

Approved: 3-16-94
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Marvin Smith at 9:00 a.m. on March 15, 1994 in Room 521-S of the Capitol.

All members were present except: Representative Elaine Wells (E)
Representative Tom Bradley

Committee staff present: Carolyn Rampey, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Arden Ensley, Revisor of Statutes
Nancy Kippes, Committee Secretary

Conferees appearing before the committee:

Senator Todd Tiahrt
Susan Seltsam, Secretary of Administration
Bobbi Mariani, Division of Personnel Services, Department of Administration
Senator Pat Ranson
Bob Corkins, Kansas Chamber of Commerce and Industry
Bob Totten, Kansas Contractors Association
John Bartolac, Deputy Clerk, Johnson County
Karen France, Kansas Association of Realtors
Anne Smith, Kansas Association of Counties

Others attending: See attached list

Hearing on:

SB 672 - establishing the Kansas quality program, relating to state personnel.

Senator Todd Tiahrt provided written testimony in support of SB 672, pointing out that this bill adds to the KQM program a measurement system and an incentive for the action (Attachment 1).

Susan Seltsam, Secretary of Administration, testified in support of SB 672 and said this bill will add to the Kansas Quality Management to improve service to constituents through a process that will increase productivity and efficiency by utilizing the talents of each employee, enable the state to manage its financial, natural and human resources more effectively, and instill the highest ethical standards in state government. SB 672 provides quality awards to teams and individuals for Kansas Quality Program participation and it will institutionalize sound quality management principles and practices within state government (Attachment 2).

Bobbi Mariani, Division of Personnel Services in Department of Administration, appeared in support of SB 672, stating an incentive for employees tied to enhanced quality of state service is necessary (Attachment 3). With this new quality award program recognition would be given employees who take the initiative to make work improvements and they would be rewarded for implementing quality improvement ideas. This bill would give agencies the main responsibility for the program and the Department of Administration would develop broad guidelines with limitations on the amount or type of awards.

SCR 1626 - creates council on competitiveness.

Senator Pat Ranson testified in favor of SCR 1626 by providing some background on the bill as it was discussed in subcommittee. This is a recommendation that would increase the efficiency and effectiveness of state government, strengthen the role of the private sector, lead to cost savings and reduce the tax burden of Kansas citizens.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on March 15, 1994.

Bob Corkins, Kansas Chamber of Commerce and Industry, gave written testimony in favor of SCR 1626 (Attachment 4). He stated privatization is a major part of an effort to curb the growth rate of state spending. To incorporate private sector efficiencies into government you must have true governmental cost accounting and a privatization review board, both of which are emphasized in this bill. Attached to his testimony were results of a survey of the private sector to see what services and/or products it felt could be better provided by them than by government.

Bob Totten, Kansas Contractors Association, Inc., testified in support of SCR 1626, stating they feel the private industry can and should do many tasks presently performed by our local units of government (Attachment 5).

SB 753 - public official or agency who discloses information protected from criminal liability under certain circumstances.

John Bartolac, Deputy Clerk, Johnson County, stated public officials must be able to maintain open records to the public but protect the taxpayers from their names being used for solicitation without the threat of criminal charges. At the present time county clerks and other records custodians are required to have the requester sign an "Open Records Form" stating he understands that he is not to give or sell the information to anyone who will use it for prohibited purposes. There is currently penalty against the public official for this law being broken (Attachment 6).

Karen France Kansas Association of Realtors, provided testimony in support of SB 753 and said the task force with cities and counties which studied the Open Records Act agreed that public officials should not be subject to criminal penalties if they receive written certifications from requesters, stating the records would not be used for solicitation purposes other than those permitted by law (Attachment 7).

Anne Smith, Kansas Association of Counties, spoke in support of SB 753 because the elected official should not be the person penalized for the person taking the information and breaking the law.

Representative Cox made a motion to approve the minutes of the March 11, 1994 meeting as submitted. Representative Benlon seconded. The motion carried.

The meeting was adjourned at 10:20 a.m. The next meeting is scheduled for March 16, 1994.

GUEST LIST

COMMITTEE: House Governmental Organization & Elections DATE: 3-15-94

[illegible]

TODD TIAHRT
 SENATOR, 26TH DISTRICT
 1329 AMITY
 GODDARD, KS 67052
 316-794-8903
 STATE CAPITOL 143-N
 TOPEKA, KANSAS 66612-1504
 913-296-7367



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
 VICE CHAIRMAN: ASSESSMENT & TAXATION
 VICE CHAIRMAN: JOINT COMMITTEE ON COMPUTERS
 & TELECOMMUNICATIONS
 MEMBER: EDUCATION
 TRANSPORTATION & UTILITIES
 JOINT COMMITTEE ON
 LEGISLATIVE POST AUDIT

Thank you Chairman Smith and fellow legislators for the opportunity to testify in support of SB 672 Kansas Quality Program (KQP).

I would like to quote to you from the Kansas Quality Management (KQM) document dated 10/12/92

"Vision without action is merely dreaming. Action without vision is merely activity. Only when you combine Vision and Action do you bring about long-term change." Joel Barkes KQM 2:1

In Kansas state government in 1992 we captured a vision. We even documented it in the KQM document. What SB 672 contributes is the addition of a measurement system and an incentive for the action. Action that will come by demand from the workers in state government up to the Secretaries for the respective Departments.

The basis of KQM and KQP are not a new concepts. It is derived from the concepts brought forward by Dr. W. Edward Deming and his Total Quality Concept. It has two basic premises. First, that the customer defines needs and second, that everything is a process.

When one thinks of the state government bureaucracy it is sometimes hard to see who is the customer. But everyone in government has customers. Everyone delivers a service to someone. It may be a proof reader who has revisors and legislators for customers or it may be an SRS field representative who is working with foster children. Each have customers.

Dr. Deming's theory is you view everyone who you provide something to as a customer and therefore, the customer defines the needs. No longer is it the government worker defines the clients opportunity, it is the customer who defines the needs. This adds a new perspective to the state's workers and it gives them the opportunity to be innovative.

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Attachment 1

Another pillar in the Deming theory is that every work task can be broken down to a process. Receiving paperwork for drivers licenses and storing that information in a location so it can be retrieved is a process. Surveying highways and recording statistics for road maintenances work is a process. Before work can be improved one must understand the process by which it is currently being accomplished.

By stepping back from each task in state government and viewing each as a process, measurements can be established. Often these measurements are called metrics. One of the problems in any large organization has been, how do you measure progress. How do you know when you are doing better. Metrics provides that opportunity. This puts measurement systems in place.

What is interesting in this theory is that it will not work if you do not involve the people who actually do the job. And you won't involve the front line workers, if the management fears giving up control. SB 672 provides an incentive that will involve everyone, supervision as well as workers. It is a win-win piece of legislation.

Albert C. Hyde in his article in The Bureaucrat titled, "Rescuing Quality Measurement from TQM" Hyde argues that three things must be present to make a system like KQM work:

First, measurement systems must be in place.

Second, employees must be involved in the design stage.

Third, reform of the work should include redesigning the work, compensation, performance evaluations, training, and development systems.

The KQM program needs renewing. It needs a ground swell of support.

SB 672 will be the catalyst for that ground swell of support.

SB 672 provides for the development of a measurement systems.

KQM provides the structure to carry out the task of renewing the system.

SB 672 provides the financial incentive and reward system for workers.

Mr. Chairman, for these reasons and others I urge you and the members of this committee to favorably pass SB 672.



Todd Tiaht
State Senator

HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE

March 15, 1994

PRESENTED BY SUSAN SELTSAM
SECRETARY OF ADMINISTRATION

Mr. Chairman, members of the Committee:

I appreciate the opportunity to appear before you in support of Senate Bill 672.

This proposed legislation establishes the Kansas Quality Program that provides incentives and procedures to implement quality management in state government. This program would be based on Total Quality Management (TQM) principles, a management philosophy which has been successful in both the private and public sector.

I am pleased that the executive and legislative branches are parallel in setting goals to promote a more responsive, cost-effective government with involvement and decision-making from all levels of our state workforce.

Governor Finney's Executive Order 92-149 of January 1992, directed the implementation of Kansas Quality Management (KQM) within the executive branch. KQM is based on TQM principles tailored to meet the specific needs of Kansas state government. Kansas Quality Management will continuously improve service to constituents through a process that will:

1. Increase productivity and efficiency by utilizing the talents of each employee;
2. Enable the state to manage its financial, natural and human resources more effectively; and
3. Instill the highest ethical standards in state government.

The Executive Order established the Kansas Quality Management Council which consists of the heads of the five pilot agencies and is chaired by the Secretary of Administration. The Council provides coordination to implement and institutionalize KQM statewide.

The KQM Planning and Guidance Committee, which reports to the KQM Council, was established to formulate the state plan, goals and objectives, training materials and timeframe for implementation. The committee is chaired by the Governor's Office of Efficiency Management with representation and active involvement from the Division of Personnel Services and all agencies involved in KQM.

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Attachment 2*

Phase II of KQM Implementation began during Quality Month this past October. Presently, all cabinet agencies and the State Fire Marshall, the Lottery, the Board of Regents (central office) and the Water Office are at varying stages of KQM implementation. Phase III, beginning next October, will include other state boards, commissions, agencies and institutions.

A stipulation of the Governor's Executive Order is that KQM be implemented within current budget resources. With the assistance and guidance from the private sector, educational institutions and other state governments, KQM materials have been developed and are available at minimal cost. Those materials include: the KQM Guidebook; the Builder's Handbook (statistical and analytical tools); and the KQM Awareness, Team Member, Team Leader and Facilitator trainer guides. These materials ensure consistent statewide KQM implementation and training which facilitates cross-agency communication and teamwork.

KQM focuses on teamwork, processes, statistical and analytical tools, training, communication, and recognition and reward. KQM has made a concerted effort to balance teamwork with individual contributions to continuous quality improvement. Senate Bill 672 supports this effort by providing quality awards to teams and individuals for Kansas Quality Program participation.

Senate Bill 672 is important to the institutionalization of sound quality management principles and practices within state government. The bill supports current KQM efforts and provides for the continuation of quality management through changes in administration. I encourage your favorable consideration of Senate Bill 672.

Testimony To The
HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE

By
Bobbi Mariani
Division of Personnel Services
Department of Administration

Tuesday, March 15, 1994
RE: Senate Bill 672

I appreciate the opportunity to appear before you in support of Senate Bill 672. The proposed legislation establishes the Kansas Quality Program and provides incentives to recognize employees and teams for work process improvements in their agency operations. We also believe that an incentive for employees tied to enhanced quality of state service is necessary.

The state already has an employee suggestion award program that provides a financial award for employee ideas which result in improvements outside the employee's scope of responsibilities. In conjunction with quality efforts, agencies have requested a provision that would reward employees and teams who participate in quality improvements within their own work processes as well as outside of the scope of their responsibilities.

With this new quality award program, recognition would be given to employees who take the initiative to make work improvements and they would be rewarded for implementing quality improvement ideas. It will allow agencies to recognize employees both in teams or for independent efforts with meaningful but inexpensive awards such as mementos, symbolic awards, cash bonuses or other awards that are consistent with agency goals and objectives and the needs of the employees. Awards could be given in a way that would give employees visibility and recognition from their peers and would also promote and encourage participation in quality initiatives among more employees.

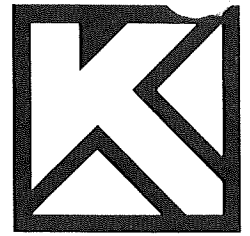
While Senate Bill 672 gives agencies the main responsibility for program, the Department of Administration would develop broad guidelines with limitations on the amount or type of awards. Agencies would be expected to provide for quality awards within their budgeted resources.

The proposed quality award program would enhance existing quality management efforts which recognize the importance of team and individual awards. Greater employee participation and involvement in quality initiatives will enhance the efficiency and effectiveness of state government operations. The people that know best how to improve processes are the individuals who are actually doing the job. All they need is the authority, responsibility and incentive to do so. We believe this bill provides such an incentive, will ultimately increase employee involvement and improve the overall quality of Kansas government.

We encourage your favorable consideration of Senate Bill 672.

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Attachment 3

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SCR 1626

March 15, 1994

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Governmental Organization & Elections

by
Bob Corkins
Director of Taxation

Mr. Chairman and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry, and I appreciate the chance to express our members' support for the Privatization Council proposed in SCR 1626.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Obviously the plan before you today is something short of substantive and immediate privatization legislation. The Senate Commerce Subcommittee has been grappling with this broad

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Attachment 4*

issue with much the same frustration as KCCI and others have in the past. The topic is so broad that it is very difficult to know where to begin.

Last spring KCCI announced its start of an important issue campaign which focuses on curbing the growth rate of state spending. Privatization is a major part of that effort. Our own bipartisan task force certainly had trouble in developing a specific strategy for incorporating private sector efficiencies into government, but eventually we agreed upon a couple of ideas which we think constitute a logical and fundamental approach.

In short, those ideas are: 1) true governmental cost accounting; and 2) a privatization review board. Both concepts are emphasized in SCR 1626. Both concepts also form common threads through the comments of private sector businesses.

At the request of the Senate Commerce Subcommittee, KCCI last month completed a survey of its membership asking for their feedback on this topic. Those survey responses are summarized in the enclosed material. Although the number of responses were not substantial (given the short time available for the survey) the types of businesses concerned were very diverse and we think they show an excellent cross-section of opinions.

Our first observation from this survey is the vast breadth of commercial activity which shows great promise for privatization. Given this complexity, KCCI concludes that problems created through government intrusion upon the private sector might best be handled on a case-by-case basis. Legislation proposed in previous years would have created a Privatization Review Board, giving that Board a reasonable measure of authority to resolve business/government disputes. We believe it is appropriate for the SCR 1626 Privatization Council to give this idea strong consideration.

The second major observation concerns generally accepted accounting principles. No analysis of the merits of any private production versus any government production can be accurate unless apples are compared to apples. The lack of government consideration of their basic economic cost factors (e.g. machinery depreciation, employee benefits, facilities' overhead costs, etc...) was mentioned numerous times in the survey responses enclosed.

This accounting issue is fundamental to all future privatization efforts. It is the amino acid for generating life into privatization. We believe the proposed Privatization Council would be well

advised to devote substantial time -- or even a majority of their time -- in developing accounting standards by which state agencies calculate the true cost of providing their services or programs.

The Privatization Council may not be an aggressive substantive step toward minimizing the size of government. However, the issue is exceptionally complex and we therefore need a strategic blueprint to guide future legislation. A special task force such as that proposed by SCR 1626 is probably the best way to provide that guidance.

Describe services and products now provided by government which you believe you could provide better. Be specific as to how and why.

1. Not aware of any. (automotive machining)
2. Asphalt paving: public works departments need not adhere to quality standards.
3. Poly plastic sheeting, acrylic safety glazing, industrial grade trash can liners: higher quality product; faster, cheaper, and more reliable shipping; 83 years experience.
4. [blank] (distributors)
5. Food service: quality service; customer driven; continuous improvement; efficient personnel management.
6. Telecommunications: government does not now provide it -- our industry supplies it to government.
7. Not aware of any. (pest management)
8. Computer sales to university students and faculty: private vendors offer more choice; generally lower price; far more technical support.
9. Landscape contracting (design, mowing, chemicals, irrigation, snow removal): greater flexibility in personnel management; these jobs can be large or small and are usually seasonal.
10. Water and waste water operations, meter reading, bill processing: management experience; strong customer focus; profit motive assures sensitivity to customers.
11. Landscaping, gardening: state, counties and cities grow their own trees and shrubbery, perform yard work, without considering alternative suppliers and cost.
12. Self-sufficiency instruction: more comprehensive; better client tracking; far less recidivism; resultant long term success rate superior to KAN-WORK and other SRS programs.
13. Rock crushing: cheaper than counties.
14. Construction and maintenance of roads, bridges, and easements: audits show counties cannot account for their costs.
15. Construction services: cheaper because of profit motive and better employee training.
16. Airline ticketing: cheaper because of profit motive and better employee training.
17. [blank] (banking)
18. Printing and photocopying: less expensive; faster; more efficient; government cost estimates do not account for all the factors ours must.
19. Construction: highways, roads, streets, asphalt production, hauling, excavation, grading, patching, curbing, sealing...etc.
20. None. (manufactured homes)
21. None. (automotive financial information services)
22. State printing; road and bridge privatization/turnpikes; prisons; water rights.
23. [blank] (vending machine service)
24. Information management systems (document processing, immunization tracking, office automation, criminal justice system, medicaid claim payment, managed care...etc): cost savings; reliability; manage risk; more flexibility; increase revenue collection; ensure better service delivery...etc.

Describe government services or products which you believe to be in direct competition with your business.

1. Not aware of any. (automotive machining)
2. Asphalt paving: Johnson County and City of Olathe public works each do at least some of their own paving.
3. Poly plastic sheeting, acrylic safety glazing, industrial grade trash can liners: not applicable.
4. [blank] (distributors)
5. Food service: privatization not suitable for all school districts; local employees are not displaced, just retrained to provide better service.
6. Telecommunications: not aware of any.
7. Not aware of any. (pest management)
8. Computer sales to university students and faculty: our retail business dropped 92% when university began Apple sales through bookstore; four local dealers have since closed due to campus sales.
9. Landscape contracting (design, mowing, chemicals, irrigation, snow removal): we would welcome the chance to bid for these services; confident our bid would be less than the city's and school district's true cost.
10. Water and waste water operations, meter reading, bill processing: private sector could compete in each of these areas if an accurate reflection of administrative and overhead costs were properly allocated.
11. Landscaping, gardening: City of Lawrence Forester was a landscape business using city workers.
12. Self-sufficiency instruction: many SRS programs are in direct competition with us; in a number of cases clients are enrolled in multiple programs, causing confusion and duplication.
13. Rock crushing: some counties perform this themselves.
14. Construction and maintenance of roads, bridges, and easements: when done by government, our business can't hire workers, pay more taxes or keep people employed.
15. Construction services: government encroachment in this area keeps growing; they imply greater efficiency; small business in particular would benefit from the contracting out of routine road maintenance.
16. Airline ticketing: cheaper because of profit motive and better employee training.
17. Banking: State Treasurers office competes with us for deposits of public funds; their advantage over us is that we must pay taxes; we don't believe funds held at the state level are used to develop local communities.
18. Printing and photocopying: state printing plant, KU printing service, and state, city and county owned copy centers are all in direct competition; these government services are generally provided at higher cost than could be obtained on the open market.
19. Construction: highways, roads, streets, asphalt production, hauling, excavation, grading, patching, curbing, sealing...etc, is normally done by governmental agencies with no competitive bidding.
20. None. (manufactured homes)
21. None. (automotive financial information services)
22. Public housing authorities, which we have sought to privatize for some time.
23. Vending machine contract preference for the blind: many awarded these contracts then subcontract to sighted people; most large vendors in the state are affected.
24. Information management systems: not aware of any.

Describe any obstacles imposed by government which you believe are preventing your business from acquiring a government contract.

1. Not experienced any. (automotive machining)
2. [blank] (asphalt paving)
3. Poly plastic sheeting, acrylic safety glazing, industrial grade trash can liners: not applicable.
4. Distributors: city government set up many procedural hurdles we had to satisfy to occupy our building.
5. Food service: the biggest obstacle is emotional; school employees fear loss of job, pay or benefits; administrators fear loss of control.
6. Telecommunications: regulations prohibit us from carrying long distance calls across area code boundaries, thus preventing us from bidding on that portion provided over the KANS-A-N network; as a regulated utility, our competitors have easy access to our rates and bids, allowing them to bid just slightly less.
7. Pest management: government requests disqualify alternative approaches; method-specified, or product-specified, isn't always the most effective or economical in the long term; government does not consider all relevant costs for various options.
8. [blank] (computer sales on universities)
9. Landscape contracting (design, mowing, chemicals, irrigation, snow removal): there have been only limited opportunities to bid.
10. Water and waste water operations, meter reading, bill processing: most municipalities ignore cash flow, reduced numbers of employees, equipment depreciation, and intangible improvements when comparing costs to private contractors.
11. Landscaping, gardening: never get a chance to bid on lots of the jobs or materials.
12. Self-sufficiency instruction: lack of government coordination is a great concern; duplication of services is running rampant; lack of interagency communication creates problem with obtaining vital information on available programs.
13. [blank] (rock crushing)
14. Construction and maintenance of roads, bridges, and easements: counties are not accountable for their costs; their records are inadequate; they should be better audited and should have to solicit bids on any purchase over \$10,000.
15. Construction services: anybody could improve upon the Shawnee County maintenance budget; all costs are not recognized and understood; workers comp. contributes to our problem because risks are exaggerated and companies are penalized instead of willfully at fault workers.
16. Airline ticketing: Carlson at Ft. Riley is given unfair advantage because they are given space at no cost and they do not have competitive pricing.
17. Banking: regulations preclude us from offering repurchase agreements (and hence a higher rate of interest) to government entities for their deposits; we can only offer them an FDIC insured account which entails a slight, but critical, additional cost for us.
18. Printing and photocopying: once government buys the capital equipment, its cost is no longer any concern; their cost studies always justify their existence.
19. Construction: when there is no competitive bidding, there is no specification, time schedule, cost accounting, or knowledgeable supervision.
20. None. (manufactured homes)
21. None. (automotive financial information services)
22. [blank] (real estate investment and management)
23. [blank] (vending machine service)
24. Information management systems: government performs an incomplete assessment of needs (or none at all); time consuming clarifications during request for proposal process; inadequate time for vendor preparation of proposals; undefined performance and service levels; fixed price with no allowance for unanticipated growth.

THE KANSAS CONTRACTORS ASSOCIATION, INC.



1923 - 1993

70

YEARS OF
EXCELLENCE

316 SW 33RD ST PO BOX 5061
TOPEKA KS 66605-0061
PHONE (913) 266-4152
FAX (913) 266-6191

TESTIMONY BEFORE
THE HOUSE GOVERNMENTAL ORGANIZATIONS COMMITTEE
REGARDING SCR 1626

Mr. Chairman and members of the House Governmental Organizations Committee thank you for this opportunity today to testify in support of Senate Concurrent Resolution 1626.

I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our trade organization represents more than 330 contractor and associate members in the heavy, highway and municipal utility construction industry.

The Kansas Contractors Association's support of Senate Concurrent Resolution 1626 runs deep and although we believe it does not go far enough on our concerns, it is a step in the right direction. We have sought in the past, legislation which would require accountability in our county road and bridge departments. It has not been successful although we have found that it is more expensive for local units of government to construct roads and bridges than our private construction firms.

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Attachment 5*

page two

Unfortunately, it has been a difficult task to either get this legislation passed or meet with all 105 counties and explain the merits of private construction methods.

We believe the passage of this measure will not only further our efforts but will also set up a mechanism which will show how much more efficient and cost effective it is for the private sector to handle normal road and bridge maintenance in our counties. In two separate accounting studies made in Saline and Shawnee County in the past two years, it has been shown our companies can construct roads and bridges more effectively and cheaper than what the respective counties can do right now.

This measure is supportive of that effort and we are pleased to see the resolution in final form. I urge you all to support this measure and any other privatization matters before you. We feel private industry can and should do many task presently performed by our local units of government. I thank you for your time today and I will try to answer your questions at this time.

TO: House Committee on Governmental Organization and Elections

FROM: Beverly L. Baker, County Clerk, Johnson County
Chairman, County Clerk's Legislative Committee
Represented by John Bartolac, Deputy Clerk

RE: Senate Bill 753

DATE: March 15, 1994

Thank you for hearing this bill and allowing me to testify.

The County Clerks and other records custodians have been placed in a difficult position regarding solicitation from the property and tax rolls. K.S.A. 45-220 prohibits selling or offering for sale any property or service to persons whose names were obtained from the tax roll. It also prohibits the requester of the information from giving or selling the information to a person who will use it for prohibited purposes.

Currently, records custodians require an "Open Records Form" to be signed by the requester stating he understands the law. We are asking that, with this document signed by the requester, the records custodian cannot be subject to criminal charges. Attorney General Opinion 87-137 states that a custodian must deny access if he reasonably believes it will be used for prohibited purposes and disclosure will subject the custodian to criminal charges.

We ask that if we have taken every precaution available to us, we cannot be liable for criminal charges.

Solicitation and sales leads are now big business and very valuable. A Class C misdemeanor and a \$500 fine is no deterrent to a national out-of-state corporation who wants the tax roll for mailing lists, etc.

Public officials must be able to maintain open records to the public but protect the taxpayers from their names being used for solicitation without the threat of criminal charges. Since general liability bonds do not cover officials in criminal proceedings, these actions must be defended by the official personally. This holds true for all officials.

We respectfully request that you add subsection (c) to Section 4 of K.S.A. 45-220.

Thank you.

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March 15, 1994
Attachment 6*

SENATE BILL No. 753

By Committee on Judiciary

2-10

8 AN ACT concerning crimes and punishment; relating to unlawful
9 use of names derived from public records; amending K.S.A. 21-
10 3914 and repealing the existing section.
11

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

13 Section 1. K.S.A. 21-3914 is hereby amended to read as follows:
14 21-3914. (a) No person shall knowingly sell, give or receive, for the
15 purpose of selling or offering for sale any property or service to
16 persons listed therein, any list of names and addresses contained in
17 or derived from public records except:

18 (1) Lists of names and addresses from public records of the di-
19 vision of vehicles obtained under K.S.A. 74-2012, and amendments
20 thereto;

21 (2) lists of names and addresses of persons licensed, registered
22 or issued certificates or permits to practice a profession or vocation
23 may be sold or given to, and received by, an organization of persons
24 who practice that profession or vocation for membership, informa-
25 tional or other purposes related to the practice of the profession or
26 vocation;

27 (3) lists of names and addresses of persons applying for exami-
28 nation for licenses, registrations, certificates or permits to practice
29 a profession or vocation shall be sold or given to, and received by,
30 organizations providing professional or vocational educational mate-
31 rials or courses to such persons for the sole purpose of providing
32 such persons with information relating to the availability of such
33 materials or courses; and

34 (4) to the extent otherwise authorized by law.

35 (b) Violation of this section is a class C misdemeanor.

36 (c) *The provisions of this section shall not apply to nor impose*
37 *any criminal liability or penalty upon any public official, public*
38 *agency or records custodian for granting access to or providing*
39 *copies of public records or information containing names and ad-*
40 *dresses, in good faith compliance with the Kansas open records act,*
41 *to a person who has made a written request for access to such*
42 *information and has executed a written certification pursuant to*
43 *subsection (c)(2) of K.S.A. 45-220 and amendments thereto.*

1 Sec. 2. K.S.A. 21-3914 is hereby repealed.

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



MEMBER

KANSAS COUNTY CLERKS' ASSOCIATION

1993
OFFICERS:

LINDA SCHREPPPEL
LABETTE COUNTY
PRESIDENT

JOAN DAVISON
RICE COUNTY
VICE PRESIDENT

OPAL HALL
STEVENS COUNTY
SECRETARY

ROSALIE SEEMANN
THOMAS COUNTY
TREASURER

DATE: MARCH 14, 1994

TO: HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS
COMMITTEE

FROM: LINDA SCHREPPPEL, PRESIDENT
KANSAS COUNTY CLERKS' ASSOCIATION

RE: SENATE BILL 753

On behalf of the clerks in the State of Kansas, I respectfully request your consideration to SB 753.

At the present time the law subjects public officials to criminal liability should a tax roll be used for commercial purposes, while imposing a \$500 dollar fine and a Class C misdemeanor to the offender. To large corporations, the fine is a minimal obstacle to greater financial gain and the public official is set up for criminal liability.

A public official has the right to deny access if he/she reasonably believes its use is designed for solicitation. The required form to access the property and tax rolls even requires the requester to sign that he/she understands the law. However, it is still a small hindrance to those who are determined to obtain the lists.

I am sincerely concerned about protecting the rights of taxpayers and the trust given to public officials, as is every public official.

Today, I genuinely submit that the addition to SB 753 would fairly protect public officials from criminal charges and allow them to successfully accomplish their job without threat of liability.

Thank you in advance for your consideration to the addition to Senate Bill 753!!!



Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611-2098
Telephone 913/267-3610
Fax 913/267-1867

TO: HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE
FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS
DATE: MARCH 15, 1994
SUBJECT: SB 753, PUBLIC OFFICIAL LIABILITY UNDER KORA

Thank you for the opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear today to support SB 753.

Last summer, we worked on a task force with the cities and counties which studied the Open Records Act. While all of us did not come to agreement on many issues, we did come to an agreement on the issue of liability for public officials who release public records.

We all agreed that public officials should not be subject to criminal penalties if they receive written certifications from requesters, stating the records would not be used for solicitation purposes other than those permitted by law.

Several of our members have run into problems getting access to public records, because local officials were concerned about the application of the existing law to them. We believe the current law has a chilling effect on the full access to public records which was intended when the Kansas Open Records Act was passed.

We urge your support for this bill.

*Devere Gout Deq & Elections
March 15, 1994
Attachment 7*