

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairman Kenny Wilk at 9:05 a.m. on March 9, 2001, in Room 514-S of the Capitol.

All members were present except: Representative Shultz

Committee staff present: Alan Conroy, Legislative Research
Rae Anne Davis, Legislative Research
Amy Kramer, Legislative Research
Robert Chapman, Legislative Research
Leah Robinson, Legislative Research
Julian Efrid, Legislative Research
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Representative Don Dahl
Trista Beadles, Legal Counsel for the Governor
Clint Riley, Wildlife and Parks
Secretary Dean Carlson, KDOT

Others attending: See Attached

Representative Neufeld moved for the introduction of legislation regarding the Kansas children's cabinet and guidelines and approval for certain expenditures by Sunflower Foundation. Motion seconded by Representative Shriver. Motion carried.

Action on SB 57--Claims against the state

Representative Dahl, Chairman of the Joint Committee on Special Claims Against the State, explained the role of the Committee and the method for filing claims. He explained that the agencies involved can recommend payment of the claims or not and the Joint Committee can either approve the agency's recommendation or reject it. Representative Dahl expressed displeasure that the Joint Committee meets, hears testimony, deliberates and examines each claim very carefully, makes their decision, and then it is all subject to final decisions made by the Senate Ways and Means and the House Committee on Appropriations. Representative Dahl walked the Committee through the bill and answered specific questions regarding individual claims.

Representative Landwehr moved that the bill be amended by striking the language on Page 7, Section (b) of Section 11 on the claim of Lester Thomas so approval of the claim is not seen as condoning the behavior of either the inmate or the guard. Motion was seconded by Representative Campbell. Motion failed.

It was pointed out during Committee discussion that the \$500 claim was an attempt to avoid litigation even though the claimant had turned down a larger offer in the past.

Representative Neufeld moved to amend the bill by reinstating the stricken language on Page 7, in Section 11, which is a claim from the Coffey County Sheriff Department. Motion was seconded by Representative Shriver. Motion carried.

Representative Spangler moved to amend the bill by striking the language on Page 7, in Section 10 regarding the Bothwell claim. Motion was seconded by Representative Feuerborn. The motion failed.

It was explained to the Committee that Mr. Bothwell accepted the appointment of Grain Inspector with the knowledge that he would not be covered by KPERs.

Representative Spangler moved to amend the bill by inserting language on Page 8, in Section 12 regarding retirement benefits for claimant Charles L. Kohler (Attachment 1). Motion was seconded by Representative

Nichols.

Representative Bethell moved to amend the bill with a substitute motion that SB 57 be re-referred to the Joint Committee on Special Claims Against the State. Motion was seconded by Representative Landwehr.

Claims Committee members explained to the Committee that once a claim cannot be referred to the Claims Committee if the claimant has not filed an application with the Joint Committee. It was explained that KPERS misclassified Mr. Kohler by inadvertently placing him in a Tier 1 category rather than a Tier 2 category which has a difference in retirement benefits. KPERS has no mechanism to transfer a member from one tier to another absent specific statutory authority. Mr. Kohler is not requesting a lump sum settlement, but rather a payout on an actuarial basis for his 34 years of service to the state. An administrative hearing was held this week with the first set of briefs being filed. The Hearing officers transferred their finding to the KPERS Board of Trustees who remanded them back to the Hearing officers.

Chairman Wilk ruled that the Spangler and Bethell motions were out of order and non-germane to the claims bill and this issue will be brought up during discussion on KPERS issues.

Representative Nichols moved to conceptually amend the bill by switching the funding for the Bothwell claim on deferred compensation in Section 10 from the State General Fund to the Department of Administration. Motion was seconded by Representative Hermes. Motion carried.

Representative Wilk moved to amend the bill by switching the funding for the Botrager claim on excess tax payments in Section 6 from the State General Fund to the Motor Carrier Tax Refund fund. Motion was seconded by Representative Neufeld. Motion carried.

Representative Shriver moved to amend the bill by striking the claim by "The Braidin' Maidens," Debra Jennings and Wendolyn Moody in Section 3. Motion was seconded by Feuerborn. Motion failed.

During Committee discussion, the option of the Attorney General paying part of the assessed amount due to their alleged inaccurate interpretation of the existing law was raised. Also discussed was that the Board of Cosmetology exists for cosmetology issues such as hair cuts, color, perms, etc., and the enforcement of health issues should be the responsibility of the Department of Health and Environment. The original claim was for \$10,500 which included lost earnings but the claim was finally reduced to \$4,521.50 which is the amount of expenses for the attorney's fees only.

Representative Neufeld moved that the bill be reported favorably as amended. Motion was seconded by Representative Bethell. Motion carried. Representative Shriver asked to be recorded as a "No" vote.

The Committee continued their hearing from March 8, 2001, of the Budget Committee report on the Governor's recommendation for the Department of Wildlife and Parks for FY 2002.

The Committee returned to the motion by Representative Schwartz to adopt the Budget Committee report with recommendations on the Governor's budget recommendations for the Department of Wildlife and Parks FY 2002.

Representative Landwehr made a substitute motion to amend the report by adding "The House Budget Committee recommends that the Secretary of the Department of Wildlife and Parks direct the agency law enforcement authority to allow persons found in violation of state law by using the state parks without purchasing an entrance permit to purchase a daily entrance permit and pay the designated fine or purchase an annual entrance permit with no fine" and to make this language part of SB 147. Motion was seconded by Representative Toplikar. Motion carried.

Clint Riley, Counsel for the Department of Wildlife and Parks, requested the suggested change be made statutorily rather than be a recommendation from the Budget Committee.

Representative Stone moved to amend the report by redirecting the \$500,000 requested from EDIF for Local Government Outdoor Recreation Grants to \$330,000 for the Recreation Grants program and \$170,000 for the local libraries budget. Motion was seconded by Representative Light.

The Committee expressed concern that the Recreation Grants program would suffer a loss and this was a match program which has a local match requirement but this appeared to be the only way to fund the local libraries at this time.

Representative Neufeld made a substitute motion to strike Item 3 from the Budget Committee report. Motion was seconded by Representative Bethell. Motion failed.

Representative Shriver made a substitute motion recommending that all proposed EDIF expenditures be referred to the General Government Budget Committee before any bill is acted upon. The motion died for lack of a second.

Representative Schwartz moved the adoption of the Budget Committee report on the Governor's budget recommendations for the Department of Wildlife and Parks FY 2002 as amended and with the noted adjustments (Attachment 2). Motion was seconded by Representative Peterson. Motion carried.

Representative Neufeld presented the Budget Committee report on the Governor's budget recommendation for the Kansas Human Rights Commission for FY 2001 and moved for the adoption of the Budget Committee recommendations for FY 2001 with the noted adjustment (Attachment 3). Motion was seconded by Representative Peterson. Motion carried.

Representative Neufeld presented the Budget Committee report on the Governor's budget recommendation for the Kansas Human Rights Commission for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 with the noted adjustment (Attachment 3). Motion was seconded by Representative Peterson. Motion carried.

Representative Peterson presented the Budget Committee report on the Governor's budget recommendation for the Department of Transportation for FY 2001 and moved for the adoption of the Budget Committee recommendations for FY 2001 with a notation (Attachment 4). Motion was seconded by Representative Hermes. Motion carried.

Representative Peterson presented the Budget Committee report on the Governor's budget recommendation for the Department of Transportation for FY 2002 and moved for the adoption of the Budget Committee recommendations for FY 2002 with noted recommendations (Attachment 4). Motion was seconded by Representative Hermes.

Secretary Carlson explained that by selling the highway bonds earlier, more money is pulled into the revenue stream, thus increasing revenue and interest payments during the first ten-year period. Debt service will still be in effect until 2021. Ninety-one million dollars of sales tax has not been put into the transportation plan at this point. By shifting funds, KDOT can manage their ending balances in order to pay bills in an orderly way. The Secretary noted that 86 percent of the highways in Kansas are in good shape so the routine maintenance budget has been reduced.

Representative Shriver moved to amend the Budget Committee report to include a statement that raiding the State Highway Fund to pay for expenditures from the State General Fund would not be allowed even if there was an overabundance of money within the State Highway Fund. The motion was seconded by Representative Feuerborn. Motion failed.

Representative Peterson moved for the adoption of the Budget Committee report on the Governor's budget recommendation for the Department of Transportation for FY 2002 with the noted recommendations (Attachment 4). Motion was seconded by Representative Hermes. Motion carried.

Action on HB 2532 – State historical society, clarification of state agency status, executive director selection and appointment

Staff distributed copies of the Historic Properties, Artifacts, and Documents (Addendum A) of the Giving Program Guidelines of the Kansas State Historical Society in response to a question (Attachment 5).

Representative Bethell moved to amend the bill on Page 2 Line 1 by striking the word "society" and replacing it with "Kansas State Historical Society, Inc." Motion was seconded by Representative Light. Motion carried.

Representative Bethell moved to amend the bill on Page 2 Lines 23 and 24 by striking the word "secretary" on both lines and replacing it with "Executive Director." Motion was seconded by Representative Light. Motion carried.

Representative Bethell moved to amend the bill on Page 2 Line 27 by placing a period after Kansas and striking "except when acting as the Kansas state historical society, inc., a not-for-profit corporation organized under the incorporation laws of Kansas." Motion was seconded by Representative Light. Motion failed.

Representative Bethell moved to amend the bill on Page 2 Line 39 by striking the word "shall" and replacing it with the word "may." Motion was seconded by Representative Wilk. Motion carried.

Representative Bethell moved to amend the bill on Page 3, Lines 16, 17, 18, and 19 by placing a period after “thereto” and striking “, except that no person who has retired from state service under any retirement system or plan administered by the board of trustees of the Kansas public employees retirement system shall be qualified to serve as executive director of the state historical society.” Motion was seconded by Representative Hermes. Motion carried.

Representative Bethell moved to amend the bill on Page 3 on the end of Line 37 by adding “Section (h) On and after the effective date of this act, whenever the state historical society or words of like effect is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the state agency within the executive branch of state government and shall not be deemed to refer to the Kansas state historical society, inc., a not-for-profit corporation organized under the corporation laws of Kansas, unless the reference is specifically to that corporation or within the context of the reference clearly refers to that corporation.” Motion was seconded by Representative Neufeld. Motion carried.

Representative Campbell moved to conceptually amend the bill on Page 2, Line 27 by placing a period after “Kansas” and striking “except when acting as” and inserting “is” at the end of the line. Motion was seconded by Representative Nichols. Motion carried.

Representative Shriver moved to amend the bill on Page 3, Line 6 by placing a period after governor and striking “, subject to approval by the executive committee of the Kansas state historical society, inc.” in Lines 6 and 7.

Representative Nichols moved to amend the bill by inserting language on Page 3, Line 6 stating that “The executive director of the Kansas state historical society shall serve at the pleasure of the Governor. Motion was seconded by Representative Toplikar. Motion failed.

During Committee discussion regarding the annual evaluation process of the executive director described by the bill, Trista Beadles, Legal Counsel for the Governor, explained that although an annual evaluation is required by the bill and even a special evaluation if cause exists, in her opinion, there is still no mechanism provided for dismissal of this unclassified employee. Trista Beadles stated her opinion that the state can find cause to dismiss but cannot dismiss the executive director as the bill currently is written.

Representative Neufeld moved to conceptually amend the bill on Page 3, Line by adding language on Line 27 stating “that the executive director is subject to removal for cause.” Motion was seconded by Representative Nichols. Motion carried.

Representative Neufeld moved to amend **HB 2532** by reconciling the bill with the conflicting amendments to KSA 75-2701 and technical amendments which were enacted by passage of **SB 15** and to amend the bill by substituting a new bill as Substitute for **HB 2532**. Motion was seconded by Representative Klein. Motion carried.

Representative Bethell moved to report **Substitute HB 2532** favorably. Motion was seconded by Representative Feuerborn. Motion carried.

Representative Pottorff, Chairman of the General Government and Human Resources Budget Committee presented Report # 2 on KPERs issues moved for the House Appropriations Committee to accept the report (Attachment 6). Motion was seconded by Representative Stone. Motion carried.

The Chairman adjourned the meeting and the next meeting will be held at on Monday, March 12, 2001.