

MINUTES OF THE SENATE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Roger Reitz at 9:30 a.m. on March 3, 2009 in Room 446-N of the Capitol.

All Committee members were present except:
Senator Carolyn McGinn- excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Noell Memmott, Committee Assistant

Conferees appearing before the committee:

Mike Kearns, Riley County Commissioner
Leon Hobson, P.E., Director of Public Works, Riley County
Eric Stafford, Associated General Contractors of Kansas

Other attending:

See attached list

The hearing opened on **SB 271 - Counties; certain contracts; bidding threshold increased**. Ken Wilke, revisor, reviewed the bill relating that it would make an exemption on contracts for county expenditures when an emergency is based upon public health, safety and welfare.

Mike Kearns, Board of Riley County Commissioners, spoke in favor of **SB 271 (Attachment 1)**. Leon Hobson, P.E., Director of Public Works, Riley County also spoke in favor of the bill (**Attachment 2**). They both related an incident of severe flooding at the jail, which would have proved to be an extreme problem in repairing, if they had to let the project for bids. In this instance their insurance covered the damages.

Eric Stafford, Associated General Contractors of Kansas, spoke in opposition to **SB 271 (Attachment 3)**. He questioned why counties need the exemptions referred to in the bill. He thinks their reasoning is vague and open-ended.

The Committee discussed several points and had questions that will be addressed at the next meeting.

The hearing was closed.

SB 257 - Requirements for public improvements by cities outside of city limits. Mike Heim, revisor, reviewed the bill. He suggested striking a portion on page 2 dealing with petitions that has no bearing on the bill.

The bill was discussed.

Ralph Ostmeyer moved to move SB 257 out of Committee as amended. Mike Peterson seconded the motion. The motion carried.

The next meeting is scheduled for March 9, 2009.

The meeting was adjourned at 10:30 a.m.

LOCAL GOVERNMENT GUEST LIST

DATE: March 3, 2009

NAME	REPRESENTING
Mike Kearns	Riley County Commission
Leigh Keck	Hein Law Firm
LEON HOBSON	RILEY COUNTY
Scott Heidner	ACEC of KS
Eric Skifford	AGC of KS



BOARD OF COMMISSIONERS

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February 26, 2009

The Honorable Roger Reitz, Chairman
Senate Committee on Local Governments
Statehouse, Room 446-N
Topeka, KS 66612

RE: Hearing on S.B. 271

Dear Mr. Chairman and Members of the Committee:

On behalf of the Riley County Commissioners, I urge this Committee to act favorably on S.B. 271. During the summer of 2008 a tornado ripped through Manhattan, Kansas, doing millions of dollars in property damage. Luckily, there were no fatalities. However, this Board believes it served as an important warning to Riley County government.

Under the current form of the statute amended by S.B. 271, K.S.A. 19-214, counties are required to obtain competitive bids for construction of any "county building" in excess of \$25,000.00. The problem our tornado brought home is that future destruction of, or even significant damage to, any county building in such a natural disaster could easily exceed \$25,000.00.

It seems reasonable to us to add an exception to this statute's competitive bidding requirements, if the Commission declares an emergency based on "public health, safety and welfare."

Without such an exception, had Riley County public buildings been destroyed or damaged in an amount over \$25,000.00 by the described tornado, rebuilding (even to our jail) would have had to wait on completion of competitive bidding. Such a delay would not have been in the public interest.

Thank you for giving us the opportunity to speak on behalf of S.B. 271. We encourage you to pass it as presented.

Sincerely,

A handwritten signature in blue ink that reads "Alvan D. Johnson".

Alvan D. Johnson, Chairman
Board of Riley County Commissioners

cc: Riley County Commission:
Mike Kearns, Member
Karen McCulloh, Member

Senate Local Government

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Attachment 1



PUBLIC WORKS

110 Courthouse Plaza
Manhattan, Kansas 66502
Phone: 785-537-6330
Fax: 785-537-6331

March 2, 2009

The Honorable Roger Reitz, Chairman
Senate Committee on Local Government
Statehouse, Room 446-N
Topeka, Kansas 66612

Re: Hearing on Senate Bill 271

Dear Mr. Chairman and Members of the Committee:

Riley County would urge this Committee to act favorably on Senate Bill 271.

Prior to the enactment of Senate Bill No. 485 in 2008, K.S.A. 19-214 addressed only the "construction" of county buildings. Senate Bill No. 485 now has defined "building construction" as furnishing labor, equipment or materials not just for the initial construction, but also for "renovation", "repair" and "maintenance." This bill contains a \$25,000 threshold requiring a public letting of all such projects "for the construction of any courthouse, jail or other county building." Senate Bill No. 485 effectively changed K.S.A. 19-214's definition of "construction" of county buildings in a manner which can have a very detrimental effect on a County's ability to restore services within a building during emergency situations.

Riley County faced this dilemma during the summer of 2008 when the mechanical room in our Law Enforcement Building was flooded with about 4 feet of water. The buildings electrical panels, telephone equipment, boilers, fire suppression controls, HVAC controls and other equipment are located in this room.

Needless to say this incident caused severe damage to several major building components which exceeded the \$25,000 threshold. It was imperative the necessary repairs be made quickly to minimize the disruption to the operations and security of the building.

Not only did the required time for notice prior to a competitive letting create an issue but also the timeframe to develop complex specifications would have been excessive. An example of this was the replacement of the components in the electrical panel. It was important the electrical service to the jail, 911 communications and radio dispatch went uninterrupted. The contractor was finally able to accomplish this by utilizing a series of generators and connecting them into the electrical circuits at strategic locations. This task also required the coordinated efforts of the manufacturer, contractor and multiple county departments. It would have been an almost impossible task for county staff to develop specifications to adequately describe this solution.



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Attachment 2

In this particular incident, Riley County was able to formalize a lawful means to proceed quickly with the necessary repairs and complete the equipment replacement by having the bills paid directly by the Insurance Company. Under many circumstances, this option will not be available.

Buildings have critical equipment with replacement values over \$25,000. If a boiler fails in the middle of the winter or a cooling tower needs replaced during the cooling season, we do not have the luxury of utilizing the competitive bid process. These types of replacements/repairs need to be accomplished as soon as possible. Any time necessary to develop specifications and the utilization of the competitive bidding process would result in the closure of the building and further disruption of services.

These are only a few examples where K.S.A. 19-214 requirements during an emergency situation will preclude a County from restoring a facility in a timely manner. I do not believe these requirements serve the general public well.

In Section 8 (b) of Senate Bill No. 485 from the 2008 session, the current statute (K.S.A. 68-521) provides exceptions from competitive bidding requirements for roads. It would then seem reasonable to allow competitive bidding exceptions for county buildings.

Senate Bill 271 proposes an exception to the competitive bidding requirements. This bill would require the Board of County Commissioners to declare an emergency based on "public health, safety and welfare" before the exception could be utilized. Such a declaration would waive the competitive bidding process and allow Counties the ability to react quickly and efficiently in rectifying the situation. In most cases, Riley County would prefer to use a competitive bid process; however there are times when you just have to get the job done.

Thank you for allowing me the opportunity to speak on behalf of Senate Bill 271. Your support of this bill is appreciated.

Respectfully submitted,



Leon Hobson, P.E.
Riley County
Director of Public Works



Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE SENATE COMMITTEE ON LOCAL GOVERNMENT
SB 271**

March 3, 2009

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Director of Government Affairs for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas opposes Senate Bill 271 and asks that you do not recommend it favorably for passage.

SB 271 adds an exemption for counties from awarding projects in excess of \$25,000 through public letting to the lowest responsible bidder "when an emergency based upon public health, safety and welfare is declared by the board of county commissioners."

AGC maintains a strong position that in order to protect the public trust and keep a fair, open and objective process, the design-bid-build or "low bid" procurement method should be the first method for publicly financed projects.

Last year, AGC agreed with a request from the counties to increase the threshold for which projects must be let to the lowest and best bid from \$10,000 to \$25,000. Additionally, AGC of Kansas worked with the counties to pass SB 485, which allows county projects to utilize alternative delivery procurement methods such as CM at-risk and Design Build. AGC feels with these changes, there is enough flexibility for counties to choose the proper procurement method for a project.

AGC questions when a project would need to be exempt from the bidding statutes in order to expedite a construction project. How would a contractor be selected? Where specifically are the delays coming from- are they from the bidding statutes themselves or are internal procedures causing delays?

Again, the AGC of Kansas respectfully requests that you do not recommend SB 271 favorably for passage.

Thank you for your consideration.

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Attachment 3