

Approved

Thomas F. Walker

Date

2-30-90

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Representative Thomas F. Walker at
Chairperson

9:00 a.m./p.m. on Tuesday, February 13, 1990 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Avis Swartzman - Revisor
Carolyn Rampey - Legislative Research
Jackie Brey Meyer - Committee Secretary

Conferees appearing before the committee:

Marlene Finney - Administrator, Home & Community Based Services - S.R.S.
Michael Lechner - Committee on Disability Concerns
Jim Cobler - Department of Administration, Division of Accounts and Reports

Representative Walker called the meeting to order and stated the minutes of the previous meeting would stand approved at the end of the meeting if there were no corrections or additions.

Representative David Miller had legislation concerning the Department of Administration; relating to published copies of personnel policies and related rules and regulations that he brought before the committee and asked that it be introduced as a committee bill.

Representative Miller moved that this legislation be introduced.
Representative Turnbaugh gave a second to the motion. The motion carried.

The Committee turned its attention to the agenda for the day, HB 2833.

HB 2833 - home health care

Marlene Finney, Administrator, Community Based Services, S.R.S., appeared first on the bill. She spoke in support of the bill that would place Personal Care Attendants in the unclassified service of the Kansas Civil Service Act. This will bridge the gap for consumers not served by a provider agency. At the present time there are 37 interested consumers. Without help these persons would have very limited help and persons in rural areas possibly no way to participate in a program of this type. This bill would greatly aid in the implementation of HB 2012 which was passed by the 1989 legislature. (Attachment 1) Ms. Finney replied to a question by stating that fiscally this would be cost neutral.

A physician would authorize the consumer to direct and supervise his or her own health care. With the position of Personal Care Attendant being unclassified, the consumer would have more flexibility in the hiring/firing process.

Questions were asked of Ms. Finney with regard to where the liability would lie - the physician or S.R.S. Also such terms as 'self direction' and 'personal care attendant' were asked to be defined. The question of who wrote the bill was asked. The Revisor commented that contents of the bill must refer to home service programs under some other provisions of law wherein these terms are defined. Subsection (a) must be defined somewhere else in the statutes; (b) and (c) takes up as defined in HB 2012. The bill must have been written based upon some other law in existence; some other law that speaks to home service programs and to these persons.

With respect to lines 25 and 26 in the bill, Ms. Finney explained the language and said that it is an entitlement program.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
room 522-SStatehouse, at 9:00 a.m./p.m. on Tuesday, February 13, 1990

Michael Lechner testified next on the bill. He presented an attachment that contained an amendment which in section (b) would strike the words 'health maintenance tasks and self-direction' and insert the words, 'attendant care services' and continue to the end of the subsection. (Attachment 2) Mr. Lechner, who is with the Committee on Disability Concerns, stated that this amendment is suggested in order that one employee would be enabled to perform the entire range of attendant care services rather than one person to perform only health maintenance and one person to do the other care services. The training of the person would be the consumer's responsibility.

Jan Allen, Adult Services, S.R.S., commented that she found no problem with this amendment.

The Revisor was asked if she would conform the terms and references as defined and put the language together for the committee when the bill is worked.

The Chairman declared the hearing closed on HB 2833.

The Committee turned to HB 2836 - Department of Administration, Division of Accounts and Reports.

Jim Cobler, Department of Administration, Division of Accounts and Reports, addressed the bill. He stated that on page 1, line 20, language was added to limit claims for payment to not longer than five years prior to filing.

It was asked why five years; why not some other number. Mr. Cobler said that originally they had asked for seven and the attorneys had cut it down to five.

The Revisor asked for some clarification on some of the wording. Mr. Cobler responded that there was no pride of authorship in the bill and the Revisor could clean it up as desired.

The check should be cashed within one year. There is another period of four years - after that it's gone.

The next change in the bill are lines 32-34, dealing with inspection of property. The division is supposed to go out to state agencies and inspect inventory items. This is not being done. The division counts on audits to keep track of inventory. It needs to be a staff function or be eliminated.

It was commented that this would seem to send a message to the state agencies that this is not important to keep track of their inventories. Norton had several thousand dollars of inventory disappear.

Mr. Cobler replied there is a person assigned to the inventory area. Purchases made are listed. When the agency sends in its list, it is checked against what the division has on file. If something is missing, questions are asked. Mr. Cobler added that when budgets are cut, something has to be eliminated. In this case it is the checking of inventory.

Mr. Cobler continued on page 1, line 38 and on to page 2. This language is stricken and is replaced by new language through line 15.

Page 3, line 10 shows language added to allow for exemption of claims in amounts less than five dollars. Mr. Cobler added that this is more complex than one might think. The statutes require agencies to make refunds regardless of the amount involved. He used the example of the Wheat Commission.

The last section Mr. Cobler addressed was page 3, section 5, lines 21-22. This is clarifying language that sets the certification of payroll deductions in writing. Examples such as United Fund and savings bonds was used.

As there were no other conferees to speak to the bill, the Chairman stated that the hearing was closed on HB 2836.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
room 522-S, Statehouse, at 9:00 a.m./p.m. on Tuesday, February 13, 1990

The Chairman directed the committee's attention to possible action on bills previously heard.

HB 2667 - juveniles; master planning commission

Several concerns about the bill were expressed by different members of the committee. It was felt that some people were left out of the process of input. Some felt they would not be comfortable without more review of this major piece of legislation. It was suggested that Judge Pierron, someone from corrections and juvenile affairs come in and speak.

Chairman Walker asked if there was a motion to this effect.

Representative Brown moved that a subcommittee be appointed on HB 2667.
Representative McClure gave a second to the motion. The motion carried.

On discussion a suggestion of tabling the bill was put forward. Another member suggested that rather than table the bill input and action was needed.

The motion carried.

Chairman Walker stated that he would appoint a subcommittee which would meet upon notification of the Chairman.

The Committee turned its attention to HB 2716 - concerning mined-land; financing procedure. The Revisor had the requested amendments ready. The amendments had been looked at by Representative Roper and Mr. Fox.

Discussion ensued with regard to the words 'mortgage' and 'deed'. The advantages and disadvantages of using one word over the other were debated. It was also stated that they do not want the mortgage to completely cover the bond. If it is half, there is more flexibility for the agency. It was commented that it was thought the word 'mortgage' in the language would make for an easier procedure in the case of default.

Representative Bowden moved the adoption of the amendments.
Representative Graeber gave a second to the motion.
The motion carried.

Representative Graeber moved to pass out HB 2716 favorably as amended.
Representative Weimer gave a second to the motion.
The motion carried.

The meeting was adjourned.

Kansas Department of SRS

Testimony before

The House Committee on Governmental Organization

Regarding

House Bill 2833

on

February 13, 1990

at 9:00 a.m.
Room 522S
Capital Building

Marlene Finney, Administrator
Community Based Services
Telephone: 296-2459

presented on behalf of:

Jan Allen, Commissioner
Adult Services
Telephone: 296-6959

ATTACHMENT 1
GOVERNMENTAL ORGANIZATION
2/13/90

TESTIMONY ON HOUSE BILL 2833

The Kansas Department of Social and Rehabilitation Services (SRS) supports the passage of House Bill 2833.

The 1989 Kansas Legislature passed House Bill 2012. That bill empowers the consumer-as-employer in "the right to choose the option to make decisions about, direct the provisions of, and control their attendant care services including, but not limited to, selecting, training, managing, and dismissing of an attendant."

To facilitate this effort, SRS has explored a number of alternatives to accomplish its objective with regard to consumer involvement. One such alternative has been to reach agreements with such outside agencies as Centers for Independent Living to be provider agencies (employers) for the consumers' personal care attendants. Such agreements could preclude the State from being involved providing care. However, we are finding that not all areas of the State have an agency(s) that is able or willing to perform the functions of a provider agency while others may be able to do so on a very limited basis.

To date, we have contacted the State's nine Centers for Independent Living and have received no proposals for participation in implementing House Bill 2012. Additionally, our understanding is that their participation will be on a very limited basis. Presently, this would leave the vast majority of the current 37 interested consumers without a means to self-direct their care and possibly no alternative means of participation from rural consumers. Furthermore, we see the base of the consumer population expanding over the next year, particularly in rural areas, as consumers and advocacy groups become more knowledgeable of their choices.

House Bill 2833 places Personal Care Attendants in the unclassified service of the Kansas Civil Service Act. We believe the consumers and SRS will have much more flexibility in implementing House Bill 2012 if these employees are in the unclassified service. This is a way of bridging the gap for those consumers not served by a provider agency and make the difference in a consumer's choice to self-direct his or her care.

Should the consumers only alternative be the use of state employees, we would want to arrange for the consumers to work in concert with their local SRS office to select, train, manage and dismiss their attendants. Current classifications do not permit the employees to perform health maintenance tasks. Further, the State's merit system does not allow (in a practical sense) the consumer to direct or train the attendants in the performance of their activities, and certainly does not allow the consumer to decide disciplinary actions, including dismissal.

The unclassified position of a Personal Care Attendant would resolve this problem by allowing the consumer greater flexibility and actual involvement in the selection and dismissal process of the attendant. Also, a new classification would permit attendants to carry out those activities that may be medical in nature at the direction of the consumer. We envision the following approach in the selection and management of attendants:

- Prospective attendants would be referred to the consumer's local SRS office for processing. Attendants making application for employment not meeting the State's requirements would not be hired.
- In order for the consumer to direct the activities of his or her attendant, the physician must authorize the consumer to direct and supervise his or her own care in the home.
- The involvement and responsibilities of the case manager for consumers in a self-directed program will be the same as if they were recipients of other services through Home and Community Based Services.
- The consumers will still be required to follow the plan of care in the directions they give their personal care attendants.

SRS is seeking to implement a Consumer Directed Attendant Care Program that would place the responsibility with the consumer, and would be viewed as the least intrusive and still remain cost effective. SRS believes the appointments in the unclassified service would satisfy those requirements and would be cost neutral with respect to its fiscal impact on its operating budget.

HOUSE BILL No. 2833

By Committee on Public Health and Welfare

2-6

Attachment 2
Governmental Org.
2/13/90

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AN ACT relating to home health care; personal care attendants; unclassified service of the Kansas civil service act; amending K.S.A. 75-5309a and repealing the existing section.

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

Section 1. K.S.A. 75-5309a is hereby amended to read as follows:
75-5309a. (a) On and after June 18, 1985, all employees of the department of social and rehabilitation services in the coordinator of medical services job class, or any successor job class that may be approved under K.S.A. 75-2938 and amendments thereto and has substantially the same duties and responsibilities, shall be in the unclassified service under the Kansas civil service act.

(b) *All persons appointed to personal care attendant positions under the home service programs to provide health maintenance tasks and self-direction shall be in the unclassified service of the Kansas civil service act and all such positions, full-time and part-time equated to full-time equivalent positions, shall be in addition to any position limitation imposed on the department of social and rehabilitation services.*

(c) *Subject to available appropriations, the governor is authorized and directed to approve a salary plan for personal care attendant under the secretary of social and rehabilitation services. Such salary plan for personal care attendant shall be effective and shall be subject to modification and approval by the governor and to any enactments of the legislature applicable thereto.*

Sec. 2. K.S.A. 75-5309a is hereby repealed.

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

(b) All persons appointed to personal care attendant positions under the home service programs to provide health maintenance-tasks-and-self-direction attendant care services shall be in the unclassified service of the... etc.

This amendment is suggested in order to allow one employee to perform the range of attendant care services, rather than create a necessity for hiring one employee to perform only health maintenance activities and hiring another to perform other attendant care services.