

MINUTES OF THE HOUSE JUDICIARY COMMITTEE.

The meeting was called to order by Chairman Michael R. O'Neal at 3:30 p.m. on January 23, 2003 in Room 313-S of the Capitol.

All members were present except:

Representative Jim Ward - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Jill Wolters, Revisor of Statutes

Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Representative Ray Merrick

Robert Krehbiel, Kansas Independent Oil & Gas Association

Representative Jeff Goering

Kyle Smith, Kansas Bureau of Investigations

Randy Hearrell, Kansas Judicial Council

Jerry Goodell, Kansas Judicial Council, Chairman Eminent Domain Act Advisory Committee

Phil Mellor, Kansas Judicial Council, Eminent Domain Act Advisory Committee

John Hamilton, Kansas Judicial Council, Eminent Domain Act Advisory Committee

Sandy Jacquot, League of Kansas Municipalities

Derenda Mitchell, Kansas Livestock Association

Leonard Hall, City of Olathe

Representative Ray Merrick appeared before the committee with a bill request which provides a process for homeowners to address concerns that they might have with their newly built home. It would allow all parties involved a set amount of time to resolve those problems before an action is brought. Representative Patterson made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Robert Krehbiel, Kansas Independent Oil & Gas Association, requested a committee bill which would restore the language in K.S.A. 84-9-319, perfecting security interests in oil and gas production. Representative Patterson made the motion to have the request introduced as a committee bill. Representative Pauls seconded the motion. The motion carried.

Representative Jeff Goering requested a bill be introduced which would revise K.S.A. 60-2610, the worthless check statute. Representative Goering made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Kyle Smith, Kansas Bureau of Investigations, requested a bill dealing with licensure of private detectives renewing their licences two years from when they received their original license. Representative Owens made the motion to have the request introduced as a committee bill. Representative Crow seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on January 23, 2003 in Room 313-S of the Capitol.

Chairman O'Neal turned the committees attention to hearing bills. He opened the hearing on **HB 2031 - Repealing the statute concerning wills containing formula martial clauses.**

Randy Hearrell, Kansas Judicial Council, addressed the committee as a proponent of the bill. He explained that the statute was enacted to address one specific case where an attorney made an inadvertent error that caused him to lose a special use value election pursuant to Section 2032A of the IRS code and could have faced charges of malpractice. The statute is no longer useful and the Judicial Council proposed the repeal of it.

The hearing on **HB 2031** was closed.

**Hearings on HB 2032 - Proposed amendments to the Kansas Eminent Domain Act, were opened.**

Jerry Goodell, Kansas Judicial Council, Chairman Eminent Domain Act Advisory Committee, explained several sections of the bill. (Attachment 1)

- Section 1 - requires that interested parties must appear in person or by an attorney and that any party can be called as a witness.
- Section 2 - requires each appeal to be docketed as a new action.
- Section 3 - mandates that any condemning authority must pay relocation expenses.

Phil Mellor, Kansas Judicial Council, Eminent Domain Act Advisory Committee, went into more detail on Section 3 of the bill. If the state or a city condemns ones house or business, and the owner receives fair market value, they still have to move and it causes an added expense on the owners that they wouldn't necessarily have. Therefore, the agency condemning the property should be responsible to pay for the relocation expenses. (Attachment 2)

John Hamilton, Kansas Judicial Council, Eminent Domain Act Advisory Committee, informed the committee that the building across the street was condemned by a blend of city & state which did not pay for relocation expenses and therefore, several business were forced to close as a result of not being able to afford to relocate.

Sandy Jacquot, League of Kansas Municipalities, appeared in opposition to the bill because it has a huge unfunded mandate on cities to pay the relocation expenses and it mandates compliance with federal law regardless whether there are federal funds available or not. Paying relocation expenses should be an option, not a mandate. (Attachment 3)

Derenda Mitchell, Kansas Livestock Association, opposed section two, lines 15 & 16 in which the landowner would have to pay a filing fee to implement protections, suggested amending lines 22-26 to state that the compensation and reasonableness of the taking may be determined in the trial de novo and encouraged the committee to add a new section that provides for attorneys fees and costs to the landowner when the condemning authority acts unreasonably or when the appraisal is determined to be too low. (Attachment 4)

CONTINUATION SHEET

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Leonard Hall, City of Olathe, appeared in opposition to the bill. He stated that trying to comply with federal regulations is a very time consuming process and encouraged the committee to rethink this portion of the bill. (Attachment 5)

A spokesperson from Kansas Farm Bureau did not appear before the committee but requested their written testimony, in opposition of the bill, be included in the committee minutes. (Attachment 6)

Hearings on **HB 2032** were closed.

The committee meeting adjourned at 4:45 p.m. The next meeting was scheduled for January 27, 2003 at 3:30 p.m. in room 313-S.