

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on February 6, 2006, in Room 123-S of the Capitol.

All members were present,

Kay O'Connor arrived, 9:37 a.m.
Dwayne Umbarger arrived, 9:37 a.m.
David Haley arrived, 9:48 a.m.
Barbara Allen arrived, 9:50 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Others attending:

See attached list.

Final action on **SB 221--Mentally ill persons subject to involuntary commitment not allowed to possess a firearm; certification of restoration**

Senator Journey provided a balloon amendment (Attachment 1) and reviewed the provisions of **SB 221**. Senator Bruce moved, Senator Schmidt seconded, to adopt the balloon amendments proposed by Senator Journey. Motion carried.

Senator Donovan moved, Senator Bruce seconded, to add a docket fee of \$50.00 for the filing of a petition to restore rights, provided current statute does not already provide for a docket fee. Should the docket fee be less than \$50.00 increase the fee to \$50.00. Motion carried.

Senator Bruce moved, Senator Schmidt seconded, to recommend **SB 221** favorably as amended for passage. Motion carried.

Final action on **SB 352--Uniform commercial code; filing of financing statements**

Senator Vratil reviewed bill heard on January 26 and the proposed balloon amendment submitted by the Kansas Bankers Association, which clarifies the filing of financial statements and activates upon publication.

Senator Bruce moved, Senator Goodwin seconded, to adopt the balloon amendments proposed by the Kansas Bankers Association. Motion carried.

Senator Donovan moved, Senator O'Connor seconded, to recommend **SB 221** favorably as amended for passage. Motion carried.

Final action on **SB 398--Eminent domain; appeal perfected upon filing notice**

Senator Vratil reviewed the bill indicating the bill is intended to correct a situation where a party wanting to appeal an eminent domain award was denied the right to appeal because they did not pay the filing fee within thirty days after an appraiser's award was entered. This bill will clarify the intent of the committee and the legislature when this portion of the statute was changed two years ago.

Senator Donovan moved, Senator O'Connor seconded, to recommend **SB 221** favorably for passage. Motion carried.

Final action on **SB 338--Contracts; indemnification clauses and additional insured requirements in certain contracts void**

The Chairman explained that this bill was broken down into two separate bills as he had indicated would be done following the bills' hearing at the 1-25 meeting. The oil and gas interests have withdrawn their proposal for this year leaving the construction industry and the motor carriers. The Kansas Motor Carriers Association proposed a bill (Attachment 2) entitled **Senate Substitute for SB 149**. The bill includes a provision, Subsection (e), which would prohibit an additional insured clause in a contract.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on February 6, 2006, in Room 123-S of the Capitol.

Senator Journey moved, Senator Donovan seconded, to direct the Revisor to prepare a **Senate Substitute for SB 149** which would include the provisions on the draft provided and to recommend the bill favorably for passage. Motion carried.

The Chairman returned to **SB 338** providing a draft bill (Attachment 3) and briefing the committee on it. It is what the construction industry has already in law plus a few clean up procedural aspects. One controversial issue on the proposal is found in subsection (c) which would prohibit any construction contract from having an additional insured clause. The chairman contacted several people in the insurance industry and found that there is no standard policy. Only some liability policies will insure a general contractor for work beyond the scope of the general contractor, i.e. a sub-contractor. Therefore, depending on the policy purchased, there could be a gap in coverage. Senator Vratil also noted that these types of policies are evolving and a standard policy should be available within the next 12 to 18 months.

Following discussion on **SB 338** Senator Journey moved, Senator Haley seconded, to delete subsection (c). Motion failed.

Senator Journey moved, Senator Donovan seconded, to change the effective date to January 1, 2007. Motion carried.

Senator Bruce moved, Senator Betts seconded, requesting a substitute of SB 338 reflecting today's changes and recommend favorably for passage. Motion carried.

Senator Derek Schmidt voted no and requested his vote recorded.

Final action on **SB 408--Cruelty to animals; harming or killing certain dogs; nongrid felony; mandatory sentence**

Senator Goodwin moved, Senator Bruce seconded, on page 2, line 26, to delete the words "undergo psychological counseling or". Motion carried.

Senator Allen moved, Senator Schmidt seconded, an amendment to add on page 2, line 26 "complete a batters' intervention program and if not available, attend an anger management program". Motion failed.

Senator Journey moved, Senator Bruce seconded, to delete provisions concerning anger program and inserting substitute provisions regarding psychological evaluation to be used by the judge to determine appropriate sentencing. Motion carried.

Senator Journey moved, Senator Donovan seconded, to amend **SB 408** by removing the term "reckless" from page 1, line 17. Motion carried.

The Chairman announced that they were out of time and final action on **SB 408** will continue at a later date.

The meeting adjourned at 10:31 a.m. The next scheduled meeting is February 7, 2006.