

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

The meeting was called to order by Chairman Al Lane at 9:25 a.m. on March 17, 1995 in Room 526-S of the Capitol.

All members were present except: Rep. Garry Boston - excused

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

Conferees appearing before the committee:

Others attending: See attached list

Chairman Lane opened the meeting by asking the committee's pleasure on **SB 175**. Rep. Beggs offered two amendments to the bill (see Attachment 1): 1) to strike out on Page 9, line 14 [Upon request of an appointing authority, the secretary of administration may make exceptions to one or more of these factors where such exceptions can be demonstrated to improve the availability of qualified candidates.] , and 2) on page 13, line 9, add the language after "this section" *However, in no case shall any rules and regulations adopted pursuant to this act give veterans any less preference in employment than existed prior to July 1, 1995.* Rep. Swenson moved that the committee adopt these amendments. It was seconded by Rep. Standifer. After much discussion, Chairman Lane decided to separate the two amendments for the purposes of voting. The committee voted to amend the bill on Page 13, line 9, by adding the language. The motion to approve the amendment to delete the language on page 9, line 14, failed.

Rep. Mason made a motion to pass SB 175 out of committee favorably as amended. The motion was seconded by Rep. Packer. The motion carried.

The discussion on SB 106 was opened with a motion from Rep. Standifer to amend the bill on page 20, line 32, after "available" with comparable work, at comparable pay. It was seconded by Rep Pauls. After discussion it was decided to change the amendment to add the word *suitable* on page 20, line 31, after "if a" and before "work assignment". The motion carried.

Rep. Packer made a motion to amend SB 106 by striking on page 20, line 31 and 32, [and if a suitable work assignment is available]. The motion was seconded by Rep. Mason. The motion carried.

Rep. Pauls made a motion to amend SB 106 on page 25, line 3, by adding *reasonable* after the word "employer's" and before the word "written" (see Attachment 2). The motion was seconded by Rep. Swenson. The motion carried.

The discussion and final action on **SB 106** will be continued on Monday, March 20.

The meeting adjourned at 10:00 a.m.

The next meeting is scheduled for March 20, 1995.

1 salary range established under this act, and in all other decisions relating
 2 to the status of employees. In accordance with K.S.A. 75-3706 and
 3 amendments thereto, the secretary of administration shall adopt rules and
 4 regulations prescribing the extent to which such ratings and the reports
 5 upon which they are based shall be open to public inspection by the public
 6 and by the affected employees.

7 Sec. 9. K.S.A. 75-2944 is hereby amended to read as follows: 75-
 8 2944. (1) (a) Vacancies in positions shall be filled, so far as practicable,
 9 by promotions or transfers of persons holding positions in the classified
 10 service and in accordance with K.S.A. 75-2942, and amendments thereto.
 11 Promotions shall be based upon merit and fitness to be ascertained by
 12 ~~competitive or noncompetitive examination in which principles which~~
 13 ~~shall include as factors the employee's efficiency, character, conduct and~~
 14 ~~length of service shall all constitute a factor.~~ Upon request of an appoint-
 15 ing authority, the secretary of administration may make exceptions to one
 16 or more of these factors where such exceptions can be demonstrated to
 17 improve the availability of qualified candidates Subject to the approval
 18 of the secretary of administration, the director of personnel services may
 19 provide, in specific areas, for competitive promotional examinations
 20 among employees of departments other than that in which a particular
 21 vacancy in a higher classification may exist, or for noncompetitive exam-
 22 inations for promotion of an employee within a department or from one
 23 department to another assessments.

24 (2) (b) An employee in the classified service with permanent status
 25 who is promoted with probationary status to a higher position, who is
 26 dismissed or could be dismissed for cause other than misconduct or de-
 27 linquency on the employee's part from the position to which the employee
 28 was promoted, either during the probationary period or at the conclusion
 29 thereof by reason of the failure of the appointing authority to file a request
 30 for the employee's continuance in the position, shall be demoted with
 31 permanent status to a position in the class from which the employee was
 32 promoted, or to a position in another class in the same salary range as
 33 the class from which the employee was promoted, or in a class in the next
 34 lower salary range. If the employee was promoted from one agency to
 35 another agency, the demotion shall be to a position in the agency to which
 36 the employee was promoted, unless the agency from which the employee
 37 was promoted agrees to the demotion of the employee in that agency. If
 38 the employee was dismissed for misconduct or delinquency from the po-
 39 sition to which the employee was promoted, and for that reason is not
 40 entitled to be demoted to a lower position, the employee shall have a
 41 right to appeal the dismissal to the state civil service board. If an employee
 42 who is dismissed and who is entitled to demotion pursuant to this sub-
 43 section, is not given the opportunity to be demoted, the employee shall

(Strike the language in brackets.)

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1 (c) To the final earned rating of each person who is described in
 2 subsection (a) and who has attained a passing rating on any open com-
 3 petitive examination, there shall be added a credit of five points, except
 4 that, in the case of a person described in subsection (a)(3), there shall be
 5 added a total credit of 10 points.

6 (b) To qualify for the veterans' preference, a person described in sub-
 7 section (a) also shall meet the requirements of the vacant position. The
 8 secretary of administration may adopt rules and regulations necessary to
 9 implement the provisions of this section

10 Sec. 14. K.S.A. 75-5605 is hereby amended to read as follows: 75-
 11 5605. There is hereby established within and as a part of the department
 12 of health and environment a division of environment, the head of which
 13 shall be the director of the division of environment. Under the supervision
 14 of the secretary of health and environment, the director of the division
 15 of environment shall administer the division of environment. The director
 16 shall have experience and educational training in the field of environment.
 17 The secretary of health and environment shall appoint the director of the
 18 division of environment who shall serve at the pleasure of the secretary;
 19 and he or she. The director shall be in the unclassified service and shall
 20 receive an annual salary fixed by the secretary and approved by the state
 21 finance council. If a director was an employee of the state of Kansas in a
 22 permanent regular classified position under the Kansas civil service act
 23 at the time of selection as director, he or she shall such person, upon the
 24 conclusion of service as director, shall be returned to the permanent
 25 regular classified position under the Kansas civil service act he or she
 26 such person held at the time of appointment as director, and if such
 27 position be filled at that time, a temporary additional position shall be
 28 created for him or her such person until such time as a vacancy exists in
 29 such position. While serving in such temporary additional position said
 30 the former director shall continue to be a contributing member of the
 31 retirement system under which he or she such person was covered while
 32 serving as director.

33 New Sec. 15. The period preceding the effective date of this act shall
 34 be a transition period during which the secretary of administration may
 35 vary the procedures and requirements of this act relating to the appoint-
 36 ment, selection and layoff of state officers and employees, in order to
 37 provide the orderly transition contemplated by this act.

38 Sec. 16. K.S.A. 75-711, 75-2925, 75-2926, 75-2938, 75-2939, 75-
 39 2940, 75-2942, 75-2944, 75-2945, 75-2947, 75-2948 and 75-5605 and
 40 K.S.A. 1994 Supp. 75-2943 and 75-2955 are hereby repealed.

41 Sec. 17. This act shall take effect and be in force from and after
 42 December 17, 1995, and its publication in the statute book.

However, in no case shall any rules and regulations adopted pursuant to this act give veterans any less preference in employment than existed prior to July 1, 1995

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- 1 (A) The individual was absent without good cause;
 2 (B) the absence was substantially adverse to the employer's interests;
 3 in violation of the employer's written absenteeism policy; and
 4 (C) the employer gave or sent written notice to the individual
 5 that future absence will result in discharge; and
 6 ~~(C)~~ (D) the employer gave written notice to the individual that future
 7 absence may result in discharge; and
 8 ~~(D)~~ the individual continued the pattern of absence without good
 9 cause the employee had knowledge of the employer's written absenteeism
 10 policy.
- 11 (4) An individual shall not be disqualified under this subsection (b)
 12 if the individual is discharged under the following circumstances:
- 13 (A) The employer discharged the individual after learning the indi-
 14 vidual was seeking other work or when the individual gave notice of future
 15 intent to quit;
- 16 (B) the individual was making a good-faith effort to do the assigned
 17 work but was discharged due to: (i) Inefficiency, (ii) unsatisfactory per-
 18 formance due to inability, incapacity or lack of training or experience, (iii)
 19 isolated instances of ordinary negligence or inadvertence, (iv) good-faith
 20 errors in judgment or discretion, or (v) unsatisfactory work or conduct
 21 due to circumstances beyond the individual's control; or
 22 (C) the individual's refusal to perform work in excess of the contract
 23 of hire.
- 24 (c) If the individual has failed, without good cause, to either apply
 25 for suitable work when so directed by the employment office of the sec-
 26 retary of human resources, or to accept suitable work when offered to
 27 the individual by the employment office, the secretary of human re-
 28 sources, or an employer, such disqualification shall begin with the week
 29 in which such failure occurred and shall continue until the individual
 30 becomes reemployed and has had earnings from insured work of at least
 31 three times such individual's determined weekly benefit amount. In de-
 32 termining whether or not any work is suitable for an individual, the sec-
 33 retary of human resources, or a person or persons designated by the
 34 secretary, shall consider the degree of risk involved to health, safety and
 35 morals, physical fitness and prior training, experience and prior earnings,
 36 length of unemployment and prospects for securing local work in the
 37 individual's customary occupation or work for which the individual is rea-
 38 sonably fitted by training or experience, and the distance of the available
 39 work from the individual's residence. Notwithstanding any other provi-
 40 sions of this act, an otherwise eligible individual shall not be disqualified
 41 for refusing an offer of suitable employment, or failing to apply for suit-
 42 able employment when notified by an employment office, or for leaving
 43 the individual's most recent work accepted during approved training, in-

reasonable

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Attachment 2

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