

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Jeff King at 10:40am on Thursday, January 29, 2015, 346-S of the Capitol.

All members were present

Committee staff present:

Lauren Douglass, Legislative Research Department
Robert Allison-Gallimore, Legislative Research Department
Natalie Nelson, Legislative Research Department
Suzanne Nelson, Kansas Legislative Committee Assistant
Katherine Goyette, Office of Revisor of Statutes
Jason Thompson, Office of Revisor of Statutes

Conferees appearing before the Committee:

Kris Kobach, KS Secretary of State;
Dr. Micah Kubic, American Civil Liberties Union of KS;
Stephen Howe, Johnson County District Attorney and KS County and District Attorney Association (KCDAA);
M. J. Willoughby, Assistant Attorney General, Civil Litigation Division, KS Attorney General's Office;

Others in attendance:

[See Attached List](#)

Bill introductions

Chairperson King opened the meeting by asking for bill introductions.

Senator Hawk requested a bill concerning children and minors and relating to possession or consumption of alcoholic beverages, including exemption from liability for minors seeking medical assistance and also amending K.S.A. 2014 Supp. 41-727 and repealing the existing section.

Chair King introduced a bill creating advertising limitations on out of state attorneys unless they are licensed to practice law in Kansas.

Seeing no questions or objections, the Chair declared both bills as introduced.

Hearing on: SB34 — Penalties for voting crimes; prosecution of election crimes.

The Chair turned the Committee's attention to **SB34** and opened the hearing by asking Jason Thompson for an overview of the bill.

Secretary Kris Kobach presented proponent testimony, including some current statistical data on prosecution of election crimes in Kansas. He described the two main components of the bill. The first component increases penalties for certain election crimes. The second component grants prosecutorial

CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 10:40am on Thursday, January 29, 2015, 346-S of the Capitol.

authority over election crimes to the Kansas Secretary of State and the Kansas Attorney General, in addition to the authority already held by the District and County Attorneys. Granting the Secretary of State's office the authority to prosecute election crimes would ensure that crimes of this nature receive the attention they deserve while giving county and district attorneys the option to direct their resources to other more serious and violent crimes, murders, rapes, drug crimes, and property crimes.

[\(Attachment 1\)](#)

Secretary Kobach answered questions from several members of the committee relating to the election crime statistics, double voting, manipulation in nursing homes, and senior citizens having an adult child or nursing home worker request and complete the ballot for them.

Dr. Micah Kubic presented testimony opposing **SB34**. Dr. Kubic believes that the authority to prosecute election crimes should remain with the county and district attorneys and cited that no other state gives that power to its Secretary of State. Dr. Kubic remarked that the Secretary of State is a state-wide administrative agency which was not designed to have the capacity, expertise, or local knowledge to serve as a prosecuting body. He also related the concern that **SB34** would penalize and criminalize people who make simple mistakes. [\(Attachment 2\)](#)

Stephen Howe presented testimony opposing **SB34** in part, pertaining to the prosecution of election crimes. He related that KCDAA does agree with the changes to the penalties for election crimes, however, he and the KCDAA maintain the prosecutorial authority should remain with the county and district attorneys. Such attempts to give prosecutorial power to any office either than the county or district attorney is bad public policy and creates a redundant system. [\(Attachment 3\)](#) Mr. Howe answered questions from the members.

No neutral or written-only testimony was submitted on this bill.

Chairperson King closed the hearing on **SB34**.

Hearing on: SB58 — Kansas judicial review act; venue.

The Chair opened the hearing on **SB58**. Jason Thompson gave a brief explanation of the bill.

M. J. Willoughby, Assistant Attorney General, presented proponent testimony on behalf of Attorney General Derek Schmidt supporting an amendment to K.S.A. 77-609, the Kansas Judicial Review Act, to clearly provide that the venue for actions seeking judicial review of actions by state agencies is in Shawnee County, Kansas. She related that making the requested changes will help to resolve confusion and delay, the possibility of additional burdens and expenses, including discovery not contemplated by Chapter 77, as well as possible misapplication of the law, including the required standard of review. [\(Attachment 4\)](#) Ms. Willoughby answered questions from the members.

The Chair called for other proponent, opponent, neutral or written-only testimony. There being none, he

CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 10:40am on Thursday, January 29, 2015, 346-S of the Capitol.

closed the hearing on **SB58**.

Possible action on bills previously heard

Because of time constraints today, Chair King announced that the committee would begin working the following bills at the next meeting: continuation of **SB16**, **SB11**, **SB19**, **SB22**, **SB51**, **SB44**, **SB15**, and **SB58**.

Senator Knox requested that Robert Allison-Gallimore distribute copies of the February 15, 2006 *Report of the Judicial Council Civil Code Advisory Committee on K.S.A. 40-256 and K.S.A. 40-908*, which was referenced and copies requested as part of the discussion on **SB16** on January 27, 2015. The report was distributed so that the members could review the information prior to the next meeting and was not specifically addressed today.

The meeting adjourned at 12:06 pm.

The next scheduled meeting is Tuesday, February 3, 2015 at 10:30 am.