

Approved: SB 3-19-09
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:05 a.m. on March 11, 2009, in Room 784 of the Docking State Office Building.

All members were present except:
Representative Scott Schwab- absent

Committee staff present:
Renaë Jefferies, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Jerry Donaldson, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Others attending:
See attached list.

The meeting was called to order by Chairman Steve Brunk at 9:05 a.m. The minutes for February 16 and 17, March 3, 4 and 5 were approved. The Chairman called upon the Committee to work **SB 29**.

SB 29 - Board of technical professions; relating to licensure.

The Chairman called upon Renaë Jefferies, Assistant Revisor to give a briefing on the bill.

Representative Brunk recapped the changes as rather than just a corporation we are allowing any business entity, we are staggering the licenses and allowing intern positions to be official positions.

The Chairman asked Renaë to present the balloons on the bill. Renaë first presented the Revisor's Technical Amendment (Attachment 1). The only change was striking out the word "themselves" and inserting the words "one's self." It was a change to use the proper term to describe one's self.

Representative Grant made a motion to adopt the Technical Balloon. The motion was seconded by Representative Gatewood. The motion carried.

Renaë presented the changes in the George Barbee Balloon Amendment (Attachment 2). On page 3 lines 39 and 40 were changed to read "the locating or laying out of alignments, positions or elevations where such work is part of the construction of engineering or architectural works". On page 11 lines 28 through 30 are stricken and replaced by the following sentence: The locating or laying out of alignments, positions or elevations where such work is part of the construction of engineering or architectural works". On page 13 line 23 the word "first" is stricken and replaced with the word "last".

Representative Grant made a motion to approve the Barbee Balloon Amendment. The motion was seconded by Representative Tietze. The motion carried.

We are back on the bill as amended. Representative Grant made a motion to pass out SB 29 favorable for passage as amended. Representative Gatewood seconded the motion. The motion carried.

The Chairman called for the Committee to work **Sub SB 91**.

Sub for SB 91 - Planning and zoning; vesting of development rights.

Renaë Jefferies, Assistant Revisor briefed the Committee on the changes in **Sub SB 91** (Attachment 3).

Representative Brunk commented that the bill would use the word "substantial" rather than 35%, mobile homes were dropped from the bill and manufactured and modular homes were added.

Representative Gatewood mentioned an old school building next to his house and someone wanted to build apartments at that location. Would this bill allow someone to hold on to that land for 8 years, doing nothing

CONTINUATION SHEET

Minutes of the House Commerce and Labor Committee at 9:05 a.m. on March 11, 2009, in Room 784 of the Docking State Office Building.

with it and then start construction with substantial completion by the 10th year? Renae said that under current law their rights would vest upon issuance of permits by the city. In the future under the proposed bill they would have 10 years.

Representative Worley said that the comment was made that under this bill Representative Gatewood's example would be considered as residential development so that there would be no requirement that it be 35% or substantially completed. The bill is about protecting the developer after he has followed the rules by obtaining the proper permits. The city or the county can't come in and say they have changed their minds. As far as waiting 8 years to start construction, no one wants to wait. You don't make money off of vacant land. In actuality they could wait because they have 10 years of protected interest.

Representative Gatewood asked why it was necessary to double that length of time. Representative Worley replied that this law was written at a time when there were not as many environmental and zoning requirements as now and funding wasn't as big as it is now.

Representative Gatewood asked what would happen if a developer went bankrupt. Representative Worley said that someone would have to sell that property. The bill is intended to protect the developer who has followed all the rules and protects them from the changes made by a new planning commission after they have invested time and money.

Representative Worley was not sure that this bill would be applicable to Representative Gatewood's example.

Representative Gatewood asked for staff opinion. Representative Brunk explained that Representative Worley felt that this would be a redevelopment with new zoning inside the city on land that already had a structure on it and **SB 91** would apply more to new developments.

Representative Grange asked for clarification on page 1, line 23 as to why we would delete mobile homes. Renae said that Martha Nae Smith had requested that change. Martha Nae Smith said that mobile homes were built prior to 1976 and this bill was concerned with new development and you would not want 1976 or older homes brought in.

Representative Worley made a motion to approve for passage Sub SB 91. Representative Hermanson seconded the motion. The motion carried.

The meeting was adjourned at 09:45 a.m.

SENATE BILL No. 29

By Committee on Federal and State Affairs

1-14

10 AN ACT concerning the state board of technical professions; relating to
11 licensure; amending K.S.A. 74-7003, 74-7009, 74-7013, 74-7018, 74-
12 7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034,
13 74-7036 and 74-7041 and repealing the existing sections; also repealing
14 K.S.A. 74-7043, 74-7044 and 74-7045.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 74-7003 is hereby amended to read as follows: 74-
18 7003. As used in ~~this act~~ K.S.A. 74-7001 et seq., and amendments thereto:

19 (a) "Technical professions" includes the professions of engineering,
20 land surveying, architecture, landscape architecture and geology as the
21 practice of such professions are defined in ~~this act~~ K.S.A. 74-7001 et seq.,
22 and amendments thereto.

23 (b) "Board" means the state board of technical professions.

24 (c) "License" means a license to practice the technical professions
25 granted under ~~this act~~ K.S.A. 74-7001 et seq., and amendments thereto.

26 (d) "Architect" means a person whose practice consists of:

27 (1) Rendering services or performing creative work which requires
28 architectural education, training and experience, including services and
29 work such as consultation, evaluation, planning, providing preliminary
30 studies and designs, overall interior and exterior building design, the
31 preparation of drawings, specifications and related documents, all in con-
32 nection with the construction or erection of any private or public building,
33 building project or integral part or parts of buildings or of any additions
34 or alterations thereto, or other services and instruments of services related
35 to architecture;

36 (2) representation in connection with contracts entered into between
37 clients and others; and

38 (3) observing the construction, alteration and erection of buildings.

39 (e) "Practice of architecture" means the rendering of or offering to
40 render certain services, as described in subsection (d), in connection with
41 the design and construction or alterations and additions of a building or
42 buildings; the design and construction of items relating to building code
43 requirements, as they pertain to architecture, and other building related

Revisor
Technical Amendments
March 11, 2009

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Attachment # 1

1 otherwise discipline, suspend or revoke the certificate of authorization of
2 any corporation whose officers or directors have committed any act or
3 have been guilty of *business entity which has engaged in* any conduct
4 which would authorize the board to *limit, condition*, reprimand or oth-
5 erwise discipline, suspend or revoke the license of a person under this
6 section.

7 (c) The board, for reasons it may deem sufficient, may reissue a li-
8 cense or certificate of authorization ~~to any person whose license or cer-~~
9 ~~tificate of authorization~~ that has been revoked and may remove the sus-
10 pension of the license or certificate of authorization ~~of any person whose~~
11 ~~license or certificate of authorization has been suspended~~ providing seven
12 or more members of the board vote in favor of such reissuance or removal
13 of suspension. A new license or certificate of authorization, to replace any
14 revoked or suspended license or certificate of authorization, may be is-
15 sued, subject to rules and regulations of the board, and a charge of \$100
16 shall be made for the issuance of such license or \$150 for the issuance of
17 a certificate of authorization.

18 (d) Any action of the board pursuant to this section shall be subject
19 to the provisions of the Kansas administrative procedure act.

20 Sec. 10. K.S.A. 74-7029 is hereby amended to read as follows: 74-

21 7029. (a) It shall be a class A misdemeanor for any person to: (1) Practice
22 or offer to practice or hold ~~the person's self themselves~~ out as entitled to
23 practice any technical profession unless ~~they~~ *the person is* licensed as
24 provided in ~~this act~~ *K.S.A. 74-7001 et seq., and amendments thereto*, or
25 holds a certificate of authorization issued under K.S.A. 74-7036, and
26 amendments thereto; (2) present or attempt to use, as such person's own,
27 the license, certificate of authorization or seal of another; (3) falsely im-
28 personate any other practitioner of like or different name; (4) give false
29 or forged evidence to the board or any member thereof in obtaining a
30 license or certificate of authorization; (5) use or attempt to use a license
31 or certificate of authorization that has expired or been suspended or re-
32 voked; (6) falsely advertise as a licensed practitioner or as the holder of a
33 certificate of authorization; (7) use in connection with such person's
34 name, or otherwise assume, or advertise any title or description intended
35 to convey the impression that such person is a licensed practitioner or
36 holds a certificate of authorization; or (8) otherwise violate any of the
37 provisions of ~~this act~~ *K.S.A. 74-7001 et seq., and amendments thereto*, or
38 any rule and regulation promulgated by the board ~~in conformance with~~
39 ~~the revisions of this act~~.

one's self

40 (b) For the purposes of subsection (a)(1), a person shall be construed
41 to practice or offer to practice or hold ~~the person's self themselves~~ out as
42 entitled to practice a technical profession if such person: (1) Practices any
43 branch of the technical professions; (2) by verbal claim, sign, advertise-

one's self

1 ment, letterhead, card or in any other way represents the ~~person's self~~
 2 ~~person~~ to be an architect, landscape architect, professional engineer, *ge-*
 3 *ologist* or land surveyor; (3) through the use of some other title implies
 4 that such person is an architect, landscape architect, professional engi-
 5 neer, *geologist* or land surveyor or that such person is licensed to practice
 6 a technical profession; or (4) holds ~~the person's self~~ ~~themselves~~ out as able
 7 to perform, or does perform, any service or work or any other service
 8 designated by the practitioner which is recognized as within the scope of
 9 the practice of a technical profession.

one's self

10 (c) The attorney general of the state or the district or county attorney
 11 of any county, at the request of the board, shall render such legal assis-
 12 tance as may be necessary in carrying out the provisions of ~~this act~~ K.S.A.
 13 74-7001 *et seq.*, and amendments thereto. Upon the request of the board,
 14 the attorney general or district or county attorney of the proper county
 15 shall institute in the name of the state or board the proper proceedings
 16 against any person regarding whom a complaint has been made charging
 17 such person with the violation of any of the provisions of ~~this act~~ K.S.A.
 18 74-7001 *et seq.*, and amendments thereto. The attorney general, and such
 19 district or county attorney, at the request of the attorney general or of
 20 the board, shall appear and prosecute any and all such actions.

21 Sec. 11. K.S.A. 74-7031 is hereby amended to read as follows: 74-
 22 7031. The provisions of ~~this act~~ K.S.A. 74-7001 *et seq.*, and amendments
 23 *thereto*, requiring licensure or the issuance of a certificate of authorization
 24 under K.S.A. 74-7036, and amendments thereto, to engage in the practice
 25 of architecture shall not be construed to prevent or to affect:

26 (a) The practice of any person engaging in the publication of books
 27 or pamphlets illustrating architectural designs.

28 (b) Persons preparing plans, drawings or specifications for one and
 29 two family dwellings or for agricultural buildings.

30 (c) Persons furnishing, individually or with subcontractors, labor and
 31 materials, with or without plans, drawings, specifications, instruments of
 32 service, or other data concerning the labor and materials to be used for
 33 any of the following as long as the utilization of the uniform building code
 34 or life safety code, as currently adopted by the division of architectural
 35 services of the state of Kansas, is not required:

36 (1) Store fronts or facades, interior alterations or additions, fixtures,
 37 cabinet work, furniture, appliances or other equipment;

38 (2) work necessary to provide for installation of any item designated
 39 in subsection (c)(1);

40 (3) alterations or additions to a building necessary to or attendant
 41 upon installation of any item designated in subsection (c)(1), if the alter-
 42 ation or addition does not change or affect the structural system of the
 43 building, which structural system includes, but is not limited to, foun-

SENATE BILL No. 29

By Committee on Federal and State Affairs

1-14

George Barbee
Kansas State Board of Technical Profession
Balloon Amendments
March 4, 2009

10 AN ACT concerning the state board of technical professions; relating to
11 licensure; amending K.S.A. 74-7003, 74-7009, 74-7013, 74-7018, 74-
12 7021, 74-7022, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7034,
13 74-7036 and 74-7041 and repealing the existing sections; also repealing
14 K.S.A. 74-7043, 74-7044 and 74-7045.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 74-7003 is hereby amended to read as follows: 74-
18 7003. As used in ~~this act~~ K.S.A. 74-7001 et seq., and amendments thereto:

19 (a) "Technical professions" includes the professions of engineering,
20 land surveying, architecture, landscape architecture and geology as the
21 practice of such professions are defined in ~~this act~~ K.S.A. 74-7001 et seq.,
22 and amendments thereto.

23 (b) "Board" means the state board of technical professions.

24 (c) "License" means a license to practice the technical professions
25 granted under ~~this act~~ K.S.A. 74-7001 et seq., and amendments thereto.

26 (d) "Architect" means a person whose practice consists of:

27 (1) Rendering services or performing creative work which requires
28 architectural education, training and experience, including services and
29 work such as consultation, evaluation, planning, providing preliminary
30 studies and designs, overall interior and exterior building design, the
31 preparation of drawings, specifications and related documents, all in con-
32 nection with the construction or erection of any private or public building,
33 building project or integral part or parts of buildings or of any additions
34 or alterations thereto, or other services and instruments of services related
35 to architecture;

36 (2) representation in connection with contracts entered into between
37 clients and others; and

38 (3) observing the construction, alteration and erection of buildings.

39 (e) "Practice of architecture" means the rendering of or offering to
40 render certain services, as described in subsection (d), in connection with
41 the design and construction or alterations and additions of a building or
42 buildings; the design and construction of items relating to building code
43 requirements, as they pertain to architecture, and other building related

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1 and certification of any engineering design features that are required on
 2 plats; any of which embraces such service or work, either public or private,
 3 for any utilities, structures, buildings, machines, equipment, processes,
 4 work systems, projects and industrial or consumer products or equipment
 5 of a mechanical, electrical, hydraulic, pneumatic or thermal nature, in-
 6 sofar as they involve safeguarding life, health or property. As used in this
 7 subsection, "engineering surveys" includes all survey activities required
 8 to support the sound conception, planning, design, construction, main-
 9 tenance and operation of engineered projects, but excludes the surveying
 10 of real property for the establishment of land boundaries, rights-of-way,
 11 easements and the dependent or independent surveys or resurveys of the
 12 public land survey system.

13 (j) "Land surveyor" means any person who is engaged in the practice
 14 of land surveying as provided in ~~this act~~ *K.S.A. 74-7001 et seq., and*
 15 *amendments thereto*, and who is licensed by the board.

16 (k) "Practice of land surveying" includes:

17 (1) The performance of any professional service, the Adequate per-
 18 formance of which involves the application of special knowledge and ex-
 19 perience in the principles of mathematics, the related physical and ap-
 20 plied sciences, the relevant requirements of law and the methods of
 21 surveying measurements in measuring and locating of lines, angles, ele-
 22 vation of natural and man-made features in the air, on the surface of the
 23 earth, within underground workings and on the bed of bodies of water
 24 for the purpose of determining areas, volumes and monumentation of
 25 property boundaries;

26 (2) the **planning, mapping and** preparation of plats of land and sub-
 27 divisions thereof, including ~~the planning, mapping, the~~ topography,
 28 rights-of-way, easements and any other boundaries that affect rights to or
 29 interests in land, but excluding features requiring engineering or archi-
 30 tectural design;

31 (3) the preparation of the original descriptions of real property for
 32 the conveyance of or recording thereof and the preparation of maps, plats
 33 and field note records that represent these surveys;

34 (4) the reestablishing of missing government section corners in ac-
 35 cordance with government surveys; ~~and~~

36 (5) the teaching of land surveying by a licensed land surveyor in a
 37 college or university offering an approved land surveying curriculum of
 38 four years or more; *and*

39 (6) ~~the locating or laying out of alignments, positions or elevations for~~
 40 ~~the construction of fixed engineering works whose construction involved~~
 41 ~~or required public funding.~~

42 (l) "Person" means a natural person, firm, corporation or partnership
 43 or business entity.

where such work is part of

or architectural

1' dations, walls, floors, roofs, footings, bearing partitions, beams, columns
2 or joists.

3 (d) Work involving matters of rates, rating and loss prevention by
4 employees of insurance rating organizations and insurance service organ-
5 izations and insurance companies and agencies.

6 (e) The performance of services by a licensed landscape architect or
7 ~~corporation~~ *business entity* issued a certificate of authorization to provide
8 services in landscape architecture under K.S.A. 74-7036, and amend-
9 ments thereto, in connection with landscape and site planning for the
10 sites, approaches or environment for buildings, structures or facilities.

11 (f) For the purposes of this section:
12 (1) "Building" means any structure consisting of foundation, floors,
13 walls, columns, girders, beams and roof, or a combination of any number
14 of these parts, with or without other parts and appurtenances thereto,
15 including the structural, mechanical and electrical systems utility services,
16 and other facilities as may be required for the structure.

17 (2) "Agricultural building" means any structure designed and con-
18 structed to house hay, grain, poultry, livestock or other horticultural prod-
19 ucts and for farm storage of farming implements. Such structure shall not
20 be a place for human habitation or a place of employment where agri-
21 cultural products are processed, treated or packaged; nor shall it be a
22 building or structure for use by the public.

23 Sec. 12. K.S.A. 74-7034 is hereby amended to read as follows: 74-
24 7034. The provisions of ~~this act~~ K.S.A. 74-7001 *et seq.*, and amendments
25 *thereto*, requiring licensure or the issuance of a certificate of authorization
26 under K.S.A. 74-7036, and amendments thereto, to engage in the practice
27 of land surveying shall not be construed to prevent or to affect:

28 (a) ~~Surveying other than land surveying where such surveying is in-~~
29 ~~cidental to the design or construction of engineering or architectural~~
30 ~~works.~~

31 (b) The practice of land surveying by an individual of such individual's
32 own real property or that of such individual's employer for purposes other
33 than the conveyance of an interest in such real property.

34 (c) The surveying on farms for agricultural purposes other than the
35 conveyance of an interest in such farm property.

36 (d) The performance of services by a licensed landscape architect or
37 by a ~~corporation~~ *business entity* issued a certificate of authorization to
38 provide services in landscape architecture under K.S.A. 74-7036, and
39 amendments thereto, in connection with landscape and site planning for
40 the sites, approaches or environment for buildings, structures or facilities.

41 Sec. 13. K.S.A. 74-7036 is hereby amended to read as follows: 74-
42 7036. (a) ~~The practice of or offer to practice a technical profession by an~~
43 ~~individual licensed to practice the technical professions through a cor-~~

The locating or laying out of alignments, positions or elevations where such work is part of the construction of engineering or architectural works

1 authorization has been issued is hereby authorized to provide services in
2 the branch or branches of the technical professions for which such cor-
3 poration is authorized to provide services under such certificate of au-
4 thorization.

5 (d) No ~~corporation~~ *business entity* issued a certificate of authorization
6 under this section shall be relieved of responsibility for the conduct or
7 acts of its agents, employees or ~~officers~~ *principals* by reason of its compli-
8 ance with the provisions of this section, nor shall any individual prac-
9 ticing a ~~branch of the technical professions~~ *technical profession* be re-
10 lieved of responsibility and liability for services performed by reason of
11 employment or relationship with such ~~corporation~~ *business entity*. The
12 requirements of this section shall not affect a ~~corporation~~ *business entity*
13 and its employees in performing services included within the term "tech-
14 nical professions" solely for the benefit of such ~~corporation~~ *business entity*
15 or subsidiary or affiliated ~~corporations~~ *business entities*. Nothing in this
16 section shall exempt any ~~corporation~~ *business entity* from the provisions
17 of any other law applicable thereto.

18 (e) (1) *The board is hereby authorized to issue a one-time renewal of*
19 *the certificate of authorization for a business entity for a one-year period*
20 *under the following conditions:*

21 (A) *The certificate of authorization is scheduled for renewal on or*
22 *after December 31, 2010;*

23 (B) *the name of the business entity begins with a letter in the first* last
24 *half of the alphabet;*

25 (C) *the board notifies the business entity that its certificate of au-*
26 *thorization will be renewed for one year; and*

27 (D) *the fee for renewal under this subsection shall be one-half of the*
28 *biennial renewal fee set forth in K.S.A. 74-7009, and amendments thereto.*

29 (2) *Any certificate of authorization which has been renewed for a*
30 *period of one year in accordance with this subsection shall be subse-*
31 *quently renewed on a biennial basis as prescribed by K.S.A. 74-7001 et*
32 *seq., and amendments thereto.*

33 (3) *No certificate of authorization shall be renewed for a period of*
34 *one year on or after January 1, 2012.*

35 Sec. 14. K.S.A. 74-7041 is hereby amended to read as follows: 74-
36 7041. (a) Minimum qualifications of applicants seeking licensure as ge-
37 ologists are the following:

38 (a) (1) Graduation from a course of study in geology, or from a pro-
39 gram which is of four or more years' duration and which includes at least
40 30 semester or 45 quarter hours of credit with a major in geology or a
41 geology specialty, that is adequate in its preparation of students for the
42 practice of geology;

43 (b) (2) proof of at least four years of experience in geology of a char-

Substitute for SENATE BILL NO. 91

By

AN ACT concerning planning and zoning; dealing with vesting of development rights; amending K.S.A. 12-764 and repealing the existing section.

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

Section 1. K.S.A. 12-764 is hereby amended to read as follows: 12-764. (a) For development rights vested prior to July 1, 2009:

(1) For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire.

(2) For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed under a validly issued permit.

(3) The governing body may provide in zoning regulations for earlier vesting of development rights, however, vesting shall occur in the same manner for all uses of land within a land-use classification under the adopted zoning regulations.

(b) For development rights vested on and after July 1, 2009:

(1) For the purpose of residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within

10 years of recording a plat, the development rights in such shall expire. For purposes of this section, residential developments may include single family housing; multiple family housing such as apartments, duplexes, townhomes and similar configurations; condominiums; and manufactured and modular homes.

(2) For all purposes other than residential developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by a city or county and construction has begun and substantial amounts of work have been completed. If substantial amounts of the work have not been completed within 10 years of the issuance of such permits, the development rights shall expire.

(3) The governing body may provide in zoning regulations for earlier vesting of development rights, however, vesting shall occur in the same manner for all uses of land within a land-use classification under the adopted zoning regulations.

~~(d) -- The provisions of this section shall become effective on and after January 1, 1992.~~

Sec. 2. K.S.A. 12-764 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.