

Approved: April 27, 2005
Date

MINUTES OF THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 P.M. on March 10, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Virginia Beamer- excused
Representative Jim Yonally- excused
Representative Melody Miller- excused

Committee staff present:

Mike Heim, Legislative Research Department
Martha Dorsey, Legislative Research Department
Norm Furse, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Sen. Ruth Teichman
Chad Austin, Kansas Hospital Association
Rep. Sharon Schwartz
Matt All, Office of the Governor

Others attending:

See attached list.

Chairman Vickrey opened the hearing on:

SB 152 District hospitals; procedure for disposal of property

Sen. Teichman testified in support of the bill (Attachment 1). She said the bill would allow district hospitals a more reasonable approach in selling their properties.

Chad Austin, Kansas Hospital Association testified in support of the bill (Attachment 2). He said the bill amends K.S.A. 80-2520 and would allow district hospitals to choose an alternative process for the disposal of property. He also submitted to the Committee a balloon amendment relating to a mortgage provision (Attachment 3).

Written testimony was submitted by Vernon Minnis, Stafford District Hospital (Attachment 4).

Chairman Vickrey closed the hearing on **SB 152**.

SB 152 District hospitals; procedure for disposal of property

Rep. Oharah made a motion to adopt the balloon amendment (Attachment 3) relating to a mortgage provision. Rep. Lane seconded the motion. The motion carried.

Rep. Goico made a motion for the favorable passage of SB 152 as amended. Rep. F. Miller seconded the motion. The motion carried.

Chairman Vickrey opened the hearing on:

HB 2506 Open meetings act applicable state agencies meeting as the subcommittee on natural resources

Rep. Sharon Schwartz testified in support of the bill (Attachment 5). She explained that the Agriculture and Natural Resource Committee requested that the bill be introduced, and that the request was included as a part of the Wildlife and Parks budget report February 16, 2005. She said the report was approved by the full House Appropriation Committee.

Matt All, Office of the Governor, testified in opposition to the bill (Attachment 6). He said requiring agencies dealing with the state's natural resource to follow the procedural requirements of the Kansas Open Meetings Act anytime representatives of three or more of those agencies need to communicate with each other about their work, would make the work of managing the natural resources of this great state next to impossible.

Chairman Vickrey closed the hearing on **HB 2506**.

SB 78 Open records; exceptions; personnel records; reconciling conflicts in duplicate statutes

Rep. Sawyer made a motion for the favorable passage of SB 78 and to ask that it be placed on the Consent Calendar. Rep. Lane seconded the motion. The motion carried.

Approval of Minutes

Rep. Lane made a for motion for the approval of minutes for the February 1, 2005 meeting. Rep. Huebert seconded the motion. Motion carried.

Chairman Vickrey adjourned the meeting.

The next meeting is scheduled for Tuesday, March 15, 2005.



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

CHAIR: FINANCIAL INSTITUTIONS AND INSURANCE
MEMBER: EDUCATION
WAYS & MEANS
NATURAL RESOURCES
ORGANIZATION, CALENDAR & RULES
JOINT COMMITTEE ON PENSIONS,
INVESTMENTS AND BENEFITS
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RUTH TEICHMAN
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Comments on
SB 152 – District Hospitals; procedure for disposal of property
March 10,2005

Mr. Chairman and members of the committee:

This problem was brought to me by the Stafford District Hospital after they spent many hours and additional cost just prior to the sale on a quarter of ground.

This change was passed for the counties and cities last year. And at that time the hospitals thought they were being included. Obviously, they weren't and this bill will include them in the language that gives the same option to the cities and counties.

The exclusion gave the Stafford Hospital much grief as is evidenced in their written comments.

This bill would affect district hospitals and allow them a more reasonable approach to selling their properties.



Thomas L. Bell
President

To: House Governmental Organization and Elections Committee Members

From: Kansas Hospital Association
Chad Austin, Senior Director of Health Policy and Data

RE: Senate Bill 152

Date: March 10, 2005

The Kansas Hospital Association appreciates the opportunity to provide comments in support of Senate Bill 152. This bill would amend K.S.A. 80-2520 and would allow district hospitals to choose an alternative process for the disposal of property. A similar bill, House Bill 2600, was passed in the 2004 Legislature and presently enables county officials to choose the method of sale for county-owned property. Senate Bill 152 would provide comparable options for district hospitals.

The current statute requires that a district hospital must negotiate the sale of property prior to providing a public notification. The order of these steps has created confusion and chaos for district hospitals when selling property valued at more than \$10,000. Therefore, by passing Senate Bill 152 the Legislature would be creating consistency among county and district hospitals when selling property.

Further, KHA supports a proposed amendment to SB 152 that would allow all district hospitals the ability to obtain financing by securing a mortgage on hospital property. A similar bill, HB 2469, was heard by this committee last week. As was discussed during that hearing, district hospitals sometimes face incredible hurdles when seeking financing. Therefore, this amendment would allow all district hospitals the opportunity to participate in a new program created by the United States Department of Housing and Urban Development, called the HUD 242 mortgage insurance program.

KHA believes that SB 152 and its proposed amendment would greatly help the district hospitals in Kansas.

House Gov. Org. & Elections
Date: 3-10-05
Attachment # 2

Kansas Hospital Association

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/233-6955 • www.kha-net.org

Submitted by:
Chad Austin
KS Hospital Assoc.

Session of 2005

SENATE BILL No. 152

By Committee on Financial Institutions and Insurance

2-1

9 AN ACT relating to district hospitals; relating to the sale of property; providing a limited authority to
10 amending K.S.A. 80-2520 and repealing the existing section. mortgage property; and

11

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

13 Section 1. K.S.A. 80-2520 is hereby amended to read as follows: 80-
14 2520. (a) *Except as provided in subsection (c), the board of any hospital*
15 *is hereby authorized to: (1) Sell personal property of the hospital in the*
16 *value of less than \$10,000, either in the open market or upon bids in the*
17 *manner provided in subsection (b); and*

18 *(2) subject to the provisions of subsection (b), sell and convey any*
19 *real or personal property of the hospital in the value of \$10,000 or more.*

20 (b) Before selling and conveying any real or personal property des-
21 signated in provision (2) of subsection (a), the board shall negotiate a sale
22 thereof and no such sale shall be completed and conveyance made until:

23 (1) The board has solicited sealed bids by public notice inserted in one
24 publication in a newspaper of general circulation in the taxing district of
25 the hospital and such sale shall be to the highest responsible bidder after
26 such notice, except such board may reject any or all bids, and, in any such
27 case, new bids may be called for as in the first instance; and (2) the bid
28 has been accepted and a resolution accepting the same has been made a
29 part of the records of the board. Thereupon, the board, by its chairperson
30 and secretary, is hereby authorized to make, execute and deliver a good
31 and sufficient deed or deeds of conveyance to the purchaser or purchasers
32 thereof.

33 (c) (1) *In lieu of following the procedures established in subsection*
34 *(a), the board may adopt a resolution establishing an alternate method-*
35 *ology for the disposal of property. Such alternate methodology for the*
36 *disposal of property shall contain, at a minimum, procedures for:*

37 (A) *Notification of the public of the property to be sold;*

38 (B) *describing the property to be sold;*

39 (C) *the method of sale, including, but not limited to, fixed price, ne-*
40 *gotiated bid, sealed bid, public auction or auction or any other method of*
41 *sale which allows public participation; and*

42 (D) *public notice inserted in one publication in a newspaper of gen-*
43 *eral circulation in the taxing district of the hospital.*

House Gov. Org. & Elections
Date: 3-10-05
Attachment # 3

1 (2) *Any methodology for the disposal of property established pursu-*
2 *ant to this subsection may contain different procedures for real property*
3 *and personal property.*

4 Sec. 2. K.S.A. 80-2520 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the ~~statute book~~ Kansas register.

(d) Notwithstanding any provision of article 25 of chapter 80 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, the Board of a hospital district, is hereby authorized to obtain financing for the construction of a hospital facility to be located in the hospital district, secured by a mortgage on any or all hospital property, provided such mortgage is insured pursuant to the United States department of housing and urban development's mortgage insurance program, section 242 of the national housing act, 12 U.S.C. 1715z-7, section 242, as amended.



Submitted by:
Vernon Minnis

"Working Hands - Caring Hearts"

November 15, 2004

Senator Ruth Teichman
434 E. Old Highway 50
Stafford, KS 67578-7805

Dear Senator Teichman,

There is a problem with one of the statutes covering District Hospitals which I would like to see cleaned up or clarified before another hospital has the types of problems we have been having in trying to sell hospital owned property. The Statute (80-2520) is as follows:

80-2520. Same; sale of hospital property. (a) The board of any hospital is hereby authorized to: (1) Sell personal property of the hospital in the value of less than \$10,000, either in the open market or upon bids in the manner provided in subsection (b); and

(2) subject to the provisions of subsection (b), sell and convey any real or personal property of the hospital in the value of \$10,000 or more.

(b) Before selling and conveying any real or personal property designated in provision (2) of subsection (a), the board shall negotiate a sale thereof and no such sale shall be completed and conveyance made until: (1) The board has solicited sealed bids by public notice inserted in one publication in a newspaper of general circulation in the taxing district of the hospital and such sale shall be to the highest responsible bidder after such notice, except such board may reject any or all bids, and, in any such case, new bids may be called for as in the first instance; and (2) the bid has been accepted and a resolution accepting the same has been made a part of the records of the board. Thereupon, the board, by its chairperson and secretary, is hereby authorized to make, execute and deliver a good and sufficient deed or deeds of conveyance to the purchaser or purchasers thereof.

This statute has caused difficulties for Stafford District Hospital on two occasions in the past year as we have attempted to sell properties.

The first difficulty was faced when we were approached by two individual parties asking if we would sell the Grand Street Clinic formerly occupied by Dr. Quijano and Dr. Ward. The statute says that we must first negotiate a sale and then place a notice in the Courier asking

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House Gov. Org. & Elections

Date: 3-10-05

Attachment # 4

for sealed bids. We got an offer from one of the individuals but, even though it was not of sufficient amount to close a sale, we advertised for bids. The only bid received was not enough to allow the board, in good faith, to sell the land and we refused that bid and still have the clinic for hospital use.

It just seems a little silly and unworkable if we have to negotiate a sale with a buyer who is attempting to buy the item in good faith but we have to tell them that, after reaching a satisfactory negotiated price, then we have to advertise for public bids and they will have to submit a bid knowing that others might bid higher. Wouldn't it make more sense to remove the part about negotiating a sale first and just allow us to go direct to taking bids through advertisement in our official paper?

The second situation arose when we attempted to have a public auction to sell 80 acres of land which we received from an estate. We decided, after receiving clearance from our legal counsel, to have a public auction with Carr Auction and Real Estate handling the advertising and the auction. We felt that this type of sale would allow for public negotiating through public bidding for the property and would possibly allow us to make more money on the sale rather than taking bids. The auctioneer and attorney confirmed that this has been done in the past for schools, hospitals and other public entities.

The auction was set for Tuesday morning, July 5, after a three day Fourth of July weekend. Late Friday morning on July 1, we received word from the Realty division of Carr Auction that the Title Insurance Company would not write the insurance as we had not followed the dictates of Statute 80-2520. Imagine my increased stress level when I thought we were going to have to cancel the sale that had been advertised for weeks and the resulting public relations fiasco that would cause.

I asked the Carr representative to contact our legal counsel who proceeded to work on this situation all Friday afternoon until early evening prior to getting a satisfactory conclusion worked out. This time plus time spent later during the next week caused an increase in legal fees which we had not anticipated.

The legal counsel had secured a second Title Insurance Company from Eastern Kansas who agreed to write the insurance provided the board would hold a special meeting and agree to their stipulations which were then announced prior to the start of the Auction on July 5.

That announcement given by legal counsel at the auction is summarized as follows: There has been an unforeseen glitch in the sale caused by an interpretation of state statute. The sale will go forth as advertised with the successful high bidder being the buyer of the land. That successful high bidder will; however, be required to file a written, sealed bid in the amount he/she bid at auction to the hospital following the instructions in the "Request for Bid" legal notice which will appear in the Stafford Courier issue of July 6, 2004. At the time selected for opening of bids, (requiring another special meeting), that successful bidder's bid will be chosen as the winning bid. This is irregardless of any other bids which might come in and be higher. Any resulting legal action would be the responsibility of the Title Insurance Company who asked that this scenario be followed in order for them to agree to write the insurance.

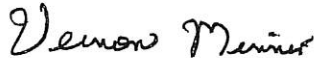
November 15, 2004

It would seem that a solution to this type of fiasco happening again to us or any other district hospital could be solved (1) with the removal of the wording requiring a negotiated sale prior to advertising for bids and (2) modification of wording to allow the hospital to choose the method of sale which could include the advertising for bid or utilization of a public auction. Both cases would be covered by public notice either for solicitation of bids or in advertising the public auction.

I visited with Representative Minor at your debate in St. John and he thought that this problem had been handled and that the statute had been changed; however, it appears that a change has not yet been forthcoming.

I would be happy to visit with you concerning this problem and would appreciate any action which you might be able to take to correct the confusing wording.

Sincerely,



Vernon Minnis
Administrator



TOPEKA

HOUSE OF
REPRESENTATIVES

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COMMITTEE ASSIGNMENTS
CHAIRPERSON AGRICULTURE AND NATURAL
RESOURCES BUDGET
MEMBER AGRICULTURE
APPROPRIATIONS
ENVIRONMENT

Testimony on HB 2506 relating to the open meetings act

House Governmental Organization and Elections Co. – March 10, 2005

By Representative Sharon Schwartz

Chairman Vickrey and members of the committee; thank you for the opportunity to appear in support of HB 2506.

HB 2506 was requested to be introduced by the Agriculture and Natural Resource committee and included as a part of the Wildlife and Parks budget report February 16th. This report was approved by the full House Appropriation Co.

As the budget committee reviewed the various agency recommendations for FY05 and FY06, the committee questioned the process that priorities were developed for the proposed budgets. The committee understands that the Governors sub-cabinet on natural resources meets and presents a plan to the Water Authority for their consideration.

It was the understanding of the committee that the priorities should be developed by the people whose livelihood will be affected by programs proposed. Their input is vital to the successful implementation of the programs. The committee felt that if policy was being discussed and proposed that it was only appropriate that the meetings of the sub-cabinet be open to the public.

Thank you for the opportunity to appear before you in support of HB 2506.

House Gov. Org. & Elections
Date: 3-10-05
Attachment # 5

House Budget Committee Report

Agency: Department of Wildlife and Parks

Bill No.

Bill Sec.

Analyst: Efirid

Analysis Pg. No. 87

Budget Page No. 449

Expenditure	Agency Req. FY 06	Governor Rec. FY 06	Budget Committee Adjustments
Operating Expenditures:			
State Operations	\$ 39,483,114	\$ 39,311,830	\$ 0
State Aid	1,440,765	1,440,765	0
State Assistance	144,235	144,235	0
Subtotal	<u>\$ 41,068,114</u>	<u>\$ 40,896,830</u>	<u>\$ 0</u>
Capital Improvements	5,492,238	5,249,097	(615,000)
TOTAL	<u><u>\$ 46,560,352</u></u>	<u><u>\$ 46,145,927</u></u>	<u><u>\$ (615,000)</u></u>
Financing:			
State General Fund	\$ 3,501,460	\$ 2,857,538	\$ 0
Other Funds	43,058,892	43,288,389	(615,000)
TOTAL	<u><u>\$ 46,560,352</u></u>	<u><u>\$ 46,145,927</u></u>	<u><u>\$ (615,000)</u></u>
FTE Positions	406.5	406.5	0.0

Agency Request/Governor's Recommendation

The agency requests operating expenditures of \$41,068,114, a 3.2 percent increase over the current revised fiscal year budget. State General Fund financing of \$3,501,460 is requested for operating expenditures, an increase of 3.0 percent, or \$102,074 more than FY 2005. Included in the increased State General Fund operations financing is \$261,005 for enhancements and \$389,964 for ongoing programs. The agency includes enhancements totaling \$1,310,505 in its FY 2006 operating budget. Among the items are funding of \$957,000 for trucks, \$250,000 for managing the Circle K Ranch, and \$103,505 for managing State Park No. 24.

The Governor's recommendation for operating expenditures is \$40,896,830, an increase of 3.2 percent over the FY 2005 recommendation. State General Fund financing of \$2,857,538 is recommended by the Governor, a reduction of \$489,828 from the FY 2005 recommendation. The Governor's FY 2006 State General Fund recommendation includes a reduction of \$955,728 in the agency's request for base salaries. No FTE reductions are associated with the Governor's recommended base salaries reduction. The Governor recommends enhancement funding of \$799,500 for trucks, none for the Circle K Ranch, and none for State Park No. 24.

House Budget Committee Recommendation

The Budget Committee concurs with the Governor's recommendations and makes the following adjustments or observations:

1. **Change from FY 2005 Approved.** The Budget Committee notes that the Governor's FY 2006 State General Fund recommendation for the agency totals

department of agriculture to provide for staff members of the Kansas department of agriculture, who are qualified to certify seed, forage and mulch to meet any additional or supplemental certification requirements of state agencies, to assist any such additional or supplemental certifications as may be required by any other state agency.

6. **Bill Introduction.** The Budget Committee recommends a bill be introduced to require that all meetings of the Governor's Subcabinet on Natural Resources be subject to the Open Meetings Law.
7. **Circle K Ranch.** The Governor did not recommend funding for the acquisition or operating costs in FY 2006. The Budget Committee heard from the Secretary of Wildlife and Parks about the current proposal to borrow money from the Pooled Money Investment Board and to repay with 75.0 percent federal funds and 25.0 percent from the State Water Plan Fund as the water rights are retired. No purchase price has been agreed to, but the appraisal has been set at \$3.2 million. If an agreed to price is reached, the Secretary plans to ask the Governor to resubmit the proposed acquisition, plan for financing and operating, and alternatives to State Water Plan financing.
8. **New Strategic Plan.** The agency is currently in the process of preparing a new strategic plan for the department and the estimated date of completion is July 1, 2005. The Budget Committee would like copies of the new plan provided at the earliest opportunity.



KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

Testimony on House Bill No. 2506

MATTHEW D. ALL
Chief Counsel to the Governor

Before the HOUSE COMMITTEE ON GOVERNMENT ORGANIZATIONS AND ELECTIONS

Thursday, March 10, 2005

Mr. Chairman and Members of the Committee:

Thank you for allowing me to testify on House Bill 2506. This bill would require the agencies dealing with the state's natural resources to follow the procedural requirements of the Kansas Open Meetings Act anytime representatives of three or more of those agencies need to communicate with each other about their work. This would make the work of managing the natural resources of this great state next to impossible. Because this bill would hurt the state of Kansas and grind the important work of this and future administrations to a halt, we ask you to vote it down.

Every single day, people at these agencies must work together to do their jobs. They must work together to implement the policies this Legislature enacts. As we speak, there are state employees of these agencies, in the field and in their offices, working together to manage and protect our state's natural resources. They are keeping our food safe, promoting agribusiness, protecting our rivers and streams, and keeping our livestock free from disease, to name just a few things. They cannot do this work—they cannot do the work you have asked them to do—unless they can communicate with each other.

This bill would effectively prevent them from doing that. Anytime an issue arose that required the attention of three or more of these agencies, they would have to jump through a series of hoops just to be able to communicate. They would have to give "reasonable" public notice, publish that notice in the Kansas Register, and allow interest groups, among others, to attend the meeting. And as we know, they could not get

around the requirements of the Open Meetings Act by exchanging emails or phone calls, or by having a "serial meeting." They would have to do all the things we require of a majority of a quorum of a city council or state board just to communicate between agencies. Those sorts of restrictions make no sense, and would make it all but impossible for these agencies to do their jobs.

Beyond this everyday work, this bill would prevent the heads of these agencies and their managers from communicating to discuss and coordinate their work. Many of these communications are about issues other than the substantive work of the agencies. Some of them are about things as mundane as coordinating employee benefits or sharing commonly used resources such as mail service. Preventing these agencies from communicating would make them less effective, less efficient, and less able to implement the policy handed down by the Legislature.

This bill would also capture all sorts of more general meetings that its proponents have likely not envisioned. Anytime this governor or a future governor called his or her cabinet together, if representatives of three of these agencies attended and discussed their business, that governor would have to open the meeting to interest groups and the public. Anytime legislative staff or attorneys from these agencies got together to discuss a bill relevant to their agencies, they would have to open their meeting. Those sorts of restrictions are unprecedented, unreasonable, and unworkable.

And they might even be dangerous. One of the greatest threats to this state is agroterrorism. Many of the agencies included in this bill will be required to act quickly if there is a threat or, God forbid, an actual event of agroterrorism. Even without a threat, they need to work together to be prepared to prevent or respond to agroterrorism. Do you really want them to have to give interest groups and the media notice, publish notice in the Kansas Register, and open the meeting to all comers, just so they can communicate?

There are good, important reasons to keep the policymaking process wide open to the public. When laws are made or regulations enacted, the public, the press, and all interested parties should be there, and should have a say. No one disagrees with that. Every policy that these agencies implement goes through that process. But after that public policy is made, it is critical that we allow it to be implemented in an efficient, effective, businesslike manner.

That requires good management, lots of teamwork, and lots of communication. House Bill 2506 would make that impossible.