

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on January 28, 2010, in Room 346-S of the Capitol.

All members were present except:

- Representative John Grange- excused
- Representative Marvin Kleeb- excused
- Representative Annie Kuether- excused

Committee staff present:

- Jason Long, Office of the Revisor of Statutes
- Matt Sterling, Office of the Revisor of Statutes
- Jill Wolters, Office of the Revisor of Statutes
- Athena Andaya, Kansas Legislative Research Department
- Jerry Donaldson, Kansas Legislative Research Department
- Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

None

Others attending:

See attached list.

Representative Wolf requested a new bill relating to the disclosure of email addresses.

Chairman Kinzer accepted the bill request without objection.

Chairman Kinzer introduced Joe Lawhon of the Legislative Division of Post Audit. Mr. Lawhon presented an overview of a 61 page performance audit regarding the Judicial Districts in Kansas, "*Determining Whether Boundaries Could be Redrawn to Increase Efficiency and Reduce Costs*". Some of the highlights of the presentation are as follows:

The report provides a detailed background of the District court System:

- Kansas Judicial System was created in 1859 with the adoption of the Kansas Constitution. Over time, this system came to include a myriad of State and local courts, including district, probate, juvenile, county and municipal courts.
- From 1964 to 1978, a series of changes were made to unify the court system in Kansas:
- In 1964, the Citizen's Conference on Modernization of the Kansas Courts were formed to study problems within the court system. It sought to resolve the lack of central administration and reporting inconsistencies.
- Acting on the Conference's recommendations, the 1965 Legislature passed the Judicial Reform Act, which created a judicial department and for the first time placed the district courts under the central administration of the Kansas Supreme Court
- In 1968 Legislature created the Citizen's Committee on Constitutional Revision whose task was to draft a new judicial article for the Kansas Constitution. The draft called for the judicial power of the State to be exclusively vested in one court of justice, which was to be divided into one Supreme Court, district courts and such other courts as were provided by law and also gave the Supreme Court general administrative authority over all the courts in the State.
- In 1972, Kansas voters approved the constitutional amendment mandating the development of a unified court system under the Kansas Supreme Court.
- In 1975, Legislature created a new appellate court to expedite the appeal process and in 1976 the Legislature abolished all lower courts except municipal courts and consolidated them into district courts. These two changes took place in January 1977 and resulted in the establishment of three levels of State Courts—the Supreme Court, the Kansas Court of Appeals, and 105 district courts (one in each county)- the system that remains in effect today. Municipal courts remain separate, and are not part of the district courts. Under this system, each district was to be headed by a chief judge, who in addition to hearing cases would also be responsible for the clerical and administrative functions of the courts within the district, including the assignment of cases.
- In 1978, Legislature specified that the funding of the district court system would be as follows:

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- 1) The State would pay for the salaries of all the district court judicial and non-judicial personnel, except for those performing services in adult or juvenile detention facilities. The state would also pay travel expenses for district court personnel.
- 2) County governments would be responsible for all expenses incurred for the operation of the district court in their counties such as rent, utilities, postage, equipment, etc. Over time, some counties have chosen to hire and pay for additional staff with their own funding. Counties did this because they saw a need for more staff than the State was willing to fund.

State law also established two types of district court judges—district judges and district magistrate judges. District judges must be attorneys and they can hear all types of cases that come before the district court. Magistrate judges are not required to be attorneys. Any magistrate who is not an attorney, must within 18 months of taking office, pass an examination and become certified by the Supreme Court. Their jurisdiction is limited to cases such as traffic and tobacco infractions, criminal misdemeanors, and civil cases involving \$10,000 or less. As of December 2009, there were 167 district judges positions and 79 district magistrate judge positions, of which 33 (42%) were attorneys.

District courts also use senior judges and retired judges to help cover the workload. Senior judges are retirees who sign a contract to work 40% of the year for a stipend equal to 25% of the salary of a district judge.

When the court system was unified in 1978, the State had 29 judicial districts. Over the next five years, two more were created for a current total of 31 districts. Seven of the current 31 districts are single county districts, while seven of the districts in western and north central Kansas cover at least six counties. The report states Minnesota has only 10 districts and Iowa and Utah have only eight and all three states are similar in size and population.

In their approach to the audit, they addressed two questions;

- 1) How Have The Caseloads Changed Since Court Unification?

In summary their answer was that since unification, the distribution of cases per judge has remained very uneven across the districts. In 2008, the average caseload per judge ranged from 356 cases to 2,392 cases. In Kansas, cases haven't been "weighted" and that alone distorts any comparisons. The disparity in cases per judge is caused primarily by the law requiring one judge per county as established in 1983 which specifies there shall be at least one judge of the district court in each county who is a resident of, and has the judge's principal office in that county.

- 2) What Savings Could Be Achieved By Redrawing Judicial Districts in Kansas To Better Align Resources With Caseloads?

In Fiscal Year 2008, the District Courts spent an estimated \$114 million on operating costs for which and had more than 1,800 FTE (Full Time Equivalent) Staff. In addition counties reported they paid for almost 40 additional FTE district court staff in calendar year of 2008.

The audit reported one scenario using the fiscal year 2008, if the district courts had operated with 13 judicial districts instead of 31, they estimated the court personnel and travel costs combined could have resulted in a savings of \$6.2 million less for State and local governments combined. Under another scenario, had the courts operated with only 7 districts in 2008, those savings could have been \$8.1 million. The report contains several tables and comparison charts along with proper notes of clarification and explanation.

The report also stated the desire to equalize judicial caseloads must be weighed against the statutory requirement of one judge per county. Those two items work against one another, and make it nearly impossible to achieve both. As long as this requirement exists, caseloads will stay unequal.

The report includes recommendations for the Legislature to provide funding for a judicial district workload study and to request the Chief Justice of the Supreme Court to appoint a judicial advisory committee to study the issues cited in this audit and request that committee to prepare a report for the Legislature by the start of the 2011 Legislative session.

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Another recommendation was to centralize the district court's data systems that could reduce costs and provide consistent collection of data. Other recommendations were directed toward the Office of Judicial Administration and are intended to allow the courts to make better use of technology as a way of reducing operating costs and making the courts more efficient.

Discussion followed and Chairman Kinzer thanked Mr. Lawhon for the presentation and some of the committee members expressed they may have more questions after having more time to digest the report.

HB 2418 - Carbon dioxide reduction act; limiting liability of the state of Kansas.

Representative Colloton moved to report HB 2418 favorably for passage. Representative King seconded the motion.

Chairman Kinzer presented a balloon to amend the bill to include the language "No rule and regulation adopted pursuant to subsection (h) shall be construed to prohibit the commission from the plugging, replugging, repairing or remediation of any carbon dioxide injection well or underground storage in an emergency situation" as requested by the KCC at the hearing. (Attachment 1)

Representative Pauls made a substitute motion to amend the bill with the balloon amendment. Representative Whitham seconded the motion. Motion carried.

Representative Brookens made a motion to report HB2418 favorably for passage as amended. Representative Colloton seconded the motion. Motion carried.

HB 2476 - Concerning courts and the judicial branch surcharge fund.

Representative Colloton moved to report HB2476 favorably for passage. Representative Kleeb seconded the motion.

Representative Pauls made a motion to amend the bill to change the effective date from July 1, 2010 to read "the effective date of this act" in all applicable locations. Representative Brookens seconded the motion. Motion carried.

Representative Pauls made a motion to amend the bill to eliminate all language on Pages 19 and 20 that references "alias" or "alias fee". Representative Colloton seconded the motion. Motion carried.

Representative Whitham made a motion to report HB 2476 favorably for passage as amended. Representative Pauls seconded the motion. Motion carried.

The next meeting is scheduled for February 1, 2010.

The meeting was adjourned at 4:35 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: 1-28-10

NAME	REPRESENTING
Joe Lawton	LPA
Chris Clarke	"
Justin Stone	"
Wong G. Williams	"
Sean Miller	CAPITOL STRATEGIES
Lara Wirth	Judicial Branch
Lisa Wilson	"
R J Wilson	KSATJ
Doug Smith	KCAA
Helen Pedigo	Sentencing Commission
BRANDON SMITH	REP. LANCE KENZER

1 requirements, procedures and standards for the safe and secure injection
2 of carbon dioxide and maintenance of underground storage of carbon
3 dioxide. Such rules and regulations shall include, but not be limited to:
4 (1) Site selection criteria; (2) design and development criteria; (3) oper-
5 ation criteria; (4) casing requirements; (5) monitoring and measurement
6 requirements; (6) safety requirements, including public notification; (7)
7 closure and abandonment requirements, including the financial require-
8 ments of subsection (e); and (8) long-term monitoring.

9 (c) *Except as provided in subsection (h), the commission may adopt*
10 *rules and regulations establishing fees for permitting, monitoring and in-*
11 *specting operators of carbon dioxide injection wells and underground*
12 *storage. Fees collected by the commission under this subsection shall be*
13 *remitted by the commission to the state treasurer in accordance with the*
14 *provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of*
15 *each such remittance, the state treasurer shall deposit the entire amount*
16 *in the state treasury and credit it to the carbon dioxide injection well and*
17 *underground storage fund.*

18 (d) The commission or the commission's duly authorized represen-
19 tative may impose on any holder of a permit issued pursuant to this sec-
20 tion such requirements relating to inspecting, monitoring, investigating,
21 recording and reporting as the commission or representative deems nec-
22 essary to administer the provisions of this section and rules and regula-
23 tions adopted hereunder.

24 (e) Any company or operator receiving a permit under the provisions
25 of this act shall demonstrate annually to the commission evidence, satis-
26 factory to the commission, that the permit holder has financial ability to
27 cover the cost of closure of the permitted facility as required by the
28 commission.

29 (f) The commission may enter into contracts for services from consul-
30 tants and other experts for the purposes of assisting in the drafting of
31 rules and regulations pursuant to this section.

32 (g) Rules and regulations adopted under this act shall apply to any
33 carbon dioxide injection well or underground storage, whether in exist-
34 tence on the effective date of this act or thereafter.

35 (h) *No rule and regulation adopted under the provisions of this sec-*
36 *tion shall create or impose upon the commission, any agent or employee*
37 *thereof or the state of Kansas any liability for the underground storage of*
38 *carbon dioxide or the maintenance of any carbon dioxide injection well*
39 *or underground storage of carbon dioxide except as permitted by the*
40 *Kansas tort claims act. From and after July 1, 2010, any requirement in*
41 *any rule and regulation adopted by the commission which conflicts with*
42 *the prohibition prescribed in this section shall be null and void.*

43 Sec. 4. K.S.A. 2009 Supp. 55-1636 and 55-1637 are hereby repealed.

No rule and regulation adopted pursuant to subsection (h) shall be construed to prohibit the commission from the plugging, replugging, repairing or remediation of any carbon dioxide injection well or underground storage in an emergency situation.

House Judiciary
Date 1-28-10
Attachment # 1