

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on January 31, 2006, in Room 123-S of the Capitol.

All members were present,

David Haley arrived, 9:35 a.m.
Les Donovan arrived, 9:37 a.m.
Greta Goodwin arrived, 9:38 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Helen Pedigo, Office of Revisor of Statutes
Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Jane M. Eldrege, Representative of Westgate Center
Glee S. Smith, Jr., Representative of Westgate Center
Jerry E. Driscoll, Attorney
Kris W. Koback, Professor of Constitutional Law, UMKC
John R. Todd
Bill House
Gene L. Merry, Coffey County Commissioner, & President, Kansas Association of Counties
Donna Martin
Steven Anderson, Castle Coalition Coordinator, Institute for Justice
Senator Dennis Pyle
Allie Devine, Vice President and General Counsel, Kansas Livestock Association
Patrick R. Hubbell, Kansas Railroads
Terry D. Holdren, Local Policy Director for Governmental Relations, Kansas Farm Bureau

Others attending:

See attached list.

The hearing on **SB 398--Eminent domain; appeal perfected upon filing notice** was opened.

Jane Eldrege spoke as a proponent indicating that **SB 398** is a clarification of legislation passed in 2003 regarding the Kansas Eminent Domain Procedure Act (Attachment 1). **SB 398** moves the docket fee requirement to the position suggested by the Supreme Court, making it absolutely clear that only the timely filing of a notice of appeal is required to perfect an appeal and the intent was not to add any new jurisdictional requirements. **SB 398** will make the clarification retroactive to the date of the 2003 Amendment.

Glee Smith spoke in support of **SB 398** stating agreement with Ms. Eldrege's testimony. This bill will correct unintentional consequences resulting from legislation passed in 2003.

Jerry Driscoll spoke as a proponent, stating that it would clarify the intent of the original legislation (Attachment 2).

The being no further conferees, the hearing on **SB 398** was closed.

The hearing was opened on:

SB 323-Eminent domain; restricting government authority to take property
SB 446--Eminent domain; fairness in economic development act
SCR 1612--Eminent domain; proposed constitutional amendment restricting government authority to take property
SCR 1616--Eminent domain; proposed constitutional amendment restricting government authority to take property

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on January 31, 2006, in Room 123-S of the Capitol.

Note: Due to hearing several eminent domain bills at one time some testimony will appear to be out of place, several conferees opposed one bill and supported other bills at the same time, others chose to simply address the issue of eminent domain.

Kris Kobach spoke as a proponent, and related results of extensive research by his Legislation class (Attachment 3). The State of Kansas does not have a takings clause in its' constitution to offer protection to landowners in the majority of eminent domain cases and suggested three changes to **SCR 1616** to strengthen the rights of landowners.

John Todd spoke in favor of **SCR 1616** and the need for Kansas to have a constitutional amendment to protect private property rights from eminent domain abuse (Attachment 4).

Bill House spoke in support of **SCR 1616** and **SB 323** (Attachment 5).

Gene L. Merry spoke as a proponent of **SB 446** (Attachment 6). The use of eminent domain for economic development requires members of the governing body to balance the private property rights of individuals with the governing board's responsibility to look out for the public interest. While it is important for county commissioners to retain the authority to act in the public interest in behalf of everyone in their jurisdiction SB 446 also enacts safeguards for property owners.

Donna Martin spoke as a proponent of **SCR 1616** and **SB 323** to protect property owners (Attachment 7).

Steven Anderson spoke in support of **SCR 1616** providing background on eminent domain laws across the country (Attachment 8). He stated that **SCR 1616** would provide good protection for Kansas property owners.

Senator Dennis Pyle testified in support of **SCR 1616**. Senator Pyle stressed finding common ground between economic development and property owners (Attachment 9).

Allie Devine spoke as a proponent of **SB 323** and **SCR 1612** as a limitation on the use of eminent domain for economic development purposes (Attachment 10). Ms. Devine indicated that the issues of eminent domain are very complex and raises many issues. While in support of the use of eminent domain for economic development, the rights of private property owners should be protected.

Patrick Hubbell spoke in support of **SB 323** and requested an amendment to allow railroads to be treated in the same manner as utilities (Attachment 11). Mr. Hubbell provided a balloon amendment addressing his request.

Terry Holden spoke as a proponent of **SB 323** and **SCR 1612** stating Kansas Farm Bureau policy states that eminent domain procedures should be used only for legitimate governmental purposes (Attachment 12). Mr. Holdren would like Kansas farms protected from eminent domain abuses.

Written testimony in support of **SB 323** was submitted by:

Mary Jane Stankiewicz, Vice President and General Counsel, Kansas Grain and Feed Association (Attachment 13)

Written testimony in support of **SB 446** was submitted by:

Ashley Sherard, Vice President, Lenexa Chamber of Commerce (Attachment 14)
Carolyn H. Patterson, City Attorney, City of Hutchinson, KS (Attachment 15)

Written testimony in general terms was submitted:

Hal Hudson, State Director, National Federation of Independent Business, (Attachment 16)
John Geither, Shawnee, KS (Attachment 17)

The Chairman indicated that testimony will continue at the next meeting scheduled for February 1, 2006.

The meeting was adjourned at 10:32 a.m.