

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on February 8, 2005 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Sandy Yingling, Committee Secretary

Conferees appearing before the committee:

Doug Wareham, KBA
Kathy Olsen, KBA
Renee Murray, CBA
Judi Stork, OSBC

Others attending:

See attached list.

Madam Chair opened by announcing there are Minutes to be approved at the end of the meeting and that the committee would be hearing **SB 101** and **SB 104**.

Madam Chair opened the hearing on **SB 101**.

SB 101 - Banks and banking; prohibition of employment of officers or directors who have been removed for cause.

Judi Stork, Deputy Bank Commissioner, testified in support of **SB 101** drawing specific attention to line 22. (Attachment 1) Senator Wilson asked if there is a period of due process? Ms. Stork stated they would be entitled to a hearing. Ken Wilke stated that there did not appear to be any provision for future reinstatement and questioned if any consideration had been given to reinstatement. Ms. Stork stated they had not. There were no further questions.

Kathy Olsen, Kansas Bankers Association, next testified in support of **SB 101** (Attachment 2). Madam Chair asked if there were any questions, there were none.

Renee Murray, Community Bankers Association, testified by asking the committee to consider modifications to **SB 101** (Attachment 3). Madam Chair asked Ms. Murray for clarification with publication into the public register. Madam Chair asked for questions and Senator Brungardt questioned as to what the purpose of the publication would be. Ms. Olsen responded that if the appeal is turned over in the banker's favor, the person's name could already have been publicized. Senator Schmidt asked if this process applied to other professions? Ms. Olsen answered that she was not sure. Madam Chair thanked Ms. Murray and Ms. Olsen and then called on Judi Stork. Sonya Allen, Office of the State Banking Commission, offered that once the hearing was held the court administrative order would become final under the Administrative Procedure Act which is the final order of the agency. There is an appeal right for every final agency action to the district court and in any final order it says that you have to appeal the final agency action within the 30 days. Chair Teichman asked that if someone should appeal within those 30 days does their name go on any register? Ms. Allen stated no, but the KBA would know whether an appeal was going to be filed with the district court within that 30-day period. Ms. Olsen asked Ms. Allen if after they asked for the hearing and the banking board or whoever the hearing officer is and finally rules on it, then does it get published? Madam Chair stated that the process before the committee is probably the process that is being used by most other agencies and the CBA recommendation would be a change from a practice that has already been established. Senator Schmidt stated it would be the final agency action that is published not waiting for the district court process. Senator Barone asked how much time? Ms. Allen answered 30 days and from there to the district court. There were no more questions. Madam Chair closed the hearing on **SB 101**.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 8, 2005 in Room 234-N of the Capitol.

Madam Chair opened the hearing on **SB 104**.

SB 104 - Banks and banking; examination of certain business entities affiliated with banks or trust companies.

Judi Stork, Deputy Bank Commissioner, testified in support of **SB 104** (Attachment 4). This bill amends K.S.A. 9-1702 which is a statute that gives the Commissioner the authority to do two things, one, conduct exams of fiduciary activities of officers and directors. Two, examine the affairs of affiliates to determine the impact that those affiliates would have on the bank and trust company without going to the OSBC Board. Ms. Stork passed out Section (10) of the Federal Deposit Insurance Act (Attachment 5) to clarify the language. Ms. Stork also passed out written testimony of Richard D. Rucker, President of Home Bank & Trust Company, in support of **SB 104** (Attachment 6).

Senator Wilson replied there is no huge problem other than routine when the Office of the Bank Commission goes into doing their examinations. They ask the bank for financial information, but to request information from their holding company they have to get approval from the OSBC Board. Ms. Stork stated that they utilized the Bank Holding Company Act definition. Senator Wilson asked what if the Bank Holding Company is getting into insurance business and that insurance business owns something else, would this bill allow the OSBC to examine them? Ms. Stork answered no, it has to be a direct subsidiary of the holding company. Madam Chair asked Ms. Stork to give an example of a grandparent organization. Ms. Stork answered that it would be like ABC holding company that has XYZ parent company and the parent company owns the holding company which owns the bank. Senator Barnett asked what problem would this solve? Ms. Stork replied there is no huge problem other than routine when the Office of the State Bank Commission goes in to do their examinations. They asked the bank for financial information, but to examine information from their holding company they must get approval from the OSBC Board. This is routine and SB 104 is basically to clean up the language. Chair Teichman explained that this is giving the state banks the same authority that already applies to the national banks.

Doug Wareham, KBA, testified in opposition of **SB 104**. (Attachment 7). Mr. Wareham explained they oppose the bill as it is currently drafted and offered an amendment. (Attachment 8) Their opposition lies with removing the oversight roll of the OSBC Board. Chair Teichman asked how do you reconcile the fact that your national banks do not have to do this and your state banks do? Mr. Wareham stated they would prefer that there be some oversight board where the state could have the same recourse as the national level and that the KBA supports the current law. Senator Barone stated this is a continuous situation and asked what the time line was that the approval is given and absent that approval, is not the bank free to go on and do what they want to do? Mr. Wareham stated there are other ways for that approval to be sought. Senator Barone asked if the bank commissioner approved the schedule of examinations in advance? Mr. Wareham stated that he did not know. Senator Brownlee stated that if the banking board is able to respond as rapidly as Mr. Wareham is suggesting, do they have the ability to have a conference, called? Madam Chair asked Sonya Allen to answer the question. Ms. Allen stated yes, they do meet by conference call but they are subject to the Kansas Open Meetings Act. Senator Barnett asked if other agencies also have to receive permission to investigate? Ken Wilke answered without research he would not know the answer. Senator Schmidt answered in the case of the pharmacy, the answer is no. Senator Brungardt offered an answer to Senator Barnett's question which was, no they do not.

Seeing no further questions Madam Chair closed the hearing on SB 104.

Madam Chair opened continued discussion on **SB 57**.

SB 57 - Consumer protection; exemption for occasional sale of certain repossessed collateral. There was no other discussion.

Senator Wilson moved to pass **SB 57** out favorably, Senator Wysong seconded. The motion carried.

Madam Chair asked for approval of January 25 and 26th Minutes. Senator Brownlee pointed out a typo needing correction in the January 26 minutes.

CONTINUATION SHEET

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Senator Brungardt moved to approve the Minutes as amended, Senator Brownlee seconded. The motion carried.

Meeting was adjourned at 10:30 a.m.