

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY.

The meeting was called to order by Chairman David Heinemann at 10:40 a.m. on March 29, 1994, in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Jerry Ann Donaldson, Legislative Research Department  
Jim Wilson, Revisor of Statutes  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Susan M. Seltsam, Secretary of Administration

Others attending: See attached list

**Hearing on SB 834 - Civil service; discipline of certain employees.**

Chairman Heinemann open the hearing on SB 834. Susan Seltsam, Secretary of Administration, testified in support of the bill. SB 834 amends current law regarding state employees exempt under the federal Fair Labor Standards Act. The bill prohibits exempt employees from being placed on unpaid, disciplinary suspensions for less than the employee's standard workweek, except in cases of major safety violations. Exempt employees must be paid on a salary basis and be considered in pay status for absences of less than a full day for illness or personal reasons and for absences of less than a workweek for jury duty, attendance as a witness, or temporary military leave.

SB 834 codifies the administration of Department of Labor regulations as they pertain to exempt employees. Prior to 1985 governments were not considered employers under the Fair Labor Standards Act. The state has been operating under two policy statements issued by the Division of Personnel Services. Approximately 90 percent of employees in the state of Kansas are entitled to overtime compensation; this legislation would apply to the other 10 percent of state employees, mostly high level managerial staff. Federal law must be followed and this would put it in the Kansas statutes. (Attachment 1) This closed the hearing on SB 834.

Representative Pauls moved that SB 834 be effective upon publication in the Kansas Register, instead of the statute book. Representative Cornfield seconded, motion adopted.

For better clarification, Representative Garner moved to change the numbering in Section 2. On Page 1, Line 42, it was changed to (b) (1); on Page 2, Line 2, it was changed to (1) (A) and on Line 4, it was changed to (B); and on Line 6, the paragraph was numbered (2). Representative Pauls seconded the motion. Motion carried.

Representative Nichols moved with Representative Webb seconding to amend HB 2214 into SB 834. HB 2214 concerns dismissals, demotions, suspensions and other discipline of classified state employees. The House Committee on Appropriations had held hearings, but had not voted on the bill. Susan Seltsam, Secretary of Administration, and Tess Banion, KAPE, (Attachment 2) responded to committee questions and comments concerning HB 2214. After much discussion of the demerit point system and non-uniformity among state agencies, the motion failed.

Representative Lane moved to recommend SB 834 favorably for passage as amended. Representative Mayans seconded, motion carried.

The meeting adjourned at 11:30 a.m.

## GUEST LIST

COMMITTEE: HOUSE LABOR AND INDUSTRY

DATE: 3-29-94

[illegible]

HOUSE LABOR AND INDUSTRY COMMITTEE

March 29, 1994

TESTIMONY PRESENTED BY SUSAN M. SELTSAM  
SECRETARY OF ADMINISTRATION

Mr. Chairman, Members of the Committee:

Senate Bill No. 834 would place in statute two policy statements previously issued by Division of Personnel Services. The Bill, as did the policy statements, embodies existing requirements of the Fair Labor Standards Act (FLSA) regarding exempt status to ensure that civil service statutes and regulations are interpreted in conjunction with the FLSA.

Employees in exempt positions do not qualify for overtime, however, to be exempt the position must meet a series of tests established under Department of Labor regulations relating to payment of a salary and the defined nature of the duties and responsibilities for that position. In summary, this bill codifies the administration of Department of Labor regulations as they pertain to exempt employees.

I urge your support of Senate Bill 834.

*House Labor and Industry  
Attachment 1  
3-29-94*

DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL SERVICES

PERSONNEL SERVICES POLICY STATEMENT NO. 37

SUBJECT: Reduction of Salary of Exempt Employees for Absence of Less Than One Workday, for Attendance as a Witness, or for Temporary Military Leave

REFERENCE: K.A.R. 1-5-5; K.A.R. 1-9-7b; K.A.R. 1-9-7c; K.A.R. 1-9-8

POLICY/PROCEDURE:

1. Payment of employees exempt under the Fair Labor Standards Act (FLSA) for absences of less than one full workday.
  - A. Exempt employees who are absent from work for less than one full workday, shall be considered to be in pay status, as defined in K.A.R. 1-5-5(c), for the full workday and shall be compensated for a full workday. Compensation for periods of absence of less than one full day shall be as follows:
    - 1) If the employee has sick leave credits, annual leave credits, or other paid leave, the employee shall be required to use such paid leave, as appropriate; or
    - 2) If employees do not have the appropriate leave accrued, they shall receive their full rate of pay as determined by their salary range and step and individual position.
  - B. Proportionate pay as described in K.A.R. 1-5-5(b) or any other reduction in regular rate of pay is not applicable when exempt employees are absent from work for less than one workday for any purpose.
2. Payment of employees exempt under FLSA for absences caused by attendance as a witness for oneself, or temporary military leave.
  - A. Exempt employees who are absent from work for less than a week because of service as a witness on one's own behalf, as defined under K.A.R. 1-9-8(a)(2), shall be considered in pay status and shall be compensated at the full rate of pay.
  - B. Exempt employees who are on temporary military leave of less than one week, shall not receive deductions from pay under K.A.R. 1-9-7b(a)(1), 1-9-7b(b), 1-9-7b(e) or 1-9-7c(b). Such employees shall be considered in pay status during the temporary military leave.

3. Determining appropriate reimbursement.

A. Agency Personnel Officers shall:

- 1) Review management records of absences after April 15, 1986, to determine if employees have had their pay reduced inappropriately under paragraphs 1 and 2 of this policy statement.
- 2) Determine appropriate reimbursement; and
- 3) Forward this information to the Director of the Division of Personnel Services for review and approval.

B. In order to minimize future liability, agencies must reimburse exempt employees for inappropriate salary reduction. Generally, restoration of employee's reduction of pay will be made back to April 15, 1986.

EFFECTIVE DATE: September 13, 1990.

DEPARTMENT OF ADMINISTRATION  
DIVISION OF PERSONNEL SERVICES

RECEIVED

MAR 17 1994

Secretary of Administration

PERSONNEL SERVICES POLICY STATEMENT NO. 40

SUBJECT: Reduction of Salary of Exempt Employees for suspensions without pay for less than an entire designated workweek.

REFERENCE: K.A.R. 1-10-6, K.S.A. 75-2949, K.S.A. 75-2949d.

POLICY/PROCEDURE:

1. For purposes of this policy statement designated workweek means seven consecutive 24 hour periods.
2. Exempt employees shall only be suspended without pay for the employee's entire designated workweek or complete multiples of such workweek unless the suspension is for an infraction of safety rules of major significance.
3. If an agency has a situation that may qualify as an infraction of a safety rule of major significance, the agency must report it to DPS and receive written approval prior to such proposed suspension unless that suspension is for the employee's entire designated workweek or complete multiples of such workweek.
4. Agencies must reimburse exempt employees for inappropriate salary reductions for suspensions of less than the employee's entire designated workweek. Reimbursements of inappropriate salary reductions are to be made in accordance with procedures issued by the Division of Personnel Services in a memorandum from the Director dated July 7, 1993 and any amendments thereto.

EFFECTIVE DATE: July 7, 1993

July 1993

40:1

1-4

# KAPE JOURNAL

*Pass it on to a Non-Member!*

VOL. 33 NO. 1

KANSAS ASSOCIATION OF PUBLIC EMPLOYEES • 1300 SW TOPEKA BLVD. • TOPEKA, KS 66612

JAN 1994

## KAPE Fights for Bill to Ban Point System

### *Imagine this..*

◆Your house is robbed while you are at work, and the police call and request that you fill out a police report immediately. You must leave work to do so. You are given a demerit for your absence. Nine demerits or "points" and you're without a job. Or..

◆You have a sick child and must take him to the doctor for a prescription and you are late for work. You receive a point. Eight more and you're out of a job. Or...

◆You are sick on Monday, but

you feel a little better by afternoon and go to work to put in a few hours. Tuesday you feel absolutely awful and miss work again. By afternoon, you go into work again to put in a couple more hours. The same on Wednesday. You receive 3 demerits. If you simply had been sick all week without coming back to work in the afternoons, you would have received only one "point".

### **Not fair, huh?**

KAPE is trying to put a stop to this unfair point system used in some state agencies. House Bill 2214

outlines in detail that "no classified state employee may be dismissed, demoted or suspended as the result of attendance policies based solely on a point system."

Last week, KAPE testified before the House Appropriations Committee to pass HB 2214. The Committee has yet to vote on the bill.

If you as a KAPE member would like to help pass legislation, write or phone the legislators who are on key committees. A legislator changed his vote in our favor last year after receiving 25 phone calls

*Continued on page 2*

### **Point System...cont. from p.1**

in one afternoon. A combined, well-orchestrated effort by KAPE members can make the difference between a yes or a no.

*House Jobs and Industry  
Attachment 2  
3-29-94*