

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 21, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Steve Morris- excused

Committee staff present:

Connie Burns, Administrative Assistant
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Jason Long, Office of the Revisor of Statutes

Conferees appearing before the committee:

Bob Alderson, Casey General Stores
Patsy Congrove, Kansas Department of Revenue
Senator Anthony Hensley
George Barbee, Board of Technical Professions
Trudy Aron, American Institute of Architects
Ron Gaches, Kansas Society of Professional Engineers
Melissa Wangemann, Kansas Association of Counties

Others attending:

See attached list.

Senator Brungardt requested two bill introductions. The first bill introduction is regarding licensure of cereal malt beverage retailers.

Senator Brungardt moved that this request should be introduced as a committee bill. Senator Faust-Goudeau seconded the motion. The motion carried.

The next bill introduction is regarding cities payment for public improvements.

Senator Brungardt moved that this request should be introduced as a committee bill. Senator Francisco seconded the motion. The motion carried.

Bob Alderson, Casey General Stores, requested a bill introduction that defines cereal malt beverage to include malt beverages which contain not more than 4% alcohol by weight. (Attachment 1)

Senator Owens moved that this request should be introduced as a committee bill. Senator Ostemeyer seconded the motion. The motion carried.

Patsy Congrove, Kansas Department of Revenue requested a bill introduction regarding updating the bingo statues. (Attachment 2)

Senator Vratil moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Senator Faust-Goudeau requested a bill introduction regarding having cigarette lighters placed under the counters out of reach of those under 18 years of age.

Senator Faust-Goudeau moved that this request should be introduced as a committee bill. Senator Francisco seconded the motion. The motion carried.

Staff provided an overview of **SB 3**.

SB 3 - Senate confirmation oversight committee; membership.

CONTINUATION SHEET

MINUTES OF THE Senate Federal And State Affairs Committee at 10:30 a.m. on January 21, 2009, in Room 136-N of the Capitol.

Chairman Brungardt opened the hearing on **SB 3**.

Senator Anthony Hensley appeared before the committee in favor of the bill. (Attachment 3) The bill would increase the number of Senators on the Senate Committee on Confirmation Oversight from the current six to seven, this allows for avoiding a tie vote; the current proportional representation breakdown of the Senate (31-9), six members committees have five majority party members and only one minority party member. Seven member committees allow for two minority party members. This would also allow the minority party one more member on the committee; the partisan breakdown with this change would be 5-2.

Chairman Brungardt closed the hearing on **SB 3**.

Staff provided an overview on **SB-29**. (Attachment 4)

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

Chairman Brungardt opened the hearing on **SB 29**.

George Barbee, Board of Technical Professions, spoke in favor of the bill. (Attachment 5) The major change made in this bill is in the definition of a business entity, to adjust the certificate of authorization renewal cycle, and to authorize the board to issue intern certificates for engineers, land surveyors and geologists. The bill also contains other amendments on page 3 subsection k to include planning and mapping and certain acts associated with public construction work, and clean-up language.

In response to questions by the committee on public funding, Steve Brosemer, Land Surveyor member, responded that it is an attempt to put language back in the bill associated with construction staking.

Trudy Aron, American Institute of Architects, appeared in support of the bill. (Attachment 6) The bill cleans up language, requires business entities, regardless of their form, to register with the Board the same as is currently required of corporations, and provide the Board with additional discipline options.

Ron Gaches, Kansas Society of Professional Engineers, appeared as a proponent of the bill. (Attachment 7) The bill contains a number of minor changes to the licensure law of technical professions that clean up old language in the statutes and eliminate language that is outdated and should be stricken. The bill also makes clear that all business entities providing technical profession services shall be treated the same for the purpose of obtaining a certificate of authorization to operate in Kansas. While the Society supports the intent of this language, it should be modified to be more clear and concise; the meaning of "fixed works" in line 38 is not clear and could be defined. Also the phrase "whose construction involved or required public funding" is not clear.

Melissa Wangemann, Kansas Association of Counties, appeared as an opponent on the bill. (Attachment 8) The Association of Counties is concerned about one provision of the bill; the definition of "practice of land surveying" in new subsection (k)(6) on page 3, lines 37-39. Questions from the Association is the meaning of the term "fixed work"; this term is not defined in the bill or anywhere else in Kansas statute, the meaning of "public funding", only 16 of 105 counties have a land surveyor on staff thus most counties would have to contract with a licensed land surveyor to meet this provision. What problem has occurred that necessiated this change, and why is the requirement aimed solely at government projects? Is a licensed land surveyor necessary for construction staking, and would it also apply to privately-financed projects?

Chairman Brungardt closed the hearing on **SB 29**.

The next meeting is scheduled for January 22, 2009. The meeting was adjourned at 11:35 am

REQUEST FOR BILL INTRODUCTION

The coalition of Casey's General Stores, Inc., the Petroleum Marketers and Convenience Store Association of Kansas, Inc., QuikTrip, Inc. and Hy-Vee, Inc. request the introduction of a bill to re-define cereal malt beverage to include malt beverages which contain not more than 4% alcohol by weight. The bill is similar to 2008 Senate Bill No. 622, but it includes changes requested by the Director of ABC during the 2008 session.



Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

Testimony on Bingo statutes.
To
The Senate Committee on Federal & State Affairs
By Patsy Congrove, Administrator of Charitable Gaming
Kansas Department of Revenue
January 21, 2009

TESTIMONY:

Bingo statutes provide an opportunity for non-profits to increase fundraising abilities for their organization and address unmet needs in their communities. The statutes were written primarily in the 70's and need to be updated. The Department of Revenue would like to invite the legislature to consider the proposed changes and present this bill on behalf of the volunteer organizations.

CHARITABLE GAMING
DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588
Voice 785-296-6127 Fax 785-368-8392 <http://www.ksrevenue.org/>
E-mail:bingo@kdor.state.ks.us

Sen Fed & State

Attachment 2
1-21-09

BODY: PROPOSED CHANGES FOR BINGO STATUTES

79-4706

Chapter 79.--TAXATION

Article 47.--BINGO

79-4706. Restrictions on bingo games and instant bingo tickets. Games of bingo shall be managed, operated and conducted in accordance with the bingo act and rules and regulations adopted pursuant thereto and the following restrictions:

(a) The entire gross receipts received by any licensee from the operation or conduct of games of bingo, except that portion utilized for the payment of the cost of prizes and license fees and taxes on games of bingo imposed under the provisions of this act, shall be used exclusively for the lawful purposes of the licensee permitted to conduct that game.

(b) Games of bingo managed, conducted or operated by a licensee, shall be managed, conducted or operated only by a bona fide member or spouse of a bona fide member of the licensee or parent organization or an auxiliary unit or society of such licensee or **of the beneficiary organization.**

(c) No lessor, employee of such lessor or employee, officer or shareholder of a for profit corporation which is the lessor shall play any game of bingo or participate in any drawing on premises leased by any such lessor nor shall such person be responsible for or assist in the management, operation or conduct of any game of bingo or drawing on such premises.

(d) No person may participate in the management, conduct or operation of bingo games by a licensee if such person, within five years prior to such participation, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.

(e) No person may receive any remuneration or profit for participating in the management, conduct or operation of any game of bingo managed, conducted or operated by a licensee. **Food offered in the course of a volunteer duty shift shall not be considered remuneration.**

(f) The aggregate value of all prizes including the retail value of all merchandise awarded or offered by a licensee in a single session to winners of games of regular and special call bingo shall not exceed ~~\$1,200~~ **\$1800**. The value of a prize awarded in a progressive or mini bingo game shall not be included when determining the limit imposed by this subsection. Any monetary prize of \$500 or more awarded in games of bingo shall be paid by a check drawn on the bingo trust bank account of the licensee. Any monetary prize awarded in games of bingo shall be paid by a check on the bingo trust bank account of the licensee upon the request of the winner of such award.

(g) The total number of regular, special and progressive call bingo games managed, operated or conducted by any licensee in any session shall not exceed 25 and not more than five of such games shall be special games. Not more than one licensee may conduct bingo games at a given location or registered premises in any one session.

(h) The prize awarded by a licensee in any one regular call bingo game shall not exceed ~~\$50~~ **\$100**. The prize in any one special call bingo game shall not exceed ~~\$500~~ **\$1000**.

(i) The retail value of any merchandise received by a winner of a bingo game shall be considered as the cash value for the purposes of determining the value of the prize.

~~(j) The charge made by a licensee for a bingo card or equivalent number of bingo faces to play in regular bingo games in any one session shall not exceed \$1. Such bingo card or equivalent number of bingo faces shall be valid for all such regular bingo games conducted or operated by the licensee in any one session. The charge made by a licensee for a single bingo card or bingo face to play in any single, mini or progressive special game shall not exceed \$1. The charge made by a licensee for a single instant bingo ticket shall not exceed \$1.~~

(k) Games of bingo shall not be managed, operated or conducted by any licensee on more than ~~two~~ **three** calendar days in any one week.

(l) All licenses issued under the provisions of this act shall be issued in the name of the organization licensed.

(m) Each licensee shall keep a record of all games of bingo managed, operated or conducted by it for a period of three years following the date the game is managed, operated or conducted.

(n) No person under the age of 18 years shall participate in the management, operation or conduct of any game of bingo managed, operated or conducted by a licensee under the provisions of this act and no licensee shall sell any instant bingo ticket to a person under the age of 18 years.

(o) A lessor of premises used for the management, operation or conduct of games of bingo or a licensee may not advertise games of bingo except to the extent and in the manner prescribed by the rules and regulations adopted pursuant to the bingo act. Any advertisement of any game of bingo by or on behalf of such lessor or licensee shall specify the organization which is managing, operating or conducting such game. The announcement of the cancellation of a game of bingo shall not be considered to be an advertisement.

(p) (1) Except as provided by paragraph (2) of this subsection, no game of chance or contest where a prize is awarded, other than games of bingo, shall be conducted on any premises where licensees are conducting games of bingo, where the intent of such game of chance or contest is to induce participation in such games of bingo.

(2) One drawing during a session may be conducted by the licensee or the lessor of the premises. Only a non-monetary prize having a value not exceeding ~~\$25~~ **\$500** shall be awarded to the winners of such drawings. There shall be no charge for participation in such drawing. There shall be no requirement to purchase anything of value in order to participate in such drawing. No more than ~~four~~ **six drawings per month** of such drawings shall be conducted by each licensee or lessor during any calendar year.

(q) No licensee shall manage, operate or conduct bingo on any leased premises or with leased equipment unless all of the terms and conditions of rental or use, including the rental of chairs, bingo equipment, tables, security guards, janitor service or any other services, are set forth in a lease submitted, approved and on file with the administrator.

~~—(r) No premises shall be used for the management, operation or conduct of games of bingo by licensees on more than three calendar days in any one week.~~

(s) No premises shall be subdivided to provide multiple premises where games of bingo are managed, operated or conducted by licensees, whether or not the multiple premises have different addresses.

~~(t) No game of bingo shall be managed, operated or conducted by licensees on leased premises if at any time during the immediately preceding 44 hours the premises, or any leased premises within 1,000 feet of them, have been used for the management, operation or conduct of a game of bingo.~~

A game of bingo shall be managed, operated or conducted only once during any 24-hour period by a licensee or licensed premises. No other game of bingo may operate within 1,000 feet of such licensee or licensed premises that has been used for the management, operation or conduct of a bingo game during the 24 hour period.

(u) Every licensee who has gross receipts of \$1,000 or more received from participation in games, admission fees or charges and from any other source directly related to the operation or conduct of any games of bingo in any calendar month shall maintain a bingo trust bank account into which all such receipts are deposited daily and from which all payments are made relating to the management, operation or conduct of any games of bingo, except payment of prizes of less than \$200. Having once established such bingo trust bank account, the licensee shall continue to make deposits of all receipts therein. Every licensee shall notify the administrator of the name of the bank in which the bingo trust bank account is maintained, together with the number and name of the account. Every licensee who maintains a bingo trust bank account shall maintain a complete record of all deposits and withdrawals from such bank account and the same shall be available to the administrator to audit at any reasonable time.

The records required under this subsection are in addition to all other records required to be kept by the licensee. The records required by this subsection shall be maintained in the same place as all other records required to be kept by the licensee.

(v) No instant bingo ticket shall be sold by a licensee more than ~~one~~ two hours prior to the start of the first regular or special game of call bingo of a session or after the termination of the last game of call bingo operated or conducted by the licensee for such session.

(w) No licensee shall purchase or obtain bingo faces or instant bingo tickets from any person or entity other than a distributor registered pursuant to K.S.A. 79-4712a, and amendments thereto.

(x) All instant bingo tickets sold or distributed to licensees shall bear on the face thereof a unique serial number which shall not be repeated on the same manufacturer's form number less than every three years. All instant bingo tickets shall be sold or distributed in boxes. Each box shall be sealed by the manufacturer with a seal which includes a warning to the purchaser that the box may have been tampered with if the box was received by the purchaser with the seal broken. Each box of instant bingo tickets shall contain tickets printed in such a manner as to insure that at least 60% of the gross revenues generated by the ultimate sale of all tickets from such box shall be returned to the final purchasers of such tickets. No box of instant bingo tickets may be opened by a licensee unless all tickets contained in a previously opened box with the same form number have been sold.

(y) Each box of instant bingo tickets sold or distributed to licensees shall be accompanied by a flare which contains the following information: (1) The name of the game; (2) the manufacturer's name or logo; (3) the game form number; (4) the ticket count in the game; (5) the prize structure for the game, which includes the number of winning tickets by denomination and their respective winning symbol or number combinations; (6) the cost per ticket; (7) the game serial number; (8) the winning numbers or symbols for the top three winning tiers set out in such a manner that each prize may be marked off as the prize is won and awarded; (9) the business name of the distributor; and (10) if sold or distributed to a licensee under the bingo act, the Kansas bingo license number of the licensee to which the game is sold.

(z) (1) No progressive game may exceed 20 consecutive sessions conducted by a licensee prior to the awarding of the established prize.

(2) No more than two progressive bingo games may be conducted in any one session.

(3) ~~A prize for a progressive game may start at an amount not to exceed \$250 and may be increased by no more than \$100 for each session during which the progressive game is continued.~~ The prize awarded at the end of any progressive game shall not exceed \$1,000.

(4) If the progressive bingo game prize is not awarded at a bingo session, the progressive bingo game shall be continued at a future occasion until such time a winner is determined. The winning prize shall be the full amount. If there is no winner of a progressive bingo game at a session, a stated consolation prize in an amount not to exceed \$250 may be awarded. Any consolation prize shall be less than the value of the progressive bingo game prize amount.

(5) All progressive bingo games and rules for such games shall be described fully and posted in the house rules prior to the start of the session. Such games shall comply with requirements imposed under the bingo act and any rules and regulations adopted pursuant thereto.

(6) When a person achieves the first pre-announced winning combination, the game shall be completed and the next progressive bingo game and winning combination shall be commenced with a new bingo card or face and all objects or balls in the receptacle.

(7) The rules for a progressive bingo game shall remain in effect until the game ends and the winner is determined.

(8) Progressive bingo games may not be conducted in conjunction with a session of bingo conducted at a location other than that specified in the license as authorized by subsection (c) of 79-4703, and amendments thereto.

(9) A licensee shall not cease bingo operations unless all progressive bingo games are completed and prizes are awarded, unless prior approval has been received from the secretary.

(aa) Except as specifically provided by rules and regulations adopted pursuant to the bingo act, the distribution, sale or use of bingo cards is prohibited from and after July 1, 2003, and thereafter, only bingo faces shall be distributed, sold or used in call bingo games operated and conducted by licensees.

~~(bb) Only three games of instant bingo in which the winner or winners is determined by matching a letter, number or symbol under a tab of an instant bingo ticket with the winning letter, number or symbol in a designated call game of bingo during the same session shall be played in any one session. There shall be no limit on the number of instant bingo tickets which may be sold for participation in any such game of instant bingo.~~

(cc) The total number of mini games of bingo managed, operated or conducted by a licensee during a session shall not exceed 20 games. No mini bingo game shall be conducted by a licensee more than ~~one~~ **two** hours prior to, or **two hours** after the commencement of, the first regular or special game of call bingo operated or conducted by the licensee for such session.

47-4714. Administrator of charitable gaming; qualifications; powers and duties. (a) The secretary of revenue shall designate an administrator of charitable gaming. Any person designated the administrator of charitable gaming shall have at least five years' experience in the area of charitable gaming regulation or **similar background.**

History: L. 1975, ch. 491, § 6; L. 1977, ch. 341, § 8; L. 1980, ch. 324, § 1; L. 1982, ch. 425, § 3; L. 1984, ch. 366, § 3; L. 1984, ch. 365, § 1; L. 1989, ch. 304, § 1; Revived and amend., L. 1995, ch. 261, § 6; L. 2000, ch. 173, § 7; July 1.

(3)

Senator Hensley's testimony on Senate Bill No. 3
January 21, 2009

Mr. Chairman and Members of the Committee:

Senate Bill No. 3 would increase the number of Senators on the Senate Committee on Confirmation Oversight from the current six to seven.

The reasons for this bill are quite simple.

First, I believe all Senate committees should be comprised of an odd number of members to allow for avoiding a tie vote.

Second, under the current proportional representation breakdown of the Senate (31-9), six member committees have five majority party members and only one minority party member. Seven member committees allow for two minority party members.

Senate Bill No. 3 would give the minority party one more member than we have now. The partisan breakdown with this change would be 5-2.

2009 SENATE COMMITTEE ASSIGNMENTS
Standing Committees

8:30 a.m. Tues/Wed	Agriculture (9)	Room 446-N
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Taddiken, Chairperson; Ostmeyer, Vice Chairperson; Barnett, Bruce, Huelskamp, Morris, Pyle. Francisco, Ranking Minority Member; Lee.

10:30 a.m.	Assessment and Taxation (9)	Room 535-N
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Donovan, Chairperson; Lynn, Vice Chairperson; D. Schmidt, Vice Chairperson; Apple, Brownlee, Colyer, Marshall. Holland, Ranking Minority Member, Steineger.

8:30 a.m.	Commerce (9)	Room 545-N
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Wysong, Chairperson; Lynn, Vice Chairperson; Emler, Kelsey, Reitz, Schodorf, Wagle. Holland, Ranking Minority Member; Faust-Goudeau.

On Call	Confirmation Oversight (6)	
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D. Schmidt, Chairperson; Hensley, Vice Chairperson; Brownlee, Marshall, Owens, Schodorf.

1:30 p.m.	Education (11)	Room 545-N
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Schodorf, Chairperson; Vratil, Vice Chairperson; Abrams, Huelskamp, Marshall, Owens, Teichman, Umbarger, Wagle. Hensley, Ranking Minority Member; Steineger.

9:30 a.m. Wed/Thurs	Ethics and Elections (9)	Room 446-N
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V. Schmidt, Chairperson; Apple, Vice Chairperson; Brungardt, Pyle, Reitz, Wagle, Wysong. Faust-Goudeau, Ranking Minority Member; Kultala.

10:30 a.m.	Federal and State Affairs (9)	Room 136-N
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Brungardt, Chairperson; Reitz, Vice Chairperson; Abrams, Morris, Ostmeyer, Owens, Pyle. Faust-Goudeau, Ranking Minority Member; Francisco.

9:30 a.m.	Financial Institutions & Insurance (9)	Room 136-N
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Teichman, Chairperson; Brownlee, Vice Chairperson; Barnett, Colyer, Kelsey, Masterson, Taddiken. Steineger, Ranking Minority Member; Holland.

On Call	Interstate Cooperation (7)	
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Morris, Chairperson; D. Schmidt, V. Schmidt, Schodorf, Vratil. Hensley, Ranking Minority Member; Holland.

9:30 a.m.	Judiciary (11)	545-N
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Owens, Chairperson; D. Schmidt, Vice Chairperson; Bruce, Donovan, Lynn, Pilcher-Cook, Schodorf, Umbarger, Vratil. Haley, Ranking Minority Member; Kelly.

9:30 a.m. Mon/Tues	Local Government (9)	Room 446-N
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Reitz, Chairperson; Wagle, Vice Chairperson; Huelskamp, Marshall, McGinn, Ostmeyer, Petersen. Kultala, Ranking Minority Member; Faust-Goudeau.

8:30 a.m. Thurs/Fri	Natural Resources (9)	Room 446-N
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McGinn, Chairperson; Teichman, Vice Chairperson; Abrams, Bruce, Morris, Pilcher-Cook, Taddiken. Francisco, Ranking Minority Member; Lee.

On Call	Organization, Calendar and Rules (9)	
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Morris, Chairperson; D. Schmidt, Vice Chairperson; Apple, Barnett, Brungardt, McGinn, Teichman, Umbarger, Vratil.

1:30 p.m.	Public Health and Welfare (9)	Room 136-N
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Barnett, Chairperson; V. Schmidt, Vice Chairperson; Brungardt, Colyer, Kelsey, Pilcher-Cook, Wysong. Haley, Ranking Minority Member; Kelly.

8:30 a.m. Tues thru Fri	Transportation (9)	Room 136-N
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Umbarger, Chairperson; Marshall, Vice Chairperson; Apple, Brownlee, Donovan, Petersen, V. Schmidt. Kultala, Ranking Minority Member; Hensley.

1:30 p.m.	Utilities (11)	Room 446-N
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Apple, Chairperson; Petersen, Vice Chairperson; Brownlee, Bruce, Emler, Masterson, McGinn, Reitz, Taddiken. Lee, Ranking Minority Member; Francisco.

10:30 a.m.	Ways and Means (13)	Room 545-N
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Emler, Chairperson; McGinn, Vice Chairperson; Vratil, Vice Chairperson; Masterson, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Wysong. Kelly, Ranking Minority Member; Kultala, Lee.

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR
GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

Overview of SB 29

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

January 21, 2009

This bill has three primary purposes. The first is to expand the type of business entity that may be issued a certificate of authorization to carry on a technical profession. In Section 1 new definitions have been added on page 4 to define “business entity” and “principal.” Under this bill a certificate of authorization could be issued to any legally formed business entity. Throughout the bill all references to “corporation” have been amended to “business entity.” Section 13 of the bill starting on page 11 also contains significant amendments to effect this change.

The second purpose of the bill is to adjust the certificate of authorization renewal cycle. Currently every business that is issued a certificate of authorization must renew such certificate every two years. All renewals currently take place in the same year. In order to spread the workload more evenly over the two-year period SB 29 would authorize the board to issue one-time renewals that are valid for one year to those business entities whose name begins with a letter in the first half of the alphabet. In 2010 approximately one-half of the business entities would renew their certificates for only one-year for a fee that is one-half of the normal two-year renewal fee. This would begin a cycle in which approximately half of the business entities would renew their certificates each year. The amendments to effect this change can be found on page 5 in Section 2(a)(6) and on page 13 in new subsection (e) to Section 13.

The third primary purpose of SB 29 is to authorize the board to issue intern certificates for engineers, land surveyors and geologists. Such certifications would be issued to those individuals meeting the necessary education, experience and examination qualifications prescribed by the board. Please note the new subsections added to Sections 5, 6 and 14.

SB 29 contains other amendments. On page 3 in subsection (k) the “practice of land surveying” is defined to now include planning and mapping and certain acts associated with public construction work. Other amendments in the bill consist primarily of clean-up language.



KANSAS STATE BOARD OF TECHNICAL PROFESSIONS

(785) 296-3053

<http://www.kansas.gov/ksbtp/>

Landon State Office Building 900 SW Jackson Street Suite 507 Topeka, Kansas 66612-1257

Testimony Before the Senate Federal and State Affairs Committee

By the Kansas State Board of Technical Professions

10:30 a.m., January 21, 2009

Mr. Chairman and members of the committee, the Board of Technical Professions appreciates the opportunity to testify before the Committee today. My name is George Barbee. I am a public member of the Board of Technical Professions. With me today are Steve Brosemer, Land Surveyor member of the Board, and Jean Boline, Executive Director.

The major change made in this bill is in the definition of a business entity. Currently the Board's statutes require corporations to have a certificate of authorization to offer a technical profession to the public. There are other types of business entities that are organized by law. Changes being proposed would include these other business entities, such as limited liability companies and partnerships, in the requirement for a certificate of authorization. The definition of "business entity" is page 4, line 27-29. This new term replaces "corporation" throughout the bill. Also on page 4, lines 30-32, is the definition of a "principal." This term replaces "corporate officer" throughout the bill.

Section 13, page 11-13, K.S.A. 74-7036, spells out the certificate of authorization requirement and makes the necessary changes to incorporate the previous two new definitions. Section 13 also adds language to allow the board to divide the renewals of the certificates of authorization. Currently all certificates renew at the same time once every two years. With the addition of more certificates, splitting them so that some renew each year would balance the revenue as well as the work load.

There are also proposed additions to the definition of the practice of surveying. In Section 1, Page 3, line 26 the words "planning and mapping" are added to the definition. These are activities that are customarily carried out by a licensed land surveyor, and should be part of the definition. Lines 37-39, subparagraph (6) adds the requirement that a licensed land surveyor is required for the construction of fixed works that involve public funding. The design of public infrastructure (streets, water, sewer, highways, buildings, etc.) falls under the definition of the practice of engineering or architecture but the statutes do not address who is responsible for the alignment, layout, positions or elevations needed to construct this infrastructure. At present it is often a professional surveyor or professional engineer who does this work. This should fall under the definition of the practice of surveying to protect the public.

Other changes made in this bill refine and clean up current language.

Page 6, lines 28-30, provides for an intern engineer certificate to be issued. This is an accepted designation for someone who has met certain requirements and is working toward licensure.

Page 6, lines 39-41 provides for a similar designation for someone working toward land surveyor licensure. Page 14, lines 3-5 provides the same for geologists.

Page 6, lines 34-36 changes one requirement for land surveyors. Some education is now required.

Page 8, line 22 adds the words "limit" and "condition" to the board's power to discipline. These changes will allow the Board to use other disciplinary options that are less severe than suspension or revocation of a license.

Beginning on page 9 line 43 and continuing on page 10, line 1 and 3, "geologist" was added to the list of technical professions. Geologist was inadvertently left out of these listings when the statute was originally changed to add geologist licensure.

We stand for questions from the committee.



AIA Kansas
*A Chapter of the American
Institute of Architects*

January 21, 2009

TO: State Federal and State Committee
FROM: Trudy Aron, Executive Director
RE: Support for SB 29

- President
- David S. Heit, AIA
Topeka
- President Elect
- J. Michael Vieux, AIA
Leavenworth
- Secretary
- Hans Nettelblad, AIA
Overland Park
- Treasurer
- Nadia Zhiri, AIA
Lawrence

- Richard Brown, AIA
Wichita
- Christie Carl, AIA
Abilene
- Randle L. Clark, AIA
McPherson
- Keith Diaz-Moore, AIA
Lawrence
- Dale R. Duncan, AIA
Olathe
- Gwenda S. Gigous, AIA
Topeka
- David Livingood, AIA
Lawrence
- Peter Magyar, Assoc, AIA
Manhattan
- Katherine Nichols, Assoc. AIA
- Gary Nevius, AIA
Overland Park
- C. Stan Peterson, FAIA
Topeka
- Daniel Sabatini, AIA
Lawrence
- Charles Smith, AIA
Topeka
- Daniel (Terry) Tevis, AIA
Lenexa
- Jason VanHecke, AIA
Wichita

Good Morning Senator Brungardt and Members of the Committee, I am Trudy Aron, Executive Director of AIA Kansas. I am here to testify in support of SB 29.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 120 private practice architectural firms designing a variety of project types for both public and private clients. Our members are designing tomorrow's building today. These buildings meet the triple bottom line: environment, people and economy.

Today I come before you to support SB 29 which updates the statutes for the Kansas State Board of Technical Professions. This bill does several things:

- Cleans up language
- Requires business entities, regardless of their form, to register with the Board the same as is currently required of corporations
- Provides the Board with additional discipline options

AIA Kansas believes these changes will assist the Board in carrying out their responsibilities to protect the health, safety and welfare of the public.

Thank you, I'd be happy to answer questions.

Executive Director
Trudy Aron, Hon. AIA, CAE
info@aiaks.org



Kansas Society of Professional Engineers

A state society of the National Society of Professional Engineers

Senate Ways and Means Committee
Testimony of Kansas Society of Professional Engineers
Regarding Senate Bill 29 – Professional Licensure
Submitted by Ron Gaches, Executive Director
Wednesday, January 21, 2009

Thank you Chairman Brungardt for this opportunity to speak to your committee on behalf of the Kansas Society of Professional Engineers (KSPE) in support of Senate Bill 29, a proposal from the Kansas State Board of Technical Professions. The bill contains a number of minor changes to the licensure law of technical professions that clean up old language in our statutes and eliminated language that is outdated and should be stricken. It also makes clear that all business entities providing technical profession services shall be treated the same for the purpose of obtaining a certificate of authorization to operate in Kansas.

The provision of the bill that warrants the most attention is found on page three, lines 37 – 39 and concerns definition of the practice of land surveying. This language originates from the National Council of Examiners for Engineering and Surveying and is part of their Model Law for defining the professional practice of Surveying. While we support the intent of this language, we believe it should be modified to be more clear and concise. Specifically, the meaning of “fixed works” in line 38 is not clear and could be defined. Also, the phrase “whose construction involved or required public funding” is not clear.

While we understand the intent is to reference buildings that are publicly funded the language is drafted in the past tense, suggesting that it might not apply to new construction. Further, “involved or required” is just too vague. For example, it is not clear if the requirement would apply to a privately financed project that is located at a site assembled with the use of STAR bonds or where public infrastructure was funded with TIF dollars. Similarly, a utility line relocation requested and paid for by a municipality might “involve” public funds but might not require construction staking by a licensed surveyor if the location is already within a surveyed public easement.

The Kansas Society of Professional Engineers would like to work with the Kansas State Board of Technical Professions and other interested parties to fine tune the language pertaining to the definition of Land Surveyor to reduce the confusion.

KSPE is the Kansas state professional society of licensed Professional Engineers and affiliated with the National Society of Professional Engineers. KSPE members work in a variety of public and private settings including industry; engineering, design and planning firms; state government and local government. The practice of Professional Engineering is governed by the licensure laws of the State of Kansas and administered by the Kansas State Board of Technical Professions.

TESTIMONY TO THE SENATE FEDERAL AND STATE
AFFAIRS COMMITTEE ON SB 29

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to speak to SB 29, a cleanup bill proposed by the Board of Technical Professions.

The Association of Counties is concerned about one provision of the bill – the definition of “practice of land surveying” in new subsection (k)(6) on page 3, lines 37-39. The provision adds to the definition of land surveying “the locating or laying out of alignments, positions or elevations for the construction of fixed works whose construction involved or required public funding.”

We raise the following questions and concerns:

- What is the meaning of the term “fixed work”? This term is not defined in the bill or anywhere else in Kansas statute.
- What is the meaning of the term “public funding”?
- Only 16 of the 105 counties have a land surveyor on staff; thus, most counties would have to contract with a licensed land surveyor to meet this provision. Many rural counties do not have any land surveyors within their county and would have to contract with a surveyor outside their county. As you know, counties are facing severe budget constraints and cannot absorb this new cost.
- What problem or incident has occurred that necessitated this change? We are not aware of any incidents or problems that have arisen that justify a state mandate for a licensed land surveyor for construction staking.
- Why is the requirement aimed solely at government projects? If a licensed land surveyor is necessary for construction staking, it would seem the same reasons, if there are any, would also apply to privately-financed projects.

We appreciate the opportunity to discuss our concerns with the committee and will stand for questions.

Melissa Wangemann, General Counsel

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Sen Fed & State

Attachment 8
1-21-09