

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Bob Frey at  
Chairperson

3:30 ~~a.m.~~/p.m. on January 23, 1984 in room 526-S of the Capitol.

All members were present except:

Representatives Douville and Justice were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Mike Heim, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes' Office  
Nedra Spingler, Secretary

Conferees appearing before the committee:

Randy Hearrell, Research Director, Judicial Council  
Jack Dalton, Attorney, Chairman of the Administrative Procedures Advisory Committee, Judicial Council  
Professor David Ryan, Washburn Law School, Member of the Administrative Procedures Advisory Committee

The Committee was briefed on HB 2688, the administrative procedures act.

Randy Hearrell, Judicial Council, said the bill is the result of a study conducted by the Council's Administrative Procedures Advisory Committee. A similar study had been conducted about ten years ago.

Mr. Hearrell introduced the Chairman of the Advisory Committee, Jack Dalton, who, with the use of slides, reviewed provisions of HB 2688. He said legislators had noted a need for uniform administrative procedures and requested the study. He outlined the four different options for adjudicative hearing procedures: formal, conference, emergency, and summary, any of which may be converted to the other.

In discussion, it was noted the purpose of the bill was to establish a procedure for hearings to apply to all agencies resulting in one set of rules instead of each agency establishing its own rules.

Concern was expressed that many sections would not have uniform applicability because of frequent reference to exceptions where another law applies. This concern will be remedied by a "trailer" bill which will specifically designate agencies to which the APA will apply. Included in the "trailer" bill will be provisions for repealing conflicting law on administrative procedures.

Differences between the model administrative procedures act and HB 2688 were discussed. Mr. Dalton said, because the bill does not use the model's provision of using a pool of hearing officers, no additional hearing officers would be needed. Those presently within the agency would be used.

Professor David Ryan, Washburn Law School and member of the Advisory Committee, said finding a receiver and responder in each agency is a major problem for lawyers. An administrative procedures act has been a priority of the Kansas Bar Association for some time. He believed the act would reduce expense. HB 2688 closely follows provisions in 1981 legislation regarding administrative procedures.

A member questioned if 15 days after being served with the order was enough time to respond. In Section 31, he suggested that service of the attorney of record be added as an alternative service mechanism.

The meeting was adjourned at 5:00 p.m.