

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 12:00 p.m. on February 25, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Dale Swenson - Excused

Representative Dan Williams - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Revisor of Statutes

Cindy O'Neal, Committee Secretary

HB 2294 - Construction defects; contractor's right to cure prior to filing a civil action

Kansas Trial Lawyers provided a balloon amendment which addressed the concerns the committee had with the tolling provisions (Attachment 1)

Representative Jack made a motion to adopt the balloon amendment. Representative Goering seconded the motion. The motion carried.

Representative Long made the motion to report **Substitute HB 2294** favorably for passage. Representative Goering seconded the motion. The motion carried.

HB 2217 - Ignition interlock devices; certificate requirements

Representative O'Neal moved the balloon amendment which was drafted as requested from the February 24 meeting (Attachment 2). Representative Patterson seconded the motion. The motion carried.

Representative Pauls made a motion require an affidavit saying that they have not driven in the last year. Representative Long seconded the motion. The motion carried.

Representative Goering made the motion to allow the choice of an additional one year suspension for those who do not want to place an interlock on their vehicle. Representative Pauls seconded the motion. The motion failed.

Representative Patterson made the motion to report **HB 2217** favorably for passage, as amended. Representative Pauls seconded the motion. The motion carried.

The committee meeting recessed at 1:15 p.m. and returned at 3:30 p.m.

HB 2215 - Increasing claim limit in small claims court from \$1,800 to \$5,000

Representative Yoder made the motion to reconsider the action on **HB 2215**. Representative Patterson seconded the motion. The motion carried 6-5.

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Representative Yoder made the motion to amend the bill so it would cap the small claims at \$3,500. Representative Long seconded the motion. The motion carried 7-5.

Representative Patterson made the motion to limit it to individuals only. Representative Klein seconded the motion. The motion carried.

Representative Loyd made the motion to report **HB 2215** favorably for passage, as amended. Representative Crow seconded the motion.

Representative Jack made the substitute motion to table the bill. Representative Patterson seconded the motion. The motion carried 6-5.

HB 2154 - Construction contracts; indemnification agreements

A proposed amendment was provided by Burlington Northern Santa Fe Railroads. No interest was shown in adopting the amendment. (Attachment 3)

Representative Davis made the motion to report **HB 2154** favorably for passage. Representative Jack seconded the motion. The motion carried.

HB 2205 - Real estate transaction; disclosures relating to special assessments and fees

Representative Patterson made the motion to report **HB 2205** favorably for passage. Representative Crow seconded the motion.

Representative Klein made the motion to strike Section 1 & 2 of the proposed bill and insert that if the seller does not know the exact amount of the special assessment or fee he shall make an estimate of such amount.. Representative Pauls seconded the motion. The motion carried.

Representative Loyd made the motion to have the seller estimate the amount of the fee. Representative Owens seconded the motion. The motion carried.

Representative Loyd made the motion to amend the bill by stating that appraisers can not add special assessments to the value of the home (Attachment 4). Representative Ward seconded the motion. The motion carried.

Representative Crow made the motion to amend the bill to state “as part of a contract or before entering into the execution of a contract notification of specials must be disclosed, prior to closing.” Representative Patterson seconded the motion. The motion carried.

Representative Crow made the motion to report **HB 2205** favorably for passage, as amended. Representative Long seconded the motion.

Representative Jack made a substitute motion to delete the provisions of **HB 2205** except the proposed

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amendment regarding special assessments being added into the value of a home. Representative Loyd seconded the motion. The motion carried.

Representative Goering made the motion to report **HB 2205** favorably for passage, as amended. Representative Loyd seconded the motion. The motion carried.

HB 2307 - Elimination or reassignment of district magistrate judge positions upon vacancy

Chairman O'Neal reminded the members that there is a need for judges but the court are underfunded and can not afford them. At the same time, there are several districts that have low caseloads when compared to other judicial districts. The proposal would be that in districts that have a caseload of 1,200 or less the Chief Justice would have the ability to reassign the district magistrate judges. This would effect four Judicial Districts, 12, 17, 22, & 24. In cases where the district magistrate is elected he would be required to run in both counties he serves in.

The committee discussed that this looked like a good opportunity for judicial districts that need help with their caseloads and in the sever budget crisis, the legislature can't justify judges with small caseloads. Others wondered if this was the wrong approach and shouldn't counties, not the Chief Justice, be able to consolidate the district magistrate judges, if they see fit. Many didn't see the bill as doing away with the one judge per county, there just wouldn't be a full time judge in that district but it would still have a courthouse that was in operation.

Representative Davis made the motion to amend **HB 2307** by striking everything in the bill and applying the reappointment of district magistrate judges to those districts who have a caseload of less than 1,200, which affects the 12, 17, 22, 24 judicial districts. The chief judge of that district would assign the district magistrate judges, to no more than two counties. If it is an elected district, that magistrate judge would run in both counties. Representative Goering seconded the motion. The motion carried.

Representative Davis made the motion to report **Substitute HB 2307** favorably for passage. Representative Goering seconded the motion. The motion carried.

HB 2290 - Amendments to the Uniform Trust Code

The committee did not see any urgency in adopting the proposed amendments and directed the Chairman to request that the Kansas Judicial Council review the amendments.

HB 2039 - Illegal aliens may obtain a drivers license if such person has an internal revenue service taxpayer identification number

Representative Klein made the motion to strike everything in the bill except the following four provisions:

- undocumented workers would have a separate temporary resident license
- it would expire every three years
- adopt new Section 4 regarding rules & regulations (Attachment 5) NEED
- effective date would be July 2004 due to SB 16 being passed

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Representative Long seconded the motion. Committee discussion centered on making the period of time that the license expired shorter and discussed ways to make the license distinctive. It was the committee's unanimous decision that the Chairman direct the Division of Motor Vehicles to create several temporary resident licenses for the Judiciary Committee to review and approve at the start of the 2004 Legislative session. The motion carried.

Representative Owens made the motion to have the license expire after a one year period. Representative Patterson seconded the motion. The motion failed.

Representative Loyd made the motion to increase the fee to \$10 with a \$1 going to educational programs for those wanting to learn to drive. Representative Klein seconded the motion. The motion carried.

Representative Pauls made the motion to have rules & regulations determine what is needed to determine residency and identification to receive a temporary residence license. Representative Crow seconded the motion. The motion carried.

Representative Jack made the motion to have those applying for a temporary residence license to show proof that they are working towards legal residency. Representative Patterson seconded the motion. Upon committee discussion it was suggested that when papers are filed with the federal government requesting citizenship they are not file stamped so therefore there is no "proof" that they are working towards legal residency. California does do phone verification but it does take quite a bit of time to get the information. INS is considering placing such information on the internet but hasn't done so. With permission of the second, Representative Jack revised his motion to have the issue sent to the Select Committee on Security. The motion carried.

Representative Davis made the motion to report **Substitute HB 2039** favorably for passage. Representative Klein seconded the motion. The motion carried.

The committee meeting adjourned at 7:00 p.m.