

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS AND LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 1:30 p.m. on March 25, 2003 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Ken Wilke, Revisor of Statutes
Mike Heim, Legislative Research
Dennis Hodgins, Legislative Research
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list.

Action on HB 2212 - Annexation; effective date.

Chairperson Allen called the committee's attention to **HB 2212** and announced that Section III of this bill was placed into **SB 237** and Section I was added to **SB 79** and that if this bill is to be considered the Chair recommends a severability clause be added to **HB 2122**. Senator Jackson moved to amend HB 2122 by adding a severability clause and the motion was seconded by Senator O'Connor, the motion to amend passed. Senator Jackson then moved to pass the bill out favorably, Huelskamp seconded and HB 2212 is passed favorably as amended. Senator's Buhler and Chairperson Allen request being recorded as votes against passage of HB 2212.

Action on SB 265 - Providing an exemption to the ban on certain former state officers and employees right to be employed by or contract with certain person or businesses.

Chairperson Allen called the committee's attention to **SB 265** for discussion. Staff distributed a balloon (Attachment 1) for the proposed amendment to language on page 2 line 33-37 of the bill, specifying which unclassified state employees are excepted from the bill. Senator O'Connor directed attention to the placement of proposed language and an error was recognized, the proposed additional text should be inserted on line 37 not 35, after the word *act*. Senator Buhler moved to adopt the proposed amendment, it was seconded by Senator Jackson and the motion carried.

Senator Buhler moves to pass bill favorably as amended, Senator Jackson seconds, and Senator Clark offers discussion on possible change. Senator Buhler and Senator Jackson withdrew their motion. Senator Clark recommends having the words "within last 12 months" be added on page 2 line 32 after "except those participating in a contract." Senator Clark makes a substitute motion to pass SB 265 favorably with the above recommended language change, Senator O'Connor seconded and the motion carried.

Senator Schmidt requested the minutes reflect he did not participate in any discussion, deliberation, or consideration of **SB 265**.

Approval of Minutes

Chairperson Allen asked for the consideration minutes for March 11, 13, 17, and 20, 2003. Senator O'Connor moved to approve minutes for these dates, Senator Buhler seconded and motion carried.

Adjournment

Meeting adjourned at 2:11 p.m.

1 institution for the reason of the scheduled closure, abolition or cessation
 2 of operations, and who voluntarily terminates such employment after re-
 3 ceiving such state officer or employee's notice of the scheduled layoff;
 4 ~~(C) a state officer or employee who participated in making a contract~~
 5 ~~while employed by the department of corrections at the Topeka correc-~~
 6 ~~tional facility and who is laid off from such employment due to the trans-~~
 7 ~~fer of the reception and diagnostic center from the Topeka correctional~~
 8 ~~facility to the El Dorado correctional facility; (D) a state officer or em-~~
 9 ~~ployee who participated in making a contract while employed by the de-~~
 10 ~~partment of corrections at the Topeka correctional facility and who vol-~~
 11 ~~untarily terminates from such employment after receiving such state~~
 12 ~~officer or employee's notice of scheduled layoff due to the transfer of the~~
 13 ~~reception and diagnostic center from the Topeka correctional facility to~~
 14 ~~the El Dorado correctional facility; (E) a state officer or employee who~~
 15 ~~participated in making a contract while employed by the department of~~
 16 ~~social and rehabilitation services within the division of services for the~~
 17 ~~blind or at Kansas industries for the blind at facilities located on the~~
 18 ~~Topeka state hospital property, as defined by K.S.A. 2000 Supp. 75-~~
 19 ~~37,123 and amendments thereto, and who is laid off from such employ-~~
 20 ~~ment due to the closure, abolition or other cessation of operations of the~~
 21 ~~Kansas industries for the blind as a state program at such location; or (F)~~
 22 ~~a state officer or employee who participated in making a contract while~~
 23 ~~employed by the department of social and rehabilitation services within~~
 24 ~~the division of services for the blind or at Kansas industries for the blind~~
 25 ~~at facilities located on the Topeka state hospital property, as defined by~~
 26 ~~K.S.A. 2000 Supp. 75-37,123 and amendments thereto, and who volun-~~
 27 ~~tarily terminates from such employment after receiving such state offi-~~
 28 ~~cer's or employee's notice of scheduled layoff due to the closure, abolition~~
 29 ~~or other cessation of operations of the Kansas industries for the blind as~~
 30 ~~a state program at such location where a state officer or employee who~~
 31 ~~participated in making a contract while employed by the state of Kansas~~
 32 ~~is laid off or scheduled to be laid off from any state position on or after~~
 33 ~~July 1, 2002. As used in this subsection (a)(2), "laid off" and "layoff" mean,~~
 34 ~~in the case of a state officer or employee in the classified service under~~
 35 ~~the Kansas civil service act, being laid off under K.S.A. 75-2948, and~~
 36 ~~amendments thereto, and, in the case of a state officer or employee in~~
 37 ~~the unclassified service under the Kansas civil service act, being termi-~~
 38 ~~nated from employment with the state agency by the appointing authority;~~
 39 ~~except that "laid off" and "layoff" shall not include any separation from~~
 40 ~~employment pursuant to a budget reduction or expenditure authority~~
 41 ~~reduction and a reduction of F.T.E. positions under K.S.A. 75-6801, and~~
 42 ~~amendments thereto; "institution" means Topeka state hospital or Win-~~
 43 ~~field state hospital and training center.~~

except for those state employees in the unclassified
 service specified in paragraphs (a) and (e) of
 subsection (1) of K.S.A. 75-2935, and amendments
 thereto,

X
 move

Senate Elec & Loc Gov
 03-25-03
 Attachment 1

Senate Elec & Loc Gov
 03-25-03
 Attachment 1

Article 29.—CIVIL SERVICE

75-2925.

CASE ANNOTATIONS

9. Trial court reversed in dismissing action under Kansas Civil Service Act as record is not sufficiently developed to warrant dismissal. *Prager v. Kansas Dept. of Revenue*, 271 K. 1, 20 P.3d 39 (2001).

75-2929d. State civil service board; hearing of appeals; witnesses; production of papers. (a) The state civil service board shall hear appeals taken to it pursuant to: (1) K.S.A. 75-2940, 75-2949 and 75-3747, and amendments thereto, concerning demotion, dismissal or suspension of a permanent employee in the classified service, or concerning refusal to examine an applicant or to certify a person as eligible for a job class, and (2) K.S.A. 75-2973, and amendments thereto, concerning disciplinary action in violation of that statute.

(b) When an appeal is taken to the board, the board shall establish a time and a place for the hearing which shall be held within 45 days after receipt of request for the appeal. The board shall notify the person bringing the appeal and the appointing authority or other person whose action is being reviewed of the time and the place of the hearing at least 14 days prior to such hearing. Each party at the hearing shall have the right to be represented by a person of the party's own choice. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. For purposes of the administrative procedure act, the state civil service board shall be deemed the agency head. The board may affirm, modify or reverse an agency action and order any other action it deems appropriate.

(c) The board, or the director of personnel services when authorized by majority vote of the board, may depose witnesses. Either party to a hearing may depose witnesses in accordance with the Kansas administrative procedure act. If books and papers are required to be produced in advance of a hearing date, the person or agency producing the books and papers shall be entitled to receive reasonable compensation to recover all costs of such production from the person or agency for which they are produced. The board, any presiding officer or the director may examine such public records as may be required in relation to any matter which the board has authority to investigate.

(d) Each person not in the classified or unclassified service who appears before the board or the director by order shall receive for such person's attendance the fees and mileage provided for witnesses in civil actions in the district court. Such fees and mileage shall be audited and paid by the state upon presentation of proper vouchers. Each witness subpoenaed at the request of parties other than the board or the director shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of such witness was relevant and material to the matter investigated or, if such witness is not called to testify, the board determines and certifies that such compensation should be paid.

History: L. 1978, ch. 332, § 21; L. 1981, ch. 334, § 1; L. 1985, ch. 276, § 1; L. 1988, ch. 356, § 300; L. 1989, ch. 283, § 20; L. 2000, ch. 152, § 26; July 1.

CASE ANNOTATIONS

4. Civil service board may affirm, modify, reverse or order any other action the board deems appropriate in personnel appeal. *Kansas Dept. of Transportation v. Humphreys*, 266 K. 179, 182, 967 P.2d 759 (1998).

75-2935. Classified and unclassified services. The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

(a) Chosen by election or appointment to fill an elective office;

(b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;

(c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;

(d) all employees in the office of the governor;

(e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;

(f) chancellor, president, deans, administrative officers, student health service physicians,