

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

October 13, 2014
Room 152-S—Statehouse

Members Present

Senator Vicki Schmidt, Chairperson
Representative Sharon Schwartz, Vice-chairperson
Senator Oletha Faust-Goudeau
Senator Tom Hawk
Senator Garrett Love
Senator Ralph Ostmeyer
Representative Jerry Lunn
Representative Ed Trimmer
Representative Jim Ward

Members Absent

Representative Steve Huebert
Representative Mark Kahrs
Representative Valdenia Winn

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Joanna Wochner, Kansas Legislative Research Department
Natalie Scott, Office of Revisor of Statutes
Nobuko Folmsbee, Office of Revisor of Statutes
Shirley Jepson, Committee Assistant

Conferees

Kathleen Smith, Department of Revenue
Tom Stiles, Bureau of Water, Department of Health and Environment
Grant Harse, Legal Services, Department of Health and Environment
Anne Haught, Division of Workers Compensation, Department of Labor
Sally Pritchett, Executive Director, Real Estate Appraisal Board
Curt Schreckengast, Board of Emergency Medical Services

Other Attendees

See attached list.

Morning Session

Chairperson Schmidt opened the meeting at 10:10 a.m.

Approval of Minutes

Representative Schwartz moved to approve the minutes of September 2, 2014, as written. The motion was seconded by Senator Hawk. Motion carried on a voice vote.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Revenue

KAR 92-12-146, definitions; KAR 12-147, tax credit agreement; KAR 92-12-148, tax credit application; KAR 92-12-149, quarterly reports.

Kathleen Smith, Department of Revenue, appeared before the Committee to address the proposed rules and regulations. Ms. Smith explained the proposed rules and regulations provide definitions for the tax credit for the low income students scholarship program, provide the required information for the tax credit agreements between the Department and the scholarship granting organization (SGO), describe the tax credit application, and provide for the required quarterly reports by each SGO.

Responding to questions from the Committee, Ms. Smith stated the program is available to students at private schools and students at non-accredited home schools. Ms. Smith explained the provisions of the program are defined in statute, noting the program is not available to any student enrolled in a public school. The Committee voiced concern that the economic impact statement indicates there is no impact to the agency. Ms. Smith indicated the agency believes it will be able to operate the program with existing staff. The Committee requested additional information about the actual costs of the program, even though there are no anticipated additional costs to the agency.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment

KAR 28-16-28b, definitions; KAR 28-16-28c, general provisions; KAR 28-16-28d, surface water classification and use designation; KAR 28-16-28e, surface water quality criteria; KAR 28-16-28f, administration of surface water quality standards; KAR 28-16-58, definitions.

Tom Stiles, Bureau of Water, Department of Health and Environment, appeared before the Committee to address the proposed rules and regulations. Grant Harse, Legal Services, Department of Health and Environment, also was present to respond to questions. Mr. Stiles explained the proposed rules and regulations comprise the Kansas Surface Water Quality Standards (KSWQS). In accordance with the Clean Water Act, the states must review and revise their WQS once every three years with as much public input as possible. The proposed rules and regulations also address wastewater permitting as it relates to WQS.

Staff requested, when adoptions by reference are deleted because material is adopted elsewhere, a cross-reference be noted with the deletion to provide clarity. Staff also requested some clarification in KAR 28-16-28b where the regulation refers to the interaction between

statutory requirements and requirements of the Secretary promulgated under the Secretary's rule and regulation authority. The Committee requested the agency to work with the Office of Revisor of Statutes to clarify the language.

With reference to KAR 28-16-28c, Mr. Stiles stated some provisions of the proposed rules and regulations were deleted by the Environmental Protection Agency (EPA), such as (c) (2) High flow on page 7. Responding to a question from the Committee, Mr. Stiles noted the EPA did not agree with the water use reflected in the provision.

Responding to a Committee member's question concerning quality of water in Kansas reservoirs and lakes, Mr. Stiles noted the quality of water is monitored on a regular basis in the reservoirs as well as in those streams and rivers that flow into the reservoirs. Mr. Stiles noted the presence of blue green algae in some waters and high levels of phosphorus in Milford Lake and other reservoirs. He noted land use has a major influence on the silting into those reservoirs.

The Chairperson expressed appreciation for the detailed Economic Impact Statement.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Labor, Division of Workers Compensation

KAR 51-9-7, fees for medical and hospital services.

Anne Haught, Medical Manager, Department of Labor, appeared before the Committee to address the proposed rule and regulation, explaining the proposed rule and regulation meets the requirement that the director adopt rules and regulations to establish a schedule of maximum medical fees and the schedule be revised at least every two years to ensure it is current, reasonable, and fair. Ms. Haught noted the revised fee schedule will become effective January 1, 2015.

Responding to questions from the Committee, Ms. Haught noted the proposed rule and regulation will help eliminate compounding drug costs. The Committee requested the Economic Impact Statement follow the preferred format and requested staff work with the agency in this matter.

The Committee requested a listing of the eleven members of the Advisory Council. In addition, the Committee requested information on the balance of employees to employers on that Council.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Real Estate Appraisal Board

KAR 117-2-1, licensed classification, education requirements; KAR 117-2-2, state licensed real property appraiser classification, appraisal experience requirement; KAR 117-2-2a, licensed classification, experience supervision requirements; KAR 117-2-3, licensed classification, examination requirement; KAR 117-3-1, general classification, education requirements; KAR 117-3-2, certified general real property appraiser classification, appraisal experience requirement; KAR 117-3-2a, general classification, experience supervision requirements; KAR 117-3-3, general classification, examination requirement; KAR 117-4-1, residential

classification, education requirements; KAR 117-4-2, certified residential real property appraiser classification, appraisal experience requirement; KAR 117-4-2a, residential classification, experience supervision requirements; KAR 117-4-3, residential classification, examination requirement; KAR 117-5-1, provisional classification, education requirements; KAR 117-5-2, state provisional licensed real property appraiser classification, supervised experience requirements; KAR 117-5-2a, provisional classification, supervisor requirements; KAR 117-6-1, continuing education, renewal requirements; KAR 117-6-2, continuing education, approval of courses, requirements; KAR 117-6-3, education, obtaining course approval.

Sally Pritchett, Executive Director, Real Estate Appraisal Board, appeared before the Committee to address the proposed rules and regulations, explaining the rules and regulations will put in place the 2015 criteria changes as established by the Appraisal Standards Board, which establish minimum education, experience and examination requirements for new real property appraisers to obtain state license or certification. She explained new appraisers who do not meet the standards could not work on federally related transactions, and nearly all transactions are federally related.

The Committee voiced concern with the possible increased cost to those interested in securing a state license at a time when the industry is losing appraisers and there is a shortage within the state. Ms. Pritchett noted the educational requirements are established by the federal government and that an upcoming conference will address issues concerning the lack of appraisers.

Staff suggested that language in KAR 117-4-1(a)(1) be revised to remove junior colleges and community colleges in light of the fact that a bachelor's degree cannot be obtained from these types of colleges.

The Committee requested information on the total number of appraiser licenses currently issued by the state and the trend over the past several years. The Committee discussed the possibility of writing a letter to the Appraisal Foundation before its fall meeting to note the Committee's concern for the lack of appraisers.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Board of Emergency Medical Services

KAR 109-15-1, reinstating attendant certificate after expiration.

Curt Shreckengaust, Board of Emergency Medical Services (EMS), appeared before the Committee to address the proposed rule and regulation. He explained the rule and regulation defines the process for reinstatement of an expired Kansas EMS attendant certificate without requiring that attendant to complete an initial course of instruction or pass a certification examination, by further specifying what constitutes sufficient education requirements.

Responding to a question from the Committee, Mr. Shreckengaust explained that a person with a Kansas EMS certificate who lives out-of-state for a period of time can return to Kansas, show credentials, make up required units of continuing education, and have the Kansas license reinstated.

COMMITTEE COMMENTS AND RECOMMENDATIONS

Department of Revenue

Economic Impact Statement. Please enhance the Economic Impact Statement to be reflective of the actual impact of the cost to the agency of implementing the program referenced in this set of rules and regulations.

Department of Health and Environment

Cross References and Adoptions by Reference. The Committee encourages the agency to continue the practice of cross referencing items adopted by reference to aid the reader of these rules and regulations in locating associated items. In addition, the Committee encourages the agency to keep the adoptions by reference up to date with appropriate dates. Please feel free to call upon staff of the Office of Revisor of Statutes if there are questions.

KAR 28-16-28b. In subsection (n), the Committee believes the clarity of this paragraph could be improved by wording which would make it clear that effluent limitations are prescribed by statutes or other rules and regulations, and then, if none exist, the limitations may be at the discretion of the Secretary of Health and Environment. Please feel free to call upon staff of the Office of Revisor of Statutes if there are questions.

Department of Labor, Division of Workers Compensation

Economic Impact Statement. Please follow the standard format of the Economic Impact Statement to make it more readable to the Committee and the public. Attached [to the letter to the agency] is a sample copy of a more standard Economic Impact Statement.

Real Estate Appraisal Board

KAR 117-4-1. In paragraph (a)(1), the language appears to reference bachelor's degrees awarded from community colleges and junior colleges. Please amend the language to make it clear that bachelor's degrees are not awarded by community colleges or junior colleges.

Note. The Committee notes the proposed changes to the rules and regulations may make it more difficult for individuals wishing to acquire real estate appraisal licenses and wonders whether there are incentives which might encourage more individuals to enter the profession of real estate appraisal. The Committee thanks the agency in advance for providing information on the numbers of licensees and trends in those numbers.

Board of Emergency Medical Services

The Committee had no comments.

Adjournment

The meeting was adjourned at 11:30 a.m. The next meeting of the Committee is scheduled for December 2, 2014.

Prepared by Shirley Jepson
Edited by Raney Gilliland, Joanna Wochner,
and Jill Shelley

Approved by the Committee on:

December 2, 2014
(Date)