

Approved _____

1/27/88
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m. ~~p.m.~~ on January 26, 1988 in room 254-E of the Capitol.

All members were present. ~~except~~

Committee staff present:

Mary Galligan, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
Dr. Bill Wolff, Legislative Research
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Mr. Rob Hodges, Executive Director, Kansas Industrial Council, KCCI
Mr. Ron Gaches, The Boeing Company
Mr. R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Inc.
Ms. Faith Loretto, Staff Assistant, Department of Administration

The Chairman asked the Committee to turn its attention to SB471, by the Joint Committee on Economic Development. He stated that the Committee had heard from Senator Alicia Salisbury and staff on a briefing last week concerning this bill, as well as SB478, by the Joint Committee on Rules and Regulations, which is also before the Committee today.

He welcomed the first conferee, Mr. Rob Hodges, of the Kansas Chamber of Commerce and Industry. A copy of Mr. Hodges' statement is part of these Minutes. (Attachment #1) KCCI supports the concept of these bills, but seeks three changes in the current process: more advance notice of public hearings to consider proposed new or amended rules and regulations; a better description of the proposed new or amended rule and regulations; and a way to assure that careful consideration is given to the effects of a proposal, and consideration to persons and organizations to be affected.

Mr. Ron Gaches, of The Boeing Company, was the next conferee. He appeared to lend support to Mr. Hodges testimony concerning the two senate bills. They will endorse the concept that when the rules and regulations are promulgated they do put into place the legislative mandates that the Legislature has passed, and not that interpreted by secretaries or staff of any agencies.

The next conferee was Mr. R. E. "Tuck" Duncan, of the Kansas Wine and Spirits Wholesalers, Assn. Mr. Duncan's statement expressed the concern that permanent regulations could take effect before the whole Legislature has had an opportunity to learn of any "new" laws. (Attachment #2) He requests that in any revisions to the process that no new regulation, except in emergency circumstances as now provided, become effective until after the Legislature completes its work. Statement also addresses the economic impact.

Ms. Faith Loretto, Staff Assistant of the Department of Administration, appeared in support of SB 478. She answered questions from members, as did the other conferees. The Chairman thanked all for their appearances. He said that concluded the hearings on these two bills. The Committee will take them up later for consideration. He may want to appoint a Subcommittee to look at the language.

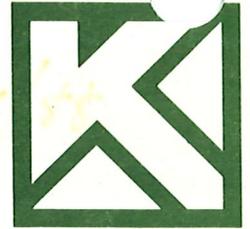
Senator Arasmith moved that the Minutes of January 19, 1988, be approved. Seconded by Senator Morris. The motion carried.

The meeting was adjourned.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

SB 471 & SB 478

January 26, 1988

Testimony Before the
Senate Committee on Federal and State Affairs

by

Rob Hodges
Executive Director
Kansas Industrial Council

Mr. Chairman, members of the Committee, I appreciate the opportunity to appear today to present the Chamber's position on SB 471 and SB 478, bills proposing to change the procedures used by state agencies in promulgating rules and regulations.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

KCCI supports the concepts of both SB 471 and SB 478. We believe enactment of the bills could result in more and better communication about proposed rules and

*Senate FSA
Attachment #1
1/26/88
Rob Hodges*

regulations. Additionally, the bills could create a greater opportunity for input during the promulgation process.

KCCI members see a growing dependency on the rule and regulation process for implementing legislative enactments and, in some cases, legislative intent. Much of this growing dependency we believe to be the result of ever-busier legislative calendars and ever-more-complex issues. Legislators, indeed citizens, must leave more and more of the decision making process to the discretion of the professionals working in state agencies. KCCI believes that along with the greater level of dependence placed on state agency personnel, goes a corresponding greater level of responsibility to the legislature and the public. It is in the interest of assuring that high level of responsibility that we support efforts such as those contained in SB 471 and SB 478.

While supporting the concepts of these two bills, we stop short of endorsing the specific language of the bills. We do not believe that the language of these bills is the only way to arrive at the desired end. Nor do we hope such bills will create such a high hurdle in the path of proposed rules and regulations, that no new or amended rules and regulations will be promulgated.

We seek three changes in the current process:

First, more advance notice of public hearings scheduled to consider proposed new or amended rules and regulations. The current 15 day minimum notice, when combined with the publication schedule of the Kansas Register, is actually a very short period of time in which to determine whether a person or organization is even interested in the change. We suggest at least 30 days notice of a public hearing should be given.

Second, we believe a better description of the proposed new or amended rule and regulation should be required. In some cases good descriptions are being given by state agencies in the notices currently required. But in other cases, the descriptions are cryptic at best. A complete description easily understood by a lay person should be a minimum criteria of any proposed rule and regulation proposal.

Third, and perhaps most difficult to achieve, is a way to assure that careful consideration is given to the effects of a proposal -- and consideration is also given to those persons and organizations to be affected. We fear that too many times the effect that is considered is the effect on the state agency personnel who are proposing the change, and that little consideration is given to what will be required to achieve compliance. Saving the state an hour at a cost of days, or saving the state \$100 at a cost of \$1,000 may not be the best solution to a problem, or the best reason to change or begin a new regulation.

In closing, let me say that our members realize that the relationship between the regulator and the regulated will never be one of perfect harmony. But recent years, and a court test of the legislature's role in rule and regulation authority, have removed some of the legislative oversight which once existed in the relationship between state agency regulators and the regulated community. KCCI hopes that a better result is the goal of both parties and that our suggestions will be considered by this Committee in addressing SB 471 and SB 478.

Thank you for your time. I'll attempt to answer questions you may have.

K · A · N · S · A · S
VINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

1/26/88
Attachment #2

January 26, 1988

To: Senate Federal and State Affairs Committee
From: R.E. "Tuck" Duncan
RE: administrative rules and regulations

I appear here today not to criticize reforms in the process of the adoption of administrative rules and regulations, because reform in the process is needed. When agencies wait until the deadlines to issue regulations, then neither the affected parties nor the Joint Committee can adequately respond. The power to promulgate rules and regulations is the power to make laws, as binding as those passed by the Legislature.

If I correctly understand the proposal, however, it concerns me that permanent regulations could take effect before the whole Legislature has had an opportunity to become aware of these "new" laws.

It is true that you cannot change a regulation by resolution, but you can-- with the Executive's approval, enact a law that will nullify or modify the impact of a regulation. We are all aware that this has been done in the past, and most likely could occur in the future. If it were the desire of the Legislature to reject, by enactment of a law, a given regulatory provision, should that not be done in advance and not after-the fact?

Therefore, in any revisions to the process we hope you will consider that no new regulation, except in emergency circumstances as now provided, would become effective until after the Legislature completes its work. If indeed the greatest bulk of regulations are being promulgated by two agencies we should be able to devise a system to accommodate their emergency needs and still afford our elected representatives an opportunity to review regulations intended to do your will.

I agree that an economic impact statement should be provided, but find it ironic that the regulation could become effective before you, collectively, know that impact and whether or not the regulation is an expression of your original intent.

Thank you for your attention to and consideration of these matters.

Senate FSA
R.E. "Tuck" Duncan
1/26/88
Attachment #2