

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:40 a.m. on Tuesday, March 15, 2005, in Room 231-N of the Capitol.

All members were present except:

Senator John Vratil (E)
Senator Kay O'Connor (E)

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Tiffany Muller, Kansans for Justice and Equality Project, Topeka
Representative Jim Yonally
Steve Brown, Kansas Democratic Lesbian, Gay, Bisexual and Transgendered Caucus, Prairie Village, Ks.
Paul Angle, Manhattan resident
Bill Beachy, Topeka Human Relations Commission
Jon Johnson, Topeka resident (written)
Janis McMillen, President, League of Women's Voters (written)
Allen Martin, Executive Director, Topeka Human Relations Commission (written)
Ruth Glover, Kansas Human Rights Commission
Fred Phelps, Westboro Baptist Church, Topeka
Shirley Phelps-Roper, Westboro Baptist Church
Megan Phelps-Roper, Westboro Baptist Church
Rebeka Phelps-Roper, Westboro Baptist Church
Representative Janice Pauls (written)
Judy Smith, State Director, Concerned Women for America of Kansas (written)

Others attending:

See attached list.

Final Action:

SCR 1608 - Honoring Cesar Chavez

Chairman Brungardt called for discussion and final action on **SCR 1608**.

Senator Hensley moved to pass SCR 1608 out favorably, seconded by Senator Gilstrap, and the motion carried.

Chairman Brungardt announced changes in the agenda for the remainder of the week. He noted that copies of the fiscal note on **SB 285** had been distributed to committee members. He also explained that he had to testify at another committee meeting at 11:00 a.m., and the Vice Chairman, Senator Reitz, would conduct the meeting while the Chairman was giving testimony at the other meeting. He would return as soon as his testimony was completed.

SB 285 - Discrimination based on sexual orientation made subject to the acts Kansas against discrimination

Chairman Brungardt opened the hearing on **SB 285**. He asked the Revisor to give an overview of the proposed bill.

The Revisor explained the bill would add to the Kansas Act Against Discrimination, concerning discrimination based on sexual orientation. It defines the term "sexual orientation" on page 4, as actual or perceived heterosexuality, homosexuality or bisexuality, and places it under the Act Against Discrimination as other forms of discrimination are coded.

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Representative Jim Yonally testified as a co-sponsor and in support of **SB 285**. He clarified that this bill does not grant any special privileges to any group of persons. He stated that if this bill were to give a preferred status to persons based on their sexual orientation, then the law, now in statute, would have to grant preferred status to: African-Americans, orientals, etc. because the word "race" is in this list of non-discrimination items; Jews, Catholics, Muslims, etc. because the word "religion" is on the list; men or women, because the word "sex" is on the list; and other groups would be included because the words, "color", "disability", "national origin" and "ancestry" are included in the law. Representative Yonally noted that banning discrimination based on sexual orientation is added to many different parts of the statutes where other kinds of discrimination is likewise prohibited. He concluded that is what this bill does and nothing more. He stated the passage of **SB 285** does grant citizenship and equality. (Attachment 2)

Tiffany Muller, Chairperson of the Kansans for Justice and Equality Project, spoke in favor of **SB 285**. She explained that the proposed legislation would amend the Kansas Acts Against Discrimination by adding "sexual orientation" to the list of "protected" characteristics. Sexual orientation is clearly defined in the bill as: actual or perceived heterosexuality, homosexuality, or bisexuality. Ms. Muller testified that the bill lays out what are discriminatory unlawful practices in employment, in housing, and in public accommodations. It also provides simply the right for someone to seek redress if they believe they have been discriminated against. A complaint can be filed with the human Rights Commission, redress could be sought through a private attorney, the complainant could receive mediation services provided by one of these entities, or a person can go to court. She stated that the proposed amendment does not include any amendments to the current affirmative action sections of current law. There are no quotas, no mandate around benefits that must be offered, and private/fraternal/religious organizations are exempt from this proposed bill.

Ms. Muller said that currently there are 15 states that have in effect this same type of protection state-wide, and there are an additional 11 states that have executive orders (or equivalent) that protect public sector employees against sexual orientation discrimination. She pointed out that like people who have experienced another form of discrimination, those who have experienced discrimination based on sexual orientation deserve to have an outside, non-biased resource to go to for redress. She included a projection of the number of possible complaints for Kansas based on sexual orientation with her written testimony, and stated there would not be an overwhelming number of cases to clog up the court system. Ms. Muller noted that JoAnn VanMeter, an attorney and current legal counsel for the Topeka Human Relations Commission, was in attendance and available to answer any legal questions. (Attachment 3)

Steve Brown, President of the Kansas Democratic Lesbian, Gay, Bisexual, and Transgendered Caucus (LGBT), testified in support of **SB 285**. He stated that currently it is legal for gays and lesbians to be fired, denied housing, and denied access to free and public accommodations because of their sexual orientation throughout the State of Kansas, and asked if that was fair. He said that the Human Rights Campaign Foundation tracks private employers and colleges and universities that include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy. Included with Mr. Brown's written testimony was a list of Fortune 500 companies that currently include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy which includes an impressive list of companies with a presence in Kansas. He also listed some companies with a presence in Kansas having sexual orientation in their organizations' primary equal employment opportunity or non-discrimination policies for Forbes 200 largest private companies, Standard and Poor's 500. His lists also included cities, states, counties, and colleges. Mr. Brown added that 144 not-for-profit organizations and 33 unions also have sexual orientation included in their employment policies. (Attachment 4)

Mr. Brown stated that businesses consider the atmosphere of prospective locations when considering whether or not to expand or relocate operations. He said that legislators from coast to coast have recognized how important anti-discrimination policies are to the future development of their states. People do not want to live in states where they are not welcome. Mr. Brown concluded that if Kansas wants to be able to compete in the future for the talented workers that are needed by Kansas businesses,

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then the state needs to send the message that it does not allow its citizens to be victims of discrimination based solely on their sexual orientation.

Paul Angle, Manhattan resident, spoke in favor of **SB 285**. He shared his personal story of discrimination in his hometown when he worked a sales manager for a nationally know large department store. He talked about the harassment and unfair workplace practices that he experienced from a new store manager who had a strong dislike for gay or lesbian people. He eventually was fired , and he told about his struggle against depression, stress, not having insurance coverage, and living with the fear of similar treatment at his next job. He said he was unemployed for ten months, and has entered a totally new profession. Mr. Angle urged the committee to support the passage of **SB 285** because every person should have the right to work free from discriminatory treatment. (Attachment 5)

Jon Johnson, Topeka resident, submitted written testimony in support of **SB 285**. (Attachment 6)

Bill Beachy, member of the Topeka Human Relations Commission, testified in support of **SB 285**. He related the story of a gay man who had spoken during a Commission meeting's public comment time saying that he had been discriminated against at his place of work, a large Topeka employer, because he was gay. Mr. Beach said that one of his Commission colleagues told the complainant that there was no city or state ordinance that speaks to discrimination based on sexual orientation. He said the Commission Chair told the man that the Commission had to be neutral in the man's case, and that would be the same for the State Human Rights Commission. Mr. Beachy asked that the proposed bill be passed as it would give the State's Human Rights Commission the authority to investigate such allegations of discrimination. (Attachment 7)

Janis McMillen, President, League of Women Voters of Kansas, submitted written testimony in support of **SB 285**. (Attachment 8)

Allen Martin,, Executive Director, Topeka Human Relations Commission, submitted written testimony in support of **SB 285**. (Attachment 9)

Ruth Glover, Assistant Director, Kansas Human Rights Commission (KHRC), testified as a neutral conferee on **SB 285**. She explained that the Kansas Human Rights Commission is responsible for administering and enforcing the provisions of the Kansas Act Against Discrimination (KAAD). KAAD sets forth several impermissible considerations (for example, race, sex, color, ancestry, national origin, religion, disability, etc.) which generally cannot form the basis for adverse employment decisions. The current proposed bill would expand the list of impermissible considerations from which individuals would be protected in this regard. Ms. Glover stated that federal employment laws, specifically Title VII of the Civil Rights Act of 1964, and the Federal Fair Housing Act, do no prohibit discrimination based on sexual orientation. Federal civil rights laws do not protect against discrimination based upon sexual orientation in regard to public accommodations.

Ms. Glover said that KAAD, as currently composed, constitutes a statement of the public policy of Kansas which disfavors discriminatory conduct. She added that should the legislature and Governor choose to expand the public policy of the State of Kansas as proposed by **SB 285**, the Commission stands ready to enforce the provisions of the bill, subject to the proviso that there is an expansion of budget and personnel resources provided to KHRC to handle anticipated increases in the number of complaints filed with KHRC. (Attachment 10)

Committee question was asked in regard to the fiscal note on **SB 285** and the need for two additional full-time positions for KHRC. Ms. Glover responded the request would be for one an in-take specialist to receive the phone calls and process those calls, and the other positions would be for an investigator. She stated their research showed that KHRC could expect about 50 complaints per year, and have quotas currently for investigators that have to handle 48-72 cases per year.

Fred Phelps, Westboro Baptist Church, Topeka, testified as the first opponent to speak against **SB 285**. He stated that there is no demonstrated need or justification for this bill. Homosexuals are not

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discriminated against in any area where government may grant relief: housing, jobs, or public accommodation. He said homosexuals are only discriminated against in matters of religion; when ministers declare their conduct sinful. He talked about the three studies conducted recently by Topeka gays seeking proof of discrimination in housing, jobs and public accommodation. The studies failed to find such proof. Mr. Phelps emphasized the homosexuals want **SB 285** as governmental validation of their sins and to intimidate employers, landlords and the populace. He quoted several biblical verses, and concluded by saying the people, who make up a democracy, are the government; and the people here don't want our government to legitimize homosexual sin. (Attachment 11)

Shirley Phelps-Roper, Westboro Baptist Church, spoke in opposition to **SB 285**. She stated that it is the solemn duty of mankind to make a sharp distinction, every day, between right and wrong, and to do what's right. That is a form of discrimination. Ms. Phelps-Roper strongly emphasized that this committee is intruding into the things of God, where this committee has absolutely no business. She concluded her testimony by telling the committee members that, "the very bringing up of this issue like it is open for discussion is what will take their souls to hell." (Attachment 12)

Megan Phelps-Roper, Westboro Baptist Church, appeared before the committee in strong opposition to **SB 285**. She said that homosexuality is an atrocious sin, along with the acceptance of it. She stated that some dangers of homosexual sex: (1) Significantly higher percentages of homosexuals abuse drugs and alcohol; (2) Homosexuals have vastly more sexually transmitted diseases; (3) Young homosexuals are 7 times more likely to attempt suicide; and (4) The life expectancy of homosexuals is 43 years, which is over 30 years less than the national average. Ms. Phelps-Roper asked if the state should be endorsing, promoting, and putting its stamp of approval on a behavior with such dire consequences as the dangers she had talked about previously. She addressed the committee stating "they are government officials, elected by the citizens of Kansas to serve them appropriately; you do your constituents a disservice when you put their physical, mental, and emotional health on the chopping block, on the altar of appeasing a small group whose only goal is to push their filthy lifestyle, regardless of the consequences for the rest of Kansas." (Attachment 13)

Rebekah Phelps-Roper, Westboro Baptist Church, testified against **SB 285**, and spoke about the dangers that homosexuals pose to society. She said studies prove that homosexuals make up 1 to 3% of the population, but account for 20 to 33% of pedophiles. (Attachment 14)

Representative Janice Pauls submitted written testimony in opposition of **SB 285**. (Attachment 15)

Chairman Brungardt closed the hearing on **SB 285**.

Minutes for the March 2 meeting were presented for approval. Senator Barnett made a motion to approve the minutes as written, seconded by Senator Reitz, and the motion carried.

The meeting was adjourned at 11:40 a.m. The next meeting scheduled is Wednesday, March 16, 2005.