

Approved: 3/6/08
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:17 A.M. on February 21, 2008 in Room 784 of the DSOB.

All members were present except:

Bob Grant- excused
Brenda Landwehr- excused
Candy Ruff- excused
Kasha Kelley- excused
Louis Ruiz- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Rena Jefferies, Office of Revisor of Statutes
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:

Representative Jason Watkins
Representative Terrie Huntington
Richard Routmann, Prairie Village
Eric Stafford, Associated General Contractors
Andy Sanchez, AFL-CIO
Greg DeBacker

Others attending: See attached list.

The Chairman opened the hearing on **HB 2826 Homeowners, apartment owners associations; elections other procedures.**

Rena Jefferies presented an explanation of the bill. (Attachment 1). It dealt with amending the by-laws of the association and appointing one or more neutral and independent election inspectors.

Representative Tietze asked if the appointment of neutral and independent election inspectors was a requirement or an option. Rena indicated that the bill made it a requirement. She further asked if it was known how difficult it was or what it cost. Rena said she did not know except that the Fiscal Note indicated that there was no further cost from the bill.

Rena Jefferies explained the effect of HB 2445 Homeowners associations; voting and other procedural requirements (Attachment 2). There were no questions.

Rena Jefferies presented an explanation of HB 2837 Homeowners organization; mediation of disputes; attorney general duties (Attachment 3). It establishes the homeowners' association dispute resolution act. It spells out the mediation process and the requirement for the Attorney General to develop written educational materials and an interactive website. There were no questions.

Representative Jason Watkins presented testimony in support of HB 2826 (Attachment 4). He spoke of the similarity of Home Owners Associations to a small government. The dues are similar to taxes. They pass and enforce rules and regulations. Despite this, they have very few laws regarding their operation.

Representative Goico spoke of his experience with an HOA in regard to the danger of wood shake roofs. He wanted to know if they had consulted an attorney regarding changing covenants. Jason replied that there is a mechanism for changing covenants. Representative Goico replied that they often require 100% agreement of the tenants. Jason said that this was not covered in the bill.

Representative Pauls asked who decided that the Attorney General choose the mediator. Jason did not know the source of that requirement but did comment that many times the HOA has large funds available to it and the home owner has very little so that the HOA usually wins. However an independently chosen mediator should solve that problem.

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Representative Terrie Huntington presented testimony in favor of all three bills before the committee (Attachment 5). She spoke of the aging population which, more and more, is moving into gated communities patio homes and apartments. Many of these are governed by Homes Associations. These bills attempt to address a series of problems incurred by the residents whose Home Associations circumvent the bylaws which often prevents resolution to grievances brought before the Board. She indicated that she had discussed the Attorney General requirements with the Attorney General and Linda Shepherd and their response was positive. The Attorney General did not anticipate any increased expense because of the bills.

Richard Routman also presented testimony in favor of the bills (Attachment 6). Without this legislation a homeowner has only two choices if the Board falls short of its obligation. The can begin litigation or try to make changes through annual elections. This legislation will help achieve balance by putting in place structures which will help the parties resolve their own disputes without litigation and be better informed about their rights and obligations without contacting attorneys.

Representative Goico asked a question of Representative Huntington about the history of preventing minorities from residing in gated communities or apartments. Terrie replied that the bills were not addressing that situation. This is an addition to the laws to help tenants resolve conflicts out of court.

Representative Quigley asked a question of Richard Routman about the cost of mediation. He said that it depends upon the mediator. It usually runs from \$100 to \$200 per hour.

Representative Roth asked if there were Fiscal Notes on the bills. Terrie said there were and they did not indicate any further cost to the state.

Representative Tietze asked Richard Routman if the parties do not agree after mediation what options were open to them. He indicated that they still had all the options available to them before mediation, the bills do not remove options.

Representative Brunk asked Terrie if they had asked developers and builders what their reactions were to the bills. Terrie said that the bills do not address covenants but simply provide a way to mediate disputes.

The Chairman closed the hearing on **HB 2826, HB 2837 and HB 2445** and opened the hearing on **HB 2847 Cities and municipalities, examinations for plumbers, electricians and heating, ventilation and air conditioning contractors and journeymen.**

Rena Jefferies presented a short memorandum explaining the bill (Attachment 7). The bill changes the requirement that tests be from Block and Associates to now require that they be from any nationally recognized testing organization.

Eric Stafford presented testimony as a proponent of HB 2847. (Attachment 8). It indicated that the bill would update current law to match industry-recognized testing agencies ICC (International Code Council), IAPMO (International Association of Plumbing and Mechanical Officials) and Thomson Prometric (formerly Block and Associates), for mechanical contractors, electrical contractors and plumbing contractors.

Representative Gordon asked what had prompted the introduction of the bill. Eric replied that it was to update the language of the statute to reflect current names of testing agencies.

Representative Grange presented his Balloon Amendment (Attachment 9). The balloon deleted the name Block and Associates and supplied the names of the three testing agencies listed above.

Representative Gordon asked why this was necessary. Representative Grange gave the example of El Dorado not accepting Wichita's credentials and how this happens in many communities. A standardized test was requested to do away with this problem. Block had become the standard but they changed their name, making the Statute obsolete.

Andy Sanchez presented testimony as neutral on the bill (Attachment 10). He said that their concern was that the testing agencies be named in the bill. This was to prevent just anyone naming themselves as a testing agency.

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Greg DeBacker presented his testimony as neutral on the bill (Attachment 11). He said that adopted codes sometimes have to be abandoned in favor of manufacturers installation instructions. He advised that “Nationally recognized” be deleted from the bill and questioned why his company could not do business in the entire state of Kansas. He said that he knew of people who could do the work but could not pass the test.

Representative Gordon asked if it was a written test. He replied yes, it was written.

Representative Tietze asked Andy Sanchez if he was comfortable with Representative Grange’s balloon. He said that he was comfortable with it.

Representative Pauls asked Greg DeBacker about the Uniform Billing Code, was it possible to add the code to the bill. At that point Michael Davis of Miami county, Kansas stood to answer the question. He said that the Uniform Billing Code was no longer applicable since it had been incorporated into the ICC codes.

Representative Grange said that the bill does not deal with codes, the bill deals with testing. The concern is that the tests be recognized by all of Kansas.

Representative Quigley asked that if the company name had been changed some years ago how did people get their license. Representative Grange said that it was only a technical change, it was only a name change. Representative Quigley further asked if it was a national exam. Representative Grange said that yes, it was recognized in other communities.

Representative Bunk ask what the effect would be of a company changing it’s name. Representative said that using the word “or” in the bill allows choice.

The Chairman closed the hearing on **HB 2847**. He reminded the committee that we are meeting tomorrow, Friday, February 22, 2008 and Monday thru Wednesday next week.

The committee was adjourned at 10:38 A.M.