

Approved January 27, 1987
Date

MINUTES OF THE Senate COMMITTEE ON Ways and Means

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

11:00 a.m./~~p.m.~~ on January 20, 1987 in room 123-S of the Capitol.

All members were present except:
Senator Doyen who was excused

Committee staff present:

Research Department: Robin Hunn, Ron Schweer, Alan Conroy
Revisor's Office: Norman Furse
Committee Office: Judy Bromich, Pam Parker

Conferees appearing before the committee:

Senator Bob Frey
Judge Leonard Mastroni, President, Kansas District Magistrate Judges
Association, LaCrosse
Marjorie Van Buren, Judicial Administrator

SB 6 - An act concerning the retirement system for judges; relating to membership for district magistrate judges; relating to retirement benefits

Senator Frey presented a brief background regarding SB 6 and asked that the Committee be certain that the language in lines 63, 64, and 65 on page two of the bill actually means July 1, 1987 and not the beginning of the payroll period which may begin before July 1st. His reason for concern stems from the possibility of other bills being considered that could alter, to some degree, the judges retirement system. If the magistrate judges were in the system before the end of this year, and the changes passed and are effective on July 1, 1987, they would be technically protected and have higher benefits than they are currently enjoying.

Judge Leonard Mastroni appeared in support of SB 6. (Attachment 1) He pointed out that language in line 31 of the bill does not agree with dates on page four in lines 143 and 144. He noted that according to this bill the magistrate judges will be a member of the judges retirement two weeks before the bill takes effect and eligible for the five percent contribution which is the higher rate. This is not what they discussed with the Interim Committee.

Marjorie Van Buren told the Committee that the issue of putting the magistrate judges in the judges retirement system is a part of the judicial branch budget this year as it was last year. She also noted that the magistrate judges assignment out of district has been temporarily reduced due to the budget constraints.

Marshal Crowther, Executive Secretary of KPERS, agreed the above mentioned dates did not agree and his suggestion was that on page four, line 144, the date be changed to June 17th.

The Chairman stated that SB 6 would be taken under advisement.

SB 8 - An act concerning judges; relating to the retirement system for judges; relating to contributions and calculation of final average salary

Senator Frey gave a brief background on SB 8 and Mr. Crowther explained some of the changes in the bill. He stated that the two areas this bill would impact would have a total fiscal impact of \$82,000 based on the covered payroll they were supplied which would first be reflected in FY 1989.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Ways and Means,
room 123-S, Statehouse, at 11:00 a.m./~~pm~~ on January 20, 1987

John Peterson, District Court Judges Association, endorsed the presentation on SB 8, the purpose being to enhance the judicial branch of government and to attract and retain well qualified judges. Judge Carpenter agreed with Mr. Peterson's comments.

The Chairman stated that SB 8 would be taken under advisement.

Robin Hunn, Kansas Legislative Research Department, introduced Ron Schweer, a new staff member assigned to this Committee.

The Chairman adjourned the meeting.

Chairman Bogina and committee members:

Informal remarks if any:

I am Judge Leonard Mastroni, President of the Kansas District Magistrate Judges Association, representing the 70 District Magistrate Judges throughout the State. The district magistrate makes up approximately one third of the Judges of the District Court and consist of attorney and non-attorney judges.

The association is actively supporting a move to be included in the district court judges retirement fund, as a judge of the district court. There have been many changes since court unification in 1978 and in the old probate judge position that was converted to the district magistrate judge. At the time of unification the district magistrate judge was placed under the K.P.E.R.'s retirement system.

The district magistrate's position is a full time one, not part-time, as thought of by many people. The judge's position, in many incidences, is the sole income, or the primary income of support to his/her family, and is not a supplemental income. The judge's position is being looked at by many as a career, rather than a temporary job, or a steppingstone kind of position.

From the association's observations, the average age of the district magistrate has decreased over the last two elections, to myself, that would indicate an interest in a career in this position. Many of the district magistrates have law degrees, masters degrees, bachelor degrees, or several years of college.

Attachment 1

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One of the qualifications of the district magistrate is to be certified to hold his office by the Supreme Court of Kansas. Certification requires an extensive testing procedure over the district magistrate's jurisdiction. If that judge would fail the examination within an 18 month period, he must forfeit his position.

The district magistrate has a jurisdiction of handling all misdemeanor crimes (jury or court trials), civil actions up to \$5,000.00 (jury or court trials), all traffic matters, small claims, mental health, alcoholism hearings, probate hearings, juvenile hearings, guardian and conservatorship hearings, preliminary hearings, and a host of other matters when the district judge is not in the county. In the larger districts 4-7 counties the district judge can only be in one place at a time requiring the district magistrate to exercise this extended jurisdiction, usually 28 out of 30 days a month.

According to the National Judicial College in Reno, Nevada, the Kansas District Magistrate has one of the broadest jurisdictions of any limited jurisdiction judge, furthermore, the judge serves the broadest geographical area than any other limited jurisdiction judge in the United States through its in-district and out-of-district assignments.

By in-district assignments the district magistrate travels from their resident county into a larger county within the district on a regular basis, usually weekly, to handle cases assigned to them by the administrative judge. An example would be the 25th Judicial District that consists of six counties, the largest being Finney County (Garden City). The administrative judge assigns a district magistrate once a week to hear a juvenile docket, another

judge comes once a week to hear the criminal docket and so on. Using this procedure, the entire week is filled up in Finney County and limited time is spent away from the less busy counties.

The out-of-district assignments are made by a supreme court justice to the district magistrate and requires the judge to travel outside the home district. I personally travel to Johnson and Sedgwick Counties. In Johnson County, the assignment lasts two days. The first day will consist of a mass traffic arraignment, 175-225 people in the morning, and the afternoon will be spent in the Civil Division with some 40 cases to be disposed of. The second day is spent doing preliminary hearings all morning in the criminal division, and the afternoon in the probate division hearing probate matters and mental and alcohol petitions. The assignment received in Sedgwick County is to the juvenile division, offender cases. I will be there this coming week for the entire week and will hear 100-120 cases.

The purpose for being so specific in the assignment description is so you can see how flexible the district magistrate must be in his jurisdiction as well as possessing a certain amount of enthusiasm to travel away from home.

As I mentioned before, the District Magistrate must be certified by the Supreme Court in order to maintain his position, but his educational requirements do not stop at that point.

In 1982, a regional training program was set up in three areas of the state to administer educational programs within the jurisdiction of the judge. The program was developed by the K.D.M.J. Association with assistance from the office of the Judicial Administration. The education programs are administered

by qualified instructors such as: law school professors, justices of the Supreme Court, District Judges, psychiatrists, and other professionals in their fields. Moreover, the judge also attends a day and a half conference in the fall, as well as the spring. The judges are also bound by requirements from Supreme Court Rule No. 501 to accumulate at least 40 hours per three year period with a minimum of 12 hours per year. Comparatively speaking, the District Magistrate will receive 36 hours of education yearly, some 24 hours over the required education.

The district magistrate judge is an intricate part of the unified court system and we are only asking to be recognized for what we are. He is the only class of judge of the district court that is not a member of the judges retirement system. We make approximately \$28,000.00 less than a district judge but handle approximately 85% of the caseload.

In order to bring about more court unification, the district magistrate should be included in the district court judges retirement system and not in K.P.E.R.'s, furthermore, there is a need to keep on attracting well qualified people as district magistrate judges.

It is the association's understanding that the projected costs for future service only to be included in the judges retirement system is ~~\$145,603.00~~. This would be the approximate cost for additional years service only. ~~\$133,000.00~~

* *Problem with bill.*

I thank you for your attention and if there are any questions that you may have, I will attempt to answer them.