

Approved Thomas F. Walker 58
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Representative Thomas F. Walker at
Chairperson

9:00 a.m./p.m. on Friday, February 12, 1988 in room 522-S of the Capitol.

All members were present except:

Representative Graeber
Representative Harder
Representative Schauf Representative Peterson

Committee staff present:

Avis Swartzman - Revisor
Mary Galligan - Legislative Research Department
Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

Elwaine Pomeroy - Kansas Parole Board

Chairman Walker called the meeting to order. He stated the minutes would be approved at the end of the meeting if there were no corrections or additions.

Avis Swartzman, Revisor distributed copies of Substitute for HB 2751. (Attachment 1)
The Chairman told the committee to look the attachment over to see if it was what they wanted.

SB 372 - Kansas Parole Board

Mary Galligan, Legislative Research Department, distributed a Memorandum on the bill. (Attachment 2) The bill would basically do two things; increase board membership from 3 to 5, authorize the Chairperson of the Board to organize and administer the activities of the Board, and require the Governor to appoint the Chairperson and Vice-Chairperson. Language was stricken that would have required all decisions of the Board to be made by majority vote. Another bill, SB 456, which is currently in the Senate Federal & State Affairs Committee, would do essentially the same things as SB 372 with the exception of retaining the current method of electing the Chairperson and Vice-Chairperson and by providing specific authority for the Chairperson of the Board to designate three member panels. Ms. Galligan directed attention to the chart at the back of the Memorandum that showed the specific differences in the two Senate Bills. SB 456 is currently in the Senate Federal & State Affairs Committee and at this time no hearings have been held on it. HB 2714, another bill concerning the Board, is in the House Federal and State Affairs Committee and no hearings have been held thus far.

The Chairman introduced Elwaine Pomeroy, Chairman, Kansas Parole Board.
Mr. Pomeroy distributed copies of SB 456, HB 2714, an Outline of Remarks and a calendar for the months of January and February which showed the dates and places of parole hearings. (Attachments 3 thru 6)

Mr. Pomeroy said that going to a five-member board only makes sense if the Legislature endorses the concept of the panels. The increased number of inmates is a growing problem. There are no signs to show it is going to get any better. There are 1500 too many inmates at Lansing; 500 too many at Kansas State Industrial Reformatory. The question is raised, 'what do you do with 1900 inmates?' The inmate rate is increasing 400 per year. Mr. Pomeroy said that George Jones is the Director of the Department of Corrections. He introduced Frank Henderson, board member who came on in September 1987.

Mr. Pomeroy commented that what shows as one hearing might actually go down as one, but as many as three decisions might have been made. There is an inter-relationship with the Department of Corrections. Actually they have nothing to do with each other as far as each is a separate entity, but there is good cooperation between the Department and Board. The Parole Board makes the decision to parole; Corrections has the supervision of the inmates. The parole officers are the Department's employees, not the Parole Board's employees. The Department of Corrections provides the facilities for the Parole Board's hearings. Furthermore, the Board has no authority to initiate revocation of parole. That decision rests solely with the parole officer. If parole is revoked, a show cause hearing is held. The parolee is returned to the institution where a final hearing is held and a decision made.

There are going to have to be more institutions. Mr. Pomeroy mentioned the towns of Osawatomie, Ellsworth and Norton, with possibly a facility at Stockton. This means increased geography. The Board is already traveling 2,000 miles a month.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

room 522-S, Statehouse, at 9:00 a.m./p.m. on Friday, February 12, 1988

On July 1, 1982, parole eligibility was set by statute. The Board has no authority to schedule or give consideration to any inmate until he or she becomes parole eligible. Mr. Pomeroy mentioned the good time credit an inmate can receive. One day is given for each three days served and one month for each year served. The tables are now in the statute books so that those persons connected with the system can see the amount of time which has to be served before an inmate becomes parole eligible.

Mr. Pomeroy told of meeting with new inmates and informing them of how the system operates. They are told the length of time that must be served under the statutes and how the Parole Board functions.

The six factors the Board considers when an inmate is undergoing consideration for parole are: the crime - whether violent or otherwise; criminal history - whether it is the first crime or the sixth, eighth or any number, prior felonies, how many times on probation, how many times in community corrections, the arrest record etc. Mr. Pomeroy said the number of arrests is an indication of whether the person didn't quite cross over with people committing crimes or is a reason to believe they are also involved in crimes. The third consideration is the disciplinary record; how the inmate has conducted himself while serving sentence, this includes how they keep their living facilities, if they have beaten up someone, stealing, and drugs in prison. The smoking of marijuana entails four crimes - bringing it into the prison, introducing it to the prisoners, transferring it to others, and the sale or exchange of it. Several people would be involved and the possession of drugs is a felony. On the positive side there is program participation, whether or not the inmate makes an effort to help himself through counseling and those programs that help the inmate with the particular area he needs. This is the fourth area that is looked at. The fifth consideration is the parole plan - the support system and whether there will be family or friends there for the inmate. Also looked at are the resources available in the community; where to go to get help. The inmate is told about job service and welfare. He should be willing to ask for help or he might be so proud he will commit another crime. The last consideration is public input. Computer printouts are sent out and the papers pick out the names they think the public will be interested in. Victims, relatives, judges, employers and others contribute to the pros and cons of why or why not the person should be paroled. Law enforcement officers also have input.

Mr. Pomeroy was asked for figures on paroled inmates and give these figures. FY 1985 - paroled 49%, passed 42% and continued status 9%; of a population of 2325, 1137 was paroled, 985 passed and 283 on continued status; FY '86 with a 2718 population, 1382 paroled (51%), 1056 passed (39%) and 280 on continued status (10%); FY '87 3072 population, 1327 paroled (43%), 144 passed (47%) and 296 on continued status (10%). Mr. Pomeroy explained that continued status permits an inmate to finish a program that will be of benefit to him. Program capacity is limited and this permits only a few inmates involved in a program.

Mr. Pomeroy said that prison overcrowding is the result of several factors. The Legislature and the laws it passes is one reason, the good time rule is another, the officer on the street has to make the decision of what to do in a given situation, the court services officer in his decisions and recommendations, the judge in the courtroom, the prosecutor and the plea bargaining issue. Many decisions made by individuals impact on the prison population.

As time ran out, Mr. Pomeroy said he would return Tuesday, February 16.

The Chairman thanked Mr. Pomeroy and adjourned the meeting.

SUBSTITUTE FOR HOUSE BILL NO. 2751

By Committee on Judiciary

AN ACT concerning state agencies and courts of this state; relating to the size of certain documents, forms and records required to be filed therewith or maintained thereby.

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

Section 1. (a) All state agencies and all courts of this state shall permit the filing of documents and pleadings, which are required, authorized or permitted by law, on standard size forms or paper and shall not require the filing of documents and pleadings on legal size forms or paper.

(b) On and after July 1, 1990, all documents and pleadings which are required, authorized or permitted by law to be filed with a state agency or a court of this state shall be filed on standard size forms or paper and legal size forms and paper shall not be used for that purpose.

(c) This section does not prohibit the use or filing of:

(1) Forms larger than standard size, if the forms are to be used for maintenance of accounting or bookkeeping records, for preparation of architectural or engineering drafts or documents, or for preparation of maps, graphs, charts or artwork;

(2) fan-fold paper designed for use in computer peripheral devices and forms, bond paper or legal pads which are perforated or otherwise designed to produce complete documents not larger than standard size;

(3) public records smaller than standard size, computer generated printouts, output from test measurements and diagnostic equipment, machine generated paper tapes, charts, graphs, tables, maps, diplomas, artwork and public records otherwise required to be non-standard size or exempt by law; or

(4) documents required by the federal government to be

non-standard size.

(d) Upon written application of any state agency or court of this state, the secretary of administration may approve additional exemptions from the requirements of this section if, based upon such application, the secretary finds that the cost of compliance with such requirements is so great as to not be in the best interest of the state.

(e) Each state agency and court of this state shall use its store of paper supplies that exceed standard size and that are on hand on the effective date of this act until such supplies are exhausted. The secretary of administration and the director of printing shall provide assistance in form analysis and design to any state agency on request to assist in complying with the provisions of this act.

(f) As used in this section:

(1) "Standard size" means 8 1/2 x 11 inches or 21.59 x 27.94 centimeters.

(2) "State agency" means any state office, department, institution, commission, board or authority of this state.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

MEMORANDUM

February 8, 1988

TO: House Committee on Governmental Organization
FROM: Kansas Legislative Research Department
RE: 1987 S.B. 372

The Committee has before it S.B. 372, one of two bills that would change the composition of the Kansas Parole Board. The bill would increase the number of positions on the Parole Board from three to five. The current members of the Board would remain on the Board until their terms expire or until they resign. One of the two new members would be appointed for a three-year term and the other for a four-year term. The bill would authorize the Chairperson of the Board to organize and administer the activities of the Board. The bill does not define precisely what is meant by organizing and administering, but that language may provide authority to have the Board conduct some of its activities in panels of two or three members. S.B. 372 would require the Governor to designate the Chairperson and Vice-Chairperson of the Board. Under current law the Chairperson and Vice-Chairperson are elected by the members of the Board. Language in S.B. 372 that would have required all decisions of the Board to be made by majority vote was deleted by the Senate Judiciary Committee amendments.

The other bill on this subject, S.B. 456, is currently in the Senate Committee on Federal and State Affairs. That bill would also expand the membership of the Board to five, retain the current members, provide for staggered terms of the new members, and authorize the chairperson to organize and administer the activities of the Board. However, S.B. 456 differs from S.B. 372 by retaining the current method of electing the Chairperson and Vice-Chairperson and by providing specific authority for the Chairperson of the Board to designate three member panels. Under the bill, the panels would have the full authority and power of the Board regarding parole actions. The language would also permit hearings to be conducted before less than an entire panel. No vote-specific requirement for decisions is included in S.B. 456.

Background

The composition of the paroling agency in Kansas has gone through several changes in recent years. The Kansas Adult Authority, the immediate predecessor of the current Parole Board, was created in 1974 and was composed of five part-time members until January, 1979 at which time all five of the positions became full time. Effective July 1, 1984 the Authority was reduced to three full-time members. The name was changed to the Kansas Parole Board January 1, 1986.

In addition to making parole decisions about eligible inmates in the custody of the Secretary of Corrections, the Parole Board also conducts initial hearings with offenders when they enter the prison system and parole revocation hearings, issues final discharges from parole supervision, and reviews applications for executive clemency and pardons. Parolees are supervised by the Department of Corrections.

Currently, the Board operates under a policy that requires all three members to be present at all hearings. Board policy also requires a unanimous vote for all persons being considered for original parole on a sentence for a class A or class B felony.

COMPARISON OF PAROLE BOARD BILLS WITH EXISTING LAW

<u>Provision</u>	<u>Existing Law</u>	<u>Senate Bill No. 372 (House Governmental Organization)</u>	<u>Senate Bill No. 456 (Senate Federal and State Affairs)</u>
Number of members of the Board	Three	Five	Five
Designation of Chairperson and Vice-chairperson	Election by members of the Board	Designated by the Governor	Election by members of the Board
Authority of Chairperson	Not specified	Authorized to organize and administer	Authorized to organize and administer; designate panels with full power and authority of the Board
Attendance at hearings	Not specified	Not specified	Hearings may be conducted by less than a full panel of the Board
Vote requirement for Board decisions	Not specified	Majority vote language stricken by Senate Judiciary Committee	Not specified

Kansas Legislative Research Department
February 9, 1988

SENATE BILL No. 456

By Special Committee on Federal and State Affairs

Re Proposal No. 13

12-16

0018 AN ACT concerning the Kansas parole board; relating to mem-
0019 bership and officers; amending K.S.A. 22-3709 and K.S.A.
0020 1987 Supp. 22-3707 and repealing the existing sections.

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

0022 Section 1. K.S.A. 1987 Supp. 22-3707 is hereby amended to
0023 read as follows: 22-3707. (a) The Kansas ~~adult authority~~ *parole*
0024 *board* shall consist of ~~three~~ *five* members appointed by the
0025 governor, subject to confirmation by the senate as provided in
0026 K.S.A. 75-4315b *and amendments thereto*. No more than ~~two~~
0027 *three* members of the ~~authority board~~ shall be members of the
0028 same political party. The term of office of the members of the
0029 ~~authority board~~ shall be four years. If a vacancy occurs in the
0030 membership of the ~~authority board~~ before the expiration of the
0031 term of office, a successor shall be appointed for the remainder of
0032 the unexpired term in the same manner that original appoint-
0033 ments are made. Each member of the ~~Kansas adult authority~~
0034 *board* shall devote the member's full time to the duties of
0035 membership on the ~~authority board~~.

0036 (b) The governor may not remove any member of the ~~au-~~
0037 ~~thority~~ *Kansas parole board* except for disability, inefficiency,
0038 neglect of duty or malfeasance in office. Before removal, the
0039 governor shall give the member a written copy of the charges
0040 against the member and shall fix the time when the member can
0041 be heard at a public hearing, which shall not be less than 10 days
0042 thereafter. Upon removal, the governor shall file in the office of
0043 the secretary of state a complete statement of all charges made
0044 against the member and the findings thereupon, with a complete
0045 record of the proceed

ATTACHMENT 3

G.O. COMMITTEE

2/2/88

0046 (c) Each member of the Kansas parole board on the effective
0047 date of this act shall be and remain a member of the board and
0048 shall hold office until the member's term expires and a successor
0049 is appointed and qualified or until a vacancy occurs in the
0050 member's office. Of the two members added by this act, one
0051 shall be appointed for an initial term of three years and one for a
0052 term of four years, as designated by the governor. Such mem-
0053 bers' terms shall commence on the effective date of this act.

0054 Sec. 2. K.S.A. 22-3709 is hereby amended to read as follows:
0055 22-3709. After their appointment, the members of the Kansas
0056 ~~adult authority~~ parole board shall meet, and annually thereafter
0057 the ~~authority~~ board shall meet, and organize by electing one of
0058 their members as ~~chairman~~ chairperson and one of their mem-
0059 bers as ~~vice-chairman~~ vice-chairperson. The chairperson of the
0060 board shall have the authority to organize and administer the
0061 activities of the board. The chairperson of the board may des-
0062 ignate panels, consisting of three members of the board, which
0063 shall have the full authority and power of the board to order the
0064 denial, grant or revocation of an inmate's parole, or to order the
0065 revocation of an inmate's conditional release, upon hearing by
0066 one or more members of the panel. The director of the ~~authority~~
0067 board shall act as secretary to the ~~authority~~ board.

0068 Sec. 3. K.S.A. 22-3709 and K.S.A. 1987 Supp. 22-3707 are
0069 hereby repealed.

0070 Sec. 4. This act shall take effect and be in force from and
0071 after its publication in the statute book.

HOUSE BILL No. 2714

By Representatives Roy and Whiteman

1-28

0017 AN ACT concerning the Kansas parole board; relating to voting
0018 requirements; amending K.S.A. 22-3709 and repealing the
0019 existing section.

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

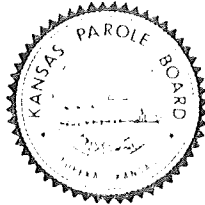
0021 Section 1. K.S.A. 22-3709 is hereby amended to read as fol-
0022 lows: 22-3709. After their appointment, the members of the
0023 Kansas ~~adult authority~~ *parole board* shall meet, and annually
0024 thereafter the ~~authority~~ *board* shall meet, and organize by elect-
0025 ing one of their members as ~~chairman~~ *chairperson* and one of
0026 their members as ~~vice-chairman~~ *vice-chairperson*. The director
0027 of the ~~authority~~ *board* shall act as secretary to the authority. *Any*
0028 *decision of the board granting parole to an inmate sentenced for*
0029 *a class A or class B felony shall be by unanimous vote of all*
0030 *members of the board.*

0031 Sec. 2. K.S.A. 22-3709 is hereby repealed.

0032 Sec. 3. This act shall take effect and be in force from and
0033 after its publication in the statute book.

ATTACHMENT 4
G.O. COMMITTEE

2/12/88



Members

Elwaine F. Pomeroy
Chairman

Joan M. Hamilton
Vice-Chairman

Frank S. Henderson, Jr. TOPEKA, KANSAS 66612-1220
Member

KANSAS PAROLE BOARD
LONDON STATE OFFICE BUILDING
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(913) 296-3469

George V. Jones
Director

OUTLINE OF REMARKS

By Elwaine F. Pomeroy

Chairman, Kansas Parole Board

House Governmental Organization Committee

February 12, 1988

SB 372

Compare SB 456

Favorable features of each

Increased number of inmates

Increased decisions concerning inmates

FY 1985 - 2,325

FY 1986 - 2,718

FY 1987 - 3,072

Increased revocation hearings

FY 1985 - 402

FY 1986 - 496

FY 1987 - 590

Increased number of institutions

Increased hearing days - calendar crowded

ATTACHMENT 5
G.O. COMMITTEE

2/12/88

Length of some hearing days

Have instituted administrative changes

Board table cases - mostly two votes

Turnaround time greatly reduced

Director sometimes does initial hearings

One reviews clemency applications

Sometimes two members at hearings

Illness

Lunch breaks

Schedule conflicts

Violation hearings sometimes one member

Concerns about expansion

Possible variance among panels

Unanimous policy

Level of participation

Additional costs

Other suggested changes

Agency name in statutes

22-3717 (e) "Shall have power" to "may"

22-3710 No capacity

22-3711 Communications to K.P.B.

22-3712 Repeal

22-3713 One member may conduct hearings

22-3716 Belongs elsewhere

Pending lawsuits

Reasons for not granting parole

Haney case

Factors considered

Crime

Criminal history

Disciplinary record

Program participation

Parole plan

Public input

Work closely with D.O.C.

Regular meetings

Renewed cooperation

House Bill 2714

Responds to Haney decision

Goes beyond present policy

Possible legislative prison overcrowding approaches

Make consideration of capacity a factor

Make public input a statutory factor

Increased, full funding of programs

More court services officers

More parole officers

Vocational rehabilitation services

Work release in metropolitan Kansas City area

Permit Secretary to release community corrections

type inmates from non-participating counties

Extended work release

Give Secretary more flexibility

Raise threshold of felonies

Funding of halfway houses

Credit for time in community corrections residential facilities

REVISED DECEMBER 17, 1987

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KANSAS PAROLE BOARD
 LAW STATE OFFICE BUILDING
 900 JACKSON STREET
 TOPEKA, KANSAS 66612
 PHONE #913-296-3469

ATTACHMENT 6
 G.O. COMMITTEE
 2/12/88

January 1988

REVISED DECEMBER 17, 1987

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