

Approved 3-14-89
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:00 a.m./~~p.m.~~ on March 2, 1989 in room 514-S of the Capitol.

All members were present ~~except~~: Senators Winter, Yost, Moran, Bond, Feleciano, Gaines, D. Kerr, Martin, Morris, Oleen, Parrish, Petty and Rock.

Committee staff present:

Mike Heim, Legislative Research Department
Gordon Self, Revisor of Statutes
Jane Tharp, Committee Secretary

Conferees appearing before the committee:

Melissa Vogel, Senate Intern for Senator Oleen
Richard H. Seaton, Board of Trustees of the Riley County Law Library
Danton B. Rice, Kansas Bar Association
Brent Anderson, Office of Secretary of State

Senate Bill 276 - Law library in Riley county.

Senator Oleen introduced Melissa Vogel, Senate Intern. Melissa Vogel testified this bill would allow Riley county to join Sedgwick and Wyandotte counties in raising county law library fees to meet the rising costs of operation. A copy of her testimony is attached (See Attachment I).

Richard H. Seaton, Board of Trustees of the Riley County Law Library, testified this bill would provide us enough additional income from docket fees so that together with the planned increase in charges to member attorneys, we could balance our books. A copy of his testimony is attached (See Attachment II). During committee discussion, the chairman reported the fiscal note is \$123,000 for a year. He inquired of Mr. Seaton, if we keep subsection (d) in, do you want the bill? Mr. Seaton replied I don't think it is right to have different docket fees for different counties in the state. Considerable committee discussion was held on the bill.

Senate Bill 242 - Amendments to professional corporations code.

Danton B. Rice, Kansas Bar Association, testified the changes proposed in the bill would modernize our professional corporation law and are based upon similar changes to the Missouri code. A copy of his testimony is attached (See Attachment III).

Brent Anderson, Office of Secretary of State, testified the bill will have no substantial impact on the operation of the office. It won't affect our office as far as we can tell. A committee member inquired if this is something that has been a product of the bar association legislative committee? Mr. Anderson replied it was proposed by the Corporate Banking and Law Committee of the Kansas Bar Association.

The hearings on the bills were concluded.

Senate Bill 119 - Creating a crime of ethnic intimidation.

Senator Moran, chairman of the subcommittee on criminal matters, explained the subcommittee felt they were not in a position to recommend the bill favorably and it should be studied by the judicial council. Senator Gaines moved to adopt the report of the subcommittee to recommend the subject for judicial study. Senator Moran seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~a.m.~~ on March 2, 1989

Senate Bill 126 - Municipal judges, training, testing and continuing judicial education.

Senator Moran explained the bill and that the subcommittee recommended reporting the bill favorably. He reported the funding for the bill would take effect after July 1, 1989. A committee member inquired how many municipal judges are attorneys? Senator Moran replied 80% is a ball park figure. Another committee member inquired, if the fee applies to all counties. Senator Moran answered, yes. Senator Bond made a motion conceptually to amend the bill to apply only to those counties where the municipal judges are non-attorneys. Senator Morris seconded the motion. Further committee discussion was held. With a show of hands of five voting in favor of the motion, the motion failed. Senator Parrish moved to amend the bill conceptually to also allow counties who have lawyer judges to be able to use docket money that is already collected for training for lawyer judges. Senator Moran seconded the motion. The motion carried. Senator Oleen moved to report the bill favorably as amended. Senator Yost seconded the motion. The motion carried.

The chairman announced the next committee meeting will be on adjournment today in Room 123-S.

The meeting adjourned.

A copy of the guest list is attached (See Attachment IV).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-2-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Danton B. Rice	Topeka	KBA.
Richard Seaton	Manhattan	Riley Co. law library
Paul Shelby	Topeka	OSA
Morgan Chilson	Manhattan	Month Mercury
Bert Anderson	Wichita	Sec of state's office
Rob Tabor	Lawrence	Aid for Hinaman
Melvin Vogel	Topeka	Tulokan
Latah Meaham	McRouth	
Jene Johnson	Topeka	Ks Comm ASAP
Jack Samuel	Topeka	Ks Health Care Assn
George Barber	Topeka	Barber & associate
Sheila Hochhausen	Topeka Legislature	
Jim McBride	Topeka	SP&S res
John Kunt	Topeka	ANY
Jim Clon	Topeka	KCOFA
Lucille Hartman	Topeka	Ks Bar Assoc.
Pat Baker	KASB	Topeka
Ray Tranel	KAR	Topeka
Von Sloan	Topeka	Doc
Jon Ball	1	KS BAR
Gail Hildeman	Wichita	Off of Wichita
Jalene Joen	Topeka Ks	Kansas for Life

TO: Senate Judiciary Committee
Chairman, Senator Wint Winter

FROM: Senator Lana Oleen
Melissa Vogle, Senate Intern

DATE: March 2, 1989

RE: Senate Bill No. 276

Mr. Chairman, members of the committee. I would like to thank you for allowing me to speak on Senate Bill No. 276. In amending K.S.A. 20-3129, this bill would allow Riley county to join Sedgwick and Wyandotte counties in raising county law library fees to meet the rising costs of operation. Riley county has been operating at a deficit of approximately \$2,000 to \$3,000 per year, since 1985. This problem has been compounded by inflation, with expenditures out pacing incoming receipts. Budget cuts have been made and attorneys fees have been increased. We see no future solution to this problem with out legislative help.

Riley county does not have close access to the State Law Library nor does it have the advantage of a law school. Servicing Kansas State University, Fort Riley and a large retired military population, Riley county has a great interest in maintaining its law library and supplying it with the most current research material available. At this time the District Court in Riley county is filing an estimated 6,000 cases per year. With a one dollar increase per case taken from the docket fee, the law library would have ample room for expenditures and unexpected costs. Once again I would like to thank you for your time and consideration on this bill.

Attachment I
SJC
3-2-89

RILEY COUNTY LAW LIBRARY FUND

1985 BEGINNING BALANCE: 15,974.62
RECEIPTS: 23,095.61
DISBURSEMENTS: 25,412.61
DEFICIT: (2,317.29)

1986 BEGINNING BALANCE: 13,657.33
RECEIPTS: 23,644.04
DISBURSEMENTS: 28,693.46
DEFICIT: (5,049.42)

1987 BEGINNING BALANCE: 8,607.91
RECEIPTS: 24,346.50
DISBURSEMENTS: 31,059.42
DEFICIT: (6,712.92)

1988 BEGINNING BALANCE: 1,894.99
RECEIPTS: 20,355.00
DISBURSEMENTS: 27,686.00
DEFICIT: (7,331.00)

1988 figures from January through October.

3/1/89

TESTIMONY OF RICHARD H. SEATON
IN SUPPORT OF S.B. 276

As chair of the Board of Trustees of the Riley County Law Library, I appear today to urge your favorable consideration of this bill.

Since 1986, our law library has seen its subscription costs increase from \$25,000 to \$36,000 per year. Meanwhile, the income from court costs and attorney fees remained level at approximately \$24,000. We have cancelled everything not absolutely essential to a viable law library. We have increased the fee to attorneys using the library, and we plan a further increase. In spite of these measures, we are experiencing an annual shortfall of about \$6,000. Our entire reserve, which was \$16,000 in 1986, is now gone.

This bill would provide us enough additional income from docket fees, so that, together with the planned increase in charges to member attorneys, we could balance our books. It would allow Riley County, like Sedgwick and Wyandotte, to receive from docket fees a maximum of \$10.00 in chapter 60 and felony cases, rather than the present \$5.00; and would allow a maximum of \$7.00 in all other cases, rather than the present \$4.00.

Attachment II
SGC
3-2-89

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE
IN SUPPORT OF SB 242

March 2, 1989

By: Danton B. Rice, on behalf of the Kansas Bar Association

Senate Bill 242 makes several changes to the professional corporation law of the State of Kansas, K.S.A. 17-2706 et seq. The changes proposed in Senate Bill 242 would modernize our professional corporation law and are based upon similar changes to the Missouri Code.

The proposed amendment to K.S.A. 17-2708 will allow professionals to incorporate under the General Corporation Code, within the limits of their ethical guidelines. Increasingly, professionals are doing business in states other than their state of incorporation. However, some states have restrictions on the authority of a professional corporation to do business in the state, while no restrictions are placed upon general corporations. In addition, the recent case of Central State Bank v. Albright, 12 Kan. App.2d 175 (1987), held that a bank could not use shares of a professional corporation as collateral because they are not a "qualified shareholder." This amendment makes it clear that professionals may form general corporations if they so desire.

The proposed amendment to K.S.A. 17-2712 would allow a partnership where all the partners are authorized to render a professional service, or a professional corporation where at

Attachment III
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least one person is licensed to provide the professional service in Kansas, to incorporate in Kansas. This change would recognize the increasing interstate nature of professional corporations and would be of particular interest to Kansas City area professionals.

The proposed amendment to K.S.A. 17-2714 addresses the situation where the sole shareholder of a professional corporation dies. Currently, the professional corporation law in Kansas allows only a qualified shareholder to operate a professional corporation. This proposed change would allow the successors in interest of a deceased shareholder to collect accounts receivable and wind down the business of the corporation, or convert it to a general corporation for some other purpose.

The proposed amendment to K.S.A. 17-2715 makes it clear that a professional is liable for his or her own malpractice, as well as for negligently appointing, supervising, or participating in an activity with another professional. It would also make it clear that a professional would have no liability for the malpractice of another if that professional was not involved as indicated. Although this is merely a restatement of what has been thought to be the current law in Kansas, it is a necessary clarification due to recent adverse judicial decisions in other jurisdictions. As an example, the Georgia Supreme Court in First

Bank & Trust Co. v. Zagoria, 302 SE 2d 674 (Ga. 1983), cited language similar to our existing statute when it found a non-negligent shareholder of a professional corporation personally liable for the misdeeds of a co-shareholder, even though the non-negligent shareholder had not participated in the negligent act giving rise to the suit.

These proposed changes will significantly benefit the professional corporations of the State and will modernize our professional corporation law. Therefore, on behalf of the Kansas Bar Association, I urge you to support SB 242.

DR:pjr