

Approved 3/27/89
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Senator Lana Oleen at
Chairperson

1:35 ~~am~~/p.m. on March 23, 1989 in room 531-N of the Capitol.

All members were present except:
Senator Gaines - Absent
Senator Bogina - Absent
Senator Doyen - Excused

Committee staff present:
Jill Wolters - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:
Gene Decker, Historical Society
Dick Pancratz, Acting Assistant Director,
Historical Society

Hearings on:

HB 2377 - Concerning record retention and disposition schedules

Gene Decker stated the Historical Society is very concerned with the manner in which state records are authorized for retention or disposition. HB 2377 will be beneficial for efficient management of state government records. Recently the State Records Board has been made aware that the rule and regulation procedures were too rigid and cumbersome for promulgation of general schedules as the schedules are subject to frequent changes in statutes and regulations. The Historical Society is requesting that general records schedules, approved by the State Records Board be made exempt from procedures required under current statute. (Attachment 1)

Discussion was held by the committee, with Ramon Powers explaining the intent of various sections of the bill and effect if passed.

HB 2389 - Implement and administer historic preservation act

Dick Pancratz stated that the proposed legislation would allow the state historic preservation officer to adopt rules and regulations for administration of the state historic preservation program. There has been a continuing problem with agencies and citizens as to their uncertainty about what types of projects need to be reviewed and are unfamiliar with the mechanics of implementation for preservation. The agency feels the historic preservation program would be on a sounder legal footing if it had regulatory authority. It is felt that the agency can make the process more workable without rewrite of the law and would benefit all entities involved in historic preservation. (Attachment 2)

Discussion was held by the committee and it was noted that there has been no opposition to the proposed legislation.

Motion was made by Senator Vidricksen to recommend favorably HB 2377; seconded by Senator Strick. Motion carried.

Motion was made by Senator Strick to recommend favorably HB 2389; seconded by Senator Moran. Motion carried.

Committee held discussions on HB 2038 and HB 2039.

Motion was made by Senator Strick to recommend favorably HB 2038; seconded by Senator Vidricksen. Motion carried.

Motion was made by Senator Strick to recommend favorably HB 2039; seconded by Senator Kanan. Motion carried.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
room 531-N, Statehouse, at 1:35 a.m./~~p.m.~~ on March 23, 1989

Committee began discussion of HB 2124 reviewing the history of past legislation and the impact on contracting professions with regard to required state and local testing procedures. It was felt further discussion is needed with the entire committee present, as the proposed legislation is controversial.

A motion was made by Senator Strick to adjourn. The motion carried by voice vote.

Meeting adjourned. The next meeting will be March 27, 1989.

GUEST LIST

COMMITTEE: SENATE GOVERNMENTAL ORGANIZATION

DATE 3/23/89

NAME	COMPANY / ORGANIZATION	ADDRESS
Richard Pankrotz	Kansas State Historical Society	Topeka
EUGENE Decker	Kansas State Historical Soc	Topeka
Gretchen Gleue	Kansas Corporation Commission	"
Ramon Powers	Kansas State Historical Society	Topeka
Helen Stephens	NECA	Topeka
Nancy Kindling	^{Intern} San Francisco	Topeka
Tom Slattery	ABC of Ks	Topeka

Gene Decker

COMMENTS CONCERNING HOUSE BILL NO. 2377

Presented to the House Committee on Governmental Organization
by Thomas D. Norris, State Records Specialist
Department of Archives
Kansas State Historical Society

I appreciate very much the opportunity to speak before the committee as the representative for the Kansas State Historical Society's Department of Archives. As custodian of the official state archives and because of our statutory obligation (see K.S.A. 45-406) to provide records management assistance to state agencies, this department is most concerned with the manner in which retention and disposition may be authorized for state records. Therefore, we have requested that H.B. No. 2377 be introduced in the legislature, a bill which we believe will be beneficial to the effective and efficient management of state government records if it were passed.

The State Records Board has the authority under KSA 75-3504 and 45-404 to approve and modify records retention and disposition schedules for state agencies. Such schedules provide continuing authority to agencies for the disposition of public records in their custody. According to an Attorney General Opinion from August of 1965, schedules for individual agencies fall within the exceptions to regulations which must be adopted in accordance with procedures specified under KSA 77-415 et seq. This is because these schedules apply to "specifically named persons or to a group which does not constitute a general class. . ."[KSA 77-415(4)b]. This is not the case with general records retention and disposition schedules, i.e. those schedules which apply to all state agencies. An Attorney General Opinion, dated July of 1972, states explicitly that these general schedules must be established and modified by regulations adopted by the State Records Board through the normal rule and regulation procedures.

At a recent public hearing, the State Records Board received comments to the effect that the rule and regulation procedures as defined by KSA 77-415 et seq. were too rigid and cumbersome a process for the promulgation of general schedules. This is due to the fact that a schedule must reflect various state and federal statutes and regulations, as well as various audit requirements, all of which change frequently and with little notice. Because of this and because records retention and disposition schedules under present statutes permit rather than require agencies to dispose of noncurrent records, the State Historical Society is requesting that general records schedules which have been duly approved by the State Records Board be made exempt from the rules and regulation procedures now required in KSA 77-415.

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Presentation to the Governmental Organization Committee on House Bill 2389
by Richard D. Pankratz, Director, Historic Preservation Department
Kansas State Historical Society
March 23, 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

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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.

att. gen supports

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.