

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairperson Pete DeGraaf at 3:30 pm on Thursday, March 12, 2015, 152-S of the Capitol.

All members were present except:

Representative Mario Goico – Excused

Committee staff present:

Melissa Calderwood-Renick, Legislative Research Department

Whitney Howard, Legislative Research Department

Matt Sterling, Office of Revisor of Statutes

Gary Deeter, Kansas Legislative Committee Assistant

Eileen Ma, Office of Revisor of Statutes

Conferees appearing before the Committee:

Clark Shultz, Director, Governmental Affairs, Kansas Insurance Department

Marlee Carpenter, Kansas Association of Property and Casualty Insurance

Dustin Kirk, Staff Attorney, Office of the State Bank Commissioner

Doug Wareham, Executive Vice President for Government Relations, Kansas Bankers Association

Others in attendance:

[See Attached List](#)

Approval of Minutes

By motion of Representative Campbell, second of Representative Bradford, and unanimous vote of the Committee, the February 24 minutes were approved.

Hearing on: SB55 — Increasing the cap on consulting fees for financial examinations and the high risk pool financial examination period.

The Chair opened the hearing on **SB55**. Staff Matt Sterling reviewed the salient features of the bill, saying that it amends current law by raising the cap on fees from \$100,000 to \$500,000 for conducting a financial examination of an insurance company with \$200 million or more in gross premiums. It also lengthens the time between financial examinations of the High-Risk Insurance Pool from three years to five years ([Attachment 1](#)).

Clark Shultz testified as a proponent for the bill ([Attachment 2](#)). Referencing the statutory requirement that the Department shall conduct financial examinations on each domestic insurance company at least every five years, he explained that, for most examinations, the Department uses in-house staff. However, for larger insurance companies with more complex insurance products and more complicated financial dealings, an outside consultant with more comprehensive experience must be employed; private firms' charges can amount up to \$250 per hour. Examinations of larger insurance companies can exceed the \$100,000 cap. Of the 46 insurance companies in Kansas, ten of them are subject to the cap on consulting fees. He also noted that 25 states have no consulting fee cap.

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Regarding the second part of the bill, Mr. Shultz commented that, because of the federal Affordable Care Act, the high-risk pool is irrelevant, but has been linked with this bill.

Members questioned Mr. Shultz and Ken Abitz (Director, Financial Surveillance Division, Kansas Insurance Department); they replied as follows:

- The Department conducts 2-3 audits above the \$200-million threshold.
- Approving insurance products is handled by another division of the agency.
- RFPs (Request for Proposals) are developed by the Kansas Department of Administration.
- An outside consultant is employed once or twice within a few years' span.
- If a consultant's fee exceeds the \$100,000 cap, the insurance company pays the excess rather than be in violation of Kansas law.
- The Department's employee pay scale makes it difficult to hire qualified examiners for the larger insurance companies.
- There are no outside consultants living in Kansas.
- Mr. Abitz noted that the examination fees for one large insurance company exceeded \$300,000. The insurance company provided a written statement acknowledging payments beyond the cap and agreeing to fund the entire amount.
- Other states use Kansas examinations to approve insurance companies in their respective states.
- A bill removing all caps was introduced in the legislature last year; however, it failed to pass.

Marlee Carpenter testified as neutral regarding the bill ([Attachment 3](#)). She recommended raising the cap to \$300 million in gross premiums; she cited another Kansas statute that uses the \$300-million cap as the basis for certain reports (**K.S.A 44-3305(l)**).

There being no further proponents, opponents, or neutral testimony, the Chair closed the hearing on **SB55**.

Hearing on: SB240 — State banking code and the state banking commissioner.

The Chair opened the hearing on **HB240**. Mr. Sterling briefed the Committee on the bill, saying that the bill proposes changes to the state's banking code (209 statutes), amending 135 statutes and repealing 56 others. He identified the proposed new sections, noting that some sections are recodification of existing law ([Attachment 4](#)). Responding to a question, he said the Commissioner is authorized to declare an emergency regarding a bank's financial status.

Dustin Kirk testified in support of the bill ([Attachment 5](#)). He outlined the decade-long preparatory process in developing the bill, which proposes to update, clarify or eliminate archaic language and unnecessary statutory provisions. He referenced a table summary of the bill, which highlights the new

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sections and identifies recommended changes in current law ([Attachment 6](#)). He also noted a memorandum listing the repealed statutes and special orders ([Attachment 7](#)).

Mr. Kirk responded to members' questions:

- New language is minimal; most changes in the bill are reworking present statutes.
- The recodification process included collaboration with the Kansas Bankers Association and the Community Bankers Association.
- This is the first time that special orders have been codified in statute.
- The Senate made no substantive changes except to clarify *person* and *nonperson*.
- The national banking group requires a regular review of statutes, but no significant changes are expected in Kansas statutes during the next few years.
- The agency is entirely fee-funded.
- Bank violations are rare.

The Chair requested an agency fee structure by the next meeting.

Doug Wareham testified as a proponent for the bill ([Attachment 8](#)). He stated that the association has been involved in the entire eleven-year process and the final product is one the association supports.

Shawn Mitchell provided written support from the Community Bankers Association ([Attachment 9](#)).

There being no further proponents or opponents, the Chair closed the hearing.

The meeting was adjourned at 4:49 p.m. The next meeting is scheduled for Tuesday, March 17, 2015, in Room 152-S of the Capitol.