

# Journal of the House

TWENTY-NINTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Friday, February 19, 2016, 8:00 a.m.

The House met session pro forma pursuant to adjournment with Speaker pro tem Mast in the chair.

## REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Agriculture and Natural Resources: **SB 329, SB 337.**

Corrections and Juvenile Justice: **SB 325.**

Education: **SB 358.**

Federal and State Affairs: **HB 2707.**

Insurance and Financial Institutions: **SB 369, SB 370, SB 390.**

Judiciary: **SB 334.**

## REPORTS OF STANDING COMMITTEES

Committee on **Commerce, Labor and Economic Development** recommends **HB 2595** be amended on page 3, following line 6, by inserting:

"(d) Nothing in this act restricts a political subdivision as defined herein from owning or managing a food service facility and from purchasing and serving food products according to the Kansas food code and their own policies as long as those policies are not laws or ordinances restricting any other entity."; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2681** be amended on page 2, following line 6, by inserting:

"(e) For all diversion agreement applications submitted pursuant to subsection (b), the district attorney shall forward a copy to the Kansas sentencing commission within 30 days after a decision has been made on the application.";

On page 5, in line 32 after "after" by inserting "January 1, 2017, and"; and the bill be passed as amended.

Committee on **Corrections and Juvenile Justice** recommends **HB 2688** be passed.

Committee on **Education** recommends **HB 2531** be passed.

Committee on **Elections** recommends **HB 2543** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2543," as follows:

"Substitute for HOUSE BILL NO. 2543

By Committee on Elections

"AN ACT concerning elections; relating to audits; timing for canvassing; concerning requirements for voting machines; amending K.S.A. 2015 Supp. 25-3104, 25-4403 and 25-4406 and repealing the existing sections.";

And the substitute bill be passed.

(Sub **HB 2543** was thereupon introduced and read by title.)

Committee on **General Government Budget Committee** recommends **HB 2660** be amended on page 1, in line 7, before "The" by inserting "(a)"; in line 16, after the period by inserting:

"(b) The following funds shall be used for the purposes set forth in the statutes concerning such funds and for no other governmental purposes. It is the intent of the legislature that the following funds and the moneys deposited in such funds shall remain intact and inviolate for the purposes set forth in the statutes concerning such funds: Board of accountancy fee fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special litigation reserve fund of the board of accountancy; bank commissioner fee fund, K.S.A. 9-1703, 16a-2-302, 17-5610, 17-5701 and 75-1308, and amendments thereto, bank investigation fund, K.S.A. 9-1111b, and amendments thereto, consumer education settlement fund and litigation expense fund, of the state bank commissioner; securities act fee fund and investor education and protection fund, K.S.A. 17-12a601, and amendments thereto, of the office of securities commissioner of Kansas; credit union fee fund, K.S.A. 17-2236, and amendments thereto, of the state department of credit unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto, and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and amendments thereto, of the state fire marshal; food service inspection reimbursement fund, K.S.A. 36-512, and amendments thereto, of the Kansas department of agriculture; wage claims assignment fee fund, K.S.A. 44-324, and amendments thereto, and workmen's compensation fee fund, K.S.A. 74-715, and amendments thereto, of the department of labor; veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of the state board of veterinary examiners; mined-land reclamation fund, K.S.A. 49-420, and amendments thereto, of the department of health and environment; conservation fee fund and well plugging assurance fund, K.S.A. 55-155, 55-176, 55-609, 55-711 and 55-901, and amendments thereto, gas pipeline inspection fee fund, K.S.A. 66-1,155, and amendments thereto, and public service regulation fund, K.S.A. 66-1503, and amendments thereto, of the state corporation commission; land survey fee fund, K.S.A. 58-2011, and amendments thereto, of the state historical society; real estate recovery revolving fund, K.S.A. 58-3074, and amendments thereto, of the Kansas real estate commission; appraiser fee fund, K.S.A. 58-4107, and amendments thereto, and appraisal management companies fee fund of the real estate appraisal board; amygdalin (laetrile) enforcement fee fund, K.S.A. 65-6b10, and amendments thereto; mortuary arts fee fund, K.S.A. 65-1718, and amendments thereto, of the state board of mortuary arts; board of barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of the Kansas board of barbering;

cosmetology fee fund, K.S.A. 65-1951 and 74-2704, and amendments thereto, of the Kansas state board of cosmetology; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments thereto, and medical records maintenance trust fund, of the state board of healing arts; other state fees fund, K.S.A. 2015 Supp. 65-4024b, and amendments thereto, of the Kansas department for aging and disability services; board of nursing fee fund, K.S.A. 74-1108, and amendments thereto, of the board of nursing; dental board fee fund, K.S.A. 74-1405, and amendments thereto, and special litigation reserve fund, of the Kansas dental board; optometry fee fund, K.S.A. 74-1503, and amendments thereto, and optometry litigation fund, of the board of examiners in optometry; state board of pharmacy fee fund, K.S.A. 74-1609, and amendments thereto, and state board of pharmacy litigation fund, of the state board of pharmacy; abstracters' fee fund, K.S.A. 74-3903, and amendments thereto, of the abstracters' board of examiners; athletic fee fund, K.S.A. 2015 Supp. 74-50,188, and amendments thereto, of the department of commerce; hearing instrument board fee fund, K.S.A. 74-5805, and amendments thereto, and hearing instrument litigation fund of the Kansas board of examiners in fitting and dispensing of hearing instruments; commission on disability concerns fee fund, K.S.A. 74-6708, and amendments thereto, of the governor's department; technical professions fee fund, K.S.A. 74-7009, and amendments thereto, and special litigation reserve fund, of the state board of technical professions; behavioral sciences regulatory board fee fund, K.S.A. 74-7506, and amendments thereto, of the behavioral sciences regulatory board; governmental ethics commission fee fund, K.S.A. 25-4119e, and amendments thereto, of the governmental ethics commission; emergency medical services board operating fund, K.S.A. 75-1514, and amendments thereto, of the emergency medical services board; fire service training program fund, K.S.A. 75-1514, and amendments thereto, of the university of Kansas; uniform commercial code fee fund, K.S.A. 2015 Supp. 75-448, and amendments thereto, of the secretary of state; prairie spirit rails-to-trails fee fund of the Kansas department of wildlife, parks and tourism; water marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the Kansas water office; insurance department service regulation fund, K.S.A. 40-112, and amendments thereto, of the insurance department; state fair special cash fund, K.S.A. 2-220, and amendments thereto, of the state fair board; and any other fund in which fees are deposited for licensing, regulating or certifying a person, profession, commodity or product.

(c) ";

Also on page 1, in line 18, after "are" by inserting "proposed to be"; in line 19, after "purposes" by inserting "in the governor's budget report submitted pursuant to K.S.A. 75-3721, and amendments thereto, or any introduced house or senate bill"; in line 20, after "moneys" by inserting "within the preceding 24-month period"; also in line 20, by striking all after the comma; by striking all in line 21; in line 22, by striking all before "Any" and inserting "by the fee agency within 30 days of such submission or introduction by electronic means, if the fee agency has an electronic address on record for such person or business entity. If no such electronic address is available, the fee agency shall send written notice by first class mail.

(d) ";

Also on page 1, in line 31, after the period by inserting:

"(e) The provisions of this section shall not apply to the 10% credited to the state general fund to reimburse the state general fund for accounting, auditing, budgeting,

legal, payroll, personnel and purchasing services, and any and all other state governmental services, as provided in K.S.A. 75-3170a, and amendments thereto.

(f) ";

And the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2614** be amended on page 2, following line 9, by inserting:

"(e) "Biological product" means a virus, a therapeutic serum, a toxin, an antitoxin, a vaccine, blood, a blood polypeptide, or an analogous product, arsphenamine or derivative or arphenamine, or any other trivalent organic arsenic compound which is applicable to the prevention, treatment or cure of a disease or condition of humans.";

Also on page 2, in line 22, by striking all after "means"; in line 23, by striking "manufacturer" and inserting "any person"; also in line 23, by striking "another" and inserting "a"; in line 25, by striking "prescription drug" and inserting "product";

On page 10, in line 9, by striking all after "Product"; by striking all in lines 10 and 11; in line 12, by striking all before the period and inserting "shall have the meaning as defined by part H of the federal drug supply chain security act, 21 U.S.C. § 351 et seq., 21 U.S.C. § 360eee";

On page 11, in line 20, after "product" by inserting "or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct ownership of a product";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 22, in line 41, after "product" by inserting ", excluding a biological product,";

On page 25, in line 32, by striking "sHall" and inserting "shall";

And the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2615** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2015 Supp. 65-1431 is hereby amended to read as follows: 65-1431. (a) Each license to practice as a dentist or dental hygienist issued by the board, shall expire on December 1 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis. Each application for renewal shall be made on a form prescribed and furnished by the board. Every licensed dentist or dental hygienist shall pay to the board a renewal fee fixed by the board as provided in K.S.A. 65-1447, and amendments thereto.

(b) To provide for a staggered system of biennial renewal of licenses, the board may renew licenses for less than two years.

(c) On or before December 1 of the year in which the licensee's license expires, the licensee shall transmit to the board a renewal application, upon a form prescribed by the board, which shall include such licensee's signature, post office address, the number of the license of such licensee, whether such licensee has been engaged during the preceding licensure period in active and continuous practice whether within or without this state, and such other information as may be required by the board, together with the biennial licensure fee for a dental hygienist which is fixed by the board pursuant to K.S.A. 65-1447, and amendments thereto.

(d) (1) The board shall require every licensee to submit with the renewal application evidence of satisfactory completion of a program of continuing education

required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act.

(2) A dentist who is a charitable healthcare provider in Kansas who has signed an agreement to provide gratuitous services pursuant to K.S.A. 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of continuing education credit by the performance of two hours of gratuitous services to medically indigent persons up to a maximum of six continuing education credits per licensure period.

(e) Upon fixing the biennial license renewal fee, the board shall immediately notify all licensees of the amount of the fee for the ensuing licensure period. Upon receipt of such fee and upon receipt of evidence that the licensee has satisfactorily completed a program of continuing education required by the board, the licensee shall be issued a renewal license authorizing the licensee to continue to practice in this state for a period of no more than two years.

(f) (1) Any license granted under authority of this act shall automatically be canceled if the holder thereof fails to apply for and obtain renewal prior to March 1 of the year following the December in which a renewal application is due.

(2) Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, prior to February 1, by submitting to the board the required renewal application, payment of the biennial renewal fee and proof that such licensee has satisfactorily completed a program of continuing education required by the board. Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, between February 1 and March 1, by submitting to the board the required renewal application, payment of the biennial renewal fee, payment of a penalty fee of not to exceed \$500 as fixed by rules and regulations by the board and proof that such licensee has satisfactorily completed a program of continuing education required by the board. The penalty fee in effect immediately prior to the effective date of this act shall continue in effect until rules and regulations establishing a penalty fee under this section become effective.

(g) Upon failure of any licensee to pay the applicable renewal fee or to present proof of satisfactory completion of the required program of continuing education by February 1 of the year following the December in which a renewal application is due, the board shall notify such licensee, in writing, by mailing notice to such licensee's last registered address. Failure to mail or receive such notice shall not affect the cancellation of the license of such licensee.

(h) The board may waive the payment of biennial fees and the continuing education requirements for the renewal of licenses without the payment of any fee for a person who has held a Kansas license to practice dentistry or dental hygiene if such licensee has retired from such practice or has become temporarily or permanently disabled and such licensee files with the board a certificate stating either of the following:

(1) A retiring licensee shall certify to the board that the licensee is not engaged, except as provided in K.S.A. 65-1466, and amendments thereto, in the provision of any dental service, the performance of any dental operation or procedure or the delivery of any dental hygiene service as defined by the statutes of the state of Kansas; or

(2) a disabled licensee shall certify to the board that such licensee is no longer engaged in the provision of dental services, the performance of any dental operation or the provision of any dental hygiene services as defined by the statutes of the state of

Kansas by reason of any physical disability, whether permanent or temporary, and shall describe the nature of such disability.

(i) The waiver of fees under subsection (h) shall continue so long as the retirement or physical disability exists. Except as provided in K.S.A. 65-1466, and amendments thereto, in the event the licensee returns to the practice for which such person is licensed, the requirement for payment of fees and continuing education requirements shall be reimposed commencing with and continuing after the date the licensee returns to such active practice. Except as provided in K.S.A. 65-1466, and amendments thereto, the performance of any dental service, including consulting service, or the performance of any dental hygiene service, including consulting service, shall be deemed the resumption of such service, requiring payment of license fees.

(j) The Kansas dental board may adopt such rules and regulations requiring the examination and providing means for examination of those persons returning to active practice after a period of retirement or disability as the board shall deem necessary and appropriate for the protection of the people of the state of Kansas except that for an applicant to practice dental hygiene who is returning to active practice after a period of retirement or disability, the board shall authorize as an alternative to the requirement for an examination that the applicant successfully complete a refresher course as defined by the board in an approved dental hygiene school.";

On page 5, in line 3, by striking all before "up" and inserting "medically indigent persons"; also in line 3, by striking "eight" and inserting "20";

On page 7, in line 37, by striking "(5)" and inserting "(f)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 8, in line 15, after "Supp." by inserting "65-1431,";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "Supp." by inserting "65-1431,"; and the bill be passed as amended.

Committee on **Insurance and Financial Institutions** recommends **HB 2508**, **HB 2579**, **HB 2632** be passed.

Committee on **Judiciary** recommends **HB 2502** be amended on page 2, in line 18, by striking "sole"; also in line 18, by striking "is" and inserting "shall be limited"; also in line 18, by striking "determine" and inserting "determining"; in line 19, after "limitation" by inserting "or whether the prisoner makes a colorable claim of actual innocence. As used herein, the term actual innocence requires the prisoner to show it is more likely than not that no reasonable juror would have convicted the prisoner in light of new evidence"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2652**, **HB 2696** be passed.

Committee on **Judiciary** recommends **SB 128**, as amended by Senate Committee, be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL NO. 128," as follows:

"House Substitute for SENATE BILL NO. 128

By Committee on Judiciary

"AN ACT concerning district courts; relating to vacancies in the office of judge of the

district court; nominations for successor by district judicial nominating commission; amending K.S.A. 2015 Supp. 20-2909 and repealing the existing section.";

And the substitute bill be passed.

(H Sub for SB 128 was thereupon introduced and read by title.)

Committee on **Local Government** recommends **HB 2557** be amended on page 1, by striking all in lines 6 through 24;

On page 2, in line 17, after the semicolon by inserting "or"; in line 18, by striking all after "owners"; by striking all in lines 19 through 28; in line 29, by striking "owners" and inserting "present at a meeting vote in favor of such loan. All unit owners shall be notified by certified mail, return receipt requested, of any meeting called to arrange a loan"; following line 29, by inserting:

"Sec. 2. K.S.A. 2015 Supp. 58-4618 is hereby amended to read as follows: 58-4618. (a) Except as provided in subsection (b), an association shall deliver any notice required to be given by the association under this act to any mailing or electronic mail address a unit owner designates. Otherwise, the association may deliver notices by:

- (1) Hand delivery to each unit owner;
- (2) hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each unit;
- (3) electronic means, if the unit owner has given the association an electronic address; or
- (4) any other method reasonably calculated to provide notice to the unit owner.

(b) (1) An association for a common interest community for a recreational lake development which contains more than 500 units where less than 50% of such units contain a residence shall comply with subsection (a) when providing notice for an annual meeting.

- (2) For all other meetings such association shall:
  - (A) Post a notice on the association's website;
  - (B) send a notice by electronic mail to all unit owners who request such notice; and
  - (C) post a sign containing the meeting notice at the main entrance of the common interest community.

(c) The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

(d) Foreclosure of liens pursuant to K.S.A. 58-3123 or 58-3710, and amendments thereto, or any authority contained in the association's declaration may not be initiated unless the foreclosure is effectuated in accordance with this section:

(1) Prior to initiating a foreclosure action against a unit owner for unpaid fees and assessments, the association shall file a lien against the unit which lien shall state the then current amount of fees and assessments due.

(2) Not less than 30 days written notice shall be mailed to the unit owner of the intent of the association to file a lien unless the default is cured within the 30-day period. The notice shall state the then current amount of assessments and fees due.

(3) The notice shall be mailed to the last known address of the unit owner as shown on the association's records and, if the subject unit address is different from the last known address, the notice shall also be mailed to the unit address. A copy of the notice shall also be sent to any mortgagee of the unit owner if the mortgagee has requested such notice in writing.

(4) The notices required by this subsection shall be mailed by certified mail, return receipt requested.;

Also on page 2, in line 30, by striking "is" and inserting "and 58-4618 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "consumer protection and" and inserting "the Kansas uniform"; in line 2, by striking "communities" and inserting "owners bill of rights act"; also in line 2, after "58-4609" by inserting "and 58-4618"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Local Government** recommends **HB 2558** be passed.

Committee on **Transportation** recommends **HB 2522, HB 2643** be passed.

Committee on **Transportation** recommends **HB 2605** be amended on page 1, in line 15, by striking all after the first "the"; in line 16, by striking all before "any" and inserting "outstanding amount of"; in line 17, after "owing" by inserting "by the registered owner exceeds \$100"; and the bill be passed as amended.

On motion of Rep. Vickrey, the House adjourned until 10:00 a.m., Monday, February 22, 2016.

BECKIE HENDRICKS, JENNY HAUGH, *Journal Clerks*

SUSAN W. KANNARR, *Chief Clerk*.

