

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on February 16, 1993 in Room 521-S of the Capitol.

All members were present.

Committee staff present: Michael Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Willie Martin, Sedgwick County Commission
Representative Walker Hendrix
Representative Elaine Wells
Bev Bradley, Kansas Association of Counties

Others attending: See Guest List, Attachment 1.

The Chairman called the meeting to order. She stated that in visiting with committee members individually and with committee officers, it is the consensus of opinion that there still is concern about **HB 2103** (concerning emergency medical services and Do Not Resuscitate Orders); that possibly it could be passed out of committee on a close vote but there would be a risk of losing it in the House. After considerable discussion, the members agreed to invite the Silver Haired Legislature to study the issue and present its conclusions and recommendations to the 1994 Legislature. A copy of the Committee's latest amendments to the bill was distributed to each member and entered into record (see Attachment 2).

Chairman Brown then opened the hearing on **HB 2405**, concerning counties and sale or disposition of property. Willie Martin, representing the Sedgwick County Commission, spoke in favor of the bill (see Attachment 3) which would give the county commission flexibility by extending the statutory requirements for disposal or sale of county property so that if the bid process fails, the commission would have the option to arrange a private sale. Cities already have the authority to set their policy for sale of property, including the option for private sale. Ms. Martin stated there are occasions when the Sedgwick County Commission offers county property for sale through the presently authorized bid process only to have no valid bids received. Rather than having to repeat the bid process, **HB 2405** is recommended in order to speed up disposal of such property.

The Chairman then opened the hearing on **HB 2149**, concerning counties and sale or disposition of county property. Representative Walker Hendrix appeared in support of the bill. The bill would amend K.S.A. 19-211 to create a threshold for public notice to dispose of county-owned property with a value not to exceed \$5,000. The bill's language is exactly the same as that enacted several years ago, except for the smaller dollar threshold. Representative Hendrix distributed testimony of the bill's sponsor, Representative Lawrence (see Attachment 4).

Chairman Brown then opened the hearing on **HB 2169**, concerning county road projects and contracts. Representative Walker Hendrix, testifying in support of the bill, distributed Representative Doug Lawrence's testimony (see Attachment 5). Representative Lawrence is sponsor of the bill.

The Chairman then opened the hearing on **HB 2318**, sponsored by Representatives James Lowther and Elaine Wells. The bill concerns the sale of county property valued at less than \$1,000. Representative Wells appeared to testify in support of the bill (see Attachment 6). She also distributed written testimony of Representative Lowther (see Attachment 7) and of Lyon County Counselor Philip Winter (see Attachment 8), both in support of the bill.

Bev Bradley, of the Kansas Association of Counties, presented the Association's testimony on **House Bills 2149, 2248, 2318, and 2405** just discussed (see Attachment 9).

There being no other proponents or opponents present to testify on **House Bills 2405, 2149, 2169, and 2318**, the hearings were closed.

The Chairman then opened the hearing on **HB 2248**, concerning transfer of certain land owned by counties.

Chairman Brown announced that Representative Correll was unable to appear today; so she asked Theresa Kiernan (of the Revisor's Office) to explain the bill's provisions. Chairman Brown announced that the hearing on the bill will be left open to allow Representative Correll to testify.

Chairman Brown appointed Representative Hayzlett, as Chairman, and Representatives Mays, Welshimer and Wootton as a sub-committee to meet with staff members and report back as quickly as possible with their recommendations to incorporate the various recommended amendments to **House Bills 2149, 2169, 2318 and 2405**.

The Chairman distributed a revised committee action report and reminded members to feel free to consult with her concerning any bills assigned to the committee.

The meeting was adjourned at 2:35 p.m. The next meeting is scheduled at 1:30 p.m., February 17, 1993, in Room 521-S of the State Capitol.

16,

[illegible]

HOUSE BILL No. 2103

By Committee on Local Government

1-22

8 AN ACT concerning emergency medical services; relating to do not
9 resuscitate orders; amending K.S.A. 65-6124 and repealing the
10 existing section.

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

12 Section 1. K.S.A. 65-6124 is hereby amended to read as follows:

13 65-6124. (a) No person licensed to practice medicine and surgery or
14 registered professional nurse, who gives emergency instructions to
15 a mobile intensive care technician, emergency medical tech-
16 nician-defibrillator or emergency medical technician-interme-
17 diate during an emergency an attendant, shall be liable for any
18 civil damages as a result of issuing the instructions, except such
19 damages which may result from gross negligence in giving such
20 instructions.

21 (b) No mobile intensive care technician, emergency medical
22 technician-defibrillator or emergency medical technician-inter-
23 mediate attendant who renders emergency care during an emer-
24 gency pursuant to instructions given by a person licensed to practice
25 medicine and surgery or a registered professional nurse shall be
26 liable for civil damages as a result of implementing such instructions,
27 except such damages which may result from gross negligence or by
28 willful or wanton acts or omissions on the part of such mobile
29 intensive care technician, emergency medical technician-defib-
30 rillator or emergency medical technician-intermediate attendant
31 rendering such emergency care.

32 (c) No person certified as an instructor-coordinator shall be liable
33 for any civil damages which may result from such instructor-coor-
34 dinator's course of instruction, except such damages which may result
35 from gross negligence or by willful or wanton acts or omissions on
36 the part of the instructor-coordinator.

37 (d) No medical adviser who reviews, approves and monitors the
38 activities of attendants shall be liable for any civil damages as a result
39 of such review, approval or monitoring, except such damages which
40 may result from gross negligence in such review, approval or
41 monitoring.

42 ~~(e) In the event of a person's acute cardiac or respiratory arrest.~~

ATTACHMENT 2-1
2-16-93

1 ~~no health care provider or attendant, who in good faith causes or~~
2 ~~participates in the withholding or withdrawing of cardiopulmonary~~
3 ~~resuscitation pursuant to a do not resuscitate order shall be subject~~
4 ~~to criminal or civil liability or be found to have committed an act~~
5 ~~of unprofessional conduct.~~

6 ~~As used in this section, a do not resuscitate order shall be signed~~
7 ~~by the person making the order, or by another person in the presence~~
8 ~~of the person making the order and by the expressed direction of~~
9 ~~the person making the order, and:~~

10 ~~(1) Signed in the presence of two or more witnesses at least 18~~
11 ~~years of age neither of whom shall be the person who signed the~~
12 ~~order on behalf of and at the direction of the person making the~~
13 ~~order, related to the person making the order by blood or marriage,~~
14 ~~entitled to any portion of the estate of the person making the order~~
15 ~~according to the laws of intestate succession of this state or under~~
16 ~~any will of the person making the order or codicil thereto, or directly~~
17 ~~financially responsible for the medical care of the person making~~
18 ~~the order; or (2) signed by the person's attending physician.~~

19 ~~A health care provider or attendant whose decision about the~~
20 ~~validity of the signed do not resuscitate order is made in good faith~~
21 ~~is not subject to criminal or civil liability, or discipline for unpro-~~
22 ~~fessional conduct with respect to that decision.~~

23 ~~Sec. 2. K.S.A. 65-6124 is hereby repealed.~~

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

See attached.

ATTACHMENT 2.2
2-16-93

86-91-2 - 8-2 ATTACHMENT 2-2
(e) In the event of a person's acute cardiac or respiratory arrest and if presented with a do not resuscitate order or a medical directive, no health care provider or attendant who causes or participates in the withholding or withdrawing of cardiopulmonary resuscitation pursuant to such do not resuscitateⁿ order or medical directive shall be subject to criminal or civil liability or be found to have committed an act of unprofessional conduct.

A health care provider or attendant whose decision about the validity of the signed do not resuscitate order or medical directive is made in good faith is not subject to criminal or civil liability, or discipline for unprofessional conduct with respect to that decision.

When used in this subsection, "do not resuscitate" order means:

(1) A written instruction to withhold or withdraw cardiopulmonary resuscitation. Such instruction shall comply with the provisions of section 2; or

(2) a living will executed in accordance with the provisions of K.S.A. 65-28,103, and amendments thereto; or

(3) instructions by a durable power of attorney for health care decisions executed in accordance with the provisions of K.S.A. 58-629, and amendments thereto.

(f) No employer of an attendant who renders emergency care under the provisions of this act or withholds or withdraws cardiopulmonary resuscitation pursuant to a do not resuscitate order shall be liable for civil damages as a result of the attendant's rendering such emergency care or withholding or withdrawing cardiopulmonary resuscitation, except for such damages which may result from gross negligence, or from willful or wanton acts or omissions on the part of the attendant rendering such emergency care.

New Sec.2 A do not resuscitate order shall be in substantially the following form: (See attached)

PRE-HOSPITAL DNR REQUEST FORM

An advanced request to Limit the Scope of Emergency Medical Care

I, _____, request limited emergency care as herein
(name)
described.

I understand DNR means that if my heart stops beating or if I stop breathing, no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will not prevent me from obtaining other emergency medical care by pre-hospital care providers or medical care directed by a physician prior to my death.

I understand I may revoke this directive at any time.

I give permission for this information to be given to the pre-hospital care providers, doctors, nurses, or other health personnel as necessary to implement this directive.

I hereby agree to the "Do Not Resuscitate" (DNR) order.

Signature

Date

Witness

Date

REVOCATION PROVISION

I hereby revoke the above declaration.

Signature

Date

I AFFIRM THIS DIRECTIVE IS THE EXPRESSED WISH OF THE PATIENT, IS MEDICALLY APPROPRIATE, AND IS DOCUMENTED IN THE PATIENT'S PERMANENT MEDICAL RECORD.

In the event of an acute cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated.

Physician's Signature*

Date

Address

Facility or Agency Name

ATTACHMENT 2-4
2-16-93

ATTACHMENT 2-5 2.16.93

*Signature of physician not required if the above-named is a member of a church or religion which, in lieu of medical care and treatment, provides treatment by spiritual means through prayer alone and care consistent therewith in accordance with the tenets and practices of such church or religion.



SEDGWICK COUNTY, KANSAS

INTERGOVERNMENTAL RELATIONS

WILLIE MARTIN

COUNTY COURTHOUSE • 525 N. MAIN • SUITE 315 • WICHITA, KANSAS 67203 • TELEPHONE (316)383-7552

TO: HOUSE LOCAL GOVERNMENT COMMITTEE

FROM: WILLIE MARTIN
SEDGWICK COUNTY

DATE: FEBRUARY 16, 1993

SUBJ: HOUSE BILL 2405

Madam Chair and members of the committee, I am Willie Martin representing the Sedgwick County Board of Commissioners.

I appreciate the introduction of House Bill 2405 and the opportunity to testify in support of it.

House Bill 2405 amends K.S.A. 1992 supplement 19-211. It provides County Commissions with some flexibility in the disposal or sale of county property after they have first followed statutory requirements.

Kansas Statutes require that when the Board of County Commissioners declares a piece of property to be surplus to the needs of the County, they adhere to the following procedures.

1. The Board publishes note of the proposed sale once each week for three consecutive weeks in the official newspaper of the County.
2. The Board receives sealed bids to be opened at a public meeting. The Board reserves the right to accept or reject any or all bids.
3. If, within 45 days after the first publication of the notice of sale a petition is filed signed by no less than 2% of the qualified electors of the county, the Board may not sell or dispose of the real property until the proposition of sale or disposal is first submitted to a vote of the electors of the county.

ATTACHMENT 3-1
2-16-93

4. Upon acceptance of one of those bids, the property is sold to the highest and best bidder upon such terms and conditions as the board deems appropriate.

5. If a bid is accepted this ends the process.

On several occasions Sedgwick County has published notification of the sale of property and received no bids, or received bids which were unacceptable.

The legislation we request provides that if no bids are received, or the board rejects all bids, the board can arrange a public or private sale of the property through a realtor or any other means.

Currently, if after receiving no bids, the County were to negotiate or receive an acceptable offer at a later date they would still be required to repeat the bid process.

In the State of Kansas cities have the authority to establish their own procedures for the disposal or sale of property. To provide counties with flexibility in this same process is in the best interest of county government and their constituency.

We respectfully request your support of House Bill 2405.

ATTACHMENT 3-2
2-16-93

TESTIMONY
HOUSE LOCAL GOVERNMENT COMMITTEE

RE: HB 2149

THIS PARTICULAR LEGISLATION, ALSO EMANATES FROM THE EXPERIENCES OF COFFEY COUNTY IN CONNECTION WITH A GRAND JURY INVESTIGATION.

IT DEALS WITH THE STATE'S RESTRICTIONS ON DISPOSAL OR SALE OF COUNTY OWNED PROPERTY. SEVERAL YEARS AGO, THIS LEGISLATURE MADE SOME MAJOR REVISIONS IN THE STATUTES REGARDING DISPOSAL OF PROPERTY. THOSE STATUTES ESTABLISHED A NUMBER OF PROCEDURES COUNTIES MUST FOLLOW IN DISPOSING OF PROPERTY. ONE PARTICULAR PROVISION HAS LED TO SOME RATHER ODD INTERPRETATIONS, BUT APPARENTLY CORRECT.

CURRENT LAW SAYS THAT A COUNTY CAN DISPOSE OF PROPERTY VALUED AT LESS THAN 50-THOUSAND DOLLARS -- PROVIDED THAT THE COUNTY HAS PUBLISHED NOTIFICATION AT LEAST TWICE IN THE LOCAL NEWSPAPER. WHILE IN MANY CASES THIS SEEMS REASONABLE, THINK ABOUT DISPOSAL OF OLD TIRES WHICH MAY OR MAY NOT BE RECAPPED. A VALUE OF APPROXIMATELY 10 DOLLARS, IS CERTAINLY LESS THAN 50-THOUSAND DOLLARS. THIS PUBLICATION REQUIREMENT WOULD SEEM UNREASONABLE, YET, I CAN PROVIDE EXAMPLES OF INTERPRETATION OF THIS STATUTE TO REQUIRE PUBLICATION ON EVEN AN ITEM VALUED AT THIS SMALL AMOUNT.

ATTACHMENT 4
2-16-93

STATE OF KANSAS

Doug Lawrence

STATE REPRESENTATIVE
902 MIAMI
BURLINGTON, KS 66839



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE AND SMALL BUSINESS
ENERGY AND NATURAL
RESOURCES
TRANSPORTATION

TESTIMONY FEB 16, 1993
HOUSE LOCAL GOVERNMENT COMMITTEE

RE: HB 2169

THIS IS A BILL INTENDED TO CLEAN UP A DISCREPANCY IN CURRENT STATE LAW REGARDING BID REQUIREMENTS FOR COUNTIES ON ROAD PROJECTS. THIS DISCREPANCY CAME UP AS A RESULT OF A GRAND JURY INVESTIGATION AND INDICTMENTS INVOLVING OUR COUNTY HIGHWAY DEPARTMENT AND ACTIVITIES OF OUR COUNTY COMMISSION.

UNDER CURRENT STATE LAW, COUNTY COMMISSIONS MUST TAKE BIDS ON ANY COUNTY BRIDGE PROJECT WHICH IS EXPECTED TO EXCEED 10-THOUSAND DOLLARS. MOST BIDDING REQUIREMENTS USE A 10-THOUSAND DOLLAR THRESHOLD.

BUT, KSA 68-521 REQUIRES THAT BIDS BE TAKEN AT 5-THOUSAND DOLLARS AND ABOVE ON COUNTY ROAD PROJECTS. BESIDES THE ISSUE OF LACK OF CONSISTENCY, A QUESTION EXISTS AS TO WHERE A ROAD PROJECT ENDS AND THE BRIDGE PROJECT BEGINS. A SPECIFIC EXAMPLE IS GUARD RAIL ON THE APPROACH.

MY BILL SIMPLY MAKES THE BIDDING REQUIREMENT CONSISTENT WITH ALL OTHER TYPES OF CONSTRUCTION PROJECTS. THE INTENTION IS TO LIMIT THE UNINTENTIONAL VIOLATION OF STATE LAW, AND THE POTENTIAL FOR RATHER PECULIAR APPLICATION OF THE LAW IN SOME INSTANCES.

ATTACHMENT 5
2-16-93

STATE OF KANSAS

ELAINE L. WELLS
REPRESENTATIVE, FIFTY-NINTH DISTRICT
OSAGE AND NORTH LYON COUNTIES
R.R. 1, BOX 166
CARBONDALE, KANSAS 66414
(913) 665-7740

STATE CAPITOL
RM. 182-W
TOPEKA, KS 66612-1504
(913) 296-7637



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIR: GOVERNMENT ORGANIZATION
AND ELECTIONS
MEMBER: PUBLIC HEALTH AND WELFARE
JUDICIARY

TESTIMONY ON HB 2318

TO THE

HOUSE LOCAL GOVERNMENT COMMITTEE

FEBRUARY 16, 1993

Thank you Madame Chair for the hearing on this bill and for the opportunity to testify.

The concept presented in HB2318 was introduced to Rep. Lowther and myself from the Lyon Co. Board of Commissioners and the County Counselor. They requested that we introduce this legislation to assist them and other counties in alleviating a problem regarding the sale of county property which was of less value and of less importance than what the original intent of the law addressed.

The bill amends K.S.A. 1992 Supp. 19-211 to exclude county property valued at less than \$1000 to be publicized for sale or disposition. It allows the board to sell or dispose of this property without going through all the hoops that are required for more valuable property. In essence it allows local government to become more efficient with less red tape in their management decisions.

By eliminating the requirement to publish a notice in the official newspaper once a week for three consecutive weeks to sell or dispose of property that does not exceed \$1000, the county will be able to make more expedient decisions, and will save valuable time and tax dollars in the disposal or sale of such property.

Again, thank you for hearing this bill. I would be happy to try to respond to questions.

ATTACHMENT 6
2-16-93

STATE OF KANSAS

JAMES E. LOWTHER
REPRESENTATIVE, 60TH DISTRICT
LYON COUNTY
1549 BERKELEY ROAD
EMPORIA, KANSAS 66801



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: LEGISLATIVE POST AUDIT COMMITTEE
SUBCOMMITTEE CHAIRMAN: APPROPRIATIONS
MEMBER: EDUCATION
TAXATION

Before the House Local Government Committee
Tuesday, Feb. 16, 1993

Testimony in Support of 1993 House Bill 2318

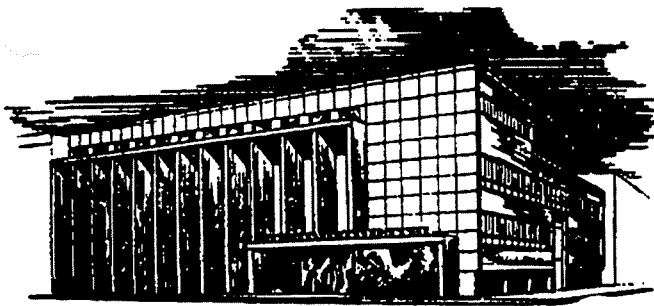
Rep. Jim Lowther

HB 2318 is intended to allow counties to dispose of small amounts of property more efficiently and effectively than is now possible under current law. As drafted the current law would continue only on property valued over \$1,000. Sale of property valued under \$1,000 could be sold without going through all the requirements including the expense of publishing a legal notice. This was called to my attention by the Lyon County Commission. They felt that a change would be helpful and save both time and money.

I apologize to the committee that I could not be here to testify in person due to a conflict in another committee. Because the Lyon County Counselor was involved in a court case, Rep. Wells and I asked that his testimony be faxed to the committee and she will present it.

We realize this is not a major change, but a small one that should be of help to all counties year in and year out as the need to dispose of small amounts of various types of property occurs. I respectfully ask for your favorable consideration of House Bill 2318.

ATTACHMENT 7
2-16-93



OFFICE OF THE
COUNTY COUNSELOR

LYON COUNTY COURTHOUSE

Phone (316) 342-4950 ext. 270

EMPORIA, KANSAS 66801

PHILIP E. WINTER
County Counselor

LINDA KNIGHT
Secretary

February 12, 1993

Representatives Elaine Wells and James Lowther:

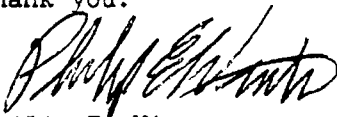
TESTIMONY CONCERNING HB 2318

The purpose of the amendment of K.S.A. 19-211 is so that the county governments could sell property, the value of which does not exceed one thousand dollars (\$1,000.00), without publication prior to such sale. Obviously, this will only apply to personal property. Subsections (c) and (d) cover disposition of any real property.

Lyon County, for a number of years, has conducted a yearly sale of its excess or surplus property that is not used any longer by the County and of course we give full notice of that particular sale. However, it seems that several times during the year, the question comes up of sale of county property which is usually for far less than a thousand dollars (\$1,000.00) in value. Due to the requirement of publication, quite often the property is not sold when we have the buyer, but is allowed to sit until the time of the county sale of the other property. Storage is certainly a problem for Lyon County, and the property in recent years that this has most often occurred on, is used electronic equipment of some sort. It would seem more logical to get the fifty dollars (\$50.00) or so for the sale of that property at that time, than it would to store the electronic equipment where the dust could get into it and damage the property and in fact be useless for sale. We, therefore, recommend that the statute be amended so that the county can sell property that does not exceed a thousand dollars (\$1,000.00) in value without that publication and the money be used to reduce the tax burden.

The only change this would create is that publication would not be required prior to sale of county personal property having a value of less than one thousand dollars (\$1,000.00). This would save the counties in the cost of publication, make for more frequent sale of property, and make for a faster return of proceeds of property not used for public purposes to the county treasury. At present it would seem that publication is required for all sales of county property no matter what the value.

Thank you.


Philip E. Winter
Lyon County Counselor

PW:dlr

ATTACHMENT 8
2-16-93



"Service to County Government"

1275 S.W. Topeka Blvd.
Topeka, Kansas 66612-1852
(913) 233-2271
FAX (913) 233-4830

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Vernon Wendelken
Clay County Commissioner
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Darrell Wilson
Saline County Sheriff
(913) 826-6500

Executive Director
John T. Torbert, CAE

To: Representative Nancy Brown, Chairperson
Members of the House Local Government Committee

From: Bev Bradley, Deputy Executive Director
Kansas Association of Counties

Re: HB 2149, 2248, 2318 and 2405

Thank you Representative Brown and members of the committee, for the opportunity to come before you today on behalf of the Kansas Association of Counties.

As you are aware, HB 2149, HB 2248, HB 2318 and HB 2405 would all amend the same statute, KSA 1992 Supp. 19-211. The Kansas Association of Counties is in support of some clarifying language that addresses the common problem of disposal of property at the county level.

The portion Of HB 2318 which says that if the value of the property does not exceed \$1000, notice by publication shall not be required prior to the sale or disposition of property which is no longer required or cannot prudently be used for public purposes would be helpful. The portion of HB 2405 listed as (b) on page 2 would also be beneficial to county governing boards in that it gives them the right to dispose of property upon which no bid is received without additional expense of further publication.

HB 2248 adds new section 2 which addresses a procedure for handling the conveyance of land owned by the county and sets up a series of determinations that must be made.

I understand a sub-committee may be considered to further study these measures and perhaps combine them. We would support that concept and would offer to help in any way possible.

Thank you for your time and consideration.

ATTACHMENT 9
2-16-93