

Approved: May 11, 2012

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(Date)

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Kinzer at 3:30 PM on Thursday, February 9, 2012 in 346-S of the Capitol.

All members were present except:

Pat Colloton  
Ron Ryckman  
Annie Tietze  
Ponka We Victors

Committee staff present:

Katherine McBride, Office of Revisor of Statutes  
Jason Thompson, Office of Revisor of Statutes  
Lauren Douglass, Kansas Legislative Research Department  
Robert Allison-Gallimore, Kansas Legislative Research Department  
Nancy Lister, Committee Assistant

Conferees appearing before the Committee:

Others in attendance:

See attached.

Chairman Kinzer stated the Committee has one bill to hear today, on the open records exceptions bill, which has no Conferees other than the staff revisor. Chairman Kinzer advised he would like the Committee to consider final action on **HB 2207** and **HB 2313**. On February 13<sup>th</sup>, he would like the Committee to consider final action on **HB 2482**, **HB 2483** and **HB 2530**, and hopes to have a schedule for working bills for the balance of the week as well.

Chairman Kinzer opened the hearing on **HB 2569—Legislative review of exceptions to disclosure of public records** and asked Katherine McBride to explain the contents of the bill. Ms. McBride explained they are renewing the exceptions that are set to expire and extending them until July 31, 2017.

Chairman Kinzer stated, for those who might not be familiar with the process, there are a variety of exemptions to the Open Records Act. The way the Open Records Act is structured, every few years every exception has to be reviewed by the Legislature to reach a determination of whether the exception will remain in place or whether it will be removed in whole or in part.

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Ms. McBride provided examples of the exceptions covered and what type of particular records may remain confidential. For the Fort Scott Bourbon County Riverfront Authority, all resolutions and proceedings of the Authority and all documents and records in the possession of the Authority are open for public inspection except those kept or prepared by the Board for use in contract negotiations or civil proceedings. The collection of fingerprints, blood, and saliva by the Kansas Bureau of Investigation is an exception. Fingerprints and photographs of juveniles taken into custody in child care facilities is an exception. Information and data of the State Lottery, the Racing and Gaming Commission, Office of the Inspector General, and the Kansas Health Policy Authority, which is now the Division of Health Care Finance of the Department of Health and Environment, are exceptions.

Chairman Kinzer asked Ms. McBride to forward a copy of the Kansas statute on the Kansas Open Records Act with the exceptions to his office and he would have the information e-mailed to the Committee for their review prior to working the bill.

Chairman Kinzer stated subject to the information that staff is going to provide, the hearing is closed on **HB 2569**.

Chairman Kinzer asked Representative Bruchman provide a brief explanation of the content of **HB 2207–Relating to series limited liability companies** in anticipation of taking final action on the bill.

Representative Bruchman explained **HB 2207** creates a new Limited Liability Company (LLC), the Series LLC. Some of the benefits it creates are corporate-like protections, partnership tax advantages, and contractual flexibility. In that entity, there can be varied profit distributions, altering voting rights, and there are different management choices. The bill creates a new class of entity that will work with the Delaware structure or the Uniform LLC structure. It adopts the current and existing LLC law and incorporates it into the Series LLC entity.

*Representative Bruchman moved, Representative Hildabrand seconded, to recommend **HB 2207** favorably for passage.*

Representative Bruchman proposed a balloon amendment to the bill, which staff left to retrieve. Chairman Kinzer stated he'll hold off continuing **HB 2207** for a few minutes until the proposed amendment is available to the Committee to review.

Chairman Kinzer asked the Committee to consider taking final action on **HB 2313–Creating an out of state juvenile offender registration requirement**. Jason Thompson handed out a

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balloon amendment for the Committee to consider and provided an overview of the bill and balloon content. (Attachment 1)

*Chairman Kinzer moved, Representative Brookens seconded, to amend **HB 2313** by adopting the balloon amendment, and in new section 1 (c), clearly delineate that new section 1 (c) does not apply to habeas actions. Motion carried.*

*Representative Brookens moved, Representative Alford seconded, to recommend **HB 2313** as amended favorably for passage. Motion carried.*

Chairman Kinzer announced the Committee would return to consider final action on **HB 2207**. Representative Ward stated there were two bills on LLC, **HB 2207** and **HB 2261**, and suggested **HB 2207** be sent to the Judicial Council to study it and report back next year. Chairman Kinzer stated he wrote a letter last year at the end of session asking the Judicial Council to accept both **HB 2207** and **HB 2261** for study and was told by the Judicial Council that they lacked the resources to undertake a study of that magnitude. Chairman Kinzer stated in fairness, the Kansas Bar Association is doing a study right now in one of their sections and will be discussing Series LLC. Chairman Kinzer offered if the bill does not advance, and if it is the consensus of the Committee, he would ask again, with emphasis, that the Judicial Council consider studying **HB 2207** again, but he would like the Committee to decide what they want to do with the bill today.

Copies of the balloon amendment for **HB 2207** were passed out to Committee members and staff. (Attachment 2)

*Representative Bruchman moved, Representative Rubin seconded, to amend **HB 2207** with the balloon amendment **Sub HB 2207**.*

Representative Bruchman discussed the changes made in the balloon, stating there are four major improvements in the balloon. The substitute bill updates the filing requirements to comply with the Secretary of State's requested revisions and their internal office policy with regards to a file stamp copy. Representative Brookens also brought up issues concerning agricultural LLCs, and this bill adopts all of the language of our existing LLC statute, which should cover any agricultural issues. The Bankers asked for notice provisions and they are incorporated in the bill. This version added language to reinforce the separate entity provisions just to make it closer, with respect to bankruptcy interpretation. The Internal Revenue Services' newest proposed treatment of Series LLCs as separate entities was reviewed. There was language incorporated in the bill from the Illinois statute, which clarifies the bankruptcy treatment, as Illinois has dealt with the liquidation of a Series LLC.

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Representative Bruchman moved, Representative Rubin seconded, to amend **HB 2207** with the balloon amendment **Sub HB 2207**. Motion carried.

Representative Bruchman moved, Representative Rubin seconded, to recommend **Sub for HB 2207** favorably for passage as amended. Motion carried.

The next meeting will be held on February 13, 2012.

The meeting was adjourned at 4:31 p.m.