

MINUTES OF THE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Roger Reitz at 9:30 a.m. on January 24, 2011, in Room 159-S of the Capitol. The minutes were approved.

All committee members present except:

Senator Pete Brungardt--excused  
Senator Oletha Faust-Goudeau--excused  
Senator Bob Marshall--excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes  
Jill Shelley, Kansas Legislative Research Department  
Reed Holweger, Kansas Legislative Research Department  
Noell Memmott, Committee Assistant

Conferees appearing before the Committee:

Clancy Holeman, Riley County Commissioner  
Melissa Wangemann, General Counsel & Director of Legislative Services

Others attending:

See attached list.

Chairman Reitz opened the floor for Bill Introductions. Senator Huntington proposed a bill clarifying a portion of the Homeowners Association Legislation. Senator Ostmeyer moved to hear the bill. Senator Kultala seconded the motion. The motion carried.

Senator Reitz proposed a bill relating to emergency repairs of county buildings and equipment. Senator Reitz moved to hear the bill. The motion was seconded by Senator Huntington. The motion passed.

Mike Heim introduced and reviewed, **SB 40-Counties; certain contracts exempt from bidding**, on how this would allow counties to repair county buildings and equipment, under certain conditions, without letting bids.

Clancy Holeman, Riley County Commissioner, testified in support of **SB 40 (Attachment 1)**. Melissa Wangemann, General Counsel & Director of Legislative Services, also testified in favor of the bill (Attachment 2). Written testimony in support of the bill was submitted by Karen McCulloh, Riley County Commission Chair (Attachment 3) and Gary Rosewicz, P.E., Assistant County Engineer (Attachment 4). There was no opposing testimony.

Senator Kelsey moved to pass SB 40 out of committee. Senator Ostmeyer suggested the committee refrain from voting until more members were present. Senator Kelsey withdrew his motion.

The next meeting is scheduled for Tuesday, January 25, 2011.

The meeting was adjourned at 9:50 a.m.

DATE: January 24, 2011

[illegible]



COUNSELOR'S OFFICE

115 N. 4<sup>th</sup> Street, 3rd Floor  
Manhattan, Kansas 66502  
Phone: 785-565-6844  
Fax: 785-565-6847  
Email: adillon@rileycountyks.gov

January 24, 2011

The Honorable Roger Reitz, Chairman  
Senate Committee on Local Government  
Capitol Building, Rm. 159-S  
Topeka, KS 66612

Re: S.B. 40

Dear Chairman Reitz 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. I am the lawyer representing the Board.

My client introduced what is now S.B. 40 during the 2009 legislative session. The Associated General Contractors of Kansas opposed the original language, and my client entered into negotiations with the Association. The current language of S.B. 40 represents the successful result of those negotiations, compromise language satisfying the concerns expressed by the Association.

The purpose of the compromise language, in my opinion, is to allow counties to avoid the delay of competitive bidding only when specific categories of defined extensive damage have occurred - damage so extensive it prevents the county building from being used for its intended purpose.

I submit S.B. 40 strikes a reasoned balance between private sector concerns that all public construction contracts be subject to competitive bidding requirements, and the concern of counties across the state that, in the event of a true public emergency, repairs can be made to county buildings without undue delay.

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

Senate Local Government

1-24-2011

Attachment 1



TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES  
TO THE SENATE LOCAL GOVERNMENT COMMITTEE  
JANUARY 24, 2011  
SB 40

Chairman Reitz 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

300 SW 8th Avenue  
3rd Floor  
Topeka, KS 66603-3912  
785•272•2585  
Fax 785•272•3585

Senate Local Government

1-24-2011

Attachment 2



BOARD OF COMMISSIONERS

115 N. 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Manhattan, Kansas 66502  
Phone: 785-565-6844  
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January 24, 2011

The Honorable Roger Reitz, Chairman  
Senate Committee on Local Government  
Capitol Building, Rm. 159-S  
Topeka, KS 66612

RE: S.B. 40

Dear Chairman Reitz and Members of the Committee:

Riley County supports passage of S.B. 40. Our proposed amendment represents a change in existing law which is essential to good local government. S.B. 40 is also completely revenue neutral to the State of Kansas.

In the early summer of 2008, some unknown mechanical failure or human error caused the plumbing system of the Riley County jail to flood the basement. Riley County incurred well over \$100,000.00 damages to that building and its associated equipment. Immediate repairs were essential to protect public safety. The Board of Riley County Commissioners had to make those immediate repairs in order to continue the safe functioning of the jail and to ensure optimal functioning of the Riley County Police Department's communication equipment.

The existing statute (which S.B. 40 amends) required Riley County solicit competitive bids *before* making those emergency repairs to our jail. We were able to strike an unusual arrangement with our property insurer whereby the insurer directly hired contractors and managed the building repairs without any public funds being expended. While that placed Riley County outside the restrictions of existing law and we were not required to take competitive bids in this particular emergency, we cannot rely upon a future insurer to be so extraordinarily flexible.

Our proposed amendment is compromise language, hammered out in negotiations with the Associated General Contractors of Kansas. This compromise has satisfied the association's original objections and it has withdrawn its opposition to S.B. 40.

Riley County urges this committee to pass S.B. 40 as presented. It represents a reasonable compromise between governmental and private interests, while promoting public safety in those emergencies when a public building is significantly damaged. It will benefit county governments across the state, and it is supported by the Kansas Association of Counties' legislative platform.

Thank you for giving me the opportunity to provide our Commissioners' input on this bill.

Sincerely,

Karen McCulloh  
Riley County Commission Chair

cc: Alvan Johnson, Member  
Dave Lewis, Member

Senate Local Government

1-24-2011

Attachment 3



## Public Works

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

January 24, 2011

The Honorable Roger Reitz, Chairman  
Senate Committee on Local Government  
Capitol Building, Rm. 159-S  
Topeka, KS 66612

Re: S.B. 40

Dear Chairman Reitz and Members of the Committee:

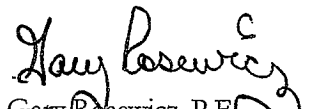
I appreciate the opportunity to offer my support of S.B. 40. I am the Assistant County Engineer for Riley County. I am a professional engineer licensed in the state of Kansas, with over 20 years experience in county engineering in this state.

In 2008, the Riley County Law Enforcement Center (which houses our jail) suffered extensive flooding in its basement. A backflow-prevention valve, part of the building's plumbing system, 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 because the Riley County Police Department was concerned 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

Senate Local Government

1-24-2011

Attachment 4