

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on February 20<sup>th</sup>, 2006 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department  
Mike Heim, Kansas Legislative Research Department  
Ken Wilke, Revisor of Statutes  
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

None

Others attending:

See attached list

**SB 456** - Open records; disclosure of certain records pertaining to drivers of motor vehicles transporting members of the public.

Senator Huelskamp began the meeting with Senator Pyle's amendment to **SB 456** from yesterday's committee meeting.

Senator Pyle withdrew his amendment on **SB 456** and Senator Huelskamp withdrew his seconded.

Senator Petersen introduced a balloon for **SB 456** stating that contractors need to have criminal background checks done when hiring; Line 13-30 (Attachment 1).

Senator O'Connor seconded.

Discussion

Ken Wilke of the Revisor of Statute Office, stated we will make the changes in language and change the title accordingly. Senator O'Connor then asked the question about this amendment falling within the Open Records Act. Ken Wilke responded with a yes.

Senator Francisco asked if we are having to fund the KBI reports. Ken Wilke responded that this amendment does not provide for it.

Senator Francisco stated she is afraid it will be seen as an unfunded mandate.

Senator O'Connor stated because of the regulations of school and bus companies, the cost of the KBI check will have to be covered by the bus company as a part of their contract.

Senator Reitz thought this might discourage employment by the bus company. He saw this as a potential cost to the school district. The Senator stated he thinks this is more than needs to be done.

Senator O'Connor commented that these checks are apart of CDL licensing for A and B. Sub section A and B is defined in balloon. This is just for those who are dealing with public, children and elderly.

Senator Petersen discussed cost by KBI.

Senator Huelskamp asked about substitution language as long as the background checks are done.

With no addition questions or comments a motion was made by Senator Huelskamp to send **SB 456** to Senate. Chair is in doubt. Motion failed.

Further discussion.

Senator O'Connor, What is the objection?

Ken Wilke said basically the investigation is turned over to the public agency. The agency would have to expose what it could according to Open Records Act.

Senator Huelskamp introduced **SB 419** - Statements of substantial interests; filing required for certain officers and employee of judicial branch.

**SB 419** is a bill requiring certain branches of SSI to file reports and a proposal to file a disclosure with ethics committee as matter of public record and who would file. The Courts said they were fine with that. This would eliminate a potential for conflict of interest and for a nomination commission to be added. Senator

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Huelskamp asked Ken Wilke to double check on this and apparently each Justice of the Court has a law clerk that assigns them to writing discussion as well. And it is appropriate that they follow this as well. Senator Huelskamp moved to make amendment. Senator O'Connor seconded .  
Discussion.

Senator Wilson requested further description on the language on the except in section 5. Ken Wilke said in section 5, sub section J, it was intended to put certain members of the judicial sect back in two parts of the bill.

With no additional question it was moved to except amendment to **SB 419**.

Motion carried.

It was moved to send out **SB 419** out favorable.

Motion carried.

With no additional amendments **SB 419** with balloon was sent out by Senator O'Connor, seconded by Senate Wilson.

Discussion..

Those apposed, Senator Betts and Senator Francisco.

Motion carried.

Introduction of **SB 457** by Senator O'Connor. Purpose of bill is to limit direct public funding of lobbyists. Senator O'Connor moved **SB 457** be sent out favorable. Ken Wilke stated there needed to be a technical amendment to the title.

Senator O'Connor moved to except technical amendment to title seconded by Senator Pyle.

Discussion.

Motion carried.

This bill if referred out today will go to the Education committee next.

Senator O'Connor moved we refer the bill favorable to the Education Committee as amended. Senator Pyle seconded.

Discussion.

Lobbying definition given by Ken Wilke as promoting or apposing in a manner the action or non-action by the legislature on a legislator matter for an adoption or non adoption on a rule and regulation by a state agency. It also includes the entertaining of state offices or employee as far as gifts and honorary in payment that lobbyists normally do. Lobbyist have to be registered. Those who fall under the definition given. This would not include a state employee carrying out the duties of there office.

Ken Wilke said according to statues in 2004, a representative of public mentality is not required to register as a lobbyist. Hiring someone as a lobbyist and being a lobbyist as part of your job duties is covered in this situation.

Senator Francisco concerned about **SB 457** limiting testimony.

Senator O'Connor stated legislators can bring issues before committees not limiting testimony on funding basis. Tax payer funding is not for private indivuals. There are people to represent them.

A motion made to report **SB 457** favorable out of committee once it leaves Commerce and Education committee.

Motion failed.

All opposed were Senator Reitz, Senator Petersen, Senator Betts, Senator Francisco and Senator Donovan.

Senator Huelskamp introduced **SB 492** - Repealing unilateral annexation procedure.

Discussion.

Senator Pyle recommended to amend **SB 492** to read counties under 100,000 or less. There bye Sedgwick, Johnson, Wyandotte and Shawnee would be exempted.

Ken Wilke comment and clarification. Constitutional home rule amendment requires legislation be backed by general law for the alteration of city boundries, I think when we start making exceptions I am afraid you violate constitutional provision.

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Mike Heim remarked this could violate constitutional issue.

Senator Huelskamp - If it was based on city would it violate constitutional issue? What distinction is there?

Mike Heim - when you make a classification, language says to provide by general law - to unified law. Thought is they mean the same thing from this context, no case law to support that, I am trying to do is alert you if this passes it may become a constitutional issue.

Senator Huelskamp - If it were based on city classifications would there be any constitutional issues?

Mike Heim, you have the same issues, whether you are classifying cities regardless if you are saying cities or counties. Constitutional provisions for cities and statutory provisions for counties.

Further discussion.

Senator Pyle - All counties are local statutes. Counties can override constitution.

Mike Heim said in his opinion it is not constitutional.

Senator Pyle moved to accept amendment to **SB 492**.

Senator O'Connor seconded.

Further discussion.

Senator O'Connor to Mike Heim- If this were to land in court who would sue how? Mike replied in several ways - Could get lawyer to bring into a territorial thing, bringing the issue of constitutionality. Local prosecutor could test this. Classification in the supreme court determines viability.

Senator Huelskamp, Mike another question in the Shawnee county consolidation bill last year was there something regarding annexation. Mike, in my opinion that is suspect as well.

Senator Donovan, Let me understand if the amendment is accepted and it goes into law the smaller towns like Great Bend could do this but Paola couldn't because they are in a county in 100,000. Senator Huelskamp said if **SB 492** passed no one could. as it is.

Amendment fails.

Back on **SB 492**.

Further discussion.

Senator O'Connor this bill without amendment would prohibit all unilateral annexation within the state, is that correct? Senator Huelskamp, that is the intent.

Senator O'Connor, I don't like unilateral annexation. So I am torn on the bill.

Senator Donovan asked Ken or Mike, what about the situation where somebody owns a big parcel of land out of the city a little ways and he wants to be annexed and he petitions the city and wants to be apart of the city. Would this stop this? Mike, If it is not touching the city now this bill will not effect this. There is a procedure for this type of thing. This is a consent annexation. There is situation where two cities are wanting to annex the same piece of ground. The land touches both cities. Consent annexation is still allowed under this bill.

The board of county commissioner basically decides all this.

Additional discussion.

Senator Pyle made motion to report the bill favorable.

Motioned died for lack of second.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary