

Journal of the House

FORTY-SECOND DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Monday, March 16, 2015, 11:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 118 members present.

Rep. Sawyer was excused on verified illness.

Rep. Victors was excused on legislative business.

Reps. Ballard, Swanson and Todd were excused on excused absence by the Speaker.

Rep. Kelley was absent.

Prayer by guest chaplain, the Rev. Everett Schultz, First Mennonite Church, Pretty Prairie, and guest of Rep. Seiwert:

Our Father in Heaven,

We come before Thee this morning praising You and thanking you for Your many blessings. We have so much in our land, and we acknowledge that it is from Your Hand. I thank you Father that this great Hall still opens its sessions in prayer. You are the creator of this land, and we are privileged to live in it because of Your grace and mercy upon us. So I thank you that prayer is still observed in this Hall.

Dear Father, please give the people in this room wisdom and guidance. Rule and overrule in their decisions. May Your will be done. Help them to realize that they are dealing with all Kansans' futures. Both those who are older, and those who are just getting started. Help them to realize that we must take care of the economy and not leave a debt so large that we cannot repay it. Help them to be able to deal with the issues and stand up to aggressive constituents, special interest groups, the news media, and their own ambitions, and help them to do the right things for all Kansans. Father, Your word says that "The fear of the Lord is the beginning of wisdom." Your word also states that "if any of you lack wisdom, let him ask of God, that gives to all men liberally and without reproach; and it will be given him." Therefore, Father, I ask that you will give wisdom and understanding. I pray that these people will be able to make decisions that meet the needs of this great state not only for us

today, but also for our children and grand-children.

Father, I realize there are many different viewpoints in this room. But there is only one state of Kansas. Help them to see their way to unifying with each other, regardless of political party or area of the state, so that the good of the entire state is done, and not their own desires and purposes. Work in each one's heart here today Father. I ask that you cause them to do Your will, and not their own, and make all the decisions the correct decisions for Your glory and for the betterment of the state of Kansas.

“Now the God of peace, who brought up from the dead the great Shepherd of the sheep through the blood of the eternal covenant, *even* Jesus our Lord,²¹ equip you in every thing to do His will, working in us that which is pleasing in His sight, through Jesus Christ, to whom *be* the glory forever and ever. Amen.”

The Pledge of Allegiance was led by Rep. Seiwert.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2412, AN ACT concerning municipalities; relating to using the internet as a source for official publications; amending K.S.A. 10-120, 10-1116c, 25-2018, 25-2022, 64-101, 72-2138, 72-7108, 72-8213b, 75-2317, 79-2001, 79-2303, 79-2322, 79-2323a, 79-2804f and 79-2929 and K.S.A. 2014 Supp. 72-6433, 72-8801, 79-2804 and 79-2925b and repealing the existing sections; also repealing K.S.A. 12-1651, by Committee on Appropriations.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committees as indicated:

Judiciary: **HB 2411**.

CONSENT CALENDAR

No objection was made to **SB 13** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 13, AN ACT concerning criminal history record information; definitions; amending K.S.A. 2014 Supp. 22-4701 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 118; Nays 0; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alcalá, Alford, Anthimides, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney,

Francis, Frownfelter, Gallagher, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Huebert, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kahrs, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Scapa, Schroeder, Schwab, Schwartz, Seiwert, Sloan, Smith, Suellentrop, Sutton, Thimesch, Thompson, Tietze, Trimmer, Vickrey, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Ballard, Kelley, Sawyer, Swanson, Todd, Victors.

The bill passed.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **HB 2371** be passed.

Committee on **Taxation** recommends **HB 2240** be amended on page 3, following line 29, by inserting:

"Sec. 2. K.S.A. 2014 Supp. 74-2433 is hereby amended to read as follows: 74-2433. (a) There is hereby created a state board of tax appeals, referred to in this act as the board. The board shall be composed of three members who shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. For members appointed after June 30, 2014, one of such members shall have been regularly admitted to practice law in the state of Kansas and for a period of at least five years, have engaged in the active practice of law as a lawyer, judge of a court of record or any other court in this state; one of such members shall have engaged in active practice as a certified public accountant for a period of at least five years and one such member shall be a licensed certified general real property appraiser. In addition, the governor shall also appoint a chief hearing officer, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, who, in addition to other duties prescribed by this act, shall serve as a member pro tempore of the board. No successor shall be appointed for any judge of the court of tax appeals appointed before July 1, 2014. Such persons shall continue to serve as members on the board of tax appeals until their terms expire. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, including the chief hearing officer, shall exercise any power, duty or function as a member of the board until confirmed by the senate. Not more than two members of the board shall be of the same political party. Members of the board, including the chief hearing officer, shall be residents of the state. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, no more than one member shall be appointed from any one of the congressional districts of Kansas unless, after having exercised due diligence, the governor is unable to find a qualified replacement within 90 days after any vacancy on the board occurs. The members of the board, including the chief hearing officer, shall be selected with special reference to training and experience for duties imposed by this act and shall be individuals with legal, tax, accounting or appraisal training and experience. State board of tax appeals members shall be subject to the supreme court rules of judicial conduct applicable to all judges of the district court. The board shall be bound by the doctrine of

stare decisis limited to published decisions of an appellate court. Members of the board, including the chief hearing officer, shall hold office for terms of four years. A member may continue to serve for a period of 90 days after the expiration of the member's term, or until a successor has been appointed and confirmed, whichever is shorter. Except as otherwise provided, such terms of office shall expire on January 15 of the last year of such term. If a vacancy occurs on the board, or in the position for chief hearing officer, the governor shall appoint a successor to fill the vacancy for the unexpired term. Nothing in this section shall be construed to prohibit the governor from reappointing any member of the board, including the chief hearing officer, for additional four-year terms. The governor shall select one of its members to serve as chairperson. The votes of two members shall be required for any final order to be issued by the board. Meetings may be called by the chairperson and shall be called on request of a majority of the members of the board and when otherwise prescribed by statute.

(b) Any member appointed to the state board of tax appeals and the chief hearing officer may be removed by the governor for cause, after public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state board of tax appeals shall appoint, subject to approval by the governor, an executive director of the board, to serve at the pleasure of the board. The executive director shall: (1) Be in the unclassified service under the Kansas civil service act; (2) devote full time to the executive director's assigned duties; (3) receive such compensation as determined by the board, subject to the limitations of appropriations thereof; and (4) have familiarity with the tax appeals process sufficient to fulfill the duties of the office of executive director. The executive director shall perform such other duties as directed by the board.

(d) Appeals decided by the state board of tax appeals shall be made available to the public and shall be published by the board on the board's website within 30 days after the decision has been rendered. The board shall also publish a monthly report that includes all appeals decided that month as well as all appeals which have not yet been decided and are beyond the time limitations as set forth in K.S.A. 74-2426, and amendments thereto. Such report shall be made available to the public and transmitted by the board to the members of the Kansas legislature.

(e) After appointment, members of the state board of tax appeals that are not otherwise a state certified general real property appraiser shall complete the following course requirements: (1) A tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the cost and sales approaches to value; (2) a tested appraisal course of not less than 30 clock hours of instruction consisting of the fundamentals of real property appraisal with an emphasis on the income approach to value; (3) a tested appraisal course of not less than 30 clock hours of instruction with an emphasis on mass appraisal; (4) an appraisal course with an emphasis on Kansas property tax laws ~~and~~; (5) an appraisal course on the techniques and procedures for the valuation of state assessed properties with an emphasis on unit valuation; and (6) a tested appraisal course on the techniques and procedures for the valuation of land devoted to agricultural use pursuant to K.S.A. 79-1476, and amendments thereto. Any member appointed to the board who is a certified real property appraiser shall only be required to take such educational courses as are required to maintain the appraisal license. The executive director shall adopt rules and regulations prescribing a timetable for the completion of the course requirements

and prescribing continued education requirements for members of the board.

(f) The state board of tax appeals shall have no capacity or power to sue or be sued.

(g) It is the intent of the legislature that proceedings in front of the board of tax appeals be conducted in a fair and impartial manner and that all taxpayers are entitled to a neutral interpretation of the tax laws of the state of Kansas. The provisions of the tax laws of this state shall be applied impartially to both taxpayers and taxing districts in cases before the board. Cases before the board shall not be decided upon arguments concerning the shifting of the tax burden or upon any revenue loss or gain which may be experienced by the taxing district.

Sec. 3. K.S.A. 2014 Supp. 74-2434 is hereby amended to read as follows: 74-2434.

(a) Each member of the board, including the chairperson and chief hearing officer, shall receive an annual salary as provided in this section. Each of the members of the board, including the chief hearing officer, shall devote full time to the duties of such office.

(b) For members, including the chief hearing officer, who are appointed prior to July 1, 2014:

(1) The annual salary of the ~~chief judge~~ chairperson shall be an amount equal to the annual salary paid by the state to a district judge designated as chief judge; and

(2) the annual salary of each ~~judge member~~ other than the ~~chief judge~~ chairperson, including the chief hearing officer, shall be an amount which is \$2,465 less than the annual salary of the ~~chief judge~~ chairperson.

(c) For members, including the chief hearing officer, who are not state certified real property appraisers who are appointed after June 30, 2014, the annual salary shall be an amount equal to the annual salary paid by the state to an administrative law judge, except that once such member or chief hearing officer completes the course requirements listed in K.S.A. 74-2433(e), and amendments thereto, then the annual salary shall be an amount which is \$2,465 less than the annual salary paid by the state to a district court judge designated as a chief judge.";

And by renumbering sections accordingly;

Also on page 3, in line 30, after "Supp." by inserting "74-2433,"; also in line 30, by striking "is" and inserting "and 74-2434 are"; in line 32, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 1, by striking the comma and inserting a semicolon; in line 2, after the semicolon by inserting "members, qualifications and salary,"; in line 3, after "Supp." by inserting "74-2433,"; also in line 3, after "74-2433f" by inserting "and 74-2434"; also in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

HB 2413, AN ACT concerning alcoholic beverages; relating to the club and drinking establishment act; creating the art studio permit; amending K.S.A. 2014 Supp. 41-719 and repealing the existing section, by Committee on Federal and State Affairs.

CHANGE OF REFERENCE

Speaker Merrick announced the withdrawal of **HB 2319** from Committee on Health and Human Services and referral to Committee on Taxation.

Also, the withdrawal of **SB 112** from Committee on Judiciary and referral to Committee on Veterans, Military and Homeland Security.

COMMITTEE ASSIGNMENT CHANGES

Speaker Merrick announced the appointment of Rep. Ruiz to replace Sawyer on Committee on Taxation on March 16.

Also, Rep. Burroughs to replace Rep. Sawyer on Committee on Elections on March 16.

Also, Rep. McPherson to replace Rep. Todd on Committee on Federal and State Affairs on March 17. Rep. Todd will resume his duties on March 18.

On motion of Rep. Vickrey, the House adjourned until 11:00 a.m., Tuesday, March 17, 2015.

CHARLENE SWANSON, *Journal Clerk*.

SUSAN W. KANNARR, *Chief Clerk*.

