

MINUTES OF THE HOUSE KANSAS 2000 SELECT COMMITTEE.

The meeting was called to order by Chairperson Kenny Wilk at 1:30 p.m. on February 18, 1999 in Room 526-S of the Capitol.

All members were present except: Representative Larry Campbell - excused
Representative Nancy Kirk - excused
Representative Vern Osborne - excused

Committee staff present: Alan Conroy, Legislative Research Department
Jim Wilson, Revisor of Statutes
Janet Mosser, Committee Secretary

Conferees appearing before the committee: Connie Burrow, Kansas Department of Transportation
Paul Wilson, Executive Director, Kansas Association of Public Employees
Claude Lee, Attorney, State of Kansas
Bill Shirk, Ellsworth Correctional Facility
Lorena Thomas, Kansas State University
Patricia Henshall, Office of Judicial Administration

Others attending: See attached list

Chairperson Wilk informed the Committee that the pay reform legislation was introduced today and the Committee should have copies of the bill by the end of the meeting. He assured the Committee that there would be ample opportunity for hearings on the bill.

Connie Burrow, Kansas Department of Transportation addressed the Committee and expressed her concerns on performance-based pay, defined contribution retirement, and elimination of civil service (**Attachment 1**).

Paul Wilson, Executive Director, Kansas Association of Public Employees, shared with the Committee issues, both positive and negative, raised in the bill explainer (**Attachment 2**). Mr. Wilson requested and was granted permission to read the testimony of an employee who wished to remain anonymous (**Attachment 3**). Finally, Mr. Wilson informed the committee that he was provided anonymously a copy of a Supreme Court case purportedly dealing with changes to the civil service system and asked Chairperson Wilk how he would like to deal with this anonymous submission. Due to the interest of the Committee, copies of the case were distributed (**Attachment 4**).

Claude Lee, Attorney, State of Kansas, shared with the Committee his concern that if the bill passes the result would be a decline in the quality of work of state employees, an increase in labor costs, and the beginning of the slow undoing of a successful system (**Attachment 5**).

Bill Shirk, Ellsworth Correctional Facility, addressed the Committee about his concern that the progress the State has made in the past several years toward eliminating racial and sexual discrimination and sexual harassment in the work place would be lost if the bill is passed (**Attachment 6**).

Lorena Thomas, Kansas State University, expressed her concern about eliminating longevity pay and allowing managers to determine pay increases (**Attachment 7**).

Patricia Henshall, Office of Judicial Administration, expressed her appreciation for the Committee's interest in the problems with Judicial Branch compensation but asked that, since the Judicial Branch has limited personnel staff, the challenge of pay reform the bill assigns to the Judicial Branch be given to agencies, such as the Department of Administration, with more resources (**Attachment 8**).

Chairperson Wilk adjourned the meeting at 3:00 p.m.

The next meeting is scheduled for February 22, 1999.

KANSAS 2000 SELECT COMMITTEE GUEST LIST

DATE: 2-18-99

| NAME | TITLE | REPRESENTING |
|-------------------|-----------------------|-------------------------|
| Paul Wilson | Exec. Dir. | KAPE |
| SHARON McDORMAN | | KAPE & STATE EMPLOYEES |
| W.S. Shirk | CORRECTIONS OFFICER | STATE EMPLOYEES |
| CLAUDE LEE | 1/4 | ✓ ✓ |
| Lorena Thomas | Painter KSU | State Employees |
| CONNIE BURROW | SR. ENGR. TECH.-KDOT | STATE EMPLOYEES |
| Patricia Henshall | Director of Personnel | OJA |
| Dick Werth | | KDWP |
| D. KEITH MEYERS | ASST TO THE SECRETARY | DOA |
| Ronald Seiber | Asst to Secretary | DoA |
| Mike Evans | CORRECTIONS OFFICER | State Employees |
| Keith Haxton | Lobbyist | SEAK |
| B. Mawani | Asst. Dir. DPS | Dept of Hdm. |
| Shelley King | Lobbyist | McGill, Caches & Assoc. |
| Jane Robinson | | SRS |
| Carol Reed | | SRS |
| ERIC Sexton | WSU | ' |
| Marlin Reem | | KU |
| Robert Mawbe | lobbyist | KGE |
| Christy Cramer | Intern | Rep. Lane |
| Tina Lewrenz | Intern | SEAK |
| Algebra Peideroux | | FHSU |
| | | |
| | | |

KANSAS PERFORMANCE 2000

PRESENTATION OF CONNIE BURROW
BEFORE THE HOUSE SELECT COMMITTEE
FEBRUARY 18, 1999

Good afternoon ladies and gentlemen. I am Connie Burrow from Allen County. I work for the State Of Kansas as a Senior Engineering Technician in the Department of Transportation, in Iola.

Change is part of daily operations at KDOT and I believe in positive employee participation to resolve problem areas. As your employee for 33 years, I appear today, to express my concern on "Performance Based Pay", "Defined Contribution Retirement" and elimination of "Civil Service".

- ◆ I am against a "Performance Based Pay" proposal of a three-step system. Employees need yearly rewards for satisfactory performance. It gives positive reinforcement for a job well done. "Exceptional" ratings did not work in the past and I do not believe they will ever work in government, due to the nature of our jobs. We respond to the needs and schedules of others. This eliminates employee control over daily operations, if you want "response" as a high priority in state government.

Trimming the state work force to a minimum and increasing workloads has truly affected our daily operations. My supervisor is administering over 100 contracts from our office, is on the phone constantly, answering questions and I have been working 10-hour days for 2 years. To depend on evaluations for so much during such heavy workloads is very difficult. Evaluations take considerable time to prepare and are considered low priority in relation to his many other concerns.

Our current system, feedback sessions, is no different than most supervisors have been using for years with one exception. Written documentation of goals, areas in need of improvement and mention of work well done is required. Prior to this system, feedback was given verbally. Oral feedback is still the predominant way that performance is communicated to employees. Only a portion of this oral communication is put into writing in the evaluation.

Exceptional ratings cause serious competition in the workplace. Employees want to please and will compete strenuously for promotions. I'm sure you feel this is exactly what you want. I can assure you that this is the exact opposite of what we need. The state has spent considerable time and efforts on Kansas Quality Management Teams and training employees to problem solve into the way we do business. As a "Team Leader", I know that this training works and the answers I get from my team is definitely better than any one individual's.

Kansas 2000 Select Committee

Meeting Date 2-18-99

Attachment 1

Management chose to begin KQM training and I am proud to be a part of positive moves to improve services. There is a long way to go to complete training and selling others on this process but it's worth it. When employees compete, they stop helping and training each other. Sharing of communication, experience and knowledge are powerful tools to be used for "personal gain" or "as a positive team player". Please consider carefully which avenue you choose to follow.

- ◆ Being a responsible employer means making sure that your employees have a decent retirement package. I am against converting to a "defined contribution" retirement system. Employees may invest through deferred compensation for higher personal benefits and should be encouraged to do so. There are many people incapable of managing money and that includes many professional people.

Should employees fail to manage their own retirement funds, they can become dependant on government programs to care for them. Taxpayers should never have to care for people that employers failed to provide for, just to "cut the bottom line"! Would you be willing to accept the **same** retirement package as your employees?

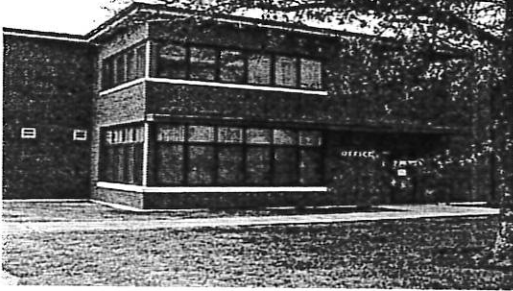
- ◆ To consider dismantling Civil Service is incomprehensible to me. It is a fair and just system. It eliminates unfair treatment and provides an avenue to handle a problem when it arises. If you are concerned about employees as "people", you will see that "fair treatment" remains or be prepared for high turnover rates. Quality employees are your best assets.

In five minutes, I can not give positive solutions and tell you how we feel. I will fight to keep my place of employment a positive and productive environment and I would hope to have your backing. Use your employees to help solve your problems through Kansas Quality Management. It works and it does not cost \$80,000.00 to initiate, as the study of the Kansas pay plan did.

Attached to my presentation are pictures of our work place. There are no frills or luxuries, as you will see. Benefits are important and mean a great deal to employees.

Thank you for the opportunity to express my point of view and may you arrive at a decision that continues to provide a quality workforce for our state.

IOLA K.D.O.T.



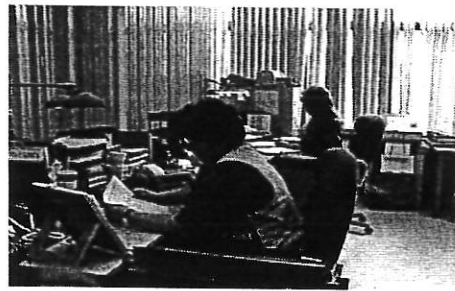
IOLA AREA ENGINEER



IOLA CONST. ENGR.



IOLA OFFICE STAFF



IOLA AREA OFFICE



IOLA CONST. OFFICE



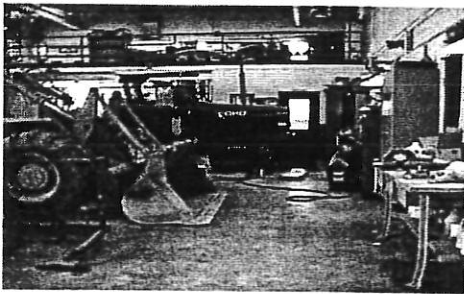
IOLA CONST. OFFICE SPACE



IOLA CONST. OFFICE



IOLA MECHANIC SHOP





The Kansas Association of Public Employees
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(785) 235-0262 or (800) 232-KAPE / Fax (785) 235-3920
FPE / AFT / AFLCIO

Testimony of Paul K. Wilson, Executive Director
Kansas Association of Public Employees, KAPE/AFT, AFL-CIO
Before the House Select Committee on KP-2000

Delivered February 18, 1999

Good afternoon Chairman Wilk and members of the committee. My name is Paul Wilson and I am the Executive Director of KAPE. I'm here today to talk to you about the provisions of Kansas Performance 2000 and the concerns those provisions raise among your employees. More specifically I want to talk a little bit about the issues which were raised within the bill explainer you were kind enough to provide on Tuesday. As chairman Wilk predicted, there are parts that KAPE likes and parts that we don't believe are in the best interests of our members or the other citizens of the State of Kansas. I have tried to briefly summarize KAPE's position on some of the specifics contained in that document, and will have additional comments when an actual bill draft is available.

The first issue that concerns us arises regarding the points made in the two overviews titled "Current State Employee Compensation System", and "Proposed Improvements Through a Performance Based Pay System".

All of the bullet points listed emphasize alleged negative elements of the current plan and positive elements of the proposed plan. I intend no disrespect for whoever prepared this explainer, but if the determination has already been made that the current plan can't work, I am wasting my time and yours by being here. I don't believe, however, that the committee has made such a determination, and I hope that through the information I provide to you today, I can show you how KAPE arrives at its position. Please turn to the first attachment to my testimony. It is a page I copied from the current statutes and its numbered 133. This is a copy of the law governing the creation of the current pay plan and I direct your attention to subsection (b) of that statute.

As you can see, the tools you are being asked to design which are necessary to establish a pay plan, refine that plan, respond to market conditions, attract and retain good employees, and to remain competitive in the labor market are already in place in the current law. But they won't work if they are not used as intended.

Next I ask you to turn to my second attachment which is a copy of one of the current civil service regulations regarding evaluations. I specifically direct your attention to subsections 1 and 2 in the left column and subsection (b) in the right column. These regulatory provisions again give the

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state all the tools they need to accomplish all of the goals outlined in the "Proposed Improvements" sought after in the "Pay For Performance" alternatives being considered. Again, however, they won't work if they are not used as intended. You are now being asked to reinvent a state employee compensation system, and if your statutory directions under that system are not followed any better than the current ones, it won't work either. I recognize that conducting worthwhile salary surveys entails a lot of work. But failure to conduct those surveys results in pay rates which accomplish none of the recruitment, retention, and equity goals desired of any good pay plan. We are seeing the dividends of those failures in the state's difficulty to retain or attract certain types of skilled employees. I submit that is not the fault of any shortcoming within the pay plan, but a failure to keep it current. Designing a revolutionary new pay plan won't remedy that problem.

As you have heard from me before, KAPE believes the current plan is the product of refinement over the course of the years. And while it certainly needs further refinement, it should not be discarded in its entirety. Many of its elements make perfect sense in a political workplace and should be retained. It does, however, need to be applied as it was intended, and if it were, many of the goals of this committee could be easily achieved.

In fairness, I want to acknowledge the inclusion of language in the bill explainer that KAPE views as positive. Those include the repeal of the Retirement Reduction Act, providing each employee with an annual statement of the total value of their compensation package, opportunities for career training and advancement, and a proposal which contains consideration of geographical recruitment and retention compensation differentials.

Thank you for the opportunity to appear and I will be happy to answer questions.

1994, ch. 293, § 28; L. 1995, ch. 234, § 22; Repealed, L. 1996, ch. 243, § 1; July 1.

75-2936, 75-2937.

History: L. 1941, ch. 358, §§ 12, 13; Repealed, L. 1972, ch. 332, § 97; July 1.

75-2938. Classified service; assignment of positions to classes; titles and descriptions for classes; assignment of classes to ranges; pay plan; wage and salary surveys; delegation of assignment of positions; schedule of salary and wage ranges and steps; approval of governor. (a) Except as otherwise provided in the Kansas civil service act, the director of personnel services, after consultation with the heads of state agencies or persons designated by them, shall assign each position in the classified service to a class according to the duties and responsibilities thereof. Titles shall be specified by the director for each such class for use in certifying the names of persons for appointment under this act. A description of the duties and responsibilities with suitable qualifications required for satisfactory performance in each class shall be specified by the director. The classes and titles so specified and described shall be used for: (1) Original appointments; (2) promotions; (3) payrolls; and (4) all other records affecting the status of persons in the classified service. Each class when approved or modified and approved as modified by the governor shall take effect on a date or dates specified by the governor. After consultation with the director of the budget and the heads of state agencies or persons designated by them, the director shall recommend changes in classes from time to time, and such changes, when approved or modified and approved as modified by the governor, shall take effect on a date or dates specified by the governor.

(b) The director of personnel services shall recommend to the governor the assignment, and from time to time the reassignment, of each class to a specified range approved or modified and approved as modified by the governor, the same shall become effective on a date or dates specified by the governor. In adopting or revising any plans, the governor shall give consideration to pertinent rates in other public and private employment in the appropriate labor markets, and for this purpose the director shall have made periodic wage and salary surveys with one survey to be conducted each year. The results of such survey and recommendations for revisions in the pay plan are

to be forwarded to the governor, the secretary of administration, the director of the budget and the legislature. The recommendations shall give consideration and weight to survey results, to changes in the cost-of-living and to proper internal alignment of the various job classes. The director may use the results of other appropriate surveys conducted by public or private agencies in lieu of or in addition to surveys authorized to be conducted under this subsection.

(c) The secretary of administration may delegate the authority to assign positions in the classified service to a class according to the duties and responsibilities thereof to the appointing authority. Such delegation shall specify the particular classes, ranges, and schedules authorized. Appointing authorities delegated such assigning authority shall make monthly reports of assigning transactions to the director of personnel services. Any delegation of such authority is subject to review by the secretary of administration who may modify any delegation made in order to ensure consistency with the state classification plan and may withdraw the delegated authority from the appointing authority upon evidence of improper use of such authority by the appointing authority. The decision of the secretary of administration in regard to the withdrawal of such delegated authority shall be final.

(d) After consultation with the director of the budget and the secretary of administration, the director of personnel services shall prepare a pay plan which shall contain a schedule of salary and wage ranges and steps, and from time to time changes therein. When such pay plan or any change therein is approved or modified and approved as modified by the governor, the same shall become effective on a date or dates specified by the governor and any such modification, change of date shall be in accordance with any enactments of the legislature applicable thereto.

(e) The classes and pay plan for the classified service as approved by the governor shall be used by the director of the budget in preparation of the budget.

(f) Whenever any appropriation or other act specifies any pay plan or any change, limitation or condition upon the pay plan, personnel or policies of the state or any state agency, such appropriation or other act shall control the provisions of this section to the extent of their application thereto.

History: L. 1941, ch. 358, § 14; L. 1953, ch. 375, § 52; L. 1972, ch. 332, § 60; L. 1975, ch. 438,

1-7-8 and 1-7-9. Reserved.

1-7-10. Performance reviews. (a) The appointing authority shall have performance reviews conducted for each employee under the authority's jurisdiction in the classified service. The performance review shall be used to review the effectiveness of each employee and to ensure that the employee's performance is consistent with basic employee performance principles and practices.

(1) The supervisor and employee shall negotiate priority outcomes at the beginning of a review period and any time priority outcomes change. In case of disagreement, the decision of the supervisor shall prevail.

(2) Each employee shall be given an opportunity to add comments to the performance review at each feedback session. The employee shall be given a copy of the performance review at the beginning of the review period and each time a feedback session is conducted or priority outcomes change. The appointing authority shall encourage performance review feedback sessions for employees at least quarterly.

(3) The performance review of each employee shall be completed by the employee's immediate supervisor, or by another qualified person or persons designated by the appointing authority. A qualified person is one who is familiar with the duties and responsibilities of the employee's position and with the job performance of the employee.

(4) A rating shall be assigned to the performance review, at least annually, in the manner required, and on the forms prescribed by the director. The appointing authority may give a special performance review rating for any employee at any time.

(5) Each employee shall be given the opportunity to sign the employee's performance review as evidence that the employee has been informed of the performance review rating; that signature shall not abridge the employee's right of appeal if the employee disagrees with the rating. Failure of the employee to sign the performance review shall not invalidate the rating.

(b) Subject to provisions of K.S.A. 75-2949e, two consecutive performance review ratings of less than satisfactory may be utilized as a basis for demotion, suspension or dismissal of the employee.

(c) If the performance review rating assigned to a probationary employee at the end of the probationary period is less than satisfactory, the employee shall not be granted permanent status.

(d) Any employee entitled to appeal a rating may do so within seven calendar days after being informed of the rating. After the period of seven calendar days for filing appeals has expired and if no appeal has been filed, the appointing authority or the authority's designee shall review the rating, shall make any changes deemed necessary, shall sign the performance review, and shall have copies of the entire review transmitted to the employee, the employee's official personnel file, and to the reviewer or reviewers as the appointing authority deems necessary. If the appointing authority makes any change in the rating, or adds any comment on the performance review, the review shall be returned to the employee to be signed again, and the employee, if eligible to appeal the rating, shall again have seven calendar days to file an appeal to the appointing authority. Final results of the performance review shall be submitted to the director. This regulation shall be effective on and after December 17, 1995. (Authorized by K.S.A. 1994 Supp. 75-3747; implementing K.S.A. 1994 Supp. 75-2943, as amended by 1995 SB 175, § 8; effective May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 17, 1995.)

I am a 17 year employee of a state agency and I am thankful for the opportunity to provide my thoughts to the Select Committee on Kansas Performance 2000. I would like to appear in person to give you my comments but I am afraid to do so because of actions that have been taken within my agency to employees who have expressed themselves.

One part of the plan that concerns me is the pay for performance element based on my supervisor's evaluation of my work. We have an evaluation process which calls for discussions between the employee and the supervisor to set goals and objectives, set Priority Outcomes, establish standards of performance, and calls for periodic feedback sessions so employees know if they are meeting management's performance expectations. I received my annual evaluation within the past three weeks and I was rated as satisfactory.

The state evaluation plan says I am to sit down with my supervisor at the beginning of my rating period to discuss and "negotiate" my Priority Outcomes. But my outcomes were never negotiated or even discussed. They were left on my desk to sign and return to my supervisor. The plan also says that my supervisor and I should sit down together quarterly in feedback sessions to review my performance and discuss possible corrective actions which should be made if necessary. I have never participated in any feedback session since this evaluation system was implemented several years ago. In fact, when I received my annual evaluation this year it was laying on my desk in an envelope, and has not even been discussed yet.

The plan also contains feedback criteria but every one of them is so generalized that I could be evaluated as satisfactory, unsatisfactory or exceptional as my supervisor wishes, and have nothing measurable I could point to as an appeal to his decision. There is nothing marked on my evaluation to show that I haven't met or exceeded every one of my Priority Outcomes. In fact, there were comments that my work resulted in faster deposits of agency fees into the state General Fund. Yet I was only rated as satisfactory, and there is nothing I can use as evidence to appeal for an exceptional rating.

In short, we have an evaluation system in place that could measure employee performance but it simply isn't used properly. And second, I am greatly concerned that the legislature is considering a plan to tie my personal pay raises to the evaluation system. Why pass a new law to reinvent what already exists? My suggestion is that managers use the current system as it was intended. Then, and only then, if it doesn't work should changes be considered. Thank you.

Kansas 2000 Select Committee

Meeting Date 2-18-99

Attachment 3

Western Casualty & Surety Co. v. Trinity Universal Ins. Co.

No. 61,990

WESTERN CASUALTY AND SURETY COMPANY, Appellant, v. TRINITY UNIVERSAL INSURANCE COMPANY OF KANSAS, INC., Appellee.

(775 P.2d 176)

MEMORANDUM OPINION

INSURANCE—"Other Insurance" Clause—Distribution between Insurers.

Review of the judgment of the Court of Appeals in 13 Kan. App. 2d 133, 764 P.2d 1256 (1988). Appeal from Johnson district court, Judge Marion W. Chipman. Judgment of the Court of Appeals reversing the district court is affirmed. Judgment of the district court is reversed and case is remanded. Opinion filed May 18, 1989.

John E. McCann, of Knipmeyer, Conroy, Fish & Smith, of Kansas City, Missouri, argued the cause, and Theresa Shean Hunt, of the same firm, was with him on the brief for appellant.

Hal D. Meltzer, of Turner, Conroy & Conroy, Chartered, of Overland Park, argued the cause, and Edward R. Fritcher, of the same firm, was on the brief for appellee.

The opinion of the court was delivered by

Six, J.: We have reviewed and considered the briefs, the arguments, and the record in this case. We conclude the unanimous panel of the Court of Appeals was correct. We therefore adopt the published opinion of the Court of Appeals, opinion by Justice Six, J., *Western Casualty & Surety Co. v. Trinity Universal Ins. Co.*, 13 Kan. App. 2d 133, 764 P.2d 1256 (1988), reversed by the district court.

Darling v. Kansas Water Office

No. 62,249

DAVID DARLING, et al., Appellees/Cross-Appellants, v. KANSAS WATER OFFICE, Appellant/Cross-Appellees, and DAVID DARLING, et al., Appellees/Cross-Appellants, v. JOSEPH F. HARKINS, et al., Appellants/Cross-Appellees.

(774 P.2d 941)

SYLLABUS BY THE COURT

1. CIVIL SERVICE—Property Interest in Public Employment—Deprivation of Interest—Due Process. While the Kansas Legislature may elect not to confer a property interest in public employment through enactment of a civil service act, it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards.
2. PUBLIC OFFICERS AND EMPLOYEES—Kansas Water Office—Constitutionality of Statute Which Declassifies Certain Classified Positions and Terminates Employees in Those Positions. Senate Bill No. 501 (L. 1984, ch. 285), amending K.S.A. 1983 Supp. 74-2614 and creating K.S.A. 74-2614a, which declassifies certain classified positions in the Kansas Water Office and terminates all employees occupying such positions, is examined and held to be unconstitutional as violative of said employees' procedural and substantive rights to due process under the Fourteenth Amendment to the United States Constitution, all as is more fully set forth in the opinion.

Appeal from Shawnee district court, JAMES M. MACNISH, JR., judge. Opinion filed May 26, 1989. Affirmed.

David D. Plinsky, assistant attorney general, argued the cause, and Robert T. Stephan, attorney general, was with him on the briefs for appellants/cross-appellees.

Patricia E. Riley, of Weathers & Riley, of Topeka, argued the cause, and Wesley A. Weathers, of the same firm, was with her on the briefs for appellees/cross-appellants.

Linda J. Fund, staff attorney, was on the brief amicus curiae for the Kansas Department of Administration.

The opinion of the court was delivered by

McFARLAND, J.: Plaintiffs herein were classified employees of the Kansas Water Office (KWO). In 1984, the Kansas Legislature enacted Senate Bill No. 501 (L. 1984, ch. 285), which changed plaintiffs' jobs from being in the classified service of the Kansas Civil Service Act, K.S.A. 75-2925 et seq., to being unclassified and directed their termination. Plaintiffs were terminated and appealed their terminations to the Civil Service Board, which held it had no jurisdiction as plaintiffs were no longer classified employees. Plaintiffs appealed the Board's action to the district court (Case No. 84-CV-876) and filed a separate action against

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Joseph F. Harkins, as Director of the Kansas Water Office, the State of Kansas, and the Kansas Water Office (Case No. 84-CV-1212). The district court consolidated the two actions. Summary judgment was granted in favor of plaintiffs with the court holding the statutes involved were unconstitutional (K.S.A. 74-2614 and 74-2614a) and directing that plaintiffs be reinstated with back pay. Defendants appeal from said determination and plaintiffs cross-appeal from the district court's denial of their request for attorney fees.

Some background information is necessary to understand the extraordinary action taken by the legislature herein. The KWO was under pressure to develop a state water plan. The former director of the KWO was asked to resign and defendant Harkins was appointed to the position in 1982. Harkins' primary responsibility was the preparation of the state water plan. As time passed and no water plan was produced, the pressure on Harkins increased. On January 24, 1984, Harkins appeared before a Senate committee. He advised the committee that having classified employees as the professional staff involved in the preparation of the plan limited his flexibility and hindered preparation of the water plan. In response thereto, Senate Bill No. 501 was enacted. Section 1 of the bill amended existing K.S.A. 1983 Supp. 74-2614 as follows (changes are indicated by marked deletions and italics):

"K.S.A. 1983 Supp. 74-2614 is hereby amended to read as follows: 74-2614. The director of the Kansas water office, with the consent of the governor, may appoint and fix the compensation of such employees as deemed necessary to carry out the powers, duties and functions of the Kansas water office and the director of the Kansas water office. All ~~such~~ *clerical and financial management* employees shall be in the classified service of the Kansas civil service act and all other employees shall be in the unclassified service of the Kansas civil service act."

New Section 2 of the bill, later codified as K.S.A. 74-2614a, provides:

- "(a) All positions of officers and employees of the Kansas water office in the classified service of the Kansas civil service act, except clerical and financial management positions, are hereby abolished 30 days after the effective date of this act and all officers and employees serving in such positions are terminated from state service on such date.
- "(b) On the effective date of this act, the director of the Kansas water office shall give notice in writing to all officers and employees terminated from state service pursuant to subsection (a) specifying the date of their termination.

"(c) Nothing in this section shall be construed to prohibit the director of the Kansas water office from appointing any officer or employee terminated from state service pursuant to subsection (a) to any position in the unclassified service of the Kansas civil service act. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee immediately prior to the date of such officer's or employee's termination pursuant to subsection (a).
 "(d) Any person employed in an unclassified technical or professional position pursuant to K.S.A. 1983 Supp. 74-2614, and amendments thereto, shall possess experience and educational training in and technical knowledge of hydrology, engineering, geology or water planning."

The bill became law on March 15, 1984. By letter dated March 15, 1984, the 17 KWO employees declassified by the bill, including plaintiffs herein, were notified by Director Harkins that they were terminated from state service effective April 14, 1984. Ten of the 17 were rehired into unclassified positions and retained their civil service rights as specified by K.S.A. 74-2614a. Plaintiffs Hess, Sheets, and Kostecki applied for and were denied new employment with the KWO in unclassified positions. Thus, all employees terminated by Senate Bill No. 501, except the six plaintiffs and one other person, were reappointed to unclassified positions at the KWO. In addition to the rehiring, KWO Director Harkins hired, by June 18, 1984, seven new employees into professional positions with the KWO. Thus, no new positions were created and none were deleted—the staff positions affected by the bill remained at 17.

- As of March 15, 1984, plaintiffs' positions and work history with the KWO may be summarized as follows:
- (1) David Darling had been employed by the State in classified service since 1968 and was employed by KWO as a Hydrologist IV.
 - (2) John Henderson had been employed by the State in classified service since 1970. He was employed by KWO as a Hydrologist V.
 - (3) Larry Hess had been employed by the State in classified service since 1970. He was employed in the KWO as a Hydrologist III.
 - (4) Donald Kostecki had been employed by the State in classified service since 1968. He was employed in the KWO as a Hydrologist IV.
 - (5) Clydeen Logan had been employed by the State in classified service since 1971. She was employed by KWO as an Engineering Technician II.

4-2-7

(6) Larry Sheets had been employed by the State in classified service since 1966. He was employed in the KWO as a Hydrologist III.

The case arises on a unique set of facts. A handful of employees in a specific state agency were singled out by the legislature to be stripped of their rights under the Kansas Civil Service Act and terminated. Any or all could be rehired by the agency with a grandfathering in of their prior rights under the Act. This action was taken as a convenience to the agency's director so that he could have greater flexibility in operating his office. No compelling need or emergency situation was given by anyone as a justification for the action. Harkins has indicated in his deposition that termination through the civil service procedure was difficult and time consuming, and that the statute was beneficial as it gave him the flexibility he desired.

The district court held that the 1984 amendment to K.S.A. 74-2614 and all of K.S.A. 74-2614a (codifications of Senate Bill No. 501) were constitutionally impermissible as being violative of plaintiffs' procedural and substantive due process rights and as a denial of equal protection.

Under the Kansas Civil Service Act, a permanent classified civil service employee is entitled to various procedural and substantive safeguards in the event of a dismissal, demotion, or suspension, including: (1) prior notice; (2) a written statement setting forth the reasons for the intended action; (3) an opportunity to respond in writing, in person, or both, to a representative of the appointing authority; (4) a responsive written decision by the appointing authority; and (5) the right to appeal from any adverse decision to the Civil Service Board for a full evidentiary hearing; and, thereafter, the right to an administrative appeal from any adverse decision to a state district court. See K.S.A. 1988 Supp. 75-2949.

Defendants concede that a classified state employee has a property right in continued employment cognizable under the Fourteenth Amendment to the United States Constitution, which provides:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State

deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Defendants contend, however, that Senate Bill No. 501 lawfully terminated that right in plaintiffs, and, thus, the same was not in existence when plaintiffs were terminated.

States are under no obligation to create property rights in their employees' employment through enactment of civil service legislation. However, once a state has elected to do so, due process rights attach.

In *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 541, 84 L. Ed. 2d 494, 105 S. Ct. 1487 (1985), it is stated:

"While the legislature may elect not to confer a property interest in [public] employment, it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards.' [Citations omitted.]" (Emphasis supplied.)

Before proceeding further, it should be emphasized that the case before us does not involve elimination of a state agency, reduction of positions authorized for a state agency, consolidation of two agencies into one, transfer of functions from one agency to another, or any other situation involving elimination of particular positions. Further, this action does not involve the State's right to declassify a position prospectively, effective only as to employees to be hired in the future. Had Senate Bill No. 501 declassified the positions without the mandatory terminations and grandfathering in, to existing employees, their civil service rights, the case herein would not be before us.

If the defendants' position is correct that the State can selectively declassify and terminate free of civil service requirements, then the whole concept of civil service is a sham. There is no real protection afforded by the civil service act. This may be likened to a university entering into a lifetime contract with a popular football coach and, after a losing season, declaring the coach legally dead.

Defendants further argue that due process was afforded by the legislative process. The plaintiffs could have appeared before the appropriate legislative committees and expressed their opposition to the proposed legislation. Redress for enactment of the legislation could only be at the ballot box. This is illogical in the framework of the facts herein. The district court adequately disposed of this contention as follows:

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"As noted above, the terminations effected by SB 501 under Defendant Harkins' suggestions clearly did not meet due process standard as set out by the legislature in the state civil service laws. The situation in this case is unique as the statutory due process procedures most certainly were not drafted with legislative terminations in mind. Defendants argue that the legislative process by which SB 501 became law was sufficient to meet the constitutional procedural due process requirements, though the Defendants point to the fact that every citizen in the State of Kansas, Plaintiffs included, has notice of pending legislation and can voice an opinion before a committee considering the bill. So, Defendants conclude, 'all the process due under the circumstances was provided by the Kansas Legislature.' . . . Defendants further contended that Plaintiffs' failure to avail themselves to the legislative process amounts to a waiver. And only Defendants suggest that the employees who feel aggrieved by the statute or the procedure employed by the legislature should look for their remedy at the ballot box and not the court.

"The Court acknowledges that the contentions made by the Defendants might be appropriate if this was an ordinary piece of legislation. But SB 501 was not an ordinary piece of legislation, by any standard. The bill, urged by Defendant Harkins, specifically provides for the termination of seventeen employees within the KWO. The case support utilized by Defendants on this issue speak to 'generally-applicable legislation.' This bill was not generally applicable and provided instead for the loss of a constitutionally-recognized property interest by seventeen known and identifiable individuals.

"Procedural due process is a flexible concept designed to provide procedural protections relative to the circumstances of a particular situation. *Morrissey v. Brewer*, 408 U.S. 471, 481, 33 L. Ed. 2d 484, 92 S. Ct. 2593 (1972). There are three distinct factors to be considered in determining the specific procedures due. First is the private interest that will be affected by the action, second is the risk of erroneous deprivation of such interest through the process used and third, the probable value of additional or substitute procedural safeguards. *Mathews v. Eldridge*, 424 U.S. 319, 335, 47 L. Ed. 2d 18, 96 S. Ct. 893 (1976).

"Applying these factors to the present case, the Court finds the private interest the right to continued employment absent dismissal for a merit-related cause. As to the risk of erroneous deprivation by the process used; i.e., the legislative process, the Court finds such risk extremely high as the legislature presumably had no merit-related testimony regarding the employees they were terminating, and third as to alternative procedures, the existence of the statutory procedures speak for themselves. The legislative process used to terminate these specific employees clearly did not meet the constitutionally guaranteed due process requirements.

"Furthermore, even if the Court could find that this legislative process might have satisfied the procedural due process requirements, the Plaintiffs' uncontroverted affidavit of David Darling indicates the KWO employees did not have a full and fair opportunity to be heard and to voice their misgivings regarding SB 501.

"Accordingly, the Court finds SB 501 denied Plaintiffs' statutory and constitutional procedural due process rights.

For Defendants' suggestion that Plaintiffs should seek their remedy at the

ballot box and not in the Courts, this Court would remind Defendants that the legislature's actions, whether or not supported by individual voters, are still subject to the state and federal constitutions and no individual will be denied access to the court solely because he or she has suffered a constitutional deprivation at the hands of the legislature."

The district court's reference to the David Darling affidavit needs some explanation. It is stated therein that plaintiffs were discouraged from discussing with the legislators their views in opposition to the bill. Defendant Harkins is said, in essence, to have reminded them that he held the keys to any rehiring and to have inferred that any expression of opposition to the bill would be remembered.

In holding that Senate Bill No. 501 violated plaintiffs' substantive due process rights, the district court reasoned:

"5. 'Due process is not merely a procedural safeguard; it reaches those situations where the deprivation of life, liberty, or property is accomplished by legislation which, by operating in the future, can, given even the fairest procedure in application to individuals, destroy the enjoyment of all three. Substantive due process may be roughly defined as the constitutional guaranty that no person shall be deprived of his life, liberty, or property for arbitrary reasons, such a deprivation being constitutionally supportable only if the conduct from which the deprivation came is proscribed by reasonable legislation (that is legislation the enactment of which is within the scope of legislative authority) reasonably applied (that is, for a purpose consonant with the purpose of the legislation itself).' 16A Am. Jur. 2d Sec. 816, Constitutional Law, p. 978-979 (1979).

"Essentially, substantive due process is protection from arbitrary action and the standard to be applied is one of reasonableness. *Pittsburgh Press Co. v. Pittsburgh Com. on Human Relations*, 413 U.S. 376, 37 L. Ed. 2d 669, 93 S. Ct. 2553, reh. den. 414 U.S. 881, 38 L. Ed. 2d 128, 94 S. Ct. 30 (1973).

"In *Beller v. Middendorf*, 632 F. 2d 788 (9th Circuit, 1980), the court noted that a substantive due process inquiry involves a case-by-case balancing of the nature of the individual interest infringed, the importance of the government interest furthered, the degree of infringement and the sensitivity of the government entity responsible for the action to more carefully tailored alternative means of achieving its goal. See *Zablocki v. Redhail*, 434 U.S. 374, 54 L. Ed. 2d 618, 98 S. Ct. 673 (1978); *Moore v. City of E. Cleveland*, 431 U.S. 494, 52 L. Ed. 2d 531, 97 S. Ct. 1932 (1977).

"In the case before the Court, Defendant Harkins and the legislature used SB 501 to infringe upon recognized property interest in continued employment absent termination for a merit-related cause. The degree of infringement was total, as the Plaintiffs were terminated without regard to merit. The state's interest, at the KWO under Defendant Harkins, evidently (Defendants chose not to brief this issue) was in the need for flexibility and reorganization within the KWO. There were alternatives available, to the legislature and to the director of the agency, Harkins, to effectuate the reorganization and to achieve flexibility within the agency without statutorily terminating these employees.

"As stated above, substantive due process is designed to protect individuals from arbitrary actions. In consideration of the record, and in balancing the interests involved, the Court finds that SB 501's provision requiring Plaintiffs' termination was a violation of Plaintiffs' substantive due process rights."

We agree with the district court's analysis and conclusion. We hold that the district court did not err in holding Senate Bill No. 501 (K.S.A. 74-2614a and 1984 amendments to K.S.A. 1983 Supp. 74-2614) to be unconstitutional as violative of plaintiffs' procedural and substantive due process rights.

The district court further held Senate Bill No. 501 unconstitutional on equal protection grounds. By virtue of our holding on the due process issue, it is unnecessary to consider defendants' claims of error relative to the district court's determination on this alternate ground.

We turn now to the issue raised in the cross-appeal. The final two paragraphs of the district court's memorandum decision state:

"Accordingly, the Court orders the reinstatement of Plaintiffs and awards back pay and benefits to Plaintiffs. The Civil Service Board shall have authority to determine such amounts if counsel cannot agree to stipulate to the amounts due.

"Court costs are assessed to Defendants, however pursuant to the discretionary language contained in 42 U.S.C. Sec. 1988 the Court denies attorney's fees to the Plaintiffs. The foregoing Memorandum Decision and Order shall serve as the Order of the Court, no further Journal Entry being required."

Plaintiffs contend that this denial of attorney fees constituted an abuse of discretion as they were the prevailing parties in a 42 U.S.C. § 1983 (1982) action and, accordingly, should be awarded attorney fees.

An interesting question arises as to whether the relief granted by the district court was in a § 1983 action. Nowhere in the district court's 21-page opinion is there any reference to § 1983. The only reference to 42 U.S.C. § 1988 (1982) is in the previously quoted paragraph. The district court had two consolidated cases before it. The first (84-CV-876) was an appeal from an adverse decision of the Civil Service Board. Through the Civil Service Board, plaintiffs were seeking all the relief they ultimately received from the district court—reinstatement from wrongful terminations and back pay. Certainly § 1983 was not involved therein. The second action (84-CV-1212) was a multifaceted petition requesting the court to grant the requested relief of

reinstatement and back pay on alternate theories of: (1) a declaratory judgment that Senate Bill No. 501 was unconstitutional; (2) a § 1983 action premised on violation of due process; (3) impairment of contract; (4) mandamus; and (5) injunction.

In its preliminary description of the matter before it, the district court's opinion states:

"Plaintiffs appealed their dismissals to the Civil Service Board. The Board ruled that it lacked jurisdiction to hear Plaintiffs' appeals as they were no longer considered classified employees and because the Board had no authority to determine the constitutionality of the legislation which had ordered their termination. The Board's decisions were appealed to this Court in Case No. 84-CV-876. Subsequently, the Plaintiffs filed a direct action against the KWO and Joseph Harkins, as Director of the KWO, alleging that K.S.A. 74-2614 and K.S.A. 74-2614a (also referred to as Senate Bill 501) are unconstitutional."

The district court held Senate Bill No. 501 to be unconstitutional based upon violations of procedural and substantive due process and equal protection. No order in mandamus or for injunctive relief was entered. Viewed in its entirety, the district court's decision appears to have been essentially a declaratory judgment holding Senate Bill No. 501 unconstitutional.

Another factor should also be considered. 42 U.S.C. § 1983 provides:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."

We have held that, in certain circumstances, a state agency should be considered a "person" under § 1983 in state court. In *Gumbhir v. Kansas State Board of Pharmacy*, 231 Kan. 507, 513, 646 P.2d 1078 (1982), cert. denied 459 U.S. 1103 (1983), we discussed whether a state agency should be considered a "person" in a § 1983 action and concluded:

"We think the sounder view in a case such as this, where prospective injunctive relief is sought, is that a state agency should be considered a 'person' under the statute."

In *Beck v. Kansas Adult Authority*, 241 Kan. 13, 21, 735 P.2d 222 (1987), we said:

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Darling v. Kansas Water Office

"We have never held that state agencies were persons under 42 U.S.C. § 1983 for the purpose of suits seeking damages thereunder. . . . We have carefully considered the issue, and hold that, while the State of Kansas is a person for the purposes of Section 1983 actions wherein injunctive relief is sought, the State has not waived its sovereign immunity from suits seeking damages under that section."

State agencies, therefore, are considered "persons" under § 1983 where injunctive relief is involved. In the case before us, no injunctive relief was obtained.

The action herein was essentially between an employer and its employees over allegedly wrongful terminations of employment. The key element in obtaining the relief requested (reinstatement and back pay) was a judicial declaration that Senate Bill No. 501 was unconstitutional. The requested relief of reinstatement and back pay logically flowed from this determination as plaintiffs' terminations were thus rendered improper. Plaintiffs requested additional relief under § 1983 for damages to reputation and for emotional distress which was not granted.

Under the totality of the circumstances herein, we find no error or abuse of discretion in the district court's denial of attorney fees.

The judgment is affirmed.

Waltrip v. Sidwell Oil & Gas, Inc.

No. 62,462

KENNETH M. WALTRIP, et al., Plaintiffs, v. SIDWELL OIL AND GAS, INC., and ROBERT KLABZUBA, Cross-claim Plaintiffs/Appellants and Cross-claim Defendants/Appellees; DAVID D. READ, JR., Cross-claim Plaintiff/Appellant and Cross-claim Defendant/Appellant; and BILLIE J. READ, ALAN DANIEL READ, KATHY JANE READ, and CAROL DUBORG READ, Cross-claim Defendants/Appellees.

(774 P.2d 948)

SYLLABUS BY THE COURT

OIL AND GAS—Leases—Royalty Interests—Liability for Contribution—Appellate Review of Various Judgments. In an appeal by one of three principal defendants from a partial summary judgment granted the original plaintiffs and by the three principal defendants from judgments rendered upon various cross-claims for contribution among themselves and other collateral defendants following a settlement by two of the principal defendants with all of the plaintiffs, the record is examined and it is held: (1) the partial summary judgment granted the original plaintiffs is reversed; (2) the judgment granting two of the defendants a judgment for contribution against a third defendant is reversed; (3) the judgment finding no liability for contribution on the part of certain collateral defendants is affirmed, and (4) the judgment of the trial court is affirmed in part and reversed in part, and the case is remanded for further proceedings.

Appeal from Comanche district court, DON E. SMITH, judge. Opinion filed May 26, 1989. Affirmed in part, reversed in part, and remanded for further proceedings.

Major W. Park, Jr., of Gage & Tucker, of Kansas City, Missouri, argued the cause, and Joy L. Irving, of the same firm, and B. G. Larson, of Williams, Larson, Sobel, Estes and Malone, P.A., of Dodge City, were with him on the briefs for Cross-claim Plaintiffs/Appellants and Cross-claim Defendants/Appellees Sidwell Oil & Gas, Inc., and Robert Klabzuba.

Jack E. Dalton, of Mangan, Dalton, Trenkle, Rebein & Doll, Chartered, of Dodge City, argued the cause and was on the brief for Cross-claim Plaintiff/Appellant and Cross-claim Defendant/Appellant David D. Read, Jr.

David L. Patton, of Patton & Kerbs, of Dodge City, argued the cause, and Debra J. Wilson, of the same firm, was with him on the brief for Cross-claim Defendant/Appellee Carol Duborg Read.

No appearance by cross-claim Defendants/Appellees Billie J. Read, Alan Daniel Read, and Kathy Jane Read.

The opinion of the court was delivered by

HOMES, J.: This is an appeal by three of the original defendants in two consolidated lawsuits from orders of the district court which granted a partial summary judgment to the original plain-

TESTIMONY FEBRUARY 18, 1999

by Claude Lee

My name is Claude Lee. I work for the state as an attorney. I was an appeals referee in Wichita for fifteen years, where I conducted hearings and wrote decisions in over 15 thousand unemployment compensation appeals where payment of benefits depended on whether the claimant quit or was fired, and why.

Then, in Topeka for fifteen years, I supervised 20 attorneys and 30 administrators as the chief of appeals. I had a rare opportunity to study the dynamics of the workplace and to observe the differences between public and private employees.

Several things are obvious. The vast majority of all employees -- public and private -- work very hard. They want to do a good job. Money is important at the time of hiring, but after that, other factors have more to do with the quality and quantity of work. Pride, ego, the opportunity to excel, all drive most employees to do well if -- and that's a big if -- they are allowed to work without distractions. By distractions, I mean poor management -- contra-productive supervision--power games in the workplace.

I know it is not fashionable to say, -- and there are exceptions on both sides -- but given equal job descriptions, I found better, more productive workers, in state service even when the pay was less. And the reason was simple. The state employee's effort to accomplish his or her task of work, was far less apt to be diluted, distracted, or delayed by a supervisor or administrator playing games with the employee's job-security which was after all, their family's livelihood.

Under the present law, state employees now have the opportunity to advance in the system and earn more money in a predictable and achievable way on the basis of seniority. If that isn't fast enough, they can go elsewhere. And that same law protects their job security. To take that security away, and place it in the hands of inexpert, if well-intentioned, supervisors results in two things: the quality of work will decline, and the cost of labor will increase. Let me repeat that. It will cost more to get less done!

Of course there are a lot of good supervisors. And a lot more good people who try, but just aren't good at it. But remember, it

just takes one supervisor on a power trip to ruin the workplace atmosphere IF the rules allow him or her to run rampant. Then, workers must spend valuable work time, and vital emotional energy, covering their back, playing deadly intra-office games. Every person who has worked in a middle range, middle paying, interchangeable job, knows the truth of what I say.

Contrast that to the hundreds of public employees I have known who work their hearts out--evenings and weekends--yes, even attorneys--who could make more in the private sector. Even for the promise of higher pay, most are unwilling to subject themselves to the vagaries of the battle on two fronts--to first, do the work and then, to play the game required to keep the job. And I have known hundreds more who would leave higher paying, insecure jobs in a heartbeat, to accept the security of a state job.

Some would say that "security" is a bad word. On the contrary. It is the biggest budget booster and lever for efficiency we have in state government. I suggest that if this bill passes, we would need to pay much, much more to keep the employees we have, and more yet to attract replacements.

Before I finish, let me put to rest a cruel misconception, that "state employees are lazy and unproductive because they can't be fired." Right? Wrong! The present system gives classified employees only due process of law, not impenetrable protection. Any good supervisor can discharge any bad employee for real malfeasance or nonfeasance. Most of them do it regularly. I personally discharged a number of classified employees for cause, including some attorneys. Not one filed a civil service appeal -- because I followed the rules.

Some of you may be saying, what is he talking about? This bill doesn't do away with the civil service system--it just makes it "more flexible." On the contrary. The system is not perfect and could use some help. But this bill begins the slow undoing of a successful system. If you pass it, the human and economic cost will be very high. One employee said it best: "The merit system would be fine...if God was my supervisor. But he ain't so forget it."

Thank you.

February 18, 1999

Re: KP2000

My name is Bill Shirk. I reside in Salina, Kansas and work at Ellsworth Correctional Facility in Ellsworth, Kansas. I have been a state employee for approximately eight years.

I feel that during the past several years the State has made some progress toward eliminating racial discrimination, sexual discrimination and sexual harassment in the work place. However, these changes have been slow and tedious at best.

If we as a state put *KP2000* into effect, it is going to open the door in many areas for us to lose the progress we have made in the above areas.

If the current criteria for hiring people is taken out of the civil service system, who is hired will depend on the personal prejudices of the hiring agency. For instance, in my business (corrections) women and minorities have notoriously been discriminated against and would not be significantly represented if it were not for the civil service system as it is.

Speaking for the corrections industry, the managers' views of life have been influenced by working with a criminal population. This tendency permeates the entire department of corrections. As a group, we lack objectivity on civil rights & issues. Is that all our fault? No, I don't think so. When you are in the mud you get muddy. As a group we need the structure and guidance of the civil service system as it is.

In closing, I want to say that I've had numerous associations with state employees from various agencies and as a group have found them to be industrious and hard working.

Thank you for allowing me to speak before your committee today.

William S. Shirk

Kansas 2000 Select Committee
Meeting Date 2-18-99
Attachment 6

Feb 17, 99

I Lorena Thomas am here today about concerns I have along with many others about the Kansas Performance 2000.

I have worked for Kansas State University for twenty - two yrs.

I was here in the 80's when they implemented the point system. And I witnessed the results. I saw my points dropped to save money. I saw my co-workers have the same happen. I saw the buddy - ps1 system implemented the buddy got the two or three step raise, The rest of us nothing.

I believe today in 1999 this would happen again. You cannot change people holding management positions. And the buddy - system is still there today scattered thru - out the college.

I am at the top of the current pay plan ~~but~~ but giving up Civil service - due process - just cause - cola's - longevity is not worth any amount of money I might get. I'd rather see the pay plan improved, not destroyed. Re-write the job classifications or something on those lines.

I saw and heard two women who were fired after 17 yrs of service because they were not told the whole truth about their

KANSAS 2000
2-18-99
ATTACHMENT 7

Rights. One because she had a fight with her boss and they were no longer friends the boss wanted her gone the other because she was deceived given bad information telling her it was better to quit than be fired. Her insurance was at that point of signature ended that day. Now instead of one or two cases there could be several hundred cases in the hands of management because of no just cause or due process to protect them.

I work in Housing Paint Areas. We save money by hiring Food Service workers in summer to help us meet our large projects, Students also. They help with prep work and clean-up.

I started out as a maintenance painter then management changed our title. Now we are Painters. We still do maintenance but according to our job classification we are suppose to just apply paint.

- 1) we Foe paint (with sponges)
- 2) Patch holes & cracks
- 3) Scrape
- 4) clean up paint and droppings
- 5) move furniture, desks etc
- 6) Haul our supplies

- 7) exposed to chemicals in paint & thinners,
- 8) Exposed to ~~weather~~ ^{weather} & ~~etc.~~ Asbestos
- 9) Take off plates for lights & plug-ins, towel bars, door stops, shelves, etc. And put back on.
- 10) Sheet-rock small areas, or plaster
- 11) glaze windows
- 12) Poly mix - sand blast
- 13) Paint radiators, trim & doors using oil products.

We use to do graphics but management says no more.

14) Glue on ceiling tile if some missing

15) Replace ceramic tile using rotary drill etc.

I was exposed to a cancer causing substance due to wearing a paper Tydex suit versus a chemical suit. ^{Because of poor management,} ~~that~~ Now under Civil Service I cannot be fired for being insubordinate because of a safety issue. So I know abolishing Civil Service would probably allow management to reverse this decision and put lives or danger back in the hands of management once again. I also believe it will open the door to privatizing, which I saw the results of a company they hired at Jardine for Housing. They don't patch they don't move out stoves or refrigerators, they use our paint and painted floor with spray paint. used semi-

gloss paint on kitchen ceiling & walls with no divider went right into the living room painting ceiling with flat. we had to go back to correct the jobs they did.

Longevity pay was implemented for anyone with over ten years of service. It helped morale because management was hiring employees off the street that cannot do the job we are require to do. So we have to train them. Because of all the combinations of trades we do, or job duties.

So all of the families with one income ~~coming~~ longevity ~~in this~~ pays our house insurance for the year, And without it would ~~be~~ ^{cause} hardships. So I felt this is a reward for having to train every new employer hired on! ~~For believe it or not to be the~~ ~~in most all maintenance shops at the state~~ ~~university.~~

I am representing my friends and peers begging you not to vote in favor of Kansas 2000,

I believe we save alot of money now do to doing multi-job duties and not being paid for them, plus utilizing other workers into our trades & Skeleton Plus having ~~skeleton~~ crews.

Thank You,

Jane Thomas



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(785) 296-2256

February 18, 1999

Testimony on the Compensation Pay Reform Legislation to the House Kansas 2000 Select Committee

Patricia Henshall
Office of Judicial Administration

Thank you for the opportunity to appear on the compensation pay reform legislation. We note we are listed as one of the first governmental entities to face the challenge of developing a pay plan under the new system proposed by this legislation, and have taken the proposal as demonstrating your interests in the concerns the district court judges and other judicial branch members expressed to you earlier this year. We appreciate your interest.

We would note, however, the Department of Administration has a well staffed Division of Personnel Services which is fully equipped to respond to the challenges of pioneering a new pay program. The Judicial Branch, on the other hand, has one Personnel Officer, assisted by a paraprofessional staff member.

We respectfully ask that those agencies with more personnel resources, or resources allowing them to contract for assistance, be given the challenges the proposed legislation currently assigns to the Judicial Branch.

Kansas 2000 Select Committee

Meeting Date 2-18-99

Attachment 8