

Approved: April 29, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 12:05 p.m. on April 7, 1999 in Room 423-S of the Capitol.

All members were present except: Senator Vratil, excused
Senator Biggs, excused

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee: Secretary Chuck Simmons, Department of Corrections

Others Attending: See Attached Sheet.

Chairman Oleen opened the hearing on **SB 343:execution of death sentences**

Secretary Simmons, Department of Corrections, was recognized by Chairman Oleen as a proponent to **SB 343**. Secretary Simmons stated that this bill amends several statutory provisions pertaining to procedures involved in carrying out an execution pursuant to a sentence of death in a swift and humane manner. (Attachment 1). The bill is a result of a review by the Joint Committee on Corrections and Juvenile Justice Oversight on execution related issues. He stated that the same bill passed the Senate and two bills passed the House last session but were lost in conference committees. Secretary Simmons stated that the provisions of **SB 343** make improvements to the procedural aspects of implementing a sentence of death and he requested that the bill be reported favorably.

Questions from the committee were directed to Secretary Simmons for clarification. Chairman Oleen ask Secretary Simmons what the intend Section 2, (c) allowing the secretary to deny attendance of any person selected or designated as a witness? Secretary Simmons stated that this was this was inserted because of a concern that someone who had been designated might become too emotional and present a problem at that time. Senator Oleen requested that the Secretary Simmons have the language tightened and clarified.

Chairman Oleen closed the hearing on **SB 343**.

Chairman Oleen introduced Peter Votypka and Monica Votypka of Indian Trail Junior High, Meredith Jones from Oxford Middle School and Worapong Pongpatarat from Blue Valley Northwest High School, who are serving as pages for the Senate.

Chairman Oleen noted that **HB 2427, State Board of technical professions, clarifying exemptions from regulation and licensure requirements** was returned to the committee for clarification of language.

Chairman Oleen recognized Ron Gaches, Executive Vice President Kansas Society of Professional Engineers. Mr. Gaches stated that the concerns on the Senate floor concerning single and two family dwellings were unfounded. (Attachment 2). He stated that routine labor, remodeling and construction activities are not regulated by the Board and **HB 2427** would not give them additional authority over these activities.

Senator Harrington offered an amendment to **HB 2427** clarifying the language and removing (c) in Section 2. Senator Becker seconded the motion. The motion passed.

Senator Becker moved to favorably pass **HB 2427** as amended to the full Senate. Senator Jones seconded the motion. The motion passed.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 423-S
Statehouse, at 12:05 p.m. on April 7, 1999.

Chairman Oleen announced that the committee would take action on **HB 2368, Antiquities** and **SB 343** at the rail on adjournment of the Senate.

The meeting adjourned at 12:50 p.m. The next meeting of this committee will be at the rail on adjournment April 7, 1999.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

GUEST LIST

DATE: April 7, 1999

NAME	REPRESENTING
Ken Gaches	McGill, Gaches & ASSO.
Charles Simmons	Dept. of Corrections
Paul H. Lindley MD	
Linda Luceo	KCADP
St Therese Barget	KCADP
Bill Lucas	KCADP
Neal Whitaker	KBWA




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Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

To: Senate Committee on Federal and State Affairs

From: Charles E. Simmons, Secretary 

Subject: SB 343

Date: April 2, 1999

SB 343 amends several statutory provisions pertaining to procedures involved in carrying out an execution pursuant to a sentence of death. The bill is a result of a review of execution-related issues last interim by the Joint Committee on Corrections and Juvenile Justice Oversight. As part of that review, KDOC briefed the joint committee on the status of departmental plans to implement its statutory responsibilities for carrying out a capital punishment sentence. We also suggested several statutory areas where we felt revisions should be considered regarding execution-related procedures. Most of these issues were identified by the department following visits by staff to four other states to review procedures utilized in carrying out an execution. Following its consideration of these issues, the joint committee introduced HB 2093, an identical measure to SB 343.

Major provisions of SB 343 are summarized below:

- Provides that the identity of executioners and others involved in carrying out a death sentence shall be confidential. Also provides that the identity of witnesses to an execution shall be confidential except that witnesses may elect to reveal their own identity.
- Increases from 6 to 10 the maximum number of official witnesses to be appointed by the Secretary of Corrections. Requires that the Secretary consider designating members of the victim's immediate family as official witnesses, and defines immediate family.
- Requires that witnesses be at least 18 years of age.
- Provides that all court orders related to the carrying out of a death sentence shall be issued by the Kansas Supreme Court.

Senate Federal and State Affairs Committee
Testimony on SB 343
April 2, 1999

- Provides that the Supreme Court shall establish the week during which the execution shall occur, and that the Secretary of Corrections shall establish the execution date and time within the week designated by the court. The Secretary must give at least seven days' notice to the Supreme Court, the district court, the defendant, the defendant's counsel, and the attorney general.
- Eliminates the existing requirement that the Secretary establish a three-person medical panel to assist in the selection of the lethal substances to be administered. Provides instead that the Secretary shall select the substance or substances to be used, which then must receive certification by the Secretary of Health and Environment that administration of the substances will in fact result in death in a swift and humane manner.
- Repeals existing statutory provisions relating to organ donation by persons sentenced to death.

I believe that the provisions of SB 343 make substantial improvements to the procedural aspects of implementing a sentence of death, and respectfully request that the bill be reported favorably.



Kansas Society of Professional Engineers

A state society of the National Society of Professional Engineers

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**COMMENTS IN SUPPORT OF HB 2427
 REGARDING LICENSURE OF PROFESSIONAL ENGINEERS
 PRESENTED BY
 RON GACHES, EXECUTIVE VICE PRESIDENT
 KANSAS SOCIETY OF PROFESSIONAL ENGINEERS**

Questions were raised on the Senate floor regarding the possible impact of HB 2427, the proposal of the Board of Technical Professions to eliminate a loophole in the licensing requirements for Professional Engineers. Concerns were raised that passage of the bill would restrict individuals from working on their own homes, providing labor or remodeling services to friends or relatives, restrict modification of in-home offices or prevent volunteers from offering their services to fix up community building.

These concerns are unfounded. The statutes creating the Board of Technical Professions give the Board authority over a specific list of professions: "engineering, land surveying, architecture, landscape architecture and geology." The Board of Technical Professions has no history of ever trying to govern labor or construction services, and has no authority to do so.

The opening section of KSA 74-7001 (a) reads, "Except as otherwise provided in this act, it shall be unlawful for any person to practice or to offer to practice in the state of Kansas, any profession included within the term technical professions, as such term is defined in the provisions of this act, unless such person has been duly licensed to practice such profession under this act or holds a certificate of authorization issued under KSA 74-7036.

It is the intent of HB 2427 to fulfill the purpose of KSA 74-7001. The bill clarifies an exemption to the licensure law that has been on the books since 1978. A court case interpreting the exemption language gave an unexpectedly broad interpretation of the exemption to the licensure requirement. That interpretation would allow a property owner to design or erect virtually any kind of structure they wanted on their own property without receiving design approval from a licensed Professional Engineer.

The court decision would allow Hyatt Hotels or Wal-Mart to construct on their own property facilities where hundreds would work and thousands would visit without any design review and approval from a licensed PE.

The Senate floor amendment might allow a person or corporation to build any size residential facility on their own property without approval of a licensed PE. The facility could be a five-story nursing home or a 500-unit apartment complex. It would still be exempt. This is probably a good example of the "law of unintended consequences" at work.

This amendment was not needed. The existing statute KSA 74-7033 (b) clearly exempts from the licensure requirement "persons preparing plans, drawings, or specifications for one or two family dwellings or for agricultural buildings."

Sen. Federal & State Affairs Comm
 Date: 4-7-99
 Attachment: # 2-1

The Senate floor amendment also inserted the word "primarily" on line 24, page 1. This amendment will open the door to needless litigation to determine the meaning of the phrase "primarily as a place of employment." The existing language in KSA 74-7033 (b) makes clear that engineering work on one and two unit residences is not subject to the licensure requirement.

Concerns about individuals volunteering their skills to participate on public projects is also not a concern. Nothing in the bill would prevent a licensed Professional Engineer from volunteering their skills to a public project. But it is not in the best interest of the public to allow non-licensed or non-trained individuals to perform engineering services on public projects. As a practical matter, Kansas counties have a County Engineer or an engineering firm they contract with to provide the PE review and certification for public projects.

The language of HB 2427 may be confusing to read out of context, but the intent of the Board of Technical Professions is not. Reading the entire statute makes it clear that the Board only has jurisdiction over "engineering" and other technical professions. Routine labor, remodeling and construction activities are not regulated by the Board and HB 2427 would give them no new authority over these activities.

The passage of HB 2427 will promote public safety by ensuring that all structures constructed in Kansas that are ordinarily used for public use will be designed subject to the rigorous public safety standards of a licensed Professional Engineer.