

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 15, 2011, in Room 144-S of the Capitol.

All members were present except:
Senator Steve Morris

Committee staff present:
Jason Long, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:
Anthony Fadale, State ADA Coordinator
Martha Gabehart, Kansas Commission on Disability Concerns
Representative Bob Bethell
Scott Frank, Legislative Division of Post Audit
Doug Jorgensen, Acting Fire Marshal
Leslie Kaufman, KCC, KARA, PMCA
Jack Taylor, Kansas Professional Fire Chiefs Association
Dennis Phillips, Kansas State Council of Fire Fighters
David Hutchings, Kansas Bureau of Investigation

Others attending:
See attached list.

Testimony and a copy of DD Form 93 was provided by Representative Melanie Meier on **HB 2060--Recognizing the primacy of decisions written by a member of the military on the federal DD form 93.** (Attachment 1)

Introduction of Bills

Senator Haley requested a bill introduction concerning certain elections; enacting the interstate compact on the agreement among the states to elect the president by the National Popular Vote Act.

Senator Haley moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

SB 223--Public facilities; accessibility standards, disabled persons

Chairman Brungardt opened the hearing on **SB 223**.

Staff provided an overview of the bill.

Anthony A. Fadale, Americans with Disabilities Act Coordinator, Department of Social and Rehabilitation Services, testified in favor of the bill. (Attachment 2) The bill would incorporate amendments made in 2008, to the federal Americans with Disabilities Act regarding accessibility standards for public facilities into state law.

Martha Gabehart, Executive Director, Kansas Commission on Disability Concerns, (KCDC) spoke in favor of the bill. (Attachment 3) The bill requires public buildings to be built using the accessibility standards established in the Americans with Disabilities Act (ADA); these standards were updated in 2010 and will align Kansas accessible building standards with the federal standards. This reduces confusion by architects and builders when designing buildings.

Jane Rhys, Ph.D., Executive Director, Kansas Council on Developmental Disabilities, provided written testimony in support of the bill. (Attachment 4) The bill will bring Kansas into compliance with recent federal law changes.

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on March 15, 2011, in Room 144-S of the Capitol.

Chairman Brungardt closed the hearing on **SB 223**.

SB 220--Abolishing the office of the state fire marshal and transferring the duties and functions thereof to the division of facilities management, the Kansas bureau of investigation and the division of emergency management

Chairman Brungardt opened the hearing on **SB 220**.

Staff provided an overview of the bill.

Representative Bob Bethell appeared in support of the bill. (Attachment 5) The bill would dismantle the Office of the State Fire Marshall and would transfer most powers, duties, and functions of the agency to the Division of Facilities Management of the Department of Administration. Representative Bethell and others in the Legislature have thought that there was a need for oversight for this office.

Scott Frank, Legislative Division of Post Audit, provided background information on the bill from a performance audit report: June of 2004, "Kansas Fire Marshal: Reviewing the Funding and Administration of the Agency." (Attachment 6) Mr. Wells stated that as an independent agency it doesn't report to an oversight board or commission; the Fire Marshal's Office receives less direct oversight than most of the agencies looked at. Only 5 state fire safety offices are structured as independently as the Fire Marshal's Office; most are part of a larger agency.

Doug Jorgensen, Acting State Fire Marshal, appeared and provided neutral/logistical testimony on the bill. (Attachment 7) Mr. Jorgensen stated in review of the Fire Marshal's inspection process; it was discovered that the Fire Marshal's office was currently conducting inspections of buildings in violation of KSA 31-133 (c), and that this only allows existing buildings to be inspected under the rules and regulations that were in place in the State the year the building was built. The Fire Marshal's Office has begun the process of reviewing all inspections completed in the last 18 months and will be resending/canceling citations that were issued in error.

During the review of this bill by the Fire Marshal's office, some technical, logistical, and funding issues have come to light. In order to ensure that the receiving agencies have the needed support to fulfill the additional reporting and inspection duties being moved, the following recommendations were proposed:

- In regard to the support positions in the Investigation Division, and their inspection and licensing responsibilities, which do not transfer to the KBI, the currently filled Senior Administrative Specialist positions should be transferred to the Department of Administration where those responsibilities are moving.
- Fill the two vacant Fire Prevention Inspector positions, and the vacant Fire Protection Specialist position. These additional positions will be needed to address the added explosive/fireworks inspections that are currently a responsibility of investigations, but also moving to the Department of Administration
- In order to protect the current employees of the Fire Marshal's Office, if another agency decides not to assume their position, include lay-off language so that the employee can encompass the entire receiving agency when exercising his/her Civil Service lay-off rights.
- The percentages of funding in the bill does not adequately fund the positions and responsibilities that are given to some of the agencies.

A table was provided with technical issues in the bill.

Leslie Kaufman, the President/CEO of the Kansas Cooperative Council, (KCC) and on behalf of the Kansas Agribusiness Retailers Association (KARA) and the Petroleum and Convenience Store Association of Kansas (PMCA of Kansas) testified with concerns on the bill. (Attachment 8) The bill establishes a process to parcel out the duties of the state fire marshal to various agencies. It is the understanding that by moving these duties to other agencies, the state could save money and be more efficient in carrying out these duties. All of the members of the associations listed sell or distribute liquid propane to Kansas consumers which is currently regulated by the State Fire Marshal's Office. In the bill, the inspection and licensing of propane would be transferred to the Department of Administration, Division of Facilities Management; and we suggest that it would be more efficient and effective to move

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on March 15, 2011, in Room 144-S of the Capitol.

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propane section of the Fire Marshal's Office to the Kansas Department of Agriculture (KDA). The KDA inspectors are already coming to the members' facilities or stores and perform some type of inspection (scales, feed, food, gasoline dispensers, etc.) there; KDA is already at the locations and could with some training perform the liquid propane inspection. The members' would also request that the appropriate funding and personnel needed to carry-forth these responsibilities also be transferred to the Kansas Department of Agriculture.

Jack Taylor, President, Kansas Professional Fire Chiefs Association and Chief of the Emporia Fire Department, appeared before the committee to testify in opposition of the bill. (Attachment 9) Parceling the Fire Marshal's office into several segments and placing them into various unrelated agencies will make it more difficult for communications and interaction from a local level to state level. KSA 75-1510 states: "Any person appointed as state fire marshal shall have a knowledge of building construction and, at the time of appointment, shall have had not less than five years' experience in fire safety inspection and investigation." These pre-requisites don't reflect the responsibilities and nature of the job. Mr. Taylor provided the committee a copy of the Kansas Commission on Emergency Planning and Response, 2010 Annual Report.

Mr. Taylor's recommendation would be to form a commission made up of fire chiefs and legislators to study and confer on the issue and bring back a mutually acceptable bill for the next session.

Dennis Phillips, Kansas State Council of Fire Fighters, spoke in opposition on the bill. (Attachment 10) The bill would make the process for requesting assistance from the Fire Marshals office a lot more difficult. If a fire department or citizen needs help today there is one agency to contact not two or three. These requests can be time sensitive and need to be acted upon as soon as possible.

Written testimony in opposition was provided by Robert W. McLemore, President, Kansas State Association of Fire Chiefs, (Attachment 11) The Fire Marshal's Office provides a vital service to fire departments and communities at the local level; the office is a conduit for information flow to and from the state/national level. Abolishing the office and moving its parts to other agencies will make timely communications more difficult and overall cost savings are questionable.

Kevin Flory, 1st Vice President, Kansas State Firefighters Association, provided written testimony in opposition to the bill. (Attachment 12) The State Fire Marshal's Office should be preserved intact as one group so the fire service of the state will still have a one stop shop for its needs.

David Hutchings, Special Agent in Charge, Kansas Bureau of Investigation, provided neutral testimony on the bill. (Attachment 13) The KBI would request consideration of a friendly amendment:

- KBI would ask that the share of the fee fund to be transferred to the KBI be amended from 21% to 27%. This would prevent the KBI from experiencing the equivalent of a further cut to its budget
- KBI would ask that KSFM investigators be transferred to the KBI at a range 30 and be classified as agents, and be given guidance as to whether to attempt to retain their present step.

Kyle Smith, Assistant Attorney General, provided neutral written testimony on the bill. (Attachment 14) The Attorney General's office has the same concerns as the KBI; that this not be an unfunded mandate, and the important responsibilities of the fire marshal's office be continued.

Chairman Brungardt closed the hearing on **SB 220**.

HB 2060--Recognizing the primacy of decisions written by a member of the military on the federal DD form 93.

Chairman Brungardt opened discussion on the testimony provided by Representative Meier. (Attachment 1) The DD form 93, the instruction for filling out the form on the back states in item 13a the name and relationship of Person Authorized to Direct Disposition (PADD). The DD93 is filled out by all service members once a year and a new one is filled out immediately prior to deployment. It is the latest document that records a service member's wishes. Once the service member's remains are released from the Department of Defense, all other documents and priorities list in current statute remain in place.

CONTINUATION SHEET

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The committee requested information or agreement from Judge Advocate General (JAG).

The next meeting is scheduled for March 16, 2011. The meeting was adjourned at 11:50 a.m.