

MINUTES OF THE Senate COMMITTEE ON Commercial and Financial Institutions

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m./~~p.m.~~ on February 2, 1983 in room 529-S of the Capitol.

All members were present except:

Senators Hess & Reilly - Excused

Committee staff present:

Bill Wolff, Legislative Research  
Myrta Anderson, Legislative Research  
Bruce Kinzie, Revisor's Office

Conferees appearing before the committee:

Carl Sandstrom, Assistant Bank Commissioner  
Jim Turner, Kansas Savings and Loan League

The minutes of February 1 were approved.

The hearing began on SB 58 which was initiated by the Banking Department. Carl Sandstrom, Assistant Bank Commissioner, gave his testimony in support of SB 58. Several questions were asked by the committee concerning the salary, appointment, and qualifications of the special assistants whom the commissioner could appoint. Mr. Sandstrom assured the committee that this is not a new position but a different position of assistant commissioner and specifically spelled out the authority of the assistant commissioner in the absence of the commissioner. (See Attachment I). The hearing on SB 58 was concluded.

The committee then returned its attention to the hearing on SB 55 which was continued from the previous meeting. Jim Turner, Kansas Savings and Loan League, continued with his testimony in support of SB 55 where he had left off. He also passed/<sup>out</sup>copies of a listing of amendments which had been suggested at the previous meeting. (See Attachment II). Committee members offered technical amendments to the bill and addressed several questions to Mr. Turner which he answered with the help of Gerald Goodell and Tom Wilder of Kansas Savings and Loan League. Sen. Pomeroy noted two typographical errors had been made in the bill located on line 579 where "creditor" should read "condition" and on line 604 where "prescribed" should read "proscribed". Following some committee discussion of the bill, the chairman announced that SB 55 will be taken under consideration on February 9..

The chairman asked the committee how it would like to act upon SB 58.

Sen. Werts made a motion that SB 58 be reported favorably. Sen. Karr seconded the motion. The motion carried.

The chairman asked staff to work on the amendments to SB 55 and announced that the next meeting would be tomorrow, February 3.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/2	Tim Underwood	Topeka	KAR
"	Marvin Stewart	✓	Stk Dept
"	Carl R. Sandstrom	✓	Banking Dept
	Jim May	"	KBA
2/2	Gerald R. Goodell	"	Ks Sang & Power League
	Joni Zume	Topeka	KSLC
	Tom Wilder	"	KSLC

Mr. Chairman:

Senate Bill 58 has been initiated by the Banking Department to amend the following:

- (1) Changing title of second in command from Assistant Bank Commissioner to that of Deputy Commissioner.
- (2) To change this classified position to unclassified.
- (3) To amend the statutes which have been silent to give the Deputy Commissioner authority to act in the absence of the Commissioner.
- (4) To spell out the requirements of anyone who is being considered for the appointment as a Deputy Commissioner.

(1) Currently thirty-two states have designated the second man as Deputy Commissioner, also different departments within the state organization have Deputies; i.e. Deputy Attorney General and Deputy Fire Marshall.

(2) The changing of the position from classified to unclassified would give a Commissioner more latitude in determining who should be his Deputy. Ordinarily this is no problem but should the Commissioner and Deputy be unable to work together this would be detrimental to the banking system in Kansas.

(3) The statute is silent in regard to the authority of the Assistant Commissioner has in the absence or inability of the Commissioner to carry out his requirement. The Commissioner, Mr. Carl O'Leary, in 1971, was incapacitated and this question was addressed to the Attorney General and his reply is attached. Also, Commissioner Roy Britton was in England and China during his tenure and was also incapacitated by hospitalization last summer and because

*Attachment I*

of this resigned and there was a void of over one week between July 6th and July 15th when Commissioner John A. O'Leary, Jr. came on board.

(4) The current requirements are eight years experience in the examination of banks and allied financial enterprises. The requirement, as spelled out in the amendment, broadens the scope that the Commissioner could select a Deputy Commissioner from.

CRS/jas

THE STATE



OF KANSAS

BANKING DEPARTMENT  
TOPEKA

JOHN A. O'LEARY, JR.  
BANK COMMISSIONER

January 25, 1983

Mr. Steve Holsteen  
Governor's Office  
State Capitol Bldg.  
Topeka, Kansas

Dear Steve:

Under date of January 20, 1983, you mailed my office a list of bills for analysis.

Senate Bills 55, 56 and 57 should have been assigned to the Savings and Loan Commissioner.

Senate Bill 58 does, of course, apply to our office. The amendment has been proposed by this office to insure the continuity of this office at all times. Current statutes are silent in regard to who has the authority in the absence of the Commissioner. This amendment, if passed, will correct the situation.

In the past during the absence of the Commissioner, decisions have been made by the Assistant Bank Commissioner and have not been questioned. The amendment is similar to the current statutes in Illinois and Georgia.

The declassification of the Assistant Bank Commissioner would give the Commissioner more latitude in determining who should be his Assistant, or in the new statute, Deputy Commissioner. While ordinarily this is no problem it is possible that a Commissioner and an Assistant Commissioner may not be able to work together and this certainly would be detrimental to the banking system in Kansas.

(See page #2)

THE STATE



OF KANSAS

BANKING DEPARTMENT  
TOPEKA

JOHN A. O'LEARY, JR.  
BANK COMMISSIONER

-2-

The qualifications for the new Deputy Commissioner were inserted to give the Commissioner, when selecting a Deputy, a much wider selection than what exists now.

This office recommends approval of this Senate Bill 58.

Yours very truly,

John A. O'Leary, Jr.  
State Bank Commissioner

JAO:jas

cc: File (1)

CARL O'LEARY  
BANK COMMISSIONER  
E. J. HOGAN  
ASST. BANK COMMISSIONER

STATE OF KANSAS  
BANKING DEPARTMENT  
TOPEKA

November 23, 1971

RECEIVED  
NOV 23 1971

Mr. E. J. Hogan  
Assistant State Bank Commissioner  
State Office Building  
Topeka, Kansas

Re: Authority of Assistant Bank Commissioner to Act  
in the Stead of the Bank Commissioner

Dear Ed:

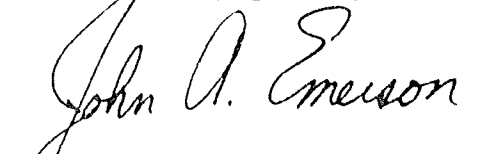
I enclose copies of correspondence received from the office of the attorney general regarding our recent inquiry on the extent of the power of the assistant bank commissioner during the absence of the commissioner.

You will note that Mr. John R. Martin, First Assistant Attorney General, concludes that, in the absence of specific statutory restriction, the assistant bank commissioner may act in the stead of the bank commissioner in his absence, even to the extent of sitting on the state charter board. So far as I can recall, none of the provisions of the banking code contains any specific restriction or requirement that the commissioner act "personally".

While it would thus appear that you have authority to act in matters requiring the commissioner's approval in the absence of Mr. O'Leary, I would suggest that such authority be exercised only where absolutely necessary. Decisions that can reasonably be deferred until Mr. O'Leary's anticipated return should be so deferred.

If you have any questions in the matter, please call me.

Very truly yours,

  
John A. Emerson  
Attorney for State Bank  
Commissioner

JAE/bnb  
Encs.



STATE OF KANSAS

*Office of the Attorney General*

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

RECEIVED  
NOV 19 1971  
BANK COMMISSIONER  
TOPEKA, KANSAS

VERN MILLER  
Attorney General

November 19, 1971

Mr. John A. Emerson  
State of Kansas  
Banking Department  
Topeka, Kansas

Dear Mr. Emerson:

Mr. Collister has asked me to reply to your letter of November 16, 1971, concerning the powers of the assistant banking commissioner during the illness of Commissioner Carl O'Leary. I enclose a copy of Opinion No. 71-75-9, the only prior opinion of the Attorney General which deals, albeit remotely, with the delegation of duties by a public officer, in that case, the Attorney General himself.

K.S.A. 75-2301, cited in that opinion, provides that members of the school fund commission (the Attorney General, Secretary of State, and a member from the state board of education), "when acting as such, must act personally." Numerous other statutes prescribing the duties of the Attorney General contain no similar requirement that he act personally. Absent such a requirement, we infer, of course, that he may act through lawfully authorized assistants. Analogously, it would appear that the assistant banking commissioner has no authority to act in matters which require his personal attention. As an example, he is a member of the state charter board, the authorizing statute of which does not require, unlike the school fund commission statute, that its members act personally. Accordingly, the assistant commissioner could doubtless act in his stead. It seems at least reasonable to apply the same rationale to banking matters themselves, when the state does not specifically require his personal action, forbidding any delegation to his assistant. However, should the assistant commissioner's authority be questioned in specific cases, I would be happy to discuss such questions with you.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John R. Martin".

JOHN R. MARTIN

First Assistant Attorney General

JRM:sbs  
Enclosure



RE: S.B. (Conformity Legislation)

The following amendments to 1983 S.B. 55 have been suggested:

1. In Section 2 on line 0087 delete the word "or" and replace it with the word "and."

(This would bring the language in conformity with the Home Owners Loan Act (HOLA) as amended by the Garn-St. Germain Act.)

2. In section 3 on line 0240 insert the word "such" before the word "investments" and delete the phrase "under this paragraph."

(This would clarify that the percentage of asset limits applies only to that section.)

3. In section 3 on line 0297 delete the word "first."

(This would bring the language in conformity with HOLA as amended.)

4. In section 3 in line 0305 delete the words "and investments." Further, on line 0306 delete the word "10%" and replace it with the word "30%."

(This would bring the language into conformity with HOLA as amended.)