

Approved: 5-28-93
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 10:00 a.m. on April 7, 1993 in Room 254-E of the Capitol.

All members were present except:
Sens. Hensley and Parkinson were excused

Committee staff present: Mary Galligan, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Sen. Oleen thanked committee members for changing the time of the meeting, since the Senate will be in session at 11:00, and noted conferees were notified of the change in the time of the meeting.

Sen. Oleen opened the hearing on SB 434, concerning state boards and commissions, relating to confirmation by the Senate, and called on Theresa Kiernan to explain contents of the bill to the committee. Ms. Kiernan stated the bill includes two important changes: (1) no appointee can vote or take action on any issue until confirmed by the Senate; (2) term expirations will fall on two dates, March 1 and December 31, to conform to dates the Senate will be in session. She also stated these provisions apply only to board members who are subject to confirmation. There is also a provision in case of resignation or death of a board member, which gives authority to the Legislative Coordinating Council to act until such time as the Senate is able to conduct the confirmation hearing. Ms. Kiernan explained the bill section by section, relating the change in term expiration dates to ensure an appointee will not vote on important issues prior to confirmation. Several members asked clarification of the provision for term expirations and whether the appointee will continue to have voting rights. Sen. Gooch stated his support for the bill since he believes board members should not be serving and taking action on issues before confirmation. He reminded the committee that in the past, board members have been serving and voting on important issues for some time before they are confirmed. Sen. Oleen stated the bill needs further study and is a working document for interim study. She asked Sen. Frahm for further input, since she is Chairman of the Confirmations Oversight Committee.

Sen. Frahm stated she and Sen. Walker have served on the Confirmation Committee for a number of years and the change in the confirmation process has come about as a result of a study by the Confirmation and Governmental Organization Committees. She stated the new process which began this year is seen as a step to change the process in an orderly manner. Sen. Frahm also stated governors, past and present, have had problem making appointments to all boards and commissions and the new process, as outlined in the bill, would mean the Legislative and Executive Branches would have to work together. She stated her support for the bill and urged the committee to recommend it for further study in the interim. Sen. Vidricksen stated his support for changing the confirmation process and said he served on the Confirmation Committee for eight years and that some appointments were automatically confirmed and the confirmation process was seen as a joke. He stated his support for the new process this session, where confirmations are referred to the appropriate committees, and stated there has been more study and thought given to the process than in past years. He urged the committee to study the bill during the interim, so the committee would be able to make further recommendations next session.

Sen. Oleen distributed written testimony to committee members from Arthur Griggs (Attachment 1) and Scott Hessel (Attachment 2). Additional discussion involved alternative expiration dates for terms and the fact that the Legislative Coordinating Council is made up of House members, which would then consider confirmations. Sen. Praeger stated that the confirmation process should be retained in the Senate and that she believes the Governor has a valid concern, as stated in Mr. Griggs written testimony. Sen. Ramirez stated

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:05 a.m. on April 7, 1993.

another idea might be that the standing committees could meet during the interim to consider confirmations, since there would be only a few confirmations needing consideration once the new process is set in place. Sen. Jones asked what authority makes the confirmation process a Senate function only, and Ms. Kiernan stated the Board of Regents confirmation process is set out in the Constitution; the others by Statute. Sen. Jones reminded the committee that the full Senate still has to confirm an appointee, after the committee makes its recommendation. Sen. Oleen stated it is possible to expand the new Confirmation Oversight Committee from three members, rather than sending confirmations to the Legislative Coordinating Council for consideration during the interim. The committee also discussed when and how existing appointee terms would expire and transition dates for them once a new confirmation process became effective. Sen. Oleen stated she will recommend SB 434 be referred for interim study, unless there was overwhelming dissent from the committee. There was none.

Sen. Oleen announced SB 299, amending the Kansas lottery act, relating to expenditures, has been referred to the Ways and Means Committee. She thanked the committee for its support and input during the session and stated she has enjoyed working with the members and looks forward to working with each one next session.

Meeting adjourned at 10:55.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: April 7, 1993

[illegible]

Attach. 1

TESTIMONY OF ARTHUR GRIGGS
CHIEF ATTORNEY, DEPARTMENT OF ADMINISTRATION
REGARDING SB 434

BEFORE THE
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
APRIL 7, 1993

I am testifying today on behalf of the Governor in opposition to SB 434. SB 434 provides that certain individuals appointed to any one of 22 boards, commissions, and other executive branch administrative bodies are precluded from taking office and serving until they are confirmed by the Senate. If vacancies occur by reason of death or resignation when the Legislature is not in session, the Legislative Coordinating Council (LCC) may authorize the appointee to exercise the powers and functions of that office. If the vacancy arises by virtue of the expiration of a term of office, the LCC procedure does not appear to be available.

SB 434 would create some administrative difficulties and legal concerns. However, for the reasons described below, the primary objection to SB 434 is that the changes in the appointment process contained in SB 434 represent a questionable change in public policy.

--By prohibiting appointees from serving at all prior to senate confirmation or authorization from the LCC, the legislature is assuming an unwarranted and excessive level of control over the appointment process of any governor.

--The role of the LCC is of particular concern in that it authorizes a small body of legislators, including Representatives of the House, to exercise a function that has been reserved for the Senate as a whole.

--In matters, such as appointments, which involve separation of powers issues, it is not wholesome to delegate legislative functions to a committee of seven to exercise a power that historically has been reserved for the full Senate. Moreover, approval of appointments by the LCC would involve four Representatives in a process that historically has been strictly a function of the Senate.

A balance of responsibilities between the executive and legislative branches is necessary in the appointments process. It is the position of the Governor, as it would be for any governor, that this balance is best achieved by continuing the historical rule that when the executive branch makes appointments, such appointments stand unless and until rejected by the full Senate.

Sen. F. + S. Q.
4-7-93
att 1

Attach. 7

Senate Bill No. 434

Senate Committee on Federal and State Affairs

April 7, 1993

Scott W. Hessel
Senior Policy Analyst

Thank you for the opportunity to testify before you today concerning a proposed amendment to S.B. 434 that adds a representative of the professional and business services sector to the Kansas Inc. Board of Directors. We were encouraged to testify on this amendment after discussions with Senator Bud Burke, who is also a member of our Board.

Kansas Inc. is the state's economic development strategic planning agency. We are governed by a 15-member public/private Board of Directors that is co-chaired by the Governor and a member of the private sector. Our statute, originally passed in 1986, stipulates that key Kansas industries are to be represented on the Board. It is our belief that professional and business services must also be represented as an important industrial sector.

In our recent strategic planning program, we identified the growing importance of the professional and business services sector to the state's economy. From 1980 to 1990, total employment in Kansas grew 13.5 percent. Yet, growth among service industries was 35.3 percent. In 1990, these industries accounted for over 450,000 jobs or approximately 32 percent of the total Kansas employment. Real personal income among these industries also outpaced the rest of state growing 41.9 percent.

Professional and business services represent a significant potential for both employment and income growth. These sectors are characterized by firms that generally deliver services directly to businesses rather than to individual consumers. Because of this involvement in our broader production process, their long-term competitiveness is an important concern for the state. This sector generally includes Business Services; Miscellaneous Professional Services, such as engineering, architectural, accounting, research, and management services; and, Communications. These three industry sectors increased employment from 1980 to 1990 by 80.5 percent, 95.3 percent, and 19.2 percent, respectively. In addition, approximately 30 percent of the jobs in these industries are either executive/managerial or technical in nature. In contrast, only 18.9 percent are classified similarly in manufacturing industries.

We have proposed this change in the past, most recently in H.B. 2482 which is in the House Committee on Education. We believe the participation of the professional and business services sector in the further development of the state's strategy is vital. These industries have significant growth potential and should be included in economic development planning efforts.

Thank you for the opportunity to address the committee and I would be happy to answer any questions.

Sen. F. & S. A.
4-7-93
Act 2

22

are appointed and qualified.

(b) (c) The attorney general shall designate a member of the board who is regularly admitted to practice law in this state to serve as chairperson at the pleasure of the attorney general. Members of the board shall receive compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223, and amendments thereto.

Sec. 17. K.S.A. 74-8001 is hereby amended to read as follows: 74-8001. (a) There is hereby created a body politic and corporate to be known as Kansas, Inc. Kansas, Inc. is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function. Kansas, Inc. shall consist of

~~15~~ predominately private sector members as follows:

(1) The governor of Kansas;

(2) the secretary of the Kansas department of commerce;

(3) ~~seven~~ members who are appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. *Except as provided by section 1, no person appointed pursuant to this paragraph (3) shall exercise any power, duty or function as a member of Kansas, Inc. until confirmed by the senate. Such members shall be appointed as follows:*

(A) One member from each of the primary economic sectors in the state—agriculture, oil and gas, and aviation—who are recognized for outstanding knowledge and leadership in their fields;

(B) one member from one other primary, job creating, value added business sector who is recognized for outstanding knowledge and leadership in the member's field;

(C) two members from the private financial sector, one of whom shall have experience in the area of high-risk venture investments, and one of whom shall have commercial banking experience in an industry of special importance to the Kansas economy, and both of whom are recognized for outstanding knowledge and leadership in their fields;

(D) one member representing labor who is recognized for outstanding knowledge and leadership in the member's field;

(4) one member who serves as the commanding general of the Kansas cavalry;

(5) one member who is appointed by the state board of regents from a Kansas university and who is recognized for outstanding knowledge and leadership in the field of economic development;

(6) the speaker of the house, the house minority leader, the president of the senate, and the senate minority leader or legislators

16

eight

11

and

(E) one member from the professional and business services sector;