

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

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

3:30 ~~xxx~~ p.m. on February 16, 1984 in room 526-S of the Capitol.

All members were present except:

Representative Justice was 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:

Rod Bieker, Attorney General's Office
Representative Theo Cribbs
Jim Kaup, League of Kansas Municipalities

Minutes of the meeting of February 14, 1984, were approved.

Introduction of Bills

Ron Smith, representing the Kansas Legal Services, requested the Committee to introduce a bill to authorize the Attorney General to provide, through the Kansas Legal Services, certain legal services for eligible persons engaged in agriculture-related business. He said the Governor and farmers' groups favor the proposal.

Rod Bieker, Attorney General's Office, spoke on behalf of the Attorney General who supports the proposal.

Representative Douville moved to introduce the proposal as a bill with the request that it be assigned to the Committee for consideration, seconded by Representative Blumenthal. Motion carried. (HB 3027)

Representative Theo Cribbs presented a proposal requested by a number of women and attorneys in Wichita. It provides that, if a woman, separated from her husband, has to obtain a lawyer in order to get the husband to pay authorized support, the husband must pay the attorney fees. Representative Wunsch moved to introduce the proposal as a bill, seconded by Representative Blumenthal. Motion carried. (HB 3028)

The Chairman presented a proposal requested by Phil Aldridge, Judge of the 24th Judicial District. It creates a judges' training fund for continuing education similar to the training fund for district attorneys. Representative Solbach moved that the proposal be introduced as a bill, seconded by Representative Whiteman. Motion carried.

The Chairman presented a personal request for a bill which would probably be referred to the Public Health and Welfare Committee. The proposal would include longterm care facilities in the hospital statute for the purpose of issuing bonds in third class cities. The motion was made, seconded, and carried that the proposal be introduced as a bill. (HB 3036)

HB 2689 - An act relating to administrative procedures and judicial review.

The Committee resumed discussion of the bill from a previous meeting. Representative Duncan offered a conceptional motion to exclude from the bill local municipal courts and local governing bodies in the enactment of charter ordinances and resolutions. This exempts the policy-making role for cities. The motion was seconded by Representative Wunsch, and it carried.

There was discussion on the question of venue in New Section 9, the possibility of more than one county having venue, the effect of venue on rules and regulations, most of which are promulgated in Shawnee County, and hardships the venue issue would cause such agencies as Human Resources with regard to Workers' Compensation and Employment Security Hearings. Concern was expressed that the procedures of all 100 agencies would have to be examined.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on February 16, 1984.

The Chairman noted that attorneys representing state agencies would be meeting the next day regarding explanation of and concerns with the new APA bills.

Because provisions in New Section 9 (b)(1), (4), and (5) appear to be broad enough to address some of the concerns and leaves venue basically as it is now, Representative Patrick moved to strike subsections (2) and (3) in lines 130, 131, and 132, and to renumber the sections, seconded by Representative Knopp. Motion carried.

There was discussion on the effective date of the bill for political subdivisions in New Section 3. The intent of the amendment made previously to extend the date of July 1, 1986, was clarified as being that political subdivisions have two and not three years to implement provisions. Jim Kaup said the League of Kansas Municipalities preferred its suggested amendments in Attachment No. 1 and would ask the Senate for it if it is not adopted by the Committee. Because the bill treats state agencies differently than political subdivisions for the purpose of the effective date, it was noted a distinction should be made with perhaps two different sections to accommodate each effective date.

Representative Schweiker moved to amend HB 2689 to exclude de novo trial on review, seconded by Representative Duncan. The Chairman noted the motion would only refer to trial de novo on appeal, and statutes already provide this relief. It was noted the Civil Rights Commission objects to de novo in the statute. Motion carried.

Representative Patrick made a conceptual motion to amend Section 10 regarding filing of action fees to make them the same as those in Chapter 60 of the statutes, seconded by Representative Knopp. Motion carried.

Representative Duncan made a conceptual motion to amend the bill to preserve current policy regarding KCC appeals on rate cases, seconded by Representative Knopp. It was pointed out this amendment should be made when the "trailer" bill is considered. Representative Duncan withdrew his motion.

Representative Duncan moved to recommend HB 2689, as amended, favorable for passage, seconded by Representative Miller. Because of the previous amendment to change the effective date for political subdivisions, Representative Wunsch believed the stricken language on pages 12 and 13 should be reinstated so agencies would be subject to this during the period they are not subject to HB 2689. He made a substitute motion to reinsert this language to be subject to the amendment to Section 3, seconded by Representative Knopp. The substitute motion carried. Representative Duncan renewed his motion to report HB 2689, as amended, favorable for passage, seconded by Representative Knopp. Motion carried.

The meeting was adjourned at 4:35 p.m.

HOUSE BILL No. 2689

By Joint Committee on Administrative Rules and Regulations

1-13

0024 New Sec. 2. As used in this act:

except the
judicial and
legislative
branches
thereof,

0056 (i) "Political subdivision" means political or taxing subdivi-
0057 sions of the state, including boards, commissions, authorities,
0058 councils, committees, subcommittees and other subordinate
0059 groups or administrative units thereof, receiving or expending
0060 and supported in whole or in part by public funds.

state] 0074 New Sec. 3. (a) On and after July 1, 1985, this act shall apply
state] 0075 to all agencies and all proceedings for judicial review and civil
0076 enforcement of agency actions not specifically exempted by
state] 0077 statute from the provisions of this act. On and after July 1, 1984,
0078 and prior to July 1, 1985, this act shall apply to all agencies and
state] 0079 all proceedings for judicial review and civil enforcement of
0080 agency actions except to the extent that other statutes provide
0081 such procedures for such agency.

(b) On and after July 1, 1987, this act shall apply to all political subdivisions and all proceedings for judicial review and civil enforcement of actions of political subdivisions not specifically exempted by statute from the provisions of this act. On and after July 1, 1986, and prior to July 1, 1987, this act shall apply to all political subdivisions and all proceedings for judicial review and civil enforcement of actions of political subdivisions except to the extent that other statutes provide such procedures for such political subdivisions.

0082 (c) ~~(b)~~ This act creates only procedural rights and imposes only
0083 procedural duties. They are in addition to those created and
0084 imposed by other statutes.

Subject to the
provisions of
Section 3 of
this act,

0441 (d) A judgment rendered or final order made by an adminis-
0442 trative board or officer exercising judicial or quasi judicial func-
0443 tions may be reversed, vacated or modified by the district court
0444 on appeal. If no other means for perfecting such appeal is
0445 provided by law, it shall be sufficient for an aggrieved party to
0446 file a notice that such party is appealing from such judgment or
0447 order with such board or officer within thirty (30) days of its
0448 entry, and then causing true copies of all pertinent proceedings

0499 before such board or officer to be prepared and filed with the
0450 clerk of the district court in the county in which such judgment
0451 or order was entered. The clerk shall thereupon docket the same
0452 as an action in the district court, which court shall then proceed
0453 to review the same, either with or without additional pleadings
0454 and evidence, and enter such order or judgment as justice shall
0455 require. A docket fee shall be required by the clerk of the district
0456 court as in the filing of an original action.