

Approved: January 24, 2008

Date

MINUTES OF THE HOUSE INSURANCE AND FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 P.M. on January 23, 2008 in Room 527-S of the Capitol.

All members were present except:

Representative Anthony Brown- excused
Representative Tom Burroughs- excused
Representative Jeff Colyer- excused
Representative Mitch Holmes- excused
Representative Mario Goico- excused
Representative Mike Kiegerl- excused
Representative Brenda Landwehr- excused
Representative Ty Masterson- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Ken Wilke, Revisor of Statutes Office
Sue Fowler, Committee Secretary

Conferees appearing before the committee:

John P. Smith, Administrator, Kansas Department of Credit Unions, Topeka, KS
John Federico, Federico Consulting, Topeka, KS

Others attending:

See attached list.

Introduction of Bills:

John P. Smith, representing Kansas Department of Credit Unions, (Attachment #1), introduced a bill regarding Credit union administrator; appointment, duties, salary, expenses and term. Representative Dillmore moved for introduction of the bill. Seconded by Representative Neighbor. Motion carried.

John P. Smith, representing Kansas Department of Credit Unions, (Attachment #2), introduced a bill regarding Administrator's jurisdiction. Representative Dillmore moved for introduction of the bill. Seconded by Representative Wetta. Motion carried.

John Federico, representing Kansas Credit Union Association, introduced a bill regarding regulation of Credit Unions. Representative Grant moved for introduction of the bill. Seconded by Representative Humerickhouse. Motion carried.

Representative Grant recommended without objection to move adoption of the committee minutes of January 22, 2008. Motion carried.

Next meeting will be Thursday, January 24, 2008, at 3:30 P.M., in Room 527-S.

Meeting adjourned at 3:38 P.M.

17-2233 Credit union administrator; appointment, duties, salary, expenses and term.

The credit union administrator shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, ~~and shall be a person with~~ Any person appointed as the administrator shall have at least three years' actual, practical experience in the operation and management of a credit union or have served for the same period of time in the agency having charge of credit union operation in this or some other state of the United States, or in the national credit union administration. The administrator shall not be a member of the council. The governor shall fix the compensation of the administrator. In addition, the administrator shall be entitled to receive the actual and necessary expenses incurred in the performance of the administrator's duties. The administrator shall be in the unclassified service under the Kansas civil service act. The administrator shall be appointed for a term of four years. The administrator shall attend the meetings of the council and shall have the general charge of the work of the council and the general supervision of credit unions. The administrator shall keep a permanent record of all meetings and proceedings of the council at the office of the administrator.

17-2242. Administrator's jurisdiction.

(a) If it appears to the administrator that the board of directors, supervisory or credit committees, or any employee of any credit union has been dishonest, reckless or incompetent in the performance of their duties, the administrator: (1) May recommend the removal of such persons; and (2) may submit any such findings, reports or recommendations to any regularly or specially called meeting of the board of directors, credit and supervisory committees or, if the administrator has done this, after due notice given at least 10 days in advance, may submit the administrator's findings and recommendations and reports to a general meeting of the shareholders. Due notice shall be construed as being such notice as is provided in the bylaws of the credit union for calling such meetings. The administrator may give such additional notice to the members as the administrator deems advisable. The administrator and employees shall not be personally liable for such reports, recommendations and findings made in good faith. At any such meeting of the shareholders it shall be in order to call for a vote to remove such officers, board members, committee members, or employees. Such action by the shareholders to remove or not remove such persons from their positions shall be absolute and need not be based on any finding, concurrence or nonagreement with the administrator that such persons are or have been dishonest, reckless or incompetent in the performance of their duties. At any such meeting of the shareholders the board of directors, supervisory or credit committees may concur or not concur with a recommendation of removal whether or not they agree with the findings of the administrator.

(b) As an alternative to and notwithstanding subsection (a), the administrator may

suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer, committee member or employee who has committed any violation of a law, rules and regulations or of a cease and desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in any act, omission or practice which constitutes a breach of that person's fiduciary duty as such director, officer, committee member or employee, when the administrator has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members. The credit union board of directors or individuals named in the administrative action shall be given a hearing or an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedures act.

(c) (1) The administrator may prohibit the further participation in any manner in the conduct of any credit union in Kansas of any current or former director, officer, committee member or employee if the administrator finds that such director, officer, committee member or employee:

(A) Has been dishonest, reckless or incompetent in performing the duties of such director, officer, committee member or employee; or

(B) willfully or continuously fails to comply with any order issued by the administrator.

(2) Any individual named in the administrative action shall be given a hearing or an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedures act.

(3) The provisions of this section may be used in addition to, or in lieu of, the provisions of subsections (a) and (b) at the administrator's discretion.