

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 9:00 A.M. on March 20, 2007, in Room 514-S of the Capitol.

All members were present.

Committee staff present:

J. G. Scott, Legislative Research Department  
Becky Krahl, Legislative Research Department  
Michele Alishahi, Legislative Research Department  
Reagan Cussimano, Legislative Research Department  
Amy Deckard, Legislative Research Department  
Julian Efirid, Legislative Research Department  
Aaron Klaassen, Legislative Research Department  
Jim Wilson, Revisor of Statutes  
Nikki Feuerborn, Chief of Staff  
Shirley Jepson, Committee Assistant

Conferees appearing before the committee:

Larry Buening, Executive Director, Kansas Board of Healing Arts  
Dr. Roger Warren, Member of the Board of Healing Arts  
Cindy Lash, Audit Manager, Legislative Post Audit  
Representative Carl Holmes  
Tory Head, Western Hills Golf Course  
Merril Vanderpool, Village Greens Golf Course  
Duane Simpson, Kansas Agribusiness Retailers Association  
Dick Stuntz, Alvamar, Inc.  
Sandy Jacquot, General Counsel, League of Kansas Municipalities  
Roger Werholtz, Secretary, Department of Corrections  
Jim Edwards, Kansas Association of School Boards (KASB)

Others attending:

See attached list.

- Attachment 1 Testimony on Board of Healing Arts Budget Request by Larry Buening
- Attachment 2 Resource materials provided by Larry Buening
- Attachment 3 Testimony on Audit Report by Cindy Lash
- Attachment 4 Letter in support of Board of Healing Arts by Jerry Slaughter, Executive Director, Kansas Medical Society
- Attachment 5 Report from Subcommittee on KPERS
- Attachment 6 Testimony in support of **HB 2566** by Torrey Head
- Attachment 7 Testimony in support of **HB 2566** by Meril Vanderpool
- Attachment 8 Testimony in support of **HB 2566** by Duane Simpson
- Attachment 9 Testimony in support of **HB 2566** by Dick Stuntz
- Attachment 10 Testimony in opposition of **HB 2566** by Sandy Jacquot
- Attachment 11 Testimony in opposition of **HB 2566** by Roger Werholtz
- Attachment 12 Testimony in opposition of **HB 2566** by Jim Edwards
- Attachment 13 Written Testimony in opposition of **HB 2566** by Erik Sartorius, City of Overland Park
- Attachment 14 Written Testimony in opposition of **HB 2566** by Dee Stuart, Mayor, Park City
- Attachment 15 Written Testimony in opposition of **HB 2566** by Department of Transportation
- Attachment 16 Written Testimony in opposition of **HB 2566** by Cheryl Semmel, United School Administrators

Chair Schwartz recognized Lawrence Buening, Executive Director, Kansas Board of Healing Arts, who provided information in support of the additional FTE positions requested by the Board of Healing Arts for FY 2008 and FY 2009 ([Attachment 1](#)). Also included is a copy of the testimony presented to the Education Budget Committee on budget requests for FY 2008 and FY 2009 and

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a copy of the response to the Legislative Post Auditor as a result of the Performance Audit Report of October 2006 (Attachment 2). Mr. Buening stated that he is presenting information today as a result of the Education Budget Committee's report to the full Appropriations Committee on March 7<sup>th</sup> which indicated that additional information was required on the Board's compliance with the findings of the Legislative Post Audit completed in October 2006 and recommended an interim study. Mr. Buening stated that he believes policies and procedures are in place to address the concerns raised by the audit.

Chair Schwartz recognized Dr. Roger Warren, member of the Board of Healing Arts, who testified that the Board of Healing Arts is supported by fee funds and not tax dollars. Dr. Warren also noted that delay of the investigation of complaints is not always caused by the Board.

The Chair recognized Cindy Lash, Audit Manager, Legislative Division of Post Audit, who presented testimony on the October 2006 audit of the Board of Healing Arts (Attachment 3). Ms. Lash noted that changes were made by the Board in 2005 to the way complaints were handled because there were too few resources available to adequately investigate all complaints and State law indicated that the Board can only take action against a licensee when there are repeated instances or a pattern of practice that is substandard. Ms. Lash stated that several recommendations were made to address the timely investigation of complaints including:

- Review and screen complaints on a timely basis.
- Investigate allegations of substandard patient care when they are received.
- Move from an annual review of investigation status to a quarterly review.
- Actively track the progress of open cases.

Responding to questions from the Committee, Ms. Lash noted that a prior audit on the Board of Healing Arts was performed by Legislative Post Audit in 1985. She indicated that any complaint received can be investigated; however, statute allows action only after three investigated complaints.

A letter from Jerry Slaughter, Executive Director, Kansas Medical Society, in support of the Board of Healing Arts' request for enhanced FTE positions for FY 2008 and FY 2009, was distributed to the Committee (Attachment 4).

### **Discussion and Action on:**

**HB 2151 - Increased maximum retirement benefit for KP&F members and increased employee contributions until the maximum retirement benefit is attained.**

**HB 2238 - Affiliation with the Kansas police and firemen's retirement system by adjutant general for membership of certain firefighters serving the 190th Kansas air national guard.**

Representative Tafanelli, Chairman of the House Appropriations Subcommittee on Kansas Public Employees Retirement System (KPERs), presented the Subcommittee report on **HB 2151** and **HB 2238** recommending an interim study in 2007 by the Joint Committee on Pensions, Investments and Benefits and moved for the adoption of the Subcommittee report (Attachment 5). The motion was seconded by Representative Ballard. Motion carried.

### **Discussion and Action on:**

**HB 2078 - Federal nontaxable distributions from KPERs retirement benefits to provide retired public safety officers a source to pay for health insurance or long-term care insurance.**

**HB 2077 - KPERs, withdrawal of accumulated contributions and service credit between systems.**

**HB 2076 - Increase in earnings limitation for certain members of the Kansas police and firemen's retirement system receiving disability benefits.**

Representative Tafanelli, Chair of the House Appropriations Subcommittee on Kansas Public Employees Retirement System (KPERs), presented the Subcommittee report on **HB 2078**, **HB 2077** and **HB 2076** and moved for the adoption of the Budget Committee recommendation

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(Attachment 5). The motion was seconded by Representative Ballard. Motion carried.

Representative Tafanelli moved to recommend **HB 2078** favorably for passage. The motion was seconded by Representative Feuerborn. Motion carried.

Representative Tafanelli moved to recommend **HB 2077** favorably for passage. The motion was seconded by Representative Pottorff. Motion carried.

Representative Tafanelli moved to recommend **HB 2076** favorably for passage. The motion was seconded by Representative Pottorff. Motion carried.

Representative Tafanelli moved to reconsider previous action on **HB 2078**, **HB 2077** and **HB 2076** by amending the language of **HB 2078** and **HB 2076** into **HB 2077** and recommend **HB 2077** as amended favorably for passage. The motion was seconded by Representative Pottorff. Motion carried.

**Hearing on HB 2566 - Public entities may not compete with private businesses.**

J. G. Scott, Legislative Research Department, explained that **HB 2566** would make it unlawful for any public agencies, including counties and cities, to engage in the sale of goods or services, that are provided by private entities. There is a provision in the bill indicating that it will not apply if the goods or services are necessary for public welfare or are not otherwise unavailable to the public.

Testimony in support of **HB 2566** was received from the following:

- Representative Carl Holmes
- Torrey Head, Owner and Operator of Western Hills Golf Club in Topeka (Attachment 6).
- Meril D. Vanderpool, Owner and Operator of Village Greens Golf Course (Attachment 7).
- Duane Simpson, Vice President of Government Affairs, Kansas Agribusiness Retailers Association (Attachment 8).
- Dick Stuntz, Owner of the Oaks Golf Course, Leavenworth (Attachment 9).

Testimony in opposition to **HB 2566** was received from the following:

- Don Mohler, Executive Director, League of Kansas Municipalities (Attachment 10).
- Roger Werholtz, Secretary, Department of Corrections (Attachment 11).
- Jim Edwards, Governmental Relations Specialist, Kansas Association of School Boards (Attachment 12).

Written testimony in opposition to **HB 2566** was received from:

- Erik Sartorius, , City of Overland Park (Attachment 13).
- Dee Stuart, Mayor, Park City (Attachment 14).
- Department of Transportation (Attachment 15).
- Cheryl Semmel, United School Administrators (USA) (Attachment 16).

Testimony in support of **HB 2566** indicated that private businesses, who offer services or goods to the public, are subject to various taxes in the course of their business as opposed to government entities who may be engaged in the same business or service and exempt from taxes. It was also noted that there are a number of not-for-profit or non-profit entities who offer services or goods to the public and are tax-exempt.

Testimony in opposition of **HB 2566** stated that the legislation would have far-reaching consequences for governmental entities, including all educational facilities, hospitals, as well as cities and counties.

During discussion, the Committee noted that although the legislation may have merit, there are a number of issues that needed to be addressed before any action should be taken.

Representative Tafanelli moved to recommend **HB 2566** for further evaluation in an interim study. The motion was seconded by Representative Wolf. Motion failed on an 8-9 vote.

Some Committee members indicated that the legislation did not warrant an interim study because

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there were too many problems with the bill. Committee members also noted that a function of government is to provide service, noting also that the legislation would take away rights from local communities.

The meeting was adjourned at 10:50 a.m. The next meeting of the Committee will be held at 9:00 a.m. on March 21, 2007.

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Sharon Schwartz, Chair