

Approved: 2-17-2009
Date

MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY AND FISCAL OVERSIGHT
COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 3:30 p.m. on February 12, 2009, in Room 535-N of the Capitol.

All members were present except:

Representative Broderick Henderson- excused
Representative Brenda Landwehr- excused
Representative Judy Loganbill- excused
Representative Melvin Neufeld- excused
Representative Louis Ruiz- excused

Committee staff present:

Rena Jefferies, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Hank Avila, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Gary Deeter, Committee Assistant

Conferees appearing before the committee:

Patrick Hurley, Chief Counsel, Kansas Department of Administration
Tom Krebs, Governmental Relations Specialist, Kansas Association of School Boards

Others attending:

See attached list.

The Chairman invited consideration of **HB 2195** - Public records; certification of electronic records by the state archivist. Representative Burgess made a motion, seconded by Representative Roth, to amend the bill, changing the effective date from being published in the statute book to being published in the Kansas Register. The motion to amend passed.

A motion was made, seconded, and passed unanimously to recommend the bill as favorable for passage. (Motion, Representative Burgess; seconded, Representative Gatewood)

The minutes for the February 11 meeting were approved. (Motion by Representative Roth, seconded by Representative Trimmer)

The Chair opened the hearing on **HB 2249** - Amendments to the Kansas whistleblower act.

Staff Rena Jefferies briefed the Committee on the bill, saying that the bill broadens the categories of persons that an employee may talk with regarding agency matters or public concerns, and it prohibits any person in authority from threatening or taking disciplinary action against an employee who speaks to a permitted person. She said that new sections in the bill provide protection from retaliation for an employee for up to one year.

CONTINUATION SHEET

Minutes of the House Government Efficiency And Fiscal Oversight Committee at 3:30 p.m. on February 12, 2009, in Room 535-N of the Capitol.

The Chairman passed the gavel to the Vice-Chair.

Patrick Hurley, Chief Counsel, Kansas Department of Administration, spoke as an opponent of the bill ([Attachment 1](#)). He stated that the bill will have a chilling effect on an agency's ability to manage the workforce and will not add benefit to any state employee. He explained that allowing a rebuttable presumption for up to a year gives an employee too much latitude to presume that any suggestion or recommendation, however constructive, is retaliatory.

Tom Krebs, Governmental Relations Specialist, Kansas Association of School Boards (KASB), testified as an opponent ([Attachment 2](#)). He noted that the KASB provides information such as the Whistle Blower Act for school boards to include in district handbooks; the changes proposed by the bill will make the act weaker, not stronger, and will make it difficult to carry out the intention of the bill fairly. He suggested that a teacher could easily misconstrue a supervisor's comment and mistakenly make an accusation based on the latitude granted by the bill.

Representative Jim Morrison testified as a proponent for the bill, agreeing that some constructive comments by a supervisor might be misconstrued, stated that the bill intends to focus on an employee who sees a supervisor or agency engaged in unethical, immoral, or wasteful activity. He invited opponents to help develop language that will minimize meritless claims.

Angela Stallbaumer, Staff Attorney, KASB, responding to a question, replied that one of the definition sections of civil service includes schools.

Discussion ensued. Mr. Hurley commented that the term *threaten* can be manipulated by individuals and needs to be narrowed. He noted that federal law already gives an employee latitude to speak up regarding perceived violations. A member noted that a study by a sub-committee revealed that Kansas ranks low in relation to an employee's freedom to report perceived infractions. Another member observed that presently no data show that expanding the law will result in more civil service claims. Another member commented that constituents who report on possible agency or supervisor malfeasance nearly always report feeling under duress and are fearful of repercussions if they report activity through the agency chain of command. Members requested that staff seek data from Connecticut, from whose statute the bill was drawn, in order to see what effect the law had in that state. Representative Morrison stated that the bill needs to focus on fiscal malfeasance or encourage fiscal savings. Mr. Krebs commented that excluding school districts would make the bill more palatable. Ms. Stallbaumer replied that the current statute applies to public school teachers.

The hearing was closed.

Representative Morrison, re-assuming the Chair, opened the hearing on **HB 2222** - State agencies; collections of fee, licenses, taxes, surcharges, discounts.

Staff Daniel Yoza, explaining the bill, said an agency may add a surcharge or discount of no more than 5% in order to promote efficiency for the agency.

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Representative Burgess, speaking as a proponent, said the bill, a result of collaboration with the Information Network of Kansas, intends to help agencies promote efficiencies by encouraging the use of electronic transactions, since currently agencies must penalize a person who uses electronic transactions by adding a convenience fee. He cited the Kansas Secretary of State, which has used a fee structure to effect 90% compliance with electronic transactions, allowing the agency to re-allocate staff. He said most agencies can achieve only about 30% electronic compliance; reliance on paper increases staff involvement. Jim Hollingsworth, Executive Director, Information Network of Kansas, agreed that paper transactions usually cost an agency more than electronic ones, and the fee structure could be an incentive for an agency to realize more savings. A member wanted assurance that the bill would not result in a blanket increase in agency fees.

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors, provided written testimony in opposition to the bill ([Attachment 3](#)).

The hearing was closed, and the Chair opened the hearing for **HB 2219** - Kansas performance measurement commission; extend sunset; other.

Staff Daniel Yoza briefed the Committee on the bill, saying that it extends the sunset provision for the Kansas Performance Measurement Commission for one year.

Since no conferees appeared in support or opposition to the bill, members discussed implications of the bill among themselves. A member noted that the Commission used the Kansas Social and Rehabilitation Services agency performance measurement activities as a pattern that might be applied to other state agencies.

The hearing was closed.

The meeting was adjourned at 4:55 p.m. The next meeting is scheduled for February 16, 2009.