

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at
Chairperson

1:10 ~~am~~ p.m. on March 26, 1984 in room 531N of the Capitol.

All members were present except:

Committee staff present:

Bruce Kinzie - Revisor
Julian Efird - Research

Conferees appearing before the committee:

Art Griggs - Department of Administration
William C. Price - Free Thinkers Input
Lynelle King - Kansas State Nurses Assn.
JoAnne Klesath - KAPE
Jean Barbee - Executive Secretary, Board of Technical Professions
George Barbee - Executive Director of Kansas Consulting Engineers
Representative Clarence Love
Senator Billie McCray

Art Griggs appeared before the Committee on behalf of HB 2621, the so-called "Whistleblower's Act," which concerns certain rights of communication of classified state employees. A balloon version of the bill was distributed and he explained the changes therein. (Exhibit A)

William C. Price appeared before the Committee to present his complaints regarding state agencies and their insensitiveness to individual employees. Now retired, he stated many problems with supervisory personnel not heeding complaints from state workers. (Exhibit B)

Lynelle King presented testimony from the State Nurses' Association in support of the passage of HB 2621 "Whistleblower Act" with two amendments. (Exhibit C)

JoAnn Klesath spoke briefly on behalf of the state employees stating that several of them were afraid to speak to legislators about problems in their department and addressed proposed changes in the balloon version which was distributed to members of the Committee. (Exhibit D)

Jean Barbee and George Barbee presented testimony on behalf of HB 2780 which concerns the Board of Technical Professions. This bill would incorporate into the statutes language pertaining to duties of the Board to protect the public which is presently in rules and regulations. The Barbees urged the Committee to support this bill. (Exhibits E and F)

Representative Clarence Love appeared on behalf of HB 2959 which would extend the provisions of the Kansas Small Business Procurement Act until July 1, 1988. The purpose of this Act is to encourage the growth and competitive strength of small businesses, including those operated by minority persons. Senator Billy McCray presented a balloon version of this bill urging its continuation. Some discussion ensued concerning what constituted a "minority" and "small business". (Exhibit G) Senator Gaar made a motion to amend HB 2959 to make "minority business" a defined term and include "women" in this definition. This was seconded by Senator Johnston and the motion carried. The staff was instructed to prepare an amended version of this bill to define minority business and include women. Senator Gaar also made a motion to change the term "Spanish speaking" to "Hispanic" in the amended version of the bill. Senator Mulich seconded this and the motion carried.

A motion to approve the minutes was made by Senator Gaar and seconded by Senator Meyers. Motion carried.

The meeting was then adjourned by the Chairman.

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.

GUEST LIST

COMMITTEE: Senate Governmental Organization DATE: Mar. 26

NAME	ADDRESS	COMPANY/ORGANIZATION
Lynelle King	3739505 Topeka	Ks State Nurses' Assn
W. Juber		
W. Juber	1020 W 1st	AP Fro. Sensus Subst
Ed Culbertson	TOPEKA	Div. of Budget
Ellen Logan	2221 Fillmore	KS. DEPT. OF HUMAN RESOURCES
Gary Ross	2221 Fillmore	
Billy McCray	1532 NASH WICHITA	Senate
Fitzh Kennel	State purchasing	
Nick Roach	TOPEKA	Div. of Purchases
Jean Barber	Topeka	Bd of Technical Prof.
Phil Wilkes	Topeka	Dept. of Revenue
George Barber	Topeka	Ks Consulting Engrs.
DAN MORGAN	Topeka	AGC of KS.
Art Cuzco	"	Dept. of Adm.
John Collins	"	" " "
Ray W. Woodhull	"	" " "

Substitute for HOUSE BILL No. 2621

By Committee on Federal and State Affairs

2-10

0017 AN ACT concerning employees of state agencies; relating to
0018 certain communications thereby; prohibiting certain acts by
0019 supervisors and appointing authorities and providing reme-
0020 dies for violations.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. (a) No supervisor or appointing authority of any
0023 state agency shall prohibit any employee of the agency who is in
0024 the classified service under the Kansas civil service act from
0025 discussing the operations of the agency, either specifically or
0026 generally, with any member of the legislature.

0027 (b) No supervisor or appointing authority of any state agency
0028 shall:

0029 (1) Prohibit any employee of the agency who is in the clas-
0030 sified service under the Kansas civil service act from reporting
0031 any violation of state or federal law or rules and regulations to
0032 any person, agency or organization; or

0033 (2) require any such employee to give notice to the supervi-
0034 sor or appointing authority prior to making any such report.

0035 (c) This section shall not be construed as:

0036 (1) Prohibiting a supervisor or appointing authority from re-
0037 quiring that an employee inform the supervisor or appointing
0038 authority as to legislative requests for information or the sub-
0039 stance of testimony made, or to be made, by the employee to
0040 legislators; \wedge

0041 (2) permitting an employee to leave the employee's assigned
0042 work areas during normal work hours without following appli-
0043 cable rules and regulations and policies pertaining to leaves,
0044 unless the employee is requested by a legislator or legislative
0045 committee to appear before a legislative committee];

to the agency

on behalf of the agency.

FREE THINKERS INPUT PROGRAMS

1020 West 11th Street Topeka, Kansas

William "Chief" Price, Founder

TO ANYONE CONCERNED:

This is a letter of protest, that I feel is warranted and should be made public, as the issues merit attention.

Recently, I filed a cause of action with two enforcement agencies of government (one Federal and State), concerning employment which I believed to be discriminatory and inequitable.

The administration agencies of government were guilty of malfeasance in the handling of my charge of discrimination, and in essence made a mockery of the concept of justice and the right of due process.

Consider if you will these facts and ask yourself if you feel the right of due process was properly served?

After properly following the procedural rules and regulations for filing my charge of discrimination, I was not provided with a forum to address concerns or discuss the facts of my case.

Neither agency offered to me an opportunity for personal testimony of myself or witnesses and I never met personally with an investigator assigned to this case. The whole charade was nothing more than telephone calling, paper shuffling that resulted in raising my level of frustration and lack of confidence in the established bureaucratic system to efficiently protect my constitutional rights or provide me a proper and just forum to pursue right of due process.

Neither agency sustained the allegations raised in my charge. That, however, is not the primary thrust of my concern. I do not feel that either agency

EXHIBIT B

EX. B

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accorded me the right of due process to prove or disapprove my claim of discrimination.

The actions in my case are indications of the normal conduct in the business of enforcing civil rights law.

The public interest has eroded.

I have been employed, up until about five months ago, forty-one years and eight months with a state agency and have documents to show many and various positive evidences that was aborted for lack of failure to have a fact finding interview. I have tried for years to get some consideration in justification and accountability of administration.

I would strongly urge lawmakers and those responsible for administering the laws designed to protect individual rights and liberties, to be more diligent and sensitive to the effective implementation of the laws.

There are still many people in our society who are oppressed and need help and services of the government to protect and insure the exercise of constitutional rights.

Yours for Concern and Commitment;



W. C. Price
Founder of FT-IP

fb

KSNA

the voice of Nursing in Kansas

EXHIBIT C

Statement of the Kansas State Nurses' Association
by Lynelle King, R.N., M.S., Executive Director
Before the Senate Governmental Organization Committee
March 26, 1984

KSNA supports passage of HB 2621 "Whistleblower Act" with two amendments

Mr. Chairman and members of the committee, my name is Lynelle King. I represent the Kansas State Nurses' Association, the professional organization for registered nurses in Kansas. We represent registered nurses in many employment settings, including those employed in state agencies (for instance, KU Medical Center, the State Hospitals, Schools of Nursing in state universities).

We urge passage of this bill for several reasons: 1) To deny state employed nurses the right to provide information to legislators is denying a basic right. 2) There are many knowledgeable and articulate nurses employed in state agencies. Their expertise would be valuable in helping legislators form opinions and make decisions. 3) Several situations have occurred involving nurses in state agencies in which they were directed, in one case via a written memo, by administrative officers not to contact legislators about nursing issues. They were told that contacting legislators was the responsibility of the person designated to do the lobbying for the agency. One rationale behind this is that legislators would become angry and withhold funding from an institution if nurses from that institution testified in opposition to a bill certain legislators favored.

Amendments

1. KSNA supports the K.A.P.E.-requested amendments on lines 0038 and 0040. It would be appropriate for the supervisor to require that an employee inform the supervisor about testimony or information requested related to the agency but not related to other unrelated concerns.
2. KSNA requests that "unclassified faculty members" be added to those protected under this act.

EX. C

Rationale: The many nursing instructors at Fort Hays State University, Wichita State University, University of Kansas, and Pittsburg State University Schools of Nursing are among our most active members and

we rely on them to give expert testimony on various matters. These faculty have been subjected to pressure not to contact their legislators on ANY matter related to nursing legislation. These are not supervisory personnel. We believe they need protection just as do the employees in the classified service.

Summary

Passage of this bill and amendments is needed to assure that nurses employed in state agencies are not prohibited from exercising their rights to share their views with their own legislators related to nursing matters. The opportunity should be present without the fear of disciplinary action.

[As Amended by House Committee of the Whole]

Session of 1984

Substitute for HOUSE BILL No. 2621

By Committee on Federal and State Affairs

2-10

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0030 sified service under the Kansas civil service act from reporting
0031 any violation of state or federal law or rules and regulations to
0032 any person, agency or organization; or

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0034 sor or appointing authority prior to making any such report.

0035 (c) This section shall not be construed as:

0036 (1) Prohibiting a supervisor or appointing authority from re-
0037 quiring that an employee inform the supervisor or appointing
0038 authority as to legislative requests for information or the sub-
0039 stance of testimony made, or to be made, by the employee to
0040 legislators;

0041 (2) permitting an employee to leave the employee's assigned
0042 work areas during normal work hours without following appli-
0043 cable rules and regulations and policies pertaining to leaves[,
0044 unless the employee is requested by a legislator or legislative
0045 committee to appear before a legislative committee];

Ex. D

0046 (3) authorizing an employee to represent the employee's
0047 personal opinions as the opinions of a state agency; or

0048 (4) prohibiting disciplinary action of an employee who dis-
0049 closes information which: (A) The employee knows to be false or
0050 which the employee discloses with reckless disregard for its
0051 truth or falsity, (B) ~~is~~ [the employee knows to be] exempt from
0052 required disclosure under the open records act or (C) is con-
0053 fidential under any other provision of law.

0054 (d) Any employee who is in the classified service and has
0055 permanent status under the Kansas civil service act may appeal
0056 to the state civil service board whenever the employee alleges
0057 that disciplinary action was taken against the employee in viola-
0058 tion of this act or in any court of law or administrative hearing.
0059 The appeal shall be filed within 30 days of the alleged discipli-
0060 nary action. Procedures governing the appeal shall be in accord-
0061 ance with subsections (f) and (g) of K.S.A. 75-2949 and amend-
0062 ments thereto and K.S.A. 1983 Supp. 75-2929d through 75-2929g
0063 and amendments thereto. If the board finds that disciplinary
0064 action taken was unreasonable, the board shall modify or reverse
0065 the agency's action and order such relief for the employee as the
0066 board considers appropriate. If the board finds a violation of this
0067 act, it may require as a penalty that the violator be suspended on
0068 leave without pay for not more than 30 days or, in cases of willful
0069 or repeated violations, may require that the violator forfeit the
0070 violator's position as a state officer or employee and disqualify
0071 the violator for appointment to or employment as a state officer or
0072 employee for a period of not more than two years. The decision
0073 of the board in such cases may be appealed by any party pursuant
0074 to law.

0075 (e) ~~The secretary of administration shall adopt rules and~~
0076 ~~regulations providing for all state agencies and state employees~~
0077 ~~to be informed of their rights of expression and communication~~
0078 ~~under this act. The rules and regulations shall provide for the~~
0079 ~~prominent posting of a statement of employee rights under this~~
0080 ~~section in all offices of all state agencies and shall also provide~~
0081 ~~for the direct distribution of a statement of rights of employees~~
0082 ~~pursuant to this section to each employee of the state of Kansas.~~

Each state agency shall prominently post a copy of this act in locations where it can reasonably be expected to come to the attention of all employees of the agency.

0083 (f) As used in this section "disciplinary action" means any
0084 dismissal, demotion, transfer, reassignment, suspension, reprimand,
0085 warning of possible dismissal or withholding of work ^{or}
0086 ~~action resulting in loss of current or prospective compensation}.~~

0087 Sec. 2. This act shall take effect and be in force from and
0088 after its publication in the statute book.



KANSAS STATE BOARD OF TECHNICAL PROFESSIONS
214 West Sixth Street (913) 296-3053 Topeka, Kansas 66603

STATEMENT

DATE: March 26, 1984
TO: MEMBERS OF THE SENATE COMMITTEE ON
GOVERNMENTAL ORGANIZATION
FROM: Jean Barbee, Executive Secretary
BOARD OF TECHNICAL PROFESSIONS
RE: HB-2780

Mr. Chairman and members of the Committee, my name is Jean Barbee. I am the executive secretary of the KANSAS STATE BOARD OF TECHNICAL PROFESSIONS. The Board of Technical Professions is the state licensing agency for the professions of architecture, engineering, landscape architecture and land surveying.

As a result of revisions made to the board's rules and regulations, the Joint Committee on Rules and Regulations recommended deleting certain language dealing with the purpose of the board from the preamble to the Rules of Professional Conduct. That committee believed that the language included within the preamble which stated that the purpose of the board was to protect the public health, safety and welfare was narrative in nature and had no place in rules and regulations.

The board agrees with that concern. Unfortunately, the language had once been in statute and by legislative action in 1978 was deleted from statute and included in rules and regulations.

Since the committee felt strongly that the language should be deleted from the Rules and Regulations, the board asked the committee to introduce legislation to return the language to statute. The committee agreed with that request and have introduced that legislation in the form of HB-2780.

The Board of Technical Professions fully supports the passage of HB-2780.

If you have any questions, I would be pleased to address them.

EXHIBIT E

EX. E



GEORGE BARBEE, EXECUTIVE DIRECTOR
803 MERCHANTS NATIONAL BANK
8TH & JACKSON
TOPEKA, KANSAS 66612
PHONE (913) 357-1824

STATEMENT TO SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

MARCH 26, 1984

My name is George Barbree and I am the Executive Director of Kansas Consulting Engineers (KCE), which is an association representing engineering firms practicing in the state of Kansas.

KCE has an Executive Committee of eight individuals who act as the governing body of the association. The Executive Committee had an opportunity to review the Board of Technical Professions proposed administrative regulations at their November meeting. Generally the regulations were acceptable, with one exception, which centered on the possible deletion of some language in the preamble to the rules of professional conduct under 66-6-3 where it is presently stated: "(a) In order to establish and maintain a high standard of integrity, skills and practice in the technical professions, and to safeguard the life, health, property, and welfare of the public, the following...". We believed that this language should be retained, the Board of Technical Professions agreed, and the language was retained in the rules. However, the Joint Committee on Rules and Regulations felt the act needed to be amended to include similar language to support the rules.

In recent years the codes of ethics for the various professional societies of engineers have been decimated by constant pressure and attack by the U.S. Department of Justice, but the societies have held steadfast to their belief that their work has a direct and vital impact on the quality of life for all people. The preamble to the codes of ethical conduct for the American Consulting Engineers Council, the National Society of Professional Engineers, and the American Society of Civil Engineers all have language that states "...engineers require honesty, impartiality, fairness and equity and must be dedicated to the protection of public health, safety and welfare."

To the best of my knowledge, this concept has been echoed by all state engineering licensing statutes as the general purpose of the licensing of engineers.

EXHIBIT F

EX. F

AFFILIATED WITH:

KANSAS ENGINEERING SOCIETY AMERICAN CONSULTING ENGINEERS COUNCIL PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

Senate Committee on
Governmental Organization
March 26, 1984

Kansas had similar language in the engineers' licensing statutes until 1976 in K.S.A. 26a-101 (Attachment A). It read, "General purposes of act. In order to safeguard life, health and property; and to promote the public welfare, any person in either public or private capacity practicing or offering to practice professional engineering shall hereafter be required to submit evidence that he is qualified so to practice and shall be licensed as hereinafter provided;...".

We lost that language in 1976 when the Legislature combined the four professions into one licensing agency as now exists. When it was pointed out that the language was being deleted, we were told by the bill drafters that the rules of professional conduct would have a preamble with similar language.

KCE urges you to support HB-2780 which would, by statute, state the purpose for licensing the design professional to be to safeguard the health and welfare of the public, restoring the language that was lost in the 1976 revision.

PROFESSIONAL ENGINEERS LICENSE LAW

[K. S. A. 26a-101 to 26a-125, inclusive]

26a-101. General purposes of act. In order to safeguard life, health, and property; and to promote the public welfare, any person in either public or private capacity practicing or offering to practice professional engineering shall hereafter be required to submit evidence that he is qualified so to practice and shall be licensed as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice in the state of Kansas, professional engineering as defined in the provisions of this act, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer, unless such person has been duly licensed under the provisions of this act.

26a-102. Definitions. As used in this act: (a) The term "engineer" shall mean a person who, by reason of his special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering. (b) The term "professional engineer" shall mean a person who has been duly registered and licensed by the state board of engineering examiners. (c) The term "practice of engineering," within the intent of this act, shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects and including such architectural work as is incidental to the practice of engineering.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this act, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letter-head, card, or in any other way represents himself to be an engineer, or through the use of some other title implies that he is an engineer or that he is registered under this act; or who holds himself out as able to perform, or who does perform any engineering service or work of any other service designated by the practitioner which is recognized as engineering: *Provided, however,* That the provisions of this act shall not apply to or interfere with those persons and practices set forth in K. S. A. Section 26a-122.

(d) The term "board" shall mean the state board of engineering examiners, hereinafter provided by this act. (e) The term "architect" as used in this act shall mean a person who practices or is engaged in the profession of architecture or who has practiced the profession of architecture and was practicing the profession in this state at the time this act takes effect.

26a-103. State board of engineering examiners; appointment; terms; oaths. A state board of engineering examiners is hereby created whose duty it shall be to administer the provisions of this act. The board shall consist of five

HOUSE BILL No. 2959

By Representatives Love, Cribbs, Justice,
Ramirez and David Webb

2-8

0018 AN ACT concerning the Kansas small business procurement act;
0019 extending the expiration date thereof; amending K.S.A. 1983
0020 Supp. 75-6010 and repealing the existing section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 1983 Supp. 75-6010 is hereby amended to
0023 read as follows: 75-6010. The provisions of ~~this~~ *the Kansas small*
0024 *business procurement act* shall expire on July 1, 1984, ~~except~~
0025 ~~that the report required to be submitted prior to the regular~~
0026 ~~session of the legislature in calendar year 1981 shall be prepared~~
0027 ~~and submitted as provided in K.S.A. 1982 Supp. 75-6008 1988.~~

0028 Sec. ~~2~~ K.S.A. 1983 Supp. 75-6010 ~~is~~ hereby repealed.

0029 Sec. ~~3~~ This act shall take effect and be in force from and
0030 after its publication in the statute book.

and also repealing K.S.A. 1983 Supp. 75-6007
and 75-6008

New Sec. 2. The secretary of administration, with the assistance of the director of purchases, shall submit a report prior to the regular session of the legislature to the governor, the legislature and to the secretary of economic development, indicating the estimated total dollar value of contracts let to small businesses and the estimated number of small businesses who received contracts in the preceding state fiscal year, based upon historical data. This report shall include:

- (a) The total dollar value estimated to have been expended on contracts with small businesses and the estimated number of transactions this represents; and
- (b) the actual total dollar value expended on contracts with minority businesses and the actual number of transactions this represents.

are

75-6007, 75-6008 and

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Ex. G