

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 14, 2005 in Room 313-S of the Capitol.

All members were present except:
Tim Owens- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:
Kathy Porter, Office of Judicial Administration

The hearing on **HB 2377 - judicial administrator appointed by the Supreme Court and serves at the will of the court**, was opened.

Chairman O'Neal gave the committee background information of the bill. **HB 2880** was introduced during the 2004 legislative session which would have mandated that the judicial administrator be appointed by the court and not just the Chief Justice. The bill was controversial but it passed both houses and was vetoed by the Governor.

The Chairman received a letter from Chief Justice Kay McFarland stating that the Supreme Court amended its internal operating rules to provide that the judicial administrator be appointed by the Supreme Court and would serve at the will of the Supreme Court. In view of that fact, Chairman O'Neal requested a bill that would change statutory language to dovetail the internal operating rules.

Kathy Porter, Office of Judicial Administration, requested that the committee simply repeal K.S.A. 20-318 since the Supreme Court is doing the change internally. (Attachment 1)

Chairman O'Neal pointed out that if it was repealed then it would also delete the provision which divided the state into different sections as to what justice supervises what district.

Ms. Porter responded that the Court met last Friday in conference and decided to request that the statute be repealed. The Justices believe they can also assign sections to each justice by internal operating rules.

Chairman O'Neal pointed out that the Supreme Court could also probably set docket fees as they see fit by internal operating rules.

The hearing on **HB 2377** was closed.

HB 2016 - arbitration; validity of agreement; can apply to employer employee contracts and tort claims

Representative Kinzer made the motion to report HB 2016 favorably for passage. Representative Colloton seconded the motion.

Representative Pauls proposed an amendment that would have the employer paying the initial filing fee if there is any existing controversy (Attachment 2). She made a substitute motion to move the amendment. Representative Kelly seconded the motion.

Representative Davis questioned who the initial filing fee is paid too and what would that amount be? Representative Pauls was not sure of the amount but that the fee would be paid to the arbitrator. Representative Loyd believed the fee would be whatever the arbitrator set. Chairman O'Neal stated that K.S.A. 5-410 states that arbitration fees and expenses shall be provided out of the amount awarded. Representative Crow was concerned that the person paying the initial filing fee would also be the one hiring

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the arbitrator and could be a conflict of interest. Representative Pauls wanted to make sure that the employer is responsible for the initial cost. The motion carried 9-7.

Representative Jack made the motion to reinstate subsection (3) “any provisions of a contract providing for arbitration of a claim in tort.” Representative Crow seconded the motion.

Representative Jack explained that by removing that section the right to a jury trial would be deleted and it would remove a personal right we have as citizens to be tried by our peers. The motion carried 9-8.

Representative Jack made the motion to report **HB 2016** favorably for passage, as amended. Representative Colloton seconded the motion. The motion carried.

HB 2168 - UCC; defining a new class of payment instrument, drawn on the customer’s account without an authorized signature, called a demand draft

Representative Jack made the motion to report **HB 2168** favorably for passage. Representative Kelly seconded the motion. The motion carried.

HB 2114 - Dram shop law; liquor licensee liability

Chairman O’Neal appointed the following members to a sub committee on **HB 2114**: Kinzer (Chair), Colloton, & Crow.

The committee meeting adjourned at 4:15 p.m. The next meeting is scheduled for February 15 at 3:30 p.m. in room 313-S.