

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on February 4, 2009, in Room 143-N of the Capitol.

All members were present except:

Representative Marvin Kleeb- excused
Representative Jason Watkins- excused
Representative Kevin Yoder- excused

Committee staff present:

Melissa Doeblin, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Jerry Donaldson, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council
Richard Hayse, Chairman Commission on Judicial Performance
Judge Stephen Hill, Chairman of Judicial Performance Drafting Committee
Judge Gary Rulon, Chief Judge Kansas Court of Appeals
Whitney Damron, Kansas Bar Association
Representative Robert Olson
Jon Bauman, Chairman of the Truth in Music Committee at the Vocal Group Hall of Fame

Others attending:

See attached list.

The hearing on **HB 2082 - Musical performing groups; advertising; restrictions**, was opened.

Representative Robert Olson, introduced the bill after hearing from both musical artists whose livelihoods and identities are being stolen and Kansans who are being deceived by performers who claim to be someone they are not. At least 27 other states have passed this legislation. ([Attachment 1](#))

Jon Bauman, Chairman of the Truth in Music Committee at the Vocal Group Hall of Fame, a performer best known as "Bowzer", formerly of Sha Na Na musical group and currently Bowzer's Rock 'n' Roll Party, spoke in support of this bill to stop this nationwide sophisticated form of identify theft. He stated unscrupulous promoters make specious claims using the names of famous groups, use multiple units of these groups and dare anyone to stop them. He added this bill addresses live performances and requires the need to have at least one authentic member of the recording group on stage in the group that is performing that night, unless you have a valid federally registered trademark or that you clearly advertise the performance as a tribute or a salute. ([Attachment 2](#))

In response to questions, Mr. Bauman stated the Consumer Protection Act and Trademark Name Protection laws do not seem to work very well and this bill would give the Attorney General a specific law to enforce. He also stated this law has been passed in the most populous states and all the most significant live performance states.

There were no opponents.

The hearing on **HB 2082** was closed.

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

Proponents:

Randy Hearrell, Kansas Judicial Council, opened the hearing by introducing Richard F. Hayse.

Richard Hayse, Chairman Commission on Judicial Performance, provided the background of the establishment of the Kansas Commission on Judicial Performance in 2006 and the program to evaluate

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performance of all Kansas appellate and trial judges. The Legislature funded the program with docket fees rather than general fund revenue but added a sunset provision set to expire June 30, 2010. Mr. Hayse further provided documentation and evaluation in support of the programs success. He also explained the sunset needs to be removed now instead of waiting until 2010 as they will be working and spending money on evaluations for Judges for the November 2010 Election and would be releasing this information in August 2010, however, the sunset provision expires on June 30, 2010, thus the work would be in vain. ([Attachment 3](#))

Judge Stephen Hill, Chairman of Judicial Performance Drafting Committee, spoke in support of the bill. He also testified to the usefulness, in not only collecting and distributing the information about judges to the Kansas voters, but the valuable feedback on the performance of judges is being used to help improve their performance through further training and education. Programs are set up for their Judicial semi-annual meetings that address concerns that have been raised in these evaluations. ([Attachment 4](#))

Judge Gary Rulon, Chief Judge Kansas Court of Appeals stated the Kansas Court of Appeals unanimously endorse removal of the sunset provision. The evaluation process provides information in several areas, including legal ability, integrity, impartiality, communication skills, professionalism, temperament and administrative capacity. Four Court of Appeals Judges were evaluated by the Commission in 2008 and nine more will be evaluated in 2010. He further advised the reports and recommendations of the Commission are taken very seriously by the Judges. ([Attachment 5](#))

Whitney Damron spoke on behalf of the Kansas Bar Association in support of removing the sunset provision and believes it is appropriate to provide some permanency to the work provided by the Kansas Commission on Judicial Performance. He also provided several news articles that appeared as illustrative of the Commission's efforts to communicate their work to the general public. ([Attachment 6](#))

Proponent Written Only Testimony :

Robert E. Davis, Chief Justice of the Supreme Court of Kansas provided written testimony to support to remove the sunset provision and make the program permanent. ([Attachment 7](#))

Meryl Wilson, President of the Kansas District Judge's Association provided written testimony in support of the bill. ([Attachment 8](#))

Opponents:

Douglas E. Smith, on behalf of the Kansas Credit Attorneys Association and Kansas Collectors Association, Inc. provided written testimony as an opponent to the bill. He stated although the Commission put tremendous work into the report and their work product was extremely well done, he questioned how the citizens utilize the information and if it affected their action in the voting booth. Since the decline of finances for the State are projected to decline further in 2010, and if the taxpayers aren't utilizing the report or services being provided, suggested the State contemplate discontinuing the performance report. ([Attachment 9](#)).

The hearing on **HB 2111** was closed.

The hearing on **HB 2110 - Increase in property damage amount in actions involving negligent motor vehicle operation**, was opened.

Randy Hearrell, Kansas Judicial Council, provided testimony in support of this bill to amend K.S.A. 60-2006, concerning civil procedure, to increase from \$7500 to \$15,000, the amount Kansans may seek recovery of property damages caused by the negligent operation of a motor vehicle, which concerns attorney fees taxed as costs in certain actions involving negligent motor vehicle operation. In addition, the Judicial Council proposes the statute be amended to include an annual inflation adjustment provision. ([Attachment 10](#))

Steven J. Borel, Attorney at Law, provided written testimony on behalf of the Kansas Association for Justice supporting the increase and the annual inflation adjustment. ([Attachment 11](#))

After discussion, Chairman Kinzer asked the staff to provide additional information regarding the CPI proposed adjustment as to how often this indexing appears in the code and the consistency of it.

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The hearing on **HB 2110** was closed.

The next meeting is scheduled for February 7, 2009.

The meeting was adjourned at 5:10 p.m.