

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY

The meeting was called to order by CHAIRMAN ARTHUR DOUVILLE at
Chairperson

9:00 a.m./~~p.m.~~ on February 23, 1984 in room 526-S of the Capitol.

All members were present except:

Rep. J. Friedeman, Excused.

Committee staff present:

All present.

Conferees appearing before the committee:

Mr. Jim Yonally, Director of Governmental Relations for the KS chapter of
the National Federation of Independent Business
Mr. Ronald Wadsley, Rt. 1, Box 171B, Sutherland, IA 51058

Atch. 1
Chairman Douville handed out to the committee an amended version of H.B. 2653, and then called Mr. Jim Yonally to the speakers stand to testify regarding this amended version. Mr. Yonally spoke as a proponent of the bill and pointed out the following amendments: page 1, lines 33, 34 and 35; page 3, lines 0087 to 0098; page 4, strike new section 3. Mr. Yonally said he supported this bill because he thinks it is important that the legislature establish this as policy, and that as policy it becomes a matter of interest to all state agencies. A question and answer period followed.

Representative Wilbert made a motion to adopt these amendments to H.B. 2653. Representative Sutter seconded the motion. The motion carried. Representative Moore made a motion that H.B. 2653 be passed as amended. Representative Nichols seconded the motion. The committee voted and the motion passed.

Chairman Douville then told the committee that he had been approached by Mr. George McCullough who told him that he had a man with him that was apparently suffering from bi-carpel tunnel syndrome, and wanted to know if this man could testify regarding H.B. 2980 and H.B. 2938. All the committee members agreed that this would be alright.

Mr. Wadsley went to the speakers stand and testified as to his ailment. There was a question and answer period. Chairman Douville said he would give equal time to the proponents of this bill.

The meeting was adjourned at 9:40 a.m.

LABOR & Industry

2-23-84

Visitors

Bill Morrissey
Jim Yawally
Phil Wilkes
Derek Saults
Kevin Taylor

Representing

DHR/Workers Comp
NFIB/Kansas
Dept of Revenue
DHR/Workers Comp
"

HOUSE BILL No. 2653

By Representatives Hayden, Hoagland, Foster and Chronister

1-9

0016 AN ACT relating to rules and regulations of state agencies;
0017 concerning rules and regulations affecting small businesses;
0018 amending K.S.A. 1983 Supp. 77-416, 77-420 and 77-421 and
0019 repealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1983 Supp. 77-416 is hereby amended to
0022 read as follows: 77-416. (a) Every state agency shall file with the
0023 revisor of statutes every rule and regulation adopted by it and
0024 every amendment and revocation thereof. Every rule and regu-
0025 lation filed in the office of the revisor of statutes shall be filed in
0026 duplicate, and each section shall include a citation to the statu-
0027 tory section or sections being implemented or interpreted and a
0028 citation of the authority pursuant to which it, or any part thereof,
0029 was adopted. Every rule and regulation filed in the office of the
0030 revisor of statutes shall be accompanied by: (1) A copy of (1) the
0031 fiscal or financial impact statement required by subsection (b) of
0032 this section and; (2) any document which is adopted by reference
0033 by the rule or regulation; ~~and (3) a statement of the eco-~~
0034 ~~omic effect of the rule and regulation on small business re-~~
0035 ~~quired by section 2 of this act.]~~ A copy of any document adopted
0036 by reference in a rule and regulation shall be available from the
0037 state agency which adopted the rule and regulation upon request
0038 by any person interested therein. The state agency shall, under
0039 the direction of the revisor of statutes, number each section with
0040 a distinguishing number and, in making a compilation of the
0041 rules and regulations, the sections shall be arranged therein in
0042 numerical order. A decimal system of numbering shall be pro-
0043 hibited.
0044 (b) At the time of drafting any proposed rule and regulation

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Atch. 1

0045 or amendment to any existing rule and regulation, the state
0046 agency shall prepare a statement of the fiscal or financial effect or
0047 impact of such proposed rule and regulation or amendment upon
0048 all governmental agencies or units and private businesses which
0049 will be subject thereto and upon the general public, and if such
0050 proposed rule and regulation is mandated by federal law as a
0051 requirement for participating in or implementing a federally
0052 subsidized or assisted program, the state agency shall so specify
0053 as a part of the fiscal or financial impact statement. The state
0054 agency shall reevaluate and, when necessary, update the state-
0055 ment at the time of giving notice of hearing on a proposed rule
0056 and regulation and at the time of filing a rule and regulation with
0057 the revisor of statutes. If a public hearing was held prior to the
0058 adoption of the rule and regulation, a state agency at the time of
0059 filing a rule and regulation with the revisor of statutes shall
0060 include as a part of the fiscal or financial impact statement a
0061 statement specifying the time and place at which the hearing was
0062 held and the attendance at the hearing. A copy of the current
0063 fiscal or financial impact statement shall be available from the
0064 state agency upon request by any party interested therein.

0065 (c) Upon request of the state rules and regulations board, the
0066 joint committee on administrative rules and regulations or the
0067 chairperson of either committee or board, the director of the
0068 budget shall review the fiscal or financial impact statement
0069 prepared by any state agency and shall prepare a supplemental
0070 or revised statement. If possible, the supplemental or revised
0071 statement shall include a reliable estimate in dollars of the
0072 anticipated change in revenues and expenditures of the state. It
0073 also shall include a statement, if determinable or reasonably
0074 foreseeable, of the immediate and long-range financial effect of
0075 the regulation on private businesses and the general public. If,
0076 after careful investigation, it is determined that no dollar es-
0077 timate is possible, the statement shall set forth the reasons why
0078 no dollar estimate can be given. Every state agency is directed to
0079 cooperate with the division of the budget in the preparation of
0080 any statement pursuant to this subsection when, and to the
0081 extent, requested by the director of the budget.

0082 New Sec. 2. (a) At the time of drafting any proposed rule and
 0083 regulation or amendment to any exiting rule and regulation a
 0084 state agency shall consider the economic effect of such rule or
 0085 regulation on small business. For the purposes of this act, the
 0086 term "small business" shall mean any business employing fewer
 0087 than 250 employees. ~~The state agency shall prepare a statement~~
 0088 ~~of the economic effect of such proposed rule and regulation or~~
 0089 ~~amendment on small business. Such statement shall include:~~

- 0090 ~~(1) An analysis of the cost of compliance with the rule and~~
- 0091 ~~regulation for small businesses; and~~
- 0092 ~~(2) a comparison of the cost of compliance for small busi-~~
- 0093 ~~nesses with the cost of compliance for the largest businesses~~
- 0094 ~~affected by the rule and regulation, based on at least one of the~~
- 0095 ~~following standards:~~

- 0096 ~~(A) Cost per employee;~~
- 0097 ~~(B) cost per hour of labor; or~~
- 0098 ~~(C) cost per \$100 of sales.]~~

0099 (b) Whenever a state agency, in considering the adoption of a
 0100 rule and regulation or an amendment thereto, determines that
 0101 such rule and regulation or amendment ~~would~~ have an adverse
 0102 economic effect on small businesses such state agency shall
 0103 reduce that effect if doing so is legal and feasible considering the
 0104 purpose of the statute under which the rule and regulation is to
 0105 be adopted. To reduce the adverse effect on small businesses the
 0106 state agency is hereby authorized to:

- 0107 (1) Establish separate compliance or reporting requirements
- 0108 for small businesses;
- 0109 (2) use performance standards in place of design standards
- 0110 for small businesses; or
- 0111 (3) exempt small businesses from all or part of the rule and
- 0112 regulation.

0113 ~~(c) On request by a state agency the department of economic~~
 0114 ~~development shall provide assistance and available information~~
 0115 ~~for use in preparing the statement of effect.~~

0116 ~~(d) The state agency shall include the statement prepared~~
 0117 ~~pursuant to subsection (a) as part of the notice filed with the~~
 0118 ~~secretary of state for publication in the Kansas register.~~

may
 attempt to

0119 ~~[New Sec. 3. (a) Before September 1, 1985, each state agency~~
0120 ~~shall prepare a plan for review of its rules and regulations in~~
0121 ~~effect on May 1, 1984, that have an adverse effect on small~~
0122 ~~businesses. The state agency shall complete the review on or~~
0123 ~~before September 1, 1986. The state agency shall review each~~
0124 ~~rule and regulation considering:~~

- 0125 ~~(1) The continued need for the rule and regulation;~~
0126 ~~(2) public comments received by the agency concerning the~~
0127 ~~rule and regulation;~~
0128 ~~(3) the complexity of the rule and regulation;~~
0129 ~~(4) the duplication and inconsistency with other laws or rules~~
0130 ~~and regulations; and—~~
0131 ~~(5) ways to reduce the adverse effect of the rule and regula-~~
0132 ~~tion on small businesses.~~

0133 ~~(b) The state agency shall revoke or amend the rule and~~
0134 ~~regulation to reduce the adverse effect on small businesses, if the~~
0135 ~~change is appropriate.~~

0136 ~~(c) The state agency shall deliver a copy of its plan to the joint~~
0137 ~~committee on administrative rules and regulations and to any~~
0138 ~~person requesting a copy.]~~

0139 Sec. 4. K.S.A. 1983 Supp. 77-420 is hereby amended to read
0140 as follows: 77-420. (a) Every rule and regulation proposed to be
0141 adopted by any state agency, before being submitted to the
0142 attorney general under this section, shall be submitted to the
0143 secretary of administration for approval of its organization, style,
0144 orthography and grammar subject to such requirements as to
0145 organization, style, orthography and grammar as the secretary
0146 may adopt. Every rule and regulation submitted to the secretary
0147 of administration under this subsection (a) shall be accompanied
0148 by a copy of any document which is adopted by reference by the
0149 rule and regulation. Every rule and regulation approved by the
0150 secretary of administration under this subsection (a) shall be
0151 stamped as approved and the date of such approval shall be
0152 indicated therein. No rule and regulation proposed to be adopted
0153 by any state agency as a permanent rule and regulation shall be
0154 submitted to the secretary of administration for approval of its
0155 organization, style, orthography and grammar after October 15 in

0156 any year.

0157 (b) Every rule and regulation proposed by any state agency
0158 which has been approved by the secretary of administration as
0159 provided in subsection (a) of this section before being adopted or
0160 filed shall be submitted to the attorney general for an opinion as
0161 to the legality of the same, and the attorney general shall
0162 promptly furnish an opinion as to the legality of the proposed
0163 rule and regulation so submitted. Every rule and regulation
0164 submitted to the attorney general under this subsection (b) shall
0165 be accompanied by a copy of any document which is adopted by
0166 reference by the rule and regulation. Every rule and regulation
0167 approved by the attorney general under this subsection (b) shall
0168 be stamped as approved and the date of such approval shall be
0169 indicated therein.

0170 (c) No rule and regulation shall be filed with the revisor of
0171 statutes unless:

0172 (1) The organization, style, orthography and grammar have
0173 been approved by the secretary of administration;

0174 (2) the rule and regulation has been approved in writing by
0175 the attorney general as to legality;

0176 (3) the attorney general finds that the making of such rule and
0177 regulation is within the authority conferred by law on the state
0178 agency submitting the same;

0179 (4) the rule and regulation has been formally adopted by the
0180 state agency after it has been approved by the secretary of
0181 administration and the attorney general and is accompanied by a
0182 certified or other formal statement of adoption when adoption is
0183 by an executive officer of a state agency, or by a certified copy of
0184 the roll call vote required for its adoption by K.S.A. 77-421 and
0185 any amendments thereto when adoption is by a board, commis-
0186 sion, authority, or other similar body; and

0187 (5) the rule and regulation to be filed is accompanied by a
0188 copy of the fiscal or financial impact statement as provided by
0189 K.S.A. 77-416 and amendments thereto; ~~and~~

0190 ~~(6) the rule and regulation to be filed is accompanied by a~~
0191 ~~copy of the statement of economic effect on small business~~
0192 ~~provided by section 2 of this act.]~~

0193 Sec. 5. K.S.A. 1983 Supp. 77-421 is hereby amended to read
 0194 as follows: 77-421. (a) Prior to the adoption of any permanent rule
 0195 and regulation or any temporary rule and regulation which is
 0196 required to be adopted as a temporary rule and regulation in
 0197 order to comply with the requirements of the statute authorizing
 0198 the same and after any such rule and regulation has been ap-
 0199 proved by the secretary of administration and the attorney gen-
 0200 eral, the adopting state agency shall give at least 15 days' notice
 0201 of its intended action in the Kansas register and to the revisor of
 0202 statutes. The notice shall be mailed to the revisor of statutes and
 0203 published in the Kansas register and shall contain a summary of
 0204 the substance of the proposed rules and regulations and the
 0205 address where a complete copy of the proposed rules and regu-
 0206 lations may be obtained. Such notice shall state the time and
 0207 place of the public hearing to be held thereon and the manner in
 0208 which interested parties may present their views thereon. The
 0209 notice shall be accompanied by a copy of the fiscal or financial
 0210 impact statement provided by K.S.A. 77-416 and amendments
 0211 thereto ~~[and the statement of economic effect on small business~~
 0212 ~~provided by section 2 of this act]~~ which is ~~are]~~ applicable to all
 0213 proposed rules and regulations which will be considered at such
 0214 public hearing, and the notice shall state that a copy of the fiscal
 0215 or financial impact statement ~~[and statement of economic effect]~~
 0216 may be obtained from the state agency and shall provide the
 0217 address of the state agency from which such fiscal or financial
 0218 impact statement ~~[and statement of economic effect]~~ may be
 0219 obtained. Publication of such notice in the Kansas register shall
 0220 constitute notice to all parties affected by the rules and regula-
 0221 tions. Nothing in this section shall be construed to require
 0222 publication in the Kansas register of the fiscal or financial impact
 0223 statement.

0224 (b) On the date of the hearing, all interested parties shall be
 0225 given reasonable opportunity to present their views or argu-
 0226 ments on adoption of the rule and regulation, either orally or in
 0227 writing. When requested to do so, the state agency shall prepare
 0228 a concise statement of the principal reasons for adopting the rule
 0229 and regulation or amendment thereto. Whenever a state agency

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0230 is required by any other statute to give notice and hold a hearing
0231 before adopting, amending, reviving or revoking a rule and
0232 regulation, the state agency may, in lieu of following the re-
0233 quirements or statutory procedure set out in such other law, give
0234 notice and hold hearings on proposed rules and regulations in
0235 the manner prescribed by this act. Notwithstanding the other
0236 provisions of this section, the Kansas adult authority and the
0237 secretary of corrections may, but shall not be required to, give
0238 notice or an opportunity to be heard to any inmate in the custody
0239 of the secretary of corrections with regard to the adoption of any
0240 rule and regulation.

0241 (c) No public hearing required by this section shall be
0242 scheduled or held by a state agency after December 1 of any
0243 calendar year.

0244 (d) No rule and regulation shall be adopted except at a
0245 meeting which is open to the public and notwithstanding any
0246 other provision of law to the contrary, no rule and regulation
0247 shall be adopted by a board, commission, authority or other
0248 similar body unless it receives approval by roll call vote of a
0249 majority of the total membership thereof.

0250 Sec. 6. K.S.A. 1983 Supp. 77-416, 77-420 and 77-421 are
0251 hereby repealed.

0252 Sec. 7. This act shall take effect and be in force from and
0253 after its publication in the statute book.