

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./p.m. on March 29, 1985 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~:
Senators Frey, Hoferer, Burke, Gaines,
Langworthy, Parrish, Steineger, Talkington,
and Winter.

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:

Don Strole, Board of Healing Arts
Chris McKenzie, League of Kansas Municipalities
Kim Dewey, Sedgwick County Board of Commissioners
Marjorie Van Buren, Office of the Judicial Administrator
Matt Lynch, Kansas Judicial Council

House Bill 2519 - Administrative procedures; Kansas securities
commissioner.

The committee considered the amendment proposed by the Board of Nursing
(See Attachment I).

Following committee discussion, Senator Talkington moved to amend the
bill by adopting the amendments proposed by the Board of Nursing. Sen-
ator Hoferer seconded the motion. The motion carried.

Don Strole, Board of Healing Arts, explained the two statutes that are
being repealed that should have been incorporated into the Administrative
Procedures Act and they are basically procedural (See Attachment II).

Following committee discussion, Senator Gaines moved to report the bill
favorably as amended. Senator Burke seconded the motion. The motion
carried.

House Bill 2262 - Preferences in awarding custody of child to person
other than a parent.

Senator Langworthy moved to report the bill favorably. Senator Steineger
seconded the motion. The motion carried.

House Bill 2103 - U.C.C.; priority of security interests; limited
liability for dissemination of erroneous information.

The chairman explained the motion pending on the bill was to strike
Section 2 of the bill. Senator Feleciano made the motion and Senator
Gaines seconded the motion. Following committee discussion Senator Gaines
withdrew the motion.

Senator Burke moved to report the bill favorably and placed on the con-
sent calendar. Senator Hoferer seconded the motion. The motion carried.

House Bill 2016 - Municipal antitrust liability; immunity.

The chairman reported a subcommittee, Senators Frey, Yost and Langworthy,
worked on the bill and the subcommittee agrees with the amendment that
is before them today (See Attachment III). The chairman explained the
amendment.

Chris McKenzie, League of Kansas Municipalities, was recognized, and he
explained the United States Supreme Court decision that has relationship
to the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 29, 1985

House Bill 2016 continued

Kim Dewey, Sedgwick County Board of Commissioners, stated if the amendment striking the eight municipalities listed in the bill would harm the bill, they would not oppose it.

Following committee discussion, Senator Burke moved to amend the bill by adopting the proposed amendment. Senator Langworthy seconded the motion. The motion carried.

Senator Burke moved to report the bill favorably as amended. Senator Langworthy seconded the motion. The motion carried.

Senate Bill 145 - Exempting the commission on civil rights from the provisions of the act for judicial review and civil enforcement of agency actions.

The chairman explained the proposed amendments.

Following committee discussion, Senator Gaines moved to amend the bill by adopting the proposed amendments. Senator Burke seconded the motion. The motion carried.

Senator Gaines moved to report the bill favorably as amended. Senator Burke seconded the motion. The motion carried.

House Bill 2455 - Service of process by mail.

The chairman pointed out the Kansas Bar Association had requested the bill. He asked Matt Lynch, Kansas Judicial Council, to explain the council's proposed amendments, (See Attachment IV).

Following the explanation, Senator Burke moved to amend the bill by adopting the proposed amendments of the Kansas Judicial Council. Senator Gaines seconded the motion. The motion carried.

Senator Gaines moved to report the bill favorably as amended. Senator Parrish seconded the motion. The motion carried.

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

Marjorie Van Buren, Office of the Judicial Administrator, explained the proposed amendments presented by her office (See Attachment V).

Following committee discussion, Senator Burke moved to amend the bill by adopting the amendments proposed by the office of the judicial administrator; and in line 35, striking "date" and inserting "receipt". Senator Parrish seconded the motion. The motion carried.

Senator Burke moved to report the bill favorably as amended. Senator Gaines seconded the motion. The motion carried.

House Bill 2260 - Jurisdiction of law enforcement officers executing arrest warrants.

Following committee discussion, Senator Steineger moved to report the bill favorably. Senator Talkington seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 29, 1985

Substitute for House Bill 2454 - Preliminary examinations and depositions in criminal cases.

The chairman reviewed the bill. During discussion a committee member felt it was a major policy change and the Kansas Judicial Council should study it. This will be taken up again next week.

The meeting adjourned.

Copy of the guest list is attached (See Attachment VI).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-29-85

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Jim McBride	Topoka	United Way
Matt Lynch	Topoka	Judicial Council
Chris McKenzie	"	League of Ks. Municipal
Suzanne Hardin	Prairie Village	Ks Grandparents
Gerry Ray	Platts	Jo Co Comm
Dr Lois R. Scibetta	503 Kansas Ave	KS St Bd of Nurs
JANET STUBBS	Topoka	HBAK
Don Stude	Topoka	Bd of Health Aids
Fon Little	"	Ks Bar Assn
Beck Rensert	"	Plan. Parenthood
Mayorie Van Buren	"	OJA
M. H. Moore	"	corp. Journal
Mike Cermann	"	Ks R/R Assn
Arthur R. Bernal	"	KCCCR
Robert C. Lang	"	KCCR

attach. VI

PROPOSED AMENDMENT TO HOUSE BILL No. 2519,
As Amended by House Committee

On page 11, following line 392, by inserting:

"Sec. 6. K.S.A. 1984 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) Grounds for disciplinary actions. The board shall have the power to deny, revoke, limit or suspend any license or certificate of qualification to practice nursing as a registered professional nurse, as a licensed practical nurse or as an advanced registered nurse practitioner that is issued by the board or applied for in accordance with the provisions of this act in the event that the applicant or licensee is found after hearing to have been: (1) Guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; (2) guilty of a felony if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust, or of any offense involving moral turpitude; (3) unfit or incompetent by reason of negligent habits or other causes; (4) habitually intemperate in the use of alcohol or addicted to the use of habit-forming drugs; (5) mentally incompetent; (6) guilty of unprofessional conduct; or (7) has willfully or repeatedly violated any of the provisions of the Kansas nurse practice act or any rule and regulation adopted pursuant to that act.

(b) Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate such charges, or the board may designate and authorize an employee or employees of the board to conduct such investigation. After investigation, the board may institute charges. In the event such investigation, in the opinion of the board, shall reveal reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for a hearing thereof and shall cause a copy of the charges, together with a notice of the time

3/29/85
Atch. I

and--place--fixed--for--hearing,--to--be--personally--served--on--the
accused--at--least--20--days--prior--to--the--time--fixed--for--hearing.
When--personal--service--cannot--be--effected--and--such--fact--is
certified--on--oath--by--any--person--duly--authorized--by--the--board--to
make--service,--the--board--shall--cause--to--be--published,--once--in--each
of--two--successive--weeks,--a--notice--of--the--hearing--in--a--newspaper
published--in--the--county--in--which--the--accused--last--resided,
according--to--the--records--of--the--board,--and--shall--mail--a--copy--of
the--charges--and--of--such--notice--to--the--accused--at--the--last--known
address--of--the--accused. When publication of notice is necessary,
the date of hearing shall not be less than 20 days after the last
date of publication of the notice. At the hearing, the accused
shall have the right to appear personally or by counsel, or both,
to produce witnesses and evidence, to cross-examine witnesses,
and to have subpoenas issued by the board. At the hearing the
board shall administer oaths as may be necessary for the proper
conduct of the proceedings thereon, which shall be conducted in
accordance with the provisions of the Kansas administrative
procedure act.

(c) Witnesses. No person shall be excused from testifying
in any proceedings before the board under this act or in any
civil proceedings under this act before a court of competent
jurisdiction on the ground that such testimony may incriminate
the person testifying, but such testimony shall not be used
against such person for any prosecution for any crime under the
laws of this state except the crime of perjury as defined by
K.S.A. 21-3805 and amendments thereto.

(d) Costs. If the order of the board final agency action of
the board in a proceeding pursuant to this section is adverse to
the applicant or licensee, the costs of the board's proceedings
shall be charged to the applicant or licensee as in ordinary
civil actions in the district court, but if the board is the
unsuccessful party, the costs shall be paid by the board.
Witness fees and costs may be taxed by the board according to the
statutes relating to procedure in the district court. All costs

Attch. I

accrued at the instance of the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid out of any available moneys in the board of nursing fee fund.";

Also on page 11, by renumbering sections 6 and 7 as sections 7 and 8; in line 393, after "Supp.", by inserting "65-1120 and"; in line 395, by striking "65-2840b, all six" and inserting "65-1120 and 65-2840b all seven";

In the title, in line 19, before "amending", by inserting "amending K.S.A. 1984 Supp. 65-1120 and repealing the existing section;"; in line 24, by striking "65-2840b," and inserting "65-1120 and 65-2840b, both"

temporary suspension or temporary limitation order by the board shall take effect when served in person upon the licensee.

In no case shall a temporary suspension or temporary limitation of a license under this section be in effect for a period of time in excess of 90 days. At the end of such period of time, the licensee shall be reinstated to full licensure unless the board has revoked, suspended or limited the license of the licensee after notice and hearing as otherwise provided in the Kansas healing arts act.

History: L. 1957, ch. 343, § 38; L. 1976, ch. 273, § 16; L. 1978, ch. 250, § 1; L. 1979, ch. 198, § 5; L. 1984, ch. 238, § 12; July 1.

Revisor's Note:

This section was amended by L. 1984, ch. 313, § 118, effective July 1, 1985.

CASE ANNOTATIONS

2. "Suspension" and "revocation" differentiated; board may suspend, for temporary period, and later revoke license permanently. *Kansas State Board of Healing Arts v. Seasholtz*, 210 K. 694, 696, 504 P.2d 576 (1972).

65-2839.

History: L. 1957, ch. 343, § 39; L. 1976, ch. 273, § 17; Repealed, L. 1984, ch. 238, § 17; July 1.

Revisor's Note:

This section was also repealed by L. 1984, ch. 313, § 157, effective July 1, 1985.

65-2840.

History: L. 1957, ch. 343, § 40; L. 1976, ch. 273, § 18; Repealed, L. 1984, ch. 238, § 17; July 1.

65-2840a. Same; disciplinary counsel; appointment; qualifications; duties; application for subpoenas; staff; rules and regulations. The state board of healing arts shall appoint a disciplinary counsel, who shall not otherwise be an attorney for the board, with duties as set out in this act. The disciplinary counsel shall be an attorney admitted to practice law in the state of Kansas. The disciplinary counsel shall have the power and the duty to investigate or cause to be investigated all matters involving professional incompetency, unprofessional conduct or any other matter which may result in revocation, suspension or limitation of a license pursuant to K.S.A. 65-2836 to 65-2844, inclusive, and amendments thereto. In the performance of these duties, the disciplinary counsel may apply to any

court having power to issue subpoenas for an order to require by subpoena the attendance of any person or by subpoena *duces tecum* the production of any records for the purpose of the production of any information pertinent to an investigation. Subject to approval by the state board of healing arts, the disciplinary counsel shall employ clerical and other staff necessary to carry out the duties of the disciplinary counsel. The state board of healing arts may adopt rules and regulations necessary to allow the disciplinary counsel to properly perform the functions of such position under this act.

History: L. 1984, ch. 238, § 8; July 1.

65-2840b. Same; disciplinary counsel presentation to review committee; powers of review committee; disposition of disciplinary matters. On the conclusion of an investigation, unless the disciplinary counsel determines the complaint to be unfounded, the disciplinary counsel shall present matters involving alleged professional incompetency or unprofessional conduct or any other matter which may result in revocation, suspension or limitation of a license pursuant to K.S.A. 65-2836 to 65-2844, inclusive, and amendments thereto, to a review committee appointed pursuant to K.S.A. 1984 Supp. 65-2840c. The disciplinary counsel shall recommend to the review committee informal admonition of the practitioner concerned or prosecution of formal charges at a hearing. If informal admonition is recommended by the review committee the same shall be forwarded to the state board of healing arts by the disciplinary counsel and the informal admonition shall be performed by the board without further proceedings. The review committee shall have the power to subpoena witnesses and information for appearance and presentation before the committee. Disposition of the matter shall be made by a majority vote of the review committee unless the committee directs further investigation. A complaint shall not be referred for hearing unless the review committee finds by majority vote that there is probable cause to believe there has been conduct which, pursuant to K.S.A. 65-2836 to 65-2844, inclusive, and amendments thereto may result in revocation, suspension or limitation of a license. The members of the review committee shall not participate as a witness or otherwise in

any hearing regarding the matter. No person who presented any matter to the review committee shall be a hearing officer or otherwise advise the state board of healing arts in any hearing on that matter.

History: L. 1984, ch. 238, § 9; July 1.

65-2840c. Same; review committees; establishment; composition; expenses. Review committees shall be established and appointed by the state board of healing arts for each branch of the healing arts as necessary to implement the provisions of this act. Each review committee shall be composed of three members. Two members and their designated alternates shall serve for a period of two years, all of whom shall be members of the same branch of the healing arts as the person whose conduct is being reviewed. The third member of the review committee shall be appointed on an *ad hoc* basis, and shall be of the same branch of the healing arts and specialty, if any, as the person whose conduct is being reviewed. Members of the state board of healing arts shall not be eligible to act as members of the review committee. Members of the review committee who are licensees of the state board of healing arts may be selected from names submitted by the state professional association for the branch of healing arts involved. The board of healing arts shall ensure that no conflict of interest exists by reason of geography, personal or professional relationship, or otherwise, between any of the review committee members and any person whose conduct is being reviewed. The members of such review committees attending meetings of such committees shall be paid compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223 and amendments thereto.

History: L. 1984, ch. 238, § 10; July 1.

65-2840d. Same; formal proceedings; confidential material; disciplinary counsel to prosecute complaints before state board of healing arts; special counsel; witnesses. If the review committee recommends the matter be referred for hearing, the disciplinary counsel shall institute formal proceedings by filing an action as set forth in K.S.A. 65-2841 and amendments thereto. Prior to the time the action is filed, all information in the possession of the disciplinary counsel

or review committee regarding the matter shall be confidential and not subject to subpoena. The disciplinary counsel shall prepare and prosecute all complaints that proceed to hearing before the state board of healing arts. The disciplinary counsel may represent the board whenever a licensee appeals a decision of the board pursuant to K.S.A. 65-2848 and amendments thereto, unless the disciplinary counsel also appeals some aspect of the decision, in which case the board shall appoint special counsel to represent the board in the appeal. All witnesses at such hearing shall be sworn and all proceedings and testimony shall be reported, either by stenographic means or electronic recording.

History: L. 1984, ch. 238, § 11; July 1.

65-2841. Same; rules governing form of action. [See Revisor's Note] The following rules shall govern the form of the action in such cases: (a) The board shall be named as plaintiff and the licensee as defendant. (b) The charges against the licensee shall be stated with reasonable definiteness. (c) Amendments may be made as in ordinary actions in the district court. (d) All allegations shall be deemed denied, but the licensee may plead in response to the action if the licensee so desires.

History: L. 1957, ch. 343, § 41; L. 1984, ch. 238, § 13; July 1.

Revisor's Note:

This section was also repealed by L. 1984, ch. 313, § 157, effective July 1, 1985.

65-2842. Same; time and place of hearing; continuance. [See Revisor's Note] (a) Upon the filing of an action with the secretary of the board, the secretary shall make an order fixing the time and place for the hearing which shall not be less than 30 nor more than 45 days thereafter. Upon written request of the licensee, filed with the secretary of the board not less than 10 days after the licensee is served notice of the hearing, the secretary may grant, for good cause shown, a continuance of the hearing for a period not to exceed 30 days from the original time fixed for the hearing. The secretary of the board shall notify promptly the licensee of the grant or denial of any request for a continuance.

(b) Whenever the board directs, pursuant to subsection (k) of K.S.A. 65-2836 and

amendment to a men time from until the report of cluded in for hearing

History: ch. 198, § ch. 238, § Revisor's N This section effective July

65-284 [See Revi such action and of th shall be s days befo served by by the sec notice ma censee p censee's u tified ma licensee's

History: ch. 273, § Revisor's N This section effective July

65-284 Revisor's N This section effective July Law Review "Rethinkin Marilyn V. A 419, 429, 43

65-284 Revisor's N This section effective July

65-284 Revisor's N This section effective July Law Review "Judicial Perspectives (1980).

6. Appeals file notice of

As Amended by House Committee

Session of 1985

HOUSE BILL No. 2016

By Special Committee on Local Government

Re Proposal No. 36

12-19

Attch. III

0019 AN ACT concerning municipalities; relating to antitrust liability;
0020 providing immunity therefrom; amending K.S.A 50-108, 50-
0021 115 and 50-801 and repealing the existing sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. (a) When used in this act section "municipality"
0024 means any city, county, township or other political or taxing
0025 subdivision of the state.

0026 (b) The legislature of the state of Kansas recognizes the
0027 importance and the necessity of providing and regulating certain
0028 services and activities by municipalities in order to serve and
0029 protect the public's general health, safety and welfare. Munici-
0030 palities which are authorized specifically by statute or through
0031 the exercise of the municipalities' home rule power are urged to
0032 continue to provide and regulate such services and activities,
0033 and in doing so, all immunity of the state of Kansas from the
0034 provisions of the federal antitrust laws shall be extended to the
0035 governing bodies of such municipalities and the officers and
0036 employees thereof. Except as provided in subsections (f) and (g),
0037 such municipalities and the officers and employees thereof also
0038 shall be exempt from civil liability under the antitrust laws of the
0039 state of Kansas in article 1 of chapter 50 of the Kansas Statutes
0040 Annotated.

0041 (c) ~~Municipalities shall be immune and exempt from anti-~~
0042 ~~trust liability as provided by subsection (b) when:~~

0043 (1) ~~Franchising and supervising the operations and activities~~
0044 ~~of one or more public utilities;~~

0045 (2) ~~operating municipal water, gas and electric utilities;~~

(d)

except for injunctive relief

The prevailing party in any suit for such injunctive relief may be awarded attorney fees. The bond requirements of K.S.A. 60-905, and amendments thereto, shall not be applicable in suits for injunctive relief brought against municipalities for violation of the antitrust laws of the state.

0016 ~~(3) franchising and supervising the operations and activities~~
0047 of one or more cable television businesses;

0048 (4) providing and supervising one or more ambulance and
0049 emergency medical services;

0050 (5) formulating and implementing by contract or otherwise
0051 comprehensive plans for the development of municipalities and
0052 regulating land use through the adoption and administration of
0053 zoning and subdivision regulations;

0054 (6) operating sanitary sewerage and storm drainage systems;
0055 or

0056 (7) operating municipal airports and enforcing airport zoning
0057 regulations; or

0058 (8) operating and supervising the operation of solid waste
0059 systems.

(c)

0060 ~~(d) The antitrust immunity and exemption provided by sub-~~
0061 section (b) shall be in addition to any municipal exemption or
0062 immunity from antitrust liability which might otherwise exist

.

0063 and shall neither increase nor decrease the authority of municipi-
0064 palities specifically granted by statute or through the exercise of
0065 the municipalities' home rule power to provide or regulate the
0066 services listed in subsection (c). It shall not be presumed that by
0067 listing the municipal services and activities in subsection (c) that
0068 the legislature intended to repeal any antitrust immunity or
0069 exemption otherwise available for any municipal service or reg-
0070 ulatory activity. Paragraph (5) of subsection (c) shall not autho-
0071 rize municipalities to regulate the occupancy or location of
0072 dwelling units in such a way as to affect an arbitrary exclusion of
0073 manufactured housing.

0074 (e) The provisions of this act shall apply retroactively.

0075 ~~(c) The provisions of this section shall not apply to cases~~
0076 commenced before the effective date of this act unless the
0077 defendant establishes and the court determines, in light of all the
0078 circumstances, including the stage of litigation, that it would be
0079 inequitable not to apply this section to a pending case. In
0080 consideration of this section, existence of a jury verdict, district
0081 court judgment, or any stage of litigation subsequent thereto,
0082 shall be deemed to be prima facie evidence that this section shall

Attch. III

Attch. III
3/29/85

0083 not apply.

0084 ~~(f)~~ Nothing contained in this section shall preclude the attor-
0085 ney general or any county or district attorney from bringing an
0086 action against a municipality for a violation of the antitrust laws
0087 or any other laws of the state.

(d)

0088 ~~(g)~~ Nothing contained in this section shall preclude any per-
0089 son, firm company or corporation from bringing an action against
0090 a municipality for injunctive relief for a violation of the antitrust
0091 laws of this state. In any suit seeking such injunctive relief, the
0092 court may require the party seeking the injunction to give an
0093 undertaking with one or more sufficient sureties in an amount
0094 fixed by the judge and approved by the clerk of the court,
0095 securing to the municipality the damages such municipality may
0096 sustain including attorney fees if it is finally determined that the
0097 injunction should not be granted.

0098 Sec. 2. K.S.A. 50-108 is hereby amended to read as follows:
0099 50-108. *Except as provided in section 1*, any person, firm, com-
0100 pany or corporation that may be damaged by any such agree-
0101 ment, trusts or combinations described in K.S.A. 50-101 and
0102 50-102, and amendments thereto, may sue for and recover in any
0103 court of competent jurisdiction in this state, of any person,
0104 company or corporation operating such trust or combination,
0105 such damages as they have sustained, together with a reasonable
0106 attorney fee.

0107 Sec. 3. K.S.A. 50-115 is hereby amended to read as follows:
0108 50-115. *Except as provided in section 1*, any person or corpora-
0109 tion injured or damaged by any such arrangement, contract,
0110 agreement, trust or combination, described in K.S.A. 50-112 and
0111 50-113, and amendments thereto, may sue for and recover in any
0112 court of competent jurisdiction in this state, of any person or
0113 corporation, the full consideration or sum paid by such person for
0114 any goods, wares, merchandise and articles included in or ad-
0115 vanced or controlled in price by said *such* combination, or the
0116 full amount of money so borrowed.

0117 Sec. 4. K.S.A. 50-801 is hereby amended to read as follows:
0118 50-801. (a) As used in this act, the term "person" means any
0119 individual, corporation, partnership, firm, company or other as-

Atch. III

Atch. III
3/29/85

20 sociation of persons, and such term shall include the state of
0121 Kansas and any of its political subdivisions.

0122 (b) *Except as provided in section 1*, any person who may be
0123 damaged or injured by any agreement, monopoly, trust, conspir-
0124 acy or combination which is declared unlawful by any of the acts
0125 contained in chapter 50 of the Kansas Statutes Annotated, relat-
0126 ing to unlawful acts, agreements, monopolies, trusts, conspira-
0127 cies or combinations in restraint of trade, shall have a cause of
0128 action against any person causing such damage or injury. The
0129 plaintiff in any action commenced hereunder in the district court
0130 of the county wherein such plaintiff resides, or the district court
0131 of the county ~~where~~ *of the defendant has his or her defendant's*
0132 principal place of business, may sue for and recover treble the
0133 damages ~~he or she~~ *has* sustained. In addition, any person who is
0134 threatened with injury or additional injury by reason of any
0135 person's violation of ~~said~~ *such* acts may commence an action in
0136 such district court to enjoin any such violation, and any damages
0137 suffered may be sued for and recovered in the same action in
0138 addition to injunctive relief. *Any suit for injunctive relief*
0139 *against a municipality shall be subject to the provisions of*
0140 *section 1.*

0141 (c) In any action commenced under this section, the plaintiff
0142 may be allowed reasonable attorneys' fees and costs. The reme-
0143 dies provided herein shall be alternative and in addition to any
0144 other remedies now provided by law.

0145 Sec. 5. K.S.A. 50-108, 50-115 and 50-801 are hereby re-
0146 pealed.

0147 Sec. 2 6. This act shall take effect and be in force from and
0148 after its publication in the Kansas register.

Attch. III

Attch. III
3/29/85

SENATE BILL No. 145

By Senator Anderson

2-1

0017 AN ACT concerning the act for judicial review and civil en-
0018 forcement of agency actions; exempting agency actions of the
0019 commission on civil rights from the provisions thereof;
0020 amending K.S.A. 77-618 and repealing the existing section.

certain

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

0022 New Section 1. ~~Judicial review and civil enforcement of the~~
0023 ~~agency actions of the commission on civil rights~~ are hereby
0024 specifically exempted from the act for judicial review and civil
0025 enforcement of agency actions (K.S.A. 77-601 through 77-627,
0026 and amendments thereto).

Determinations under K.S.A. 44-1005 or 44-1019, and amendments thereto,
by the civil rights commission that no probable cause exists for
crediting the allegations of a complaint

0027 Sec. 2. K.S.A. 77-618 is hereby amended to read as follows:
0028 77-618. Judicial review of disputed issues of fact shall be con-
0029 fined to the agency record for judicial review as supplemented
0030 by additional evidence taken pursuant to this act, except that
0031 review shall be by trial ~~de novo~~ in appeals of:

0032 (a) Orders of the director of workers' compensation under the
0033 workmen's compensation act;

shall be in accordance with K.S.A. 44-556, and amendments thereto

0034 ~~(b) orders of the commission on civil rights under the Kansas~~
0035 ~~act against discrimination or the Kansas age discrimination in~~
0036 ~~employment act; or~~

(b) orders of the commission on civil rights under the Kansas act
against discrimination or the Kansas age discrimination in employment
act shall be in accordance with K.S.A. 44-1011, and amendments thereto;
or

0037 ~~(c) (b)~~ any order of any agency if violation of the order is a
0038 crime for which a fine exceeding \$500 or imprisonment exceed-
0039 ing six months may be imposed.

(c)

0040 Sec. 3. K.S.A. 77-618 is hereby repealed.

0041 Sec. 4. This act shall take effect and be in force from and
0042 after its publication in the statute book.

HOUSE BILL No. 2455

By Committee on Judiciary

2-19

0017 AN ACT concerning civil procedure; relating to service of
0018 process by mail; amending K.S.A. 61-1806 and repealing the
0019 existing section.

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

0021 New Section 1. (a) Notwithstanding any other method of
0022 serving the summons and petition upon a defendant, a summons
0023 and petition may be served upon a defendant of any class
0024 referred to in subsections (a) and (e) of K.S.A. 60-304 and
0025 amendments thereto by mailing a copy of the summons and of
0026 the petition by first class mail, postage prepaid, to the person to
0027 be served, together with two copies of a notice and acknowledg-
0028 ment of receipt of summons and petition and a return envelope,
0029 postage prepaid, addressed to the sender. ~~If the acknowledg-~~

~~0030 ment of receipt of summons and petition is not received by the~~
~~0031 sender within 20 days after the date of mailing, service of such~~
~~0032 summons and petition shall be made in any other appropriate~~
~~0033 manner for obtaining service.~~

0034 (b) Unless good cause is shown for not doing so, the court
0035 shall order the payment of the costs of the action pursuant to
0036 K.S.A. 60-2001 and amendments thereto, or of the costs of ob-
0037 taining personal service by the person served, if such person
0038 does not complete and return the notice and acknowledgment of
0039 receipt of summons and petition within 20 days after its mailing.

reasonable

0040 (c) If service is made under subsection (a), return shall be
0041 made by the sender's filing with the court the acknowledgment
0042 of receipt of summons and petition. ~~Failure to make a proof of~~

~~0043 service does not affect the validity of the service.~~

0044 (d) Service of process shall be considered obtained under
0045 K.S.A. 60-203 and amendments thereto upon the execution of the

Atch. IV

Atch. IV
3/29/85

0046 acknowledgment of receipt of summons and petition. The sender
0047 need not file with the court the acknowledgment of receipt of
0048 summons and petition in order for an action to be deemed
0049 commenced.

0050 (e) The notice and acknowledgment of receipt of summons
0051 and petition referred to in subsection (a) shall be in substantially
0052 the following form:

0053 In the District Court of _____
0054 _____ County, Kansas.
0055 _____, Plaintiff,
0056 _____ vs. _____
0057 _____, Defendant.
0058 NOTICE

0059 To: _____
0060 The enclosed summons and petition are served pursuant to section 1. You must
0061 complete the acknowledgment part of this form and return one copy of the
0062 completed form to the sender within 20 days.

0063 You must sign and date the acknowledgment. If you are served on behalf of a
0064 corporation, unincorporated association (including a partnership) or other entity,
0065 you must indicate under your signature your relationship to that entity. If you are
0066 served on behalf of another person and you are authorized to receive process, you
0067 must indicate under your signature your authority.

0068 If you do not complete and return the form to the sender within 20 days you (or
0069 the party on whose behalf you are being served) shall be required to pay costs
0070 ~~under K.S.A. 60-2001 and amendments thereto~~ or any expenses incurred in
0071 serving a summons and petition in another manner permitted by law, unless good
0072 cause is shown.

0073 If you do complete and return this form, you (or the party on whose behalf you
0074 are being served) must answer the petition within 20 days, if the notice and
0075 acknowledgment is received within the state of Kansas, and within 30 days, if the
0076 notice and acknowledgment is received outside the state of Kansas. If you fail to
0077 do so, judgment by default will be taken against you for the relief demanded in
0078 the petition.

0079 I declare, under penalty of perjury, that this notice and acknowledgment of
0080 receipt of summons and petition was mailed by first class mail, postage prepaid,
0081 on the _____ day of _____, _____.

0082 _____
0083 Signature
0084 _____
0085 Date of Signature

0086 ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND PETITION
0087 I declare, under penalty of perjury, that I received a copy of the summons and
0088 petition in the above-captioned matter at _____.

0089 _____
0090 Signature
0091 _____
0092 Printed Name

0093 _____
0094 Relationship to Entity/
0095 Authority to Receive Service
0096 of Process

0097 _____
0098 Date of Signature

0099 (f) This section shall be part of and supplemental to the code
0100 of civil procedure.

of _____

_____ of the date of your acknowledgment

Attach. IV

0101 Sec. 2. K.S.A. 61-1806 is hereby amended to read as follows:
0102 61-1806. Service of process by mail or by publication may be
0103 made pursuant to the provisions of K.S.A. 60-307 or *section 1,*
0104 *and amendments thereto,* which are not inconsistent or in con-
0105 flict with this act.

0106 Sec. 3. K.S.A. 61-1806 is hereby repealed.

0107 Sec. 4. This act shall take effect and be in force from and
0108 after its publication in the statute book.

Attch. IV

3-29-85

attach. V

As Amended by House Committee

Session of 1985

HOUSE BILL No. 2272

By Representatives Chronister, Apt, DeBaum, Guldner,
Sifers and Solbach

2-11

0019 AN ACT amending the small claims procedure act; concerning
0020 information in aid to the enforcement of judgments; amending
0021 K.S.A. 61-2707 and repealing the existing section.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 61-2707 is hereby amended to read as fol-
0024 lows: 61-2707. (a) The trial of all actions shall be by the court,
0025 and no party in any such action shall be represented by an
0026 attorney prior to judgment. Discovery methods or proceedings
0027 shall not be allowed; nor shall the taking of depositions for any
0028 purpose be permitted. No order of attachment or garnishment
0029 shall be issued in any action commenced under this act prior to
0030 judgment in such action.

0031 (b) *When entering judgment in the action, the judge shall*
0032 *include as a part of the judgment form or order a requirement*
0033 *that, unless the judgment has been paid, the person against*
0034 *whom judgment was rendered shall submit to the clerk of the*
0035 *district court a verified statement within 30 days from the date*
0036 *the judgment is entered describing the location and nature of*
0037 *nonexempt property and assets which the person owns, includ-*
0038 *ing the person's place of employment, account numbers and*
0039 *names of financial institutions holding assets of such person*
0040 *and a description of real property owned by such person. The*
0041 *clerk of the court shall provide a form to be made available to*
0042 *persons required to submit court shall prescribe by rule the form*
0043 *to be used in submitting information to the clerk under this*
0044 *subsection. When such form* The court shall also include as a
0045 part of the judgment form or order a requirement that the

debtor

office of judicial administration shall develop

within 15 days of the date judgment is entered,
unless the judgment has been paid,

Attch. V

0046 ~~prevailing party~~ mail a copy of the judgment form or order to the judgment creditor

0047 judgment debtor, together with the form for providing the infor-

0048 mation required to be submitted under this subsection, and that the ~~prevailing party~~ file with the court proof of the mailing judgment creditor

0050 thereof. When the form containing the required information is

0051 submitted to the clerk as required by this subsection, the clerk

0052 shall note in the record of the proceeding that it was received

0053 and then shall mail the form to the ~~prevailing party~~. No copy of judgment creditor

0054 such form shall be retained in the court records nor shall it be

0055 made available to other persons. Upon motion of the ~~prevailing~~ judgment creditor

0056 ~~party~~, the court may punish for contempt any person failing to

0057 submit information as required by this subsection.

0058 (c) Any judgment entered under this act on a claim which is

0059 not a small claim, as defined in K.S.A. 61-2703 and amendments

0060 thereto, or which has been filed with the court in contravention

0061 of the limitation prescribed by K.S.A. 61-2704 and amendments

0062 thereto on the number of claims which may be filed by any

0063 person, shall be void and unenforceable.

0064 Sec. 2. K.S.A. 61-2707 is hereby repealed.

0065 Sec. 3. This act shall take effect and be in force from and

0066 after its publication in the statute book.