

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./~~p.m.~~ on March 28, 1985 in room 529-S of the Capitol.

All members were present except:

Sen. Werts - Excused

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

Representative Bruce Mayfield
John Wurth, Securities Commissioner's Office
Michael Heitman, Kansas Banking Department
Jim Maag, Kansas Bankers Association

The minutes of March 27 were approved.

The committee's attention was called to copies of a memo regarding information from Mr. Yager on the law suit related to the hearing on HB 2251 dealing with continuing care agreements. (See Attachment I.)

The chairman began the hearing on HB 2360 dealing with limited partnerships. Representative Bruce Mayfield, author of the bill, briefly testified in support of the bill. He said the bill would increase the number of individuals who can participate in a limited partnership from 15 to 35.

John Wurth of the Securities Commissioner's office testified in support of the bill. He said the bill merely modernizes the exemption in that there are larger offerings now and so more investors are needed. He knows of no objections to the bill.

The chairman noted that it had not been too long since the increase to 15 was made and that last year husband and wife were addressed. He asked if more changes are forthcoming. Mr. Wurth said that it had been three or four years since the increase to 15 was made and that he did not anticipate that any further changes would be needed. Also, Mr. Wurth confirmed the chairman's statement that the increase would allow partners to participate with a smaller investment.

Sen. Gannon questioned how the increase would reflect on agricultural real estate. Mr. Wurth said that in his opinion it will not be abused in this area. In relation to this, Sen. Karr said SB 308 in the Judiciary Committee at this time deals with limited partnerships in owning farm land and questioned if this would be inconsistent with the change in HB 2360. Mr. Wurth could see no clear relationship between the two bills. This concluded the hearing on HB 2360.

The chairman began the hearing on HB 2428 dealing with examination fees for banks and trust companies. Michael Heitman of the Kansas Banking Department gave testimony in support of the bill. (See Attachment II.)

The chairman asked if the fee were raised to \$1000, would it be part of the examination fee. Mr. Heitman answered that, no, it would not be part of the fee but rather would replace the examination fee. His department would no longer make an examination assessment, and there would be a special fee for special examinations. The chairman inquired further if the fee would be the same for all banks. Mr. Heitman said it would not be the same for all but would be established by dividing the department's approved budget ceiling by the total resources of all state banks as of March 31.

Sen. Warren had a question as to if multibanking would change the Banking Department's operations. Mr. Heitman said there would be no change; each bank would be looked at individually and not the holding company. In doing this, it can be determined if assets are being moved from one bank to another.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 28, 1985.

Sen. Karr asked if the main reason for the change is cash flow. Mr. Heitman agreed and added that it would have a favorable impact on his department. At present, the scheduling of examinations is affected in that in order to get the money in, larger banks are the first to be examined which is not as it should be.

Jim Maag, Kansas Bankers Association, testified briefly that the KBA endorses the bill. He said he has heard of no banks complaining about the change in fees. The chairman said he knows of one. Mr. Heitman said that if the minimum fee is a problem, it is not of important impact on the department. The important part is the method of assessment. He would be open to amending the minimum. With this, the hearing on HB 2428 was concluded.

The chairman called for action on HB 2428. Sen. Kerr made a motion to report it favorable for passage, and Sen. Strick seconded the motion. A short discussion followed which was begun by Sen. Karr who expressed his concern that the committee had had no chance for feedback from the banks about the minimum fee. The chairman said he had only one complaint and that the banks are aware of the change as it was published in the KBA newsletter which bankers do take the time to read. Sen. Kerr's motion carried.

On a call for action on HB 2360, Sen. Burke made a motion to report it favorable for passage, and Sen. Kerr seconded. A lengthy discussion began by Sen. Karr followed in regard to Sen. Karr's feeling that SB 308 mentioned previously should be meshed in some way with HB 2360. The chairman and staff agreed that perhaps this should be done, but they did not feel that HB 2360 would be the appropriate place to accomplish it. They concluded that it should go in the corporate farming statute as it would not be advisable to amend the corporate farming statute into HB 2360. The motion made by Sen. Burke carried.

The chairman began a discussion of HB 2251. He said staff had not had enough time to gather the information requested yet, but they have determined that the Attorney General does have authority to act in cases such as the Clearview City case under the Consumer Protection Act. Sen. Harder made a motion to report HB 2251 adversely.

Sen. Reilly said that he was still concerned if there are adequate statutes to take care of potential problems in this area. He feels that the committee should wait until there is more information gathered before killing the bill. Sen. Burke noted that after seeing the contracts for Clearview City, it is evident that it was not wise to sign the contracts, and the bill cannot address this. Staff commented that if the contract is that one sided, this is already under the Consumer Protection Act. There was no second to Sen. Harder's motion.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
3-28	Mary Ann Bumgarner Lawrence	Lawrence	Sen. Burns Intern
"	E. Louise Kerr	Coats	
"	Helen Christmann	Pratt	
"	Jim Mass	Topeka	KBA
3/28/85	Julia Fortino	Topeka	Banking Dept.
3/28/85	Michael D. Heitman	Auburn	Banking Dept.
3/28/85	JOHN WURTEL	Topeka	Securities Comm.
3/28/85	Shirley (Duffy)	White	KCU
"	Jared Wright	Topeka	KCLL
"	John Stone	"	KSA, Home Fellowship
"	John Spurgeon	Lawrence	Budget Div.
"	DENNIS DEHN	TOPEKA	SEN. WERTS' INTERN
3/28/85	Leta Ruder SHL	Concordia	Silver Haird Log.

STATE OF KANSAS ● SENATE CHAMBER

NEIL H. ARASMITH

District 36, Phillips, Smith, Jewell, Republic, Rooks, Osborne,
Mitchell, Norton Counties, 59 Sunset Drive, Phillipsburg, Kansas 67661

memorandum

3-27

Mr. Yager left a message after the hearing today regarding the law suit settlement.

The settlement only established the fact they must create an escrow account for \$100,000 strictly for refunds for people that move out or die--no benefits for residents.

Also, a clause was added that if Clearview City is sold, it must remain a retirement village.

He said he may call you on this.

3/28/85
Attachment I

TESTIMONY OF: MICHAEL D. HEITMAN, DEPUTY BANK COMMISSIONER
KANSAS BANKING DEPARTMENT

PRESENTED TO: THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS
AND INSURANCE

DATE: MARCH 28, 1985

HB 2428 amends K.S.A. 9-1703 which establishes the authority and method for fee assessment by the Kansas Department of Banking.

The amendment addresses two issues: method of assessment and minimum fee.

Currently, a fee is assessed each time a state chartered bank or trust company is examined. The fee is based upon a schedule adopted by the State Banking Board. Effective March 1, 1985 the State Banking Board adopted the following:

A. State banks and trust companies

* \$200.00 per million in total resources.
Minimum fee: \$400.00

* Began the 1984-85 fiscal year at \$135.00 per million, raised to \$150.00 per million effective November 1, 1984, subsequently raised to \$200.00 per million effective March 1, 1985.

B. Trust departments

\$175.00 per day for one examiner.
\$80.00 per day for an assistant examiner.
\$60.00 per three hours or less.

C. All other examinations

\$175.00 per day for one examiner.
\$80.00 per day for an assistant examiner.
Minimum fee: \$100.00

HB 2428 would change the method by which the fee identified in item "A" (State Banks and Trust Companies) is established and assessed.

The following illustrates the present method of fee collection:

(See page #2)

3/28/85
Attachment II

Present Method

Bank "A" - \$100,000,000 in total resources
(examined as of March 31, 1985)

$\$100,000,000 \times .0200\% = \underline{\$20,000}$ fee assessed

Bank "B" - \$1,500,000 in total resources
(examined as of March 31, 1985)

$\$1,500,000 \times .0200\% = \300.00
(This figure is less than the present \$400.00
minimum; thus, the \$400.00 fee assessed.)

Several problems exist within the present method:

1. To establish a fee schedule, this department must estimate the total resources of the banks which will be examined during the fiscal year. If the aggregate resources are over-estimated, the fee schedule will be adjusted upward to make up for the revenue shortfall. Hence, banks examined after an upward adjustment are, in fact, funding a portion of the department's operating expense which should have been carried by all banks examined during the fiscal year.
2. The present method creates cash flow problems for the department. If the total resources of all banks examined in a given period are less than anticipated, this department experiences a reduction in incoming revenues and a deterioration in cash reserves.
3. This department makes every effort to conduct annual examinations. A majority of the banks receive an annual examination and, therefore, pay annual examination fees. These fees are higher than what would be applicable if all banks shared in this department's funding requirements.

(See page #3)

Proposed Method

To establish the fee level, this office would divide our approved budget ceiling by the total resources of all state banks and trust companies as of March 31st. Using this department's proposed 1985-86 budget of \$2,377,000 and dividing by the total resources of \$12,620,272,000 as of December 31, 1984 (using December data as March, 1985 totals not yet available) a fee factor of .01885% is established.

Bank "A" - $\$100,000,000 \times .01885 = \underline{\$18,850 \text{ fee assessed}}$

Bank "B" - $\$1,500,000 \times .01885 = \283.00 (less than the minimum, hence; the minimum fee of \$1,000 would be assessed - one-half payable by July 15th with the second payment due by January 15th.) Using the above estimated budget and resource totals, forty-one (41) banks would pay the minimum \$1,000.

In regard to our neighboring states, the following methods are utilized:

Colorado - Annual assessment based upon total resources.

Missouri - Annual assessment based upon total resources.

Oklahoma - Annual assessment on a graduated basis based upon total resources.

Nebraska - On July 1st each bank is billed an hourly rate for the examination performed the previous year plus 15¢ per \$1,000 of total resources. If no examination is performed, the bank is assessed only 15¢ per \$1,000.

The Comptroller of Currency utilizes an annual assessment which is based upon total resources and is billed semi-annually.

The Federal Deposit Insurance Corporation assesses an insured bank annually which, in essence, represents an insurance premium. No fee is collected by the FDIC for an examination.

This department believes the proposed amendment is positive and beneficial. Additionally, the State Banking

(See page #4)

Board and the Kansas Banker's Association State Affairs
Committee support the amendment.