

Approved: March 15, 2012
(Date)

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairperson Forrest Knox at 3:30 p.m. on Tuesday, March 6, 2012, in Room 152-S of the Capitol.

All members were present except Representatives Charlotte O'Hara and James Fawcett, both of whom were excused.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Matt Sterling, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Gary Deeter, Committee Secretary

Conferees appearing before the Committee:

Ed Splichal, Commissioner, Office of the State Bank Commissioner
Judi Stork, Deputy Commissioner, Office of the State Bank Commissioner
Doug Wareham, Senior Vice President, Government Relations, Kansas Bankers

Association

Kyle Smith, Deputy Director, Kansas Bureau of Investigation
Kathleen Taylor, Senior Vice-President/General Counsel, Kansas Bankers

Association

Others in attendance:

See attached list.

The minutes for the March 1, 2012, meeting were approved. (Motion by Representative Grant and seconded by Representative Hermanson)

The Chair opened the hearing on **SB 315 – Bank Commissioner; appointment of and salaries for certain unclassified positions.**

Staff Matt Sterling briefed the Committee on the bill, saying that the bill would permit the state bank commissioner to allow attorneys, officers, and other employees to become unclassified employees, whereas now only regional managers and financial examiner administrators may be considered for unclassified service (Attachment 1). The bill would also allow the bank commissioner to establish salaries not to exceed the average compensation for corresponding

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the HOUSE FINANCIAL INSTITUTIONS Committee at 3:30 PM on Tuesday, March 6, in 152-S of the Capitol.

positions in similar geographic regions. Responding to a question, Mr. Sterling said geographic areas generally would be considered neighboring states, but he will provide further information about the question later. The Chair suggested that the wording regarding salary be changed so that the salary schedule average does not exceed the average salary in other areas.

Ed Splichal, Commissioner, Office of the State Bank Commissioner (OSBC), spoke as a proponent for the bill ([Attachment 2](#)). He explained that the term “similar geographic areas” is generally understood to be neighboring states; he referenced the chart on page 3 to illustrate what is meant by the term. From the chart he noted that Kansas provides the lowest examiner salaries among neighboring states and that allowing employees to move to an unclassified status will enable them to receive salaries more closely commensurate to similar positions in other states. He stated that 18 positions are currently unclassified, but, if other employees elect to do so, up to 71 more could move into unclassified service. He related that recently an employee moved to another state and received a 45% increase in salary. Mr. Splichal is proposing a 7.5% salary increase in unclassified salaries for the remainder of FY 2012 and another 7.5% increase for the FY 2013 budget year.

Mr. Splichal responded to members’ questions thus:

- The agency is entirely fee-funded; there is no demand on the State General Fund.
- The increased salaries will still leave employees as the bottom of the chart, but taking small steps is more advisable during difficult economic times.
- It is challenging to retain staff when federal salaries are 50% higher for a comparable position.
- More federally chartered banks are converting to state-chartered banks, a trend which will increase the total assets upon which fees are based, enabling the Commissioner to reduce fees assessed to banks.
- If total assets do not grow substantially next year, for example, a \$100-million-asset bank will have fees increase about \$3500 next year.
- Three federally chartered banks have converted to state banks since December 2011, and two more are in the process of doing so.
- The Governor is authorized to appoint only the Commissioner. All other staff follow the normal hiring process.
- The State Banking Board has been urging the Commissioner to raise staff salaries.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the HOUSE FINANCIAL INSTITUTIONS Committee at 3:30 PM on Tuesday, March 6, in 152-S of the Capitol.

Members requested data from other states in order to compare employee salaries and the number of examiners to the number of banks. Conferees suggested that the variables would make it difficult to derive meaningful conclusions from any data. A member commented that raising salaries would require employers to increase contributions to the Kansas Public Employees Retirement System.

Doug Wareham, Senior Vice President, Government Relations, Kansas Bankers Association, commented on the bill as a proponent, saying that he is grateful that the bill makes moving to unclassified positions voluntary on the employee's part; the Association supports the bill because banks want credible regulators (Attachment 3). He noted that some banks chafe under federal regulations and appreciate the relationship with state regulators; he also noted that the Association had no dissenting votes regarding support for the bill.

Answering questions, Mr. Wareham replied:

- That federal regulations tend to be inflexible, a fact which is motivating some Kansas federally-chartered banks to convert to state-chartered banks.
- That regulatory pressure is impinging on profits, causing some banks to consolidate and other banks to fail.
- That regulator fees are set by the commissioner. There is no statutory fee limit.

Mr. Splichal replied to a question that a proposed pay scale increase is subject to the appropriations process. Kevin Glendenning, Deputy Commissioner for Consumer Loans, replied that the number of exams per examiner is similar in all the neighboring states. John Smith, Administrator, Kansas Department of Credit Unions, commented that a similar bill is being heard on March 7 in the Kansas Senate (**SB 431 - Credit Union Administrator: appointment of and salaries for certain unclassified positions**); the bill will move all examiners to unclassified positions.

Shawn Mitchell, President/CEO, Community Bankers Association of Kansas, provided written support for the bill (Attachment 4).

The hearing on **SB 315** was closed; the Chair opened the hearing on **Sub for SB 64 – Banking; criminal record history information, fingerprints.**

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the HOUSE FINANCIAL INSTITUTIONS Committee at 3:30 PM on Tuesday, March 6, in 152-S of the Capitol.

Mr. Sterling reviewed the bill, saying that the bill would permit the state banking commissioner to require fingerprinting for various individuals, employees, or officers related to money transmitter licenses or related to proposed bank acquisitions ([Attachment 5](#)).

Judi Stork, Deputy Commissioner, Office of the State Banking Commissioner, testified as a proponent for the bill, saying that the bill originated in the Senate last year and was reworked by an interim committee ([Attachment 6](#)). She explained that background checks without fingerprints allow the Kansas Bureau of Investigation to investigate only Kansas criminal records; fingerprints are required to expand the investigation utilizing the Federal Bureau of Investigation's (FBI's) database. The bill will help the Commissioner in making informed decisions.

Written testimony supporting the bill was provided by Kathleen Taylor, Senior Vice-President/General Counsel, Kansas Bankers Association ([Attachment 7](#)).

Kyle Smith, Deputy Director, Kansas Bureau of Investigation, appeared before the Committee as a neutral commentator, saying that the bill as currently written does not meet the access requirements for the FBI database ([Attachment 8](#)). He provided amendments to the bill to make it compliant with FBI regulations.

The Chair closed the hearing on **Sub for SB 64** and opened the hearing on **SB 372 – Kansas money transmitter act**.

Mr. Sterling reviewed the bill, commenting that the bill would amend definitions used in the act, would allow the bank commissioner to establish an adjustable fee schedule for licensees and take other actions addressing violations, and would update the list of prohibited actions that are subject to disciplinary action under the act ([Attachment 9](#)).

Ms. Stork explained that the OSBC has regulated money transmissions since 1967 and currently licenses 62 money transmitter companies, which conduct business through 5955 agents ([Attachment 10](#)). She said that the nature of money transmissions has moved from primarily paper transactions to online transactions (PayPal, Google), ACH (Automated Clearing House) transactions, wire transfers, value cards, prepaid cards, and mobile phone transfers. The bill is needed to comply with the federal Bank Secrecy Act and requirements from the Financial Crimes Enforcement Network. It is also needed to provide enforcement authority for unlicensed services and to allow more flexible oversight rather than simply revoking a company's license.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the HOUSE FINANCIAL INSTITUTIONS Committee at 3:30 PM on Tuesday, March 6, in 152-S of the Capitol.

She noted that employee Robin Wilson has been assigned to monitor money transmission examinations and, if the bill passes, she will provide oversight needed in this area.

Answering questions, Ms. Stork replied that presently only one employee is needed to handle the work load. She replied that presently the fees are set by statutory regulation; however, the agency would prefer to base the fees on the cost of the program and assess entities proportionately. Last year the cost was \$65,000 to \$70,000; the agency estimates a cost of \$100,000 for the next fiscal year.

The hearing on **SB 372** was closed.

The meeting was adjourned at 4:48 p.m. The next meeting is scheduled for Thursday, March 8, 2012, in Room 152-S at 3:30 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.