

Approved: 1-20-98
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Emert at 10:15 a.m. on January 15, 1998 in Room 514-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson Legislative Research Department
Gordon Self, Revisor of Statutes
Mary Blair, Committee Secretary

Conferees appearing before the committee: Dave Debenham, Attorney General's Office
Sara Ullman, Kansas Register of Deeds Association

Others attending: See attached list

The minutes of the January 13 and January 14 meetings were approved on a motion by Senator Bond and seconded by Senator Harrington.

Bill Introductions:

Following a recap of bill requests by the Chair, Senator Bond moved to introduce the requested bills of the Kansas Judicial Council, Senator Goodwin seconded. Carried. Senator Pugh moved to introduce the requested bills of the Kansas Bar Association, Senator Petty seconded. Carried. Senator Bond moved to introduce the requested bills of the Kansas Police Officers Association and the Kansas Sheriffs Association, Senator Donovan seconded. Carried.

SB 408 - Providing expedited process to review and determine validity of certain liens

At the Chair's request, Staffperson Donaldson presented a review of the Report of the Special Committee on Judiciary's activities addressing the issue of new crimes regarding certain "common law" activities, and examining the activities of militia or common law-type groups such as the Freeman and the Christian court. She stated that **SB 408** addresses one of the issues the Committee examined and is a result of the Committee's recommendation to establish an expedited process to review and determine the validity of certain liens. (see Committee Reports to the 1998 Legislature, pg. 8-3, 8-4 at Legislative Research, 545N of the Capitol)

Conferee Debenham testified on behalf of AG Stovall, to speak in support of **SB 408**. He reviewed the evolution of the bill and requested amendments to change the language in portions of the bill. The first amendment would decrease the age of the applicant seeking a judicial review from 21 years to 18 years. The second amendment would reflect that the lien may be filed in any public office. (attachment 1) Discussion followed.

Conferee Ullman testified in support of **SB 408**. She agreed with Conferee Debenham's second amendment. She also requested that the bill reflect a language change in the last sentence substituting "Kansas Register" for "Statute Book". (attachment 2) Discussion and clarification from staff on certain legal matters followed.

SB 404 - Increasing the civil penalty for odometer fraud to not more than \$10,000

The Committee revisited **SB 404** and at the request of the Chair, Steve Rarrick, Deputy Attorney General, Consumer Protection Division, clarified questions regarding legal ramifications of the bill. Following a lengthy discussion, Senator Bond moved to pass SB 404 out favorably, Senator Donovan seconded. Motion carried with Senator Pugh opposed.

The meeting adjourned at 11:02 a.m. The next scheduled meeting will be January 20, 1998.

SENATE JUDICIARY COMMITTEE GUEST LIST

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NAME	REPRESENTING
Melissa Wangemann	Sec. of State
Kathy Sachs	Sec of State
Judy Moler	K. Assn of Counties
Joe F. Ullmann	KS. Register of Deeds Assoc.
Kare Abraham	Attorney General
Kyle Smith	KIBT
JARED MOSE	Asst
Markus Randall	Whitney Jackson PA
Indiegnn Hessel	Budget
Kathy Olsen	KS Bankers Assn
Matthew Goddard	Hearland Community Bankers Assoc.
TARIQ AZIZ	Fair Play for Iran Committee
Natalie Haag	Governor's office
Kathy Porter	OJA
Pat Sanding	SN county District Ct
Kay Talley	KADCCA
Whitney L. Nichols	Shawnee Co. Register of Deeds
Michelle Miller	Johnson County
Nancy Kendall	LWV of Kansas

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Jan 15, 1998

NAME	REPRESENTING
Dion Vagary	SRS



State of Kansas

Office of the Attorney General

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STATEMENT OF
DEPUTY ATTORNEY GENERAL DAVID B. DEBENHAM
BEFORE THE SENATE JUDICIARY COMMITTEE
RE: SENATE BILL 408
JANUARY 15, 1998

Mr. Chairman and Members of the Committee:

I appear before you today on behalf of Attorney General Carla J. Stovall, to speak in support of Senate Bill 408. This bill will allow an expedited process to review and determine the validity of certain liens, which are alleged to be fraudulent.

Senate Bill 408 is the result of a recommendation by the Special Committee on Judiciary (Committee). This Committee conducted an inquiry into the situation of militia activities in Kansas with a view to determining whether there was a need for additional legislation.

Testimony was presented from a number of conferees regarding the activities of anti-government groups and so called common-law courts both within the State of Kansas and also acting outside the State of Kansas. The testimony of these individuals ranged from the issuance of bogus and fraudulent checks to filing and attempting to file frivolous liens. It was clear that the overwhelming intent of the individuals involved in these types of schemes was to harass and intimidate public officials by engaging in "paper terrorism." Although these groups lack any authority to issue or enforce the various orders, writs, liens and warrants, the impact of their actions clearly resulted in fear to the public officials and employees confronted by these groups. The threat to file such liens and the issuance of "court orders" by these groups are solely made with the intent to dissuade and harass public employees from doing their jobs. Testimony presented to the Committee revealed that there have been many threats to file liens in the State of Kansas but few liens have actually been filed.

A number of states found that their current criminal statutes did not directly address the activities of these groups. As a result criminal enactments have taken place in various states to attempt to deal with the conduct of these groups. These changes have not sought to infringe upon the First Amendment guarantee of freedom of speech. They do address the criminal activities of those individuals who seek to terrorize and intimidate public officials because of the performance of

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the official's duties.

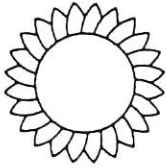
Based on the concerns brought out during the hearings conducted by the Committee, the Attorney General drafted legislation that would have provided criminal and civil sanctions against those individuals who were engaged in filing or attempting to file fraudulent liens as well as providing an expedited court procedure for challenging and removing fraudulent liens on real or personal property.

The recommendation of the Committee was to propose legislation that would provide an expedited process to review and determine the validity of alleged fraudulent liens. It also appears that it was the Committee's finding that legislation providing additional criminal and civil penalties was not needed at this time.

Attorney General Stovall wholeheartedly supports Senate Bill 408. This legislation will provide a cost-effective means for the citizens of the State of Kansas to contest a fraudulent lien that has been filed on their real or personal property.

In addition, should existing criminal penalties and civil sanctions prove ineffective in deterring this type of conduct, the Attorney General stands ready to provide additional legislation to address these concerns.

On behalf of Attorney General Stovall, I would urge your favorable consideration of Senate Bill 408.



Sara E. Ullmann, Register of Deeds, Johnson County, Kansas

SENATE BILL NO. 408

I am here today on behalf of the Kansas Register of Deeds Association. We thank you for addressing this issue and for the opportunity to provide input during your decision making process. The Register of Deeds Association believes that this bill is a balanced approach to the problem of the recording of erroneous liens. It does not impede the recording of documents in order to determine their validity, but provides easy access to the courts to resolve any discrepancies between the parties.

I would like to request one change to accurately reflect where liens are recorded in the Kansas system. Page 2, line 4 should read county register of deeds' office and the same change should be reflected at the appropriate points in the bill. I would also like to suggest that there may be some logic to also including mechanics liens that are recorded with the Clerk of the District court.

I might also suggest that the committee consider changing the last line of the bill to read "Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas Register." Rather than "in the statute book." This change would allow for the most prompt response to the issue.

I would be more than happy to stand for any questions.

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