

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on February 5, 2009, in Room 143-N of the Capitol.

All members were present except:

Representative Jason Watkins- excused
Representative Kay Wolf- excused
Representative Kevin Yoder- excused

Committee staff present:

Melissa Doebelin, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the committee:

None

HB 2110 - Increase in property damage amount in actions involving negligent motor vehicle operation.

Representative Kuether made the motion to report HB 2110 favorably for passage. Representative Colloton seconded the motion.

Representative Whitham proposed an amendment to adopt balloon which deletes section (d) that provides for an annual CPI-U adjustment. (Attachment 1) Representative Jack seconded the motion.

The committee had requested the revisors office to review the statutes to determine if the consumer price index clause was uniform with others and if it was a common practice to include such a clause. Melissa Doebelin and Matt Sterling reported back that the clause took from similar statutes, but there were only a handful of instances where a similar clause was used.

Representative Whitham moved to adopt the balloon. The motion carried.

Representative Colloton made the motion to report HB 2110 favorably for passage as amended. Representative Brookens seconded the motion. The motion carried.

HB 2111- Removing sunset provision from Kansas commission on judicial performance statutes; retaining increase in docket funds to fund commission.

Randy Hearrell, Kansas Judicial Council provided testimony in relation to a question regarding the number of website hits that arose during the hearing on February 4, 2009. They provided a breakdown of the total number of 107,422 website hits and the 1,739,881 total Web page hits by month, however the number of unique website hits were not available. (Attachment 2).

Representative Crow made the motion to report HB 2111 favorably for passage. Representative King seconded the motion.

Representative Patton made the motion to extend the sunset provision to June 30, 2012. Representative Talia seconded.

Representative Brookens suggested extending the sunset by four years instead of two. Representative Pauls suggested it is cleaner not to have a sunset provision.

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on February 5, 2009, in Room 143-N of the Capitol.

Representative Whitham made a substitute motion to leave sunset provision in and extend the date to June 30, 2014. Representative Talia seconded the motion.

Representative King recommended having the sunset date on the year before an election instead of on an election year, such as 2013 or 2015.

Representative Whitham, with permission of the second, corrected his substitute motion to June 30, 2013 as the sunset date. Motion carried.

Representative Pauls made the motion to report **HB 2111** favorably for passage as amended. Representative Goyle seconded the motion. Motion carried.

The next meeting is scheduled for February 9, 2009.

The meeting was adjourned at 3:55 p.m.

HOUSE BILL No. 2110

By Committee on Judiciary

Balloon 1

1-27

9 AN ACT concerning civil procedure; relating to property damage
10 amount; amending K.S.A. 60-2006 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 60-2006 is hereby amended to read as follows: 60-
14 2006. (a) ~~Subject to the provisions of subsection (d), in~~ In actions brought

15 for the recovery of property damages only of less than ~~\$7,500~~ \$15,000
16 sustained and caused by the negligent operation of a motor vehicle, the
17 prevailing party shall be allowed reasonable attorney fees which shall be
18 taxed as part of the costs of the action unless:

- 19 (1) The prevailing party recovers no damages; or
- 20 (2) a tender equal to or in excess of the amount recovered was made
21 by the adverse party before the commencement of the action in which
22 judgment is rendered.

23 (b) For the plaintiff to be awarded attorney fees for the prosecution
24 of such action, a written demand for the settlement of such claim con-
25 taining all of the claimed elements of property damage and the total
26 monetary amount demanded in the action shall have been made on the
27 adverse party at such party's last known address not less than 30 days
28 before the commencement of the action. For the defendant to be
29 awarded attorney fees, a written offer of settlement of such claim shall
30 have been made to the plaintiff at such plaintiff's last known address not
31 more than 30 days after the defendant filed the answer in the action.

32 (c) This section shall apply to actions brought pursuant to the code
33 of civil procedure and actions brought pursuant to the code of civil pro-
34 cedure for limited actions.

35 ~~(d) On July 1, 2010, and annually on July 1 thereafter, the damages~~
36 ~~limitation specified in subsection (a) shall be increased by the same per-~~
37 ~~centage as the percentage increase in the consumer price index for all~~
38 ~~urban consumers, all items, for the preceding calendar year published by~~
39 ~~the United States department of labor. Prior to July 1, 2010, and annually~~
40 ~~on July 1 thereafter, the director of the budget shall certify to the judicial~~
41 ~~administrator of the office of judicial administration such percentage in-~~
42 ~~crease.~~

Sec. 2. K.S.A. 60-2006 is hereby repealed.

House Judiciary
Date 2-5-09
Attachment # 1



KANSAS JUDICIAL COUNCIL

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MEMORANDUM

TO: House Judiciary Committee
FROM: Randy M. Hearrell - Judicial Council
DATE: February 5, 2009
RE: Question Relating to HB 2111

In yesterday's hearing on HB 2111 relating to removal of the sunset provision from the statutes authorizing the Kansas Commission on Judicial Performance, the question arose as to whether the number "107,422" cited in the testimony of Rich Hayse represented "unique website hits." Mr. Hayse and Mr. Hearrell both answered that it did not. We were then asked to see if the number of unique website hits was available.

I contacted the firm that helped the Commission with public relations. I was informed that an accurate number of unique website visits was not available. They furnished me the following information:

Web site stats:

- 107,422 total downloads
 - August = 6,836
 - September = 10,887
 - October = 57,079
 - November = 32,620 (12,998 on Nov. 3; 9,693 on Nov. 4)
- 1,739,881 total Web page hits
 - August = 97,251
 - Aug. 29 = 48,543
 - September = 463,819
 - October = 764,959
 - November = 413,852
 - Nov. 3 = 107,982
 - Nov. 4 = 74,680

House Judiciary

Date 2-5-09

Attachment # 2

I informed them that if the judicial performance program is continued, we will expect them to provide the number of unique website hits in the future, or we will find a provider who can provide it. I apologize for not being able to furnish the requested information.

On the positive side, in addition to providing information on-line, we also provided information for newspaper stories. There was at least one newspaper story in each judicial district, which contained the recommendations and ratings about the judges. Many members of the public received information about the judges from the newspapers.