

MINUTES OF THE House COMMITTEE ON TransportationThe meeting was called to order by Representative Rex Crowell at
Chairperson1:30 ~~xxx~~/p.m. on March 5, 1985 in room 519-S of the Capitol.All members were present ~~except~~:

Committee staff present:

Hank Avila, Legislative Research Department
Fred Carman, Office of the Revisor of Statutes
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Mr. David G. Tittsworth, Kansas Department of Transportation
Mr. Bob Morrissey, Federal Highway Administration
Mr. Billy McCray, Kansas Department of Economic Development
Mr. Alonzo Harrison, Association of Disadvantaged Enterprises
Mr. Glenn Coulter, Kansas Contractors Association
Mr. Bob Burke, Topeka, Kansas
Mr. Bill Edds, Kansas Department of Revenue
Representative Joan Wagnon
Mr. Ray Petty, Topeka, Kansas
Dr. Richard Schutz, Kansas Dept. of Social & Rehabilitation Services
Mr. Ed DeSoignie, Kansas Department of Transportation

The meeting was called to order by Chairman Rex Crowell. The first order of business was a hearing on HB-2462 concerning setting aside highway construction projects solely for disadvantaged enterprises.

Mr. David G. Tittsworth, Kansas Department of Transportation, testified in support of HB-2462. (See Attachment 1) He stated KDOT believes HB-2462 would be a useful tool in their overall program of developing and encouraging disadvantaged business participation. He added that according to a 1984 survey conducted by the American Association of State Highway and Transportation Officials, at least seven other states utilize "set asides" as a part of their disadvantaged business program.

Mr. Bob Morrissey, Federal Highway Administration, testified favorably concerning HB-2462.

Mr. Billy McCray, representing the Minority Business Division of the Kansas Department of Economic Development, presented favorable testimony concerning HB-2462. (See Attachment 2)

Mr. McCray stated this bill is a very brief yet concise measure which would give the Kansas Department of Transportation authority (at it's discretion) to set aside certain construction contracts for disadvantaged businesses.

Mr. Alonzo Harrison, a member of the Association of Disadvantaged Enterprises testified in support of HB-2462. (See Attachment 3)

Mr. Glenn Coulter of the Kansas Contractors Association appeared in opposition to HB-2462. (See Attachment 4)

Mr. Coulter said that members of the Kansas Contractors Association build over 90 percent of the highways, roads, streets and bridges in Kansas. He said that during the past 62 years they have opposed all set aside programs because they do not believe they are in the best interests of the citizens of Kansas or the nation.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S, Statehouse, at 1:30 ~~xxx~~ p.m. on March 5, 195.

The hearing on HB-2462 was concluded.

The next business was a hearing on HB-2549 concerning parking privileges for handicapped persons, and rental of motor vehicles by handicapped persons.

Mr. Bob Burke, Topeka, Kansas testified in favor of HB-2549. He urged passage of the bill as he feels there are too many handicapped permits being issued to persons who do not actually have impaired mobility.

Mr. Bill Edds of the Kansas Department of Revenue testified in support of HB-2549.

Representative Joan Wagon, spoke in favor of HB-2549, and addressed Section 2 of the bill. She told the Committee one of her constituents is blind and on occasion wants to hire a driver to drive a rental car for him. She related that passage of this bill will enable him to do this.

Mr. Ray Petty testified in favor of HB-2549. He said there are many individuals receiving handicapped parking permits who should not have them.

Dr. Richard Schutz of the State Department of Social and Rehabilitation Services testified in support of HB-2549. (See Attachments 5 and 6) He said the effect of passage of HB-2549 will be to introduce additional medical evidence and medical scrutiny into the process of issuing these special parking permits to handicapped persons and will thereby increase the likelihood that the special permits are in fact issued to individuals who deserve them.

The hearing on HB-2549 was concluded.

The next business was a hearing on HB-2474 concerning employment of project laborers during construction season by the Kansas Department of Transportation.

Mr. Ed DeSoignie, of the Kansas Department of Transportation testified favorably concerning HB-2474. (See Attachment 7) He said the bill would permit KDOT to hire temporary laborers for the construction season only without the 999 hour limitation.

This ended the hearing on HB-2474.

The next hearing was on HB-2493 concerning authority of the Secretary of Transportation in administering federal assistance for rail transportation service.

Mr. Ed DeSoignie of the Kansas Department of Transportation testified in support of HB-2493. (See Attachment 8) He said HB-2493 amends state law to make it consistent with federal rail legislation.

The hearing on HB-2493 was concluded.

Discussion was held concerning the reason for needing HB-2493, and Mr. John Scheirman of KDOT said the words "rail continuation subsidies" were in the original federal law and the original state statute was patterned after that federal law. He said the federal law has been changed and this bill is to change the state law to conform to the federal law.

The meeting was adjourned at 3:30 p.m.


Rex Crowell, Chairman

Kansas Department of Transportation

March 5, 1985

MEMORANDUM TO: House Transportation Committee
FROM: David G. Tittsworth *David G Tittsworth*
Chief Counsel
REGARDING: House Bill 2462

Section 105(f) of the 1982 Surface Transportation Assistance Act requires that "not less than ten per centum of the amounts authorized to be appropriated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals."

Pursuant to this provision, the Kansas Department of Transportation has implemented an active program designed to increase participation and development of disadvantaged businesses. During the past federal fiscal years, KDOT was successful in meeting the 10% goal established by Congress and approved by the Federal Highway Administration.

The primary approach which KDOT has utilized during the past two years in achieving our 10% goal of disadvantaged business participation is to set specific goals for each project as a contractual condition of eligibility for the award of prime contracts. This approach requires prime contractors to meet or exceed the goal established in each

*Attachment 1
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federally-aided project by utilizing disadvantaged businesses. KDOT also conducts seminars and training programs for disadvantaged businesses.

House Bill 2462 would provide another mechanism which could be utilized by KDOT to achieve the goals established by Congress. The bill permits the Secretary to "set aside" certain projects or portions thereof for bid by disadvantaged businesses solely. The bill is restricted to federal-aid projects and adopts terms contained in the federal legislation.

KDOT believes that House Bill 2462 would be a useful tool in our overall program of developing and encouraging disadvantaged business participation. At least seven other states utilize "set asides" as a part of their disadvantaged business program, according to a 1984 survey conducted by the American Association of State Highway and Transportation Officials.

KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT

Minority Business Division
503 Kansas Avenue, Sixth Floor, Topeka, Kansas 66603
Phone (913) 296-3805



JOHN CARLIN
Governor

CHARLES J. "Jamie" SCHWARTZ
Secretary

COMMITTEE TESTIMONY

TO: Chairman & Members of the House Transportation Committee

FROM: Billy Q. McCray - Director
Minority Business - KDED

RE: HB2462 - Kansas Highway Contractor Development Act

BQM

My name is Billy McCray and on behalf of the Minority Business Division of the Kansas Department of Economic Development, I rise to support HB2462.

The bill is ^Avery brief yet concise measure which would give the Kansas Department of Transportation authority (at its discretion) to set aside certain construction contracts for disadvantaged businesses.

The Minority Business Division of KDED has historically supported set aside for MBE's and WBE's because statistics, both nationally and here in Kansas, show that these contractors do not receive their fair share of highway contracts awarded.

Up until 1983, only about 1% of construction contracts in KDOT were awarded to women-owned businesses (WBE's) and approximately 3% were awarded to businesses owned by minorities (MBE's). Although some improvement has been made, HB2462 would authorize, by statute, discretionary authority for KDOT personnel to better meet federal Department of Transportation requirements as stated in the 1982 Surface Transportation Assistance Act.

HB2462 does not go as far as some minority contractors would like, but having served in the House of Representatives a few years ago, I understand the legislative process. The art of the possible is often arrived at through compromise, and although I believe a true set aside would best serve WBE's and MBE's, HB2462 is a definite step in the right direction. It allows the state of Kansas, through its Department of Transportation, to meet the goals and objectives of the Surface Transportation Assistance Act (STAA), and at the same time solve the lingering problem of access to the state contract awarding process for those vendors who have been virtually shut out in the past.

This same concept was introduced in the senate last year. It passed out of the Senate Transportation Committee without a dissenting vote and only had nine (9) no's in the full senate. The Governor's office was supportive of that bill and I have heard nothing to the contrary this year.

Passage of HB2462 would enhance the present effort of KDOT and would certainly make our job more effective.

BQM:bjc

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Attachment 2

STATEMENT OF MR. ALONZO HARRISON
ON HOUSE BILL 2462 PRESENTED TO
COMMITTEE ON TRANSPORTATION

First and foremost, I want to thank you all for affording me this time.

I along with my business associates would like very much to urge passage of House Bill 2462. It is our sincere belief that in doing so, you will at one and the same time disrobe and dethrone our piercing familiarity with the traditional myths of minority contractors inability to perform and hereby open the doors of trust and cooperation.

Specifically, with the passage of House Bill 2462, Disadvantaged Business Enterprises (DBE's) will be afforded a more excellent avenue to opportunity in an arena wherein we may show to all who would observe our ability to perform in the area of construction. Passage of this bill will relieve majority contractors of some of their "burden" of finding quality DBE's. At the same time, majority contractors will be able to select from a certified pool of quality DBE's. First, the State will be able to increase its DBE participation percentage thereby insuring a continuous flow of Federal highway funds while helping foster new business enterprises and

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Attachment 3

developing greater employment opportunities for its citizens. Clearly, it is equally true that there will be no loss in the quality of service provided to the State as a result of passing this bill. This is so, due to the fact that job specification and quality control will be monitored as they are currently, that is, determined and supervised by State inspectors.

Secondly, DBE's will be afforded an opportunity to:

1. Showcase their skills and talents;
2. Develop a track record of performance;
3. Create employment opportunities for ourselves and others;
4. Be competitive;
5. Develop goodwill with the State, lending institutions, contractors and suppliers;
6. Become bondable.

These are, of course, only a few of the direct benefits that will result from passing House Bill 2462. I and my associates, harried and haunted by the age-old myths of traditional thinking, lay our case before you here today seeking passage of this bill. We unitedly petition each of you to extend unto DBE's a more excellent avenue to opportunity and with this bill create a new vitality and interest into the dangling discord of DBE construction participa-

tion. This bill is creative and responsible yet it is not a panacea, however, it will serve not only DBE's but the State and majority contractors as well. To disrobe and dethrone misunderstandings and distrust will be by-products of your passing this bill. A negative vote simply serves to prolong age-old Aristotelian Syllogism that perpetuate divisiveness and disdain held by some who have had questionable DBE experience.

THANK YOU

HOUSE TRANSPORTATION COMMITTEE

TESTIMONY ON HB 2462

By Glenn Coulter

Mr. Chairman, members of the committee. My name is Glenn Coulter and I am the Manager of the Kansas Contractors Association. Our members build over 90% of the highways, roads, streets and bridges in Kansas.

Thank you for the opportunity to visit with you for a few minutes about House Bill 2462 which would permit setting aside highway construction projects for bidding only by Disadvantaged Business Enterprises.

Our association during its entire 62 years of existence has opposed all set asides or special bidding preference programs because we do not believe they are in the best interests of the citizens of our state or our nation.

I want to explain that 95% of our members qualify for the national small business set aside program and yet we still feel it is not in the best public interest.

We likewise do not believe the Small Business 8(a) set aside program is a fair one because contracts are negotiated instead of allowing for open competitive bidding.

Nor do we agree with the quotas imposed in the Surface Transportation Act of 1982. It is however federal legislation and Kansas has met its 10% quota each year. It is very important that you ladies and gentlemen know that Disadvantaged Business Enterprises in Kansas are guaranteed about \$15 million dollars per year under this program. They are, of course, eligible to bid as prime contractors or they may sub contract work from the prime.

Because of this, we do not feel it is necessary to set aside selected contracts for bidding by one group. A large number of small caucasian contractors have already been driven out of business because of the 10% quotas and passage of House Bill 2462 could harm the few remaining.

Thank you very much.

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Attachment 4

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

TESTIMONY IN SUPPORT OF H.B. 2549

Mr. Chairman and members of the Committee: I am appearing today in support of H.B. 2549, which will increase the medical evidence and medical scrutiny required for issuance to certain handicapped persons of special license plates for motor vehicles or for temporary or permanent identification cards to be suspended from the rear view mirrors of motor vehicles. While precise statistical information is not available about the number of cases, it is believed that under current law there are instances in which these special parking permits are issued to persons who are only marginally handicapped and to whom such issuance is of questionable appropriateness. By increasing the medical evidence and medical scrutiny required for issuance of these special parking permits, H.B. 2549 will increase the likelihood that the special permits are in fact issued to handicapped persons who deserve them and are not issued to persons who do not deserve them. I urge your passage of H.B. 2549.

Richard A. Schutz, Director
Division of Services for the Blind
Rehabilitation Services
Social and Rehabilitation Services
296-4454
3-5-85

3/5/85
Attachment 5

State Department of Social and Rehabilitation Services

Statement Regarding H.B. 2549

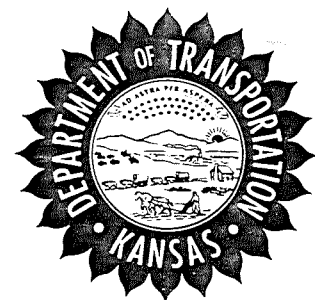
1. Title -- An act concerning motor vehicles; handicapped persons; rental of motor vehicles; amending K.S.A. 8-266 and K.S.A. 1984 Supp. 8-132a and repealing the existing sections.
2. Purpose -- The purpose of the amendment to K.S.A. 1984 Supp. 8-132a is to provide additional medical evidence and medical scrutiny related to the issuance to certain handicapped persons of special license plates for motor vehicles or temporary or permanent identification cards to be suspended from the rear view mirrors of motor vehicles.
3. Background -- Under current K.S.A. 1984 Supp. 8-132a, it is believed that special license plates for motor vehicles or temporary or permanent identification cards as described above may be issued to some individuals who are only marginally handicapped and to whom issuance of these special parking permits may not be appropriate. Precise statistical information about the number of such instances is not available.
4. Effect of Passage -- The effect of passage will be to introduce additional medical evidence and medical scrutiny into the process of issuing these special parking permits to handicapped persons and will thereby increase the likelihood that the special permits are in fact issued to individuals who deserve them and not issued to individuals who do not deserve them.
5. SRS Recommendation -- Support H.B. 2539.

Office of the Secretary
Social and Rehabilitation Services
296-3271
March 5, 1985

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Attachment 6

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

MEMORANDUM TO: HOUSE TRANSPORTATION COMMITTEE
FROM: EDWARD R. DESOIGNIE
POLICY COORDINATOR
REGARDING: HOUSE BILL 2474
DATE: MARCH 5, 1985

IN JANUARY OF 1982, SECRETARY KEMP INITIATED A PHASED REDUCTION IN FORCE OF APPROXIMATELY 480 FULL-TIME POSITIONS WITH A TARGET COMPLETION DATE OF JULY 1, 1985. THE REDUCTION IN FORCE OCCURRED IN CONJUNCTION WITH A REORGANIZATION OF THE AGENCY TO IMPROVE THE OVERALL EFFICIENCY AND EFFECTIVENESS OF THE ORGANIZATION TO BETTER DEVELOP STRATEGIES FOR MEETING THE CRITICAL NEEDS OF THE HIGHWAY SYSTEM.

THE 1983 LEGISLATURE PASSED AND SENT TO THE GOVERNOR, HOUSE BILL 2566, A COMPREHENSIVE HIGHWAY FINANCE PACKAGE. REVENUES GENERATED THROUGH HOUSE BILL 2566 ENABLED THE DEPARTMENT TO DEVELOP A MULTI-YEAR CONSTRUCTION PROGRAM WITH AN AGGRESSIVE PROGRAM OF PRESERVATION AND IMPROVEMENT OF OUR HIGHWAY SYSTEM.

THE ACCELERATED HIGHWAY PROGRAM HAS RESULTED IN A NEED FOR LABORERS TO ASSIST AT CONSTRUCTION SITES. PRESENTLY THE DEPARTMENT HIRES LABORER II'S ON TEMPORARY STATUS (SUBJECT TO A POSITION LIMIT OF 999 HOURS) TO ASSIST DURING THE CONSTRUCTION SEASON. THE CONSTRUCTION SEASON NORMALLY RUNS FROM AROUND THE FIRST WEEK IN APRIL TO THE SECOND WEEK IN NOVEMBER.

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Memorandum To: House Transportation Committee
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THE PROBLEM ENCOUNTERED WITH THE TEMPORARY LIMITATION OF 999 HOURS IS TWOFOLD. FIRST, TEMPORARIES BEGIN RUNNING OUT OF TIME AROUND AUGUST BECAUSE OF OVERTIME RESULTING FROM LONGER WORK DAYS. SECOND, TRAINING OF TEMPORARY LABORERS MUST BEGIN ANEW AS THOSE LABORERS REACHING THEIR 999 HOURS ARE LET GO, THEREBY LOSING THE SERVICES OF AN EXPERIENCED WORKER AND REQUIRING EXTRA TIME TO TRAIN NEW WORKERS.

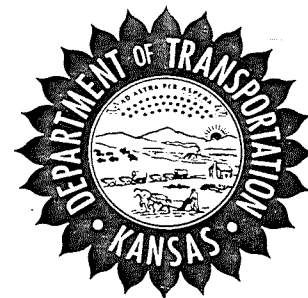
THE BILL BEFORE YOU TODAY WOULD PERMIT THE DEPARTMENT TO HIRE TEMPORARY LABORERS FOR THE CONSTRUCTION SEASON ONLY WITHOUT THE 999 HOUR LIMITATION. WORKERS WOULD BE USED ONLY WHEN WORK IS AVAILABLE.

DURING FY 1984 THE DEPARTMENT EMPLOYED APPROXIMATELY 95 TEMPORARY LABORERS AND ANTICIPATES EMPLOYING APPROXIMATELY 100 SUCH WORKERS FOR FY 1986.

THE DEPARTMENT REQUESTS THE COMMITTEE REPORT HOUSE BILL 2474 FAVORABLE FOR PASSAGE.

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

MEMORANDUM TO: HOUSE TRANSPORTATION COMMITTEE

FROM: EDWARD R. DESOIGNIE
POLICY COORDINATOR

REGARDING: HOUSE BILL 2493

DATE: MARCH 5, 1985

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. BEGINNING IN 1981, KDOT RECEIVED AND PASSED THROUGH, FEDERAL GRANT FUNDS FOR RAILROAD REHABILITATION AND IMPROVEMENT PROJECTS PURSUANT TO TITLE VIII OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 ALSO REFERRED TO AS THE 4R ACT. THE RAIL PLANNING PROGRAM ADMINISTERED BY THE OFFICE OF RAIL PROGRAMS, DIVISION OF PLANNING AND DEVELOPMENT, KANSAS DEPARTMENT OF TRANSPORTATION, WAS DEVELOPED TO MEET THE ELIGIBILITY REQUIREMENTS OF THE FEDERAL GRANT PROGRAM. K.S.A. 75-5025 AUTHORIZES THE SECRETARY TO "EXERCISE THOSE POWERS NECESSARY TO QUALIFY FOR RAIL SERVICE CONTINUATION SUBSIDIES" PURSUANT TO THE 4R ACT.

IN 1981 CONGRESS AMENDED THE 4R ACT BY DELETING THE "RAIL SERVICE CONTINUATION" PROVISION WHILE CONTINUING TO MAKE FUNDS AVAILABLE FOR OTHER PURPOSES, INCLUDING "REHABILITATION OR IMPROVEMENT" OF RAIL FACILITIES. THE DISTINCTION IS BETWEEN OPERATING SUBSIDIES AND CAPITAL IMPROVEMENTS.

TECHNICALLY, THE DEPARTMENT'S RAIL PROJECT FUNDS HAVE BEEN FOR REHABILITATION AND IMPROVEMENT (IN ACCORDANCE WITH CONGRESSIONAL INTENT) AND NOT FOR RAIL CONTINUATION SERVICE AS SPECIFIED IN OUR STATE LAW.

HOUSE BILL 2493 AMENDS STATE LAW TO MAKE IT CONSISTENT WITH FEDERAL RAIL LEGISLATION.

THE DEPARTMENT REQUESTS THE COMMITTEE TO RECOMMEND HOUSE BILL 2493 FAVORABLE FOR PASSAGE.

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Attachment 8