

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Steve Morris at 10:40 a.m. on March 12, 2001 in Room 123-S of the Capitol.

All members were present except: All Present

Committee staff present:

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Amory Lovin, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Tom Severn, Kansas Legislative Research Department
Michael Corrigan, Assistant Revisor, Revisor of Statutes Office
Julie Weber, Administrative Assistant to the Chairman
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Sabrina Wells, Comptroller, State Insurance Department
Neil Woerman, Director of the Budget, Office of the Attorney General

Others attending: See attached guest list

Chairman Morris turned the Committee's attention to review of the minutes of the meetings of February 5 and February 7, 2001. Senator Jordan moved, with a second by Senator Schodorf, to approve the minutes of February 2 and 7, 2001. Motion carried by a voice vote.

Chairman Morris opened the public hearing on:

SB 346—Elimination of salary cap on insurance department employees

Staff briefed the committee on the bill.

Chairman Morris welcomed Sabrina Wells, Comptroller, State Insurance Department, who spoke in support of **SB 346 (Attachment 1)**. Ms. Wells explained **SB 346**, current law and the fiscal effect of repealing the statutory salary restrictions on Department of Insurance employees in her testimony.

Committee questions and discussion followed.

Chairman Morris thanked Ms. Wells for her appearance before the Committee. There being no further conferees, the Chairman closed the public hearing on **SB 346**.

Chairman Morris opened the public hearing on:

SB 347—Elimination of salary cap on certain office of attorney general employees

Staff briefed the committee on the bill.

Chairman Morris welcomed Neil Woerman, Director of Budget and Special Projects, on behalf of Attorney General Carla J. Stovall, who spoke in support of **SB 347 (Attachment 2)**. Mr. Woerman explained that Attorney General Stovall regretted not being present personally to testify on the bill because it is an important issue to her. He noted that Attorney General Stovall was in Washington chairing the Spring Meeting of National Attorneys General. Mr. Woerman mentioned that General Stovall did personally raise the issue the bill addresses with the subcommittee and the subcommittee

CONTINUATION SHEET

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requested introduction of the bill. Mr. Woerman further explained the intent of the bill in his written testimony. He mentioned that General Stovall was not requesting that her salary be increased but was asking that she be allowed to better compensate her top legal staff and allow the attorney general in the future a better opportunity to compete for top attorneys with other government agencies and with the private sector, against whom the office must litigate.

Committee questions and discussion followed.

The Chairman thanked Mr. Woerman for his appearance before the Committee. There being no further conferees, the Chairman closed the public hearing on **SB 347**.

Chairman Morris called the Committee's attention to discussion of:

SB 330—Professional services sunshine act, exemptions

Senator Feleciano moved, with a second by Senator Downey, to amend SB 330 and adopt Sub for SB 330 and strike subsection "H" to add the House language to replace it contained in proposed Sub for SB 330 (Attachment 3). Committee discussion followed. Mr. Deck noted that all that the intent of the proposed amendment was to have the KPERS Board to be able to act as their own procurement negotiating committee and the Board was comfortable with this language. Senator Kerr mentioned that he thought the proposed amendment was more consistent with what the subcommittee had in mind and they were looking for language to be consistent with the state law, not an exemption. Motion carried by a voice vote.

Senator Feleciano moved, with a second by Senator Schodorf, to move SB 330 as amended by Sub for SB 330. Motion carried by a roll call vote.

SB 110—Board of accountancy fees

Senator Salmans moved, with Senator Barone, to move SB 110 as amended by the Subcommittee on Accountancy (Attachment 4). Motion carried by a roll call vote.

SB 322—KPERS board of trustees, assignment of certain positions

Senator Schodorf moved, with a second by Senator Downey, to amend SB 322 to correct the title for the position of "investment operations analyst" and to make the bill effective upon publication in the Kansas Register. Motion carried by a voice vote.

Senator Kerr moved, with a second by Senator Schodorf, to pass SB 322 favorably as amended. Motion carried by a roll call vote.

SB 346—Elimination of salary cap on insurance department employees

SB 347—Elimination of salary cap on certain office of attorney general employees

Senator Feleciano moved, with a second by Senator Barone, to move SB 346 and SB 347 for passage. Committee questions and discussion followed. Senator Feleciano withdrew his motion, with permission of the second, Senator Barone, subject to the Insurance Commissioner and the Attorney General visiting with the President of the Senate.

Chairman Morris mentioned that there is a possibility of limiting the bill to apply only to certain employees of the respective departments.

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Senator Barone requested that staff look into other elected officials and see if there are similar salary restraints, i.e., Secretary of State and the State Treasurer.

Senator Huelskamp requested that staff could research whether any positions are vacant or if it was hard to fill them last time when they were open.

Chairman Morris mentioned that **SB 346** and **SB 347** will be held.

Confirmation Hearing on:

Michael Braude, Member, Kansas Public Employees Retirement System (KPERS) Board of Trustees

Copies of the Senate Confirmation Information Summary, Prepared and Submitted by the Office of Governor Bill Graves was submitted to each member of the Committee (Attachment 5).

Chairman Morris mentioned that it is the responsibility of this Committee to hold the confirmation hearing, but that the Joint Committee on Pensions and Benefits also needs to have a hearing separately. Senate Committee on Ways and Means needs to make their recommendations as the Joint Committee on Pensions and Benefits will make their recommendations.

Mr. Braude briefed the Committee on his background. Committee questions and discussion followed. In response to a question, Mr. Braude mentioned that he feels that serving on the KPERS Board is a tremendous responsibility and would take it seriously. He noted that he is cognizant of the problems in the past and would try not to let it happen again.

Chairman Morris thanked and wished Mr. Braude good luck. The Chairman mentioned that the Committee would take action the following day, March 13, 2001.

Bill Introduction

Senator Huelskamp moved, with a second by Senator Jackson, to introduce a bill (1rs1171) concerning judicial protection issues and compromise language for some producer protection. Motion carried by a voice vote.

The meeting was adjourned at 11:30 a.m. The next meeting is scheduled for March 13, 2001.



State of Kansas

Office of the Attorney General

120 S.W. 10th Avenue, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

Testimony on Senate Bill No. 347
Before the Senate Ways & Means Committee
March 12, 2001

MAIN PHONE: (785) 296-2215
FAX: 296-6296

Delivered by Neil Woerman, Director of Budget & Special Projects
on behalf of Attorney General Carla J. Stovall

Mr. Chairman & Members of the Committee:

Attorney General Stovall regrets not being here today to testify personally on this bill, because this is an important issue to her. She is in Washington this week chairing the Spring Meeting of the National Association of Attorneys General. General Stovall did personally raise the issue the bill addresses with the subcommittee and the subcommittee requested introduction of this bill.

The bill seeks to remove the cap on the salaries of attorneys in the attorney general's office. Now no assistant or deputy attorney general may be paid more than the attorney general herself. As a practical matter, the attorney general would see lifting the cap as only having application to her top deputy or perhaps deputies at some future date. A parallel bill, Senate Bill No. 346, was introduced following a similar request of the Insurance Commissioner. We are not aware of any other statutes which so limit state agencies in compensating top attorneys or administrators.

The Revisor, in statutory annotations, traces the history of this law back to 1913, at which time the \$4,000 salary of the attorney general was set each biennium in a bill, as were the salaries of the two assistant attorneys general, who were paid \$3,000 each. Finally, in 1957, when this practice of setting staff salaries by law ceased, the language was passed which Senate Bill No. 347 would strike, limiting assistant attorney general salaries to no more than that of the attorney general.

A review of chief and senior attorney salaries and those of top division administrators in state government agencies in several instances reveals salaries that exceed the current salary of the attorney general, which is \$84,007 a year, and forms the cap on her deputies' salaries. The state's district attorneys salaries are set at "no less than" the salaries of district court judges in Kansas, who are now paid \$95,847 a year.

The attorney general's office is a large law firm by Kansas standards. The General depends

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on her deputies to supervise more than 50 attorneys employed by the office and appointed to serve other agencies, as well as oversee contracts with outside counsel. The office represents the state in millions of dollars in litigation each year, in addition to defending our laws and the rights of our citizens in crucial litigation against some of the finest law firms in Kansas and across the country.

General Stovall is not requesting that you increase her salary. She is asking that you allow her to better compensate her top legal staff and allow the attorney general in the future more opportunity to compete for top attorneys with other government agencies and with the private sector, against whom the office must litigate.

I would be pleased to respond to questions.

SENATE BILL No. 330

By Committee on Ways and Means

2-16

AN ACT concerning the professional services sunshine act; relating to certain exemptions; amending K.S.A. 2000 Supp. 75-37,132 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 75-37,132 is hereby amended to read as follows: 75-37,132. (a) Except as provided in this section, all contracts for professional and consultant services, shall be negotiated in accordance with the provisions of K.S.A. 75-37,102, and amendments thereto.

(b) The provisions of subsection (a) shall not apply to any contract for professional or consultant services that the director of purchases determines meets one or more of the criteria established in subsections (a) and (h) of K.S.A. 75-3739, and amendments thereto. When the director of purchases approves a contract for professional or consultant services under this subsection, the director may delegate authority to the agency to enter into the contract under conditions and procedures prescribed by the director.

(c) The provisions of subsection (a) shall not apply to any contract for professional or consultant services that is not anticipated to exceed \$25,000 in any fiscal year. Such a contract shall be entered into by the state agency on the basis of competitive negotiations with at least two individuals or firms unless the head of the agency determines that competitive negotiations are not in the best interest of the state. The agency head shall make a report to the director of purchases at least once in each calendar quarter during the term of each contract for professional or consultant services that exceeds \$5,000 and that was entered into without competitive negotiations.

(d) The director of purchases shall prepare a detailed report at least once in each calendar quarter during the term of each contract for professional or consultant services that exceeds \$5,000 that is entered into under subsection (b) and all contracts for professional or consultant services reported to the director under subsection (c). The director of purchases shall submit such report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives

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1 and the chairperson of the Kansas performance review board.
2 (e) All contracts for architectural services, engineering services, con-
3 struction management or ancillary technical services entered into by a
4 state agency shall be entered into in accordance with the provisions of
5 K.S.A. 75-430a, 75-1250 through 75-1266 and 75-5801 through 75-5807,
6 and amendments thereto.
7 (f) All contracts for professional services entered into by the board of
8 governors of the health care stabilization fund shall be entered into in
9 accordance with the provisions of K.S.A. 40-3410 and 40-3411, and
10 amendments thereto.
11 (g) Upon written certification from the commissioner of insurance to
12 the director of purchases and the legislative budget committee that an
13 emergency exists and the best interests of the state would be jeopardized
14 by compliance with subsection (a), the provisions of subsections (a) and
15 (c) shall not apply to contracts for legal services performed under article
16 36 of chapter 40 of the Kansas Statutes Annotated.
17 (h) *The provisions of subsection (a) shall not apply to any contract*
18 *for professional or consultant services entered into by the Kansas public*
19 *employees retirement system.*
20 Sec. 2. K.S.A. 2000 Supp. 75-37,132 is hereby repealed.
21 Sec. 3. This act shall take effect and be in force from and after its
22 publication in the statute book.
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HOUSE BILL No. 2534

By Committee on Appropriations

2-20

AN ACT concerning retirement; relating to the Kansas public employees retirement system; board of trustees; obtaining certain services.

Be it enacted by the Legislature of the State of Kansas:

Section 1. In obtaining the services of actuaries, attorneys, investment managers, consultants, counselors, financial institutions, third-party administrators and other professionals, the board of trustees of the Kansas public employees retirement system is not subject to the restrictions, limitations and other procurement provisions of K.S.A. 75-3738 through 75-37,104 and amendments thereto, or to any rules and regulations adopted thereunder, and is not subject to the provisions of K.S.A. 2000 Supp. 75-37,130 through 75-37,135 and amendments thereto or to any rules and regulations adopted thereunder. All such services shall be obtained pursuant to the issuance of requests for proposals and arms-length negotiations under procedures established by the board.

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

3-3

By

AN ACT concerning the Kansas public employees retirement system; relating to certain contracts for professional or consultant services; prescribing certain procedures and reports; amending K.S.A. 2000 Supp. 75-37,132 and 75-37,135 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 75-37,132 is hereby amended to read as follows: 75-37,132. (a) Except as provided in this section, all contracts for professional and consultant services, shall be negotiated in accordance with the provisions of K.S.A. 75-37,102, and amendments thereto.

(b) The provisions of subsection (a) shall not apply to any contract for professional or consultant services that the director of purchases determines meets one or more of the criteria established in subsections (a) and (h) of K.S.A. 75-3739, and amendments thereto. When the director of purchases approves a contract for professional or consultant services under this subsection, the director may delegate authority to the agency to enter into the contract under conditions and procedures prescribed by the director.

(c) The provisions of subsection (a) shall not apply to any contract for professional or consultant services that is not anticipated to exceed \$25,000 in any fiscal year. Such a contract shall be entered into by the state agency on the basis of competitive negotiations with at least two individuals or firms unless the head of the agency determines that competitive negotiations are not in the best interest of the state. The agency head shall make a report to the director of purchases at least once in each calendar quarter during the term of each contract for professional or consultant services that exceeds \$5,000 and that was entered into without competitive negotiations.

(d) The director of purchases shall prepare a detailed report at least once in each calendar quarter during the term of each contract for professional or consultant services that

exceeds \$5,000 that is entered into under subsection (b) and all contracts for professional or consultant services reported to the director under subsection (c). The director of purchases shall submit such report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives and the chairperson of the Kansas performance review board.

(e) All contracts for architectural services, engineering services, construction management or ancillary technical services entered into by a state agency shall be entered into in accordance with the provisions of K.S.A. 75-430a, 75-1250 through 75-1266 and 75-5801 through 75-5807, and amendments thereto.

(f) All contracts for professional services entered into by the board of governors of the health care stabilization fund shall be entered into in accordance with the provisions of K.S.A. 40-3410 and 40-3411, and amendments thereto.

(g) Upon written certification from the commissioner of insurance to the director of purchases and the legislative budget committee that an emergency exists and the best interests of the state would be jeopardized by compliance with subsection (a), the provisions of subsections (a) and (c) shall not apply to contracts for legal services performed under article 36 of chapter 40 of the Kansas Statutes Annotated.

(h) In the case of any contract for professional services or consultant services for the board of trustees of the Kansas public employees retirement system that is negotiated in accordance with the provisions of K.S.A. 75-37,102, and amendments thereto:

(1) The negotiating committee shall be composed of the members of the board of trustees, notwithstanding the provisions of subsection (b) of K.S.A. 75-37,102, and amendments thereto, to the contrary; and

(2) the board of trustees shall report each contract for professional services or consultant services entered pursuant to

this subsection to the director of purchases, including the rationale of the board of trustees if the bid or proposal selected by the board of trustees was not the lowest cost bid or proposal submitted and a report of such contract and such rationale shall be included in the report submitted by the director of purchases pursuant to subsection (e) of K.S.A. 75-37,102, and amendments thereto.

Sec. 2. K.S.A. 2000 Supp. 75-37,135 is hereby amended to read as follows: 75-37,135. (a) (1) Prior to entering a contract for legal services where the amount of the fees paid to an attorney or firm of attorneys reasonably may exceed \$1,000,000, the director of purchases shall submit the proposed request for proposal to the legislative budget committee. Within 30 days after submission of such request for proposal, the committee may hold a public hearing on the proposed request for proposal and shall issue a report to the director of purchases. The report shall include any proposed changes to the proposed request for proposal suggested by the committee. The committee is not authorized to waive the evidentiary privileges of the state, or any of the persons or entities that state attorneys are representing or acting in concert with in any litigation or anticipated litigation. The committee, the director of purchases and their employees shall take all reasonable steps to protect such privileges. The director of purchases shall review the report and adopt a final request for proposal as deemed appropriate in view of the report and shall file the final request for proposal with the legislative budget committee.

(2) If the proposed request for proposal does not contain the changes proposed by the committee, the director of purchases shall submit with the final request for proposal a letter stating the reasons why such proposed changes were not adopted. The director of purchases shall not release the final request for proposal until at least 10 days after the date of submission of the final request for proposal to the legislative budget committee.

SENATE BILL No. 110

By Committee on Ways and Means

1-24

Proposed Amendments by
Subcommittee on Accountancy
For Consideration by
Senate Committee on Ways and Means

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3-12-01
Attachment 4

9 AN ACT concerning certified public accountants; licensure; fees; amend-
10 ing K.S.A. 2000 Supp. 1-301 and repealing the existing section.
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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 2000 Supp. 1-301 is hereby amended to read as
14 follows: 1-301. (a) The board shall charge and collect a fee from each
15 applicant for a Kansas certificate or notification and shall charge and col-
16 lect a fee for a permit to practice as a certified public accountant in this
17 state. ~~The board may require that~~ Fees for examination and reexamina-
18 tion shall be paid directly to the examination service by the person taking
19 the examination. Each such fee payable to the board or the examination
20 service shall accompany the appropriate application. No portion of any
21 fee shall be returned to the applicant unless the board determines there
22 is just cause for a refund.

23 (b) The board shall adopt rules and regulations fixing the fees pro-
24 vided to be charged and collected under this section, which shall be as
25 follows:

26 ~~(1) For initial admission to any required examination, an amount not~~
27 ~~to exceed \$200. If an applicant fails to pass the required examination, a~~
28 ~~complete reexamination may be taken upon payment of an additional fee~~
29 ~~of not to exceed \$175 for each such complete reexamination. If an ap-~~
30 ~~plicant fails to pass part of the required examination, a partial reexami-~~
31 ~~nation may be taken upon payment of an additional fee of not to exceed~~
32 ~~\$150 for each such partial reexamination;~~

33 ~~(2) (1)~~ For issuance of a certificate (initial or duplicate) an amount
34 not to exceed \$50;

35 ~~(3) (2)~~ for issuance of a reciprocal certificate an amount not to exceed
36 \$250;

37 ~~(4) (3)~~ for issuance or renewal of a permit to practice for the holder
38 of a Kansas certificate, an amount not to exceed \$150, subject to para-
39 graphs ~~(5) (4)~~ and ~~(7) (6)~~;

40 ~~(5) (4)~~ for issuance or renewal of a permit to practice for the holder
41 of a Kansas certificate whose permit is issued or renewed for a period of
42 12 months or less, an amount equal to 1/2 the amount of the fee fixed
43 under paragraph ~~(4) (3)~~, subject to paragraph ~~(7) (6)~~;

1 (6) (5) for issuance of a duplicate permit to practice for the holder of
2 a Kansas certificate, an amount not to exceed \$25;

3 (7) (6) for reinstatement of a permit to practice in the case of the
4 holder of a Kansas certificate who had in some prior year held a permit
5 to practice but who did not hold such a permit for the year immediately
6 preceding the period for which a permit to practice is requested, or who,
7 if holding a permit to practice for such period immediately preceding
8 applies for renewal subsequent to the expiration date of such permit, an
9 amount equal to 1½ times the amount of the fee then fixed under par-
10 agraph (3) (2) or paragraph (4) (3), whichever is applicable;

11 (8) (7) ~~to proctor the uniform certified public accountant examination~~
12 ~~to a candidate of another state who is temporarily in this state at the time~~
13 ~~of the examination an amount not to exceed \$200 per examination;~~

14 (9) (8) for notification or renewal of notification required pursuant to
15 K.S.A. 2000 Supp. 1-322, and amendments thereto, an amount not to
16 exceed \$150; and

17 (10) (9) for annual firm registration, an amount not to exceed \$50. (8)

18 (c) On or before May 30 each year, the board shall determine the
19 amount of funds that will be required during the ensuing year to carry
20 out and enforce the provisions of law administered by the board and may
21 adopt rules and regulations to change any fees fixed under this section as
22 may be necessary, subject to the limitations prescribed by this section.
23 Upon changing any renewal fees as provided by this section, the board
24 shall immediately notify all holders of permits to practice of the amount
25 of such fees. The fees fixed by the board and in effect under this section
26 immediately prior to the effective date of this act shall continue in effect
27 until such fees are fixed by the board by rules and regulations as provided
28 by this section.

29 Sec. 2. K.S.A. 2000 Supp. 1-301 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the Kansas register.

CONFIRMATION
NOT SCANNED
DUE TO
CONFIDENTIAL
CONTENT