

Approved: 3/20/95 la
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:05 a.m. on March 13, 1995 in Room 526-S of the Capitol.

All members were present except: Rep. Barbara Ballard - excused
Rep. Jill Grant - excused
Rep. Candy Ruff - excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Bev Adams, Committee Secretary

Conferees appearing before the committee:
Kelly Jennings, Kansas Association of Public Employees (KAPE)
Charles Yunker, Adjutant, Kansas American Legion
John A. Hill, Disabled American Veterans

Others attending: See attached list

Continued Hearing on:
SB 175--State officers and employees; selection, appointment and layoff

Kelly Jennings, Kansas Association of Public Employees (KAPE), returned to answer questions from the committee.

Charles Yunker, representing the Kansas American Legion, appeared as an opponent to **SB 175**. Their concern regarded the veterans preference portion on page 12, lines 20-43 and page 13, lines 1-11. One concern was that the bill lumps disabled and non-disabled veterans into one group, where in the past there was a greater preference and consideration for the disabled veteran. Their other concern was that the veterans preference will be administered by rules and regulations. They asked that the bill be amended to include language contained in the statute book for public service preference (see Attachment 1). Mr. Yunker ended his testimony by answering questions from the committee.

John A. Hill, Disabled American Veterans, appeared as an opponent of **SB 175**. Their concerns was how the Department of Administration will fit in veterans preference into the proposed "pools". Another problem is that even though an individual has filed an application for state employment, they will be required to apply for each job opening. He made the recommendation that the bill be held until the next legislative session for study (see Attachment 2). He concluded his testimony by answering questions.

Bobbi Mariani, Department of Administration, responded to the questions on how the veterans preference will be decided. Because the system now only adds veterans preference points to test scores, only about 27% of the applicants are affected. The department will follow present statutes, rules, and regulations when the new rules and regulations are written. These meetings will be conducted as public hearings. It is expected that the new procedure will add veterans preference points to a larger number of veterans' applications.

Darrell Bencken, State Adjutant Quartermaster, Veterans of Foreign Wars, stood to let the committee know that his organization concurs with the testimony of Mr. Yunker and Mr. Hill.

William E. Richards, Kansas Council of Chapters, Retired Officers Association, also wanted the committee to know that his group concurs with Mr. Hill's and Mr. Yunker's testimony.

Chairman Lane asked if there were any other opponents or proponents to **SB 175**, or any other persons who wanted to testify. Seeing none, he closed the hearing on **SB 175**.

Rep. Packer made a motion to pass out **SB 29** favorably and place it on the Consent Calendar. Rep Pauls seconded the motion and motion carried.

Rep Packer made a motion to pass out **SB 103** favorably and place it on the Consent Calendar. Rep. Beggs seconded it, motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S
Statehouse, at 9:05 a.m. on March 13, 1995.

Rep. Packer made a motion to pass out **SB 105** favorably and place it on the Consent Calendar. The motion was seconded by Rep. Standifer, motion carried.

Rep. Packer made a motion to pass out **SB 93** favorably and place it on the Consent Calendar. The motion was seconded by Rep. Mason and the motion carried.

Rep. Packer made a motion to pass out **SB 104** favorably and place it on the Consent Calendar. Rep. Geringer seconded the motion and the motion carried.

The meeting was adjourned at 9:55 a.m.

The next scheduled meeting will be March 14, 1995.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE GUEST LIST

DATE March 13, 1995

NAME	REPRESENTING
B. Manari	Dept of Adm.
Bill McAlister	Dept of Admin
Gregory A. Thacker Thede	SRS
Elaine Frisbie	Div. of Budget
Paul Blank	KANSAS VETERANS OF FOREIGN WARS
Charles M Yunker	KANSAS AMERICAN LEGION
John A. Hill	DISABLED AMERICAN VETERANS
Ben Johnson	USDO L - Vets Employment
Tom Smith	KDHR
Devil Phillips	Observing
Jill Warrick	student - observing
Jon Larson	KS Governmental Consulting
Kelly Johnson	KAPE
Bill Lohr	Kansas AFL-CIO
Wayne Manhap	K '1 '1

TESTIMONY ON SENATE BILL NO. 175
BEFORE THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE
BY CHARLES M. YUNKER, ADJUTANT, KANSAS AMERICAN LEGION
MARCH 9, 1995

Thank you for allowing me the opportunity to address you today regarding concerns The American Legion has relative to the veterans preference portion of Senate Bill 175 (page 12 lines 20-43 and page 13 lines 1-11). More specifically lines 8 thru 11 of page 13.

The American Legion's concerns are twofold: First, in its present form SB 175 lumps disabled and non-disabled veterans into one group whereas in the past disabled veterans have traditionally received greater preference and consideration for employment than their non-disabled veteran counterparts. We ask that similar provisions be adopted in the final version of SB 175.

Second; we are very leery of having veterans preference administered by "Rules and Regulations". Let me make it clear, and I want to emphasize, that The American Legion is confident the current Secretary of Administration would adopt rules and regulations regarding veterans preference in such a manner to be acceptable to veterans as a whole; however rules and regulations are much easier changed than laws, and sometimes with less public awareness. Thus in our opinion, SB 175 does not guarantee veterans preference rules and regulations would not be changed to the detriment of veterans by future Secretaries of Administration.

Several years ago we went down that road with the state over a federally funded program for veterans. If a veteran who was being displaced had not notified The American Legion, VFW, DAV and other veterans organizations hardly anyone would have known veterans were

*Business, Commerce
& Labor
3/13/95
Attachment 1*

being systematically displaced by non veterans from positions reserved for veterans. I hope you understand and appreciate our wariness of 'rules and regulations'; had it not been for K.S.A. 73-203 and other veterans preference statutes we would have lost that particular case, however we did prevail.

We suggest lines 8 through 11 of page 13 be amended to include language to the effect which would refer to K.S.A. 73-201, 73-202, 73-203, 73-204, 73-205, 73-213 and 73-214 as the references implementing the provisions of Section 13 of SB 175.

Veterans preference has been a time honored benefit granted to Kansas citizens who served this nation in the military during times of strife. The first laws were adopted in 1885 to recognize the services and sacrifices of those who served the Union during the Civil War. As time passed and America found itself in World War I, World War II, Korea, Vietnam, the Persian Gulf and other global hot spots, Kansas has always amended its veterans preference laws to include our newest generation of veterans while retaining the basic concept of hiring job qualified disabled veterans first, non-disabled veterans next, then non veterans.

2. Cited in holding board has authority to send compensation direct to soldier. *Sharer v. Soldiers' Compensation Board*, 132 K. 572, 574, 296 P. 729.

73-146.

History: L. 1923, ch. 8, § 1 (Special Session); R.S. 1923, 73-146; L. 1925, ch. 246, § 1; L. 1927, ch. 283, § 1; L. 1929, ch. 246, § 1; L. 1931, ch. 277, § 1; L. 1933, ch. 269, § 1; L. 1935, ch. 265, § 1; L. 1937, ch. 323, § 1; L. 1939, ch. 281, § 1; Repealed, L. 1965, ch. 431, § 1; June 30.

CASE ANNOTATIONS

1. Barred after time limit unless claimant under legal disability. *Waddell v. Soldiers' Compensation Board*, 117 K. 149, 150, 230 P. 77.

2. Cited in determining time when city improvement bonds may be issued. *State, ex rel., v. City of Topeka*, 141 K. 309, 312, 41 P.2d 260.

3. Act not restricted to those holding honorable discharge during referendum. *Patterson v. Soldiers' Compensation Board*, 148 K. 139, 141, 142, 79 P.2d 855.

73-147.

History: L. 1923, ch. 9, § 1 (Special Session); R.S. 1923, 73-147; Repealed, L. 1965, ch. 431, § 1; June 30.

73-148.

History: L. 1923, ch. 211, §§ 1, 2; R.S. 1923, 73-148; Repealed, L. 1965, ch. 431, § 1; June 30.

Article 2.—PREFERENCE**PUBLIC SERVICE****Cross References to Related Sections:**

Veterans' preference under civil service act, see 75-2955.

73-201. Preference in appointments and employments. In grateful recognition of the services, sacrifices and sufferings of persons who served in the army, navy, air force or marine corps of the United States in world war I and world war II, and of persons who have served with the armed forces of the United States during the military, naval and air operations in Korea, Viet Nam or other places under the flags of the United States and the United Nations or under the flag of the United States alone, and have been honorably discharged therefrom, they shall be preferred for appointments and employed to fill positions in every public department and upon all public works of the state of Kansas, and of the counties and cities of this state, if competent to perform such services; and the person thus preferred shall not be disqualified from holding any

position in said service on account of his age or by reason of any physical or mental disability, provided such age or disability does not render him incompetent to perform the duties of the position applied for; and when any such ex-soldier, sailor, airman or marine shall apply for appointment to any such position, place, or employment, the officer, board or person whose duty it is or may be to appoint a person to fill such place shall, if the applicant be a man or woman of good reputation, and can perform the duties of the position applied for by him, or her, appoint said ex-soldier, sailor, airman or marine to such position, place, or employment: *Provided*, That the provisions of this act shall not be applicable to any persons classed as conscientious objectors. The provisions of this act shall not be controlling over the provisions of any statute, county resolution or city ordinance relating to retirement, or termination on the basis of age, of employees of the state or any county or city. Whenever under any statute, county resolution or city ordinance retirement, or termination on the basis of age, of any employee is required at a certain age, or is optional with the employer at a certain age, such provisions of such statute, resolution or ordinance shall be controlling and shall not be limited by this section.

History: L. 1886, ch. 160, § 1; L. 1901, ch. 186, § 1; L. 1907, ch. 374, § 1; L. 1919, ch. 280, § 1; R.S. 1923, 73-201; L. 1945, ch. 301, § 1; L. 1951, ch. 429, § 1; L. 1970, ch. 306, § 1; July 1.

Cross References to Related Sections:

Applicable to certain Red Cross nurse corps members, see 73-220.

Research and Practice Aids:

Armed Services—114(1).
C.J.S. Army and Navy § 60.

Law Review and Bar Journal References:

"Constitutional Law: Veterans' Preference Statute Survives Gender-Based Equal Protection Challenge." Carolyn A. Adams, 19 W.L.J. 365 (1980).

CASE ANNOTATIONS

Annotations to L. 1901, ch. 186, § 1:

1. Qualifications within statute; city must appoint ex-soldier as engineer. *Thompson v. Emporia*, 9 K.A. 740, 60 P. 480.

2. Soldier or sailor must possess equal qualifications with other applicants. *Dever v. Humphrey*, 68 K. 759, 761, 75 P. 1037.

3. Character and extent of investigation by appointing power considered. *Dever v. Humphrey*, 68 K. 759, 761, 75 P. 1037.

4. Act of
Hieb v. Mi

Annotation

5. Act of
entitled to
581.

6. Appo
when such
76 K. 699.

7. Appl
performan
92 P. 581.

8. Act
cities and
66.

9. "Con
in determi
K. 172, 96

10. App
rendered
608, 100 I

11. Evi
ing office:

12. Mar
pointment
106 P. 279

13. Act
shown. Tl

14. No
diers and
71; Umy

15. Citi
appointm
85 K. 595

16. Ex-
service re
596, 117 I

Annotation

17. Fac
appointm
Owens v.
P.2d 415.

18. Sim
cause of
statute of
K.A.2d 20

73-20

Any stat
or any
county
have be
penal a
state, w
disobey
this act.
demean
less tha
hundred
subject
and pro
meanor
convicti
feited l.

ount of his age
or mental dis-
ability does
o perform the
for; and when
nan or marine
to any such
it, the officer,
is or may be
place shall, if
man of good
the duties of
him, or her,
or, airman or
e, or employ-
visions of this
any persons
tors. The pro-
e controlling
tute, county
relating to re-
e basis of age,
any county or
tute, county
retirement, or
e, of any em-
ain age, or is
a certain age,
te, resolution
ling and shall
l.
§ 1; L. 1901,
§ 1; L. 1919,
; L. 1945, ch.
; L. 1970, ch.

urse corps mem-

nces:
reference Statute
tion Challenge,"
980).

NS

ity must appoint
Emporia, 9 K.A.

ual qualifications
phrey, 68 K. 759,

gation by appoint-
phrey, 68 K. 759,

4. Act of 1901 held constitutional and valid. Goodrich v. Mitchell, 68 K. 765, 75 P. 1034.

Annotations to L. 1907, ch. 374, § 1:

5. Act of 1907 not unconstitutional; when applicant entitled to office. The State v. Addison, 76 K. 699, 92 P. 581.

6. Appointing power to determine qualifications; when such determination final. The State v. Addison, 76 K. 699, 92 P. 581.

7. Applicant must possess qualifications essential to performance of duties. The State v. Addison, 76 K. 699, 92 P. 581.

8. Act mandatory upon officers of state, counties, cities and towns. The State v. Addison, 78 K. 172, 96 P. 66.

9. "Competence" of applicants; good faith required in determining qualifications. The State v. Addison, 78 K. 172, 96 P. 66.

10. Appointment of county assessor; appointment rendered valid by curative act. James v. Hayes, 79 K. 608, 100 P. 622.

11. Evidence held not to show bad faith of appointing officer. Dever v. Platt, 81 K. 200, 105 P. 445.

12. Mandamus to compel councilmen to confirm appointment made by mayor. Jury v. Adams, 81 K. 207, 106 P. 279.

13. Action to oust county assessor; bad faith not shown. The State v. McNeill, 83 K. 234, 109 P. 783.

14. No paramount right to office as between ex-soldiers and sailors. Campbell v. Sargent, 85 K. 590, 118 P. 71; Umy v. Arnold, 86 K. 346, 119 P. 1126.

15. Cities under commission form of government; appointments from certified list. Goodrich v. O'Neill, 85 K. 595, 117 P. 1016.

16. Ex-soldiers must take examination under civil-service requirements. Goodrich v. O'Neill, 85 K. 595, 117 P. 1016.

Annotation to L. 1919, ch. 280, § 1:

17. Fact applicant ex-soldier insufficient to compel appointment; must also be determined competent. Owens v. City of Coffeyville, 151 K. 263, 264, 267, 98 P.2d 415.

18. Since the veterans' preference law implies a cause of action to sue for damages, the three-year statute of limitations applies. Pecenka v. Alquest, 6 K.A.2d 26, 27, 28, 29, 626 P.2d 802.

73-202. Same; penalties for violations. Any state officer, any county or city officer or any board composed of state officers, county or city officers, or any board who have been appointed and have charge of the penal and charitable institutions of the state, who shall knowingly and willfully disobey or neglect to obey the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be fined in a sum not less than fifty dollars nor more than five hundred dollars, and in addition thereto subject to impeachment as provided by law, and prosecuted as other cases of misdemeanor; and in either of said cases, upon conviction, shall be adjudged to have forfeited his or her office.

History: L. 1901, ch. 186, § 2; R.S. 1923, 73-202; L. 1945, ch. 301, § 2; March 30.

Cross References to Related Sections:

Applicable to certain Red Cross nurse corps members, see 73-220.

73-203. Ex-servicemen or their widows and orphans to be retained in making reduction in employees. In making any reduction of force in any of the departments, cities or towns of this state, the officers of such department, city or town shall retain those persons who may be equally qualified who have been honorably discharged from the military or naval service of the United States, and the widows and orphans of deceased soldiers and sailors.

History: L. 1886, ch. 160, § 2; March 25; R.S. 1923, 73-203.

CASE ANNOTATIONS

1. Since the veterans' preference law implies a cause of action to sue for damages, the three-year statute of limitations applies. Pecenka v. Alquest, 6 K.A.2d 26, 29, 626 P.2d 802.

2. Defendants did not exhaust administrative process; district court had no jurisdiction to hear case. Pecenka v. Alquest, 232 K. 97, 98, 652 P.2d 679 (1982).

73-204. Same; penalty for violations. Any person knowingly and willfully violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction fined not less than five dollars nor more than twenty-five dollars for each offense.

History: L. 1886, ch. 160, § 3; March 25; R.S. 1923, 73-204.

RIGHTS, PRIVILEGES AND IMMUNITIES

73-205. Statutes applicable to world war veterans. All rights, privileges and immunities extended to and enjoyed by honorably discharged soldiers of any of the wars in which this country has engaged, previous to the great world war, are confirmed, extended to, and hereby made to apply to the honorably discharged soldiers, sailors and marines, and others who honorably served with the armed forces of the United States in the world war, including former American citizens who served in the armies of governments associated with the United States in the world war, and who have been repatriated; it being the express intent of this statute that all of the provisions of the Laws of 1885, chapter 184 [73-301 to 73-303], Laws of 1886, chapter 160 [73-201, 73-203, 73-204], Laws of 1889, chapter 234

1-4

[73-211], Laws of 1897, chapter 157 [73-207, 73-208], Laws of 1901, chapters 186 [73-201] and 289 [73-211, 73-212], Laws of 1903, chapter 362 [73-417 to 73-422], Laws of 1907, chapters 374 [73-201, 73-202], 375 [73-304, 73-305] and 376 [73-301], Laws of 1909, chapters 221 [73-306 to 73-308] and 222 [73-207], Laws of 1911, chapter 289 [73-424 to 73-426], and Laws of 1915, chapter 102 [73-430 to 73-432], including any amendments thereto, shall be extended and made to apply, as hereinbefore provided.

History: L. 1921, ch. 257, § 1; March 7; R.S. 1923, 73-205.

CASE ANNOTATIONS

1. Defendants did not exhaust administrative process; district court had no jurisdiction to hear case. *Pecenka v. Alquest*, 232 K. 97, 98, 652 P.2d 679 (1982).

73-206. Same; act supplemental. This act is supplemental to and adopts the provisions of every act referred to in the preceding section, as far as the same may be applicable, and the same are made a part hereof.

History: R.S. 1923, 73-206; Dec. 27.

Source or prior law:

L. 1921, ch. 257, § 2.

Revision note, 1923:

Revised to conform to § 1 [73-205] of this act as edited.

73-206a.

History: L. 1943, ch. 265, § 1; Repealed, L. 1945, ch. 301, § 12; March 30.

73-206b. Waiver of pension or annuity payments. Any person entitled to a pension or annuity by reason of retirement pursuant to provisions of the laws of this state may decline to accept all or any part of such pension or annuity by a waiver signed by the pensioner or annuitant and filed with the body authorized by statute to administer the fund from which said pensioner or annuitant is receiving or is entitled to receive said pension or annuity, or its authorized agent. Such waiver may be revoked in writing at any time, but no payment of the pension or annuity or part thereof waived shall be made covering the period during which the waiver was in effect.

History: L. 1955, ch. 378, § 1; June 30.

LICENSES

73-207. Exemptions from certain license fees. From and after the passage of

this act all ex-union soldiers and sailors and ex-soldiers and sailors of the Spanish-American war, and all ex-soldiers of the Eighteenth and Nineteenth Kansas cavalry of the United States during the war of the rebellion, and all ex-soldiers and sailors of world war I and world war II, who served honorably in the military or marine service of the United States and all persons who have served with the armed forces of the United States during the military, naval and air operations in Korea or other places under the flags of the United States and the United Nations or under the flag of the United States alone, and who hold an honorable discharge from such service, issued by the proper officers of the United States, and who shall reside within the city or county six months previous to the time of which said license is issued, shall be entitled to a license to operate a delivery and baggage wagon and to vend, hawk and peddle goods, wares, fruits or merchandise not prohibited by law in any county or city in this state: *Provided*, That said soldier or sailor is engaged in operating personally a delivery and baggage wagon, owned exclusively by himself. Upon presentation of his certificate and papers of discharge to the clerk of any city or county in this state, and showing proof of his identity as the person named in his certificate of honorable discharge, and having resided within the city or county from which the license is issued six months previous to the time of issuance of said license, said clerk shall issue to the said ex-soldier (union) or sailor and ex-soldier or sailor of the Spanish-American war, and ex-soldiers of the Eighteenth and Nineteenth Kansas cavalry, and ex-soldiers and sailors of world war I and world war II, a license. Such license shall be free, and said clerk shall not collect or demand for the county, city or state any fee therefor.

History: L. 1897, ch. 157, § 1; L. 1909, ch. 222, § 1; L. 1923, ch. 212, § 1; R.S. 1923, 73-207; L. 1945, ch. 301, § 3; L. 1951, ch. 429, § 2; June 30.

Cross References to Related Sections:

Applicable to certain Red Cross nurse corps members, see 73-220.

Research and Practice Aids:

Licenses—19(3).

C.J.S. Licenses § 31.

Law Review and Bar Journal References:

"City Home Rule in Kansas," Wright W. Crummett, 9 W.L.J. 1, 13 (1969).

1. Exemption
ent operating
boldt, 133 K. 67

73-208.

Any city clerk
any provision
fusing to con
therein direc
not less than
dollars, to wi
ment in the
days.

History: L.
R.S. 1923, 73

FREE REC

73-209. 1

submission to
nal discharge
itary service o
of the United
discharge or c
vice certified
official as bein
ument, the ad
record on per
shall, upon re
marine, cause
charge, a cert
accordance wi
That in case
mitted, the ad
be made true
ments and sha
the originals th
person by wh
mitted.

History: L.
R.S. 1923, 73-
Research and Prac
Armed Services.
C.J.S. Army and

73-210. C

charge. No city
charge a fee fo
of true copies o
official record
dier, sailor or

History: L.
R.S. 1923, 73-2

73-210a. 1

deeds; copies.
presented to t
county in this

1-5

CASE ANNOTATIONS

1. Exemption is personal and inapplicable to veteran operating through agents. *Hair v. City of Humboldt*, 133 K. 67, 68, 69, 70, 299 P. 268.

73-208. Same; penalty for violations. Any city clerk in this state who shall violate any provisions of this act by failing or refusing to comply with such provisions as therein directed shall be fined in any sum not less than ten dollars nor more than fifty dollars, to which may be added imprisonment in the county jail not exceeding ten days.

History: L. 1897, ch. 157, § 2; May 8; R.S. 1923, 73-208.

FREE RECORDING OF DISCHARGES

73-209. Duty of adjutant general. On submission to the adjutant general of original discharge or other official record of military service of any soldier, sailor or marine of the United States, or of copy of such discharge or official record of military service certified to by a city, county or state official as being a true copy of original document, the adjutant general shall place such record on permanent file in his office, and shall, upon request of such soldier, sailor or marine, cause to be furnished, without charge, a certificate of military service in accordance with records so filed: *Provided*, That in case original documents are submitted, the adjutant general shall cause to be made true copies of such original documents and shall file same in his office and the originals thereof shall be returned to the person by whom such originals were submitted.

History: L. 1919, ch. 281, § 1; March 18; R.S. 1923, 73-209.

Research and Practice Aids:
Armed Services—101.
C.J.S. Army and Navy § 60.

73-210. Certified copies without charge. No city, county or state official shall charge a fee for certifying to the correctness of true copies of original discharges or other official record of military service of any soldier, sailor or marine of the United States.

History: L. 1919, ch. 281, § 2; March 18; R.S. 1923, 73-210.

73-210a. Free recording by register of deeds, copies. Whenever there shall be presented to the register of deeds of any county in this state the discharge or other

official records of military service of any person who has been honorably discharged from the armed forces of the United States at any time, said register of deeds shall record the same in a record book which shall be provided for such purpose and no fee shall be charged for such recordation. Upon request, of the person to whom such discharge was issued, his agent or relative, the register of deeds shall prepare and furnish certified copies of any such discharge or records of military service and no fee shall be charged for the first five copies therefor.

History: L. 1945, ch. 173, § 1; March 26.

RELIEF

73-211.

History: L. 1889, ch. 234, § 1; L. 1901, ch. 289, § 1; R.S. 1923, 73-211; L. 1929, ch. 249, § 1; L. 1939, ch. 282, § 1; L. 1945, ch. 301, § 4; Repealed, L. 1951, ch. 288, § 7; June 30.

Revisor's Note:
New act, see 39-709.

73-212.

History: L. 1901, ch. 289, § 2; R.S. 1923, 73-212; Repealed, L. 1949, ch. 401, § 1; April 2.

TEMPORARY ABSENCE OF PUBLIC OFFICERS AND EMPLOYEES

73-213. Definitions. For the purposes of this act, the following terms shall have the meanings ascribed to them by this section, unless the context clearly requires otherwise:

(a) "Officer" means any officer or employee of the state of Kansas or any political subdivision thereof.

(b) "Military service" means service in the army, navy, or marine corps of the United States or any compulsory service rendered in any capacity to the federal government for the purpose of national defense.

(c) "Appointive authority" means the person, board, commission, or other authority vested by law with power to appoint a successor for an officer upon the happening of a vacancy in the office or position held by such officer; but if no person, board, commission, or other authority is vested by law with power to appoint a successor for an officer upon the happening of such a vacancy, then "appointive authority" shall mean the governor of the state of Kansas.

1-6

(d) "Temporary vacancy" means a vacancy in an office or position caused by the absence in military service of the officer elected or appointed thereto. If the officer was originally elected or appointed for a definite term such "temporary vacancy" shall mean the period of time beginning with the day such officer shall enter the military service and ending with the day he shall return from military service, or with the expiration of the term for which he was elected or appointed, whichever period of time is the shorter. If the officer was originally appointed to his office or position for an indefinite term or for a term expiring at the pleasure of the appointive authority, such "temporary vacancy" shall mean the period of time beginning with the day such officer shall enter the military service and ending with the day he shall return from military service, or with the expiration of the appointive power of the original appointive authority, whichever period of time is the shorter.

History: L. 1941, ch. 355, § 1; Feb. 24.

Research and Practice Aids:

Armed Services § 115(2); Officers § 55(1).

C.J.S. Army and Navy § 60; Officers §§ 41, 50.

CASE ANNOTATIONS

1. Officer appointed and qualified under act "holds" office within meaning of constitution. (Art. 4, § 2.) Coates v. Camp, 161 K. 732, 733, 743, 744, 173 P.2d 266.

73-214. Vacancies which do not create forfeiture or vacancy; references in laws construed. The absence of any officer from his office or position caused by his being in the military service shall not create a forfeiture of, or vacancy in the office or position to which such officer was elected or appointed but shall be construed to merely create a temporary vacancy. Wherever the terms "forfeiture of office" or "vacancy in office" or other words of similar import are used in any law of this state in relation to an officer such as defined in this act, the same shall be construed in accordance with the provisions of this section and shall not be construed to apply to any absence of such officer who is absent from his office or position by reason of his being in the military service.

History: L. 1941, ch. 355, § 2; Feb. 24.

CASE ANNOTATIONS

1. Officer appointed and qualified under act "holds" office within meaning of constitution. (Art. 4, § 2.)

Coates v. Camp, 161 K. 732, 733, 743, 744, 173 P.2d 266.

73-215. Temporary appointments. In case a temporary vacancy is or has been created in any office or position by reason of the absence of the officer in the military service, the appointive authority shall appoint some person to temporarily fill the office or position to which such officer was elected or appointed. All such appointees shall hold the office or position which they are temporarily to fill during the temporary vacancy caused by the absence of the officer in the military service.

History: L. 1941, ch. 355, § 3; Feb. 24.

CASE ANNOTATIONS

1. Officer appointed and qualified under act "holds" office within meaning of constitution. (Art. 4, § 2.) Coates v. Camp, 161 K. 732, 733, 743, 744, 173 P.2d 266.

73-216. Powers and duties; compensation. The person appointed in accordance with the provisions of this act to temporarily fill any office or position shall have and may exercise all the rights, powers, authority and jurisdiction and shall perform the duties, vested in, or required by law of the officer whose office or position such person is so appointed to temporarily fill and shall receive the same salary, fees, expenses or other compensation as such officer would be entitled to receive.

History: L. 1941, ch. 355, § 4; Feb. 24.

73-217. Qualifications. Every person who shall be appointed to temporarily fill any office or position shall possess the qualifications prescribed by law, if any, for the regular holder of such office or position.

History: L. 1941, ch. 355, § 5; L. 1967, ch. 434, § 22; July 1.

73-218. Absentee officer not entitled to compensation; status upon return. An officer who shall be absent from his office or position and while in the military service shall not be entitled to any compensation as such officer during such absence; but upon his return, if he return before the expiration of the period of the temporary vacancy created by his absence, he shall be entitled to immediate possession of the office or position from which he was absent and upon reassuming the duties of the office to receive the compensation for the remainder of the term to which the holder thereof is

entitled, subject to the provisions of law.

History: L.

73-219. Invalidation of section, subsection or provision of law. If a section, subsection or provision of law is declared invalid by the courts, the provisions of the valid section, subsection or provision of law shall remain in effect until such time as the legislature shall otherwise provide.

History: L.

Research and Practice Aids:
Statutes § 64(2)
C.J.S. Statutes

AMERICAN

73-220. A person who served in the United States Armed Forces during the world war II; who was killed in action; who was missing in action; who was held as a prisoner of war; who was a member of the United States Armed Forces; who was a member of the United States Armed Forces; who was a member of the American Red Cross.

History: L. ch. 429, § 3;

* "Provisions of law" means the provisions of law 73-207, 73-304, 2955.

Ar

73-301. Burial of soldiers or marines. The remains of any soldier or marine who shall be killed in action shall be buried in each of the following: (1) designate the other suitable place whose duty is to receive the remains of any soldier or marine who served in the war of 1914-1918, or the war of 1917-1918, or the war of 1919-1921, or any such soldier or marine hereafter die in action. Such burial shall be in a cemetery or burial ground, or in a pauper's dead.

T E S T I M O N Y

STATE OF KANSAS
HOUSE COMMITTEE FOR BUSINESS, COMMERCE, AND LABOR

SENATE BILL 175

BY: JOHN A. HILL, DEPARTMENT OF KANSAS

DISABLED AMERICAN VETERANS

MARCH 10, 1995

The D A V has many concerns with this proposed legislation. Veterans preference is, of course, our first interest. The current system adds 5 points for veterans, and 10 points for disabled veterans. We wish we had absolute preference in Kansas, but we have lived with the current system for years, as it, at least, provides some benefit to veterans seeking employment with the State of Kansas.

Senate Bill 175, which was introduced as a Ways and Means Committee bill on February 1, 1995, and passed by the Senate on February 15, 1994, will most likely eliminate preference for veterans. The Department of Administration doesn't have a clue how they would provide for veterans preference in regulation to fit in with the proposed "pool".

We also have a problem with the requirement that, even though an individual has filed an application for state employment, they will be required to apply for each job opening, if they are aware of it. It's easy to see that state job seekers will have a difficult time becoming aware of all job openings around the state they might be interested in.

We also have a problem with the "pool" concept. This system will make it very easy for agencies to hire based on criteria that is not part of a merit system. I have heard administrators state that the current system makes it very hard to hire whom they want, "whom they want" is defined as someone who has been personally recommended, or who is to be rewarded for past political assistance, or maybe even a relative. Senate Bill 175 will make all of this possible! Perhaps we should retitile this bill "THE RETURN TO THE 'GOOD OL BOY' SPOILS SYSTEM".

*Business, Commerce
& Labor
3/13/95
Attachment 2*

As a taxpayer I am very unhappy with the statements made yesterday, by the DOA employees who testified, that SB 175 is necessary because the laws must be changed to fit a computer system, and software, that is already purchased. Why did we buy into a system that requires Kansas law be rewritten to fit, rather than buying a system that fits into what we have.

The Department of Administration testified Friday March 10, 1995 that Colorado has had a similar system in operation for two years. This is only partially correct. The Colorado system uses a scoring of skills, knowledge, and abilities, rather than testing, but, applicants are ranked, and 5 or 10 points are added for veterans' preference. When an agency requests a list of eligibles the applicants with the top five scores are forwarded to the requesting agency.

To conclude, we suggest this bill should be held over for study until the legislative session next year. This will allow all interested parties to review and recommend changes that will benefit both state job seekers and the Kansas taxpayer.

I wish to thank the committee for the opportunity to appear.