

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairperson Representative Kenny Wilk at 9:00 a.m. on February 12, 2002, in Room 514-S of the Capitol.

All members were present except: Representative McCreary, Excused
Representative Spangler, Excused
Representative Peterson, Excused

Committee staff present: Amy Kramer, Legislative Research
Becky Krahl, Legislative Research
Leah Robinson, Legislative Research
Julian Efrid, Legislative Research
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Corey Peterson, Association of General Contractors
Joe Fritton, Department of Administration
Jack Brier, Kansas Development Finance Authority
Eric King, Architect for Board of Regents
Clay Blair, Board of Regents

Others attending: See Attached

Representative Campbell moved for the introduction of legislation which would require DNA testing on all convicted felons. Motion was seconded by Representative Stone. Motion carried.

Representative Neufeld moved for the introduction of legislation proposed by the Joint Committee on Administrative Rules and Regulations regarding the Fire Marshal. Motion was seconded by Representative Light. Motion carried.

Hearing and action on HB 2613--Joint estimate of revenue to the state general fund

Duane Goossen, Director of the Budget, explained that the further into the future estimates are made, the more inaccurate they tend to be. At this point, the Budget Division is attempting to estimate revenues two years in the future. Division of the Budget and the Legislative Research Department have worked together and are currently working with a growth rate of 3.7% which is re-examined regularly.

Representative Wilk moved to amend the bill to include that upon passage it would take effect upon publication in the Kansas Register. Motion was seconded by Representative Stone. Motion carried.

Representative Hermes moved that the bill be reported favorably as amended. Motion was seconded by Representative Neufeld. Motion carried.

Discussion and action on HB 2612--State finances biennial budget estimates

Representative Neufeld moved for a technical amendment which would change the date of 2004 to 2003 in Line 19 of Page 1, and strike "consumer credit commissioner" on Line 42 of Page 2. Motion was seconded by Representative Minor. Motion carried.

Representative Stone moved to report the bill favorably as amended. Motion was seconded by Representative Feuerborn. Motion carried.

Discussion on HB 2690--University research and development enhancement act

Jim Wilson, Revisor of Statutes, walked the Committee through a proposed amendment regarding the appointed membership of the proposed Board of Directors of the subsidiary corporation, and the exemptions delineated in Section 10 (Attachment 1). This amendment would allow the Board of Regents to use the "construction manager at risk" delivery system if they chose to do so. Bullet points addressing the main issues will be developed for use by the Committee.

The Committee requested additional information and proposed language on insurance issues, future appropriations, legislative intent on what regents institutions would be fiscally responsible, and debt service for the \$50 million.

All representatives of present of groups involved supported the proposed amendments with the exception of the Association of General Contractors, whose representative, Corey Peterson, voiced opposition to the bill. Mr. Peterson explained their displeasure with the bill was due to the construction management at risk delivery system instead of the standard state construction system which he described as cost effective and fair. He stated that the bill does not remove the political impact and that the bill was being pushed through without all parties involved reaching consensus.

Joe Fritton, Division of Facilities Management of the Department of Administration, reported that the Secretary of Administration or the Secretary's designee, had been added to the Board of Directors of the subsidiary corporation as a checks and balances measure to the proposed delivery system. The subsidiary corporation would be set up by the Board of Regents and would hire the firm to oversee and manage the project. The list of possible firms would be submitted by the State Building Advisory Commission. The Department of Administration would oversee the codes compliance.

Eric King, architect for the Board of Regents, explained that the contractor has input with the architect in the construction manager at risk contractor delivery system. This system has worked well with University of Kansas Medical School construction projects. There is better cost control as fees are negotiated up front, with competitive bidding covered later in the project.

Jack Brier, Kansas Development Finance Authority, stated that the structure of the proposed financing is lease revenue bonds. He agreed to provide language which clarifies the payment structure.

In response to questions, Clay Blair, President of the Board of Regents, explained that the maximum is \$50 million for the state's investment from general revenues with the cost never being more than \$10 million in any year, with repayment commencing over a six-year period. Only the state educational institution which benefits from the research and development facility would be held liable for subsequent debt service.

Discussion and action on HB 2619—Employer contributions for tax sheltered annuities for certain school district community college employees

Julian Efrid, Legislative Research, described this bill as permissive legislation which would allow school boards to make contributions to tax sheltered annuities for employees.

An amendment from Bobbi Mariani, Division of Personnel Services of the Department of Administration, was presented which would include the state being allowed to contribute each payroll period under a section 401(a) plan as an adjunct to the deferred compensation plan, subject to appropriations (Attachment 2).

Representative Nichols moved to adopt the proposed amendment as presented by the Department of Administration. Motion was seconded by Representative Stone. Motion carried.

Representative Stone moved to amend the bill by allowing the Revisor of Statutes to make technical changes and update the language in the bill for references to sections 403(b) and 457 in Section 1 of the bill. Motion was seconded by Representative Hermes. Motion carried.

Representative Hermes moved to report the bill favorably as amended. Motion was seconded by Representative Stone. Motion carried.

The meeting was adjourned at 10:45 a.m. The next meeting is scheduled for Wednesday, February 13, 2002.

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 2/12/02

NAME	REPRESENTING
Mark Stock	DoFA / DFM
Dan Etzel	DoFA / DFM
D. KEITH MEYERS	DoFA
Judy Aron	American Institute of Architects
ERIC SEXTON	W SU
SUE PETERSON	K-STATE
Theresa Klinkenberg	KU
Lisa Becker	SRS
Hannon Jones	SILCK
Sandra Shaden	Civic Council of Kansas City
JACK BRUER	Ks. DEPT. FINANCE AUTHORITY
George Barber	Ks Consulting Engr's
Mike Lackey	Ks Soc. Prof. Engrs.
DIAN CARER	KBOR
ERIC KING	KBOR
Ch. Ple...	KBOR
JOE FRITTON	DoFA / DFM
Duane Goossen	DOB
J.P. Ansh...	Division of the Budget

APPROPRIATIONS COMMITTEE GUEST LIST

DATE:

NAME	REPRESENTING
Melinda Gaul	DoB
Aaron Dunder	DoB
Scott Brunner	DoB

DRAFT OF AMENDMENTS TO HB 2690
February 12, 2002

1 On page 2, in line 42, by striking “to” and by inserting “and shall”;

2 On page 3, in line 15, by striking “not more than”; by striking all in line 16; in line 17 , by
3 striking all before the period and inserting “five members as follows: (1) Two members of the board
4 of regents who shall be designated by the board of regents and who shall serve at the pleasure of the
5 board of regents; (2) two persons who are not members of the board of regents and who shall serve at
6 the pleasure of the board of regents; (3) the secretary of administration, or the secretary’s designee
7 who shall serve at the pleasure of the secretary of administration. Members of the board of directors
8 shall serve without compensation”; in line 23, after the period, “The subsidiary corporation formed
9 pursuant to this section shall be dissolved by the board of regents after completion and official
10 acceptance by the board of regents of all of the capital improvement projects initiated for research and
11 development facilities for state educational institutions under this act or at such earlier time as may be
12 prescribed or determined in accordance with the provisions of the articles of incorporation of the
13 subsidiary corporation.”;

14 On page 7, by striking all in lines 16 through 26, and inserting the following material to read
15 as follows:

16 “Sec. 10. (a) As used in this section, unless the context expressly provides otherwise:

17 (1) “Ancillary technical services” include, but shall not be limited to, geology services and
18 other soil or subsurface investigation and testing services, surveying, adjusting and balancing of air
19 conditioning, ventilating, heating and other mechanical building systems, testing and consultant
20 services that are determined by the board of regents to be required for a project;

21 (2) “architectural services” means those services described by subsection (e) of K.S.A. 74-
22 7003, and amendments thereto;

1 (3) "construction services" means the work performed by a construction contractor to
2 commence and complete a project;

3 (4) "construction management services" may include, but are not limited to, detail cost
4 estimating, critical path method scheduling and monitoring, drafting contract documents for necessary
5 phasing and grouping, drafting contracts and change orders, full-time inspection and checking and
6 approving shop drawings, color schedules, and materials;

7 (5) "division of facilities management" means the division of facilities management of the
8 department of administration;

9 (6) "engineering services" means those services described by subsection (i) of K.S.A. 74-7003,
10 and amendments thereto;

11 (7) "Firm" means (A) with respect to architectural services, an individual, firm, partnership,
12 corporation, association, or other legal entity which is: (i) permitted by law to practice the profession
13 of architecture; and (ii) maintaining an office in Kansas staffed by one or more architects who are
14 licensed by the board of technical professions; or (iii) not maintaining an office in Kansas, but which
15 is qualified to perform special architectural services that are required in special cases where in the
16 judgment of the board of regents it is necessary to go outside the state to obtain such services; (B) with
17 respect to engineering services or land surveying, an individual, firm, partnership, corporation,
18 association, or other legal entity permitted by law to practice the profession of engineering and provide
19 engineering services or practice the profession of land surveying and provide land surveying services,
20 respectively; (C) with respect to construction management services, a qualified individual, firm,
21 partnership, corporation, association, or other legal entity permitted by law to perform construction
22 management services; (D) with respect to ancillary technical services or other services that are
23 determined by the board of regents to be required for a project, a qualified individual, firm,

1 partnership, corporation, association, or other legal entity permitted by law to practice the required
2 profession or perform the other required services, as determined by the board of regents; and (E) with
3 respect to construction services, a qualified individual, firm, partnership, corporation, association, or
4 other legal entity permitted by law to perform construction services for a project;

5 (8) "land surveying" means those services described in subsection (j) of K.S.A. 74-7003, and
6 amendments thereto;

7 (9) "negotiating committee" means the board of directors of the subsidiary corporation formed
8 under section 5, and amendments thereto;

9 (10) "project" means a capital improvement project for a scientific research and development
10 facility for a state educational institution under this act which is funded from the proceeds of the bonds
11 authorized to be issued under section 7, and amendments thereto, within the limitation of
12 \$110,000,000, in the aggregate, plus all amounts required for costs of any bond issuance, costs of
13 interest on any bond issued or obtained for such scientific research and development facilities and any
14 required reserves for payment of principal and interest on any such bond;

15 (11) "project services" means architectural services, engineering services, land surveying,
16 construction management services, construction services, ancillary technical services or other
17 construction-related services determined by the board of regents to be required for a project; and

18 (12) "state building advisory commission" means the state building advisory commission
19 created by K.S.A. 75-3780, and amendments thereto.

20 (b) The board of regents, when acting under authority of this act, and each project authorized
21 by the board of regents under this act are exempt from the provisions of K.S.A. 75-1269, 75-3738
22 through 75-3741b, 75-3742 through 75-3744, and 75-3783, and amendments thereto, except as
23 otherwise specifically provided by this act.

1 (c) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments
2 thereto, or the provisions of any other statute to the contrary, all contracts for any supplies, materials
3 or equipment for a project authorized by the board of regents under this act, shall be entered into in
4 accordance with procurement procedures determined by the board of regents, subject to the provisions
5 of this section, except that, in the discretion of the board of regents, any such contract may be entered
6 into in the manner provided in and subject to the provisions of any such statute otherwise applicable
7 thereto.

8 (d) When it is necessary in the judgement of the board of regents to obtain project services for
9 a particular project by conducting negotiations therefor, the board of regents shall publish a notice of
10 the commencement of negotiations for the required project services at least 15 days prior to the
11 commencement of such negotiations in the Kansas register in accordance with K.S.A. 75-430a, and
12 amendments thereto, and in such other appropriate manner as may be determined by the board of
13 regents.

14 (e)(1) Notwithstanding the provisions of subsection (b) of K.S.A. 75-1251, and amendments
15 thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-1250 through 75-
16 1270, and amendments thereto, with respect to the procurement of architectural services for a project
17 authorized by the board of regents under this act, "negotiating committee" shall mean the board of
18 directors of the of the subsidiary corporation formed under section 5, and amendments thereto, and
19 such board of directors shall negotiate a contract with a firm to provide any required architectural
20 services for the project in accordance with the provisions of K.S.A. 75-1250 through 75-1270, and
21 amendments thereto, except that no limitation on the fees for architectural services for the project shall
22 apply to the fees negotiated by the board of directors for such architectural services.

23 (2) Notwithstanding the provisions of subsection (e) of K.S.A. 75-5802, and amendments

1 thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-5801 through 75-
2 5807, and amendments thereto, with respect to the procurement of engineering services or land
3 surveying services for a project authorized by the board of regents under this act, “negotiating
4 committee” shall mean the board of directors of the of the subsidiary corporation formed under section
5 5, and amendments thereto, and such board of directors shall negotiate a contract with a firm to
6 provide any required engineering services or land surveying services for the project in accordance with
7 the provisions of K.S.A. 75-5801 through 75-5807, and amendments thereto.

8 (3) In any case of a conflict between the provisions of this section and the provisions of K.S.A.
9 75-1250 through 75-1270, or 75-5801 through 75-5807, and amendments thereto, with respect to a
10 project authorized by the board of regents under this act, the provisions of this section shall govern.

11 (f)(1) For the procurement of construction management services for projects under this act, the
12 secretary of administration shall encourage firms engaged in the performance of construction
13 management services to submit annually to the secretary of administration and to the state building
14 advisory commission a statement of qualifications and performance data. Each statement shall include
15 data relating to (A) the firm’s capacity and experience, including experience on similar or related
16 projects, (B) the capabilities and other qualifications of the firm’s personnel, and (C) performance data
17 of all consultants the firm proposes to use.

18 (2) Whenever the board of regents determines that a construction manager is required for a
19 project under this act, the board of regents shall notify the state building advisory commission and the
20 state building advisory commission shall prepare a list of at least three and not more than five firms
21 which are, in the opinion of the state building advisory commission, qualified to serve as construction
22 manager for the project. Such list shall be submitted to the negotiating committee, without any
23 recommendation of preference or other recommendation. The negotiating committee shall have access

1 to statements of qualifications of and performance data on the firms listed by the state building
2 advisory commission and all information and evaluations regarding such firms gathered and developed
3 by the secretary of administration under K.S.A. 75-3783, and amendments thereto.

4 (3) The negotiating committee shall conduct discussions with each of the firms so listed
5 regarding the project. The negotiating committee shall determine which construction management
6 services are desired and then shall proceed to negotiate with and attempt to enter into a contract with
7 the firm considered to be most qualified to serve as construction manager for the project. The
8 negotiating committee shall proceed in accordance with the same process with which negotiations are
9 undertaken to contract with a firm to be a project architect under K.S.A. 75-1257, and amendments
10 thereto, to the extent that such provisions can be made to apply. Should the negotiating committee be
11 unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations
12 with that firm shall be terminated and shall undertake negotiations with the second most qualified firm,
13 and so forth, in accordance with that statute.

14 (4) The contract to perform construction management services for a project shall be prepared
15 by the division of facilities management and entered into by the board of regents.

16 (g) (1) To assist in the procurement of construction services for projects under this act, the
17 secretary of administration shall encourage firms engaged in the performance of construction services
18 to submit annually to the secretary of administration and to the state building advisory commission a
19 statement of qualifications and performance data. Each statement shall include data relating to (A) the
20 firm's capacity and experience, including experience on similar or related projects, (B) the capabilities
21 and other qualifications of the firm's personnel, (C) performance data of all subcontractors the firm
22 proposes to use, and (D) such other information related to the qualifications and capability of the firm
23 to perform construction services for projects as may be prescribed by the secretary of administration.

1 (2) If the board of regents determines that it is in the best interests of the project and the state
2 for a construction manager to solicit, evaluate and prepare recommendations regarding competitive
3 bids from firms to provide construction services for a project, the construction manager shall publish
4 a construction services bid notice as provided by this section with the request for proposals and other
5 bidding information prepared by the division of facilities management. At the time for opening the
6 bid proposals, the construction manager and the negotiating committee shall conduct a qualification-
7 based selection process, including interviews, and shall evaluate the bid proposals. The construction
8 manager shall perform a value engineering analysis of the bid proposals and shall make
9 recommendations to the board of regents. The current statements of qualifications of and performance
10 data on the firms submitting bid proposals shall be made available to the construction manager and
11 the board of regents by the state building advisory commission along with all information and
12 evaluations developed regarding such firms by the secretary of administration under K.S.A. 75-3783,
13 and amendments thereto. The board of regents shall select the firm to perform the construction
14 services for the project and make a public announcement of the firm selected.

15 (h)The division of facilities management shall provide such information and assistance as may
16 be requested by the board of regents or the negotiating committee for a project, including all or part
17 of any project services as requested by the board of regents, and (1) shall prepare the request for
18 proposals and publication information for each publication of notice under this section, (2) shall
19 prepare each contract for project services for a project, including each contract for construction
20 services for a project, (3) shall conduct design development reviews for each project, (4) shall review
21 and approve all construction documents for a project prior to soliciting bids or otherwise soliciting
22 proposals from construction contractors or construction service providers for a project, (5) shall obtain
23 and maintain copies of construction documents for each project, and (6) shall conduct periodic

1 inspections of each project, including jointly conducting the final inspection of each project.

2 (i) Notwithstanding the provisions of any other statute, the board of regents shall enter into one
3 or more contracts with the division of facilities management for each project for the services
4 performed by the division of facilities management for the project as required by this section or at the
5 request of the board of regents. The division of facilities management shall receive fees from the board
6 of regents to recover the costs incurred to provide such services pursuant to such contracts.

7 (j) Design development reviews and construction document reviews conducted by the division
8 of facilities management shall be limited to ensuring only that the construction documents do not
9 change the project description and that the construction documents comply with the standards
10 established under K.S.A. 75-3783, and amendments thereto, by the secretary of administration for the
11 planning, design and construction of buildings and major repairs and improvements to buildings for
12 state agencies, including applicable building and life safety codes and appropriate and practical energy
13 conservation and efficiency standards.

14 (k) Each project for a state educational institution shall receive a final joint inspection by the
15 division of facilities management and the board of regents. Each such project shall be officially
16 accepted by the board of regents before such project is occupied or utilized by the state educational
17 institution, unless otherwise agreed to in writing by the contractor and the board of regents as to the
18 satisfactory completion of the work on part of the project that is to be occupied and utilized, including
19 any corrections of the work thereon.

20 (l) The provisions of this section shall apply to each project authorized by the board of regents
21 under this act and shall not apply to any other capital improvement project of the board of regents or
22 of any state educational institution that is specifically authorized by any other statute.”;

75-5524. Same; employee participation agreements; service charge; payroll deductions, minimum and maximum; state liability limited; amounts deferred considered for retirement purposes; clearing fund.

(a) The director is authorized to enter into a voluntary agreement with any employee whereby the director agrees to defer and deduct each payroll period a portion of the employee's salary or compensation from the state in accordance with the Kansas public employees deferred compensation plan. Such agreement may require each participant to pay a service charge to defray all or part of any significant costs incurred and to be recovered by the state pursuant to subsection (c) of K.S.A. 75-5523, as a result of the administration of this act. Pursuant to this act and such agreements the director is authorized to deduct amounts authorized in such agreements from the salary or compensation of such employee each payroll period, as part of the system of regular payroll deduction.

(b) The minimum amount and the maximum amount which may be deferred in any one payroll period shall be established by rules and regulations adopted under K.S.A. 75-5529.

(c) On and after July 1, 2002, pursuant to section 401 (a) of the federal internal revenue code, the state hereby adopts a qualified plan by which the state may contribute each payroll period, to the deferred compensation plan, a specified amount, subject to appropriations, on behalf of all employees who have entered into a voluntary agreement with the director as provided in this section.

(d) The Kansas public employees deferred compensation plan shall exist and be in addition to, and shall not be a part of any retirement or pension system for employees. The state shall not be responsible for any loss incurred by an employee under the Kansas public employees deferred compensation plan established and approved pursuant to this act.

(e) Any amount of the employee's salary or compensation that is deferred under such authorized agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by any such employee, but any sum deferred or deducted shall not be subject to any state or local income taxes for the year in which such sum is earned but shall be subject to applicable state and local income taxes for the year in which such sum is received by the employee.

(f) The director is hereby authorized to establish a deferred compensation clearing fund in the state treasury in which shall be placed temporarily all compensation deferred and deducted in accordance with this act, as provided for in any agreement between an employee and the director.

History: L. 1976, ch. 367, § 4; L. 1979, ch. 298, § 3; July 1.