

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Julia Lynn at 8:40 a.m. on Wednesday, March 18, 2015, 548-S of the Capitol.

All members were present

Committee staff present:

Reed Holwegner, Legislative Research Department
Debbie Bartuccio, Kansas Legislative Committee Assistant
Norm Furse, Office of Revisor of Statutes
Edward Penner, Legislative Research Department
Chuck Reimer, Office of Revisor of Statutes

Conferees appearing before the Committee:

Justin McFarland, Deputy General Counsel, Kansas Department of Labor
Rebecca Proctor, Kansas Organization of State Employees

Others in attendance:

[See Attached List](#)

Meeting on call of the chair

Chairperson Lynn called a meeting to discuss final action on **SB 179 - Limiting negotiations under the public employer-employee relations act.**

Chairperson Lynn requested Revisor Chuck Reimer to provide an overview of the bill.

In response to a clarification question raised by Senator Faust-Goudeau, Chairperson Lynn stated the Committee was deliberating **SB 179** and not **SB 212 - Strengthening protection of public employee paychecks.** There were no other questions for the Revisor.

The Committee proceeded to deliberate the bill.

Senator Melcher stated he had an amendment for **SB 179** and requested Revisor Reimer to review the amendment with the Committee. ([Attachment 1](#))

Senator Longbine asked whether school district employees would be classified (on page 6 of the bill) concerning conditions of employment under paragraph (1) or (2) of subsection (p). Revisor Reimer responded they would be included in paragraph 2.

Senator Melcher stated the purpose of the amendment is to remove the imposition of the election into PEERA by the local units of government. He said with reference to the State, the bill does not change anything, but for the local units, it does not continue to require them to have an election of the people. The component that does remain is, in the event a local unit elects to opt out of PEERA, there would be no waiting period.

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Senator Melcher moved, seconded by Senator Pilcher-Cook, to amend the bill. The motion passed.

Senator Baumgardner questioned the impact of the bill for school districts when they go into negotiations. Revisor Reimer responded this bill pertains to public employers and public employees and does not pertain to professional employees, which are covered under a separate law.

Senator Baumgardner referred to the definition of grievance on page 7 and questioned how adding this definition impacts the legislation. Revisor Reimer responded it was added because grievance procedures are now a condition of employment with regard to public employees of counties, townships, cities or special districts under (p)(1).

In response to a question by Senator Holland, Justin McFarland, Deputy General Counsel, Kansas Department of Labor, indicated there is a provision in the bill that clarifies that if the State and its employees reach an impasse in the negotiations, then the State can impose a contract. Mr. McFarland referred the Committee to page 13, lines 19 and 20 of the bill.

Referring to testimony concerning some problems which employees had incurred when taking FLMA leave, Senator Baumgardner questioned how to assure employees that use of FLMA will not be held against them, and that there is an avenue of recourse available to them for this issue. Justin McFarland responded the State must follow the FLMA regulations and it is very clear employers must not retaliate against employees for use of FLMA leave. Rebecca Proctor, Kansas Organization of State Employees, reported the policy for FLMA is not always applied appropriately, and without a grievance procedure, the only way to resolve an FLMA violation is to file a wage and hour complaint with the Federal Department of Labor, which can be a time-consuming process.

During the discussion, Senator Melcher stated this is the same procedure that is used in the private sector and Senator Wagle reported there is no cost to taking a grievance to the Federal level. Rebecca Proctor reiterated a concern for the length of time to resolve an issue when it is taken to the Federal level. She stated under the current contract, the initial grievance meeting is required to occur within 7 days. There was discussion concerning the need for training to be provided to managers in the public sector concerning FLMA and human resource issues.

Senator Holland expressed his concerns about eliminating the board, the grievance procedures, arbitration, fact-finding, and mediation. He referred to the proponents of the bill, who have stated these have been valuable tools to help them work with management to resolve their issues.

Senator Melcher moved, seconded by Senator Pilcher-Cook, to pass **SB 179**, as amended.

Chairperson Lynn stated her desire to pause deliberations on **SB 179** until the meeting on March 19, 2015 when the Committee will deliberate **SB 212**. She expressed her sincere appreciation to all

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attendees for their input and participation in the process.

Chairperson Lynn adjourned the meeting at 9:20 a.m. The next meeting is scheduled for March 19, 2015.