

Approved: 3/16/95
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on March 15, 1995 in Room 531-N of the Capitol.

All members were present except:

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jacqueline Breymeyer, Committee Secretary

Conferees appearing before the committee: Representative Janice Pauls
Janet Chubb, Assistant Secretary of State
Darrell Montei, Wildlife and Parks

Others attending: See attached list

Chairman Ramirez called the meeting to order and welcomed Representative Janice Pauls who was present to testify on HB 2462--rules and regulations; review by JCARR.

Representative Pauls testified that the bill was introduced by the Joint Committee on Administrative Rules and Regulations. The basic intent of the bill is to try to reduce the number of regulations that are being introduced by different agencies. Agencies would be required to mail notices of proposed regulations to the chairperson of the Rules and Regulations Committee, as well as the Secretary of State. The Secretary of State's notice would have to include a copy of the proposed rules and regulations and also an economic impact statement. Under the bill, the agency would have to give 60 days notice, as opposed to 30 days. The Rules and Regulations Committee would review all proposed rules within the 60 day public comment period.

Representative Pauls said that at times agencies issue regulations unnecessarily, and the only remedy is to go through the whole process again in order to repeal. The bill would further allow the Rules and Regulations Committee to examine all forms annually, and any type of rules and regulations filed by any agency.

Representative Pauls ended her testimony by stating the bill is a bi-partisan affect to reduce the number of regulations passed and to have input before necessary regulations are passed. (Attachment 1) She commented that last year there was one Board that was not cooperating very well and legislation was introduced to terminate that board. After that, the particular Board thought that the committee's input was worth listening to. She mentioned that Wildlife and Parks would be addressing a problem which pertains to season setting type regulations.

In response to a question from the Chairman, Representative Pauls stated the House Committee on Governmental Organization and Elections amended the bill by incorporating language concerning the reporting of rules and regulations exceeding the federal law. Page 5, lines 29 and 30 states the language "and whether the proposed rules and regulations exceed the requirements of applicable federal law;"

One of the committee commented that oftentimes the Legislature passes laws, goes home in April, and the agencies go to into the rule making process, circumventing or going beyond the scope of Legislative intent.

Another member commented that anything that can be done to stop the proliferation of rules and regulations will be helpful. This is a big part of the problem. Agencies must realize and take seriously the issuance of rules and regulations that reflect the intent of the Legislature.

In reply to a question from one of the committee, Representative Pauls said there is no difference between administrative rules and regulations and rules and regulations - it just takes less time to say it.

Representative Pauls stated there is excellent staff that keeps track of what new rules and regulations are coming through. The committee meets two days a month during the off season; these are usually 9-5 days. Some agencies may take a short time, while others take longer. Two full days were spent on nursing homes. Instead of hearing the rules and regulations a month after they go into effect, they will be heard a month before.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL Organization Statehouse, at 1:30 p.m. on March 15, 1995.

Janet Chubb, Assistant Secretary of State, appeared on the bill. She stated that she is not sure that she has been attending to the secretary's business as far as this bill is concerned. It was reviewed earlier in the session and it was determined the office had no position as far as policy was concerned, so it wasn't monitored very closely. Ms. Chubb introduced Barbara Nemecek, Publications, and stated that she was aware of the technical aspects of the legislation.

Ms. Chubb stated the Secretary of State's office never sees proposed regulations, it only sees notices and summaries; it sees the regulations after they have been adopted. This is a part of the bill all need to recognize. Under this bill the office will be receiving copies of proposed regulations and maintaining them. What is important for their office is that it will require a second filing in the office of regulations which have not been subject to a hearing. It will require copying of those proposed regulations in numbers that the committee requests or needs. It will also require the copying of proposed regulations maintained for any individual interested in receiving a copy. At times this might entail extensive copying.

Ms. Chubb stated that she understands that the procedure that exists right now is not being changed so that the office will continue to maintain the regulations that have been adopted and are stamped and approved. What is seen here is a duplicate filing system. This will depend upon the duty that the Legislature wants to impose on the Secretary. Not all of those duties are stated in the bill. Other things to be considered are staff time to perform these duties and the cost of the paper, plus the cost of copies.

The question was asked of Ms. Chubb if she has access to a scanning device. The reply was that the office does not. The office is looking into an optical disk imaging system. If some type of device of this type was used, Ms. Chubb said that she still would want to charge for costs in some way. She stated there is a fiscal note prepared by budget.

One of the committee stated that the history of this issue is a complicated one at best. The question was one of who was going to house the rules and regulations. The Revisor did not want to do it and the Secretary of State did not want to do it either. There would be a sizable fiscal note involved for warehousing, materials, and staff used for copying. There is also the cost involved. Looking at any of the agencies, no matter how large or small, there will be a sizable number of documents to be copied.

Ms. Chubb replied that the bill doesn't speak to this. What she assumes by reading the bill is that the office will charge whatever needs to be charged to the citizens for copies. The question that occurred to her today in reading the language is why is it being passed through the Secretary of State's office. If there is no duty to review the regulations, which Barbara Nemecek takes care of, it seems the only duty is to maintain, which is the important question, and to provide copies. It seems that same duty could be taken care of in another office, or in the office of the committee.

Representative Pauls commented that the main concern of the committee is notification. The volume of paper was not raised. Also it was that the Executive Department is the one that should have custody of the papers. Since they are published in the Register, the Secretary of State's office has to have custody.

Ms. Chubb stated that the office does not take a negative position with respect to the bill. She wanted to make the point that the office has never handled proposed regulations - only approved regulations.

Further comments were made with regard to the frustrations experienced by the rules and regulations committee.

Darrell Monte, Department of Wildlife and Parks, submitted his testimony dealing with the concern his agency has with the bill with regard to the season setting regulations and increased time period for providing a proposed regulation. The problem would be most notable for big game and certain migratory bird seasons and fishing seasons. For some season there is very limited time between when the information is available and when a season regulation must be addressed. A 60-day requirement cannot be met for all season type regulations. (Attachment 2) Mr. Monte had a copy of proposed amendments which pertained to the Department's concerns.

The Revisor informed the committee that there is another bill in Senate Energy and Natural Resources Committee that amends the same things this bill amends so it is likely that one or the other or both bills will wind up in a conference committee, with the final decision being made in conference committee. The number of the bill is HB 2120. The Revisor said he would monitor the bill.

Testimony in support of **HB 2462** was submitted by Jamie Clover Adams, Director of Legislative and Regulatory Affairs, KS Grain & Feed Assn and KS Fertilizer & Chemical Assn (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL Organization Statehouse, at 1:30 p.m. on March 15, 1995.

The Chairman closed the hearing on HB 2462.

The Chairman introduced persons from southern Leavenworth County, who are part of a Leadership Development team. They stood for applause.

The Chairman called to the committee's attention a list of amendments offered by the group of private detectives on SB 341--licensure and regulation of private detectives and agencies. He had made a request of the Assistant Attorney General to review those amendments and give a summary to him. In reviewing the material sent to him by Assistant Attorney General Camille Nohe, the Chairman stated that all the amendments with the exception of one are opposed by the Attorney General's office. He read a paragraph from page 2 which stated:

"These recommended revisions" reflect an intent to greatly diminish and restrict the authority of the Attorney General as the licensing entity for private detectives. The Attorney General was given the responsibility by the Legislature to regulate private detectives for the protection of the public. In order to carry out this responsibility, the Attorney General must have the necessary statutory authority. Should the Legislature adopt these "recommended revisions" the Attorney General would be severely limited in her ability to carry out the legislatively imposed responsibility."

He instructed the committee secretary to have copies made for the committee and staff.

The committee turned to HB 2138--state board of technical professions; land surveyors

The Chairman stated that he was asked by Helen Stephens if he minded if she would contact the committee members. He told her to go ahead. He knew the committee was getting some calls. If there was anything they wished to do with the bill they should inform the Chairman.

One of the members from the west stated that he had received several calls. The problem seems to be with the engineers. Would it be possible to amend the bill to delete the engineers and just stay with the land surveyors and architects.

Another member stated that he could not see the urgency for the bill.

The reply to this was that technology is moving so fast in the industry that if the bill is not passed, it will be delayed at least a year.

It was added that all opponents to the bill were engineers.

Another member had received eight calls in favor of the bill. Several other comments were made.

Senator Vidricksen moved to report HB 2138 favorable for passage. Senator Papay gave a second to the motion. The motion carried.

Senator Feleciano was recorded as voting no.

The Chairman stated that Senator Vidricksen could carry the bill.

The meeting was adjourned.

The next meeting is scheduled for March 16, 1995.

JANICE L. PAULS
REPRESENTATIVE, DISTRICT 102

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER:
BUSINESS, COMMERCE AND LABOR
JOINT SENATE & HOUSE COMMITTEE
ON ADMINISTRATIVE RULES AND
REGULATIONS
MEMBER:
JUDICIARY
TRANSPORTATION
WORKERS COMPENSATION FUND
OVERSIGHT COMMITTEE

Testimony Before The
Senate
Governmental Organizations Committee
Regarding
House Bill 2462
on
March 15, 1995

House Bill 2462 was introduced by the Joint Committee on Administrative Rules and Regulations. The whole committee was concerned that too many regulations are unnecessarily issued by different agencies. This bill will require agencies to mail notices of proposed regulations to the chairperson of the Rules and Regulations Committee as well as to the Secretary of State. The notice to the Secretary of State would have to include a copy of the proposed rules and regulations as well as an economic impact statement. (These are not sent with the notice

*Senate Governmental Organization
Attachment 1
3/15/95*

now.) The agency would have to give 60 days notice under the new bill as opposed to 30 days. The Rules and Regulations Committee would review all proposed rules within this 60 day public comment period. At times the agencies agree with the Joint Committee that regulations were issued unnecessarily--but the sole remedy is to then go through the whole process again to repeal.

House Bill 2462 would further allow the Rules and Regulations Committee to annually examine all forms, and any type of rules and regulations filed by any agency.

This bill is a bi-partisan affect to reduce the number of regulations passed and to have input before even necessary regulations are passed.

Janice L. Pauls
Representative
District 102

JP/cc

STATE OF KANSAS



DEPARTMENT OF WILDLIFE & PARKS

OFFICE OF THE SECRETARY

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H.B. 2462

Testimony Presented To: Senate Governmental Organization Committee

Provided By: Kansas Department of Wildlife and Parks

March 15, 1995

The KDWP appreciates the opportunity to appear before this Committee to share a concern regarding season setting regulations and the increased time period for providing a proposed regulation. Although potentially impacting all season type regulations, the problem would be most notable for big game and certain migratory bird seasons and, on occasion, fishing seasons.

The Department utilizes biological data and other survey information to set certain seasons. For some seasons, there is very limited time between when the information is available and when a season regulation must be addressed. The current 30 day requirement is very tight, but manageable; however, a 60 day requirement cannot be met for all season type regulations.

For these reasons, the Department supports the proposed amendments which pertain to season setting type regulations of the Department.

*Senate Governmental Organization
Attachment 2
3/15/95*

PROPOSED AMENDMENT TO HOUSE BILL NO. 2462

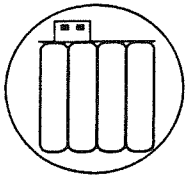
As Amended by House Committee of the Whole

On page 1, in line 19, by striking "Prior" and inserting "(1) Except as provided by paragraph (2), prior"; in line 32, by striking "(1)" and inserting "(A)"; in line 33, by striking "(2)" and inserting "(B)"; in line 36, by striking "(3)" and inserting "(C)"; in line 39, by striking "(4)" and inserting "(D)"; in line 41, by striking "(5)" and inserting "(E)";

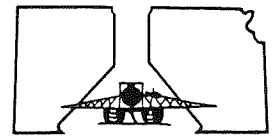
On page 2, following line 3, by inserting a new paragraph as follows:

"(2) Prior to adopting any rule and regulation which establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife and after such rule and regulation has been approved by the secretary of administration and the attorney general, the secretary of the department of wildlife and parks shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of paragraph (1) shall apply to such rules and regulations, except that the statement required by clause (E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.";

On page 4, in line 1, by striking "submitted to and"; in line 2, by striking "sixty-day";



**Kansas Grain & Feed Association
Kansas Fertilizer & Chemical Association**



STATEMENT TO
THE SENATE GOVERNMENTAL ORGANIZATION COMMITTEE
REGARDING H.B. 2462
SENATOR AL RAMIREZ, CHAIR
MARCH 15, 1995

*Senate Governmental Organization
Attachment 3
3/15/95*



KGFA & KFCFA advocate public policies that advance a sound economic climate for agribusiness to grow and prosper so they may continue their integral role in providing Kansans and the world with the safest, most abundant supply of food and fiber.

The Kansas Grain and Feed Association

..... a voluntary state organization founded in 1896 providing governmental representation, educational opportunities and a wide variety of other services to the vast and indispensable grain and feed marketing system. The 1200 members of the KGFA include country elevators, subterminal and terminal elevators, feed manufacturers, grain merchandisers and allied industries such as railroads, grain exchanges, equipment manufacturers and insurance firms.

The Kansas Fertilizer and Chemical Association.....

..... a voluntary professional association for those involved in the plant nutrient and crop protection industry. KFCFA represents our nearly 500 members interests in legislative matters at all levels of government, as well as providing educational opportunities and business services. The industry is committed to professional development and business viability for the plant nutrient and crop protection retail industry.

The following statement in support of H.B. 2462 is submitted on behalf of both the Kansas Grain and Feed Association (KGFA) and the Kansas Fertilizer and Chemical Association (KFCA). While the two associations share staff, they have distinct memberships, separate boards of directors and association programs. KGFA's 1200 members include country elevators -- both independent and cooperative -- subterminal and terminal elevators, feed manufacturers, grain merchandisers and others who serve the industry. KFCA's nearly 500 members are primarily plant nutrient and crop protection retail dealers, but also include manufacturer's representatives, distribution firms, and equipment manufacturers.

The bulk of our members are small businesses who feel the ever growing burden of regulatory compliance firsthand. They are governed by a plethora of regulations promulgated by numerous agencies. These regulations include clean air, stormwater, emergency planning and community right-to-know, spill prevention control and countermeasure, pesticide and fertilizer containment, pesticide business licenses, commercial feeding stuffs requirements, anhydrous ammonia safety, commercial driver's licenses, hazardous materials transportation and motor carrier requirements. Each one impacts business operations and should be exposed to "full public scrutiny." Interested parties must have an opportunity to study, analyze, and respond to agency proposals.

This is accomplished through effective participation in the rulemaking process. H.B. 2462 does three very important things to expand participation in the rulemaking process. First, it extends the standard comment period from 30 to 60 days. Second, it involves the Joint Administrative Rules and Regulations Committee in the proposal stage rather than after the fact and lastly, it requires agencies to notify the public through the economic impact statement when they exceed federal requirements.

KGFA and KFCA believe participation is the watchword in regulatory decisionmaking. Extending the comment period to 60 days enhances the existing system by giving the public more time to study and analyze agency proposals and more time to gather pertinent information. For example, in the recent Title V Clean Air Act Operating Permit rulemaking -- of vital interest to grain elevators across the state -- the industry did not discover regulations were being proposed until about three weeks prior to the end of the comment period. Time to gather information, digest it and put it into a form for agency use takes time. Kansas businesses and citizens have jobs and businesses to run. In many cases, by the time a proposed rule is discovered, it's almost too late to assess it and respond in a coherent and meaningful way. This is not to say the agencies do not attempt to involve stakeholders in proposal development. It's just that they may only focus on those they consider to be the major players when the regulation may be very important to others they consider insignificant.

H.B. 2462 authorizes the Joint Committee on Administrative Rules and Regulations to review all rules and regulations during the 60-day public comment period. Involving the Joint Committee at the front end of the process instead of the back end makes sense. It's another opportunity to involve people in the process. Perhaps members of the committee know experts in their districts who could add critical information to the process or can alert other stakeholders the agency may not have considered.

Finally, requiring agencies to include information in the economic impact statement when they exceed the requirements of applicable federal law is good public policy. It will have the practical effect of making the agency justify going beyond federal requirements and allow the public to respond.

In closing, KGFA and KFCA support H.B. 2462 because it enhances the underlying principle of the rulemaking process -- participation. Expanding the comment period to 60 days allows interested parties to learn about the rulemaking, analyze the agency proposal, contact experts and consolidate the information into coherent, helpful comments. If you have any questions, please contact Jamie Clover Adams, Director of Legislative and Regulatory Affairs at 234-0461.