

## MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Wednesday, March 10, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator David Haley - Arrived 10:05  
Senator Derek Schmidt - Arrived 9:43  
Senator Edward Pugh - Arrived 9:45

Committee staff present:

Mike Heim, Kansas Legislative Research Department  
Jill Wolters, Office of the Revisor Statutes  
Helen Pedigo, Office of the Revisor Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Jerry Elliott, Kansas Judicial Council and Civil Code Advisory Committee  
Jim Clark, Kansas Bar Association  
Jerry Goodell, Kansas Judicial Council and Law Advisory Committee

Others attending: See attached list.

### **HB 2553 - Relating to the time for filing claims against a municipality**

Chairman Vratil opened the hearing on **HB 2553**. Jerry Elliott, representing the Kansas Judicial Council and Civil Code Advisory Committee, testified in support of **HB 2553**. He explained the proposed bill was intended to clarify the relationship between the 120 day notice requirement and the 2 year statute of limitations for torts. He stated the bill makes the tolling provision clear and removes the "trap" that has befallen other plaintiffs. (Attachment 1)

Committee questions and discussion followed.

Jim Clark, Kansas Bar Association, submitted written testimony in support of **HB 2553**. (Attachment 2)

There being no opponents to testify, the Chairman closed the hearing on **HB 2553**.

### **HB 2555 - Amendments to the probate code; preparation of a will; claims against the estate; partial distribution**

Chairman Vratil opened the hearing on **HB 2555**. Jerry Goodell, representing the Kansas Judicial Council and Law Advisory Committee, spoke in support of the proposed legislation. He explained that the bill clarifies that adopted children are included in the exception and conforms the language used in Section 1. He said that the bill also keeps Section 2 consistent with a similar requirement contained in the proposed non-claim statute for trustees. He added the Committee felt that some form of notice, but not necessarily publication notice, was appropriate and included the wording for such a change. (Attachment 3)

Chairman Vratil asked for clarification of the amendment requested in Section 2 which indicated if executors have actual notice of a claim against the estate, then they must give notice to the creditor and the creditor has 30 days to file. Mr. Goodell responded that was the intent of this language.

Jim Clark, Kansas Bar Association (KBA), spoke in favor of **HB 2555**. KBA suggested a change on page 1, line 14, the phrase "or trust" should be deleted. He explained that since **HB 2556** contains identical language as applied to scrivener's of trusts, a reference to trusts in this bill is superfluous, and/or possibly redundant. **HB 2555** deals only with a will. (Attachment 4)

There being no opponents to appear to testify, the Chair closed the hearing on **HB 2555**.

### **HB 2556 - Uniform Trust Code amendments**

CONTINUATION SHEET

MINUTES OF THE SENATE JUDICIARY COMMITTEE at 9:35 a.m. on Wednesday, March 10, 2004, in Room 123-S of the Capitol.

Chairman Vratil opened the hearing on **HB 2556**. Jerry Goodell, representing the Kansas Judicial Council (KJC) and the Law Advisory Committee, testified in support of the proposed bill including numerous KJC's amendments and technical changes as outlined in detail in the written testimony submitted.

(Attachment 5)

Committee questions and discussion followed.

Jim Clark, Kansas Bar Association, spoke in favor of **HB 2556**, and the Judicial Council's proposed amendments. (Attachment 6)

There being no opponents to appear to testify, the Chairman closed the hearing on **HB 2556**.

**Final Action on:**

**HB 2312 - Time limitations for defendant to be brought promptly to trial**

Chairman Vratil called for discussion and final action on **HB 2312**. He explained that the bill concerned criminal procedures and speedy trial requirements. The Chairman said the only issue he saw in the bill was the House amendment, and referred to Wyandotte County's Assistant District Attorney's testimony before the Senate Judiciary Committee, stating that the House amendment would put the bill back to the original problematic situation. The House amended the bill to indicate that the number of days a criminal defendant had already spent in jail would be subtracted from the 90 day limitation. When the case comes back to the District Court for trial there could be two or three days left in which to commence the trial.

Senator Schmidt made a motion to amend the bill by striking the House amendment, and seconded by Senator Oleen.

Following brief Committee discussion, the Chair called for a vote to amend. The motion carried. Senator Haley requested his "no" vote be recorded.

Senator Goodwin made a motion to pass **HB 2312** favorably as amended, seconded by Senator Schmidt, and the motion carried. Senator Haley requested his "no" vote be recorded to pass the bill favorably.

**HB 2618 - Terms of office of court of appeals judges six years, from current four years**

Chairman Vratil called for discussion and final action on **HB 2618**. The Chair explained the bill and asked the Committee members to consider amending **SB 19** into the bill. He clarified what **SB 19** would do and that it mainly affected District Court judges. After considerable discussion and explanation of reasoning, the Committee decided to forego amending **SB 19** into **HB 2618**.

Senator O'Connor moved to recommend **HB 2618** favorably for passage, seconded by Senator Oleen, and the motion carried.

**HB 2553 - Relating to the time for filing claims against a municipality**

Chairman Vratil called for discussion and final action on **HB 2553**. He explained the bill, and said it was non-controversial.

Senator Pugh moved to pass **HB 2553** out favorably, seconded by Senator Donovan, and the motion carried.

**HB 2555 - Amendments to the probate code; preparation of a will; claims against the estate; partial distribution**

Chairman Vratil called for discussion and final action on **HB 2555**. He explained the bill, and reminded the Committee that the KBA suggested a change on page 1, line 14, of deleting the phrase "or trust".

Senator Donovan moved to adopt the suggested amendment by the KBA, seconded by Senator Goodwin, and the motion carried.

Senator O'Connor made a motion to pass **HB 2555** out favorably as amended, seconded by Senator

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Donovan, and the motion carried.

**HB 2556 - Uniform Trust Code amendments**

Senator Vratil called for discussion and final action on **HB 2556**.

Senator Goodwin moved to pass **HB 2556** out favorably, seconded by Senator Donovan, and the motion carried.

Minutes for the February 4, 2004, meeting were presented for approval. Senator Donovan moved to approve the minutes as written, seconded by Senator Schmidt, and the motion carried.

The meeting was adjourned at 10:30 a.m. The next scheduled meeting is Thursday, March 11, 2004.