

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARYThe meeting was called to order by Representative Bob Frey at
Chairperson1:00 ~~XXX~~ p.m. on April 5, 1983 in room 527-S of the Capitol.

All members were present except:

Representatives Campbell, Duncan, Erne, Harper, Justice, Matlack, Peterson, and Whitaker were excused.

Committee staff present:

Mark Burghart, Legislative Research Department
Nedra Spingler, Secretary

Conferees appearing before the committee:

Wayne Hundley, Office of the Attorney General
Dan Watkins, Department of Transportation

Minutes of the meetings of March 22, 23, 24, 25, and 28, 1983, were distributed. The Chairman said they would be considered approved unless he was notified of changes by April 8.

HB 2564 - An act relating to restraint of trade.

Representative Cloud said the bill was an outgrowth of a sunset review of the Department of Transportation. Present state law is not acting as a deterrent to restraint of trade practices. The bill would make the state penalties coincide with federal law which is more stringent.

Wayne Hundley, representing the Anti-Trust Section of the Attorney General's Office, said Kansas law has not been updated in many years, and this bill would have a deterrent effect. It was needed because the trend in federal law changes is to soften anti-trust settlements which would not be in the best interest of Kansas. Mr. Hundley said he would not object if penalties were raised in the bill.

Dan Watkins said the Department of Transportation supports the bill. There may be situations where Kansas could use the federal law, but HB 2564 would be more flexible and would bring the restraint of trade law up-to-date with adequate penalties. In regard to bid rigging, Mr. Watkins said DOT requires that companies that have been involved in this and are operating under another name cannot have officers or stockholders who have been involved in bid rigging.

A member questioned if the fine in the bill is an adequate ratio to the profit made by the company and suggested the penalty should be more than actual damages.

There was discussion regarding the liability of a company owner who might not have knowledge of bid rigging activity of an employer. Mr. Hundley said the owner would be liable the way the bill is written but would have the insulation of the court.

Representative Patrick moved to report HB 2564 favorable for passage, seconded by Representative Knopp. Concerns were expressed that a number of members were absent and had not heard the bill, the legislature has declined to raise penalties in several other bills this session, and there were no other criminal laws with fines up to \$1 million. A member said anti-trust situations were different, and the stakes were higher. The vote taken on the motion carried.

The meeting was adjourned at 1:40 p.m.