

Approved: Al Ramirez 3-17-93  
Date

## MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on March 8, 1993 in Room 531-N of the Capitol.

All members were present except: Senator Bogina - Excused  
Senator Gooch - Excused  
Senator Papay --Excused

Committee staff present: Julian Efird, Legislative Research Department

Fred Carman, Revisor of Statutes  
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Norman Wilks, KS Assn of School Boards  
Harry Herington, League of KS Municipalities

Others attending: Leonard Hall, Olathe Attorney  
Brenda Eddy, KS Comm. for Deaf & Hard of Hearing  
Terry Leatherman, KCCI  
Jane Knight, Statewide ADA Coordinator

Chairman Ramirez called the meeting to order and stated that this was a continuation of the hearing on **SB 219**, interpreters for the deaf and hearing impaired. Mr. Leonard Hall and Ms Brenda Eddy were present to answer questions. The committee had their testimony from the previous hearing.

Chairman Ramirez called on Norman Wilks, Director of Labor Relations, Kansas Association of School Boards, to present his testimony in opposition to the bill as now written. (Attachment 1)

Mr. Wilks stated the concern with New Section 1 of the bill. The Association does not believe that based on the services being provided through the school districts and community colleges that new section one is a necessary and integral part of the bill. There is no position or objection to the remainder of the bill.

Mr. Wilks responded to the "undue burden" language by stating that this would, in effect, create another standard, not only the standard of ADA and the rules and regulations that are promulgated there, but the rules and regulations under 504 and the rules and regulations under special education for the handicapped. Now there will be a state interpretation of what undue hardship might be. Mr. Wilks stated that all the services to the deaf and hearing impaired that are seeking to be addressed in the bill are addressed through federal law and regulation.

What the bill actually addresses was discussed and if the bill was actually needed. The mention of the fact that an interpreter could be with a juror during a court case, but not be included in deliberation was commented upon.

Mr. Wilks stated that there are actually two policy questions addressed by the bill. The first in section one where it states where interpreters shall be provided. The second addressing registration and qualifications of interpreters.

Brenda Eddy, Executive Director, KCDHH, stated there are four basic components of the bill. The purpose of the bill being to update the language, and as long as this was being done it was thought appropriate to broaden the bill to parallel the ADA. The bill does not do anything more than the ADA already requires. She wanted to make it clear that there were no additional requirements. Ms. Eddy also stated that certification is not addressed in ADA. The term 'certified' is not used. The term 'qualified' is used. 'Qualified' is defined as an interpreter who is able to interpret effectively, accurately and impartially. A certified interpreter does not necessarily mean that the person is qualified in a designated situation, the reason being the language. She took for example one of the persons present at the first hearing on **SB 219**. That person utilizes American Sign Language for his communication mode.

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American Sign Language is a language all its own with its own structure and syntax. This requires an American Sign Language interpreter. In Ms. Eddy's situation she stated that her primary language is English. When she utilizes an interpreter she requires a signed English interpreter. There are variations of sign language being used in the field. These interpreters are certified in the language they are using. This is why certified does not mean qualified because they may not be able to communicate with a particular individual in a given situation. So the term 'qualified' means qualified for that individual's needs.

Leonard Hall stated that Section 1 (a), (b), and (c), are from current state law. Section 1 (d), (e), and (f) are directly from the ADA. Since 1972 an interpreter is required in many more situations than state law provides, that is why (d), (e), and (f) were provided.

It was commented by a member of the committee that what has been done has been to codify the state law to provide consistency, with (a), (b), and (c) currently being done under current state statute. Under the American Disabilities Act, Section 504 Code, it calls for additional conditions that are spelled out in (d), (e), and (f).

Mr. Hall said that it was attempted to keep (d), (e), and (f) simplified, because the ADA language runs over 20 pages.

It was commented that a major stumbling block appears to be the 'undue burden' language.

Mr. Hall responded that ADA states that if there any provision of the ADA causes an undue burden or hardship on a business or educational institution than there is an exception such as undue expenses.

Ms. Eddy stated that when the overall scope of the program is looked at and the cost to operate it, a \$40 cost for an assignment is going to be hard to justify as an undue burden.

Mr. Hall stated the other thing was availability. If a person is in the middle of Western Kansas, the closest interpreter might be 60 miles away. Availability and the undue expense involved in a particular circumstance makes for a case-by-case determination.

Ms. Eddy stated that it is a rare situation where the deaf individual would have to pay for an interpreter. In most cases an agency will provide an interpreter under Sec. 504.

Mr. Carman, Revisor, directed attention to page 2, line 2, where clarifying language could state, 'deaf, hard of hearing, or speech impaired' before the word person would help the bill.

Mr. Hall stated that a major problem across Kansas is that an interpreter is not going to be provided because the parties concerned think it is not covered by state law. It is covered in ADA, Section 504, but, unfortunately, what happens is that by the time the parties find out it is federally required, it is too late to help that particular individual.

Jane Nye, Statewide ADA Coordinator, was present and stated that wherever the person is needed, that agency or business owner or establishment determines whether or not it is an undue burden.

It was commented that if this was the case, a person might object and go to the Human Rights Commission where there already is a backlog of cases.

It was stated that under ADA, the business, agency, or other entity has the responsibility of paying.

After several further comments, the Chairman called on the next conferee.

Harry Herington, League Attorney, The League of Municipalities, spoke in opposition to **SB 219**. Mr. Herington prefaced his remarks by saying that this legislation is stricter than federal law in that it calls for certified interpreters as versus qualified interpreters. Mr. Herington read from his testimony (Attachment 2) which stated the League's position that **SB 219** would be another of an ever growing number of unfunded state mandates imposed on local governments. The League is not opposing any legislation that would secure the rights of handicapped individuals. Mr. Herington expressed concern over the impact this legislation might have on municipal law enforcement. Mr. Herington is a former law enforcement officer, and spoke of having to use anything at his disposal to communicate with a deaf individuals or individuals who spoke a different language. He used paper and pen, family members, friends, or anyone who was present at a scene to determine injuries, accomplices or current dangers. The League would request language under New Sec. 1

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(c), to limit to interrogations or the taking of written statements at law enforcement agencies and not on the street. Mr. Herington closed his testimony with the request that the committee consider the financial impact the mandate would have on local governments and the possible limitations that would be placed on law enforcement officers.

Mr. Herington stated that they will comply with any state and federal law, but are asking for help with regard to mandates that are not affordable and the hampering of law enforcement efforts. Mr. Herington stated that many times when state law is written to conform to federal law, additional requirements are put in and confusion reigns. Many elements turn it into a different situation. In response to a member of the committee, Mr. Herington said he would have no problem with referencing the federal act.

One of the committee members read K.S.A. 75-4351(e).

Mr. Hall stated that they encourage all interpreters to be registered, whether they are certified or not, if they can meet the qualifications.

Terry Leatherman, KCCI, made several comments. He said the Kansas act against discrimination through the Human Rights Commission has enforcement authority. This bill provides additional enforcement authority of court action on top of anything else that is in state law. There appears to be a couple of things in the bill that are beyond federal ADA. As far as KCCI is concerned, the main concern is with Sec. 1(f). In answer to one of the questions from a committee member, Mr. Leatherman commented that it is the employer who pays for that accommodation to an employee. Mr. Leatherman also said there are concerns with the Kansas Act Against Discrimination because it seems to have a lower employee threshold than the federal ADA. If the decision would be to codify the ADA, it would in essence be providing perhaps less rights to the hearing impaired than in the Kansas Act.

Chairman Ramierz stated that **SB 268** was on the agenda for tomorrow and adjourned the meeting.

The next meeting is scheduled for March 9, 1993.

## GUEST LIST

COMMITTEE:

DATE:

[illegible]





Testimony on S.B. 219  
before the  
Senate Committee on Governmental Organization  
by  
Norman Wilks, Director of Labor Relations  
Kansas Association of School Boards

March 8, 1993

Mr. Chairman and Members of the Committee:

On behalf of the members of the Kansas Association of School Boards, we wish to express our opposition to the passage of S.B. 219 as it is now written.

Schools now provide services to their students and public as required by the Americans With Disabilities Act, Section 504 of the Civil Rights Act and state and federal laws governing special education services. New Section 1 creates another requirement for services and further determines that a qualified interpreter is the best method to meet the needs of the deaf, hard of hearing or speech impaired person.

Schools now must make reasonable accommodation to allow participation in school activities and provide related services to allow effective participation in the educational program.

Our concern is with New Section 1 and related sections and not the qualifications of an interpreter. S.B. 219 increases problems for schools in meeting the needs of the deaf, hard of hearing or speech impaired rather than increase services.

*G.O. - Committee  
Attachment 1  
3/8/93*



**THE LEAGUE  
OF KANSAS  
MUNICIPALITIES**

**Municipal  
Legislative  
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: Senate Committee on Governmental Organization  
FROM: Harry Herington, League Attorney  
DATE: March 8th, 1993  
RE: Testimony Opposing SB 219

I appreciate the opportunity to appear on behalf of the League of Kansas Municipalities to express our opposition the passage of SB 219 requiring certified interpreters during various governmental activities. It is the League's position that SB 219 would be another of an ever-growing number of unfunded state mandates imposed on local governments. During the League of Kansas Municipalities annual conference last October, the League's Convention of Voting Delegates issued the following policy statement:

**"We oppose the imposition of additional state-mandated functions or activities on local governments. State-mandated programs without state funding is contrary to the spirit of constitutional home rule. Any function or activity deemed of sufficient state-wide concern or priority to justify its required local performance should be fully financed by the state on a continuing basis."**

The league is not here today to oppose legislation that would secure the rights of handicap individuals, but to request that the committee be cautious before they pass any legislation that could have a major financial impact on local government. SB 219 would mandate that municipalities provide certified interpreters whenever a person is deaf, hard of hearing or speech impaired and are involved with a city activity, arrested or are to appear in court. This act would authorize a state commission to determine the fees of such interpreters, but does not address how the cities are to pay this cost. The league submits that it is fundamentally unfair to impose these costs upon local governments without providing the appropriate means for raising the revenue necessary to comply with this act. The league requests that state funding be provided or in the alternative, that this act be exempt from the state imposed tax lid.

The league is also concerned with the impact SB 219 might have on municipal law enforcement. It is unclear at what point in time a law enforcement officer would have to secure an interpreter in order to question a suspect in a crime. As a former police officer, I know first hand that time is often not a luxury available on the street. Often an officer must use whatever

*G.O. Committee  
Attachment 2  
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means are at his disposal to determine injuries, accomplices or current dangers. I have had to use paper and pen, family members or other persons present to make these determinations and I would be concerned if this opportunity would be eliminated or severely hampered. If an officer has arrested a deaf person for a crime and that persons wants to communicate with the officer about other accomplices or dangers and is able to read and write English, I would hope that this opportunity would not be lost. The league would request that language under New Sec. 1 (c), which requires the securing of a qualified interpreter "when such person is arrested for an alleged violation of a criminal law of the state or any city ordinance;" be amended to limit the requirements of this act to interrogations or taking of statements from a suspect that occur at a law enforcement agency.

In closing, the League requests that the committee consider the financial impact this mandate would have on local governments and the possible limitations that would be placed on law enforcement officers. Thank you.