

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 p.m. on February 16, 2004 in Room 313-S of the Capitol.

All members were present except:
Representative Dan Williams- excused

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

Conferees appearing before the committee:
Senator John Vratil
Representative Paul Davis
Judge Christel Marquardt, Kansas Court of Appeals
Loren Snell, Office of Attorney General, Medicaid Fraud Division
Representative Doug Patterson
Vicky Johnson, Kansas Department of Transportation, Chief Legal Counsel

The hearing on **SB 324 - concerning appellate jurisdiction of supreme court**, was opened.

Senator John Vratil, explained that the proposed bill would provide that the appellate jurisdiction of the Kansas Supreme Court may be invoked by appeal as a matter of right from a preliminary or final decision in which a Kansas statute has been held unconstitutional as a violation of Article 6, of the Kansas Constitution. The bill would be effective upon publication in the *Kansas Register* and would expire on July 1, 2006.

The hearing on **SB 324** was closed.

The hearing on **HB 2618 - terms of office of court of appeals judges from four to six**, was opened.

Representative Paul Davis appeared as the sponsor of the bill which would treat the Appeals Court the same as the Supreme Court with regard to length of terms. Currently, the Supreme Court has six year terms and the Appeals Court has four year terms. This would make both Courts have terms of six years. (Attachment 1)

Judge Christel Marquardt, Kansas Court of Appeals, stated that she would be the only Appeals Court judge affected by this legislation this year. She provided the committee with a chart showing the terms of all Appellate Court Judges in each state and Kansas was shown to have the shortest terms with regard to the Appeals Court. (Attachment 2)

The hearing on **HB 2618** was closed.

The hearing on **HB 2802 - hearsay exception provided for videotaped statements of certain elderly adults who are unavailable at trial**, was opened.

Loren Snell, Office of Attorney General, Medicaid Fraud Division, appeared in support of the proposed bill which would allow for the admission of videotaped statements by a victim when the victim is unavailable to testify due to death or disability. The proposed bill is modeled after a California statute which has withstood legal challenges. It is also similar to the current exception under Kansas law in which a child is permitted to provide a videotaped statement in cases involving abuse. It would give total discretion to the court to allow or disallow the videotaped statement. He estimated that the Attorney General has had to turn down 25-30 cases in the last six years due to death or disability of the elder adult. (Attachment 3)

The hearing on **HB 2802** was closed.

CONTINUATION SHEET

MINUTES OF THE HOUSE JUDICIARY COMMITTEE at 3:30 p.m. on February 16, 2004 in Room 313-S of the Capitol.

The hearing on **HB 2800** - eminent domain, determination and payment of relocation assistance, was opened.

Representative Doug Patterson applauded the Legislature for making long strides forward in condemnation cases last year but has determined that 2003 HB 2032 created a right, but not a remedy. What has been happening is that relocation benefits are not being paid in a timely manner and there is no appeal right to determine the adequacy of the relocation award. The proposed bill would require relocation expenses be paid prior to possession and would allow for an appeal of the adequacy of the award. (Attachment 4)

Vicky Johnson, Kansas Department of Transportation, Chief Legal Counsel, appeared before the committee in opposition to the bill. She explained that the landowner receives the condemnation award up front and has up to 1 year to turn in his relocation expenses. It's impossible to determine the relocation benefits at the same time as the condemnation award because the costs have not yet been incurred. She also had concerns that the appeal through the court system would be more expensive than the current administrative appeals process. (Attachment 5)

Written testimony in opposition of the bill was provided by the City of Overland Park. (Attachment 6)

The hearing on **HB 2800** was closed.

Representative Long-Mast made the motion to approve the committee minutes from February 2, 3, 4 & 9th. Representative Pauls seconded the motion. The motion carried.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for February 17, 2004.