

Approved: 3/28/97
Date

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

The meeting was called to order by Chairman Al Lane at 9:08 a.m. on March 7, 1997 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused
Rep. Dennis Wilson - excused

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

Conferees appearing before the committee: Scott Stone, KAPE
Wendy McFarland, ACLU
E. Dean Stanley, Secretary of Transportation

Others attending: See attached list

Rep. Beggs made a motion to approve the minutes of February 11, 12, 13, and 14. It was seconded by Rep. Boston. The minutes were approved as written.

Continued hearing on: **HB 2155 - Drug screening program for certain state officers and employees and applicants for state employment.**

Scott Stone, Executive Director and Chief Counsel, Kansas Association of Public Employees (KAPE), and an opponent of the bill, returned to finish his testimony and to answer questions from the committee. KAPE does not stand for allowing drug and alcohol abuse in the workplace. It should be strongly discouraged and eliminated to every extent possible. But, alcoholism and drug abuse are recognized as treatable illnesses. He stated that when rehabilitation for drug or alcohol usage is offered and the treatment is successful, employees can return to the workforce as productive, healthy employees and employers do not need to train new employees. He said the current policy is working well. They urge the committee to report the bill unfavorably or at the least, remove all of the new language except for new subsection (g). (see Attachment 7, March 6, 1997)

Wendy McFarland, American Civil Liberties Union (ACLU), testified as an opponent of the bill. She started her testimony by stating that there is no one who hasn't been touched by addiction to alcohol or drugs, either through their families or friends. Their arguments are directed toward language that appears to violate the confidentiality of drug test results for state officers and employees. Any appeal of a termination of employment or other disciplinary action taken as a result of drug test results will be done in a civil service hearing that is open to the public. They ask the committee to also look at the absence of a second chance. They would like to leave K.S.A. 1996 Supp. 75-4362 as it is now written. (see Attachment 1) She finished her testimony by answering questions from the committee.

E. Dean Stanley, Secretary of the Kansas Department of Transportation, returned to reiterate his strong support for the bill and the amendment that Secretary Carlson suggested for the bill. They are trying to be proactive, they need the discretion to deal with those who use alcohol and drugs while employed by the State of Kansas.

No others were present to testify for or against the bill. Chairman Lane closed the hearing on **HB 2155.**

The meeting was adjourned at 10:00 a.m.

The next meeting is scheduled for March 10, 1997.

ACLU

American Civil Liberties Union

Wendy McFarland - Lobbyist
(913) 575-5749

TESTIMONY IN OPPOSITION TO HB 2155

THE AMERICAN CIVIL LIBERTIES UNION STANDS OPPOSED TO ANY TYPE OF DRUG TESTING THAT TAKES PLACE WITHOUT PROBABLE CAUSE. HOWEVER, IN HB 2155, OUR ARGUMENTS ARE DIRECTED TOWARD LANGUAGE THAT APPEARS TO VIOLATE THE CONFIDENTIALITY OF DRUG TEST RESULTS FOR STATE OFFICERS AND EMPLOYEES.

ANY APPEAL OF A TERMINATION OF EMPLOYMENT OR OTHER DISCIPLINARY ACTION TAKEN AS A RESULT OF DRUG TEST RESULTS WILL BE DONE IN A CIVIL SERVICE HEARING THAT IS OPEN TO THE PUBLIC. THIS FORUM WILL ONLY DETER THOSE WHO ARE TRULY THE VICTIMS OF A FALSE/ POSITIVE TEST FROM EXERCISING THEIR DUE PROCESS RIGHTS UNDER THE US CONSTITUTION.

OPPOSITION WE TAKE THAT IS NOT BORN OUT OF THE BILL OF RIGHTS INCLUDES THE LANGUAGE THAT WILL ALLOW FOR THE DECISION ON WHETHER TO TERMINATE OR TO OFFER AN OPTION OF TREATMENT PRIOR TO TERMINATION TO BECOME AN ARBITRARY ONE DECIDED BY STATE MANAGERS. EXPERIENCE SHOULD GUIDE YOU HERE TO THE REALITY THAT WHENEVER POSSIBLE, EMPLOYMENT DISCIPLINARY ACTION IN GOVERNMENT SHOULD BE DETERMINED BY LAWS, NOT BY PERSONAL AND ARBITRARY DECISIONS OF A SUPERVISOR.

IT WAS AN ENLIGHTENED AND COMPASSIONATE BODY OF GOVERNMENT THAT SAW FIT TO ENCOURAGE REHABILITATION OF GOVERNMENT WORKERS FOUND TO HAVE AN ALCOHOL OR DRUG PROBLEM. THESE ADDICTIONS HAVE TOUCHED ALL OF US THROUGH FRIENDS OR FAMILY MEMBERS WITH THE DISEASE. A ONE TIME OFFER OF A SECOND CHANCE TO GET HELP, GET SOBER AND STAY SOBER IS THE LEAST GOVERNMENT CAN DO TO PROTECT THEIR WORKERS. THIS KIND OF INVESTMENT PAYS OFF WHEN AN OTHERWISE PRODUCTIVE EMPLOYEE GETS THAT SECOND CHANCE AND PREVAILS OVER THEIR AFFLICTION.

WE ASK YOU, RESPECTFULLY, TO LOOK AT THE LEGAL RAMIFICATIONS OF THIS BILL AS WELL AS THE DECIDEDLY DISCOMPASSIONATE ABSENCE OF A SECOND CHANCE. THIS IS AN EXAMPLE OF LEGISLATION THAT SEEKS TO INTERFERE WITH A SYSTEM THAT APPEARS TO BE WORKING. SOMETIMES, AS LEGISLATORS, YOU WILL FIND THAT THE BEST ACTION YOU CAN TAKE IS NO ACTION AT ALL.

WE ENCOURAGE YOU TO LEAVE K.S.A. 1996 SUPP. 75-4362 AS IT IS NOW WRITTEN AND TAKE PRIDE IN KNOWING THAT USING COMPASSION IN DECIDING LEGISLATION IS, IN THIS CASE, THE RIGHT THING TO DO.

*Business, Commerce
& Labor Committee
3/17/97
Attachment 1*