

Approved: April 7, 2000

Date



MINUTES OF THE HOUSE KANSAS 2000 COMMITTEE.

The meeting was called to order by Chairperson Kenny Wilk at 1:45 p.m. on March 14, 2000 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Paul West, Legislative Research Department
Gordon Self, Revisor of Statutes
Jim Wilson, Revisor of Statutes
Janet Mosser, Committee Secretary

Conferees appearing before the committee:

Judge David Mikesic, President, Kansas District Judges' Association
Sandra Fruit, Planned Giving Officer, Kansas State University Foundation
Bobbi Mariani, Acting Director, Division of Personnel Services,
Department of Administration
Andy Sanchez, Kansas Association of Public Employees
James E. Lowther, Member, State Civil Service Board
State Civil Service Board (written)

Others attending: See attached list.

Chairperson Wilk brought to the committee's attention a letter received from Michael Rees, Chief Counsel, Kansas Department of Transportation (KDOT), in follow up to his testimony on **HB 3006** in which he provides information on expenses for outside counsel incurred by the Office of Chief Counsel, KDOT (Attachment 1).

Representative Sharp distributed a balloon on **HB 3006** for review by the committee prior to tomorrow's meeting (Attachment 2). Chairperson Wilk informed the committee of his intention to take up **HB 3006** at tomorrow's meeting.

Chairperson Wilk informed the committee of his intent to cancel the hearing on **HB 2004 - Biennial budget estimate for state agencies** scheduled for tomorrow's meeting.

Chairperson Wilk opened the hearing on **HB 2808 - Increasing maximum retirement for judges and allowing multiple designations of beneficiaries for system.**

The fiscal note was distributed.

Chairperson Wilk recognized Judge David Mikesic, President, Kansas District Judges' Association, who, at the request of the Chair, gave a brief summary of the contents of the bill and then as a proponent of the bill, addressed the committee (Attachment 3).

Sandra Fruit, Planned Giving Officer, Kansas State University Foundation, proponent, was recognized to address the committee (Attachment 4).

Questions and discussion followed testimony. Jack Hawn, Deputy Executive Secretary, Kansas Public Employees Retirement System (KPERs), was recognized and assisted in answering questions. Jerry Sloan, Office of Judicial Administration, was recognized and assisted in answering questions.

Chairperson Wilk closed the hearing on **HB 2808**.

Chairperson Wilk opened the hearing on **SB 138 - State employees; disciplinary actions.**

The fiscal note was distributed.

CONTINUATION SHEET

Paul West, Legislative Research Department, briefed the committee on the contents of the bill.

Bobbi Mariani, Acting Director, Division of Personnel Services, Department of Administration, proponent, was recognized to address the committee (Attachment 5). Ms. Mariani explained that, because the Department of Administration is the administrative arm of the State Civil Service Board, she was appearing today on behalf of the State Civil Service Board. She introduced members of the State Civil Service Board who were present: Chairperson Richard Pratt, Vice-Chairperson Thomas Corcoran, and former State Representative and Board member James Lowther.

Andy Sanchez, Kansas Association of Public Employees, proponent, was recognized to address the committee (Attachment 6).

James E. Lowther, Member, State Civil Service Board, proponent, was recognized to address the committee and as a follow up to the discussion about the 30-day time limit, stated that the intent of the amendment is to provide clarification for employees so that it is clear the timeframe in which they must appeal.

Chairperson Wilk noted that the State Civil Service Board has submitted written testimony (Attachment 7).

Chairperson Wilk closed the hearing on **SB 138**.

Chairperson Wilk adjourned the meeting at 2:35 p.m.

The next meeting is scheduled for March 15, 2000.

KANSAS 2000 SELECT COMMITTEE GUEST LIST

DATE: 3-14-00

NAME	TITLE	REPRESENTING
ERIC SEFTON		WSU
SUE PETERSON		K-State
Karen Watney		DOA/DPS
B. Mariani		DOA / DPS
J A PRATT	CHAIR	KSOSB
Tom Corcoran	Vice	State Civil Service Board
Kraig Knowlton		DOA/DPS/CSB
DAN CARROLL		Dept. of Admin.
Jon Josselyn		KU
Jim Louiter	member	Ks. Civil Service Board
Jack Hawn		KPEKS
Josephine		SPG



KANSAS DEPARTMENT OF TRANSPORTATION

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Bill Graves
GovernorE. Dean Carlson
Secretary of TransportationMike Rees
Chief Counsel

March 13, 2000

The Honorable Kenny Wilk, Chairman
Kansas 2000 Select Committee
State Capitol Building, Room 180-W
Topeka, Kansas 66612

Dear Mr. Chairman:

SUBJECT: House Bill 3006

At the hearing on March 6, 2000, I advised the Committee that we would submit information regarding expenses for outside counsel incurred by this Office. Accompanying are statements reflecting fees paid for in fiscal year 2000. The totals are the amounts reimbursed to the respected firms and some include expenses incurred by them. A brief statement of the firms and the work they performed is as follows.

1. Wilburn Dillon Jr., Mark Parkinson, and Mary Jo Shaney - \$4,221.91

These three attorneys were hired in a personnel case in which multiple employees were named, which created a conflict of interest in this office. It was necessary to procure counsel for each named employee.

2. Triplett, Woolf & Garretson, LLC - \$130,711.86

This firm has primarily served in the acquisition of right-of-way, representation in matters pertaining to corridor management, and pre-acquisition advice. This firm is located in Wichita and has primarily been used in southeast and south central Kansas. We have also used this firm in certain matters arising in the Sedgwick County area.

3. Parkinson, Foth & Orrick, LLP - \$43,723.40

Mr. Orrick worked in this office and became quite experienced in matters pertaining to condemnation. Having left the Kansas Department of Transportation, he was employed with a firm in Kansas City, Kansas. He continued performing in this line of work and expanded into representation on matters pertaining to police power of regulation. The work that he currently performs is essentially the same as the work performed by the Triplett, Woolf & Garretson firm.

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4. Wright, Henson, Somers, Sebelius, Clark & Baker, LLP - \$16,925.77

This firm was retained by the Department in a tort claims case due to a possible conflict of interest. The representation is considered to be limited to this case and not ongoing.

5. Polsinelli, White, Vardeman & Shalton - \$9,434.75

This firm was retained in a pending case to exhaustively research a particular question that has major policy considerations. I believe the work to be complete and no further representation would be requested under this contract.

6. Jonathan Small - \$9,507.00

Mr. Small has a long history of serving as special counsel to the Secretary. Services in this regard are deemed warranted due to the specialized nature of bond practice and the importance it holds for the Department.

7. Gilmore and Bell - \$82,320.23

By statute the Secretary is authorized to retain bond counsel in conjunction with the issuance and sale of bonds. This firm was selected in a negotiated procurement process.

Note: In the issuance and sale of bonds other counsel may be involved. In particular, underwriter's counsel is noted. Counsel for such purposes are hired independent of the Department and no contracted relationship is present.

Sincerely,



Michael B. Rees
Chief Counsel

MBR:slb
Attachments
c: Members of Kansas 2000 Select Committee

HOUSE BILL No. 3006

By Committee on Federal and State Affairs

2-23

9 AN ACT enacting the private attorney retention sunshine act, ~~attorneys~~
10 ~~employed by a state agency~~, concerning legislative review of certain
11 contracts for legal services; limitation on contingent fees.
12

contracts for legal services by state agencies

13 *Be it enacted by the Legislature of the State of Kansas:*
14 Section 1. (a) This section shall be known and may be cited as the
15 private attorney retention sunshine act.

16 (b) For the purposes of this section:
17 (1) "Contract for legal services" means a contract in which a fee is
18 paid to an attorney or group of attorneys, in the form of a flat, hourly or
19 contingent fee and any expenses of such attorney, or group of attorneys.

20 (2) "State agency" means any state office, officer, department, board,
21 commission, institution, bureau, agency, authority, state agent or any di-
22 vision of a state agency.

23 (c) Notwithstanding any law to the contrary, any state agency that
24 wishes to enter into a contract for legal services under this section with
25 a lawyer or law firm to perform legal services on behalf of this state shall
26 not do so until an open and competitive bidding process has been un-
27 dertaken. The competitive bidding process under this section means that
28 the state agency, unless otherwise required by law, shall select at least
29 two qualified law firms based upon the law firm's experience with similar
30 litigation, expertise generally and size, if firm size is a relevant factor with
31 respect to the proposed legal services, and such other factors as the sec-
32 retary of administration may specify by rules and regulations, and shall
33 select from among such firms for purposes of entry into a contract for
34 legal services with the law firm which makes the lowest hourly rate bid
35 or total cost to provide such services.

, which contract is reasonably expected by the state agency to result in
legal fees of \$7,500 or more,

36 (d) No state agency shall enter into a contract for legal services ex-
37 ceeding \$1,000,000 without the opportunity for at least one hearing in
38 the legislature on the terms of the legal contract in accordance with sub-
39 section (e).

40 (e) (1) For purposes of the requirement of subsection (d), any state
41 agency entering into a contract for legal services in excess of \$1,000,000
42 shall file a copy of the proposed contract with the chief clerk of the house
43 of representatives and the secretary of the senate who, ~~with the approval~~

shall publish in the Kansas register notice of competitive bidding for such
contract for legal services at least two weeks prior to the deadline to
receive such competitive bids,

2-2

1 ~~of the president of the senate in the case of the secretary of the senate~~
2 ~~and the speaker of the house of representatives in the case of the chief~~
3 ~~clerk of the house of representatives.] shall refer such contract to the~~
4 ~~appropriate committee of each house of the legislature.~~

5 (2) Within 30 days after such referral, the committee may hold a
6 public hearing on the proposed contract and shall issue a report to the
7 referring state agency. The report shall include any proposed changes to
8 the proposed contract voted upon by the committee. The state agency
9 shall review the report and adopt a final contract as deemed appropriate
10 in view of the report and shall file with the chief clerk of the house of
11 representatives and the secretary of the senate its final contract.

12 (3) If the proposed contract does not contain the changes proposed
13 by the committee, the referring state agency shall send a letter to the
14 chief clerk of the house of representatives and the secretary of the senate
15 accompanying the final contract stating the reasons why such proposed
16 changes were not adopted. The chief clerk shall refer such letter and final
17 contract to the appropriate house committee and the secretary of the
18 senate shall refer such letter and final regulations to the appropriate sen-
19 ate committee. Not earlier than 45 days after the filing of such letter and
20 final contract with the appropriate committees, the state agency or agent
21 shall enter into the final contract.

22 (4) If no proposed changes to the proposed contract are made to the
23 state agency within 60 days of the initial filing of the proposed contract
24 or any amendment of such contract with the chief clerk of the house of
25 representatives and the secretary of the senate, the state agency may enter
26 into the contract.

27 (5) Nothing in this section shall be construed to expand the authority
28 of any state agency to enter into contracts where no such authority pre-
29 viously existed.

30 ~~(6) In the event that the legislature is not in session and a state agency~~
31 ~~wishes to execute a contract for legal services, the legislative budget com-~~
32 ~~mittee shall execute the oversight duties as set forth in paragraphs (2)~~
33 ~~through (5) of this subsection. Identical deadlines and reporting respon-~~
34 ~~sibilities shall apply to the state agency and the legislative budget com-~~
35 ~~mittee as would apply to a standing committee of the legislature executing~~
36 ~~its duties set forth in paragraphs (2) through (5) of this subsection.]~~

37 (f) (1) At the conclusion of any legal proceeding for which a state
38 agency retained outside counsel on a contingent fee basis, the state shall
39 receive from counsel a statement of the hours worked on the case, ex-
40 penses incurred, the aggregate fee amount and a breakdown as to the
41 hourly rate, based on hours worked divided into fee recovered, less
42 expenses.

43 (2) In no case shall the state incur expenses in excess of \$1,000 per

chairperson and vice chairperson of the legislative budget committee

legislative budget

legislative budget

chairperson and vice chairperson of the legislative budget

chief clerk of the house of representatives and the secretary of the senate

1 hour for legal services. In cases where a disclosure submitted in accord-
2 ance with paragraph (1) of this subsection indicates an hourly rate in
3 excess of \$1,000 per hour, the fee amount shall be reduced to an amount
4 equivalent to \$1,000 per hour.

5 Sec. 2. This act shall take effect and be in force from and after its
6 publication in the statute book.



The Kansas District Judges' Association



HOUSE 2000 SELECT COMMITTEE PREPARED REMARKS OF JUDGE DAVID MIKESIC PRESIDENT KANSAS DISTRICT JUDGES ASSOCIATION

RE: HB 2808 CONCERNING JUDICIAL PENSIONS

Dear Chairman and Committee Members:

Thank you for giving me the opportunity to explain the objectives of HB 2808, concerning judicial pensions. HB 2808 is not intended to be retroactive or apply to any judge that is currently retired. If that is not clear, then I would support an appropriate amendment that states the increase to 80% of final average salary (FAS) applies only for judges that retire after January 1, 2001.

There are several reasons why Kansas judges feel HB 2808 is fair. Let me explain.

First, it is our understanding that Kansas police and firefighters currently can receive a maximum pension of 80% of FAS. Therefore, our goal is to bring the judges pension in line with the Kansas Police and Fire Retirement (KP&F) System.

Second, when the Unified Court System was passed by the legislature in 1975 one goal of the legislature was to attract and retain career judges thus improving the administration of justice in Kansas.

Third, HB 2808 is an attempt to recognize and reward judges for their career-long service to the citizens of Kansas. In order to reach 80% of FAS judges would have to hold office for 23 years. So, I believe we are talking about a small number of career judges who would benefit by this change. Therefore, the actual fiscal impact should be small.

Let me explain why I feel the impact should be small. As an example lets assume a judge takes office at age 45. With 20 years of service the judge is 65 and under the "rule of 85" the judge could currently retire at 70% of FAS. If the judge decides to go for 80% of FAS the judge gives up 3 years of pension and at 68 years of age would only receive a 10% increase in his or her pension. The pension fund saved 3 years of expenditures and the now retired judge must live 12 more years to break even on the 3 years of pension he or she gave up. So, the 65 year old judge works until 68 years of age and must live to 80 years of age to break even. The pension system has had the use of this money for the extra 12 years until the judge breaks even.

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In my county twelve judges have died or retired since I have been on the bench. Five died while in office, one died within 1 year of retirement, two died within five years of retirement four have been retired less than 10 years. Therefore, working the extra three years is a gamble for each judge. This is why I feel HB 2808 would not cost much to implement.

It is not unusual for a member of the KP&F Pension fund to retire at between 50-55 years of age and receive 80% of FAS. I read in Sundays paper that a retired member of the Kansas highway patrol, who is 53 years of age has been selected to start a new career as sheriff in Shawnee County. Because of the age of most judges when they take the bench this is not an opportunity available to judges upon retirement, that is, starting a new career.

There are only two groups of public employees that have lids on the amount of credit that can be accumulated toward their pension, KP&F at 80% of FAS and Kansas Judges at 70% of FAS.

While, we are talking about a small number of judges who could benefit by this change I believe these judges would appreciate the recognition given them by this legislature in making them equal to the KP&F upon retirement. The citizens of Kansas would also benefit by having the most experienced judges available to hear their case.

Thank you for your consideration of this proposal.

DAVID P MIKESIC
PRESIDENT
KANSAS DISTRICT JUDGE ASSOCIATION

March 14, 2000

The Honorable Kenny Wilk
Chairman, Kansas 2000 Select Committee
Topeka, KS

Mr. Chairman and members of the Kansas 2000 Select Committee, I appreciate the opportunity to speak today in favor of House Bill 2808. It is my understanding that a portion of the bill dealing with beneficiary designations will allow Kansas state employees the flexibility of choosing to name a 501(c)3 charitable organization as beneficiary of their KPERS retirement plan benefits.

As a Planned Giving Officer for the Kansas State University Foundation, I travel across the state talking to Kansans about the importance of private support for higher education. I know first hand of the generosity of the Kansas people. The practice of naming charitable organizations as beneficiaries on individual IRA's, 401K plans, SEP's and other similar retirement accounts is a common one, and one that many Kansans embrace for its simplicity and potential for tax savings.

As you contemplate this change, please keep in mind the students from the state of Kansas. As the costs of education continue to increase so do the financial needs of the students. These funds could potentially be used to establish student scholarships, which will help decrease the financial burden placed on the brightest students from across the state of Kansas. We hear a lot about the Brain Drain in Kansas, and efforts are under way to attract these highly skilled people back to the state. As the students graduate from the fine institutions across the state of Kansas with large amounts of loans, they often seek employment with the highest bidder. These highest bidders are, more often than not,

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outside the state. If we do all we can to minimize the student debt loads as they graduate, perhaps financial remuneration will no longer have to be their primary consideration as they consider their career opportunities.

Two years ago, Cheryl Tysdale, a graduate of Kansas State University who is employed as the Orchestra Director for USD 266 in Maize, Kansas, sought to change her KPERS beneficiary to the Kansas State University Foundation, with the idea that the remainder would ultimately establish a music scholarship for Kansas students. She was surprised to learn that the current rules allowed her to name only an individual person, an estate or a trust. When Cheryl called this to our attention, we visited informally with KPERS and researched the statute. From what we discovered it seems that it was never the intent of the lawmakers to necessarily exclude this option. Rather, it was a case of omission. Since a charity was not listed as a possible beneficiary, the interpretation was that it could not be allowed. We did not identify any opposition to this charitable option and hoped to someday have the opportunity to encourage legislation that would allow the change.

The motivations for donors to fund their charitable bequests through beneficiary designations are as varied as are the donors themselves. Simplicity is one obvious reason. A simple change of a beneficiary form is generally all that is needed to complete the gift. Their standing legal documents, such as wills and trusts need not be amended. Certainly the potential for tax savings is often a motivating factor. Currently, it's not unusual for retirement plan benefits to flow into an individual's estate at death. Those Kansans having estates subject to federal estate tax can expect to pay 37-55% in federal estate tax. Those with charitable intent, can choose to name a charitable beneficiary, and have the

satisfaction of knowing that any remainder in their retirement fund will go directly to the named organization to be put to work for the charitable causes they supported during their lifetime.

At a time when private support has never been more important to higher education, healthcare, and social services, this simple change has the potential to benefit not only Kansas State University and the other Kansas Regents universities, but also a myriad of other worthwhile institutions and charitable organizations across the state. We appreciate your support.



Sandra Fruit
Planned Giving Officer
Kansas State University Foundation

Testimony on Senate Bill 138
Given by Bobbi Mariani
Acting Director of the Division of Personnel Services
Department of Administration
before the
House Kansas 2000 Select Committee
March 14, 2000

Mr. Chairperson and members of the committee, thank you for the opportunity to appear before you today in support of this bill. The Department of Administration is the administrative arm of the Civil Service Board and the Division of Personnel Services provides staff support for the Board.

The state Civil Service Board hears appeals of permanent, classified state employees who have been disciplined by their agency and determines whether the agency action was reasonable. Prior to enactment of the Kansas Administrative Procedures Act (KAPA) and related statutory amendments in 1988, K.S.A. 75-2929e stated that the Civil Service Board could affirm, modify, or reverse a case on its merits and order any other action it deemed appropriate. This language was repealed in 1988 when the Board's procedures were brought under KAPA. The Kansas Supreme Court determined in *Kansas Department of Transportation v. Humphreys*, filed in November 1988, that the Board has the authority granted to it prior to the KAPA. The proposed legislation would amend the statute to reflect with the *Humphreys* decision and clarifies that the Board continues to have the authority to modify agency disciplinary decisions.

Prior to 1988, the Board judiciously used the authority to modify agency decisions when the Board concluded that the extent of the discipline imposed by the agency was unreasonable, but that there was a need for discipline at some level. For example, on some occasions the Board found that dismissal was unreasonable, but reinstated the employee without back pay, effectively imposing an extended suspension without pay. Similarly, the Board has on other occasions reduced the length of a suspension to a shorter period of time, thereby recognizing the need for some discipline, but disagreeing with the degree of the discipline. If the Board does not have authority to modify disciplinary actions, the only options available to the Board are to accept the discipline imposed by the agency or to reinstate the employee with full back pay, thereby negating any discipline.

Even though the Board now has the authority to modify actions based on the *Humphrey's* decision, there are benefits to making these changes in this statute. This clarification provides employees basic information about the Board's options when hearing appeals. That knowledge will help employees as they decide if they will appeal an agency action. By the same token, agencies will also have a clearer understanding of the Board's authority.

The second amendment clarifies the length of time in which an individual can file an appeal of a disciplinary action with the Civil Service Board. The amendment provides that the appeal must be received by the Division of Personnel Services, and not just mailed, within the 30 calendar days for an appeal. Again, this provides clarification for employees so they clearly know the timeframe in which they must appeal.

We believe the right to appeal a disciplinary action is a basic right of employees. We also believe that employees need to be given clear information about the filing process and the options available to the Board in deciding the outcome of an appeal. The bill before you clarifies that information for employees and could help prevent the need to spend time and resources on litigation over a procedural issue.

Thank you for your consideration and I ask that you favorably pass this bill.

Testimony of Andy Sanchez, Executive Assistant to the President
The Kansas Association of Public Employees, KAPE/AFT, AFL-CIO
Before the Kansas 2000 Select Committee
On SB138
Delivered March 14, 2000

My name is Andy Sanchez, Executive Assistant to the President of the Kansas Association of Public Employees. KAPE is always appreciative of the opportunity to offer testimony. While not a staunch supporter of Senate Bill 138, we see no reason to oppose it.

Appeals to the State Civil Service Board are made for the sole purpose of resolving differences upon appeal. The result of solving such differences is often complicated, drawn out, and contributes to life's basic necessities, a career and livelihood. Thus, KAPE offers the following points:

*Decisions rendered by the Civil Service Board should not be limited in scope to either affirming or reversing the action of an agency. It has been the experience and belief of KAPE, that this is already in practice at the direction of the State Supreme Court.

*A strict adherence to the thirty-calendar day period is well intentioned. It would seem to promote expediency. But, from a policy standpoint, KAPE would not recommend carving out a special standard for this process. A three-day mail rule is standard in administrative procedures under K.A.P.A.

KAPE can support a clarification of the Civil Service Board to render solutions that according to current statute restrict decisions to the border of extremes. The Civil Service Board does and should continue to modify both extreme measures of discipline and lacking measures of discipline. KAPE knows this is a double-edged sword where decisions can work against and for the members we may be called upon to represent.

If the purpose of the bill is to make civil Service "whole" by clarifying the boards authority to modify disciplinary actions, KAPE cautiously supports the bill.

Thank You.

IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 78,947

KANSAS DEPARTMENT OF TRANSPORTATION,

Appellee,

v.

ROBERTA S. HUMPHREYS,

Appellant.

SYLLABUS BY THE COURT

1.

When the legislature revises an existing law, it is presumed that the legislature intended to change the law as it existed prior to the amendment.

2.

Where a reading of a statute leaves its construction uncertain, the court may look to the historical background of the enactment, the circumstances attending its passage, the purpose to be accomplished, and the effect the statute may have under the various constructions suggested.

3.

Under the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Kansas Civil Service Board has the authority to affirm, modify, or reverse a case on its merits and to order any other action it deems appropriate.

K.S.A. 77-526(c) of KAPA provides that the Board shall, upon review of an agency action, render a final order which shall include

“findings of fact, conclusions of law and policy reasons for the decision if it is an exercise of the state agency’s discretion, for all aspects of the order, including the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied by a concise and explicit statement of the underlying facts of record to support the findings. . . .”

Clearly, a final order authorized by KAPA is more than an affirmance or disapproval of the agency action. The Board is empowered to prescribe a remedy.

Under KAPA, the Board has the authority to affirm, modify, or reverse a case on its merits and to order any other action it deems appropriate. Pursuant to K.S.A. 77-526(c) of KAPA, the Board’s order modifying KDOT’s disciplinary action was a final order. Although the district court had authority pursuant to K.S.A. 77-622(d) of the Kansas Judicial Review Act to remand the case to the Board, the district court erred in concluding the Board acted outside its jurisdiction.

The district court’s determination that the Board was without jurisdiction to modify the agency’s dismissal is reversed. The Board’s subsequent affirmance of the agency’s action on remand of the district court is set aside. The case is remanded to the district court for further action pursuant to K.S.A. 77-622.



<http://da.state.ks.us>

DEPARTMENT OF ADMINISTRATION
Division of Personnel Services

BILL GRAVES
Governor

DAN STANLEY
Secretary of Administration

BOBBI MARIANI
Acting Director of Personnel Services
900 S.W. Jackson, Room 951-S
Landon State Office Building
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(785) 296-4278
FAX (785) 296-6793

March 14, 2000

Representative Kenny A. Wilk, Chairperson
Kansas 2000 Select Committee
Room 180-W, Statehouse
Topeka, Kansas 66612

Dear Representative Wilk:

We are writing to request your support in the passage of 1999 Senate Bill 138 this legislative session. Senate Bill 138 makes two amendments to current law that governs the State Civil Service Board. The first amendment to K.S.A. 75-2929d (1)(b) clarifies the authority of the State Civil Service Board to modify agency actions.

This change codifies the Kansas Supreme Court's November 6, 1998 decision in *Kansas Department of Transportation v. Humphreys* and confirms the original legislative intent of the law and the procedure used by the Board prior to the adoption of the Kansas Administrative Procedures Act (KAPA) in 1988. The Board's procedures were challenged and the district court's ruling limited the Board's authority to either reverse or affirm the action of a state agency. The Supreme Court's decision in *Humphreys* overruled the district court's ruling and Senate Bill 138 puts the Supreme Court's ruling into law.

The second amendment clarifies the procedure for the timely filing of an appeal with the Civil Service Board. K.S.A. 75-2949 (f) is amended to make it clear that a request for hearing before the Board shall be **filed** in the office of the director of personnel services within 30 calendar days after the effective date of the agency action. Current statutory language states that a request for an appeal must be "submitted" within 30 days of the effective date of the disciplinary action and there has been a substantial amount of confusion as to exactly what the word "submitted" means. This amendment also makes it clear that the 30-day limit includes any time for mailing - no additional days can be added.

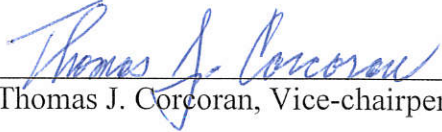
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Representative Wilk,
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Both of these changes will allow the Board to perform its duties in a more fair and efficient manner and we are requesting that your committee pass Senate Bill 138 favorably out of committee. Thank you very much for your assistance in this matter.



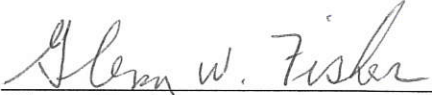
J. Richard Pratt, Chairperson



Thomas J. Corcoran, Vice-chairperson



William A. Dean, Member



Glenn W. Fisher, Member



James E. Lowther, Member