

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by Senator August "Gus" Bogina at
Chairperson

5:30 A.M./p.m. on March 12, 1985 in room 123-S of the Capitol.

All members were present except:
Senators Gannon, Harder and Winter

Committee staff present:

Research Department: Ed Ahrens, Lynne Holt, Robin Hunn, Gloria Timmer,
Scott Rothe, Paul West, Carolyn Rampey, Laura Howard
Revisor's Office: Norman Furse
Committee Office: Judy Bromich, Doris Fager

Conferees appearing before the committee:

HB 2036 - Appropriations for FY 1986, Fee Agencies
HB 2154 - Appropriations for FY 1985, Fee Agencies

HB 2036, Section 2 - Abstracters' Board of Examiners

Senator Kerr presented the subcommittee report, and committee members were given an opportunity to question him.

HB 2036, Section 3 - Board of Accountancy

There were no questions following Senator Kerr's explanation of the subcommittee report for this Board.

HB 2154, Section 4 - Bank Commissioner

There was a question concerning the subcommittee's recommendation No. 4. Senator Kerr indicated that an examiner is resisting transfer from one part of the state to another, and the matter has not been resolved as of this date.

HB 2036, Section 4 - Bank Commissioner

Questions asked during discussion of the subcommittee report on this section were answered by Senator Kerr to the committee's satisfaction.

HB 2036, Section 5 - Board of Barber Examiners

There were no questions following the explanation of the subcommittee report by Senator Kerr.

HB 2036, Section 6 - Behavioral Sciences Regulatory Board

Senator Kerr presented the subcommittee report on this section, and committee members were given an opportunity to ask questions.

HB 2154 - Board of Healing Arts

During presentation of the subcommittee report on this section, Senator Kerr distributed copies of a proposed letter to the Board of Healing Arts. He and Senator Johnston indicated the letter contained the concerns of the subcommittee, and they would like to have such a letter signed by the Chairman of the Committee and mailed to the Board. It was the concensus of the committee to grant their request. (Letter was written by Senator Bogina on March 13 (See Attachment B)).

HB 2036, Section 7 - Board of Healing Arts

Senator Kerr called the committee's attention to a letter from the Board of Healing Arts dated March 12, 1985, requesting funds for a hearing officer. (Attachment A) There was discussion about the request.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,

room 123-S, Statehouse, at 5:30 a/m/p.m. on March 12, 1985.

HB 2036 - Continued

Motion was made by Senator Kerr and seconded by Senator Johnston to amend the subcommittee report for Section 7, Board of Healing Arts, to reflect \$10,000 additional funds for FY 1986 for salary for a hearing officer. The motion carried by voice vote.

HB 2154 - Board of Cosmetology

Senator Johnston presented the subcommittee report for this section, and members of the committee were given an opportunity to question him.

HB 2036, Section 8 - Board of Cosmetology

There were no questions following Senator Johnston's explanation of the subcommittee report on Section 8.

HB 2154 - Department of Credit Unions

Senator Kerr presented the subcommittee report on this section. There were no questions.

HB 2036, Section 9 - Department of Credit Unions

There were questions concerning the subcommittee report on this section. Senator Werts asked if the travel expenses noted in the report would be added to the base budget. Senator Kerr said that was not the intention. Motion was made by Senator Kerr and seconded by Senator Johnston to amend the subcommittee report to clarify that this amount would not be included in the base budget. The motion carried by voice vote.

HB 2036, Section 10 - Dental Board

Senator Kerr explained the subcommittee report, and members of the committee were given the opportunity to question him.

HB 2036, Section 11 - Board of Embalming

There were no questions following the subcommittee report presentation by Senator Kerr.

HB 2036, Section 12 - Board of Examiners for Hearing Aids

Senator Kerr presented the subcommittee report on this section, and committee members were given the opportunity to question him.

HB 2036, Section 13 - Consumer Credit Commissioner

During his explanation of the subcommittee report on this section, Senator Kerr stated that Governor's Budget Amendment No. 2 requested the appropriation of the \$65,000 noted in House Subcommittee Recommendation No. 1 (a). There were no questions from the committee.

HB 2036, Section 14 - Board of Nursing

During his presentation of the subcommittee report, Senator Kerr called attention to Senate subcommittee recommendation No. 1, and stated that the executive administrator will not be satisfied with the small amount of increase, but that the subcommittee's hands were tied by the limitation noted in their recommendation.

There was a discussion concerning increasing ending balances in this agency. Following some suggestions concerning this subject, motion was made by Senator Feleciano and seconded by Senator Kerr to amend the subcommittee report to suggest that the agency study their fees to determine if there could be a reduction in fees charged. The motion carried by voice vote.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,
room 123-S Statehouse, at 5:30 /// a.m./p.m. on March 12, 1985

HB 2036 - Continued

HB 2036, Section 15 - Board of Examiners in Optometry

No questions were asked following Senator Kerr's explanation of the subcommittee report.

HB 2036, Section 16 - Board of Pharmacy

Committee members were given the opportunity to ask questions following Senator Kerr's presentation of the subcommittee report for this Board.

HB 2036, Section 17 - Real Estate Commission

Senator Kerr explained the subcommittee report on this section, and committee members were given the opportunity to ask questions.

SB 2036, Section 18 - Savings and Loan Department

There were no questions following Senator Kerr's presentation of the subcommittee report on this section.

HB 2154 - Office of the Securities Commissioner

No questions were asked by committee members following Senator Kerr's explanation of the subcommittee report for the office of the Securities Commissioner.

HB 2036, Section 19 - Office of the Securities Commissioner

Senator Kerr presented the subcommittee report on this section. There were no questions.

HB 2036, Section 20 - Board of Technical Professions

There were no questions from members of the committee following Senator Kerr's explanation of the subcommittee report on this section.

HB 2036, Section 21 - Board of Veterinary Examiners

No questions were asked following the subcommittee report on this section by Senator Kerr.

Staff called attention to a possible typographical error in Line 18 of HB 2036. Motion was made by Senator Talkington and seconded by Senator Doyen to correct any technical errors found in the bill. The motion carried by voice vote.

Motion was made by Senator Feleciano and seconded by Senator Kerr to adopt the subcommittee report as amended. The motion carried by voice vote.

Motion was made by Senator Kerr and seconded by Senator Johnston to report HB 2036 as amended favorably for passage. The motion carried by roll call vote.

APPROVAL OF MINUTES

Motion was made by Senator Talkington and seconded by Senator Doyen to approve committee minutes for March 7 and 8. The motion carried by voice vote.

The meeting was adjourned by the Chairman.

BOARD OF HEALING ARTS



OFFICE OF

RICHARD A. UHLIG, SECRETARY
 ELIZABETH W. CARLSON, EXECUTIVE SECRETARY
 DONALD G. STROLE, GENERAL COUNSEL
 503 KANSAS AVENUE, SUITE 500
 TOPEKA, KANSAS 66603-3449
 PHONE: (913) 296-7413

BETTY JO MCNETT, PRESIDENT, WICHITA
 JAMES R. CROY, D.C., VICE-PRESIDENT, JUNCTION CITY
 RICHARD A. UHLIG, D.O., SECRETARY, HERINGTON
 JAMES W. BRUNO, M.D., GARDEN CITY
 F.J. FARMER, D.O., STAFFORD
 HELEN GILLES, M.D., LAWRENCE
 FREDERICK J. GOOD, D.C., BENTON
 CAMERON D. KNACKSTEDT, D.O., PHILLIPSBURG
 GORDON E. MAXWELL, M.D., SALINA
 FORREST A. POMMERENKE, M.D., DE SOTO
 HAROLD J. SAUDER, D.P.M., INDEPENDENCE
 DAVID WAXMAN, M.D., KANSAS CITY
 REX A. WRIGHT, D.C., TOPEKA

March 12, 1985

Senator Dave Kerr, Chairman
 Senator Michael Johnston
 Subcommittee of Way & Means
 Capitol Building, Room 143-N
 Topeka, KS 66612

RE: Funding for Hearing Officer in FY-86

Dear Senators:

Recently several cases which I thought were resolved have turned much more complex and may well result in the necessity of holding several long involved hearings in FY-86. At the February 9 Board meeting these cases were discussed. One of the concerns of the Board was the length of such hearings and the problem this would create for board members who might have to sit on the hearing panel. Last Friday I discussed this problem in detail with Richard Uhlig, D.O., the Secretary of the Board. The two of us agreed that using a hearing officer for these hearings was preferable to having board members sit on hearing panels. Thus, we are requesting funds be added to the FY-86 budget to contract for a hearing officer.

In trying to determine the amount needed I performed the following (admittedly unscientific) calculations. One of the major cases on which we may go to hearing involves 23 separate malpractice actions. If we make the undoubtedly overly optimistic assumption that we could try a case a day, we would need a hearing officer for at least 25 days for this one hearing. (I added two days for the hearing officer's review of the record and the writing of a memorandum opinion on the case.) If we assume that we could contract with someone for \$50 an hour for 8 hours a day, we would arrive at \$10,000 for this hearing.

The other cases in total should not run any longer than this. Thus, I added another \$10,000 for them. This means that we have a total of \$20,000 which we are requesting be added to the FY-86 budget.

Senator Dave Kerr
Senator Michael Johnston
March 12, 1985
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As you can surmise, such calculations and final figures are quite speculative. If one hearing became incredibly complex we could use up the entire funds for that hearing, or if settlements on various issues are reached in a given hearing we may have a large amount left over. The \$20,000, however, is the most reasonable estimate at which I can arrive.

If you have any questions, please feel free to contact me at any time.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Donald G. Strole".

Donald G. Strole
General Counsel

DGS/sl

STATE OF KANSAS

AUGUST BOGINA, JR., P. E.

SENATOR, TENTH DISTRICT
JOHNSON COUNTY
13513 WEST NINETIETH PLACE
LENEXA, KANSAS 66215



TOPEKA

COMMITTEE ASSIGNMENTS
CHAIRMAN: WAYS AND MEANS
MEMBER: GOVERNMENTAL ORGANIZATION
LOCAL GOVERNMENT
LEGISLATIVE POST AUDIT

SENATE CHAMBER

March 13, 1985

Dr. Richard A. Uhlig, Secretary
State Board of Healing Arts
Suite 500
503 Kansas Avenue
Topeka, Kansas

Dear Dr. Uhlig:

On March 7, Don Strole appeared before the Senate Subcommittee considering the budget of the State Board of Healing Arts. He asked that we restore \$2,500 in FY 1985 for a law clerk that the House had deleted and add \$7,500 for a hearing officer in both FY 1985 and FY 1986. According to Mr. Strole, the need for the hearing officer became apparent only recently when the Board realized that a case before it would not be settled soon and would proceed to the hearing stage.

Although we realize the request for the hearing officer was based upon events that just became known, it was the impression of the subcommittee that the request was made with an apparent lack of justification or preparation. Nothing was made available to subcommittee members or staff in writing and no evidence was presented to indicate that the Board had made an analysis of its expenditures to date to determine whether there are savings in the current year that could be used to pay for a hearing officer. We also noted that, although the Board's executive secretary was present at the hearing, she did not participate.

At the end of the hearing, we asked Mr. Strole to put the Board's request in writing and submit it to the subcommittee and staff. However, we have a broader concern that we would like to raise with you and the other Board members.

As you are certainly aware, there has been considerable legislative activity involving matters related to the Board of Healing Arts, most particularly in the area of medical malpractice. It is imperative that the Board become actively involved in matters before the Legislature that pertain to the Board and, quite frankly, we are not sure who speaks for the Board or that the Board is aware of the activities of its staff. As noted above, we are puzzled that the executive secretary of the Board, who in past years has represented the Board before the Legislature, is apparently no longer the Board's spokesperson. We are concerned that, given the apparent haste in which the request for the hearing officer was made, the Board may not have reviewed it or even been aware that the request was being made.

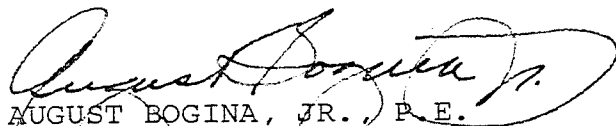
Dr. Richard A. Uhlig, March 13, 1985 - Page 2

In conclusion, we would like a response from you by the end of March concerning the points raised in this letter. Specifically, we would like for you to describe for the Senate Ways and Means Committee your agency organization, indicating the functions performed by the professional staff and identifying the person you have designated as spokesperson for the Board.

In addition, we would like your assurance that the Board has not delegated matters to its staff that more appropriately should be dealt with by the Board. In other words, we want to be assured that the Board is fully aware of the exceedingly important issues concerning it that are before the Legislature and that the Board itself is involved in decisions and requests that are presented to the Legislature on behalf of the Board.

We appreciate your attention to these matters and await your response.

Sincerely,



AUGUST BOGINA, JR., P.E.

Chairman, Senate Ways and Means Committee

CC: Members of the Board of Healing Arts

March 11, 1985

Dr. Richard A. Uhlig, Secretary
State Board of Healing Arts
Suite 500
503 Kansas Avenue
Building Mail

*This letter to
be sent over
Gus' signature*

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Dr. Uhlig

- 2 -

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Sincerely,

Senator ~~David Kerr,~~
~~Sub~~committee Chairman

~~Senator Mike Johnston~~

cc: Members of the Board of Healing Arts

March 11, 1985

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Dr. Uhlig

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Sincerely,

Senator David Kerr,
Subcommittee Chairman

Senator Mike Johnston

cc: Members of the Board of Healing Arts