

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 20, 2007 in Room 313-S of the Capitol.

All members were present except:
Marti Crow- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Athena Andaya, Kansas Legislative Research
Duston Slinkard, Office of Revisor of Statutes
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:
Randy Hearrell, Kansas Judicial Council
Tracy Dial, Director, Office Administrative Hearings
Chris Biggs, Kansas Securities Commissioner
Tom Thull, Kansas Banking Commissioner

The hearing on **SB 351** - office of administrative hearings, was opened.

Randy Hearrell, Kansas Judicial Council, appeared before the committee as a proponent to the bill. He explained that as the bill came out of the Senate it is consistent with the same format that the Kansas Judicial Council has supported in the past. The Office of Administrative Hearing (OAH) gives independence to the hearing officers from agencies over the proceedings and helps make clear judgements on cases. The advantage of the bill would be a huge cost savings to the state.

Beginning in July 2005 through July 2009 all state agencies, boards and commissions are subject to the Kansas Administrative Procedure Act and are being phased in and will have administrative hearings being done by OAH. Mr. Hearrell suggested that ½ of the agencies are in compliance with the Act and the rest are scheduled to be phased in by July 1, 2009. (Attachment 1)

Mr. Hearrell commented that the Uniform Law Commission is working on a model act and that the Judicial Council will be reviewing and making their recommendations.

Tracy Dial, Director, Office Administrative Hearings, stated that some agencies suggest that a central hearing office would result in the loss of agency expertise. However, the Act allows for the transfer of those hearing officers to the OAH, but that most agencies are eliminating those positions over time.

Mr. Dial pointed out that there is an exception to using the OAH when an agency head is a presiding officer and acts as the hearing officer. Chairman O'Neal stated that this is the reason for having the OAH in the first place, to avoid conflict.

Chris Biggs, Kansas Securities Commissioner, informed the committee that he currently serves as the hearing officer and makes decisions which are appealable to the district court level. When there is a conflict with the office and having him be a hearing officer, they appoint an outside hearing officer. (Attachment 2)

Mr. Biggs was asked what the difference was between having the district court hear a case and a hearing officer. He responded that judges have the ability to look at different fact matters. Certain levels of proof are different at the court level.

Tom Thull, Kansas Banking Commissioner, appeared in opposition of the bill. He stated that, as amended, it would lengthen the hearing process and increase costs to agencies, therefore delaying a prompt resolution of the issues at hand.

Commissioner Thull informed the committee that during 2006 they had 125 administrative actions, with 56 of them resulting in appearing before a hearing officer. Four have been petitioned to the district court where the agency's decision was upheld and one is still pending. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 20, 2007 in Room 313-S of the Capitol.

The hearing on **SB 351** was closed.

SB 204 - requirements for persons required to register pursuant to Kansas offender registration act

Representative Watkins made the motion to amend the bill to make it clear that judicial discretion is retroactive with regard to juvenile offenders and upon the effective date of Jessica's law. Representative Kinzer seconded the motion. The motion carried.

Representative Owens made the motion to delete the requirement that changes in registration be done within 3 days. Representative Wolf seconded the motion. The motion carried.

Representative Owens made the motion to delete the provision requiring sex offenders to report three times a year, but keep the provisions of clarifying that \$20 fee shall go to the sheriff's office to offset their expenses in handling the registration. Representative Kuether seconded the motion. Committee members expressed support for showing up three times a year because it keeps photos updated and keeps track of these offenders. The motion failed.

Representative Goyle made the motion to have the sex offenders show up in person when reporting twice a year. Representative Pauls seconded the motion. The motion failed.

Representative Wolf made the motion to delete the provisions requiring adjudicated juveniles moving into the state to have to register and the retro-activity provision. Representative Goyle seconded the motion. There was a request to divide the motion.

Part A - adjudicated juveniles - the motion carried.

Part B - retro-activity - the motion carried.

Representative Owens made the motion to delete the cyberspace provisions because they are not enforceable. Representative Kuether seconded the motion. The motion failed.

Representative Pauls made the motion to delete on page 14, lines 23 & 24 requiring a "sex offender safety link". Representative Kuether seconded the motion. The motion failed.

Representative Kinzer made the motion to report **SB 204** favorably for passage, as amended. Representative Whitham seconded the motion. The motion carried.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled for March 21, 2007.