

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on March 3, 2011, in Room 144-S of the Capitol.

All members were present except:

Representative Otto - excused.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department

Eunice Peters, Office of Revisor of Statutes

Florence Deeter, Committee Assistants

Conferees appearing before the Committee:

Gary Rosewicz, Assistant County Engineer, Riley County

Clancy Holoman, Riley County Counselor

Melissa Wangemann, General Counsel & Director of Legislative Services, Kansas Association of Counties

Corey Peterson, Associated General Contractors of Kansas, Inc.

Others attending:

See attached list.

The Chairman opened the hearing on **SB 40 – Concerning counties; relating to bidding requirements on certain contracts.**

Staff Eunice Peters explained the bill, stating that it allows a county to repair or replace a county building without having to choose the lowest or best bid when the county commission has declared an emergency. She indicated that emergency is defined as severity of damage to the extent the facility is unsafe for its intended use.

Gary Rosewicz, Assistant County Engineer, Riley County spoke as a proponent of **SB 40**, stating that when repairs need to be conducted quickly, and the county is forced to use competitive bidding, time is of the essence in providing for the safety of those using public buildings (Attachment 1).

Clancy Hollman, Riley County Counselor, speaking as a proponent of **SB 40** indicated the compromise represented in the bill provides a reasonable balance for competitive bidding requirements (Attachment 2). He noted that the bill addresses only counties and does not include cities. Answering a question, Mr. Hollman said that 60 days is the approximate time frame for bid letting. He noted that the \$25,000 threshold, which was raised from \$10,000, provided important cost savings to the county for this specific emergency--a \$100,000 replacement of electrical equipment.

Melissa Wangemann, General Counsel and Director of Legislative Services, Kansas Association of Counties, indicated the agency supports the intent of **SB 40**, which includes an impartial method of selection of contractors for repairs of county buildings (Attachment 3). She indicated the bill also provides exception to the rule when emergency situations are apparent. Ms. Wangemann requested the committee consider the bill favorable for passage.

Corey Peterson, Associated General Contractors of Kansas, Inc., provided written testimony maintaining a neutral position on **SB 40** (Attachment 4).

Staff Eunice Peters answered a member's question pertaining to the adjustment of the money requirement. She noted that in 2008, **K.S.A. 2010 Supplemental 19-214**, was changed from \$10,000 to \$25,000 and language was inserted to include highways, roadways, turnpike-related structures and parking lots. She will provide additional information for the committee on Rep. Worley's question regarding cities and their bidding process at the next meeting.

The Chairman closed the hearing on **SB 40**.

The meeting was adjourned at 4:00 p.m. The next meeting is scheduled for March 8, 2011.



Public Works

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Manhattan, Kansas 66502
Phone: 785-537-6330
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March 3, 2011

The Honorable Steve Huebert, Chairman
House Committee on Local Government
Capitol Building, Rm. 149-S
Topeka, KS 66612

Re: S.B. 40

Dear Chairman Huebert and Members of the Committee:

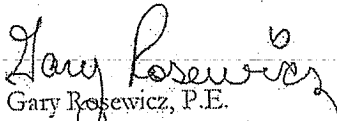
I appreciate the opportunity to offer my support of S.B. 40. I am the Assistant County Engineer for Riley County. I am a professional engineer licensed in the state of Kansas, with over 20 years experience in county engineering in this state.

In 2008, the Riley County Law Enforcement Center (which houses our jail, 911 Emergency Dispatch and Police Dept.) suffered extensive flooding in its basement. A backflow-prevention valve on the main waterline failed without warning. Flooding caused over \$100,000 in damage to a large electrical panel. In order to comply with the manufacturer's warranty for the panel, only one company was qualified to carry out the repairs. Repairs had to be made as quickly as possible due to the Riley County Police Department's concern about the continued safe operation of the jail and the continued functioning of the Department's communication system. Had we been forced to conduct competitive bidding, an inordinate amount of time would have been spent on preparation of specifications, bid documents and advertising. Public safety would have been put at risk during this delay.

Riley County, and other counties across the state, need the statutory change represented by S.B. 40. It will allow counties to make immediate emergency repairs when necessary without competitive bidding, but only when such immediate repairs are necessary.

Thank you for allowing me to speak to you today in support of S.B. 40.

Sincerely,


Gary Rosewicz, P.E.
Assistant County Engineer

cc: Board of Riley County Commissioners

House Local Government

Date 3-3-11

Attachment 1



COUNSELOR'S OFFICE

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Manhattan, Kansas 66502
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March 3, 2011

The Honorable Steve Huebert, Chairman
House Committee on Local Government
Capitol Building, Rm. 149-S
Topeka, KS 66612

Re: S.B. 40

Dear Chairman Huebert and Members of the Committee:

On behalf of the Board of Riley County Commissioners, I would like to offer my support of S.B. 40.

My client introduced what is now S.B. 40 during the 2009 legislative session. Because the Associated General Contractors of Kansas opposed the original language, my client negotiated compromise language with that association.

The compromise which S.B. 40 represents retains all existing competitive bidding requirements for repairs to county buildings and their equipment--except when a natural or man-made disaster causes damage to that building or equipment so extensive it cannot be used for its intended purpose.

I submit the compromise text of S.B. 40 represents a reasonable balance between legitimate private sector concerns that the vast majority of public construction contracts remain subject to competitive bidding requirements, and legitimate government concerns that, in a public emergency, repairs can be made to county buildings and their equipment as quickly as possible.

Thank you for allowing me to speak to you today in support of S.B. 40.

Sincerely,

Clancy Holeman
Riley County Counselor

cc: Board of Riley County Commissioners

House Local Government
Date 3-3-11
Attachment 2



TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES
TO THE HOUSE LOCAL GOVERNMENT COMMITTEE
MARCH 3, 2011
SB 40

Chairman Huebert and Members of the Committee:

Thank you for the opportunity to support SB 40.

Kansas law requires all contracts for county construction project costing over \$25,000 to be awarded to the lowest bid. We support the bidding process as a fair and impartial method of selecting contractors for county work; however, there are emergency situations where the time required for a bidding process does not accommodate the immediate need to remedy the emergency.

SB 40 allows repairs to the courthouse, jail or other county buildings and equipment when an emergency occurs that affects the health, safety and welfare of the public. The bill limits the ability of a county to avoid the traditional bidding process by including a definition of an "emergency." Only damage that is so severe it prevents the intended function of the building or equipment would allow a County to bypass the bid process.

The obvious purpose of SB 40 is to allow the county to move quickly to remedy the emergency situation and prevent harm to the public. We believe SB 40 creates a fair exception to the general rule of requiring bids for county projects, and ask that you support the legislation.

Respectfully Submitted,

Melissa A. Wangemann
General Counsel & Director of Legislative Services



Building a Better Kansas Since 1934

200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE LOCAL GOVERNMENT**

SB 40

March 3, 2011

By Corey Peterson, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Corey Peterson. I am Executive Vice President of 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 in Kansas (with the exception of Johnson and Wyandotte counties).

AGC of Kansas has a neutral position on Senate Bill 40.

AGC has opposed previous bills similar to SB 40, hoping to preserve the existing bidding laws. AGC places great value on the bidding laws pertaining to construction projects utilizing taxpayer money, with the goal of protecting the public trust. However, following discussions with Riley County that concluded with an agreement to add a paragraph that specifically defines "emergency," greatly limiting the scope of work that would be impacted, AGC has withdrawn its opposition.

Thank you for allowing AGC of Kansas to provide input on this bill.

House Local Government

Date 3-3-11

Attachment 4