

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman John Vratil at 9:38 a.m. on January 30, 2003 in Room 123-S of the Capitol.

All members were present.

Committee staff present: Mike Heim, Kansas Legislative Research Department  
Lisa Montgomery, Office of the Revisor of Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Bill Fleming, Kansas Bar Association  
Melissa Wangeman, Secretary of State's Office  
Randy Hearrell, Kansas Judicial Council

Others attending: see attached list

The minutes of the January 27 meeting were approved on a motion by Senator Donovan, seconded by Senator Schmidt, and the motion carried.

**SB 28 - professional corporation law of Kansas**

Chairman Vratil opened the hearing on **SB 28**. Conferee Fleming testified that the main purpose of this bill was to update and modernize the Professional Corporation Code which regulates which professions can form professional corporations, operate them, who can own them, when they must divest themselves of the stock in the corporation, and other limitations placed on corporations. He stated that the proposed amendments do not attempt to change existing Kansas law with respect to which professions can practice in a professional corporation, which professions are required to practice in a professional corporation, or which professions are permitted to practice together in one professional corporation.

Mr. Fleming explained that the proposed amendments delete the separate list, and delegate to the licensing agencies the power to determine these questions. He said that if in the future any type of controversy created by this delegation of authority arises, the Legislature always can override the licensing agency decision and pass a separate statute. He added that the remaining substantive changes to the statute are primarily designed to expand the list of "qualified persons" who can own stock in a professional corporation to include another professional corporation, and provide rules for foreign professional corporations to follow. (Attachment 1)

Conferee Wangemann offered amendments to **SB 28** to correct some typing errors in the first two sections, and the third section was inadvertently left out of the bill draft. (Attachment 2)

After general questions and discussion by Committee members, the Chair closed the hearing on **SB 28**.

**SB 29 - corporation code amendments**

Chairman Vratil opened the hearing on **SB 29**, and reminded the Committee that they heard from Bob Alderson and Richard Hayse a couple of weeks ago at an informal hearing. He said that Mr. Alderson was present to answer any questions the Committee might have on the amendments.

Conferee Wangemann testified in support of **SB 29** covering the sections that related to the Secretary of State's Office. The amended sections concerned filing procedures, definition of "doing business" for foreign corporations, Annual Reports to reflect Delaware law resulting in slightly different reporting requirements, and franchise tax calculation. The Secretary of State believes the amendment regarding the franchise tax calculation promotes fairness and equity in taxing Kansas businesses, and eliminates the double franchise tax rate. Ms. Wangemann stated that this could be controversial due to fiscal concerns. She also pointed out that only Kansas and two other states base their corporate laws on Delaware, and the majority of states choose to follow the Model Business Corporations Act, promulgated by the American Bar Association. (Attachment 3)

Chairman Vratil referred to the fiscal note distributed on **SB 29**, and noted that the Secretary of State's Office and Department of Revenue are unable to estimate the reduction of revenue as a result of the

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change in the franchise tax. (Attachment 4) Ms. Wangemann responded that neither office tracks parent and subsidiary relationships, and she was unable to give a dollar amount.

Following general questions and discussion, the Chair closed the hearing on **SB 29**.

**SB 36 - membership and duties of the judicial council**

Chairman Vratil opened the hearing on **SB 36**. Conferee Hearrell testified in support of **SB 36**, and offered amendments to the bill including technical changes submitted by the Kansas Judicial Council (KJC). The changes were explained in written comment form on the bill layout. (Attachment 5) The Chair pointed out that the change regarding fee fund money was especially important in this budget year because of the Governor's recommendation that no state general fund moneys would be appropriated for the Judicial Council. Mr. Hearrell expressed concern that the KJC had become a "man without a country" in regards to which branch of government they fall under, i.e. judicial, legislative or executive. He said it would be helpful to have an amendment designating the branch of government to which the Judicial Council is assigned, and this should have been done years ago.

Committee members expressed their appreciation for the service the KJC furnishes to the Legislature, and do not want to see its activities and work curtailed due to lack of appropriations. The Chair pointed out that when the Committee works this bill it needs to be thinking about which branch of government the KJC should fall under, i.e. Legislative or Judicial, but not Executive Branch.

Chairman Vratil closed the hearing on **SB 36**.

The minutes of the January 27 meeting were approved on a motion by Senator Donovan, seconded by Senator Schmidt, and the motion carried.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is February 3, 2003.