

Approved 3-13-89 G. Barr, Chm
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:35 ~~am~~/p.m. on February 28, 1989 in room 526-S of the Capitol.

All members were present except:

Representative J. C. Long - Excused
Representative Mike Peterson
Representative Debara Schauf - Excused

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary Galligan, Kansas Department of Legislative Research
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Representative James Lowther
Richard Pankratz, Director, Historical Preservation Department, Kansas State
Historical Society
Representative Dale Sprague
Sarah Wood-Clark

HB 2135

Representative Lowther testified in support of the bill stating the 500 feet stipulation of K.S.A. 75-2724 encompassed too much area and proposed reducing the distance to 300 feet, Attachment No. 1.

Richard Pankratz provided a history of the protective section of the state historic preservation law. He urged the legislators to table the bill for a year and address HB 2389 which would permit the state historic preservation officer to adopt rules and regulations to implement activities of the historic preservation program, Attachment No. 2.

Projects more difficult to review are those actually occurring to historic property itself. He explained the society has had some difficulty explaining to the cities what projects have potential to encroach upon and destroy historic property. Mr. Pankratz clarified the "boundary of property" as property immediately around a structure(s). The historical society has not authority to establish rules and regulations.

There were no opponents to the bill.

HB 2300

Representative Sprague explained his sponsorship of the bill was through his membership on the Travel and Tourism Commission. The Kansas Museum Association holds an ad hoc position on the commission as a member of the travel industry.

Sarah Wood-Clark described difficulties faced by small museums which house items to which they do not hold title, Attachment No. 3 and spoke as a proponent of the bill.

In response to questions, Ms. Wood-Clark explained the bill would permit museums to claim legal title to material held for a long period of time or in their possession due to a previous lack of records indicating loan or possession. Clear title to unusable items permits museums to give those items to another museum, sell them or dispose of them.

There was concern expressed from the committee regarding items loaned that could or would not be traced to the donor which Ms. Wood-Clark admitted happens. Representative Sprague clarified the process which will be required of the museums to try and locate the owner or heir before taking title.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

room 526-S, Statehouse, at 1:35 ~~am~~/p.m. on February 28, 1989

Mary Torrence noted current law with a statute clause permitting a museum to take possession of an item after five years if no claim is made and there is no signed agreement. Representative Sprague stated there is an attorney general's opinion on the issue. Dr. Ramon Powers, Executive Director, Kansas State Historical Society, stated the society employs current law but this bill has a provision allowing it to use either current statute or this bill to establish claim. Ms. Wood-Clark contended the bill is much more specific.

There were no opponents to the bill.

HB 2389

Richard Pankratz spoke as a proponent of the bill explaining it would permit the executive director of the historical society to adopt rules and regulations to implement and administer the state historical society program, Attachment No. 4. He stated the only action which would trigger a review by the society would be if a building permit was required. The major effect on residents of a historic neighborhood would be if it were within the environs of historic property.

There were no opponents to the bill.

The meeting adjourned at 2:14 p.m. The next meeting of the committee will be March 1, 1989, 1:30 p.m. in Room 526-S.

JAMES E. LOWTHER
REPRESENTATIVE, SIXTEENTH DISTRICT
LYON COUNTY
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EMPORIA, KANSAS 66801



TOPEKA

HOUSE OF
REPRESENTATIVES

Testimony HB 2135
House Federal and State Affairs
Rep. James Lowther

COMMITTEE ASSIGNMENTS
APPROPRIATIONS COMMITTEE
CHAIRMAN, APPROPRIATIONS SUB-COMMITTEE
EDUCATION COMMITTEE
TAXATION COMMITTEE
LEGISLATIVE EDUCATIONAL PLANNING
COMMITTEE

I was first aware of KSA 75-2724, which this bill amends, in the summer of 1988. (Provisions of the present statute became effective April 14, 1988.) I was familiar with a construction project of several constituents that was halted temporarily when the contractor was made aware of the provisions of KSA 75-2724. It requires that prior notice of a project must be given to the state historic preservation officer if the project is located within 500 feet of the boundaries of a historic property inside a city.

I have no problem with the intent of the new statute to prevent projects which will "encroach upon, damage or destroy and historic property" so designated. I agree this should be the responsibility of the state through the State Historical Society.

My concern is that the stipulated distance of 500 feet is too far; it encompasses too much area and results in the requirement for prior notice on projects that will have no impact on the historic property. This was true in the case referred to above because the historic property was situated in the middle of a 40-acre tract (a campus). City inspectors interpret the statute to measure the distance from the boundaries of the campus, not from the building.

As a result, the 500 foot distance will mean a great many residential construction projects will be subject to the prior notice requirement and most of these, if not all, will have no impact on the historic

property in question. I submit a shorter distance will accomplish the original intent of the statute and reduce the burden of prior notice for many people.

The bill would reduce the distance from 500 feet to 300 feet. There is nothing magic about 300 feet - it is simply 40% less and so reduces unneeded paperwork!

In addition, I suggest the committee look at the language on line 22 that states "any project" shall not be undertaken. The committee might want to consider an amendment that exempts certain projects such as remodeling, re-roofing, new siding, painting, etc., that would not "damage or destroy" any historic property, and most likely would not encroach upon any property. The present language would seem to generate a lot of unnecessary requests and paperwork.

Since introducing this legislation, I learned the State Historical Society plans to seek authority to adopt rules and regulations. If such authority was obtained, they would have the potential to qualify the prior notice requirement, if they desired to do so. However, without statutory change, the 500 foot requirement will remain in the law.

I appreciate your consideration of this measure.

Presentation to the Federal and State Affairs Committee on House Bill 2135
by Richard Pankratz, Director, Historic Preservation Department
Kansas State Historical Society
February 28, 1989

In 1988 the Legislature amended the protective section of the state historic preservation law by providing that state and local governments should notify the state historic preservation officer of projects within the corporate limits of cities which are within 500 feet of properties listed on the National Register of Historic Places or the register of Historic Kansas Places. This requirement applied to those projects that could adversely affect the historic property or its environs. This amendment was jointly presented to the Legislature by the Historical Society and the League of Kansas Municipalities.

House Bill 2135 would reduce the notification distance to 300 feet. We are not cognizant of the specific case or cases that may have sparked this request. The law became effective April 14, 1988, and this agency has since that date tried to work out procedures for its implementation that would meet the intent and requirements of the law and yet not be burdensome to local governments. Admittedly, there have been some ups and downs and some misunderstandings as we have tried to implement the law. It is our belief that the major cities which have historic properties within their boundaries are doing their best to comply with the law as it now stands.

Without debating the merits of 500 feet or 300 feet as a limit for notification, the Historical Society would urge the legislature to table this bill for a year and instead address House Bill 2389 which would allow the state historic preservation officer to adopt rules and regulations to implement the various activities of the historic preservation program including the

protective section. We believe that the rule and regulatory authority would allow us to address some of the concerns cities have expressed without changing the law itself.

A matter we have discussed with some cities and with a representative of the League of Kansas Municipalities is our desire to see a substantial increase in the number of Kansas communities with local preservation ordinances and active local historic preservation programs. It is our hope that ultimately we can set up a system whereby much of the environs review could be handled by local preservation commissions. But that remains a goal for the future, a matter on which we will continue to work. For now we would suggest that House Bill 2135 be tabled and instead let us have the opportunity to deal with the matter through the rules and regulations House Bill 2389 would allow us to prepare.

Testimony

In Support of HB 2300

An act concerning treatment or disposition of undocumented material and unclaimed loans in the possession of museums and providing for acquisition of title.

Kansas Museums Association

February 23, 1989

The Kansas Museums Association, an organization which represents the interests of over 200 institutions in Kansas, strongly encourages passage of HB 2300 for the following reasons:

1. While the museum profession has for some time required complete documentation of loans and acquisitions, including frequent renewals of loans with the consent of the lender, museum staffs of decades ago sometimes did not. We are now faced with the responsibility of providing physical care for items we do not own.

2. Museums have fiduciary and ethical responsibilities to care for and interpret objects they hold. This takes time, costs money and usurps a great deal of space. We cannot responsibly treat damaged or deteriorated objects we do not own, nor do we wish to interpret objects in exhibits and then lose them to the heirs of long-lost lenders.

3. Museums have legal and ethical responsibilities to keep accurate records of their permanent and loan collections. Since this was not always the case, our records have gaps, which HB 2300 would help us fill.

5. K.S.A. 33-104 does not provide definitions and guidelines that will help a volunteer staff in a small museum, with no experience in this realm, to undertake the process of claiming title to objects of unclear title as HB 2300 does.

In conclusion, if enacted, HB 2300 provides a vehicle for more responsible record-keeping, better utilization of time and other limited resources, and more satisfying experiences for our visitors and patrons.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 3
February 28, 1989

Presentation to the Federal and State Affairs Committee on House Bill 2389
by Richard D. Pankratz, Director, Historic Preservation Department
Kansas State Historical Society
February 28, 1989

The state historic preservation law, which was enacted in 1977 and subsequently amended in 1980 and 1988, declared historic preservation to be public policy and stated that it was in the public interest for the state to engage in a comprehensive program of historic preservation. The law found that the historic, architectural, archeological, and cultural heritage of Kansas was an important asset of the state and worthy of preservation. In addition to identifying the State Historical Society's duties and responsibilities in the area of historic preservation, the law also afforded a degree of protection to those properties listed on the National Register of Historic Places and the State Register of Historic Places.

House Bill 2389, which was requested by the State Historical Society, proposes one change to the historic preservation law. It would allow the state historic preservation officer, who is the executive director of the State Historical Society, to adopt rules and regulations to implement and administer the state historic preservation program.

The protective section of the existing law, K.S.A. 75-2724 (1988 Session Law, Chapter 337), in particular, has procedures which are sometimes confusing to local government officials and citizens not experienced with the law. People are uncertain what types of projects need to be reviewed and when. Although staff has prepared a variety of hand-outs to provide guidance to the public, confusion still exists.

Attorneys and architects whose clients may be either governmental entities or private businesses and individuals search in vain for regulations so they can guide clients through the review process. Other aspects of the program, such as the processing of National Register and State Register nominations, would also benefit from regulatory authority. Federal law and regulations spell out many of the procedures the agency must follow in carrying out the federal-state historic preservation program, but there are many decisions on the mechanics of implementation that are left to the individual states. The agency believes the historic preservation program would be on a sounder legal footing if regulatory authority were obtained.

We believe this bill would provide the agency with the opportunity to structure the review process of the historic preservation law's protective section and make that process more workable without a rewrite of the law. The Historical Society believes that enactment of this bill would benefit individuals, local governments and others who become involved with the historic preservation program by establishing clear, recognized procedures for different aspects of the program.