

Approved

*Thomas F. Walker*  
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by REPRESENTATIVE THOMAS F. WALKER at  
Chairperson

9:00 a.m./~~p.m.~~ on FRIDAY, FEBRUARY 10, 1989 in room 522-S of the Capitol.

All members were present except:

Representative Borum - Excused  
Representative Miller - Excused  
Representative Weimer - Excused

Committee staff present:

Avis Swartzman - Revisor  
Carolyn Rampey - Legislative Research  
Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

Jim DeHoff - Kansas AFL-CIO  
D.L. Smith - President, D.L. Smith Construction  
Janet Stubbs - Executive Director, Home Builders Association of Kansas  
David Corliss - League of Kansas Municipalities

The meeting of the House Governmental Organization Committee was called to order by Thomas F. Walker, Chairman. He stated the minutes would stand approved at the end of the meeting if there were no corrections or additions. The agenda for the day was the continuation of HB 2124 - concerning the building trades and SB 40 - repealing statutes pertaining to council of advisors on consumer credit.

Chairman Walker explained what SB 40 would accomplish. It would repeal two sections of the Uniform Consumer Credit Code (UCCC) relating to a Council of Advisors on Consumer Credit. The sections which created the council were abolished, but two other sections defining the council were inadvertently left in. (Attachment 1)

Representative Turnbaugh moved that SB 40 be passed and placed on the Consent Calendar. Representative McClure gave a second to the motion. The motion carried.

The committee turned to HB 2124. Jim De Hoff, Kansas AFL-CIO, was first to address the bill. He stated that his organization would like to see the bill amended to read, "one licensed Journeyman Plumber and one licensed Journeyman Electrician." He said consideration of this amendment would be appreciated. (Attachment 2)

D. L. Smith addressed the bill next. He said the bill represents a fair and equitable policy which would make the existing system work even better and more efficiently. (Attachment 3)

Janet Stubbs, Executive Director, Home Builders Association of Kansas, gave background on HB 2124. The association would like to regulate itself. If a board is established, members certified should be members of that board. (Attachment 4) Included in the testimony was a list of boards with their makeup.

Dave Corliss, League of Kansas Municipalities, spoke last to the bill. The support of the bill is contingent on the ability to require examinations other than the board. Emphasis should be on having board members whose job protects the public interest; the board should consist of at least two members who are code enforcement officers. (Attachment 5)

Testimony from Dan Morgan, Director of Governmental Affairs, Kansas City Chapter, AGC of America, who testified February 8, was distributed to the committee and labeled (Attachment 6)

Chairman Walker stated the hearings on HB 2124 closed and adjourned the meeting.





an action in any court of competent jurisdiction to recover such cost.

**History:** L. 1973, ch. 85, § 112; Jan. 1, 1974.

### Part 3

#### COUNCIL OF ADVISORS ON CONSUMER CREDIT

##### 16a-6-301.

**History:** L. 1973, ch. 85, § 113; L. 1974, ch. 348, § 101; L. 1975, ch. 416, § 28; L. 1978, ch. 308, § 43; Repealed, L. 1981, ch. 299, § 64; L. 1981, ch. 96, § 1; July 1.

**16a-6-302.** (UCCC) Function of council; conflict of interest. The council shall advise and consult with the administrator concerning the exercise of his powers under K.S.A. 16a-1-101 through 16a-9-102 and may make recommendations to him. Members of the council may assist the administrator in obtaining compliance with this act. Since it is an objective of this part to obtain competent representatives of creditors and the public to serve on the council and to assist and cooperate with the administrator in achieving the objectives of this act, service on the council shall not in itself constitute a conflict of interest regardless of the occupations or associations of the members.

**History:** L. 1973, ch. 85, § 114; Jan. 1, 1974.

**16a-6-303.** (UCCC) Meetings. The council and the administrator shall meet together at a time and place designated by the chairman at least twice each year. The council may hold additional meetings when called by the chairman or by a written request signed by five (5) members of the council.

**History:** L. 1973, ch. 85, § 115; Jan. 1, 1974.

### Part 4

#### ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

**16a-6-401.** (UCCC) Applicability and scope. This part applies to the administrator, prescribes the procedures to be observed by him in exercising his powers under K.S.A. 16a-1-101 through 16a-9-102, and supplements the provisions of the part on powers and functions of administrator (part 1) of this article and of the part on supervised lenders (part 3) of the

article on finance charges and related provisions (article 2).

**History:** L. 1973, ch. 85, § 116; Jan. 1, 1974.

#### KANSAS COMMENT, 1973

This part is patterned in part after the uniform law commissioners' revised model state administrative procedure act, hereafter referred to as the revised model act. Where applicable, reference is made to article 4 of chapter 77 of K.S.A., which contains a number of Kansas administrative procedure guidelines. This part is an amalgam of both the revised model act and the present Kansas administrative procedure provisions.

**16a-6-402.** (UCCC) Definitions in part: "Contested case"; "license"; "licensing"; "party"; "rule." In this part:

(1) "Contested case" means a proceeding, including but not restricted to one pursuant to the provisions on administrative enforcement orders (subsection (1) of section 16a-6-108) and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by the administrator after an opportunity for hearing.

(2) "License" means a license authorizing a person to make supervised loans pursuant to the provisions on authority to make supervised loans (section 16a-2-301).

(3) "Licensing" includes the administrator's process respecting the grant, denial, revocation, suspension, annulment, withdrawal, or amendment of a license.

(4) "Party" means the administrator and each person named or admitted as a party, or who is aggrieved by action taken and seeks to be admitted as a party.

(5) "Rule" means each rule specifically authorized by this act that applies generally and implements, interprets or prescribes law or policy, or each statement by the administrator that applies generally and describes the administrator's procedure or practice requirements or the organization of his office. The term includes the amendment or repeal of a prior rule but does not include

(a) statements concerning only the internal management of the administrator's office and not affecting private rights or procedures available to the public;

(b) declaratory rulings issued pursuant to the provisions on declaratory rulings by administrator (section 16a-6-409); or

(c) intra-office memoranda.

**History:** L. 1973, ch. 85, § 117; Jan. 1, 1974.

G.O.  
Attach 1  
2/10/89

House Bill #2124

Committee on Governmental Organization

Mr. Chairman and Committee Members:

I am Jim DeHoff with the Kansas AFL-CIO. I represent the Kansas Pipe Trades Association, which has approximately 1,000 licensed plumbers. I also represent approximately 1,200 licensed electricians that belong to several unions in Kansas.

We would like to ask that you amend H.B. #2124, Section 2 (a) and add "one licensed Journeyman Plumber and one licensed Journeyman Electrician."

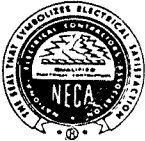
This would expand the Building Trades Board of Examinations from ten (10) members to twelve (12) members. This change is necessary to assure the practical knowledge of actual installation of plumbing, electrical, heating and airconditioning systems is considered when designating examinations for licensing.

Most, if not all, of the plumbing and electrical boards in Kansas now have licensed plumbers and electricians on their board. It is very important that licensed Journeymen that actually install the plumbing, electrical, heating and airconditioning systems be represented on the building trades board of examinations.

Your consideration with amending H.B. #2124 will be appreciated.

opeiu #320, afl-cio

*G.O.  
Attach. 2  
2/10/89*



**D. L. SMITH**

*Electrical Construction Inc.*

1405 S.W. 41st • Topeka, KS 66609 • OFFICE 267-4920 • EMER. 272-1572

TESTIMONY BEFORE THE  
HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE

FEBRUARY 8, 1989  
BY

D. L. SMITH

D. L. SMITH ELECTRICAL CONSTRUCTION, INC.

Mr. Chairman and Members of the Committee:

My name is D.L. Smith, President of D.L. Smith Electrical Construction of Topeka. I am Governor of the Kansas (Topeka) Chapter of the National Electrical Contractors Association, member of the Board of Directors of the Associated General Contractors of Kansas, member of the City of Topeka Board of Electrical Examiners and Appeals, member of the Topeka Homebuilders Association and past member of the Board of Directors of the Homebuilders of Kansas.

I have been in the electrical construction trade for 25 years and the electrical contracting business for over 17 years and I am here today as a proponent of House Bill 2124. The bill represents a fair and equitable policy to make the existing system work even better and more efficiently. At our February 6, 1989 meeting of the City of Topeka Board of Electrical Examiners and Appeals there was a vote to unanimously support House Bill 2124.

I wish to thank you for your time today and if you have any questions I will be happy to try and answer them.

*G. O.  
Attach 3  
2/10/89*

HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE

TESTIMONY OF  
HOME BUILDERS ASSOCIATION OF KANSAS  
HB 2124  
FEBRUARY 10, 1989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs, Executive Director of the Home Builders Association of Kansas and representing approximately 1900 members across the State of Kansas.

I am appearing before you today on one of the most controversial subjects within the industry today, and currently the topic of discussion at every meeting of the National Association of Home Builders.

The most recent information supplied me by NAHB lists 36 states with some form of "licensure" and 18 states with Construction Industry Licensing Boards of varying compositions, depending upon the categories of the industry being licensed, because it is a method of an industry policing itself.

Two types of "licensing" programs exist--(1) a simple registration process and (2) a certification process requiring that some sort of minimum qualifications be exhibited either by examination or proof of experience.

As I attend seminars and panel discussions on this issue, the reasons given for establishment of a program are limitation of competition, removing the "flakes" from the industry in order to add some professionalism, and protection of the consumer.

A 1986 joint task force on licensure comprised of NAHB and the National Association of State Contractors Licensing Agencies appointees found a great deal of interesting information, not the least of which was that licensure is not a cure all or control mechanism for dishonest or unskilled contractors.

THE KEY IS EFFICIENT PERMITTING AND INSPECTION PROCESSES COMBINED WITH PUBLIC EDUCATION.

BACKGROUND

In 1985, HB 2153 and HB 2237 were introduced which permitted reciprocity for plumbers & electricians and which established a Board. HBAK opposed the establishment of a Board with extensive authority which was objectionable to HBAK.

*G.O.  
Attach 4  
2/10/89*

This legislation permitted revocation of a license at the state level, gave subpoena powers to the Board, permitted employment of State inspectors, required \$10,000 surety bonds and other financial information.

In 1986, Senate Substitute for HB 2153 and HB 2237 passed which provided for reciprocity through exams based upon codes effective July 1, 1986, prepared by Block & Associates of Florida, alleviating the need for the Board. HBAK SUPPORTED THIS LEGISLATION.

A uniform statewide passing score was not established, and in an opinion issued March 5, 1987, the Attorney General of Kansas stated that

Allowing one city or county to set the standard for all other cities or counties results in the unauthorized delegation of legislative authority and contravenes the power to make laws that is vested in the House of Representatives and the Senate."

He ruled it to be unconstitutional and, if challenged, would enable a city to refuse to issue a license to an applicant who obtained certification in a city with a lower passing score requirement.

In the 1988 session, SB663, SB704 and SB705 were introduced which gave reciprocity to plumbers, electricians, and mechanical contractors AND established a Board. A uniform passing score of 75% was also proposed in this legislation, to alleviate the constitutional problem.

HBAK opposed these bills due to the establishment of the Board, which we continued to view as additional bureaucracy and feared that it was a "foot in the door" to be expanded later to the format proposed in the 1985 legislation, which we do not believe to be in the best interest of the general membership of the industry or the consumer.

HBAK does not and has never opposed reciprocity or the establishment of a uniform passing score.

Over the 1988 interim, we attempted to reach a consensus within our membership on this subject, and have agreed to compromise our 1988 legislative session position by agreeing to the establishment of a Board for the purpose of "reviewing and approving exams " in order to appease those who feel the language utilized in the 1986 legislation to be cumbersome and questionable with regard to constitutionality.

Establishment of a Board would require the testing firm to meet the specification of the State Board rather than officials of each city. There are reports that Block & Associates works with various city officials to tailor tests to their requests. If this is accurate, we question the constitutionality of that



practice in the same way the current absence of a uniform passing score is viewed. What good is a uniform score without a uniform exam?

**HBAK OPPOSES ESTABLISHMENT OF A BOARD CONTAINING REGULATORS OF THE CONSTRUCTION INDUSTRY, THE CODE OFFICIALS.**

My information indicates that only 1 of the 18 states with licensure boards has allocated a place for a code official. Florida has a 15 person board with 1 slot for a code official. The other 17 boards are totally self-regulating and require appointment of industry members covered by the law, with varying degrees of experience required for eligibility of appointment.

The responsibilities of code officials, in our view, is to ensure the health and safety of the public through competent, conscientious inspectors making inspections of the work during construction. They have the power at the local level to suspend or revoke a contractor's license.

The purpose of examinations or licensure is to determine a basic knowledge of construction methods and codes. Neither guarantee quality workmanship, in compliance with all code requirements, at the job site. For example, we all know it is wrong and unsafe to speed when driving our automobile, yet I doubt there is anyone in this room who can say they do not do so on occasion. Code enforcement officers are the law enforcement officers of the construction industry. Their efforts should be directed toward enforcement of the code in their respective jurisdictions.

Current exams are compiled by Block & Associates. Tom Hamm has advised me that he welcomes suggestions as to subject emphasis of the test, but does not accept actual questions. The testing service selected would be responsible for preparation of questions covering the important areas of the codes for each category of exam and does so in many other states. They are qualified and experienced in what material to cover and how to phrase the question.

One conferee on Wednesday expressed concern that without code officials on the Board, contractors would permit an exam to become too easy so more contractors could pass. That seems unlikely. If the theory projected by that same conferee regarding profit and loss motivation is accurate, limitation of competition through difficult exams would be more logical.

Other Kansas boards are comprised of licensed members of the trade or profession. Why should the construction industry be different? Are we to be self-regulating or a regulated industry?

HBAK does support increased professionalism in the industry. Some states have a 2 part exam. They test over both codes and business practices and permit different employees of a contractor to test for each category.

HBAK has proposed the inclusion of a registration provision requiring each individual or corporation who obtains a local building permit to have a registration number which would be acquired through an annual filing with the Secretary of State or possibly the State Architect in conjunction with this legislation.

In order to obtain this registration number, the following information would be required:

1. The principals of the company and such principals' addresses;
2. the company's address;
3. proof of liability coverage in an amount not less than \$300,000;
4. proof of workers compensation coverage, if applicable;
5. state and federal tax identification numbers of the corporation or social security numbers of the principals; and
6. a copy of the certification of the passage of the examination required in section 2 or the county or city examination, if applicable.

Although the inclusion of this registration provision is opposed by the proponents of this bill, it is a modified version of what was contained in their 1985 legislation.

In section 3 (a), the bill specifies the examinations will be given over the current edition of the UBC. However, there are some large metropolitan areas in Kansas which build under BOCA and CABO. HBAK currently opposes a statewide building code and was assured by Block and Associates that it would be no problem to prepare a test for a state without a statewide code. Since it will be the responsibility of the Board to approve the test, we ask that reference to the Uniform Building Code, in line 180 of the bill, be deleted.

Although we would have no objection to Block & Associates being selected by the Board, I would assume bids would be taken by the Board for testing and see no reason why the reference to Block should not be removed and reference made to a "nationally recognized testing service".

In conclusion, we would reiterate our request that the construction industry be permitted to regulate itself, as do other Kansas professions and trades. If a board is to be established, the members of the groups to be certified should be that Board.

Abstracters' Board of Examiners	KSA 74-3901	3 abstracters
Accountancy, State Board of	KSA 1-201	5 CPA's, 1 municipal acct, 1 public
Agriculture, State Board	74-502 et seg.	farm organizations appoint delegates
Barber Examiners, Board of	KSA 74-1805	3 barbers, 2 public
Behavioral Sciences Reg. Bd.	KSA 74-7402	2 cert. psychol, 2 licensed, 2 public
Cosmetology, State Board of	KSA 74-2701	5 cosmetologists
Corn Commission	1988 SB 637	9 growers, by district
Dealer Review Board	KSA 8-2412	2 new car dealers, 2 used car dealers 1 salvage dealer, 2 public
Dental Board	KSA 74-1404	3 dentists, 1 hygienist, 1 public
Emergency Medical Services	1988 HB 2639	1 doctor, 2 county commissioners, 4 legislators, 1 EMS instructor-coordinator, 1 hospital administrator 1 firefighter, 3 attendants
Engineers (Board of Tech.Prof.)	KSA 74-7001	3 engineers, 1 land surveyor 3 architects 1 landscape architect 1 public
Grain Advisory Comm.	KSA 34-121	1 farmer, 1 banker, 1 public terminal grain warehouse operator, 1 stockholder in farmers coop
Grain Sorghum Comm.	1988 SB 637	9 growers, by district
Healing Arts	KSA 65-2812	5 MD's, 3 DO's, 3 DC's, 1 DPM, 3 public
Milk Advisory Comm.	KSA 65-737b	4 engaged in milk industry, 1 public
Mortuary Arts, State Bd.	KSA 74-1701a	3 morticians, 2 public
Nursing, St. Bd.	KSA 74-1106	5 RN's, 2 LPN's, 2 mental health techs 2 public
Optometry, Bd of Examin.	KSA 74-1501	3 optometrists, 1 public
Pharmacy, Board of	KSA 74-1603	5 Reg.Pharm, 1 public
Real Estate Commission	KSA 58-3034	3 Real Estate brokers, 2 public
Savings & Loan Board.	KSA 74-3113	5 S & L operators/managers 2 public
Soybean Commission	1988 SB 637	7 growers, by district
Veterinarians, Board of	KSA 47-816	4 licensed, 1 public
Wheat Comm.	1988 HB 2967	7 growers, by district



**League  
of Kansas  
Municipalities**

**Municipal  
Legislative  
Testimony**

**An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565**

**TO:** House Committee on Governmental Organizations  
**FROM:** David Corliss, League of Kansas Municipalities  
**DATE:** February 10, 1989  
**RE:** HB 2124 -- Building Trades Act

The League of Kansas Municipalities is in support of the goals of HB 2124 to expand the reciprocity of qualifications for building trade professionals. The Statement of Municipal Policy of the League of Kansas Municipalities adopted by city voting delegates at the 78th Annual City Conference of the League in October 1988 provides in part:

"State laws relating to the examination and certification of electrical, plumbing and related contractors should be strengthened."

The League has a historic position against the establishment of a state building code and a state building inspection agency or department. The regulation of the building trades is best left in the hand of local governing bodies and officials who are best able to quickly and effectively handle the day-to-day operations of this important public function.

HB 2124 expands the successful reciprocity procedures that were adopted in 1986 for the plumbing (K.S.A. 1988 Supp. 1508 et seq.) and electrical (K.S.A. 1988 Supp. 1525 et seq.) professions to the other building trades professions that municipalities typically license and regulate.

X Our support of House Bill 2124 is contingent on the continued ability of local units of government to have the ability under Section 7 of the bill to require additional examinations other than those designated by the board. Under K.S.A. 1988 Supp. 12-1510 and Supp. 12-1517, local units may utilize examinations other than those designated by statute.

Concerning the composition of the board, it is important to remember the limited task of the board--1 meeting per year to choose tests and set fees to reimburse the director of architectural services. The "board" is by any other name an annually scheduled meeting so that building officials and building trade officials can agree which exams should receive reciprocity.

Emphasizing the importance of having board members whose job is to protect the public interest, the board should consist of at least two members who are code enforcement officers.

*G.O.  
Attach 5  
2/10/89*

**President: Douglas S. Wright, Mayor, Topeka \* Vice President: Irene B. French, Mayor, Merriam \* Past President: Carl Dean Holmes, Mayor, Plains**  
**\* Directors: Margo Boulanger, Mayor, Sedan \* Nancy R. Denning, Commissioner, Manhattan \* Ed Ebert, Mayor, Overland Park \* Greg Ferris, Councilmember, Wichita \* Frances J. Garcia, Commissioner, Hutchinson \* William J. Goering, City Clerk/Administrator, McPherson \* Jesse Jackson, Commissioner, Chanute \* Richard U. Nienstedt, City Manager, Concordia \* David E. Reiter, City Attorney, Concordia \* Judy M. Sargent, City Manager, Russell \* Joseph E. Staineger, Mayor, Kansas City \* Bonnie Talley, Commissioner, Garden City \* Executive Director: E.A. Mosher**

TESTIMONY BEFORE THE HOUSE COMMITTEE

ON GOVERNMENTAL ORGANIZATION

RE: HOUSE BILL NO. 2124

BY DAN MORGAN, DIRECTOR OF GOVERNMENTAL AFFAIRS

KANSAS CITY CHAPTER, AGC OF AMERICA

AND

BUILDERS' ASSOCIATION OF MISSOURI

February 8, 1989

Mr. Chairman and members of the Committee, my name is Dan Morgan and I appear before you today on behalf of the Builders' Association and the Kansas City Chapter of the Associated General Contractors of America. The majority of our 575 commercial building contractors, subcontractors and supplier members are located in the metropolitan Kansas City area. Approximately one-third of that number are domiciled in Johnson and Wyandotte Counties in Kansas and a large number of our Missouri domiciled members also perform work in Kansas on occasion. Of course our Kansas members return the favor by performing work on the Missouri side of the line. It's a fairly open and free market environment and it's vital to our industry to maintain that open market between the states and between the political subdivisions of each individual state.

I appear today in support of House Bill 2124. We do support the concept of reciprocity between the various political subdivisions of the state that require licensing or certification. We recognize that this is only a reciprocity bill. It does not require licensing by those political subdivisions that do not presently have contractor licensing requirements. At the same time, it allows those cities and counties that do license to continue to do so as they see fit. Most importantly it provides for a comprehensive examination and registry system that will allow qualified contractors and specialty subcontractors who have passed the prescribed examination to work in any political subdivision in the state without incurring additional testing and fee requirements in each political subdivision they might work in that requires licensing. We support the concept and the bill and ask that you support it also. I thank you for the opportunity to address this subject this morning and I will try to answer any questions you might have. Thank you very much.

*D. O.  
attach. 6  
2/10/89*