

Approved: Al Ramirez 3-22-93
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on March 16, 1993 in Room 531-N of the Capitol.

All members were present except: Senator Bogina - Excused
Senator Lee-----Excused

Committee staff present:

Carolyn Rampey, Legislative Research Department
Fred Carman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Susie Pauley - Interpreter

Others attending: See attached list

Chairman Ramirez called the meeting to order and spoke concerning **SB 268**.

This bill needs a lot of work because it is all encompassing. It is a bill that takes in a lot of different areas and should have further study. The Chairman asked for a motion to recommend the bill for interim study.

Senator Reynolds moved that **SB 268** be recommended for interim study. Senator Harris gave a second to the motion. The motion carried.

The Chairman asked for a motion on the February 8 minutes.

Senator Papay moved to approve the February 8 minutes with a second by Senator Reynolds. The motion carried.

The Chairman asked for a motion on the February 9 minutes.

Senator Reynolds moved to approve the February 9 minutes with a second by Senator Papay. The motion carried.

The Chairman asked for a motion on the February 10 minutes.

Senator Gooch moved to approve the February 10 minutes with a second by Senator Papay. The motion carried.

The Chairman asked for a motion on the February 11 minutes.

Senator Vidricksen moved to approve the February 11 minutes with a second by Senator Papay. The motion carried.

HB 2257 - interpreters

The Chairman stated that this bill is closely aligned to SB 219. The committee heard many conferees on that bill and he asked that conferees refrain from restating testimony so there would be time to work the bill. He called on Fred Carman, Revisor to explain the balloon and handout with amendment. (Attachments 1 & 2)

Mr. Carman went through the balloon. New Section 1 was stricken in the balloon, but the handout with the amendment gave a New Section 1 which contained the following language.

“A qualified interpreter shall be secured for any person who is deaf, hard of hearing or speech impaired in any grand jury, court or jury proceeding whether such person is a plaintiff, defendant, juror or witness in such action, and the interpreter shall interpret throughout the actual trial during the time that the jury is sequestered or engaged in its deliberations.”

The remaining sections of the bill would be renumbered.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, Room 531-N Statehouse, at 1:30 p.m. on March 16, 1993.

All the remaining amended lines of the bill were gone through by the Revisor.

Discussion centered on whether (b), (c), (d), (e), and (f) needed inclusion in the bill. Mr. Carman said that this was unnecessary, would cause confusion and impede the bill.

Senator Feleciano moved to adopt the juror amendment handed out by the Revisor. Senator Reynolds gave a second to the motion. The motion carried.

Chairman Ramirez asked Mr. Wilks, Kansas Association of School Boards if he had any comments on the amendment. He saw no problems with it. Mr. Wilks' testimony was labeled (Attachment 3)

Chairman Ramirez asked Mr. Leatherman, KCCI, if he saw any problems with the amendment and he replied that his concerns had been addressed. Mr. Leatherman's testimony was labeled (Attachment 4).

There was a handout from the Advisory Committee on Hispanic Affairs labeled (Attachment 5)

The Chairman asked for any other questions, comments or concerns.

Susie Pauley, Interpreter, rose to speak with an amendment. (Attachment 6) She was provided with this language by Mr. Leonard Hall, who had appeared twice previously on **SB 219**. The amendment addressed the juror questions, as well as inclusion of the federal law.

Discussion was held on this proposed amendment and it was found that the juror question had been already settled and the federal law inclusion was held to be better left out as explained by the Revisor.

Senator Feleciano moved to recommend **HB 2257** favorable for passage as amended. Senator Gooch gave a second to the motion. The motion carried.

Senator Feleciano apologized to the Chairman for his misunderstanding of the fact that the Chairman was going to work the bill.

The Chairman reminded the committee of the Governmental Organization dinner that John Peterson was giving at his home on Wednesday evening. He asked the Committee to check their invitations as to time and address.

The Chairman stated the agenda for Wednesday was SB 398 - conservation division of state corporation commission employees in unclassified services.

The meeting was adjourned.

The next meeting is scheduled for March 17, 1993.

Senate
: Gov. Organization

DATE: 3-16-93

[illegible]

HOUSE BILL No. 2257

By Representatives Toplikar, Brown, Cox, Macy, O'Connor and
Snowbarger

2-5

12 AN ACT concerning interpreters; relating to the use thereof; amend-
13 ing K.S.A. 75-4351 and[, 75-4352,] 75-4353 [and 75-4354] and
14 repealing the existing sections.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. A qualified interpreter shall be secured for the
18 deaf, hard of hearing or speech impaired person in the following
19 cases:

20 (a) In any grand jury, court or jury proceeding whether such
21 person is the plaintiff, defendant, juror or witness in such action
22 and in the case of a deaf, hard of hearing or speech impaired juror,
23 the interpreter shall be available interpret throughout the actual
24 trial and may accompany and communicate with such juror
25 throughout any period during the time in which the jury is se-
26 questered or engaged in its deliberations;

27 (b) in any proceeding before a board, commission, agency or
28 licensing authority of the state or any political subdivision;

29 (c) when such prior to any attempt to interrogate or take a
30 statement from a person who is arrested for an alleged violation of
31 a criminal law of the state, any city ordinance or any county code;

32 (d) in any services, programs or activities of any institution, de-
33 partment or agency of the state of Kansas or any political subdivision,
34 provided that it does not cause undue burden or undue hardship;

35 (e) in any services, programs or activities of any place of public
36 accommodation by any person who owns, leases or operates a place
37 of public accommodation, as defined by K.S.A. 44-1002, and amend-
38 ments thereto, provided that it does not cause undue burden or
39 undue hardship;

40 (f) in any employment situation, including but not limited to job
41 application procedures, admission, hiring, advancement, discharge,
42 training or any other terms, conditions or privileges of employment,
43 provided that it does not cause undue burden or undue hardship.

Attached
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-1

1 New Sec. 2. (a) All interpreters for the deaf, hard of hearing and 1
 2 speech impaired, secured under the provisions of sections 1 through 3
 3 ~~4~~, shall be certified by or registered with the Kansas commission 3
 4 for the deaf and hard of hearing or an agency designated by the
 5 commission. The chairperson, court, presiding officer or executive
 6 officer of the company, board, agency, committee or entity shall be
 7 responsible for assuring the procurement of the interpreter.

8 (b) The commission shall recommend reasonable fees for the serv-
 9 ices of the interpreter. At no time shall the fees for interpreter
 10 services be assessed against the person ~~receiving such services~~.

who is deaf, hard of hearing or speech impaired

11 (c) No person shall serve as an interpreter if such interpreter is
 12 married to that person, related to that person or is otherwise in-
 13 terested in the outcome of the proceeding. Exceptions can be made
 14 in extreme conditions, subject to the approval of the commission.

15 (d) No person shall serve as an interpreter pursuant to sections
 16 1 through ~~4~~, unless the commission makes the determination that 3
 17 the person is qualified to interpret. The commission may designate
 18 the executive director of the commission or ~~another employee of~~
 19 ~~the department of SRS~~ a local agency to make such determination
 20 and approval under the provisions of sections 1 through ~~4~~. A person 3
 21 is qualified to interpret if such person is able to interpret effectively,
 22 accurately and impartially, both receptively and expressively, using
 23 any necessary specialized vocabulary.

24 (e) If ~~preferable~~ by the deaf, hard of hearing or speech impaired preferred
 25 person and if feasible, other modes of communication, such as
 26 notetakers, open-captioning equipment, assistive listening devices
 27 or other technology may be used in place of an interpreter.

28 New Sec. 3. An interpreter who is employed to interpret, trans- 2
 29 literate or relay a communication between a person who can hear
 30 and a person who is deaf, hard of hearing or speech impaired is a
 31 conduit for the communication and may not disclose or be compelled
 32 to disclose, through reporting, testimony or by subpoena, the con-
 33 tents of the communication.

34 New Sec. 4. Any person ~~may have the right to enforce the pro-~~ 3
 35 visions of sections 1 through ~~4~~ in the district court. Nothing in shall
 36 sections 1 through ~~4~~ shall be construed to limit or impair rights
 37 existing under any other state laws. 3

38 Sec. 5. K.S.A. 75-4351 is hereby amended to read as follows: 4
 39 75-4351. A qualified interpreter shall be appointed in the following
 40 cases for persons whose primary language is one other than English;
 41 ~~or who are deaf or mute or both, not including any sign language~~
 42 ~~used by a deaf, hard of hearing or speech impaired person:~~ (a) In
 43 any grand jury proceeding, when such person is called as a witness;

, or who is a deaf, hard of hearing or speech impaired

(b) in any court proceeding involving such person and such proceeding may result in the confinement of such person or the imposition of a penal sanction against such person;

(c) in any civil proceeding, whether such person is the plaintiff, defendant or witness in such action;

(d) in any proceeding before a board, commission, agency, or licensing authority of the state or any of its political subdivisions, when such person is the principal party in interest;

(e) ~~when such~~ prior to any attempt to interrogate or take a statement from a person who is arrested for an alleged violation of a criminal law of the state or any city ordinance. ~~Such appointment shall be made prior to any attempt to interrogate or take a statement from such persons.~~

Sec. ~~6~~ K.S.A. 75-4353 is hereby amended to read as follows:

75-4353. (a) No one shall be appointed to serve as an interpreter for a person pursuant to the provisions of K.S.A. 75-4351, and amendments thereto, if ~~he or she~~ *such interpreter* is married to that person, related to that person within the first or second degrees of consanguinity, living with that person or is otherwise interested in the outcome of the proceeding, unless the appointing authority determines that no other qualified interpreter is available to serve.

(b) No person shall be appointed as an interpreter pursuant to the provisions of K.S.A. 75-4351, and amendments thereto, unless the appointing authority makes a preliminary determination that the interpreter is able to readily communicate with the person whose primary language is one other than English, ~~or who is deaf or mute, or both~~, and is able to accurately repeat and translate the statement of said *such* person.

[Sec. ~~7~~ K.S.A. 75-4352 is hereby amended to read as follows:

75-4352. (a) All interpreters appointed under the provisions of this act shall be appointed by the judge if the appearance is before any court or by the chairman or presiding or executive officer of any board, commission or agency by which the proceeding involving the person is being conducted. The court or agency conducting the proceeding shall determine and fix a reasonable fee for the services of the interpreter and may provide for the payment of such costs out of funds appropriated for the operation of the courts and agencies ~~or may, if deemed proper, assess the costs against the person receiving assistance. At no time shall the fees for interpreter services be assessed against the person receiving such services.~~

(b) Fees for interpreters paid by the state board of indigents' defense services shall be in accordance with standards adopted by such board.

whose primary language is one other than English or who is deaf, hard of hearing or speech impaired

- 1 [Sec. ~~6~~ K.S.A. 75-4354 is hereby amended to read as follows: 7
2 75-4354. (a) Every interpreter appointed pursuant to the provisions
3 of K.S.A. 75-4351, *and amendments thereto*, before entering upon
4 ~~his or her~~ *such interpreter's* duties, shall take an oath that ~~he or~~
5 ~~she~~ *such interpreter* will make a true interpretation in an under-
6 standable manner to the person for whom ~~he or she~~ *such inter-*
7 *preter* is appointed, and that ~~he or she~~ *such interpreter* will repeat
8 the statements of such person in the English language to the best
9 of ~~his or her~~ *such interpreter's* skill and judgment.
- 10 [(b) An interpreter who is employed to interpret, transliterate
11 or relay a communication between a person who can speak English
12 and a person whose primary language is one other than English is
13 a conduit for the communication and may not disclose or be com-
14 pelled to disclose, through reporting, testimony or by subpoena, the
15 contents of the communication.]
- 16 Sec. ~~7~~ K.S.A. 75-4351 and[, 75-4352,] 75-4353 [and 75-4354] 8
17 are hereby repealed.
- 18 Sec. ~~8~~ This act shall take effect and be in force from and after 9
19 its publication in the statute book.
- 7-1

Proposed Amendment to HB 2257

New Section 1. A qualified interpreter shall be secured for any person who is deaf, hard of hearing or speech impaired in any grand jury, court or jury proceeding whether such person is a plaintiff, defendant, juror or witness in such action, and the interpreter shall interpret throughout the actual trial and during the time that the jury is sequestered or engaged in its deliberations.

By renumbering the remaining sections

*G.O. Comm.
Attachment 2
3/16/93*



Testimony on H.B. 2257
before the
Senate Committee on Governmental Organization
by

Norman D. Wilks, Director of Labor Relations
Kansas Association of School Boards

March 16, 1993

Mr. Chairman and members of the committee: On behalf of the members of the Kansas Association of School Boards we wish to express our opposition to the passage of H.B. 2257 as it is now written.

Our opposition is centered on the language added in New Section 1 and the related parts of New Section 2 and 4. Our members now provide services to students, employees and the public as required by the Americans With Disabilities Act, Section 504 of the Civil Rights Act, state and federal laws governing special education services and the Kansas Acts Against Discrimination.

Trying to review previous discussions on this topic, it appears the proponents are really trying to accomplish the following four changes: 1) provide a qualification system for interpreters, 2) recommend fees of interpreters and relieve the person receiving the service from paying of any fee, 3) provide interpreters for jurors, and 4) maintain the confidential nature of the communication between

*G.O. Committee
Attachment 3*

3/16/93

the interpreter and the person receiving the service. In our opinion, all of these issues can be addressed by amendment of current law, Section 5 through 8 of H.B. 2257. It is not necessary or beneficial to create another standard to determine when an interpreter shall be provided for the deaf, hard of hearing or speech impaired.

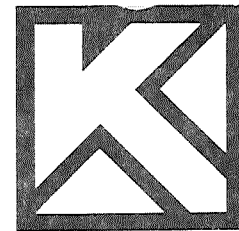
We wish to make it clear that we are not opposed to the providing of interpretive or other kinds of services to the deaf, hard of hearing, speech impaired or other handicapped individuals. Our members are doing just that through a variety of programs required by current law. The addition of New Section 1 would not increase services to the deaf, hard of hearing or speech impaired, but make it more difficult or confusing for the service provider to meet the standards of this bill in addition to current law.

We urge the committee to remove New Section 1 and related reference sections and address the remaining policy considerations by amending K.S.A. 75-4351, et sec. Thank you for your consideration of this matter.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV 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

HB 2257

March 16, 1993

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
Senate Committee on Governmental Organization
by
Terry Leatherman
Executive Director
Kansas Industrial Council

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to explain why KCCI has concerns regarding HB 2257.

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.

The Kansas Chamber's principal objection to HB 2257 is in new Section 1(f), which includes employment situations in the area of state law requiring the hiring of qualified interpreters to assist individuals with hearing or speech impairments. If this accommodation is not provided by employers, new Section 4 of HB 2257 permits the aggrieved

*L. O. Cowan
Attachment 4
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individual to pursue a district court action, in addition to other remedies afforded by state law.

In objecting to this provision, KCCI is not suggesting that hearing and speech impaired individuals should not have access to interpreters in employment settings, or even that it is the responsibility of employers to provide the interpreter at their expense. Individuals with physical challenges deserve the opportunity to compete for employment. Providing accommodations levels the playing field, permitting the physically challenged to win, or lose, an employment opportunity on their skills and abilities.

However, KCCI contends hearing and speech impaired persons do not need the provisions in HB 2257 to compete in the employment arena. In 1991, the Kansas Legislature approved legislation to amend the Kansas Act Against Discrimination to grant physically challenged Kansans the rights granted under the federal Americans With Disabilities Act. In fact, the Kansas Act goes a step beyond the federal ADA by applying its provision to employers of four or more employees, rather than the 15 employee provisions in the ADA.

The amended Kansas Act certainly includes hearing and speech impairments in the definition of disability. The Kansas Act requires disabled individuals be hired for available employment if they are the most qualified applicant for a position, without regard to their disability. For qualified disabled individuals, employers also must provide reasonable accommodations to permit them to perform their job duties, unless the accommodations place an undue hardship on the employer. In addition, an enforcement mechanism is established for physically challenged Kansan to pursue to force employer compliance of the Kansas Act Against Discrimination.

By passing HB 2257, the Kansas Legislature would be establishing an additional protection for one component of the physically challenged population. Because KCCI feels the providing of an interpreter in employment situations for the hearing and speech impaired is an assured right, the Kansas Chamber would urge the Committee to delete this provision of HB 2257.

Thank you for the opportunity to comment on HB 2257. I would be happy to answer any questions.



Kansas Department of Human Resources

Joan Finney, Governor
Joe Dick, Secretary

Kansas Advisory Committee on Hispanic Affairs

1321 S.W. Topeka Boulevard, Topeka, Kansas 66612-1816
913-296-3465 --- 913-296-5112 (Fax)

AMENDED H.B. 2257

The Kansas Advisory Committee on Hispanic Affairs expresses its conditional support for Amended H.B. 2257, with the following recommendations. It is our opinion that with these additional amendments the legislative intent and spirit of the law to protect the rights of those persons who cannot communicate in the spoken English language will be more completely served. Our concern focuses on the portions of the proposed statute that deal specifically with "persons whose primary language is one other than English".

Beginning with Sect.5, which amends K.S.A. 75-4351, we recommend Subsection (a) read just as Subsection (a) does in NEW Section 1, which deals with deaf persons:

Recommendation: Sect. 5, K.S.A. 75-4351(a)

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LINE 43 **Replace with the following:**

(a) In any grand jury, court or other jury proceeding, whether such person is the plaintiff, defendant, respondent, juror or witness in such action, and the interpreter shall interpret throughout the actual trial or proceeding, and during the time in which the jury is sequestered or engaged in its deliberations;

PAGE 3

LINE 1 **Amend to include this language:**

(b) In any **CRIMINAL** court proceeding involving such person **IF** such proceeding may result in the **INCARCERATION** of such person or the imposition of a penal sanction against such person;

LINE 8 **Amend to include this language:**

(d) ... when such person is **A** party in interest;

LINE 11 **Amend to include this language:**

(e) ... a criminal law of the state, any city ordinance **OR ANY COUNTY CODE;**

*By O. Comm.
Attachment 5
3/16/93*

PAGE 3

LINE 13 **ADD the following Subsections (f) & (g), in order to protect the same rights for non-English speaking persons as are protected for the deaf in [New Sect.1, Subsections (d) & (f)]:**

(f) in any services, programs or activities of any institution, department or agency of the state of Kansas through which benefits are provided, or any political subdivision, provided that it does not cause undue burden or undue hardship;

(g) In any employment situation, including but not limited to hiring, discharge or any other conditions or privileges of employment, provided it does not cause undue burden or undue hardship. **[Like Worker's Comp and Job Service interviews for unemployment benefits or appeal hearings.]**

Section 6, which amends K.S.A. 75-4353:

PAGE 3

LINE 24 **Amend** to include the following language:

(b) ... such person shall be certified by and registered with {the Kansas Advisory Commission on Hispanic Affairs} or some other appointing authority competent to determine the interpreter is qualified to serve as an interpreter for persons whose primary language is one other than English, makes a preliminary determination

ADD AFTER LINE 28, PAGE 3:

(c) The court, chairperson, presiding officer of the board, agency committee or entity shall be responsible for assuring the procurement of the interpreter.

[As it stands now, there is no mention made as to who has the responsibility for the procurement of interpreters for non-English speaking persons.]

Section 8, which amends K.S.A. 75-4354:

PAGE 2

LINE 34, **CHANGE** the following language of NEW SECTION 4:

"Any person may have the right to enforce the provisions of K.S.A. 75-4351 through 75-4354 in the district court. Nothing in K.S.A. 75-4351 through 75-4354 shall be construed

[The reason for this is to avoid a misunderstanding that the referenced RIGHT is not just appropriated to the deaf.]

5-2

It is recommended that the following sections in HB No. 2257 be amended in addition to those proposed to be amended by the Senate Committee:

1. New Section 1 (formerly Sec. 2) (c): The last sentence shall be amended as follows:

Exceptions can be made in extreme conditions, provided that diligent effort shall be made to secure a certified or registered interpreter. (remove the provision "subject to the approval of the commission.)

2. New Section 3 (formerly Sec. 4):

Any person shall have the right to enforce the provision of sections 1 through 3 in the district court. Nothing in section 1 through 3 shall be construed to limit or impair rights existing under any other state or federal laws.

3. New Section 4 (formerly Sec. 5) (c):

(c) in any court proceeding, whether such person is the plaintiff, defendant, juror, or witness in such action, and in the case of a deaf, hard of hearing, speech impaired juror, the interpreter shall interpret throughout the trial and during the time in which the jury is sequestered or engaged in its deliberation.

G. O. Comm.
3/16/93
Attachment 6