

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

July 11, 2005
Room 514-S—Statehouse

Members Present

Representative Carl Holmes, Chairman
Senator Dennis Wilson, Vice Chairman
Senator Karin Brownlee
Senator Ralph Ostmeyer
Senator Chris Steineger
Representative Jerry Henry
Representative Candy Ruff
Representative Sharon Schwartz

Members Absent

Senator Don Betts
Representative Lance Kinzer
Representative Jan Pauls
Representative Scott Schwab

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Kenneth Wilke, Revisor of Statutes Office
Judy Glasgow, Secretary

Others Present

Joe Lentz, Kansas Department of Agriculture
Sherry C. Diel, Executive Director, Kansas Real Estate Commission
Deletria Nash, Staff Attorney, Kansas Insurance Department
Linda J. DeCoursey, Administrator, State Employees Health Care Commission
Debra Duncan, Kansas Animal Health Department
Ron Seeber, Hein Law Firm
Bonnie Wambeke, Kansas Insurance Department
John Peterson, Kansas Land Title Association
Faith Loretto, Department of Administration

Morning Session

The Chairman called the meeting to order at 10:10 a.m. Raney Gilliland, Kansas Legislative Research Department, presented a review of agency comments on rules and regulations previously presented as proposed rules and regulations and now filed as permanent. These included rules and regulations from the following agencies:

Kansas Department of Health and Environment	Department of Social and Rehabilitation Services
Kansas Racing and Gaming Commission	State Board of Examiners in Optometry
State Employees Health Care Commission	State Board of Healing Arts
Kansas Department of Education	Kansas Department of Corrections
Department of Wildlife and Parks	Board of Regents
State Fire Marshal	Kansas Dental Board
Department of Agriculture	Department of Administration
State Real Estate Appraisal Board	Kansas Insurance Department
Behavioral Sciences Regulatory Board	Board of Tax Appeals
Department of Revenue	Board of Mortuary Arts
Department of Commerce	Board of Pharmacy
Board of Technical Professions	Kansas Corporation Commission
Department of Agriculture, Division of Water Resources	Attorney General, KBI
Conservation Commission	Secretary of State
Kansas Attorney General	State Board of Cosmetology
Juvenile Justice Authority	Board of Accountancy

In response to a request from the Chairman concerning the minutes of the May 20, 2005, meeting, *it was moved by Representative Schwartz and seconded by Senator Ostmeyer that the minutes be approved as presented. The motion carried.*

Chairman Holmes recognized Joe Lentz, Staff Attorney, Kansas Department of Agriculture, to speak to the proposed rules and regulations noticed for hearing by the Department of Agriculture. KAR 99-25-1, adoption by reference, exceptions; availability of copies; KAR 99-25-9, adoption by reference; and KAR 99-25-10, retail dispenser labeling.

Mr. Lentz explained that two of the proposed rules and regulations were updated to include current publications and handbooks and that the Department had copies of the publications available for reference. KAR 99-25-10 is a new regulation covering labeling.

Committee members noted that in KAR 99-25-10, the history section should be checked since legislation was passed during the 2005 Legislative Session eliminating the labeling of ethanol fuel. Mr. Lentz stated that he would check on the change. There being no further questions, Mr. Lentz was thanked for his presentation before the Committee.

Sherry Diel, Executive Director, Kansas Real Estate Commission, was introduced by Chairman Holmes to address the proposed rule and regulation noticed for hearing by the Kansas Real Estate Commission (Attachment 1). KAR 86-3-29, participation of salesperson or associate broker in affiliated business arrangement with title agency.

Ms. Diel explained that the proposed rule and regulation was the result of legislative action in 2004 and was requested by the supervising brokers of real estate brokerages in order to supervise the office and all salespersons and associate brokers affiliated with the brokerage pursuant to KSA 58-3062(c).

Staff noted that on page 1, subsection (a), the next to last line, the “and” may need to be changed to “or” unless all three criteria must be met. Ms. Diel stated that she could not verify the criteria, but would check on it. Staff also stated that in the history section, the reference to KSA 2004 Supp. 74-4202(b) should not refer to the “Supp.”

The question was raised by a Committee member concerning the use of e-mail in the place of certified mail as a method for the notice to the supervision broker in paragraph (1). Ms. Diel stated certified mail had been the standard legal notification used by the agency, but she would take the suggestion back to the agency. The Chairman thanked Ms. Diel for appearing before the Committee.

The Chairman welcomed Deletria Nash, Staff Attorney, Kansas Insurance Department, to speak to the proposed rules and regulations noticed for hearing by the Kansas Insurance Department (Attachment 2). KAR 40-3-13, fire and casualty insurance companies; rating plans; duplication prohibited; KAR 40-3-18, fire and casualty insurance; private passenger automobiles; rating information; KAR 40-3-24, fire and casualty insurance; inland marine rules, rates, and rating plans; general custom of industry defined; KAR 40-3-43, title insurance; controlled business; definitions; requirements; KAR 40-4-35, Medicare supplement policies; minimum standards; requirements; KAR 40-7-22, agents; appointment by company; classes of business; and KAR 40-7-23 agents; license; identification.

Ms. Nash answered questions of a general nature from Committee members concerning the proposed rules and regulations. After responding to all questions, the Chairman thanked Ms. Nash for her appearance before the Committee.

Chairman Holmes called on Kenneth Wilke, Office of the Revisor of Statutes, to review the proposed bill requested by the Committee at the last meeting concerning the Rural Business Development Tax Credit Program and unused tax credits (Attachment 3). After Committee discussion, it was recommended that on page 3, paragraphs (5) and (6), the term “such region” be changed to indicate “the originating region.” *It was moved by Senator Brownlee and seconded by Senator Wilson to prefile the bill as amended and to have the bill originate in the Senate. Motion carried.*

Mr. Gilliland continued with his review of previously heard rules and regulations.

Chairman Holmes recessed the meeting until 1:30 p.m.

Afternoon Session

Chairman Holmes recognized Linda DeCoursey, Administrator, State Employees Health Care Commission, to address the proposed rule and regulation noticed for hearing by the Department of Administration, State Employees Health Care Commission (Attachment 4). KAR 108-1-1, eligibility.

Ms. DeCoursey stated that the purpose of the proposed rule and regulation was to modify the definition of an eligible dependent so that it would comply with current federal law. The Committee had no questions and the Chairman thanked Ms. DeCoursey for her presentation before the Committee.

Debra Duncan, Kansas Animal Health Department, was introduced by Chairman Holmes, to address the proposed rule and regulation noticed for hearing by the Animal Health Department. KAR 9-18-1, fees.

Ms. Duncan stated that the 2005 Legislature passed SB 266 which raised the fees for licensees and permittees regulated by the Kansas Pet Animal Act. Ms. Duncan answered questions from Committee members concerning the need for the increased fees and the amount the agency would receive from the increase. A new economic impact statement was distributed to Committee members noting the amount of income to be generated by the fee increase (Attachment 5). A Committee member noted that the economic impact statement did not show the costs to other governmental agencies or units since the fees for certain animal shelters and pounds in first and second class cities are proposed for increase. Ms. Duncan stated that she would update the economic impact statement before the hearing. Chairman Holmes thanked Ms. Duncan for her presentation before the Committee.

Mr. Gilliland distributed a letter from the Kansas Department of Health and Environment addressing Committee concerns raised at the March hearing on the *Surface Water Register* showing the number of Use Attainability Analyses (UAAs) performed (Attachment 6). After discussion by Committee members, several questions concerning the Konza Prairie Natural Area, Cimarron National Grasslands, and the Cheyenne Bottoms Preserve still remained unanswered and additional clarification was requested. The Committee asked that a request be sent to the Department of Health and Environment to supply a detailed map that identifies the surface waters in these areas and that an agency representative, along with other landowners, appear before the Committee to address the Committee's concerns.

The Committee addressed the previously reviewed rules and regulations where no changes had been adopted or explanation received by the Committee to the recommendations made by the Committee. Committee members were concerned about the rules and regulations that had been adopted concerning formation of an irrigation transition program by the State Conservation Commission since no money was appropriated for the program during the 2005 Session. Chairman Holmes requested that the agency be contacted to revoke the regulations concerning the irrigation transition assistance program.

The Committee had recommended that the Kansas Department of Health and Environment delay implementation of regulations presented to the Committee on hazardous waste fees, but the agency had gone ahead with the implementation of these rules and regulations. Chairman Holmes stated that the Department of Health and Environment would be appearing before the Committee in August and the Committee could have them address this issue.

Chairman Holmes stated that the next meeting would be a two-day meeting scheduled for August 22 and 23, 2005.

The meeting adjourned at 2:40 p.m.

Committee Comments on Proposed Rules and Regulations

Kansas Department of Agriculture. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning adoption by reference, exceptions, availability of copies; adoption by reference; and retail dispenser labeling, and had the following comment.

KAR 99-25-10. Please review the necessity of this regulation in light of the passage of 2005 SB 56.

Kansas Real Estate Commission. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning participation of salesperson or associate broker in affiliated business arrangement with title agency, and had the following comment.

KAR 86-3-29. In subsection (a), should the "and" be replaced by "or" in the listing of state and federal law and regulations. It appears the reference to KSA 74-4202(b) should not have referenced the 2004 Supplement in the history section of the regulation. The Committee also wishes the agency would explore the possibility of using e-mail in place of the certified mail requirement.

Kansas Insurance Department. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning medicare supplement policies, minimum standards, requirements; fire and casualty insurance, private passenger automobiles, rating information; fire and casualty insurance companies, rating plans, duplication prohibited; fire and casualty insurance, inland marine rules, rates, and rating plans, general custom of industry defined; agents, license, identification; agents, appointment by company, classes of business; and title insurance, controlled business, definitions, requirements, and had no comment.

Kansas State Employees Health Care Commission. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning eligibility, and had no comment.

Kansas Animal Health Department. The Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning fees, and had the following comment.

KAR 9-18-1. The Committee requests that the Economic Impact Statement include the appropriate impact upon local units of government.

Prepared by Judy Glasgow
Edited by Raney Gilliland and
Melissa Calderwood

Approved by Committee on:

August 22, 2005

(date)