

MINUTES OF THE SENATE COMMERCE

The meeting was called to order by Chairperson Nick Jordan at 8:35 A.M. on February 10, 2005 in Room 123-S of the Capitol.

All Committee members were present:

Committee staff present:

Helen Pedigo, Revisor of Statutes

Katie Sparks, Legislative Research

Jackie Lunn, Committee Secretary

Conferees appearing before the committee: John Federico, Kansas Self-Storage Owners Association
Larry Triplet, Owner, Citywide Self-Storage, Salina
Pat Terick, Cerebral Palsy Research Foundation
Roberta Johnson, Via Christi Medical System
Kim Galley, League of Kansas Municipalities
Mallee Carpenter, Kansas Chamber of Commerce
Terry Forsyth, Kansas NEA

Chairperson Jordan opened the meeting by introducing Kathie Sparks, Legislative Research to explain **SB 69**, **SB 118**, and **SB 122**. Upon the conclusion of Ms. Sparks statements, Chairperson Jordan opened the hearing on **SB 69**. (Attachment 1)

Chairperson Jordan introduced John Federico representing Kansas Self Storage to give his testimony. Mr. Federico stated **SB 69** would allow but not mandate self-storage facility operators to charge a late fee to delinquent payers. If an operator chooses to charge a late fee, **SB 122** provides the terms of the late fee be part of a written contract. And it caps the late fee. Mr. Federico provided written testimony. (Attachment 2)

Upon completion of Mr. Federico's testimony there was discussion regarding what the recourse is for late payment or no payment tenants. The discussion continued with the committee and Mr. Stan Masters, attorney for the Kansas Self-Storage Association. Mr. Masters stated current statutes require the owner to meet several requirements before removing the tenant's property from the self-storage unit. This process takes about 45 days and if on the 44th day the tenant comes up with the money to pay the process is cancelled out. Also the Committee was concerned if the 20% was an excessive amount. It was determined that the 20% was reasonable.

Senator Brownlee stated there was an error on Page 2 Line 8. It should read "in an amount not to exceed \$20.00." The word "not" was left out in error.

Chairperson Jordan introduced Larry Triplet, owner, Citywide Self-Storage in Salina. Mr. Triplet did not have written testimony. He stated it was a mistake to regulate the late fee charge for self-storage. He also stated that he charges late fees in excess of what was outlined in **SB 69**. Trying to collect delinquent payments is very difficult. The process takes so long to empty the unit for non payment, and most of the time the contents, when sold brings less than the amount owed. If the fees are regulated by the state they won't be adequate; therefore, he would have to raise his rates. In closing he urged the Committee not to support **SB 69** and stood for questions.

Upon completion of Mr. Triplet's testimony there was discussion regarding the 20% not being high enough. Mr. Triplet stated in his personal opinion 20% is too low. He charges \$2.00 per day every day late which would exceed the 20% and in most cases the late fee exceeds the monthly payment. The discussion continued regarding options for forcing the non-pay or no pay tenants out. Mr. Triplet stated it takes about 45 days to go through the process and in his business they are auctioning off 6 units at a time and about six times a year.

Chairperson Jordan asked Mr. Triplet to please send written testimony to Senator Brownlee's office. Mr. Triplet agreed.

Chairperson Jordan closed the hearing on **SB 69** and opened the hearing on **SB 118** by introducing Patrick

CONTINUATION SHEET

MINUTES OF THE Senate Commerce at 8:30 A.M. on February 10, 2005 in Room 123-S of the Capitol.

A. Terick, Director of Governmental Activities of the Cerebral Palsy Research Foundation. Mr. Terick stated the Cerebral Palsy Research Foundation supports **SB 118**. He stated **SB 118** would allow Business Technology Career Opportunities (BTCO) participation into the Kansas State Use Law. The Kansas State Use Law was established a number of years ago to allow the state of Kansas to grant select product and service contracts to Not-for-profit organizations that had a mission of employing individuals who were blind or had disabilities. Mr. Terick offered his written testimony. (Attachment 3)

With no one else to testify on **SB 118**, Chairperson Jordan closed the hearing.

After some discussion Senator Emler made a motion to pass the bill out favorably. Senator Schodorf seconded. Motion carried.

Chairperson Jordan opened the hearing on **SB 122** by introducing Roberta Johnson, Associate General Via Christi Health Systems stated Via Christi asked for **SB 122** be introduced to address a payroll issue that adds several thousand of dollars of unnecessary costs to Via Christi's operations on an annual basis. Ms. Johnson stated the advantages of direct deposit to the employees. Via Christi is sensitive to the concerns of its employees in this matter yet they believe in order to improve efficiencies and to be able to move its payroll practices into the 21st Century they should have the right to designate the method by which they pay their respective employees. Upon conclusion of Ms. Johnson's testimony she urged the Committee to vote in favor of **SB 122**. (Attachment 4)

Chairperson Jordan introduced Kim Galley with the League of Kansas Municipalities to give her testimony. Ms. Galley stated authorizing the use of electronic transfers will save time and money at the local level. The League of Kansas Municipalities strongly supports the use of technology to provide government services in a more efficient manner. Further, they support the right of cities, as local employers, to determine the method by which their employees will be paid. Ms. Galley presented written testimony. (Attachment 5)

Chairperson Jordan announced to the Committee there was written testimony from Marlee Carpenter from the Kansas Chamber of Commerce and Industry. (Attachment 6)

Chairperson Jordan introduced Terry Forsyth from the Kansas National Education Association to testify as an opponent against **SB 122**. Mr. Forsyth stated that the KNEA was against SB 122. They feel this bill takes away the simple right of the employee to choose the method of payment of wages. They believe this would be an unwarranted intrusion on the part of the government into the lives of its citizens. Mr. Forsyth presented written testimony. (Attachment 7)

Chairperson Jordan introduced A.J. Kotich, Chief Counsel Director of Employment Standards for the Kansas Department of Labor. Chief Counsel Kotich feels that **SB 122**, as written, is in conflict with the interpretation of the Fair Labor Standards Act (FLSA) currently used by the United States Department of Labor. In closing he stated that the Kansas Department of Labor recognizes the convenience and cost savings to employers of direct deposit of wages. As the State's adjudicator of the majority of wage claims, we are cognizant of the importance of the USDOL's interpretation of the FLSA as to direct deposit and is silent as to whether the costs of direct deposit or debit cards may or may not be passed on to the employee. Chief Counsel Kotich offered written testimony. (Attachment 8)

Upon completion of Chief Counsel Kotich's testimony, the Committee discussed electronic deposit. The Committee recognized Ms. Johnson and she stated the laws had been modified in 1999 to add electronic deposit to the method of payment. The Committee did realize the bill allows the employee to select the financial institution with which to have their pay check electronically deposited. Senator Emler asked Ms. Johnson if the debit card was subject to garnishment. Ms. Johnson stated "yes". Senator Emler voiced his concerns about the debit card and there was further discussion with Ms. Johnson. Ms. Johnson stated new employees at Via Christi are required as an agreement of employment to use the electronic deposit.

Meeting adjourned at 9:30 a.m. with the next meeting scheduled for Friday, February 11, 2005 at 8:30 a.m. in room 123S.