

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE.

The meeting was called to order by Chairperson Ray Cox at 3:30 p.m. on February 12, 2003 in Room 527-S of the Capitol.

All members were present except: Representative Rob Boyer - Excused
Representative Larry Campbell - Excused
Representative Vaughn Flora - Excused
Representative Kenny Wilk - Excused

Committee staff present: Dr. Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes
Maggie Breen, Secretary

Conferees appearing before the committee: Barbara Hinton, Legislative Post Auditor
Derl S. Treff, Pooled Money Investment Board
Kathy Taylor Olsen, Kansas Bankers Association

Others attending: See attached

Chairman Cox opened the hearing on **SB 8 - Pooled money investment board, comparative investment performance review and audit of investment program.**

Proponents:

Barbara Hinton, Legislative Post Auditor, spoke in favor of **SB 8.** She said the bill would implement a recommendation from her staff and the Legislative Post Audit Committee for eliminating overlapping audit requirements relating to the Pooled Money Investment Board. Consolidating the requirements could save as much as \$8,000 each time the performance review is done. (**Attachment 1**)

Derl S. Treff, Director of Investments, Pooled Money Investment Board, said he was in agreement with Barbara Hinton's testimony. The scope of the two audits is essentially the same and the biennial audit could be eliminated without sacrificing the audit scope and at the same time save the State money. (**Attachment 2**)

Chairman Cox closed the hearing on **SB 8** and opened the hearing on **HB 2224 - Banking powers, purchase annuity.**

Proponents:

Kathy Taylor Olsen, Kansas Bankers Association, spoke in favor of **HB 2224.** The bill would add a new subsection to K.S.A. 9-1101. It would allow a state-chartered bank to purchase an annuity for the sole purpose of funding an employee deferred compensation or benefit plan. The purchase would be subject to the limitations prescribed by rules and regulations that will be adopted by the State Bank Commissioner. (**Attachment 3**)

Sonya Allen, General Counsel, Office of State Bank Commissioner (OSBC), spoke in favor of **HB 2224.** The issue of an annuity has arisen because a bank, that had an insurance policy in place, was encouraged by the insurance company who sold them the plan, to convert it to an annuity. The bank did convert the policy, but did not consider the lack of any legal authority to hold the investment. If the legislation is passed, the OSBC will enact regulations to govern the scope of this new authority. (**Attachment 4**)

Chairman Cox closed the hearing on **HB 2224.**

CONTINUATION SHEET

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE at 3:30 p.m. on February 12, 2003 in Room 527-S of the Capitol.

Chairman Cox asked what the Committee's pleasure was on **SB 8**.

Representative Sharp moved to accept **SB8** and move it out favorably for passage. Representative Dillmore seconded the motion. The motion carried.

Chairman Cox asked what the Committee's pleasure was on **HB 2244**.

Representative Grant moved to move **HB 2244** out favorably for passage. Representative Dreher seconded the motion. The motion carried.

Chairman Cox presented the minutes of February 5 for approval.

Representative Grant moved to accept the minutes as written. Representative Vickrey seconded the motion. The motion carried.

The meeting adjourned at 3:39 p.m.

The date of the next meeting will be determined later.

When it became apparent that the committee would not meet again this year, the minutes of the February 12 meeting were sent around to the committee asking for any additions or corrections before March 19th when they would be considered approved. There was one correction, Rep. Campbell's first name was shown as Bob in error. It was corrected to Larry.



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

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**Testimony for the
House Financial Institutions Committee on SB 8**
Barb Hinton, Legislative Post Auditor
February 12, 2003

Mr. Chairman and members of the Committee, thank you for allowing me to appear before you in support of SB 8. This bill would implement a recommendation from my staff and the Legislative Post Audit Committee for eliminating overlapping audit requirements relating to the Pooled Money Investment Board.

Under current State law, the PMIB's investment practices are reviewed as part of 2 separate audits:

- a periodic investment performance review and investment program audit [PMIB contracts out this review / audit at least once every 2 years under K.S.A. 2002 Supp. 75-4264]
- an annual audit of the PMIB's financial-management practices and its compliance with applicable State laws [my office contracts out this audit under K.S.A. 46-1106(2)]

The Board's Director of Investments contacted our office last fall to discuss the overlap of work he saw between the 2 audits. That work is described on the attached page.

The most cost-effective solution: consolidate the 2 requirements into the annual audit of the Pooled Money Investment Board's financial-management practices. Consolidating these requirements could save as much as \$8,000 each time the investment performance review is done.

On behalf of the Post Audit Committee and our office, I would urge the Committee to support this bill as part of its effort to make government more efficient.

House Financial Institutions
2-12-03
Attachment 1

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Reviewing the Operations of the Pooled Money Investment Board

As part of its responsibilities, the Pooled Money Investment Board does the following:

- *helps ensure that cash flow needs of State agencies for moneys in the State Treasury are met*
- *manages State idle funds and municipal investment moneys in accordance with the requirements of State law*
- *ensures that investment income is received and properly credited to the appropriate accounts*
- *maintains custodial accountability for moneys for which it is responsible*

The audit reviewed each of the above areas of responsibility, and found no deficiencies.

Agency Response page 8

This audit was conducted by the joint venture of Allen Gibbs & Houlik and Berberich Trahan & Company, certified public accounting firms, under contract with the Legislative Division of Post Audit. If you need any additional information about the audit's findings, please contact Randy Tongier at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.



POOLED MONEY INVESTMENT BOARD

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DIRECTOR OF INVESTMENTS
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TESTIMONY ON SENATE BILL 8

by
Derl S. Treff
Director of Investments
Pooled Money Investment Board
February 12, 2003

The Honorable Ray Cox
House Committee on Financial Institutions
Statehouse, Room 431-N
Topeka, Kansas 66612

Representative Cox and Members of the Committee:

The Legislative Post Audit Act (K.S.A. 46-1106) requires a review of the financial management practices of the Pooled Money Investment Board every year. Additionally state law (K.S.A. 75-4264) requires that an investment performance review and audit be conducted every two years. The scope of both these audits is essentially the same, with the exception of the language that we are proposing to incorporate into K.S.A. 46-1106.

The proposed language is as follows: *The separate audit of the Pooled Money Investment Board also shall include a comparative investment performance review and an analysis of the investment program, including an evaluation of investment policies and practices and of specific investments in the Pooled Money Investment Portfolio. The analysis of the specific investments in the Pooled Money Investment Portfolio shall review whether such investments meet the investment priorities of safety, liquidity and performance. The performance of such investments shall be measured by comparison to an appropriate market index.*

By incorporating this language into K.S.A. 46-1106 we could eliminate the biennial audit without sacrificing audit scope and at the same time save the State approximately \$10,000.



February 12, 2003

To: House Committee on Financial Institutions

From: Kathleen Taylor Olsen, Kansas Bankers Association

Re: HB 2224

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of **HB 2224**. This bill would amend K.S.A. 9-1101, the bank powers section of the banking code.

Specifically, we are adding a new subsection (30), which appears on the last page (page 7) of the bill. The new language would allow a state-chartered bank to purchase an annuity for the sole purpose of funding an employee deferred compensation or benefit plan. Any such purchase would be subject to the limitations prescribed by rules and regulations that will be adopted by the State Bank Commissioner.

The KBA brings this bill to you at the request of one of our members. As is typical of many banks, this bank held a life insurance policy on the officers of the bank. When the bank president retired, the bank's board of directors was advised to exchange (using the Section 1031 tax-free exchange as provided by the Internal Revenue Code) the cash value of the life insurance policy for an annuity. The monthly retirement payments to the retired president were to be paid from the annuity – so that the annuity's value would decline as payments were made until the balance was zero.

This was wonderful advice, except that such an investment (i.e., in an annuity) is not currently authorized by K.S.A. 9-1101. Upon this discovery, we have been working with the State Banking Department to come up with language that would allow a state-chartered bank to invest in an annuity – but only for the very limited purpose of funding an employee deferred compensation or an employee benefit plan. It is not our intention to, and we would ask your assistance in making sure that we do not, promote annuities in general as an appropriate investment for state-chartered banks.

In conclusion, we believe that, with the requirement that such an investment will be for the sole purpose of funding employee deferred compensation or benefit plans, and the limitations that will be placed on such an investment by the State Bank Commissioner, state-chartered banks should be allowed to make this type of investment if it makes good tax sense for their situation. Thank you and we would ask that you act favorably on **HB 2224**.

**STATE OF KANSAS
KATHLEEN SEBELIUS
GOVERNOR**

**Franklin W. Nelson
Bank Commissioner**

**Judi M. Stork
Deputy Bank Commissioner**



**Sonya L. Allen
General Counsel**

**Kevin C. Glendening
Deputy Commissioner
Consumer and Mortgage Lending**

**OFFICE OF THE
STATE BANK COMMISSIONER**

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

February 6, 2002

Mr. Chairman and Members of the Committee:

My name is Sonya Allen. I am the General Counsel for the Office of the State Bank Commissioner. HB 2224 would amend the powers section of the State Banking Code, K.S.A. 9-1101, and allow a state bank to invest in an annuity to fund a deferred compensation plan for its employees. Banks can currently purchase a life insurance policy to fund such a plan. The issue of an annuity has arisen because a bank that had an insurance policy in place was encouraged by the insurance company who sold them the plan to convert it to an annuity. The bank did convert the policy, but did not consider the lack of any legal authority to hold the investment. Hence, the request for legislation.

If HB 2224 is enacted, the Office of the State Bank Commissioner will enact regulations to govern the scope of this new authority. While we are still in the process of considering the content of any regulations, at this time, we believe the regulations should focus on limiting the dollar amount invested in the annuity based on a percentage of the bank's capital, and requiring the bank to show that it has evaluated the issuer of the annuity to ensure adequate credit quality.