Approved 1/20/88
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~p.m.~~ on January 12, 19 88 in room 254-E of the Capitol.

All members were present ~~except:~~

Committee staff present:

Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Mary Ann Torrence, Assistant Revisor of Statutes
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

The Chairman welcomed the returning Committee Members, as well as staff. He welcomed all present in the room, and introduced a new employee, Mrs. A. Jean Pierce.

Staff reviewed the 1987 carryover bills in the Senate Committee on Federal and State Affairs (Attachment #1), as well as those in the House Committee on Federal and State Affairs (Attachment #2).

There was Committee discussion, and the Chairman proposed various matters for members to consider.

The Chairman announced that the Committee will meet tomorrow at the regular hour.

The meeting was adjourned at noon.

1/12/88

JW

Attachment #1

MEMORANDUM

January 11, 1988

TO: Senate Committee on Federal and State Affairs

FROM: Kansas Legislative Research Department

RE: 1987 Carryover Bills

The following bills remained in Committee at the end of the 1987 Legislative Session.

S.B. 331 -- Missouri and Kansas Metropolitan Culture and Recreation District Compact

The bill would authorize a compact between Kansas and Missouri to provide for the establishment of cultural and recreation districts. The purpose of the districts would be to build, operate, and maintain major cultural and recreational facilities; and to provide operating and developmental support and coordination for cultural and recreational organizations operating within the districts.

Districts in Kansas could be created by petition of 1 percent of the number of voters who participated in the most recent preceding gubernatorial election in counties that have a population of at least 80,000 according to the most recent federal census. The district could be composed only of the petitioning county or of that county and one or more counties within 60 miles in the same state or an adjacent state. Each of the counties included in a district would have to meet the population requirements. Alternatively, the governing body of any county that meets the population requirements could create a district by resolution. Districts created by resolution could also be multi-county districts.

Within 24 months of the filing of a petition or adoption of a resolution, the county governing body must request that the county election officer submit to the voters the question of whether a maximum retail sales tax of .25 percent should be levied to support the cultural and recreational facilities and organizations within the district. The question must appear on the ballot at the next primary or general election following the date of the request to the election officer.

If the voters approve the sales tax it would be levied and collected in the same manner as other local sales taxes and would be in addition to other sales taxes authorized in the jurisdiction. Net sales tax revenue would be deposited in the Kansas Metropolitan Culture and Recreation District Trust Fund. The state would retain in the State General Fund 1 percent of the tax collected to cover the cost of collection. If the sales tax proposition is rejected, the county would remain in the district, but its commissioners would be nonvoting commissioners. The sales tax proposition could be resubmitted to the voters at any time.

The Commissions created under the act would be composed of one qualified voter from each participating county who would be appointed by the county governing body; one qualified voter from each city with a population of

Senate FSA
1/12/88
Attachment #1

at least 80,000 located totally or partially within a participating county who would be appointed by the city governing body; and one qualified voter from each state containing one or more participating counties who would be appointed by the governor. The appointees would have to be persons with demonstrated interest, expertise, knowledge, or experience in cultural and recreational organizations or endeavors. Persons appointed to the commission would serve staggered four year terms. Vacancies on the commission would be filled in the same manner as the original appointment. Persons appointed to the commission could be removed for cause following a hearing before the full commission and an affirmative vote for removal by 2/3 of the commissioners. The chairperson and vice-chairperson of the commission would be elected by the membership of the commission. Other officers and employees could be appointed by the commission. Commission members would not receive compensation for their services on the commission, but would receive actual and necessary expenses.

The commissions created would have the following powers:

1. Acquire by gift, purchase, lease or devise and to plan, construct, operate, and maintain, or to lease to others for operation and maintenance, cultural and recreation facilities within the territory of the district. The facilities shall be determined by the commission based upon any the facility's impact upon the district. The impact could include, but would not be limited to:

   a. economic impact;

   b. educational impact

   c. contribution to the quality of life and popular image of the district;

   d. the breadth of popular appeal within and without the district;

   e. contribution to the geographic balance of recreational and cultural facilities throughout the district; and

   f. uniqueness as compared with other recreational and cultural facilities within and without the district.

2. Levy and collect the sales tax (maximum of .25 percent) approved by the voters.

3. Solicit and collect contributions to be used as grants for operating and developmental support of cultural and recreational organizations in the district.

4. Make grants or loans to cultural and recreational organizations in the district.

5. Create and fund endowments for the construction, operation, and maintenance of cultural and recreational facilities within the district and for grants for the operating and developmental support of cultural and recreational organizations in the district.

6. Charge and collect fees and rents for the use of and admission to the facilities owned or operated by the district.

7. Receive contributions, tax funds, grants, donations or appropriations from municipalities, counties or the federal government or from any other source, public or private.

8. Enter into contracts and sue and be sued.

9. Disburse funds for its lawful activities.

10. Borrow money for the acquisition, planning, construction, equipping, operation, maintenance, repair, extension, or improvement of any facility which it has the power to own or to operate and to issue negotiable notes, bonds or other instruments.

11. Any bonds or notes issued by the commission would be payable out of sales tax revenues, or other resources of the commission including a mortgage or deed of trust upon any property owned by the commission.

12. Condemn any and all rights or property, of any kind or character, necessary for the purposes of the commission.

13. Make all appointments and employ officers, agents, and employees, determine their qualifications and duties and fix their compensation.

14. Perform all other necessary and incidental functions; exercise such additional powers as shall be conferred on it by the legislature of any state containing a county or counties participating in the district concurred in by the legislature of the other and, as appropriate, by act of Congress.

15. Apply to Congress for its consent and approval of the compact and any districts and commissions created under it.

Property of the commission would have the same tax status as property of municipalities.

Each commission created under the compact would be required to make an annual report to the governor of each state containing counties participating in the district.

Within 60 days of enactment of the compact the Governor, with the advise and consent of the state senate, would be required to appoint three persons to enter into the compact on behalf of the state. Once signed, the compact would become binding on the two states and would be filed with the Secretary of State of both Kansas and Missouri.

The act would become effective upon publication in the statute book.

Background

The Committee held a hearing on the bill on March 18, 1987. Senator Langworthy appeared at that hearing and stated that one of the problems that the bill would address in Johnson County is the large number of municipalities in the area.

Mr. Ed Peterson appeared on behalf of Kansas City Consensus, a nonprofit organization created to explore problems that exist in the metropolitan area. One of the issues addressed is that of maintaining and expanding cultural, recreational and arts activities in the Kansas City area. As characterized by Mr. Peterson, the bill would create a metropolitan area funding base to support cultural and recreational activities. According to Mr. Peterson, the five counties that would be included in the district are Jackson, Clay, and Platte in Missouri and Johnson and Wyandotte in Kansas. (Mr. Peterson also indicated that Douglas and Leavenworth counties in Kansas could participate in the district, but those two counties do not meet the population requirements established in the bill.) The commission of that five-county district would include one member from each of the five counties, one member each from Kansas City and Overland Park, Kansas; and Kansas City and Independence, Missouri and one member appointed by each of the governors. Kansans would thus comprise five of the 11 members of the commission.

According to Mr. Peterson's written testimony, many options for funding were considered, but the sales tax was identified as the means which would lend itself to an equitable means of collection and distribution.

An analysis of S.B. 331 prepared by the Department of Revenue indicates that an approximate total of $11.6 million annual net sales tax revenue would be generated by the .25 percent tax in three of the eligible counties, Johnson ($7.4 million), Wyandotte ($2.6 million) and Shawnee ($1.6 million). (The Department's analysis did not include an estimate for Sedgwick County which may also be eligible to create a district under the bill as drafted.)

S.B. 354 -- License Fees, Liquor Retailers and Class A Clubs

The bill includes a $1,000 class A club license fee which is different than the two-tier fee based on membership that was established by 1987 Substitute S.B. 141. Current law established the license fee for class A social clubs with 500 or fewer members at $500 and for those with over 500 members at $1,000.

The $250 license fee included in the bill for liquor retailers was included in Substitute S.B. 141 so is current law. The bill does not include a fee structure for drinking establishments.

S.B. 360 -- Alcoholic Beverage Server Training and License

Effective July 1, 1988, the bill would require that any person who serves any alcoholic beverage as an officer, employee, or agent of a club, drinking establishment, caterer or retailer of cereal malt beverage (CMB) sold for on-premise consumption be licensed. The annual licenses required under the law

would be issued by the director of the Alcoholic Beverage Control (ABC) division of the Department of Revenue.

In order to obtain a license a person must:

1. be at least 18 years of age;

2. submit to the director of the ABC evidence of completion of an alcoholic liquor server education program approved by the director; and

3. pay the license fee established in rules and regulations.

The bill also authorizes the Secretary of Revenue to adopt rules and regulations establishing standards for alcoholic liquor server education programs. The rules and regulations must include standards for:

1. curriculum and materials;

2. examination of servers and examination procedures; and

3. approval of providers of such programs.

Standards for the curriculum must include, but not be limited to:

1. alcohol as a drug and its effects on the body and behavior, especially driving ability;

2. the effects of alcohol in combination with commonly used drugs and illegal drugs;

3. recognition of the problem drinker and community treatment programs and agencies;

4. state alcohol beverage laws such as prohibition of sale to minors, sale to intoxicated persons, sale for on-premises consumption, hours of operation and penalties for violations of the laws;

5. drunk driving and liquor liability laws;

6. intervention with problem customers including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home; and

7. advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.

The bill would require the director of the ABC to publish at least quarterly a list of approved alcohol server education programs.

The bill would take effect upon publication in the statute book.

Background

The Liquor Law Review Commission recommended establishment of an alcoholic beverage handler training program "as a means of reducing the incidence of drinking and driving, sales to minors, and other violations of the alcoholic beverage control laws." The bill as introduced includes most of the elements of the policy advocated by the Commission.

S.B. 141 included a provision that would have required the Secretary of Revenue to adopt rules and regulations establishing standards for alcoholic liquor server education programs, and to publish at least quarterly a list of approved education programs. After June 30, 1988 each applicant for a new or renewal license as a class C establishment (liquor by the drink establishment) or caterer would have been required to submit evidence that all employees, officers or agents of the licensee who serve alcoholic liquor had successfully completed an alcoholic liquor server education program. Unlike S.B. 360, the bill did not include a licensure requirement and would not have covered servers in private clubs or CMB taverns. The Committee will recall that the server education provision was not included in the Senate substitute for S.B. 141.

An analysis of S.B. 360 prepared by the Department of Revenue indicated that approximately 18,000 people would be licensed under the law. Total revenue anticipated based on a $25 annual license fee would be $450,000.

The ABC submitted a memo to the Committee advocating licensure of beverage servers and inclusion of persons working in clubs and CMB taverns under the licensure requirements. According to the ABC licensure would ensure compliance with the education requirement and allow for a checking process to ensure that a server had not been convicted of a felony or morals violation. A license would also place responsibility for compliance on the server as well as his or her employer according to the ABC.

H.B. 2385 -- Regulating Time-Share Plans

H.B. 2385, as amended by the House Committee on Federal and State Affairs, would place certain requirements on sellers of time share plans in the state. Time share plans would be defined as any arrangement, plan, scheme or similar device whereby a purchaser receives ownership rights in or a right-to-use accommodations or facilities for less than full time for a period of more than three years.

Sellers would be required to disclose the purpose of any promotional device, including sweepstakes and gift awards used to solicit sales of time share plans. Sellers using promotional devices would be required to file any promotional program material with the Attorney General for approval and material could not be used unless determined by the Attorney General to meet specific standards. The House Committee amended the bill to clarify that approval of promotional materials by the Attorney General constitutes approval of legal sufficiency only. In addition, the bill was amended to require that promotional material include a statement that the material has been approved by the

Attorney General as to legal sufficiency only and that the approval does not constitute an endorsement of the promotion.

Prizes specified in promotional material would have to be awarded in the number and within the time limits advertized. Promoters would be required to keep lists of the names and addresses of all prize winners and make the lists available to the public. The provisions of the bill would not apply to an individual reselling a time share plan originally acquired for the individual's own occupancy.

Purchasers of time share plans would have five days to rescind or void their contracts.

Requirements would also be established for disclosure of information to potential purchasers of exchange programs, which would be defined as any opportunity or procedure for the assignment or exchange of time share periods among purchasers in the same or other time share plans. The same information would be filed with the Attorney General annually. Offering of an exchange program in conjunction with the offer or sale of time shares would not constitute a security under state law.

A House Committee amendment also provides that if a seller of time share periods or an exchange company fails to comply with the act, the contract between the purchaser and seller shall be voidable at the option of the purchaser.

Violation of the act would be a class A misdemeanor

The act would take effect upon publication in the statute book.

Background

The bill is patterned after the Missouri law regulating time share plans. Proponents of the bill characterized it as a consumer protection measure.

The Committee held a hearing on the bill in late April, 1987. Representative Anthony Hensley appeared in support of the bill. The Committee received written testimony on the bill from the Johnson County District Attorney who characterized the bill as containing "important new protections to Kansas consumers." An attorney representing a company that operates campground facilities in Kansas also presented written testimony that included proposals for changes in the bill. After the hearing the Committee recommended that the subjects of time-share plans, health spas, buying clubs, business opportunities and other consumer protection issues be included in an interim study. The request was made of the Legislative Coordinating Council, but the topic was not approved for study during the 1987 interim.

1/12/88
Attachment #2

MEMORANDUM

January 7, 1988

FROM: Kansas Legislative Research Department

RE: 1987 Bills Carried Over

The following paragraphs summarize the 1987 bills that are in the House Committee on Federal and State Affairs.

H.B. 2007 -- Crimes Involving Aiding Runaways

The bill was recommended by the Special Committee on Judiciary during the 1986 interim. The Committee's charge was to "review and determine the merits of those unenacted recommendations of the 1985 Attorney General's Task Force on Missing and Exploited Children, with emphasis on the problem of runaway children . . . ."

As amended by the House Committee on Judiciary, the bill would expand the crime of contributing to a child's misconduct or deprivation to include: failure to reveal, upon a lawful request, information regarding a runaway with the intent to aid the runaway in avoiding detection or apprehension; causing or encouraging a child under 18 to commit a felony offense; sheltering or concealing a runaway with the intent to aid the runaway in avoiding detection or apprehension. Failure to reveal would be a class A misdemeanor, but violation of the other two provisions would be a class E felony.

The bill also requires that a person who provides shelter to a known runaway shall report the child's location to a law enforcement agency, or the child's parent or other custodian. The law enforcement officer would be permitted to allow the child to remain in the place of shelter if there is reason to believe it would be in the child's best interest. If the child is allowed to remain, the law enforcement agency would be required to promptly notify the Department of Social and Rehabilitation Services.

The amended bill passed the House and was recommended by the Senate Committee on Judiciary. The bill was extensively amended by the Senate Committee of the Whole to incorporate provisions of S.B. 225 which would create new law regarding certain abortions. (S.B. 225 is in the Senate Judiciary Committee.) The provisions of S.B. 225 are similar to those contained in 1986 S.B. 577.

In its current form, the bill contains defined terms which include the definition of a minor as any person under age 16. Under the bill, no abortion could be performed on a minor except in a medical emergency, without the informed consent of an emancipated minor, the parent of a minor, or a court order waiving parental consent.

Senate FSA
1/12/88
Attachment #2

The court ordered waiver of parental consent would be an alternative to obtaining the consent of a parent and would be available to the unemancipated minor as long a the requirements contained in the bill are met. District court proceedings would be required to be conducted in a manner designed to protect the identity of the unemancipated minor. The court would be required to hear evidence about the minor's age, family, circumstances of pregnancy, gestation of the fetus, emotional and physical stability and development of the minor, alternatives to the abortion considered by the minor, whether the minor's parents have consented to the abortion, previous pregnancies of the minor, and any other which the court considers useful. An expedited appeal would be authorized.

A new crime of aggravated criminal abortion would be created. Aggravated criminal abortion would be defined as the performance of an abortion by a person not licensed to practice medicine and surgery, the performance of an abortion without first obtaining an informed, written consent in the case of an unemancipated minor, or the performance of a second or third trimester abortion in any place other than that required by any law regulating abortion. Aggravated criminal abortion would be a class E felony.

Another new crime contained in the bill is illegal abortion defined as the failure to perform any act required by laws regulating abortions not amounting to a felony. Illegal abortion would be a class A misdemeanor.

A medical emergency or circumstances under which informed consent could not be obtained due to the medical condition of the minor would be a complete defense to aggravated abortion or illegal abortion.

K.S.A. 38-123 would be amended to restrict the right of an unmarried, pregnant minor, as provided in the bill, to consent to medical care.

The bill would take effect upon publication in the statute book.

The bill was authored by the Special Committee on Judiciary and referred to the House Committee on Judiciary which amended it. The bill was further amended by the Senate Committee of the Whole. When the bill was returned to the House, it was determined that, in accordance with House Rule 2107, the subject of the bill had been materially changed and the bill was referred to the House Committee on Federal and State Affairs on April 1.

H.B. 2057 -- Mandatory Life Imprisonment for Certain Crimes

As introduced, the bill would define the crime of premeditated murder as the killing of a human being, committed maliciously, willfully, deliberately, and with premeditation and require that persons, over the age of 18, found guilty of the crime be subject to a sentencing proceeding. The sentencing proceeding would be conducted by the trial judge before the trial jury for the purpose of determining whether the defendant would be required to serve a life sentence with a mandatory duration of 30 years prior to eligibility for parole, or a life sentence with the possibility of parole. Aggravating and mitigating circumstances of the crime, and any other evidence deemed appropriate by the court, would be presented during the sentencing proceeding.

In order for a person to be sentenced to the mandatory 30 years in prison, the jury would have to find, by unanimous vote, beyond a reasonable doubt, that one or more of the aggravating circumstances exist, and that the aggravating circumstances are not outweighed by any mitigating circumstances. If the jury is unable to reach a verdict, a sentence of imprisonment for life with eligibility for parole would be imposed by the judge. The judge would be required to review any jury verdict imposing the mandatory sentence to determine whether the imposition of the sentence is supported by the evidence. If the sentence is determined not to be supported by the evidence, the court would be required to modify the sentence to life in prison with eligibility for parole.

The aggravating circumstances would be limited to the following:

previous conviction of first or second degree murder, aggravated kidnapping, or aggravated robbery;

knowingly creating a great risk of death to more than one person;

commission of the crime while engaged in the perpetration of or attempt to perpetrate and conviction of commission or the attempt to commit kidnapping, robbery, rape, aggravated sodomy, or aggravated arson;

commission of the crime for the purpose of receiving money or anything of monetary value or authorizing or employing another to commit the crime;

commission of the crime in order to avoid or prevent lawful arrest or prosecution;

commission of the crime in an especially heinous, atrocious, or cruel manner; and

commission of the crime while serving a sentence of imprisonment on conviction of a felony.

Mitigating circumstances would include, but not be limited to, the following:

no significant history of prior criminal activity on the part of the defendant;

commission of the crime while under the influence of extreme mental or emotional disturbances;

participation in or consent to the defendant's conduct by the victim;

acting as an accomplice in a crime committed by another person and participating in a relatively minor role;

commission of the crime under extreme distress or under the substantial domination of another person;

substantial impairment of the capacity to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law; and

the age of the defendant at the time of the crime. (Persons under the age of 18 years at the time of the commission of premeditated murder could not be sentenced under this act, but would be subject to sentencing as otherwise provided by law.)

All 30-year mandatory sentences would be subject to automatic review by and appeal to the Supreme Court of Kansas. The Court would be required to consider the question of the sentence as well as any trial errors. In regard to the sentence, the Court would be required to determine whether the mandatory prison term was imposed under the influence of passion, prejudice, or any other arbitrary factor; and whether the evidence supports the findings that an aggravating circumstance or circumstances existed and that any mitigating circumstances were insufficient to outweigh the aggravating circumstances.

The bill was introduced as an alternative to the death penalty (H.B. 2062) during the 1987 Session.

The act would take effect upon publication in the statute book.

H.B. 2086 -- Prohibiting Credit Sales or Exchange of Cigarettes or Tobacco Products

The bill was amended and recommended for passage by the House Committee on Federal and State Affairs. It was withdrawn from the calendar and re-referred to the Committee on May 4, 1987.

As amended, the bill would prohibit cigarette wholesalers from selling cigarettes to retailers on credit of any kind thus requiring cash payments for cigarettes at the time of purchase. The bill would take effect upon publication in the statute book.

Proponents of the bill cited difficulties for wholesalers caused by the magnitude of accounts receivable for cigarettes. Part of the problem was attributed to the amount of tax on cigarettes. The Kansas Food Dealers' Association spoke in opposition to the bill saying that it would limit retailers' ability to enter into contracts with wholesalers.

The act would take effect upon publication in the statute book.

H.B. 2099 -- Application and Enforcement of Open Meetings Law and S.B. 307 -- Exemption of Discussions of Security Matters from Open Meetings Law

H.B. 2099, which was not considered by the Committee, would exclude from the definition of meeting in the Open Meetings Law, "gatherings during

travel, or social or casual gatherings, at which no official business is transacted and no binding action is taken."

S.B. 307, which in its original form would have excluded discussion of security matters from the provisions of the Open Meetings Law, was amended, by the Senate Committee on Federal and State Affairs at the request of the Kansas Association of School Boards, to include the provisions of H.B. 2099. The amended bill failed on final action in the Senate, was reconsidered, and re-referred to the Senate Committee. A subcommittee considered the bill and proposed amendments, suggested by the Attorney General, to the full Committee.

In its current form, the bill would add a new section to the law to make it clear that free association among members of a body or agency, when such association does not constitute a meeting covered by the Act, is not prohibited.

H.B. 2125 -- Prohibiting Smoking a Pipe or Cigar in a Restaurant

The bill would make smoking a pipe or cigar in a restaurant during business hours a misdemeanor punishable by a fine of up to $50. The bill would take effect upon publication in the statute book.

Note: H.B. 2412, which became effective on May 21, 1987, prohibits smoking in public places or at public meetings except in designated smoking areas. In that act, smoking is defined as ". . . possession of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment." Thus, smoking pipes and cigars in the designated smoking area of a restaurant or other public place is currently permitted.

H.B. 2175 -- Withdrawal from Central Interstate Low-Level Radioactive Waste Compact

The bill would cause Kansas' withdrawal from the Compact by repealing the statutes that authorize participation.

A motion to withdraw the bill from the Committee and place it on General Orders failed by a vote of 68-57 on April 8, 1987.

Note: Several bills and one resolution concerning this topic were introduced during the 1987 Session. One bill was enacted. Sub. for H.B. 2108 was signed by the Governor on April 1, 1987. The act provides that the Hazardous Waste Disposal Facility Approval Board may not approve any license for a facility that would permit the disposal of low-level radioactive waste below the surface of the disposal site. However, if the Board, subject to legislative approval, determines that below-surface disposal provides greater protection to the environment and public health than above-surface disposal of low-level radioactive waste, the Board may approve a license.

Other 1987 bills and a resolution that remained alive at the end of the session include:

S.B. 114, which includes provisions identical to those in H.B. 2175, remains in the Senate Committee on Energy and Natural Resources. A motion to withdraw the bill from the Committee failed to receive the required consitutional majority on April 30, 1987.

S.B. 406 would create the Kansas Low-level Radioactive Waste Disposal Authority. The authority would consist of five members appointed by the Governor subject to confirmation by the Senate. One of the members would be a licensed medical doctor trained in nuclear medicine, one would be a nuclear engineer, one would be a geologist, and two would represent the interests of the general public. The members of the Authority would serve four-year terms. The Authority would elect a chairperson, and vice-chairperson from the membership and a secretary-treasurer who would not have to be a member of the Authority.

The Authority would have exclusive jurisdiction over site selection, preparation, and construction; and operation, maintenance, decommissioning, closing, and financing of disposal sites. The Secretary of Health and Environment would retain authority and duties to regulate, inspect, and monitor disposal sites.

The Authority would be provided with broad powers to implement the act including, but not limited to, the following:

> apply for, accept, receive, and administer gifts, grants, and other funds from any source;
>
> enter into contracts with the federal government and its agencies, the state and its other agencies, other states, interstate agencies, local governmental entities, and private entities for the purpose of carrying out the act;
>
> acquire, hold, and dispose of real and personal property and exercise the power of eminent domain in the manner provided by law in the exercise of its powers and duties under the act;
>
> issue revenue bonds of the authority payable solely from fees pledged for their payment;
>
> construct and equip facilities to process, store, and dispose of low-level radioactive wastes; and
>
> employ and fix the compensation for consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary.

The Authority would be required to develop and operate or contract for operation of one disposal site for the processing, storage, and disposal of low-level radioactive waste in Kansas. The selection of the site would be based upon the results of studies conducted or contracted for by the Authority. A public hearing to consider whether or not the site determined to be most suitable would be selected would

have to be held in the county in which the disposal facility would be located. Prior to the public hearing, the Authority would be required to make information regarding all aspects of the disposal site selection process available to the public and would be authorized to hold informational seminars.

Storage of low-level radioactive waste would have to be above ground unless state or federal regulatory programs for low-level radioactive waste preclude or recommend against above-ground disposal, or the authority, subject to legislative approval, has determined that below-ground disposal provides greater protection than above-ground disposal.

The Authority would be required to comply with all state and federal licensing and regulatory laws, and in order to obtain a license, would be required to submit to the Department of Health and Environment evidence as to the reasonableness of any technique for managing low-level radioactive waste to be practiced at the proposed site. The Authority would be required to ensure that the design of facilities for low-level radioactive waste disposal incorporates, insofar as possible, safeguards against hazards resulting from warfare and local meteorological conditions. The Authority would be required to provide financial security for perpetual care of a disposal site in the form and manner required by federal and state agencies.

Only low-level radioactive waste that is generated within the state of Kansas or within states with which Kansas has entered into a compact for disposal of low-level radioactive waste, that is properly processed and packaged, would be accepted at the site. The Authority would be empowered to exclude certain types of low-level radioactive waste from the disposal site if the waste is incompatible with disposal operations. The Secretary of Health and Environment would be required to adopt rules and regulations relating to the packaging of the waste and an inspector employed by the Department would be required to inspect all packaged waste before it is transported to the disposal site. The Department would be required to provide in rules and regulations for charging a reasonable fee, to cover only the cost of the inspection. The site operator or agent would be required to report a person who delivers improperly processed or packaged waste to the federal and state agencies that establish standards for processing, packaging, and transporting waste.

The Authority would be required, after notice and a hearing, to adopt an emergency response plan for each disposal site to be implemented in the event a disposal site becomes a threat to the public health or safety or to the environment.

The Authority would be required to hold a hearing prior to closing a site. Any site closed would have to be decommissioned in compliance with federal and state laws.

At least 60 days prior to each regular session of the Legislature, the Authority would be required to submit to the appropriate committees, a biennial report that would serve as a basis for periodic oversight hearings on the Authority's operations and on the status of interstate compacts and agreements.

Expenses of the Authority would be paid from fees and appropriations. A waste disposal fee would be collected from each person who delivers low-level radioactive waste to the site. The schedule of fees adopted by the Authority would be based on the volume of waste and the relative hazard of the waste. The fees charged by the Authority would be required to be sufficient to allow the authority to recover operating and maintenance costs, start-up expenses amortized over a period of not more than 20 years, an amount necessary to cover the cost of decommissioning and closing the site, an amount necessary to pay licensing and monitoring fees and to provide security for perpetual care of the site required by the Department of Health and Environment. The Authority would also be required to adopt a schedule of processing and packaging fees based on the volume of improperly processed or packaged low-level radioactive waste and on the cost to the Authority for processing and packaging the waste properly in compliance with federal and state standards.

Fee revenue could also be pledged to pay bonds issued by the Authority for the purpose of paying all or any part of the cost of acquisition and construction of disposal sites.

The Pooled Money Investment Board would be authorized to loan to the Authority sufficient funds for the costs of acquisition and construction of disposal sites, if the terms of such loan have been approved by the State Finance Council.

The bill is in the Senate Committee on Energy and Natural Resources.

H.B. 2050, which is in the House Committee on Energy and Natural Resources, would prohibit placement of spent nuclear fuel or any other high-level or low-level radioactive materials in bedded salt formations on either a temporary or a permanent basis.

H.C.R. 5015 would direct the Governor to appoint a special committee to study the feasibility of Kansas withdrawing from the Central Interstate Low-Level Radioactive Waste Compact and designating the Wolf Creek nuclear power plant site as the low-level radioactive waste repository for Kansas.

The Special Committee on Energy and Natural Resources was directed to study the matter of low-level radioactive waste disposal during the 1987 interim.

H.B. 2219 -- Limiting Sales of Animal Vaccines

The bill would prohibit the sale of rabies vaccine or live brucella abortus strain 19 vaccine unless the vendor is a licensed veterinarian, as defined by K.S.A. 47-816. The act would take effect upon publication in the statute book.

The scheduled hearing on the bill in the House Committee on Federal and State Affairs was cancelled.

H.B. 2220 -- Licensure and Regulation of Retailers and Wholesalers of Pet Animals

The bill was withdrawn from the calendar and rereferred to the Committee on May 4, 1987.

The bill, as amended by the House Committee on Federal and State Affairs, would provide for licensure and regulation of certain persons who work with animals. The bill would require that after January 1, 1988 the following entities would be required to be registered with or licensed by the Livestock Commissioner:

hobby kennel operators;

animal wholesalers, animal auction managers and research facilities whether or not they hold a federal license; and

animal shelters operated as pounds in cities of the first class.

Any applicant for or holder of a retailer or wholesaler license or certificate of registration would be required to have a controlling interest in the licensed or registered business. The maximum annual license fee would be set at $100 and the maximum annual registration fee would be $25.

The Commissioner would be required to inspect the premises of each applicant for an original license and would be authorized to initiate inspections of licensed or registered facilities. The Commissioner would be authorized to refuse to issue or renew, or to suspend or revoke a license or certificate of registration upon a determination that the applicant or registrant does not hold a valid federal license, or has been convicted of cruel or inhumane treatment of an animal. Any registrant or licensee of the Livestock Commissioner or veterinarian who knowingly employs, contracts with, or has as an agent, servant, stockholder, or director a person who has been convicted of cruel or inhumane treatment of an animal would be subject to a $2,000 fine.

The Commissioner would be required to inspect the premises of any registered wholesaler, research facility, auction manager, or hobby kennel in response to a complaint. All complaints to the Commissioner would have to be signed, but would have to be kept confidential. The Commissioner would be required to provide the U.S. Department of Agriculture (USDA) with a copy of any complaint made against a federally licensed facility, and a USDA veterinarian would have to be present during the inspection of any such facility. The USDA veterinarian would subsequently receive the report and records of the inspection.

Local health officials, who could make inspections as a designee of the Livestock Commissioner, would have to be trained by the Commissioner and the cost of any inspections conducted by local health officials would be borne by the state.

The Board of Veterinary Examiners would be authorized to refuse to issue or renew a license, and to revoke the license, of any applicant or licensee convicted of cruel or inhumane treatment of an animal.

Upon conviction of a licensee or registrant for failure to adequately house, feed, and water animals, the court could order the Commissioner to seize and impound, at the expense of the licensee, sell, or euthanize any animals in the possession of that person. Conviction of cruelty to animals under state law or a comparable city ordinance could not be expunged from a person's record for five years after completion of the sentence imposed. Expunged convictions would have to be disclosed if requested in an application for licensure or registration by the State Board of Veterinary Examiners, or Livestock Commissioner or in any application for employment with a veterinarian or licensee or registrant of the Livestock Commissioner if the employment would involve contact with animals. Expunged records could be released to a veterinarian, the State Board of Veterinary Examiners or the Livestock Commissioner for the purpose of verifying employment applications or for the purpose of registration or licensure.

The act would take effect upon publication in the statute book.

According to testimony presented to the Committee, the bill is patterned after an Iowa statute. A representative of the USDA stated that the bill would assist the Department in its efforts. Opponents of the bill expressed concerns about double licensing requirements for those entities licensed by the USDA. Both proponents and opponents suggested amendments considered by the Committee.

H.B. 2276 -- Crime of Causing Injury While Driving Under the Influence of Alcohol or Drugs

The bill would create as a Class E felony the crime of causing injury while driving under the influence of alcohol or drugs. The crime would be defined as unintentionally causing great bodily harm, disfigurement, or dismemberment to another human being, committed in the commission of the crime of driving while under the influence of alcohol or drugs, or a combination of alcohol and drugs.

The act would take effect upon publication in the statute book.

H.B. 2291 -- Prohibit Diversion for Sex Offenses Involving Children

The bill would amend K.S.A. 22-2908 to prohibit county or district attorneys from entering into a diversion agreement in lieu of further criminal proceedings if the complaint alleges commission of indecent liberties with a child, aggravated indecent liberties with a child, enticement of a child, indecent solicitation of a child, aggravated indecent solicitation of a child, sexual exploitation of a child, promoting sexual performance by a minor, promoting prostitution when the prostitute is under 16 years of age, or aggravated sexual battery when the victim is under 16 years of age.

The act would take effect upon publication in the statute book.

H.B. 2309 -- Application of Open Meetings Law to Members-Elect of a Body

The bill, as introduced, would add members-elect to the persons subject to the Open Meetings Act.

The Committee held a hearing on the bill and considered, but did not adopt, amendments proposed by Representative Baker. The amendments would have included members-elect in the definition of membership in the act and would specifically allow a member of a governing body and the member's successor to meet in a closed meeting to discuss transitory business.

H.B. 2348 -- Law Enforcement Officers, Appointment, Training, and Authority of Reserve Officers

The bill, which was tabled by the House Committee on Federal and State Affairs, defines reserve officers as persons who volunteer to serve without compensation and who are appointed by a sheriff or the head of a county law enforcement agency or the chief of a city police department to maintain public order or to make arrests for crimes, or both.

The bill would require reserve law enforcement officers to successfully complete an 80 hour course of training at the Law Enforcement Training Center or at a certified state or local law enforcement training school. Reserve officers also would be required to complete 20 hours of additional training annually, beginning the second year after certification.

Persons appointed to a reserve officer position prior to the effective date of the act would have to receive the prescribed training within one year of the effective date of the act. If the required training is not received within the year, the person would forfeit the appointment and be ineligible for reappointment within a year following the date of the forfeiture.

The Committee held a hearing on the bill at which John Wolfe, Dean of Continuing Education at KU, appeared and presented an estimate of the cost of implementing the program at the Law Enforcement Training Center. Conferees in support of the bill included representatives of the Derby Police Department, the Kansas Peace Officers' Association, the Kansas Sheriffs Association, and the Shawnee County Sheriff. A representative of the League of Kansas Municipalities appeared in opposition to the bill.

H.B. 2349 -- Veterans' Preferences Under Kansas Civil Service Act

The bill would amend existing law to allow veterans who have voluntarily retired with 20 or more years of active service to be eligible for a veteran's preference on Civil Service Examinations.

The act would take effect upon publication in the statute book.

H.B. 2361 -- Kansas Advisory Council on Intergovernmental Relations Established

The bill would create the Kansas Advisory Council on Intergovernmental Relations composed of 15 members appointed to four-year terms. Eleven of the members would be appointed by the Governor as follows:

-- two elected county officials;

-- two elected city officials;

-- one elected township official;

-- one elected school board member;

-- two executive branch officials; and

-- three members of the public.

The remaining members would include two members of the state Senate appointed by the President and two members of the state House of Representatives appointed by the Speaker. The Governor would designate the Chairperson and Vice-Chairperson of the Council. The Council would be required to hold meetings at least semiannually and would be authorized to meet at other times.

The city, county, township, and school board members would be appointed from lists of at least five nominees submitted by their respective state organizations. Not more than half of each type of local government appointee could be from a single political party. The members appointed from the private sector would be selected without regard to political affiliation.

The Legislature would be required to make annual appropriations for operation of the Council. The Council would be authorized to employ an executive secretary, counsel, expert advisors, and other employees necessary to carry out the duties of the Council. All employees would be in the unclassified civil service and compensation would be set by the Council within the limits of appropriations.

H.B. 2373 -- Penalties for Riding with Driver Who Is under the Influence of Alcohol or Drugs

The bill would make it a crime for a person who has a valid driver's license to be a passenger in a motor vehicle operated by a person who is under the influence of alcohol or drugs. A violation would be a misdemeanor punishable by a fine of $100-$200 for the first conviction, $200-$300 for the second conviction, and $300-$500 for the third and subsequent offenses. Persons convicted of this crime would not be eligible for probation or suspension of sentence and any fine imposed would have to be paid within 90 days of imposition.

The act would take effect upon publication in the statute book.

Note: The minutes of March 18, 1987 show that the bill was reported adversely.

H.B. 2497 -- Driving While Impaired, Traffic Infraction

The bill would create a new traffic infraction of driving while impaired. The infraction would be defined as operating or attempting to operate a vehicle with a blood alcohol concentration, at the time or within two hours, of between .05 and .099. The fine for a violation would be $20, plus court costs if no trial were held.

The Committee referred the bill to a subcommittee chaired by Representative Sprague. The Subcommittee recommended that a request for an interim study of the matter by the Judiciary Committee be submitted to the LCC.

H.B. 2506 -- Kansas Bill of Rights for Disabled Persons

The bill would establish a list of rights that would be used as a guide in the development of all state policies, procedures, rules and regulations, and legislation, and would prohibit the purposeful, knowing or willful violation of the rights listed. The bill also would make it the policy of the state that persons with disabilities have, in addition to any constitutional or other rights generally available, the right to:

-- appropriate treatment, education, and habilitation services;

-- services and programs which meet standards designed and monitored to assure the most favorable outcomes;

-- equal opportunities in recreation and leisure time activities;

-- petition for and receive all protections and remedies provided by law;

-- information about and access to protection, assistance, and representation independent of any state agency which provides treatment, education, other services, or habitation;

-- a qualified, involved guardian or conservator, or both, when required to protect their personal well-being and interest;

-- assume responsibility for their own lives, make decisions and solve their own problems to the maximum extent possible;

-- a decent standard of living;

-- hold a competitive job, perform productive work, and engage in other meaningful occupations to the fullest possible extent of their capacities;

-- receive equitable pay and benefits for their labor;

-- be informed of the rights afforded them through this act in the manner most understandable by them;

-- a comprehensive diagnosis and evaluation adapted to the cultural background, primary language, including American sign language, and ethnic origin of the person; and

-- reevaluation and review of the individual treatment, habilitation and program plan to assure progress, modify objectives if needed, and to provide guidance and remediation techniques.

The bill would define a disabled person as any person with a physical, developmental, mental or emotional impairment which would substantially limit one or more major life activities such as learning, communication, mobility, self-care, socialization, employment, housing, and recreation. This would include any individual who is so limited as a result of having a record of such an impairment or being regarded as having such an impairment. Major areas of disability include, but are not limited to vision, hearing, sensory, mobility, respiratory, and mental impairments; mental illness; learning disabilities; deafness; head trauma; chronic, disabling, life threatening, terminal illness; intractable pain; job related injuries; aging; epilepsy and substance abuse.

H.B. 2571 -- Elimination of Exclusive Franchises of Alcoholic Liquor Distributors

The bill would eliminate the requirement that liquor wholesalers distribute products only within their franchised territory. Under current law, liquor wholesalers contract with suppliers to distribute their brands of liquor or cereal malt beverage to retailers in a specific geographic area.

The act would take effect upon publication in the statute book.

The Senate Committee on Federal and State Affairs requested an interim study of the liquor franchise system, but the study was not approved by the LCC.

H.B. 2621 -- Parimutuel, Organization by the State or a Political Subdivision

The act would amend the Parimutuel Racing Act by including among the organizations that could be licensed to conduct horse or greyhound races, nonprofit corporations established by the state or by a political subdivision of the state. The current law does not specifically mention nonprofit corporations established by the state or its subdivisions.

The act would take effect upon publication in the statute book.

S.B. 86 -- Requiring Reports Concerning the Terminations of Pregnancy

The bill would amend K.S.A. 65-445, a statute that currently requires hospitals to report annually certain information relating to pregnancies which are lawfully terminated within the hospital. The bill would require that all medical care facilities and persons licensed to practice medicine and surgery keep records of the termination of pregnancies and submit a report thereon to the Secretary of Health and Environment.

The bill also adds new confidentiality provisions to existing law. The Committee amendments would make information received by the Secretary of Health and Environment under the provisions of the bill confidential. Further, such information could be used for statistical purposes only. Any statistical information would be required to be presented in such a manner as not to identify any individual, any medical care facility, or any other medical facility, either directly or indirectly.

S.B. 95 -- Veterans' Preference for Veterans Retiring after 20 Years of Service

The bill would amend existing law regarding veterans' preference in hiring for state civil service employment. The current law excludes from the definition of veterans persons who voluntarily retired from the military with 20 or more years of active service. The bill would include those persons in the definition of veteran covered by the law.

S.B. 96 -- Open Records Act

As amended by the Senate Committee on Governmental Organization, the bill would permit the Director of Vehicles, Department of Revenue, to sell title and registration records containing motor vehicle owners' names and addresses to any requesting party. The Senate Committee amendments would permit the sale of motor vehicle title and registration lists, but owners could request their names and addresses not be provided.

Current statutes allow the Director to provide records to motor vehicle manufacturers and insurance companies or their representatives for statutorily defined purposes. Lists of names and addresses derived from motor vehicle records cannot be sold or used for commercial purposes.

S.B. 129 -- Alcoholic Beverages, Wholesaler or Distributor Bond, Guests

As introduced, the bill would eliminate the existing requirement that applicants for licensure as cereal malt beverage wholesalers or distributors present a $1,000 bond at the time of application. The bill would also eliminate the requirement that guests of private club members be "bona fide." The Senate Committee amended the bill to also remove the bonding requirement for liquor wholesalers and distributors. The Senate further amended the bill on final

action. Many of the statutes included in the latter amendments were subsequently amended in 1987 Sub. S.B. 141.

1987 Sub. S.B. 141 did not remove the $1,000 bond requirement for Cereal Malt Beverage wholesalers, but did remove the requirement that guests of private club members be "bona fide."

S.B. 283 -- Real Estate Brokers' and Salespersons' License Act

The bill would amend five of the statutes that comprise the Real Estate Brokers and Salespersons' License Act. The amendments would delete from the definition of broker in K.S.A. 58-3035 persons who assist in or direct the arrangement for mortgage financing on real estate while not acting in the capacity of a mortgagee or mortgagee's agent. K.S.A. 1986 Supp. 58-3039 would be amended to require an applicant for a broker or salesperson's license to pay both an application and a license fee at the time of application.

The bill would also amend K.S.A. 1986 Supp. 58-3050 to give the Kansas Real Estate Commission authority to impose a civil penalty on a licensee either in lieu of any other administrative, civil, or criminal remedy or in addition to such other penalty. Further amendments to the statute would restrict the commencement of a complaint alleging a violation of the act to one year after the conclusion of litigation involving the occurrence giving rise to the complaint. The bill also authorizes the Commission to proceed against a licensee under emergency adjudication proceedings provided for in the Kansas Administrative Procedures Act if a licensee has entered a plea of guilty or nolo contendere to or has been convicted of any felony charge. New provisions that would be added to the statute by the bill concern situations in which the name of an individual whose license has been revoked is included in the business name of a real estate brokerage. The Commission is authorized to deny continued use of the name in certain circumstances.

The bill would amend K.S.A. 1986 Supp. 58-3063 to add seven new fees to those the Commission is authorized to collect. The Commission would also be directed, through amendments to K.S.A. 1986 Supp. 58-3074, to remit to the State Treasurer civil penalties collected pursuant to new authority granted by the bill.

The bill was requested by the Kansas Real Estate Commission. The authority to impose civil penalties added to the bill by amendment was also requested by the Commission.

The act would take effect upon publication in the statute book.

S.B. 307 -- Exemption of Security Matters from Open Meetings Law

(see H.B. 2099 above)

S.B. 352 -- Qualifications for Alcoholic Beverage Licenses

As introduced, the bill would implement a number of recommendations made by the Liquor Law Review Commission. Many of the changes to existing law that would have been made by the bill were incorporated into Sub. S.B. 141. The following amendments to existing law would be made by the bill and were not included in Sub. S.B. 141:

-- elimination of the provision that allows felons or persons convicted of a crime involving moral turpitude, drunkenness, DUI, or any other liquor law of any state to be granted a cereal malt beverage (CMB) license if they were convicted two or more years prior to making application for the license;

-- elimination of the county residency requirement for retail liquor dealers, farm winery operators and CMB licensees;

-- elimination of the five-year residency requirement for beer distributors;

-- remove moral turpitude from the list of crimes that would prevent a person from being granted a license; and

-- remove the requirement that persons granted CMB licenses must be of good character and reputation in the community.

The act would take effect upon publication in the statute book.

S.B. 353 -- Division of Alcoholic Beverage Control; Residency, Conflict of Interest

The provisions of the bill were substantially included in Sub. S.B. 141.

S.B. 355 -- Cereal Malt Beverage Retailers' Licenses, State Stamp

As introduced, the bill would have required applicants for local CMB retailers' licenses to submit a copy of the completed license application to the ABC for approval. A fee of $25 would have been required for each application. If the Director of the ABC approved issuance or renewal of the license, a state stamp would have been placed upon the license. A license could not have been issued or renewed without a state stamp.

The Senate Committee on Federal and State Affairs amended the bill to remove the requirement that the ABC approve the license prior to authorizing the state stamp.

Sub. S.B. 141 essentially included the provisions of the bill as amended by the Senate Committee effective January 1, 1988.

S.B. 366 -- Classes of Felonies and Terms of Imprisonment

The bill was recommended for passage by the House Judiciary Committee, withdrawn from the calendar, and referred to this Committee.

The bill would delete language regarding the minimum sentence for class E felonies as a clarification of what the term of the minimum sentence may be.

The bill was supported by the Department of Corrections. A spokesman noted that some courts have interpreted the language being deleted to allow them to set a minimum sentence limited only by the overall maximum term.

Prior to 1982, the statute provided that the minimum term for a class E felony "shall be one (1) year." In 1982, the statute was amended to provide for a minimum term of "not less than one year nor more than two years." In 1984, when minimum terms for D and E offenses were "rolled back" to 1982 levels, the two-year minimum for E felonies was removed. However, the language about the court setting a term at not less than one year was left in the statute causing some confusion.

The bill would take effect upon publication in the statue book.

S.B. 368 -- Secretary of Corrections' Control of State-Owned Grounds Used by Correctional Institutions

The bill would place the care, management, and control of all state-owned buildings and grounds used as correctional institutions and the operation of the state surplus property program with the Department of Corrections. The bill was amended by the Senate Committee on Federal and State Affairs to specifically exclude state hospitals where inmates are housed.

The act would be effective upon publication in the statute book.