

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:35 a.m. on March 13, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator David Haley- excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Jerry Donaldson, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Clint Patty, Frieden & Forbes Law Firm
Steve Glass, LRM Industries, Inc.
Representative Mike O'Neal
Richard Hayse, Kansas Judicial Council
Judge Stephen D. Hill, Kansas Court of Appeals
Joe Molina, Kansas Bar Association
Jerry Sloan, Budget and Fiscal Officer, Office of Judicial Administration
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Ed Klumpp, Co-Chairman, Kansas Criminal Code Recodification Commission

Others attending:

See attached list.

The Chairman reopened the hearing on **SB 292 - Civil procedure, liens; requiring notice of commencement and notice of furnishings to be filed prior to filing certain commercial property liens.**

Clint Patty appeared in opposition stating **SB 292** is extremely restrictive and burdensome legislation that unfairly shifts the risk and responsibility from the general contractor to their suppliers and sub-contractors. Mr. Patty indicated it is a matter of fairness and that **SB 292** was unnecessary. (Attachment 1)

Steve Glass spoke in opposition indicating the reduction of the time frame within which a supplier or sub-contractor must make an initial filing in addition to being unfair presents many "real world" logistical problems. Mr. Glass provided an example illustrating the problems such a short time frame regarding the filing of liens can cause. This bill will only shift the risk and responsibility unfairly. (Attachment 2)

Written testimony in support of **SB 292** was submitted by:

Steve Mohan, President, Mohan Construction Company (Attachment 3)
Rick Kuhn, PKM Steel Service, Inc. (Attachment 4)
Rick McCafferty, Executive Vice President, Key Construction (Attachment 5)

Written testimony in opposition to **SB 292** was submitted by:

Woody Moses, Kansas Cement Council (Attachment 6)

There being no further conferees, the hearing on **SB 292** was closed.

The Chairman called for final action on **HB 2164 - Judges and justices, mandatory retirement at 75, may elect to serve until end of current term.**

Representative Mike O'Neal testified in support which would eliminate the age 70 mandatory retirement of judges. This requirement can cause term interruptions of duly elected judges who are otherwise healthy and active on the bench. (Attachment 7)

Senator Terry Bruce spoke in support indicating the mandate regarding retirement of elected officials is contrary to the will of the public who elected them. Judges are the only public official required to retire at

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a mandatory age. Senator Bruce encouraged enactment of the bill. ([Attachment 8](#))

There being no further conferees, the hearing on **HB 2164** was closed.

The Chairman opened the hearing on **HB 2236 - Recodification of certain drug crimes**. Jason Thompson, staff revisor, reviewed the bill.

Ed Klumpp appeared in support stressing that while the bill moves drug crimes from Chapter 65 to Chapter 21 of the Kansas statutes and groups existing statutes into the core offenses of manufacture, distribution, and possession without revising existing Kansas law. There is no recodification involved with this bill and encouraged enactment of the bill. ([Attachment 9](#))

Written testimony in support of **HB 2236** was submitted by:

Helen Pedigo, Executive Director, Kansas Sentencing Commission ([Attachment 10](#))

There being no further conferees, the hearing on **HB 2236** was closed.

The Chairman opened the hearing on **HB 2111 - Removing sunset provision from Kansas commission on judicial performance statutes; retaining increase in docket fees to fund commission**.

Richard Hayse appeared in support reviewing the history of judicial performance reviews and an analysis of the program to date. The initial evaluations were of high quality and accepted by both judges and the public. Improvements continue to be made, it is functioning well and should continue. Mr. Hayse encouraged enactment of the bill. ([Attachment 11](#))

Judge Stephen Hill spoke in support stating he has seen positive results resulting from the initial round of evaluations. Judges take time to explain their decisions more thoroughly, they use less intimidating, arrogant behavior, and the list of pending opinions reduces. The job of judicial evaluations has begun well and should continue without a sunset provision. ([Attachment 12](#))

Joe Molina spoke in favor stating the Kansas Bar Association believes it is appropriate to provide some permanency to the work of the Commission regarding judicial reviews and urged enactment of the bill. ([Attachment 13](#))

Written testimony in support of **HB 2111** was submitted by:

Chief Judge Gary W. Rulon, Kansas Court of Appeals ([Attachment 14](#))

Judge Meryl Wilson, 21st Judicial District ([Attachment 15](#))

Richard Morrissey, Deputy Director of the Division of Health, KDHE ([Attachment 16](#))

There being no further conferees, the hearing on **HB 2111** was closed.

The Chairman opened the hearing on **SB 282 - Court of appeals; delay 14th Judge position to January 2011**.

Jerry Sloan appeared in support stating this bill will delay the continued expansion of the Court of Appeals by one year. Due to budget constraints this delay would generate \$155,955 in savings to the State General Fund and urged enactment of the bill. ([Attachment 17](#))

The next meeting is scheduled for March 14, 2009.

The meeting was adjourned at 10:28 a.m.