

FEDERAL AND STATE AFFAIRS COMMITTEE

March 3, 1969

The meeting was called to order by the Chairman who asked the committee if it would be willing to introduce three bills and have them referred back to committee; one on county sheriffs, public employees and community affairs and planning. It was voted to do this.

The Chairman then introduced Homer Floyd, Executive Director of the Kansas Civil Rights Commission, to discuss House Bill 1466. He discussed the bill in detail, section by section (see memo in Exhibit file). Mr. Watson, former Chairman of the Commission supported Mr. Floyd's statements. He discussed some amendments which should be made in the bill as presently printed, also covered in the memo. In particular, Mr. Floyd expressed concern over certain school districts that had racial imbalance among their teachers, but that the district declined to transfer teachers on the basis of race, stating that this would be the rankest kind of discrimination, but that it was quite clear that the pattern had been consciously established long ago and that it should not be unlawful to correct such injustices.

Mr. Turner inquired what the Commission's policy had been over the past year concerning racial imbalance, and Mr. Floyd explained that they had not made a determination as to what is the proper balance; that when information was presented they have made some complaints but the only time they have done this has been under the contract provisions with the Equal Opportunity Commission. He stated that 8 complaints have been served although the contract may say 25. Mr. Turner stated that he had one of the contracts and it appeared to him that the Federal Government was dictating to us to file complaints on the basis of what they say. Mr. Watson asked to reply to this, stating that he is of record and doesn't mind saying that there were some errors made and that it is his recommendation that additional investigations be made rather than accepting those reports as entirely accurate. He agreed that the complaints were probably issued too hurriedly; he stated that the contract had been approved by officials of the State of Kansas and the Commission felt it was okay, but now he feels that the Commission was in error. He reiterated that such statements on his part are already of record.

Mrs. Ruth Shechter, Chairman of the Civil Rights Advisory Council stated that she speaks in favor of the amendments proposed by the bill. Mr. Turner inquired if it was her group that sent out questionnaires before primary, to the candidates and she agreed that it was. He inquired what part of the statutes authorized the group to take part in partisan politics. She stated that this survey was only to get an idea of how candidates

felt on certain subjects. Mr. Turner pointed out that as an official arm of the state government it was not proper to get involved in politics. She stated that no state postage involved and Mr. Turner inquired who furnished the stationery. Mrs. Shechter stated that no state funds were involved. Mr. Turner pointed out that they were using the name of the agency.

Mr. Keenan expressed concern over the necessity of trial de novo and doing away with rules of evidence at hearings and expressed doubt about its constitutionality.

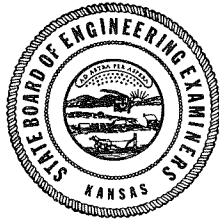
Jean Provilo, Executive Director of the Kansas City, Kansas Human Relations Commission spoke in favor of the proposal. Maxine King of the Wyandotte County Federation of Teachers, urged the passage of this from the standpoint of equal opportunity regardless of sex.

Mr. Turner asked to return to the racial imbalance question and pointed out that personnel records could no longer carry reference to race or religion thus making it impossible to make a survey about balance. Mr. Floyd stated they had a ruling that this could be carried on payroll records.

The Chairman stated that opponents to this bill would be heard on Thursday afternoon, and that HB 1282 would be taken up some time next week.

The meeting was adjourned.

Kansas State Board of Engineering Examiners



PROFESSIONAL ENGINEERS' LICENSE ACT

RULES AND REGULATIONS OF THE BOARD

PROFESSIONAL ENGINEERS' LICENSE ACT

26a-101. General purposes of act. In order to safeguard life, health, and property; and to promote the public welfare, any person in either public or private capacity practicing or offering to practice professional engineering shall hereafter be required to submit evidence that he is qualified so to practice and shall be licensed as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice in the state of Kansas, professional engineering as defined in the provisions of this act, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer, unless such person has been duly licensed under the provisions of this act.

26a-102. Definitions. As used in this act: (a) The term "engineer" shall mean a person who, by reason of his special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.

(b) The term "professional engineer" shall mean a person who has been duly registered and licensed by the state board of engineering examiners.

(c) The term "practice of engineering," within the intent of this act, shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects and including such architectural work as is incidental to the practice of engineering.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this act, who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letter-head, card, or in any other way represents himself to be an engineer, or through the use of some other title implies that he is an engineer or that he is registered under this act; or who holds himself out as able to perform, or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering: *Provided, however,* That this act shall not apply to persons who do not offer their services to the public, and further, shall not apply to or interfere with those persons and practices set forth in K. S. A. 26a-122.

(d) The term "board" shall mean the state board of engineering examiners, hereinafter provided by this act: *Provided,* That nothing in this act shall apply to the profession of architecture, or to safety engineers: *Provided further,* That the term "architect" as used in this act shall mean a person who practices or is engaged in the profession of architecture or who has practiced the profession of architecture and was practicing the profession in this state at the time this act takes effect.

26a-103. State board of engineering examiners; appointment; terms; oaths.

A state board of engineering examiners is hereby created whose duty it shall be to administer the provisions of this act. The board shall consist of five professional engineers appointed by the governor who shall consider nominees recommended by the representative engineering societies having a state-wide organization. These nominees shall have the qualifications required by section **26a-104**. The members of the first board shall be appointed within ninety days after the passage of this act, to serve for the following terms commencing July 1, 1947: One member for one year; one member for two years; one member for three years; two members for four years, or until their successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor, and before beginning his term of office, shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duty. On the expiration of the term of any member, the governor shall, in the manner hereinbefore provided, appoint for a term of four years a licensed professional engineer having the qualifications required by section **26a-104**, to take the place of the member whose term on said board is about to expire. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed, and shall have qualified.

26a-104. Same; qualifications. Each member of the board shall be a citizen of the United States, and a resident of this state, and shall have been engaged in the practice of the profession of engineering for at least five years. Engineering teaching may be considered as engineering work.

26a-105. Same; compensation and expenses. Each member of the board shall receive the sum of ten dollars per diem when actually attending to the work of the board or any of its committees. And, in addition thereto, shall be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this act.

26a-106. Same; removal; vacancies. The governor may remove any member of the board for misconduct, incompetency or neglect of duty. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as provided in section **26a-103** of this act.

26a-107. Same; meetings; officers; quorum. The board shall hold a meeting within thirty days after its members are first appointed, and thereafter shall hold at least three regular meetings each year. Special meetings shall be held at such time as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws may provide. The board shall elect or appoint annually the following officers: A chairman, vice-chairman, and a secretary. A quorum of the board shall consist of not less than three members.

26a-108. Same; bylaws and rules of procedure; seal; witnesses and testimony. The board shall have the power to adopt and amend all bylaws and rules of procedure, not inconsistent with the constitution and laws of Kansas, which may be reasonably necessary for the proper performance of its duties and regulations of the proceedings before it. The board shall adopt and have an official seal. (1) In carrying into effect the provisions of this act, the board, under the hand of its chairman and the seal of the board, may subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in a case involving the revocation of license or

practicing or offering to practice without a license. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district court of the county in which it may be in session, setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person requiring his or her attendance before such court and there to testify or to produce such books, papers and documents, as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the court.

26a-109. Disposition of moneys; bond and salary of secretary; employees. The secretary of the board shall receive and account for all moneys collected under this act and shall pay the same monthly into the state treasury and the state treasurer shall credit the amounts prescribed by K.S.A. 75-3170 to the general fund of the state for the purpose of reimbursing such fund as provided for in said section; and the balance thereof shall be placed in the "professional engineers' fund." Such fund shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only for the expense and compensation of said board as provided in this act upon the warrant of the state controller upon itemized vouchers approved by the chairman and attested by the secretary of the board. The secretary of the board shall give a surety bond to the state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "professional engineers' fund." The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided for in section 26a-105 of the General Statutes of 1949. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act. Under no circumstances shall the total amount of warrants issued by the state controller in payment of the expenses and compensation provided for in this act exceed the amount of the examination and license fees collected as herein provided: *Provided*, All moneys in the fund of the state registration and examining board for professional engineers at the time this act becomes effective are appropriated to the "professional engineers' fund," and may be expended in the same manner and for the same purposes as the other moneys in that fund.

26a-110. Same; records of proceedings; register of applications; report to governor. The board shall keep a record of its proceedings, and a register of all applications for license which register shall show (a) the name, age, and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his education and other qualifications; (e) whether or not an examination was required; (f) the action of the board upon the application; (g) the date of the action of the board, and (h) such other information as may be deemed necessary by the board. (1) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced. (2) Annually, as of July first, the board shall sub-

mit to the governor a report of its transactions of the preceding year and shall also transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

26a-111. Roster of licensees published annually. A roster showing the names and places of business of all licensed professional engineers shall be published by the secretary of the board during the month of July of each year. Copies of this roster shall be mailed to each person so licensed, placed on file with the secretary of state and with the clerk of each county, city, and town in this state, and furnished to the public upon request.

26a-112. Minimum qualifications of applicants. (1) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for license as a professional engineer: (a) Graduation in an approved engineering curriculum of four (4) years or more from a school or college approved by the board as of satisfactory standing and a record of an additional four (4) years or more of experience in engineering work of a character which is satisfactory to the board, and said applicant shall have been admitted to and shall have successfully passed a minimum of an eight-hour written examination in the fundamentals, principles and practices of engineering; or (b) a specific record of eight (8) years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering, and has successfully passed a minimum of an eight-hour written examination in the fundamentals, principles and practices of engineering. Graduation from a board approved technical institute two-year curriculum covering engineering sciences shall be accepted for not more than two (2) years of the eight (8) years' experience set forth above. Graduation in a curriculum other than engineering from a college or university of recognized standing shall be considered as equivalent to four (4) years of experience required herein; or (c) a specific record of twelve (12) years or more of lawful practice in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering, provided said applicant shall have successfully passed a written examination. (2) No person shall be eligible for a license as a professional engineer who is not of good character and reputation. (3) In considering the qualifications of applicants, engineering teaching shall be construed as engineering experience. (4) The satisfactory completion of each year of an approved curriculum in engineering in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience specified in paragraph (1) (b) of this section. (5) Any person having the necessary qualifications prescribed in this act to entitle him to license shall be eligible for such license although he may not be practicing his profession at the time of making his application. (6) Any person legally registered as a professional engineer in the state of Kansas at the time this act takes effect, shall thereafter continue to possess the same rights and privileges with respect to the practice of engineering, without being required to be licensed anew under the provisions of this act, subject, however, to the power of the board as provided in this act to suspend or revoke the license of any such person for any of the causes set forth in this act, and subject to the power of the board to require any such person to renew his license annually with the board as provided in this act. Any engineer licensed under subsection (6) of this section of the act must secure through the board at his own expense a seal as provided in paragraph 3 of section 26a-115 of the General Statutes of 1949.

26a-113. Application forms; license fee. Applications for license shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of his technical work, and shall contain not less than five references, of whom three or more shall be licensed professional engineers having personal knowledge of his engineering experience. (1) The license fee for professional engineers shall be twenty-five dollars which shall accompany the applications. (2) Should the board deny the issuance of a license to any applicant the fee deposited shall be retained as an application fee.

26a-114. Examination; certificate upon passage; scope; reexamination and fee. When oral or written examinations are required, they shall be held at such time and place as the board shall determine. If examinations are required on fundamental engineering subjects (such as are ordinarily given in college curricula) the applicant shall be permitted to take this part of the professional examination prior to his completion of the requisite years of experience in engineering work, and satisfactory passage of this portion of the professional examination by the applicant shall constitute a credit for a period of ten years. The board shall issue to each applicant upon successfully passing the examination in fundamental engineering subjects a certificate stating that he has passed the examination. (1) The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering works so as to insure the safety of life, health, and property. A candidate failing on examination may apply for reexamination at the expiration of six months and will be reexamined without payment of additional fee. Subsequent examination will be granted upon payment of a fee to be determined by the board.

26a-115. License to practice; evidence; seal of licensee. The board shall issue a license, upon payment of a license fee, as provided for in this act, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this act. (1) In the case of a licensed professional engineer, the license shall authorize "the practice of engineering." Licenses to practice professional engineering shall show the full name of the party to whom issued, shall have a serial number, and shall be signed by the chairman and the secretary of the board under seal of the board. (2) The issuance of a license by this board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a licensed professional engineer, while the said license remains unrevoked and unexpired. (3) Each licensee hereunder shall upon licensure purchase a seal of the design authorized by the board, bearing the licensee's name, license number and the legend, "Licensed professional engineer." Final plans, specifications, plats, and reports prepared by a licensed professional engineer shall be stamped with the said seal during the life of the license, but it shall be unlawful for anyone to stamp or seal any documents with said seal after the license of the engineer named thereon has expired or has been revoked, unless said license shall have been renewed or reissued.

26a-116. Expiration of licenses; notice; renewal fee. Licenses shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person licensed under this act, of the date of the expiration of his license, and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one

month in advance of the date of the expiration of said license. (1) Renewal may be effected any time during the month of January by the payment of a fee to be established by the board. The amount of this fee may not exceed ten dollars. The failure on the part of any engineer to renew his license annually, in the month of January as required above, shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a license after the month of January shall be increased ten percent for each month or fraction of a month that payment of renewal is delayed: *Provided, however,* That the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

26a-117. Licenses to engineers practicing on June 30, 1947. At any time within one year after this act becomes effective, upon due application therefor and the payment of the license fee of twenty-five dollars, the board shall issue a license without oral or written examinations, to any person who shall submit evidence under oath that he is of good character, has been a resident of the state of Kansas for at least one year immediately preceding the date of his application, and was practicing engineering at the time this act became effective. (1) After this act shall have been in effect one year, the board shall issue licenses only as provided for in section 26a-112 or section 26a-118 hereof, except that any person serving in the armed forces of the United States at the time this act becomes effective may, at any time within one year after his honorable discharge from such service, apply for license under the terms of this section and shall be licensed upon presentation of satisfactory evidence that he was practicing engineering in the state of Kansas immediately preceding the beginning of such service.

26a-118. Licenses to certain license or certificate holders; fee. The board may, upon application therefor, and payment of a fee as prescribed in K. S. A. 26a-113 as amended, issue a license as a professional engineer as prescribed in K. S. A. 26a-115 as amended, to any person who holds a license or certificate of qualification or registration issued to him by proper authority of the national council of state boards of engineering examiners, or of the national bureau of engineering registration, or of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of this act.

26a-119. Revocation of license; hearing of charges; reinstatement; issuance of duplicate license; fee. The board shall have the power to revoke the license of any engineer who is found guilty of: (a) The practice of any fraud or deceit in obtaining a license; (b) any gross negligence, incompetency, or misconduct in the practice of professional engineering as a licensed professional engineer. (1) Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any licensed engineer. Such charges shall be in writing and shall be sworn to by the person making them, and shall be filed with the secretary of the board. (2) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they shall have been preferred. (3) The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such engineer, at least thirty days before the date fixed for the hearing. At any hearing, the accused engineer shall have the right to appear personally and by counsel to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense. (4)

If after such hearing, three or more members of the board vote in favor of finding the accused guilty, the board shall revoke the license of such licensed professional engineer. (5) The board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked, providing three or more members of the board vote in favor of such reissuance. A new license, to replace any revoked, lost, destroyed, or mutilated license, may be issued, subject to the rules of the board, and a charge of three dollars shall be made for such issuance.

26a-120. Notice of denial or revocation of license; appeal to district court; notice; transcript. Notice of the action of the board in denying or revoking a license shall be given by sending a copy of the order by registered mail to the last known address of the applicant or licensee. Any applicant or licensee deeming himself aggrieved by any decision of the board may within thirty days after notice or receipt of a copy of the order of the board appeal to the district court of the county in which said applicant or licensee resides which court shall try the appeal *de novo* and shall have jurisdiction to affirm, reverse, vacate or modify the decision complained of. Notice of said appeal shall be filed in the office of the clerk of the district court and a copy thereof served upon the chairman or secretary of the board within five days thereafter. Upon the filing of said appeal as aforesaid the board shall within twenty days file with the clerk of the district court a certified copy of the transcript including the records of the board and all evidence introduced during the proceedings.

26a-121. Penalties for violations; attorney general as legal adviser of board. Any person who shall practice, or offer to practice professional engineering in the state of Kansas without being licensed in accordance with the provisions of this act, or any person presenting or attempting to use as his own the license or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a license or any person who shall falsely impersonate any other engineer of like or different name, or any person who shall attempt to use an expired or revoked license, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than one hundred dollars, nor more than one thousand dollars, or suffer imprisonment for a period not exceeding six months, or both. The attorney general of the state or his assistant shall act as legal adviser of the board, and render such legal assistance as may be necessary in carrying out the provisions of this act.

26a-122. Act not to apply or interfere with certain practices. This act shall not be construed to apply to or interfere with: (1) The practice of the profession of architecture; (2) the design or erection of any structure or work by the owner thereof, upon his own premises, for his own use; (3) persons other than those responsible for planning, drafting and designing who are employees of any person, firm or corporation furnishing public utility service, or operating and maintaining machinery or equipment in manufacturing or industrial plants, or operating and maintaining machinery or equipment for agricultural purposes, and who do not offer their services to the public as professional engineers as herein defined. (4) The design or erection of any residence, residential garage or other residential outbuildings, farm buildings and any other building or structure the total cost of construction of which does not exceed thirty thousand

dollars. (5) Persons engaged in planning, drafting, and designing of products manufactured for resale to the public.

26a-123. Act not to prevent or affect certain practices. This act shall not be construed to prevent or to affect: (1) The practice of any other recognized profession or trade; or (2) the practice of a person not a resident of and having no established place of business in the state of Kansas, practicing or offering to practice herein the profession of engineering when such practice does not exceed in the aggregate more than thirty days in any calendar year: *Provided*, Such person is legally qualified by license or registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a license or certificate of registration are not lower than those specified in this act; or (3) the practice of a person not a resident of and having no established place of business in the state of Kansas, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering, if he shall have filed with the board an application for a license and shall have paid the fee required by this act: *Provided*, That such a person is legally qualified by license or registration to practice said profession in his own state or country in which the requirements and qualifications for obtaining a license or certificate of registration are not lower than those specified in this act. Such practice shall continue only for such time as the board requires for the consideration of the application for license; or (4) the work of an employee or a subordinate of a person holding a license under this act, or an employee of a person practicing lawfully under paragraphs (2) or (3) of this section, provided such work does not include final designs or decisions and is done under the direct responsibility, checking, and supervision of a person practicing lawfully under paragraphs (2) and (3) of this section; or (5) the practice of officers and employees of the government of the United States while engaged within the state of Kansas in the practice of the profession of engineering for said government.

26a-124. Title of act. This act may be known and cited as the Kansas professional engineers' license act.

26a-125. Invalidity of part. If any section or sections of this act shall be declared unconstitutional or invalid, this shall not invalidate any other sections of this act.

RULES AND REGULATIONS STATE BOARD OF ENGINEERING EXAMINERS

Article 1—CODE OF ETHICS

64-1-1. Code of Ethics. All applicants for licenses to practice engineering in Kansas shall be requested to subscribe to and agree to exemplify the following code.

The engineer, to uphold and advance the honor and dignity of the engineering profession and in keeping with high standards of ethical conduct, will be honest and impartial and will serve with devotion his employer, his clients, and the public. He will strive to increase the competence and prestige of the engineering profession and will use his knowledge and skill for the advancement of human welfare. [Authorized by K. S. A., Section 26a-108; effective January 1, 1966, amended January 1, 1967.]

Article 2—PROVISIONS FOR PROFESSIONAL ENGINEERS REGISTERED UNDER THE VOLUNTARY REGISTRATION LAW

[K. S. A. Section 26a-112(6).]

64-2-1. Certificate. Each person legally registered as a professional engineer in the state of Kansas on June 30, 1947, who has received a certificate of registration will, upon request and the payment of \$1.25, be furnished a certificate of licensure.

The date of November 15, 1947, will be used on certificates of licensure of such registrants, and the word "Registered" and the date that the original registration was granted, shall be engrossed on the certificate below the caption "Licensed Professional Engineer." [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-2-2. Seal. License seals for persons who were legally registered as professional engineers in the state of Kansas on June 30, 1947, shall be of the same design as those furnished by the Registration Board, except that the word "Registered" shall be replaced by the word "Licensed." [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

Article 3—EXAMINATION, LICENSE AND FEES

64-3-1. Licensure.

- (a) Under Sections 26a-112 (1) (a) and (b), the written examination shall consist of an eight-hour examination in fundamentals and an eight-hour examination in professional practice.
- (b) Under Section 26a-112 (1) (c), the written examination shall consist of an eight-hour examination in professional practice. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-3-2. Eligibility.

- (a) An approved engineering curriculum is one which has been accredited by the Engineers' Council for Professional Development (ECPD). The Board may approve other curricula at its discretion.

- (b) Not more than one year of graduate study in engineering will be credited as qualifying experience for application under Section 26a-112 (1) (a).
- (c) Each year of successful completion of an approved under-graduate curriculum in engineering, up to a maximum of four years, will be credited as a year of qualifying experience for application under Section 26a-112 (1) (b). Graduation in a four-year curriculum other than engineering from a college or university of recognized standing shall be considered as equivalent to four years of experience, and graduation from a Board-approved technical institute two-year curriculum covering engineering sciences shall be accepted for not more than two years of the eight years' experience set forth in Section 26a-112 (1) (b).
- (d) Examples of experience which cannot be accepted:
 - (1) Part-time employment while attending school.
 - (2) Summer employment between normal school years.
 - (3) Employment in duties normally assigned the engineering technician, for example, as a draftsman, rodman, chainman, or routine inspector, will not be accepted as lawful practice under Section 26a-112 (1) (c).
 - (4) Duties normally assigned to the engineering technician will not fulfill entirely the experience requirement for admittance to examination under Section 26a-112 (1) (b). In the judgment of the Board, however, such work may be acceptable for a portion of the qualifying experience, provided that it is progressive in character and indicates that the applicant is assuming an increasing degree of responsibility.
 - (5) Experience acquired before the age of 18 years will not be recognized by the Board as qualifying engineering experience under Section 26a-112 (1) (b).
 - (6) Experience acquired before the age of 22 years will not be recognized by the Board as lawful practice of engineering under Section 26a-112 (1) (c). [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-3-3. Application. [Sec. 26a-113.]

- (a) Must be made on an application blank obtained from the Board.
- (b) A blank will be mailed upon request.
- (c) Blank must be filled in completely, photograph attached for purposes of identification, and mailed to the office of the Board with a remittance of the \$25.00 fee.
- (d) Information required on all applications:
 - (1) Name in full
 - (2) Age and date of birth
 - (3) Place of birth
 - (4) Citizenship
 - (5) Residence
 - (6) Nature of present occupation
 - (7) Place of present occupation
 - (8) Education:
 - a. Colleges or universities attended, with dates
 - b. Curricula pursued
 - c. Degrees received

- (9) Membership in technical and professional societies
- (10) Engineering engagements, including progressive advancements with the same employer:
 - a. Specific dates
 - b. Duties and responsibilities
 - c. Name and address of responsible superior during each engagement.
- (11) Branch and field in which applicant is best qualified to practice.
- (e) Total experience must be shown, whether or not it is in the field of engineering. Detailed description of engineering experience is essential.
- (f) All questions must be answered in full.
- (g) Information must be typewritten with a black ribbon bright enough to produce good copies.
- (h) All material submitted with application will remain in the permanent files of the Board.
- (i) Each application must be attested by a Notary Public or other official qualified to administer oaths.
- (j) References:
 - (1) Requirements:
 - a. At least five, each personally acquainted with applicant
 - b. At least three shall be licensed or registered professional engineers
 - c. At least three shall be persons not connected with applicant's present employment
 - (2) No member of the Board may be used as a reference
 - (3) Each reference will be asked by the Board to confirm statements made by the applicant of which he has knowledge. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-3-4. Investigation of applicants.

- (a) Applicants under Section 26a-112:
 - (1) All statements will be verified.
 - (2) Questionnaires will be sent to all references and employers.
 - (3) Educational records will be verified through the institutions attended.
 - (4) Transcripts will be required for confirmation of all education claimed, except from graduates of ECPD accredited engineering curricula.
- (b) Applicants under Section 26a-118:
 - (1) Record of licensure in other states will be verified through the Boards having jurisdiction.
 - (2) Investigations will be made as outlined in (a) above as required to determine condition of licensure at time applicant received his original license.
 - (3) The National Bureau of Engineering Registration Certificate will be accepted as a verified professional record as of the date of issuance or revision. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-3-5. Examinations.

- (a) Locations at which offered:
 - (1) Fundamentals:
 - a. University of Kansas, Lawrence
 - b. Kansas State University, Manhattan
 - c. Wichita State University, Wichita
 - (2) Professional Practice:
 - a. Statehouse, Topeka
 - (3) At any other place designated by the Board.
- (b) Time:
 - (1) The examination on engineering fundamentals will be offered twice annually in April and December
 - (2) The examination on professional practice will be offered once annually in September
 - (3) At any other time designated by the Board.
- (c) Contents and Duration:
 - (1) Part A, Section 1 (four hours):
 - a. Mathematics
 - b. Chemistry
 - c. Fluid Mechanics
 - d. Thermodynamics
 - e. Statics
 - (2) Part A, Section 2 (four hours):
 - a. Dynamics
 - b. Mechanics of Materials
 - c. Physics
 - d. Electrical Theory
 - e. Economic Analysis
 - (3) Part B, Section 3 (five hours):
 - a. Practical questions relating to design in various fields of the branches of engineering specified by the applicants
 - (4) Part B, Section 4 (three hours):
 - a. Economics
 - b. Ethics
 - c. Special Subjects.
- (d) Aids—all examinations will be open-book.
- (e) The minimum passing grade will be 70% on each part.
- (f) Notification of results will be mailed as soon as approved by the Board.
[Authorized by K. S. A. Section 26a-108; effective January 1, 1966, amended January 1, 1967.]

64-3-6. Re-examination. [Section 26a-114.]

- (a) A candidate failing on examination will receive one re-examination without payment of additional fee, provided that he applies for and takes the re-examination within twelve months from the date of failure.
- (b) Subsequent examination will be granted upon payment of a fee to be determined by the Board.
- (c) A candidate who has been approved for admittance to the sixteen-hour written examination under Section 26a-112 (1) (a) or (b), will be admitted to the first examination scheduled, following his admittance.

- (1) If the applicant passes Part A and fails Part B of the examination, he will be permitted one re-examination in Part B, as provided in (a) above. If he fails the re-examination in Part B, a license will be denied, but he will receive a certificate from the Board showing that he has passed Part A, which will stand to his credit for ten years.
- (2) If the applicant passes Part B and fails Part A of the examination, he will be permitted one re-examination in Part A, as provided in (a) above. If he fails the re-examination in Part A, the Board will extend the privilege of re-examination as stated in (b) above, provided that the applicant makes a written request for re-examination in Part A and pays an examination fee of \$10.00 within a period of twelve months from the date of failing the first re-examination. The total number of examinations in Part A permitted under one application shall not exceed four, and the period of time allotted for examination and re-examination under one application shall not exceed thirty-six months from date the application is approved by the Board. During this period of re-examination under this paragraph, the applicant will retain credit for having passed Part B, and if he passes Part A, a license will be issued. If he fails to pass Part A as specified, a license will be denied and the application and credit for having passed Part B will expire.
- (3) If an applicant for the sixteen-hour written examination under Section 26a-112 (1) (a) or (b) fails both parts of the examination, he may have the privilege of re-examination as provided in (a) above, and if he passes both parts, a license will be issued. If he fails both parts on re-examination, a license will be denied and the application will expire.
- (4) If an applicant for the eight-hour written examination on professional practice (Part B) under Section 26a-112 (1) (a), (b) or (c) fails, he may have the privilege of re-examination as provided in (a) above, and if he passes, a license will be issued. If he fails the re-examination, a license will be denied and the application will expire.
- (d) After a license has been denied and the application has expired as specified in (c) (1) (2) (3) (4) above, an applicant may re-apply as provided in Section 26a-113 and paragraph 64-3-3 above, and his qualifications will be considered anew. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-3-7. Seal. [Section 26a-115.]

- (a) When the Board has approved an application for license, a license number will be assigned and the applicant will be authorized to purchase an embossing seal of the design approved by the board.
- (b) When such seal has been purchased, the applicant will forward an impression of the seal to the Board.
- (c) Upon receipt of evidence that a seal of satisfactory design has been purchased, a license will be granted and a certificate issued by the Board.
- (d) Failure by the applicant to comply with this requirement within a period of six months will cause the license number to be cancelled and a license will be denied.

- (e) Final plans, specifications, plats and reports prepared by each licensee shall be stamped with the said embossing seal; however, a rubber stamp facsimile of the seal may be purchased by the licensee and may be applied on all such work; except, that one sheet of each set shall be sealed with the embossing seal.
- (f) It is unlawful to use seal after expiration of license or to use seal of another engineer. [Authorized by K. S. A. 26a-108; effective January 1, 1966.]

64-3-8. Denial.

- (a) If a license is denied for any reason, the applicant will be notified by certified mail.
- (b) The fee which accompanied the application will be retained by the Board.
- (c) Denial of a license will not prevent an applicant from filing another application as provided in Section 26a-113 and paragraph 64-3-3 above. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

Article 4—ENGINEER-IN-TRAINING

64-4-1. Definition.

- (a) One whose qualifications meet the minimum requirements specified in paragraph 64-4-2, but who does not have the requisite years of experience to permit him to apply for a professional engineer's license [see Section 26a-112], may take an eight-hour written examination on engineering fundamentals, and upon successfully passing the examination, he will be certified by the Board as an engineer-in-training. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-4-2. Minimum Qualifications. An applicant for engineer-in-training enrollment must be either:

- (a) A graduate of an approved engineering curriculum of four years or more, or not less than one semester short of graduation, or
- (b) A graduate of an approved curriculum other than engineering, currently employed in the engineering field, or
- (c) An applicant whose record shows at least four years of engineering experience, or a combination of engineering education and experience, of a character satisfactory to the Board. [Authorized by K. S. A., Section 26a-108; effective January 1, 1966.]

64-4-3. Application.

- (a) Must be on form prescribed by and obtainable from the Board.
- (b) Must be filled in completely and mailed to the office of the Board with remittance of the required fee.
- (c) All questions must be answered in full.
- (d) Information must be typewritten with black ribbon bright enough to produce good copies.
- (e) Signature must be witnessed by faculty member who is aware of date of expected graduation, or, by a supervisor who is familiar with applicant's record. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-4-4. References.

- (a) For non-students, three references are required.
- (b) References must have knowledge of applicant's character, technical ability and experience.

- (c) No member of the Board may be used as reference. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-4-5. Fees.

- (a) The fee for engineer-in-training enrollment is \$7.50, which must accompany the application.
- (b) The fee cannot be refunded to an applicant who, for any reason, fails to become enrolled.
- (c) There is no annual renewal fee for the engineer-in-training.
- (d) An applicant who fails the examination may be re-examined once without payment of addition fee, provided that he applies for and takes the re-examination within twelve months from the date of failure.
- (e) An engineer-in-training certified by this Board may take credit only once for the amount of the enrollment fee when applying for the professional engineers' license. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-4-6. Examinations.

- (a) The examination for engineer-in-training enrollment is identical with Part A, Sections 1 and 2, of the license examination.
- (b) Details of examination, including time, place, content, aids and minimum passing grade, will be found under paragraph 64-3-5 above. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-4-7. Certificate of Engineer-in-Training.

- (a) Will be issued to each applicant who passes the examination.
- (b) Will bear a consecutive serial number, full name of enrollee, date of issuance, and signatures of the chairman and secretary of the Board.
- (c) Will expire ten years from the date of issuance. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

64-4-8. Subsequent application for professional engineer's license.

- (a) An engineer-in-training, certified by this Board, may apply for a professional engineer's license when he has acquired the requisite years of experience [Section 26a-112]. If he applies within ten years from the date of his certificate, he will receive credit for having passed Part A of the license examination and will be admitted directly to Part B. He may deduct the amount of the enrollment fee from the fee required to be paid with the application for license.
- (b) An engineer-in-training, certified by another state Board as having passed an eight-hour written examination in engineering fundamentals, who applies within ten years from the date of his certificate, will receive credit for having passed an examination equivalent to Part A of the license examination, and will be admitted directly to Part B. He shall pay the fee required by Section 26a-113 with the application for license. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966, amended January 1, 1967.]

64-4-9. Denial.

- (a) If a certificate of engineer-in-training enrollment is denied for any reason, the applicant will be notified by certified mail.
- (b) The fee which accompanied the application will be retained by the Board.
- (c) Denial of a certificate will not prevent an applicant from filing another application as provided in Section 26a-114 and paragraph 64-4-3 above. [Authorized by K. S. A. Section 26a-108; effective January 1, 1966.]

BYLAWS, STATE BOARD OF ENGINEERING EXAMINERS, STATE OF KANSAS

1. **Name.** The name of the board shall be State Board of Engineering Examiners.

2. **Meetings.** Unless otherwise provided by the Board, regular meetings shall be held on the first Saturday of March, July and November of each year at times and places determined by the chairman.

Special meetings may be called at any time by order of the chairman, and shall be called by the secretary upon written request of three members.

Notice of all regular and special meetings shall be mailed by the secretary to each member at his last-known address at least one week prior to said meeting unless members of the Board unanimously waive such notice.

3. **Election of officers.** At the regular meeting in July of each year, the Board shall elect from among its members a chairman, a vice-chairman, and a secretary, each to serve for a period of one year or until his successor has been elected and qualified.

4. **Duties of officers and committees.**

(a) *Chairman.* The chairman shall, when present, preside at all meetings and shall appoint all committees unless otherwise provided by the Board. He shall submit to the Board the annual and biennial reports and statements of receipts and expenditures provided for in section 10 of the act creating the Board, and in chapter 269 of the 1943 Session Laws, and when approved by the Board, shall transmit them to the governor and other state officers as required by law. He shall execute all business as directed by the Board, shall sign all licenses, certificates, vouchers, reports, and other official documents, and shall otherwise perform all the duties usually pertaining to the office of chairman.

(b) *Vice-chairman.* The vice-chairman shall, in the absence or incapacity of the chairman, exercise the duties and possess all the powers of the chairman.

(c) *Secretary.* The secretary shall conduct and care for all correspondence in the name of the Board and shall record and file the records of all applications, examinations, certifications, denial of certifications, revocations and other actions of the Board relating thereto, with the dates thereof. He shall sign all licenses, certificates, vouchers, reports and other official documents of the Board. He shall have possession of the official seal of the Board and shall affix the same to all official documents when so ordered. He shall keep the minutes of all meetings of the Board and shall furnish promptly a copy of the minutes of each meeting to each member of the Board. He shall receive all moneys and shall pay the same monthly to the state treasurer, taking his receipt therefor, and he shall maintain a proper account of all business of the Board.

He shall prepare annually, as of July 1, a report of the transactions of the Board for the preceding year with a complete statement of the receipts and expenditures of the Board for transmittal by the chairman, after approval by the Board, to the governor and other state officers as required by law. He shall

also prepare and publish, during the month of July of each year a roster showing the names and places of business of all professional engineers licensed to practice in Kansas, and shall mail a copy to each person so licensed, to the secretary of state, to the clerk of each county, city and town in Kansas, and to any other person who may request a copy.

The secretary shall furnish a surety bond acceptable to the Board in the amount of \$3,000, the premium for which shall be paid from the funds of the Board.

(d) *Executive Committee.* The executive committee shall consist of the chairman of the Board who shall be chairman ex officio, the vice-chairman and the secretary. Its duties shall be to transact all business as instructed by the Board during the intervals between Board meetings, and to report thereon to the Board at its next meeting. It shall also recommend to the Board such actions in respect to policies and procedures as it may consider desirable.

(e) *Finance Committee.* The finance committee shall consist of three members, one of whom shall be the vice-chairman of the Board who shall be the chairman of the committee ex officio. Its duty shall be to prepare an annual budget and report its findings to the Board for approval.

(f) *Examination Committee.* The examination committee shall consist of three members of the Board and it shall be its duty to make recommendations to the Board as to the nature and scope of examinations. It shall also be responsible for the preparation of examination questions, the conduct of examinations, the grading of examination questions and the reporting of grades to the Board. The committee shall have authority to employ and to pay for out of the funds of the Board such additional competent assistants as it may deem necessary in the process of adequately discharging its responsibility.

(g) *Special Committees.* Special committees shall have such duties as may be assigned by the chairman or the Board.

5. Order of business. The order of business shall be as follows:

- Approval of minutes
- Report of executive committee
- Report of finance committee
- Report of examination committee
- Report of special committees
- Reading of communications
- Consideration of applications
- Oral examination of applicants
- Unfinished business
- New business
- Adjournment

6. Code of ethics. All applicants for license to practice engineering in Kansas shall be requested to subscribe to and agree to exemplify the Code of Ethics (64-1-1. Rules and regulations of the Board.)

7. Letter ballots. Letter ballots by Board members upon applications submitted by the secretary or upon other items of Board business submitted by him upon direction of the chairman, shall, if unanimous, be considered valid actions of the Board and shall be recorded in the minutes of the next meeting of the Board. Any member may change his letter ballot upon any application or other item of business by subsequent letter or telegram to the secretary, provided such subsequent letter or telegram shall be received by the secretary

prior to any action or commitment of the Board based upon such member's previous letter ballot. Any item or application upon which a letter ballot is not unanimous may be resubmitted to the Board for subsequent letter ballot or for consideration at a subsequent meeting.

8. Rules of order. Robert's Rules of Order shall govern the procedure of the Board except as otherwise provided by the bylaws and the act.

9. Amendments. These bylaws may be amended at any regular or special meeting by a majority vote of the Board if copies of the proposed amendment have been mailed to all members of the Board, by the member proposing the amendment, at least ten days prior to the meeting at which such action is to be taken.

NATIONAL COUNCIL OF STATE BOARDS OF ENGINEERING EXAMINERS

The National Council of State Boards of Engineering Examiners was founded in 1920. The Kansas Registration Board for Professional Engineers became a member in 1931, and the Kansas State Board of Engineering Examiners continued the membership when the present law was enacted in 1947. The purpose of the National Council is to promote the public welfare through the improvement of professional standards relating to the safe-guarding of life, health and property by working toward improvements in engineering registration laws, their administration and effectiveness; uniformity of standards and practices in engineering registration; general acceptance of inter-board recognition of registration of engineers, and by defining and maintaining nationally recognized qualifications for professional engineering registration.

National Bureau of Engineering Registration. One of the services rendered by the National Council is the issuance of the National Bureau of Engineering Registration certificate. In some states it may be accepted as qualification for license, however, the certificate constitutes a verified professional record of education, experience and previous registrations, and its purpose is to expedite the issuance of licenses for those who are required to be licensed in several states. Any licensed engineer who complies with the requirements may obtain the certificate.

The Kansas Board accepts the NBER certificate under the provisions of K. S. A., Section 26a-118 as a verified professional record of the period covered by the certificate.

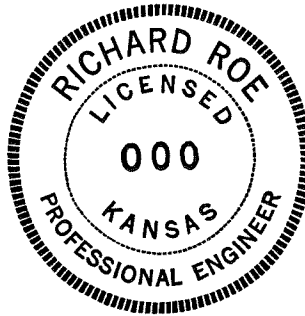
A pamphlet explaining procedures and requirements may be obtained by writing to:

NATIONAL BUREAU OF ENGINEERING REGISTRATION
P. O. Drawer 752, Clemson, South Carolina 29631

ENGINEER'S SEALS

Each engineer licensed hereafter is required by law to purchase an embossing seal of the design approved by the Board. The approved seal shall be an embossed circular seal consisting of two concentric circles. The outer circle shall be $1\frac{3}{8}$ inches in diameter. The inner circle shall be $1\frac{1}{8}$ inches in diameter. The area between the two circles shall contain licensee's name at the top, and "PROFESSIONAL ENGINEER" below. The inner circle shall contain "LICENSED" at the top, and "KANSAS" below, and the number of the license in the center.

A facsimile of the seal:



"Final plans, specifications, plats and reports prepared by a licensed professional engineer shall be stamped with the said seal, during the life of the license . . ." K. S. A. Sec. 26a-115.

"License seals for persons who were legally registered as professional engineers in the state of Kansas on June 30, 1947, shall be of the same design as those furnished by the Registration board except that the word "REGISTERED" shall be replaced by the word "LICENSED." Rule 64-2-2.

"A rubber stamp facsimile of the seal may be purchased by the licensee and may be applied on all such work; except, that one sheet of each set shall be sealed with the embossing seal . . ." Rule 64-7-9.

Hb 1466
exhibits 3-3-69

PROCESSING YOUR COMPLAINT

STATE OF KANSAS



COMMISSION ON CIVIL RIGHTS

The practice or policy of discrimination against individuals in employment relations or in relation to free and public accommodations by reason of race, religion, color, national origin or ancestry is a matter of concern to the state, since such discrimination threatens not only the rights and privileges of the inhabitants of the state of Kansas but menaces the institutions and foundations of a free democratic state. It is hereby declared to be the policy of the state of Kansas to eliminate and prevent discrimination in all employment relations and to eliminate and prevent discrimination, segregation, or separation in all places of public accommodations covered by this act.

It is also declared to be the policy of this state to assure equal opportunities and encouragement to every citizen regardless of race, religion, color, national origin or ancestry, in securing

and holding, without discrimination, employment in any field of work or labor for which he is properly qualified, and to assure equal opportunities to all persons within this state to full and equal public accommodations without distinction on account of race, religion, color, national origin or ancestry. It is further declared that the opportunity to secure and to hold employment, and the opportunity for full and equal public accommodations as covered by this act are civil rights of every citizen.

To protect these rights, it is hereby declared to be the purpose of this act to establish and to provide a state commission having power to eliminate and prevent segregation and discrimination, or separation in employment and all places of public accommodations covered by this act because of race, religion, color, national origin or ancestry, either by employers, labor organizations, employment agencies or other persons as hereinafter provided.

The KANSAS ACT AGAINST DISCRIMINATION prohibits . . .

DISCRIMINATION

because of

RACE, RELIGION, COLOR, NATIONAL ORIGIN, or
ANCESTRY

in

EMPLOYMENT and
PUBLIC ACCOMMODATIONS

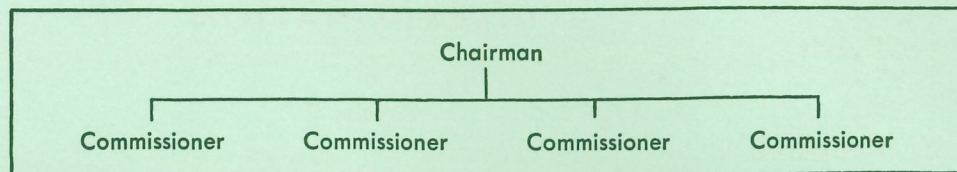
and establishes

THE KANSAS COMMISSION ON CIVIL RIGHTS

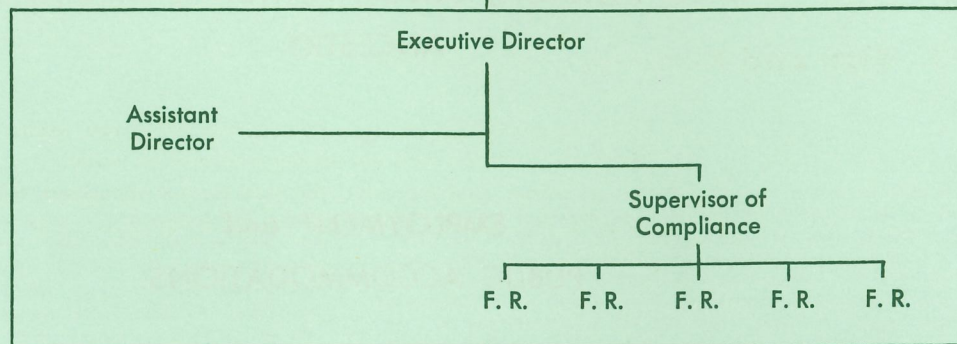
to administer the law

The KANSAS COMMISSION ON CIVIL RIGHTS is composed of

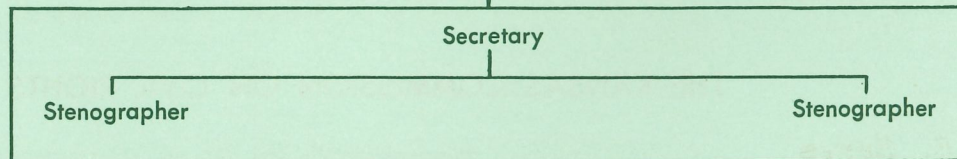
a Commission



a
Professional
Staff



and a
Clerical
Workforce



The FILING OF COMPLAINTS

1. Draft

The Commission will help you draft the text of your complaint.

2. Prepare

Your complaint will then be prepared on a legal form and returned to you.

3. Sign and Notarize You should then:

- (a) Read the complaint to be certain it says what you want.
- (b) Notify the Commission if any changes should be made.
- (c) If it is correct, sign the complaint and have it notarized, then
- (d) RETURN THE COMPLAINT TO THE COMMISSION after it has been signed and notarized.

4. Docket

The Commission will assign a number to your complaint and list it in its register of complaints which is called a docket book. A copy of the complaint will then be sent to you.

5. Serve

A representative of the Commission will visit the person accused of discrimination in your complaint, will give him a copy of it and will begin the investigation.

The COMPLAINT PROCESS . . .

Investigation

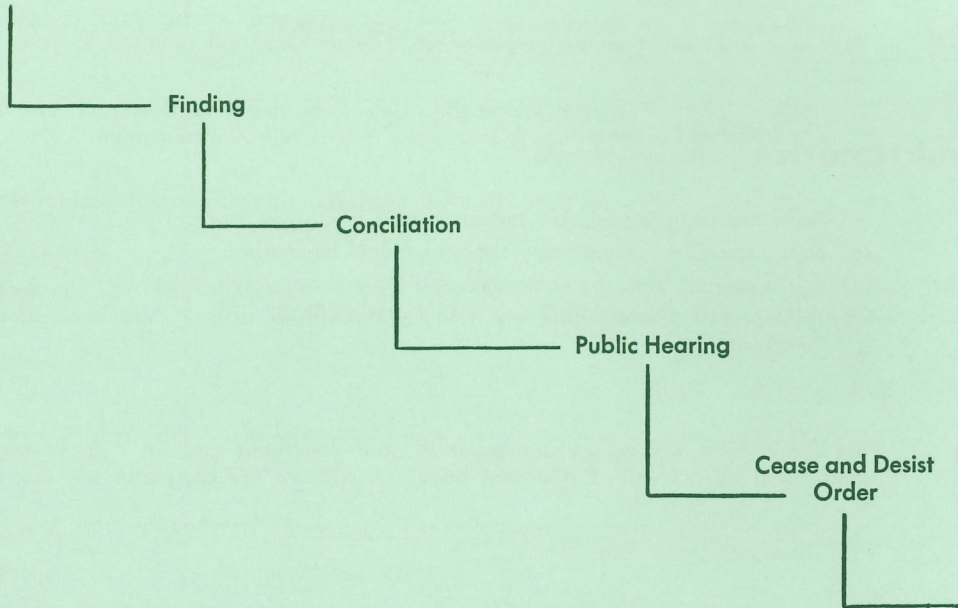
Finding

Conciliation

Public Hearing

Cease and Desist
Order

Court Appeal



The COMMISSION EXPECTS your . . .

1. COOPERATION: You must help us develop your case since you are more familiar with it than we are . . .

You should tell us everything you can remember about your complaint and answer all our questions as best you can . . .

You should tell us even things which you think might weaken your case because then we can be better prepared when others tell us about them . . .

You should keep all your appointments with Commission representatives, or at least telephone them if you must change an appointment . . .

2. TRUST: We will process your complaint as quickly as possible and ask you to keep us informed if you decide to take any other action . . .

We will keep you informed of our progress and will expect you to comment on our work and suggest improvements . . .

We will make every effort to conduct a thorough investigation and determine the true facts in the case . . .

We will assure that the rights guaranteed to you by the Kansas Act Against Discrimination are protected . . .

The KANSAS COMMISSION ON CIVIL RIGHTS
provides . . .

CONSULTANTS on race relations to employers, unions, educators, municipalities,
civic groups, etc.

ASSISTANCE in filing complaints to those who have been subjected to
discrimination

MATERIALS on human relations for distribution to clubs,
groups, etc.

SPEAKERS on Civil Rights for luncheons, meetings,
classes, etc.

FILMS on a variety of Civil Rights issues

THESE SERVICES ARE PROVIDED FREE OF CHARGE

Write, telephone, or come in person to the

KANSAS COMMISSION ON CIVIL RIGHTS
State Office Bldg., Topeka, Kansas 66612
CE 5-0011, Extension 8011

Explanations of Proposed Amendments to
THE KANSAS ACT AGAINST DISCRIMINATION

As contained in House Bill No. 1466

The Kansas Act Against Discrimination is the name given to the law which created the Kansas Commission on Civil Rights and sets forth the Commission's authority in eliminating and preventing discrimination in employment and places of public accommodations because of race, religion, color, national origin or ancestry.

In order to improve its operations, the Kansas Commission on Civil Rights is asking the 1969 session of the Kansas Legislature to amend K.S.A. 44-1006 and K.S. A. 1968 Supp. 44-1001, 44-1002, 44-1004, 44-1005, 44-1009, 44-1011, and 44-1013 of the Kansas Act Against Discrimination. The proposed amendments would help to describe the Commission's authority more accurately, streamline its operations and make it more effective in dealing with discrimination in employment and in places of public accommodations. In addition the Commission would like the coverage of the Act broadened to prohibit discrimination because of sex.

Proposed Amendments:

Section 1. K.S.A. 1968 Supp. 44-1001.

Subsection (a) Page 1, Line 7.

The deletion of the words "or in relation" was an inadvertent mistake made in the Revisor of Statute Office. These words were not intended to be eliminated from the Act. Therefore, the Commission would like the words "or in relation" to remain in the statute unchanged.

Subsection (a) Page 1, Lines 8 and 19 --- Page 2, Lines 4 and 12.

The word "sex" has been added in each of the places mentioned above to broaden the coverage of the Act to prohibit discrimination because of sex in employment. Throughout the Act this amendment is inserted in the appropriate place to accomplish this purpose.

The Commission recommends this amendment because of the numerous incidents reported to its offices from women complaining of discrimination in salaries and wages, the kinds of jobs they can hold, being excluded from promotional consideration and problems involving terms and conditions of employment. In these incidents the victims felt that they were being

discriminated against because of their sex. In addition, the Regional Office of the U.S. Equal Employment Opportunity Commission, which has jurisdiction over sex discrimination, reports that many complaints have been filed with their office from the State of Kansas alleging sex discrimination. Many of the problems brought to the attention of the Kansas Commission are referred on to the Equal Employment Opportunity Commission. However, many others are not processed because the Federal law only prohibits discrimination against private employers having twenty-five(25) or more employees, thus excludes from coverage all public agencies (federal, state, county, and local) and municipal sub-divisions. Furthermore, inadequate staff has posed problems to the Equal Employment Opportunity Commission in promptly investigating and adjudicating complaints filed with that agency.

The Commission feels that this kind of discrimination should not be permitted within the State of Kansas, and the Kansas Legislature should seize the initiative for providing an avenue for resolving the problems of discrimination because of sex.

Section 2. K.S.A. 1968 Supp. 44-1002

Subsection (b) Page 2, Line 26

The Commission recommends the deletion of the words "or corporation" in the definition of employer because of ambiguity of the phrase "which shall not include a nonprofit fraternal or social association or corporation." The Commission feels the legislature never intended to eliminate nonprofit corporations from coverage of the employment provisions of its law, but wanted to exclude nonprofit fraternal or nonprofit social associations. To clarify this point the Commission would like the words "or corporation" deleted from the statute.

Subsection (h), Page 3, Line 17

The definition of the term "public accommodations" is amended to include the word "services".

Because the present definition of a public accommodation in the Kansas Act Against Discrimination is not sufficiently clear, the Commission has been obliged to seek legal advice from the Attorney General's office on

several occasions in regards to its jurisdiction over a number of specific respondents. The present definition does not make it clear, for example, whether or not the Commission has jurisdiction over respondents who offer goods and accommodations to the public when the same respondents offer services to the public. For example, beauty parlors are explicitly covered by the Act and cannot discriminate in the use of their facilities and accommodations. It is not clear, however, that it is also unlawful for beauty parlors to discriminate in extending such things as "beauty consultation services" and other intangible commodities.

There is ample precedent for including "services" in the public accommodations coverage of the Kansas Act Against Discrimination. Besides the U.S. Civil Rights Act, the following states include services in the public accommodations coverage of their statutes: Alaska, Maryland, Connecticut, Oregon, Missouri, Wisconsin, Kentucky, Iowa, Washington, Indiana, Nevada, Illinois, Arizona, Massachusetts, Minnesota and New York.

Section 3. K.S.A. 1968 Supp. 44-1004

Subsection 15, Page 6, Lines 15 through 17.

The amendment would give the Commission the authority to receive and accept federal funds. There are federal grants available to the Commission from such agencies as the Department of Justice, the Equal Employment Opportunity Commission, etc. Such funds would assist the Commission to carry on its educational and compliance programs more effectively .

There are no specific provisions in the Act which give the Commission the authority to accept such funds. During the 1968 Legislative Session the Commission was granted the authority, through an amendment attached to its budget appropriation bill, to receive federal funds for one year. This proposed amendment would allow the Commission to receive such funds on a continuing basis "to effectuate the purposes of this Act" as a normal part of its operation.

Section 4. K.S.A. 1968 Supp. 44-1005 Complaint Processing

Page 6, Line 31, and Page 7, Lines 1 - 4.

This amendment would provide more definitive guidelines as to how the

Commission can use its powers to initiate complaints. The Commission as well as the Attorney General's Office feel that complaints can be initiated in those instances where aggrieved individuals fail to file complaints or in those instances when respondents are engaged in broad patterns and practices of discrimination. There has been considerable discussion about these two approaches during the last several years. The Commission feels it would be helpful if the legislature would adopt this amendment to more fully define the law of the Commission.

During the last legislative session this amendment was disapproved by the House Committee on State Affairs. However, the amendment was put back into the bill by the Senate Committee on Federal and State Affairs. We note that similar language is contained in Senate Bill No. 16 which originated in the State and Local Affairs Committee of the Senate and is now in this Committee (Federal and State Affairs).

Page 8, Lines 29 and 30 Rules of Evidence

This amendment would exempt the Commission from following the formal rules of evidence in its hearings.

Rules of evidence may be construed to bar certain types of evidence that may be crucial to the determination of discrimination, where proof is intangible and elusive and may be derived more from words and deeds than from overt acts. Evidence of patterns and former practices that are validly probative of the fact of discrimination in a given instance may be excluded where the strict rules of evidence are enforced.

One of the innovations of administrative law has been the relaxation of strict rules of evidence. In civil rights cases the respondent is not charged with a violation of a criminal statute, he is not in danger of going to jail, and there is no question of a civil suit for damages. Insistence on following the formal rules of evidence in hearings has the unfortunate consequence of lessening the Commission's ability to eliminate discrimination from broad areas of economic activity.

Only one of the five Commissioners on the Kansas Commission on Civil Rights is an attorney. The others are lay persons, untrained in law. Obliging them to follow the formal rules of evidence in hearings

renders the hearings unnecessarily awkward and cumbersome. There is also the danger that lawyers on both sides will spend too much of their time arguing over questions of admissibility rather than focusing on the more important question to be determined at the hearing.

It is not normal practice in administrative law, as opposed to criminal and civil law, to bind administrative agencies to the formal rules of evidence in their hearings. We have examined the statutes and surveyed the other agencies of the state of Kansas in regards to their hearing powers. We have been able to establish that at least thirty-two agencies of the State have hearing powers. Of the thirty-two, the Kansas Commission on Civil Rights is the only agency of the state of Kansas bound by statute to the formal rules of evidence in its hearings. Moreover, there are six agencies which are explicitly authorized by statute to formulate their own rules of procedure for hearings (Civil Service Board, Employment Security Board of Review, Board of Healing Arts, Public Employees Retirement System, School Retirement Board, and the State Board of Tax Appeals).

Page 9, Line 16

The word "services" is amended into the Act, in order to coordinate this section with the amending of the word "services" into the definition of a public accommodation as described above.

Section 6, K.S.A. 1968 Supp. 44-1009. Unlawful Employment Practices

Subsection (a) (1), Page 10, lines 25 - 28.

The listing of unlawful employment practices is amended to be more explicit in areas wherein the Commission experiences much difficulty. The Commission and the Attorney General's Office feel that the limitation, segregation, separation, classification and distinction of employees because of race is already a violation of the Act. Because this provision of the Act is ambiguous, however, the Commission is often obliged to spend considerable time debating this point with respondents.

Furthermore, the State Supreme Court decided that in spite of the rigid segregation of the school teachers in the Kansas City, Kansas, school system, there was no violation of this section of the Act since segregation, although explicitly mentioned elsewhere in the Act, is not mentioned

in this section. We believe the present amendment would help to dispel the ambiguity which exists in this regards, and would greatly facilitate its complaint processing.

Subsection (a) (6), Page 11, Lines 26 - 31, and Page 12, Lines 1 - 4.

The Act is amended to include specific language in regards to discrimination in training and retraining programs. Although these areas are already within the general coverage of the Act, the increasing importance of training programs as a remedy for some of the employment problems confronting disadvantaged citizens, as well as the consequent growing emphasis which is being placed on such programs by both government and private industry, demands the inclusion of such language in the Act. Once again, the Commission is involved in extensive activity in this area and the proposed amendment would allow the Commission's staff to avoid much unnecessary debate on the coverage of the Act.

Subsection (a), Page 12, Lines 8 - 14.

The Act is amended to explain that efforts to correct patterns of racial imbalance are not in violation of the law.

In a case which involved the Kansas City, Kansas, Board of Education, the school board held that it would not reassign its teachers in order to correct racial imbalance because "to do so would be a violation of the civil rights act because to require a teacher to transfer from one school to another on the basis of race is the rankest kind of discrimination."

The Commission has encountered many other instances in which respondents refuse to make any effort to correct segregated racial patterns, hiding behind the pretext that such efforts would be "discrimination in reverse" and, as such, a violation of the law. In most instances, the patterns were in fact established through previous conscious efforts to eliminate minority groups from certain categories of employment. Such action was clearly a violation of the civil rights of the persons involved and it should be specified that it is not unlawful to correct the injustices of the past.

While the action of the Federal government and the recent decisions of Federal courts leave no doubt as to the constitutionality of coercing integration, the amendment proposed by the Commission is of a permissive

and not a mandatory nature. It simply states that voluntary plans to reduce or eliminate racial imbalance are in conformity with the purpose and intent of the Kansas Act Against Discrimination. The constitutionality of such permissiveness was upheld in Deal v. Cincinnati Board of Education, where the U.S. Court of Appeals for the Sixth Circuit said: "It has been held that it is not unconstitutional for them (i.e., for school boards) to consider racial factors and take steps to relieve racial imbalance if in their sound judgment such action is the best method of avoiding educational harm." (cf. also Balaban v. Rubin, Morean v. Board of Education of Montclair.)

Subsection (b) Page 12, Lines 15 -21

This amendment takes into consideration the argument there are certain types of jobs which women cannot physically perform due to the heavy lifting or reaching involved. An employer can evaluate the requirements of each job within his work force and determine if sex is a bona fide occupational qualification reasonably necessary to perform in each of these positions.

Subsection (c) (1), Page 12, Line 26.

The word "services" is amended into the Act in order to coordinate this section with the amending of the word "services" into the definition of a public accommodation as described above.

Section 7, K.S.A. 1968 Supp. 44-1011. Appeals, etc.

Page 14, Lines 5 - 31 and Page 15, Lines 1 - 7.

When the Commission has issued an order after a public hearing, an appeal can be made to the District Court. The 1965 session of the Legislature amended the Act to require that the appeal be heard by a trial de novo. The respondent may demand a jury trial if he so wishes. The Commission wishes to amend the Act so that a trial de novo is not required, and so that the appeal is heard without a jury, by deleting Lines 5 - 15 on page 14.

No thinking person would argue that an order by the Commission should be final and not subject to appeal. A trial de novo, however, would redo the entire work of the Commission; its purpose can only be to find the facts anew and arrive at independent conclusions. In short, ordinary appeal procedure in administrative law determines whether the agency

acted reasonably, whereas trial de novo decides the question whether the respondent is guilty and if so what should be done about it.

Allowing the respondent to retry the entire case in court effectively upsets the Commission's enforcement scheme. A respondent who knows he can demand a retrial at the end of the road obviously need not cooperate at earlier stages with the Commission or its representatives. He can deliberately withhold evidence at a hearing so as to demand a new trial.

The strongest order the Commission can issue would be to order a person back to work with backpay or ordering a respondent to serve a complainant in a place of public accommodations. The respondent cannot be fined or jailed by the Commission.

As far as a jury trial is concerned, it is out of tune with the general provisions of the Act. The Act requires that the appeal be heard "on the record." The traditional province of juries has never been to decide questions of law, but only questions of fact and a judge is better trained to decide questions of a reading of the record than a jury.

On page 14, lines 16 through 23, required that objections not raised before the Commission cannot be raised before the court (unless an outstanding reason exists as to why they were not). New evidence must be presented to the Commission for a finding, prior to its being presented before the court. The Commission feels it is unfair for the court to evaluate the Commission's findings and orders on the basis of evidence or objections which have not been brought to the attention of the Commission. The Commission feels it should have the opportunity to review this information because its findings may be substantially changed as a result of said information.

The new language inserted on page 12, lines 24 through 31, and on page 15, lines 1 through 7, is the identical language that was contained in the original Fair Employment Bill introduced in the Kansas Legislature in 1961. This section was amended, that year to include trial by jury and some of the language was excluded entirely. In 1965 Trial de novo was added to this section. As a result of these amendments, some of the language in this section is confusing and somewhat contradictory. This proposed

amendment would provide a clarification to some of the ambiguous language contained in this section.

Section 8. K.S.A. 1968 Supp. 44-1013

Page 15, Line 23

This amendment makes it a misdemeanor to willfully violate an order of the Commission. This is important because respondent may simply disregard the Commission's order and feel it has no obligation to comply with the Commission's enforcement authority.

Prepared by Homer C. Floyd, Executive Director

Kansas Commission on Civil Rights

March 3, 1969