programs. The next day, January 24, opponents testified raising several concerns about a centralized welfare system and the perceived loss of local control. The committee discussed H.B. 1039 again on February 5 and on February 6 an amendment was proposed by Representative Ehrlich to include the language now found at K.S.A. 39-749. On February 7, the amendment was adopted. On March 14, 1973, the Senate Committee on Public Health and Welfare heard testimony on the legislation including remarks from Mary Wiersma representing the Kansas Farm Bureau. The summary of her testimony states that she felt welfare recipients would receive much better assistance at the county level.

The provision for local county participation was intentionally inserted into the legislation creating an otherwise centrally administered welfare program. It was not transitional in nature, but was enacted as a direct response to demands for continuing county level involvement. It remains a little used but integral part of the new system for delivering public assistance.

Current Status of Poverty in Kansas

According to a study recently released by the Institute for Research on Poverty at the University of Wisconsin, the official poverty rate in Kansas increased from 8.3 percent in 1979 to 13.8 percent in 1985. Kansas has the seventh highest rate of increase in poverty in the United States during the 1980s. There are now approximately 338,000 Kansans living below the poverty line. Many more are "near poor" and having difficulty making ends meet. Farmers and rural residents have been placed under particular financial stress in recent years. Nationally, the poverty rate on the farm in 1986 was 19.6 percent as compared to 13.4 percent in the general population.

The vast majority (approximately 75 percent) of those officially unemployed in Kansas do not receive unemployment benefits. Half of the people receiving General Assistance in Kansas, despite a history of full-time work, have never received unemployment benefits.

Emergency service providers of all kinds in all parts of Kansas have experienced unprecedented increases in demand for their services during the past year. Health care needs in particular are going unmet because of the small percentage of emergency care providers who offer health care services.

The Kansas legislature has adopted a minimum survival budget that is only approximately 85 percent of the official poverty threshold established by the Department of Health and Human Services. The monthly cash assistance provided through Aid to Families with Dependent Children (AFDC) to a family of three in Kansas amounts to 44 percent of the poverty threshold. The average Unrestricted General Assistance (GAU) grant in Kansas for a three person family is only 33 percent of the federal poverty income guideline.

The Present "Social Safety Net"

Today in Kansas, those who are in need and may have claims upon the aid and sympathy of society may turn to a network of assistance programs.

1. Retired workers may turn to Social Security insurance or Supplemental Security Income benefits administered by the federal government.

2. Children and their eligible parents may receive assistance through the ADC program.

3. Disabled individuals of a working age may receive disability benefits from the federal government (Social Security or SSI), the state (general assistance unrestricted), or perhaps the Veterans Administration or private insurance.

4. Vocational Rehabilitation services are offered to those who can be assisted to enter or re-enter the work force.

5. Unemployed individuals who can work may receive unemployment compensation and can seek help from employment placement programs.

Those Not Covered by Federal or State Programs

Except for the provisions of K.S.A. 39-749 no adequate program exists to help individuals who are

- 1) 18-55 years old,
- 2) Not disabled,
- 3) Not eligible for vocational rehabilitation,
- 4) Have no children in the home, and
- 5) Are unemployed, have no unemployment benefits or savings to live on.

The typical person in this group has very low or no job skills, has little or no work experience in skilled labor, and usually has physical and/or mental limitations that severely compromise his or her ability to compete in a tight job market.

In other words, these people are usually the first to be rejected when they apply with many other job seekers for a limited number of positions.

Lila Catanzaro is such a person. She is 52 years old and a Navy veteran. She raised a daughter and then entered the work force as a university cafeteria worker for almost fourteen years. When that job was eliminated she sought other employment in nursing homes and as a personal care attendant. She could not do the work and cannot find permanent employment. She received and exhausted unemployment benefits. She is not disabled, but is limited by her age, excessive weight, high blood pressure, and chest pain. She has no marketable job skills and faces stiff competition from younger, more able bodied workers in a tight Southeast Kansas job market.

There are no federal or state programs that could help her meet her undeniable needs. Her only alternative was to seek help from the county under K.S.A. 39-749.

The "Gap" in the Federal and State Safety Net

Prior to July 1986, individuals such as Ms. Catanzaro were able to get some help from the state through the SRS Transitional General Assistance program (TGA).

The TGA used to be available twelve months out of the year. In July 1986, SRS restricted the program to pay any individual only four out of twelve months in a fiscal year. By December, the restriction was reduced to one month, and in 1987, the program was eliminated entirely in appropriation measures. Thus the only existing program at that time was entirely eliminated.

Transition Statute

We have no objection to the repeal of unnecessary transition statutes. The committee may wish to broaden this bill to include other transition statutes such as K.S.A. 39-744, 39-745, and 39-746.

K.S.A. 39-749 was not and is not a transition statute. The approximately 4600 Kansans who were receiving TGA in July 1986 had relied on programs at the state level to provide assistance. When the program was eliminated, the need remained. The counties that have not been asked to act under K.S.A. 39-749, now had to face the responsibility given to them in 1973.

Conclusion

The Kansas legislature has always found a way to maintain programs for the poor in Kansas who are in need of assistance. At this time, this means that a part of this responsibility now rests with the counties. When changes in our welfare programs have been needed, the legislature has always found a way to continue effective assistance and not to abandon Kansans in need. We oppose efforts to abolish the only assistance left for these poor and instead encourage efforts to make Kansas welfare programs more effective.

Respectfully submitted,

Larry R. Rute
Eric L. Rosenblad