

MINUTES OF THE SENATE COMMITTEE ON JUDICIARYThe meeting was called to order by Senator Robert Frey at
Chairperson10:00 a.m./~~p.m.~~ on March 27, 1985 in room 514-S of the Capitol.~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Langworthy,
Parrish, Steineger, Talkington, Winter and Yost.

Committee staff present:

Mary Torrence, Office of Revisor of Statutes
Mary Sue Hack, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Scott Lambers, Overland Park Assistant City Manager
Captain Ronald Jackson, Overland Park Police Department
Jim Yonally, National Federation of Independent Business of Kansas
Representative Rochelle Chronister
Gordon Hahn, The Associated Landlords of Kansas
Larry Christ, Office of Securities Commissioner
Representative Sandy Duncan
Dr. Lois Scibetta, Board of NursingHouse Bill 2260 - Jurisdiction of law enforcement officers executing
arrest warrants.

Scott Lambers, Overland Park Assistant City Manager, testified this is a local bill that pertains to Johnson County. It comes from their experience of having 20 cities in their county. There was a problem in certain situations in which a police officer had to leave his or her jurisdiction when an arrest was needed to be made. They have so many cities back to back, and this bill will allow them to not involve the other jurisdictions.

Captain Ronald Jackson, Overland Park Police Department, appeared in support of the bill. He stated police officers of urban cities need the capability of executing valid arrest warrants outside their city limits without obligating time, manpower, and equipment of that particular jurisdiction. A copy of his testimony is attached (See Attachment I). A committee member inquired how many police departments in Johnson County? Captain Jackson replied, there are 20 police agencies in Johnson County. A committee member inquired how do you arrange requesting assistance of a neighboring city and then proceed to deliver a warrant? Captain Jackson replied, if they have to arrest someone, they have to notify that city and have an officer meet them at a particular location and that city will make the arrest for them. If this bill passes, they will not have to do that. Another committee member inquired if they had discussed this bill with other cities in Johnson County? Captain Jackson replied, yes they have, and there is no problem with intermingling with the cities. A committee member inquired of the liability problems that involves arrests in case of shoot out. Captain Jackson replied, they always ask for assistance from that agency on a felony warrant. They always ask for additional manpower.

House Bill 2272 - Requiring information to aid in enforcing small claims
judgments.

Jim Yonally, National Federation of Independent Business of Kansas, appeared in support of the bill. He said he represents 8,000 small businesses in Kansas. The small claims court is a good way to achieve

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 27, 1985

House Bill 2272 continued

justice. It is very difficult for them to recover their money, and this is why this bill was requested. He explained if the judgment is not paid in 30 days, a form that lists their assets will have to be filled out. He explained the amendments in the bill and stated this bill will help them to recover from the judgment.

Representative Rochelle Chronister, prime sponsor of the bill, testified this is the result of a number of complaints about the ability of people to collect when they win judgments in small claims court. Any clerk of the district court will tell you that people walk out of court with a smile on their faces when they win, and then immediately depressed when they ask where they go to collect their money and frequently find they are right back where they started. A copy of her testimony is attached (See Attachment II). A committee member inquired what happens if they don't comply with court's orders? Representative Chronister replied, the plaintiff would have to go back to court for court citation. The small claims court is used a great deal. In answer to questions from a committee member, Mr. Yonally responded, a sizeable number of his members have used the small claims court; don't know for what purposes. There is a limit to how many an entity can use the court.

Gordon Hahn, The Associated Landlords of Kansas, appeared in support of the bill. He stated he would like to see the bill expanded to the district court. Evictions also come up with damages and any eviction has to go to district court. A copy of his testimony is attached (See Attachment III).

House Bill 2519 - Administrative procedures; Kansas securities commissioner.

Larry Christ, Office of Securities Commissioner, stated although we have much praise for procedural processes that are contained in the Act itself, its application to this office by and through the changes that were made to the Kansas Securities Act make it totally workable; and worse, it eliminates authority absolutely necessary to the basic operation of this office. A copy of his letter to Senator Frey concerning the Administrative Procedures Act is attached (See Attachment IV). He explained the amendments in the bill that affect his office.

Staff explained the Board of Healing Arts changes in the statutes.

Representative Sandy Duncan stated he has asked an interim study to look at other agencies in regard to the Administrative Procedures Act. The Board of Nursing has a problem that needs to be addressed. The chairman reported the civil rights commission is having a problem.

Dr. Lois Scibetta, Board of Nursing, explained that sections of the Administrative Procedures Act relating to procedures, witnesses and costs were deleted and these sections should be added in order to restore the investigative and immunity sections of the statute. The chairman requested a proposed amendment to be prepared and presented to staff to properly amend the bill.

The meeting adjourned.

A copy of the guest list is attached (See Attachment V).

3-27-85

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE.

I AM CAPTAIN RONALD JACKSON OF THE OVERLAND PARK, KANSAS POLICE DEPARTMENT. I AM HERE TO SPEAK IN SUPPORT OF HOUSE BILL 2260.

POLICE OFFICERS OF URBAN CITIES NEED THE CAPABILITY OF EXECUTING VALID ARREST WARRANTS OUTSIDE THEIR CITY LIMITS WITHOUT OBLIGATING TIME, MANPOWER, AND EQUIPMENT OF THAT PARTICULAR JURISDICTION.

MANY TIMES THE SHERIFF'S OFFICE DOES NOT HAVE THE AVAILABLE MANPOWER TO EXECUTE THE WARRANT FOR US. IF WE GO INTO MERRIAM, PRAIRIE VILLAGE, MISSION, OR OTHER CITIES, OFFICERS AT TIMES ARE INVOLVED WITH THEIR OWN CITY'S PROBLEMS AND ARE NOT IMMEDIATELY AVAILABLE TO ASSIST. THIS SITUATION CREATES DELAYS AND THE POTENTIAL DISAPPEARANCE OF OUR SUSPECT.

THIS BILL AS PROPOSED IS SUPPORTED BY THE CITY AND THE POLICE DEPARTMENT OF OVERLAND PARK.

I THANK YOU FOR YOUR TIME AND ATTENTION, AND IF MEMBERS OF THE COMMITTEE HAVE ANY QUESTIONS, I WOULD BE GLAD TO ANSWER THEM.

Attch. I
3/27/85

3-27-85

STATE OF KANSAS

ROCHELLE CHRONISTER
ASSISTANT MAJORITY LEADER
REPRESENTATIVE, NINTH DISTRICT
WILSON-WOODSON COUNTIES
LIBERTY AND NEOSHO TOWNSHIPS
IN COFFEY COUNTY
ROUTE 2-BOX 321A
NEODESHA, KANSAS 66757



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: COMMUNICATION, COMPUTERS,
AND TECHNOLOGY
MEMBER: CALENDAR AND PRINTING
WAYS AND MEANS

HB 2272 is the result of a number of complaints about the ability of people to collect when they win judgments in small claims court. Any clerk of the district court will tell you that people walk out of court with a smile on their faces when they win, and are then immediately depressed when they ask where they go to collect their money and ^{frequently} find they are right back where they started.

One of the main problems has been to find a low cost solution for the courts. I believe that HB 2272 does that by putting the burden on the defendent to provide a listing of his/her assets. The plaintiff is then responsible for attaching the assets if defendent does not pay. The clerk of the court is not responsible for a great deal of paperwork - only a checklist as to whether the asset list is produced. The plaintiff must initiate further action in a request for a contempt of court citation if the defendent does not provide the asset list.

This has been a long time problem with small claims court which I believe must be addressed in some manner. If this does not appear to be a workable solution to this problem, I would be very interested in working with the committee on a solution.

Mr. Yonally will offer an amendment to the committee saying that if the judgment is paid, the asset list need not be provided - I consider that a friendly amendment should be added.

3/27/85
Atch. II

THE ASSOCIATED LANDLORDS OF KANSAS, INC.
P.O. BOX 4282, SHAWNEE MISSION, KS. 66204

3-27-85



(913)-232-4476

Commentary about House Bill 2272

March 27th, 1985

The more than 1,200 members of The Associated Landlords of Kansas, represented through active chapters in more than six Kansas cities, are hopeful about the possible passage of House Bill 2272. We are glad to appear today in support of the bill.

Our members primarily purchase real estate as an investment outside their other employment, meaning they are not "large businesses" with ample resources to pursue court cases. Unfortunately, it is sometimes necessary for a landlord to take a tenant to court for the payment of rent, damages, or evictions. It is not uncommon for a landlord to receive judgement, and then find there is even more work involved in securing the awarded judgement. This bill would speed the process noticeably, and we encourage its passage.

We do have two enhancements we would suggest. Landlords usually pursue such cases as those described in the Limited Actions Division of the District Court, and occasionally in full District Court. This is because Small Claims Courts cannot award possession in eviction cases, and it is often the case that claims for funds are related to evictions. We would first suggest the bill be amended so the information to be provided would be a standard requirement in all District Court cases involving awards. This approach would include not only full District Court proceedings, but also those heard in Limited Actions Division(s) and Small Claims Courts as well.

The second suggestion is intended to further avoid wasted information filings. The House committee amendment to provide for eliminating the information filing requirement when the judgement is paid should be expanded so there is no requirement for a filing when a case is appealed.

Even without our two improvements, we are encouraged by the possible passage of the bill. If there is other information we can provide, or assistance we can render with the passage of this bill, please let us know, by writing or by leaving a message at our Topeka office phone (232-4476).

3/27/85
Attch. III

State of Kansas

JOHN CARLIN, Governor



JOHN R. WURTH
Securities Commissioner

Office of the Securities Commissioner
503 Kansas Avenue, Suite 212

Ph. 913/296-3307
TOPEKA, KANSAS 66603

January 29, 1985

Senator Robert G. Frey
Senate Judiciary Committee
Kansas State Senate
Capitol Building
Topeka, Kansas 66612

Dear Senator Frey:

Re: Kansas Administrative Procedures Act

At the suggestion of Mary Torrence of the Revisor of Statutes' Office, I write regarding the new Administrative Procedures Act, 1984 Session Laws of Kansas, Chapter 313. We have completed an extensive review of this legislation, which becomes law July 1, 1985, and we are greatly concerned about the effect it will have on the operations of this agency. Ms. Torrence informed me that your Senate Judiciary Committee has jurisdiction over this legislation, which is why I write to you regarding this matter.

This Act is made applicable to this agency by amending five statutes of the Kansas Securities Act, specifically K.S.A. 17-1254, 17-1260, 17-1266, 17-1266a, and 17-1269. A complete listing of all of the problems that this legislation will create for this agency would cause this letter to run many pages. But I will present a few examples:

1. The Act defines "order" to mean "a state agency action which pertains to a license and is of particular applicability to a person." The word "license" is defined as "a franchise, permit, certification, approval, registration, charter or similar form of authorization required by law for a person to engage in a profession or occupation." Therefore, the Act appears to limit its scope to proceedings that involve the registration of a person to engage in a particular profession or occupation. This agency regulates such matters pursuant to K.S.A. 17-1254. However, we also issue orders regarding the right to offer, sell and distribute securities in Kansas pursuant to K.S.A. 17-1260 and 17-1266a.

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Attch. IV

Because the powers provided this office by those two statutes will be made subject to the provisions of the Administrative Procedures Act, which limits itself to matters solely involving a person's right to engage in a profession or occupation, the effect of the Act will be to totally eliminate our ability to regulate the offer, sale and distribution of securities in this state, which is the primary function of our agency.

2. Assuming that the Act was changed to allow this agency to retain its powers to issue orders regarding the offer, sale and distribution of securities, the change that will be made to K.S.A. 17-1266a will still have the effect of emasculating our authority in this area. Presently this office has the authority to issue temporary cease and desist orders against any person who issues securities in violation of the provisions of the Kansas Securities Act. Come July 1, 1985, however, this statute will require the Commissioner to "seek (a) temporary cease and desist order in accordance with the act for judicial review and civil enforcement of agency actions." This Act, which may be found in 1984 Session Laws of Kansas, Chapter 338, does not contain any provision for this office to issue orders of any type. Rather, it is strictly a procedure to judicial review of agency orders and enforcement thereof. Therefore, the Administrative Procedures Act will have the effect of eliminating this most essential authority.

3. K.S.A. 17-1266 is amended to require the Commissioner to bring original civil actions for temporary and permanent injunctions, restraining orders, restitution, writ of mandamus and other equitable relief in accordance with the Act for judicial review and civil enforcement of agency actions. As I have already mentioned, this Act provides only for the judicial review and enforcement of agency actions. It has no provisions for bringing such original actions in the first place. Therefore, the effect of the Administrative Procedures Act would be to deny this agency the use of these most essential tools.

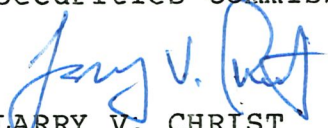
The above examples represent a small portion of the fault we have found with the Act. Although we have much praise for procedural processes that are contained in the Act itself, its application to this office by and through the changes that were made to the Kansas Securities Act make it totally unworkable; and worse, it eliminates authority absolutely necessary to the basic operation of this office.

Senator Robert G. Frey
January 29, 1985
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Within a few days of your receipt of this letter, I will call you to see if we might meet in person to discuss this matter further. In the meantime, should you have any questions or comments about what I have said, please do not hesitate to contact me.

Sincerely,

JOHN R. WURTH
Securities Commissioner



LARRY V. CHRIST
General Counsel

LVC:pjl

Attch. IV