

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m. ~~pm~~ on February 15, 1984 in room 254-E of the Capitol.

All members were present except: Senator Meyers and Senator Roitz, who were excused.

Committee staff present: Fred Carman, Assistant Revisor of Statutes
Russell Mills, Legislative Research
Emalene Correll, Legislative Research
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:
Mary Ellen Conlee, City of Wichita, Kansas
Major Troy Hampton, Wichita Police Department, Wichita, Kansas
James R. Green, Administrative Officer, Kansas Bureau of Investigation
K. E. Tenny, Pinkerton's, Inc., Kansas City, Missouri

SB595 - Concerning merchant and security policemen; relating to
licensing thereof.

The Chairman introduced Mary Ellen Conlee, who introduced Major Hampton, of The Wichita Police Department. A copy of Major Hampton's testimony is a part of these Minutes as Attachment #1. In his statement the City of Wichita requests legislation which would provide statutory authorization for a municipality to acquire fingerprints for the purpose of checking for a criminal record prior to licensing merchant or security police.

James R. Green spoke as the next conferee. His prepared statement is also part of these Minutes as Attachment #2. The KBI favors the concept of fingerprinting applicants for merchant or security policemen's licenses for the purpose of determining whether they have a criminal record. However, the statement expresses concern with the current wording of SB595.

K. E. Tenny was introduced next by the Chairman. Mr. Tenny said that concerning the matter of concealed weapons there is no municipality that permits the carrying of cealed weapons by a guard or merchant police.

In regard to the matter relating to registration, Mr. Tenny said that it would cause a problem if every out of state vehicle used for doing private detective work in Kansas had to have a Kansas license. At the present time many such vehicles are licensed out of state. Members of the Committee expressed curiosity asto why Kansas registration was required under the statute.

Several committee members expressed great surprise that the KBI was not obtaining figerprints in all cases. Mr. Mills was requested to check the legislative history of that statute which requires automobiles to be registered in Kansas.

Senator Francisco moved the bill be amended in line 42 by deleting "8-501" and by inserting "8-1437" therein. 2d by Senator Gannon. Motion carried.

Senator Morris proposed that SB595 be amended to require every municipality that issues licenses under this act to obtain fingerprints from the KBI and Senator Francisco said that he would second such a motion. After comment by Mary Ellen Conlee Mr. Carman suggested that the matter should probably be run past the League of Kansas Municipalities to see what impact it would have on smaller cities. At the request of the Chairman, Mary Ellen Conlee agreed to check into the matter with the League of Municipalities.

There was discussion concerning the Minutes of February 13, on page 2, paragraph 4, concerning SB325, on line 3 to put a period following the word "license" and to delete the rest of that paragraph, to show that the motion was seconded by Senator Winter and that the motion carried. To show that it was then moved by Senator Pomeroy that the bill be recommended favorably,

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m. ~~xxxx~~ on February 15, 1984

2d by Senator Gannon and that the motion carried. Show that Senator Roitz asked to be recorded as voting "no" on the motion.

Senator Pomeroy moved that the Minutes be approved as corrected. 2d by Senator Daniels. Motion carried.

SCR1660 - Requesting U.S. Postal Service to issue postage stamp to commemorate the American Night Fighter Squadrons of WWII.

Senator Vidricksen moved that on line 19, that "McCoy Army Air Field" be deleted and that "Orlando Army Air Base" be inserted. 2d by Senator Daniels. Motion carried. Senator Morris moved the bill be reported favorably as amended. 2d by Senator Gannon. Motion carried.

The Chairman passed out copies of the letter of the Kansas Association of Realtors, written by James W. Mayer, to Janet Stubbs of the Homebuilders Association of Kansas, dated February 13, 1984. The letter indicates that the two groups will meet together on February 20. Paul Flower of the Real Estate Commission spoke to the fact that the date had been changed, but that the two factions would meet at the offices of the Real Estate Commission on February 16 in an effort to arrive at a compromise. A copy of Mr. Mayer's letter is a part of these Minutes as Attachment #3.

The meeting adjourned at noon.

EW

2/15/84

Attachment #1

by Major Troy Hampton

City of Wichita, Legislative Item III-3 (1984)

SUBJECT: FINGERPRINTING FOR SECURITY GUARDS

PROBLEM

The City of Wichita regulates private police (a generic name for private merchant police, watchmen and security officers) by ordinance. According to Chapter 3.72 of the City Code, one of the prerequisites for qualifying as a private police is that the applicant have no felony convictions. Section 3.72.030 of this ordinance provides that the application for a private police permit shall contain, among other things, a full set of the applicants fingerprints. Before a permit is issued, a fingerprint check is conducted to assure compliance with the ordinance regarding prior criminal offenses. This fingerprint check includes those performed by the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation (FBI).

In October of 1982, the FBI initiated several policy changes in regard to non-law enforcement fingerprint checks. Part of this change included the provision that they would not accept any fingerprint cards for checks that did not have a statutory authorization for obtaining them. Without the FBI check, it is virtually impossible to determine criminal history information beyond the State of Kansas. This problem caused the issuance of a security permit which authorized the carrying of a firearm to a person found later to have been convicted of a felony in another state. This firearm possession actually constituted another felony offense.

Atch. 1

RECOMMENDATION

There is a pressing need to obtain some form of statutory authorization for the collection of these prints before they are forwarded to the FBI. K.S.A. 12-1679 pertains to specific definitions and particular requirements relating to merchant or security police and municipal licensing thereof. The City of Wichita requests legislation which would amend this statute to provide statutory authorization for a municipality to acquire fingerprints for the purpose of checking for a criminal record prior to licensing.

S.O.

2/15/84
Attachment #2

Testimony of
James R. Green, Administrative Officer
Kansas Bureau of Investigation
before
The Senate Committee on Federal and State Affairs

February 15, 1984

I am pleased to advise the Committee that the Bureau is favorably disposed towards the concept of fingerprinting applicants for merchant or security policeman's license for the purpose of determining whether they have a criminal record or not. The Bureau will cooperate to the fullest extent possible with any municipalities submitting such cards.

However, the Federal Bureau of Investigation will accept these fingerprint cards only under certain conditions. We have had considerable correspondence and communication with them on this matter. The Bureau's Assistant Attorney General, Frank Diehl, spoke with Melvin D. Mercer, Section Chief, Recording Section, Identification Division just last week. He stated that he 'foresees problems' with the current wording of SB595 in that the fingerprinting is permissive, not mandatory. If the "may"s in lines 31 and 33 were changed to "shall" he said there is no question that they would accept the fingerprints. If it is not changed, an official determination would be made at a future date.

The Bureau feels that it is important to send these cards to the FBI as the Kansas Bureau of Investigation does not have all out-of-state arrest records, and has no means of getting them on a timely basis. Kansas is currently the only state in the union that does not have direct access (law enforcement teletype network) to the FBI's computerized criminal history records, and it usually takes several months to obtain this information by mail.

The fiscal impact on the municipalities would be the \$12 per card submission fee that the FBI charges on all 'applicant cards'. The fiscal impact on the KBI would be the addition of one identification technician, approximately \$17,712. While we are not aware of any precise estimate of the number of cards that would be submitted, we are currently understaffed in this area (approximately a two month backlog) and any additional load will require additional staff.

Atch. 2

2/15/84
Attachment #3



KANSAS ASSOCIATION OF REALTORS[®]

Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611
Telephone 913/267-3610

February 13, 1984

Ms. Janet Stubbs, Executive Director
Homebuilders Association of Kansas
1217 Merchants National Bank Building
8th and Jackson
Topeka, KS 66612

RE: Senate Bill 531

Dear Janet:

As I am sure you are aware, the Kansas Senate Federal and State Affairs Committee has suggested that KHBA and KAR work out a compromise on the above captioned bill and bring it to the Committee for their consideration as soon as possible.

No doubt, the Kansas Real Estate Commission has an interest in any legislation that effects the Kansas Real Estate Brokers' and Salespersons' License Act. Therefore, I have taken the liberty to have this item placed on the agenda of the monthly Commission meeting with representatives of both of our associations present to work out a solution. This item has been placed on the schedule for:

10:00AM-Monday
February 20, 1984
201 Federal Building
Topeka, KS

Janet, I assure you that we will come to the meeting with an open mind and suggestions for such a compromise. An agreeable compromise is needed in such a closely related area of our industry.

I hope this arrangement meets with your approval. If not, please contact me.

Sincerely,

James W. Mayer
Executive Vice President

JWM/kgm

cc Senator Edward F. Reilly, Chairman; Senate Federal and State Affairs Committee
Paul Flower, Director; Kansas Real Estate Commission
Kansas Real Estate Commissioners
KAR Executive Committee
KAR Legislative Committee

Attachment #3