

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on February 5, 2004 in Room 123-S of the Capitol.

All members were present except:

Senator Chris Steineger- absent

Committee staff present:

Kathie Sparks, Legislative Research
Susan Kannarr, Legislative Research
Helen Pedigo, Revisor of Statutes
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

Gary White, Kansas Trial Lawyers Association
Wendell Bailey, U.S. Small Business Administration, Kansas City Regional Advocate
Hal Hudson, NFIB
Greg A. Foley, Asst Sec. Of Agriculture

Others attending:

See Attached List.

Chairperson Brownlee continued the hearing on:

SB 334—Limiting liability of persons involved in agritourism

The Chair asked if anyone else wanted to speak to the bill. She stated that the committee had heard testimony from the trial lawyers on the bill, and asked the audience if there were any additional amendments to the bill or anything they would like to add.

Senator Jordan stated that Scott Allegrucci has done a good job on putting a package together; he stated that he would like to know what is already budgeted in FY '05 for agritourism.

Mr. Allegrucci stated that there is no specific line for agritourism, except that currently in the first phase of agritourism initiative this year, there is about \$106,000 set aside for promoting agritourism development and marketing initiatives. He stated that they do not know what the next phase will be because the level of engagement has not yet been determined; agriculture products marketing division has already agreed to focus on agritourism going into FY '05 using some of their grants and loan packages. He stated that he did not know if there was a specific amount that would be dedicated to agritourism, nor how that would be specifically applied. He stated that at this time, he did not have the staff nor the expertise to go onto a farm and try to determine if it is marketable; he would need to hire another person or transition a staff position to pursue product development.

Senator Jordan stated that his point was that the administration has planned budgetwise to make something happen. Mr. Allegrucci agreed that there was a recognition that it was a priority, but that the allocations are not specifically set.

Chairperson Brownlee stated that she did not think that the bill included a requirement for on-site visits.

Mr. Allegrucci stated that his interpretation of the bill was that the Secretary of Commerce would be responsible for making a decision about the nature of these operations related to economic development potential.

Chairperson Brownlee stated that the bill indicated that the Secretary would review the application and consider whether they think the application will further the purpose of the act by promoting economic development in agritourism and that he would maintain a list of designated agritourism locations and the activities conducted at those locations and promote and publicize them. She stated that she thought it was more simple than needing a full FTE for them.

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Mr. Allegrucci stated that the issue is that he does not have anyone qualified to do reviews except marketing staff, and he did not believe that they would have the experience and skills. He stated that he was uncertain of what would be expected of his division.

Chairperson Brownlee stated that it looked as though some things might be worked out in Rules and Regulations, but that it may just be that the application requires pictures.

Chairperson Brownlee asked for additional questions, and there were none. Chairperson Brownlee invited Mr. Gary White, Kansas Trial Lawyers, to have an opportunity to answer questions from the committee since there had not been adequate time for this the previous day.

Mr. White stated that there were a couple of issues including the agritourism industry's concern about the availability of insurance and whether they have insurance. He stated that this was a concern that still had not been answered. He stated that the issues would include: whether the farm policy is issued in the state of Kansas and whether master farm policies would cover agritourism activities. He stated that if this was the case, then they would already have coverage. He also stated that insurance companies who write master farm policies in Kansas should be mandated to at least offer a rider for agritourism activities. He stated that if insurance costs did increase, it would be important to study if this would be an appropriate application of tax credits. He concluded that another issue suggested last year would be to create a self-insurance pool that would provide protection to consumers injured on these properties. He stated that policy details should be laid out in a brochure from the Insurance Commissioner's office.

Chairperson Brownlee closed the hearing on **SB 334**.

Senator Jordan described the history of the bill to the committee, outlining compromises that had been made by both sides in an effort to produce a palatable bill.

Following further discussion, Senator Jordan stated that the bill was significantly supported by the Senate last session and that this was a good compromise bill. Senator Jordan moved to amend the bill according to the KLA amendment tying back to the recreational use statutes; Senator Wagle seconded. The motion passed.

Senator Barone moved to the end of paragraph d, p. 2, line 31 following applicant to insert that "if the secretary has not approved or denied the application 30 days after the application is filed, then the designation shall be deemed granted for a period of 5 years." Senator Emler seconded. The motion passed.

Senator Emler asked if the committee needed to specify that the intent of the bill was not to require an on-site visit. Senator Bunten stated that any bill with a fiscal note would end up in Ways and Means. He suggested that the committee contact the Chair of the subcommittee on Commerce (Senator Kerr). Senator Kerr stated that it would not be necessary since he was that Chair.

Senator Barone moved to change the word wanton for willful; Senator Emler seconded.

Senator Jordan stated that he respected what Senator Barone was asking, but he was reluctant to change the language given the way the bill was written.

The motion failed.

Senator Jordan moved the bill favorably as amended; Senator Brungardt seconded. The motion passed.

Chairperson Brownlee opened the public hearing on:

SB 375–Kansas regulatory flexibility act

Mr. Bailey presented testimony to the committee in favor of the bill. (Attachment 1) He also provided the committee with a news release from the SBA Office of Advocacy. (Attachment 2) The committee received two publications from the SBA: a pamphlet about the SBA, and a booklet entitled, "Small Business Friendly Regulation: Model Legislation for States, December 2002" both of which are available from the SBA or are available at <http://www.sba.gov/advo/>. He stated that the impact of legislation on Small Business should be

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taken into account before the implementation of new regulations and that this would parallel procedures and considerations already taken into account on the federal level. He explained that judicial review, which currently does not exist in Kansas, allows businesses who have exhausted administrative remedies and small business has agreed, they can take it into the judicial system. He also stated that in times of economic recovery, small business created two-thirds of the new jobs.

Senator Brungardt stated that the Federal government often takes a one-size fits all approach, so he could see a reason they would need to take small business into special account; however, in the state of Kansas most all business was small business. He stated that this legislation seemed to stretch credibility by enacting less stringent files and reporting, deadlines, and consolidation of reporting, which seemed to encompass 90% of what the Legislature does, then what is the point? Mr. Bailey replied that the point was to try and eliminate overly burdensome regulations. He gave examples of regulations at both the Federal and local levels as being too heavy. He stated that it was an attempt to create a dialog between small businesses and the regulatory process that does not exist today. Senator Brungardt stated that more than dialog, the idea to demand court review seems to go far beyond, but that he thought it was a nice reminder to government to keep small businesses in mind and the impact legislation can have, but that he could not imagine putting this into state law.

Mr. Hudson presented testimony in favor of the bill. (Attachment 3) He stated that the legislation would give small business owners greater input into regulations, and that is was the rules and regulations of administration, not the laws of the legislature, that caused angst.

The committee was referred to another attachment provided by Mr. Bailey entitled "Office of Advocacy Fact Sheet." (Attachment 4)

Mr. Foley presented testimony in opposition to the bill. (Attachment 5)

Written testimony was provided from Theresa Hodges, Director, Bureau Environmental Field Services, KDHE, in opposition to the bill. (Attachment 6) Her testimony stated that overall, the department believes this bill establishes redundant requirements for the agency's adoption of rules and regulations. The impacts of this bill are far-reaching, with significant fiscal impacts on all agencies having rules and regulations authority and with significant legal impacts on the regulated business community as a whole.

Written testimony was provided from Natalie Bright, Wichita Independent Business Association, in support of the bill. (Attachment 7) Her testimony stated that in response to a recent survey of their members, the most common response to how the Legislature could help grow small business was to reduce the amount of regulatory burden on their businesses.

Written testimony was provided by Christopher J. Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks, in opposition to the bill. (Attachment 8)

Chairperson Brownlee adjourned the meeting at 9:30 a.m. The next meeting will be at 8:30 a.m. on February 6, 2004 in Room 123-S of the Capitol.