

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 a.m. on February 18, 2011, in Room 548-S of the Capitol.

All members were present

Committee staff present:

Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Alan Conroy, Director, Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Legislative Research Department
Aaron Klaassen, Senior Fiscal Analyst, Legislative Research Department
Dorothy Hughes, Fiscal Analyst, Legislative Research Department
Brea Short, Intern, Senator McGinn's Office
Jan Lunn, Committee Assistant
Josh Lewis, Chief of Staff

Others attending:

See attached list.

Bill Introductions

Senator Emler moved introduction of a bill relating to abolishment of the Liquefied Petroleum Gas Advisory Board (#rs0968); Senator Huntington seconded the motion that carried on a voice vote.

Senator Emler moved introduction of a bill relating to emergency medical services (#rs0799); Senator Teichman seconded the motion that passed on a voice vote.

Senator Teichman moved introduction of a bill concerning ground water management districts (#rs0943); Senator Taddiken seconded the motion that passed on a voice vote.

Subcommittee Reports

Senator McGinn announced that the subcommittee report for the Office of the Governor would be heard at a later date.

Senator Huntington, chair of the Fee Boards Subcommittee, expressed appreciation to members serving on this committee. The Subcommittee Report contains FY 2011, FY 2012, and FY 2013 recommendations, notations, comments, and adjustments for the following Boards (Attachment 1):

- Abstracters' Board of Examiners
- Board of Accountancy
- Bank Commissioner
- Board of Barbering
- Behavioral Sciences Regulatory Board
- Board of Healing Arts
- Board of Cosmetology
- Department of Credit Unions
- Kansas Dental Board
- Board of Mortuary Arts
- Board of Hearing Aid Examiners
- Board of Nursing
- Board of Examiners in Optometry
- Board of Pharmacy
- Real Estate Appraisal Board
- Real Estate Commission
- Securities Commissioner
- Board of Technical Professions
- Board of Veterinary Medical Examiners

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- Home Inspection Registration Board
- Office of Administrative Hearings

Senator Huntington moved to adopt the Abstracters' Board of Examiners Subcommittee report for FY 2012 and FY 2013. Senator Kelly seconded the motion that passed on a voice vote.

Senator Huntington moved to accept the Accountancy Board Subcommittee report for FY 2012 and FY 2013 including the adjustments discussed. Senator Teichman seconded the motion that carried on a voice vote.

Senator Huntington moved adoption of the Office of the State Bank Commissioner Subcommittee report including adjustments for FY 2012 and 2013. Senator Teichman seconded the motion, which carried on a voice vote.

Senator Huntington moved to adopt the Board of Barbering Subcommittee report for FY 2012 including adjustments and adopt the FY 2013 report. Senator Taddiken seconded the motion that carried on a voice vote.

Senator Huntington moved adoption of the Behavioral Sciences Regulatory Board Subcommittee report for FY 2012 and FY 2013. Senator Kelly seconded the motion, which passed on a voice vote.

Senator Huntington moved adoption of the Board of Healing Arts Subcommittee report for FY 2012 and FY 2013 including adjustments presented. Senator Francisco seconded the motion, which carried on a voice vote.

Senator Huntington moved adoption of the Board of Cosmetology Subcommittee report for FY 2012 including the adjustment discussed and acceptance of the FY 2013 report as recommended by the Governor. Senator Schmidt seconded the motion, which carried on a voice vote.

Senator Huntington moved adoption of the Department of Credit Unions Subcommittee report for FY 2012 including the adjustment discussed and acceptance of the FY 2013 Governor's recommendation. Senator Schodorf seconded the motion, which carried on a voice vote.

Senator Huntington moved adoption of the Dental Board Subcommittee report for FY 2012 and FY 2013. Senator Kelly seconded the motion, which carried on a voice vote.

Senator Huntington moved adoption of the Board of Mortuary Arts Subcommittee report for FY 2012 and FY 2013 as recommended by the Governor. Senator Teichman seconded the motion, which carried on a voice vote.

Senator Huntington moved to accept the Subcommittee report for the Kansas Board of Examiners in the Fitting and Dispensing of Hearing Instruments for FY 2012 and FY 2013. Senator Schodorf seconded the motion, which passed on a voice vote.

Senator Huntington moved to adopt the Subcommittee report for the Kansas Board of Nursing including the adjustments discussed. Senator Francisco seconded the motion, which carried on a voice vote.

Senator Huntington moved to adopt the Subcommittee report for the Kansas Board of Examiners in Optometry for FY 2012 and FY 2013. The motion was seconded by Senator Schodorf, which passed on a voice vote.

Senator Huntington presented the Subcommittee report for the Board of Pharmacy. She noted the adjustments for FY 2011 included the addition of \$16,000 to replace one agency vehicle and a transfer \$150,000 from the Pharmacy Fee Fund to a newly-created "litigation fund" for potential litigation costs. For FY 2012, an adjustment was recommended to add \$750, all from the Pharmacy Fee Fund, for hospitality expenditures due to the increased cost of annual board meetings. Two adjustments were submitted for FY 2013 that included the addition of \$16,000 for the replacement of an agency vehicle and the addition of \$750, all from the Pharmacy Fee

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. 2

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Fund, for hospitality expenditures due to the increased cost of annual board meetings.

Considerable discussion was heard regarding the establishment of a "litigation fund," rationale for creating such a fund, and whether other agencies have such funds (either named "litigation" or unnamed). Several committee members clarified other fee boards have similar funds. Responding to Senator Taddiken's question, staff clarified the Board of Pharmacy has authority to spend funds for purposes of litigation. In this case, the Board of Pharmacy concern appears to be availability of funds at the end of the fiscal year. Senator Schmidt expressed concern that a representative from the Board of Pharmacy was not in attendance to clarify their agency's budget request. Senator Francisco offered that testimony submitted during the Subcommittee hearing indicated there were potential litigation costs.

Senator Huntington moved to adopt the Board of Pharmacy FY 2012 and FY2013 Subcommittee report including adjustments discussed. Senator Schmidt seconded the motion.

Senator Vratil made a substitute motion to delete \$150,000 from the pharmacy fee fund for potential litigation in FY 2011. Senator Emler seconded the motion, which passed on a voice vote. Senators Schmidt and Francisco requested their votes be recorded in the permanent record as "no."

- ❖ Senator Schmidt requested that Legislative Research staff prepare a list of all agencies with special litigation funds with existing balances.

Senator Schmidt moved to strip all agencies of funding allocated for litigation (regardless of whether the funds are named "litigation"); Senator Vratil seconded the motion.

Senator Huntington made a substitute motion to adopt the Board of Pharmacy FY 2012 and FY 2013 Subcommittee report as amended. Senator Emler seconded the motion, which passed on a voice vote.

Senator Huntington moved to adopt the Real Estate Appraisal Board Subcommittee report for FY 2012 and FY 2013 as discussed. Senator Masterson seconded the motion, which passed on a voice vote.

Committee members discussed the Real Estate Commission Subcommittee report containing an adjustment in FY 2011 that transfers \$200,000 from the Real Estate Revolving Recovery Fund to the Real Estate Fee Fund, to allow the agency a sufficient carry over balance to start FY 2013. For FY 2012, the recommendation included the following adjustments:

- Add \$49,325, from the Real Estate Fee Fund, for enhancement in salaries and wages to reclassify and fund 2.0 FTE positions for an attorney and legal assistant.
- Recommend the suspension of the statutory requirement to remit 20 percent or \$200,000 of the agency's fee receipts to the SGF for FY 2012. This would result in a decrease of \$200,000 to the SGF.
- Review suspension of statutory requirement at Omnibus contingent on possible fee limit changes in **SB 121**.

Senator Francisco filed a Minority Report taking exception to the Subcommittee's recommendation. Senator Francisco recommended the following adjustments:

- Delete the recommendations to suspend the statutory requirement to remit 20 percent or \$200,000 of the agency's fee receipts to the SGF for FY 2012 and FY 2013.
- Add \$195,671 for FY 2012, from the SGF, to replace the Kansas Savings Incentive Plan (KSIP) monies that the Commission had saved for updating its licensure system, which were swept from the fee fund in FY 2009. This agency has undergone numerous fee sweeps over the last several years and without this transfer would need to raise fees to meet operating expenses.

Considerable discussion was heard concerning the recommendations proposed. Senator Francisco shared that the Real Estate Commission Fee Fund Analysis (from staff) showed the FY 2013 ending balance to be (\$293,000).

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Senator Kelly expressed concern relative to the suspension of the 20 percent of the agency's fee fund receipts to the SGF in FY 2012 and FY 2013.

Senator Huntington moved to adopt the Real Estate Commission Subcommittee report for FY 2012 and FY 2013 including the adjustments discussed. Senator Vratil seconded the motion.

Senator Vratil made a substitute motion to amend the Subcommittee report to delete the recommendation for FY 2012 and 2013 concerning the suspension of the statutory requirement to remit 20 percent or \$200,000 of the agency's fee receipts to the State General Fund and to delete the recommendation which adds \$200,000, all from the Real Estate Fee Fund, to increase the agency's expenditure limitation by the amount of the revenue transfer reduction to the SGF. The motion was seconded by Senator Kelly, which passed on a voice vote.

Senator Francisco moved to add \$195,671 for FY 2012, all from the SGF, to replace the Kansas Savings Incentive Plan (KSIP) and to increase the agency's expenditure limitation by \$200,000 for FY 2012 and FY 2013. The motion died for lack of a second.

Senator Kelly moved to reconsider the Real Estate Commission budget prior to finalization of the Mega Bill. The motion was seconded by Senator Vratil, which carried on a voice vote.

Senator Huntington moved adoption of the Real Estate Commission Subcommittee report as amended. Senator Schodorf seconded the motion, which carried on a voice vote.

Senator Huntington moved adoption of the Kansas Securities Commissioner Subcommittee report as presented. Senator Vratil seconded the motion, which carried on a voice vote.

Senator Huntington moved adoption of the Board of Technical Professions Subcommittee report for FY 2012 and FY 2013 with the notations discussed. Senator Vratil seconded the motion, which carried on a voice vote.

Senator Huntington moved adoption of the Board of Veterinary Examiners Subcommittee report for FY 2012 and FY 2013 with the adjustment for FY 2013. Senator Schodorf seconded the motion. The motion passed on a voice vote.

Senator Huntington discussed the Home Inspectors Registration Board Subcommittee report in which the committee concurred with the Governor's recommendation. Senator Francisco noted that the Home Inspectors Registration Board is exempt from the statutory requirement of remitting 20 percent of fee fund receipts to the SGF. Senator Taddiken also noted this agency has no FTEs. Senator Huntington moved adoption of the Home Inspectors Registration Board Subcommittee report for FY 2012 and FY 2013. Senator Teichman seconded the motion, which carried on a voice vote.

Senator Huntington moved to adopt the Office of Administrative Hearing Subcommittee report for FY 2012. Senator Kelly seconded the motion, which carried on a voice vote.

Senator Umbarger was recognized to provide conceptual language for an amendment that would impact each fee-funded agency budget report in FY 2013. He distributed the conceptual language and provided some background concerning the proposed amendment (Attachment 2). He explained the intent of the legislation is to provide flexibility for each agency concerning fee funds. Discussion ensued; it was determined that individuals with answers to questions were not in attendance. Senator Umbarger noted that if the amendment had been enacted for FY 2010, the amount retained in fee fund accounts would be approximately \$3.48 million. Current statutory language requires the 20 percent transfer, up to a maximum of \$200,000, of fee fund receipts into the SGF. Senator Umbarger clarified the intent of the amendment is to become effective in FY 2013 and ongoing. Senator Huntington added that in addition to the transfer of fee funds, many agencies are paying rent and additional amounts for services provided by the Department of Administration. Discussion was also heard regarding the possibility of a phased-in approach for the proposed amendment.

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Senator Umbarger moved to amend all FY 2013 Fee Boards Subcommittee reports to reflect suspension of the statutory requirement to remit 20 percent up to a maximum of \$200,000 of the agency's fee receipts to the SGF for FY 2013 and ongoing. Second Teichman seconded the motion. The motion passed on a voice vote.

Senator Vratil moved to table Senator Umbarger's motion to the date certain of March 3, 2011. The motion was seconded by Senator Kultala. Motion carried, with a show of hands.

Senator Huntington advised that staff could provide the requested information related to agencies with litigation funds by the afternoon.

Senator Schmidt moved to reverse the previous committee action on the Board of Pharmacy Subcommittee Report and to table the Board of Pharmacy Subcommittee Report to the date certain of March 3, 2011. The motion was seconded by Senator Teichman. The motion carried.

Senator Vratil distributed copies of the Kansas Public Employees Retirement System (KPERS) Subcommittee report (Attachment 3); he discussed the agency request as well as the Governor's recommendation. Senator Vratil moved to adopt the KPERS Subcommittee report as submitted. Senator Teichman seconded the motion, which carried on a voice vote.

Follow-up Information

Senator McGinn called attention to the follow-up information provided by Christina Allen, Legislative Research Department, regarding questions asked at the February 16, 2011, committee meeting concerning the Department of Wildlife and Parks Revised FY 2012 Capital Improvements (Attachment 4).

The meeting was adjourned at 11:38 a.m.