

Approved April 29, 1992  
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley  
Chairperson

9:06 a.m./~~pm~~ on March 24, 1992 in room 526-S of the Capitol

All members were present except:

Rep. Gomez - excused

Committee staff present:

Jim Wilson, Revisor of Statutes  
Jerry Donaldson, Principal Analyst  
Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

Rep. Sherman Jones  
Tony Augusto, Director, Office of Minority Business, Kansas Department of Commerce  
Samuel and Dorothea Jordan  
Bob Stacks, Director, Div. of Employment Security, Kansas Dept. of Human Resources

The meeting was called to order at 9:06 a.m., by the chairman, Rep. Anthony Hensley.

Chairman Hensley called to committee members' attention the following written materials: A letter from Nancy Echols, Director, Division of Personnel, Kansas Department of Administration, containing a 14-year history of rate increases in the Kansas workers' compensation self-insurance program (attachment #1); a letter addressed to Senator Paul Feleciano from Michael A. Taylor, National Council on Compensation Insurance (NCCI), containing a 10-year history of workers' compensation insurance rate increases compared to NCCI rate increase requests (attachment #2); and a letter from 4th District U.S. Congressman Dan Glickman to Governor Finney expressing his support for a state law enacting a "minority set aside" program for state purchasing (attachment #3). He stated that the issue addressed in Congressman Glickman's letter was the subject matter of the first bill to be heard by the committee today.

The chairman stated that the purpose of the meeting was to have a public hearing on House Bill No. 3178, an act concerning minority-owned and disadvantaged businesses. He then introduced the chief sponsor of the bill, Rep. Sherman Jones.

Rep. Jones distributed and read written testimony in support of the bill (attachment #4). He then introduced Samuel and Dorothea Jordan, who were proponents of House Bill No. 3178 (attachment #5). Ms. Jordan answered questions from several members of the committee.

The next conferee was Tony Augusto, Director, Office of Minority Business, Kansas Department of Commerce, who provided written testimony suggesting several amendments to the bill (attachment #6). Mr. Augusto also suggested that the Legislature direct the appropriate state agency to conduct a "disparity study" of purchasing contracts awarded minority-owned businesses doing business with the state of Kansas. He said this study would be both helpful and useful in addressing any problems of discrimination against minority-owned businesses.

The chairman announced that the hearing on House Bill No. 3178 would continue tomorrow. He then opened the hearing on Senate Bill No. 606, a bill containing recommendations of the Employment Security Advisory Council.

Bob Stacks, Director, Division of Employment Security, Kansas Department of Human Resources, provided written testimony describing the various amendments to the Employment Security law contained in Senate Bill No. 606 (attachment #7). Mr. Stacks then answered questions.

The meeting was adjourned at 9:59 a.m.

GUEST LIST

COMMITTEE: House Labor and Industry

DATE: March 24, 1992

NAME	ADDRESS	COMPANY/ORGANIZATION
Bob Sacks	TOPEKA	KDHR
Bill Hayes	"	"
Bill Clawson	"	"
Paul Bicknell	"	"
Frank Schuder	"	"
Jim McHaff	Topeka	KS AFL-CIO
Naomi Denham	Kan. City	
Elton Denham	Kansas City	Citizen
Jerry Merryman	TOPEKA	Division of Purchases
Jack R. Shipman	Topeka	Division of Purchases
Linda Hubbard	Topeka	KDHR
Claude See	✓	✓
Mike Lackey	<del>Top</del> Topeka	KDOT
JERRY LONERGAN	"	KDOC
ERIC Sexton	Wichita	WSU
Tony August	Topeka	KDOC
Annelle Smith	Topeka	KDAE
Amber A Clark	Topeka	Citizen
Edward R. Moses	✓✓	KAPA
William H. Sesler	Manhattan	KSU
Gary Link	Wichita	wsu
Deborah Gordon	Kansas City	FIBAA
Samuel Gordon	Kansas City	FIBAA
George Hollis	Kansas City	FIBAA
Elton Clanton	Kansas City	FIBAA

William Taylor  
Paul Johnson

Kansas City  
Kansas City

FIBAA  
FIBAA



DEPARTMENT OF ADMINISTRATION  
Division of Personnel Services

JOAN FINNEY,  
Governor

NANCY M. ECHOLS,  
Director of Personnel Services

Room 951-South  
Landon State Office Building  
900 S.W. Jackson Street  
Topeka, Kansas 66612-1251  
913-296-4278  
FAX 913-296-6793

March 18, 1992

The Honorable Anthony Hensley  
House of Representatives  
State Capitol Building  
Topeka, KS 66612

Dear Representative Hensley:

As you requested by telephone this date, you will find set out below the rates charged by the State Self Insurance Fund beginning in fiscal year 1980. This listing also provides the percentage increase year by year.

<u>Fiscal Year</u>	<u>Budgeted Rate</u>	<u>Percentage Increase</u>
1980	0.4%	0
1981	0.4%	0
1982	0.4%	0
1983	0.4%	0
1984	0.4%	0
1985	0.4%	0
1986	0.7%	75%
1987	0.7%	0
1988	0.84%	20%
1989	0.84%	0
1990	1.0	19%
1991	1.08	8%
1992	1.2	13%
1993	1.3	8%

Fourteen years history      Average 10% per year

If further detail is needed, please call George Welch, 296-2364 for assistance.

Sincerely,

*Nancy M. Echols*  
Nancy M. Echols

cc: George Welch

*Labor + Industry*  
*3-24-92*  
*Attachment #1*



National  
Council on  
Compensation  
Insurance

Government, Consumer and  
Industry Affairs  
Western Division

Michael A. Taylor  
Director

March 5, 1992

Honorable Paul Feleciano, Jr.  
State of Kansas — Senate Chamber  
State Capitol  
Topeka, Kansas 66612-1565

Re: Kansas Information

Dear Senator Feleciano:

Following our presentation on March 4, 1992, you requested a history of Kansas rate requests and approvals. Listed below details a history of those filings from 1980 through 1991.

<u>Proposed Date</u>	<u>Proposed Amount</u>	<u>Approved Date</u>	<u>Approved Amount</u>	<u>Difference</u>	
07-01-80	+ 6.9%	09-01-80	+ 5.2%	2 mo.	-1.7%
09-01-81	+ 11.2%	09-01-81	+ 11.2%	—	—
09-01-82	-2.9%	09-01-82	-2.9%	—	—
09-01-83	+ 2.8%	12-01-83	0.0%	3 mo.	-2.8%
03-01-85	+ 15.8%	05-01-85	+ 10.0%	2 mo.	-5.8%
05-01-86	+ 17.0%	07-01-86	+ 9.0%	2 mo.	-8.0%
05-01-87	+ 19.0%	10-01-87	+ 9.7%	5 mo.	-9.3%
05-01-88	+ 7.9%	12-01-88	+ 5.5%	7 mo.	-2.4%
12-01-89	+ 22.6%	05-01-90	+ 5.3%	5 mo.	-17.0%
05-01-91	+ 30.9%	06-01-91	+ 24.0%	1 mo.	-6.9%

Additionally, per your request, attached is a summary of the NAIC examination on the NCCI. I have been advised that the Kansas Insurance Department has furnished a complete copy of the entire report to Legislative Research, however, please let me know if you desire additional information.

I trust this is beneficial, however, please feel free to contact me if you have any questions or need further information.

Sincerely,

Michael A. Taylor  
Director  
Government, Consumer and Industry Affairs

MAT:ah

cc: D. Brock, Kansas Insurance Department  
E. Brookhart, NCCI

*Labor & Industry  
3-24-92  
Attachment #2*

DAN GLICKMAN

FOURTH DISTRICT—KANSAS

ASSISTANT MAJORITY WHIP

COMMITTEES:

AGRICULTURE

CHAIRMAN: SUBCOMMITTEE ON  
WHEAT, SOYBEANS AND FEED GRAINS

JUDICIARY

SELECT COMMITTEE ON INTELLIGENCE

SCIENCE, SPACE, AND TECHNOLOGY

DEMOCRATIC STEERING AND POLICY



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SUITE 220  
HUTCHINSON, KS 67501  
(316) 669-9011

CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515-1604

March 9, 1992

Governor Joan Finney  
2nd Floor, State Capitol  
Topeka, Kansas 66612-1590

Dear Governor Finney:

I have serious concerns about the lack of involvement by minority and Historically Disadvantaged Business firms in the extensive construction being done on our Kansas infrastructures. This concern is based on comments from constituents directed to my office and the fact that few of these contracts were awarded to minority contractors. This reinforces concerns raised to me by minority contractors, members of the National Business League, members of the Minority Suppliers Council, Wichita Mayor Bob Knight, Wichita Vice-Mayor Rip Gooch, County Commissioner Billy McCray and Antonio Augusto, Director of the Kansas Office of Minority Business, Kansas Department of Commerce.

The message I receive is that since the State of Kansas does not have a set-aside program, the ability of minority and Historically Disadvantaged Business firms to compete has suffered a severe negative impact.

It is vital that these small, minority and disadvantaged businesses have a place to turn for assistance, in their own state. Without a state set-aside policy, they are being excluded from the potential contract work. The continuation of affirmative action, including the use of numerical goals and timetables, is a necessary and proper response to the tragic legacy of historical discrimination which continues to plague our state. It is a tribute to the success of our efforts to wipe out discrimination that we seldom face the overt discrimination of 20 years ago. However, the discrimination which remains in our society today is more subtle and more difficult to eradicate because it is insidious; it is economic. Without the use of a policy and the establishment of guidelines, the goal of providing access and a level playing field for all Kansan businessmen and businesswomen will be impossible.

The State of Kansas should establish a set-aside policy, based on the federal model. This policy will send a message that is very clear to city and county government units in Kansas - establish a set-aside policy. I strongly urge you to take action on this issue. I have done everything possible to ensure that Kansas gets the federal dollars and contracts we deserve. The federal highway dollars are just one example. Now you must see that all our citizens get a share of the pie.

With best regards,

Dan Glickman

Labor & Industry  
3-24-92  
Attachment #3



TOPEKA

HOUSE OF  
REPRESENTATIVES

TESTIMONY BY REPRESENTATIVE SHERMAN JONES  
HOUSE LABOR AND INDUSTRY COMMITTEE  
MARCH 24, 1992

## COMMITTEE ASSIGNMENTS

CHAIRMAN: ELECTIONS

CHAIRMAN: WYANDOTTE COUNTY LEGISLATIVE  
DELEGATIONMEMBER: EDUCATION  
FEDERAL AND STATE AFFAIRS

JOINT CLAIMS AGAINST THE STATE

CHILDREN AND YOUTH ADVISORY  
COMMITTEENATIONAL BLACK CAUCUS OF  
STATE LEGISLATORS

SHERMAN J. JONES

REPRESENTATIVE, 35TH DISTRICT

Home Address: 3736 WEAVER DRIVE  
KANSAS CITY, KANSAS 66104  
(913) 342-5728Office: SUITE 180-W STATE CAPITOL BUILDING  
TOPEKA, KANSAS 66612  
(913) 296-7678

Thank you Mr. Chairman for the opportunity to address the Committee on HB 3178.

This bill has been revised with new sections amended into SB 438 which now rests in the Senate Committee. We felt the matter needs our attention and we appreciate your willingness to allow it to be heard here.

HB 3178 is a minority set aside bill and goes further to define minority and allows for the true intent of set aside. When we speak of progress in this State, economic development, fair labor practices, etc., I'm in hopes that we mean all the people of Kansas and not just the "chosen few." This legislation is far reaching, but maybe not far reaching enough, in reaching equitable contract allowances by the State of Kansas when doing business with contractors across the State. It seems more equitable to me to use the "contract dollar" rather than number of contracts.

I will present persons to speak on this subject that are more capable than I. I do hope that you find HB 3178 favorable for passage.

*Labor & Industry  
3-24-92  
attachment #4*



PUBLIC RELATIONS, MARKETING & ADVERTISING

TESTIMONY

BEFORE

LABOR, INDUSTRY

AND

SMALL BUSINESS COMMITTEE

PRESENTED BY

FAIRNESS IN BUDGETS FOR AFRICAN AMERICANS

(FIBAA)

AND BILL REVISION COMMITTEE

March 24, 1992

*Labor + Industry  
3-24-92  
Attachment #5*





PUBLIC RELATIONS, MARKETING & ADVERTISING

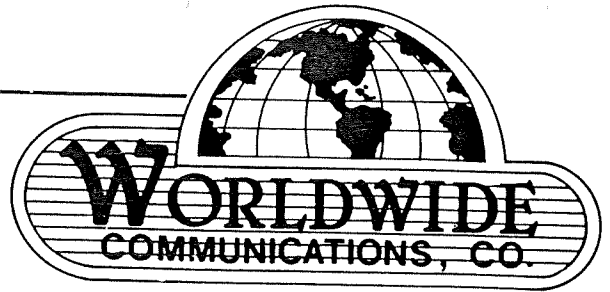
The Board of Governors of Fairness in Budgets for African Americans (FIBAA) and the Bill Revision Committee are happy to inform you that they are in agreement with the contents of House Bill 3178. We urge the Labor, Industry and Small Business Committee as well as the entire House to pass this bill so that African Americans can be included in the selection and bidding process of all state contracts.

What HB3178 is attempting to do is put into law a statement that says fairness in state contracts will become a reality in Kansas.

Presently African Americans are handicapped because they are not receiving their fair share in contracts in Kansas. The new definition of minorities has misled, has unfairly characterized African Americans, and has turned the direction away from them to other select groups. We should be protected by our constitutional rights as citizens of this country.

NEW SECTION 3  
Lines 8-9

What HB3178 is attempting to do, also, is provide a basis



PUBLIC RELATIONS, MARKETING & ADVERTISING

HB3178  
Add One

for fairness in state contracts. A minimum of 8% of all state contracts is not much money, really, when one realizes that that is only \$.08 out of every dollar. HB3178 has been written to fairly distribute a portion of each dollar so that each group of persons in the state can share a portion of state monies.

NEW SECTION 4  
Lines 28b-31

House Bill 3178 includes the implementation of a council that will help implement, monitor and enforce the goals of this act. FIBAA wants a more inclusive group of persons on that council proportional to their percentage of the total state population. We hope the council will monitor carefully, discreetly and diplomatically the use and misuse of this act. We hope it will be more open-minded and sensitive to all groups of people that make up the melting pot of Kansas, and, I might add, with this being done according to the percentage of a group's representation of the total population of the state, there should be a fairer distribution process and recognition.

NEW SECTION 6  
Lines 27-30

Finally, it is difficult for African Americans to get



PUBLIC RELATIONS, MARKETING & ADVERTISING

HB3178  
Add Two

bonded, not only in the state of Kansas but in the total United States. The stigma that has been attached to African Americans is an unfair label and we at FIBAA hope that our representatives do not fall victim to this belittling strategy that has divided our state. It would be derelict on the part of our representatives were they not to recognize that fact and were to refuse fairness to all Kansans.

What, then, is FIBAA saying?

We are saying this:

Give African Americans in the state of Kansas a fair shake. Respect us as an important part of government, purchasing, bidding, representation, etc. Believe in fairness for all. Recognize that when all persons are put in a melting pot, we are all "melted" together. There is no space for one ingredient to rise above the other - not in a melting pot. FIBAA wants fairness and justice for all Kansans. Everett McKinley Dirksen said: "Justice is simply the condition of free men living harmoniously in society." Kansas cannot live harmoniously if it does not respect all its citizens. Amos 5:24 says: "Let justice roll down like waters, and righteousness like an everflowing stream." That cannot happen if Kansas is



PUBLIC RELATIONS, MARKETING & ADVERTISING

HB3178  
Add Three

divided. We hope that HB3178 will unite and not separate.

The late President John F. Kennedy said: "The basis of effective government is public confidence." Can African Americans have confidence in the Kansas House of Representatives?

-FIBAA-

TESTIMONY PRESENTED TO

HOUSE LABOR, INDUSTRY, AND  
SMALL BUSINESS COMMITTEE

MARCH 24, 1992

by

Tony Augusto, Director  
Office of Minority Business  
Kansas Department of Commerce

*Labor + Industry  
3-24-92  
Attachment #6*

TESTIMONY - HB 3178

I want to thank the Committee for the opportunity to discuss HB 3178 and the ramifications of the bill as it now is being presented.

The Department of Commerce and Office of Minority Business very much support the concept of the State agencies setting goals to do business with minority-owned and women-owned businesses. The Office of Minority Business has been involved in providing , to these businesses, an awareness of state contracting potential. The office is frequently a first-stop for minority businesses to participate as vendors. At this time, we cannot determine our success, because the Division of Purchases does not have the capability of monitoring the amount of state purchases done with any particular group.

HB 3178 is of great concern to the Office of Minority Business. The language in the bill is ambiguous. It does not clearly outline how state agencies are expected to increase participation by minority and women-owned businesses' vendors.

Major areas of concern are:

1. Page 1 - Line 43 - Under Definitions

Female person is listed as a minority. This is not correct. Women or females are not considered minorities.

2. Page 3 - Lines 6-22 - New Section 3

The amount of participation by each group varies among the three targeted groups. For African-Americans 8% percent is called for, and no justification is offered for that percent share of state business (1990

census report 5.8% of state population is African-American). In the case of female business participation, contracts are to be awarded based on the number of female owned businesses in the state. For all other minorities, their share is to be based on an amount proportional to the share of population. The bill's impact would be to require 51% of all state contracts be set-aside for minority and women businesses.

3. Section 4 - Implementation/Enforcement

This section calls for the Secretary of Administration to administer a new program. With the exception of the certification process defined in the bill, the Office of Minority Business now performs many of the duties outlined in this section. HB 3178 will result in duplication some of services provided by the Department of Commerce. We hope this committee will study this portion of the bill. The Department of Commerce can implement the duties and requirements asked in HB 3178 in a much more economical manner than starting a new program in the Department of Administration.

The Office of Minority Business and the Kansas Department of Commerce are well aware that injustices have occurred in both public and private sectors. Our experience in assisting minority vendors indicates that the good old boy system is still functioning. To ensure effective, well-reasoned attempts are made to rectify past biases, we recommend that a Disparity Study be done. Disparity studies are being done in other states and other governmental entities. Studies completed in other states indicate that some types of discrimination exist. A

Page #3, Testimony, HB 3178

Kansas-specific study will ensure informed decisions and remedies can be made that will work in the best interest of the state, and its minority and women owned businesses.

Our office would be pleased to assist the committee or any other party in reorganizing HB 3178. Thank you.



7

Senate Bill 606  
March 20, 1992

Mister Chairman and members of the committee:

I want to thank you for the opportunity to appear before this committee to address the proposed amendments contained within S.B. 606. My name is Bob Stacks, I am the Director of the Employment Security Division with the Department of Human Resources. I might begin by saying that the proposed amendments are supported by the agency and have been approved by the agency's Employment Security Advisory Council made up of members from the Labor, Industry, and Public sectors.

The first set of proposed amendments deals with the inclusion of "Limited Liability Companies" as employers under the Kansas Employment Security Law. These proposed changes are a result of the passage of the Kansas "Limited Liability Company Act" which became effective as of July 1, 1990. In essence, a Limited Liability Company (LLC) is a new, very flexible type of business entity authorized by state law in Kansas and seven other states. LLC's have been invented so investors can avoid certain restrictions in the Internal Revenue Code for Subchapter S corporations and limited partnerships.

The proposed changes related to LLC's can be found on page 2, line 36; Where "Limited Liability Company" is added to the definition of "employing unit". K.S.A. 44-703(g). Also on page 5, lines 28, 31, and 32; page 6, line 2; Where any other active member or manager of an LLC is added to the definition of "employment". K.S.A. 44-703(i). And on page 41, lines 23 and 24; This subsection is clarified by including a member or manager who has charge of the affairs of the LLC to be subject to possible personal liability for willfully failing to pay contributions. K.S.A. 44-717(k).

I might point out that until the LLC was created, only partnerships and Subchapter S corporations could pass their income and losses on to investors without taxation. However, partnerships can be dangerous to invest in, because of the unlimited personal liability of general partners and the inability of limited partners to participate in management. Subchapter S corporations have also fallen into disfavor, because they are limited to no more than 30 share-holders, and only individuals can hold shares. LLC's are designed to have just enough of the characteristics of a partnership to qualify under the IRS rules for partnership pass-through of income and losses, while at the same time limiting the personal liability of investors for the acts of co-investors or for any losses the business might sustain.

The next proposed amendment was precipitated by recodification of the Federal Immigration and Nationality Act which voided section 203(a)(7) of that act. This can be found on page 27, line 7. This change has no affect on the administration of our law.

*Labor & Industry  
3-24-92  
Attachment #7*

Third on our list of proposed amendments concerns Sec. 5. K.S.A. 1991 supplement 44-757 (Shared Work Unemployment Compensation Program). Changes can be found on page 41, line 42 and page 43, lines 8-31. This amendment is required in order for our law to meet the federal conformity provisions as it relates to equal treatment of governmental entities and non-profit organizations. This classification of employers and employees may elect to have shared work at their place of employment, the same as private for profit employers.

Fourth on our list for proposed amendments can be found under K.S.A. 44-712(d) on page 31, lines 32-33, line 36, and lines 40-43. This proposed amendment deletes the 35 year limitation on the obligation of Reed Act Funds for administrative purposes. This proposed amendment is needed to bring the Kansas Employment Security Law into agreement with federal law.

Reed Act Funds are used by the Department of Human Resources to initially pay for major repair and maintenance work to our owned offices. In the past, we have used Reed Act Funds to replace roofs and air condition and heating systems in our buildings. When we use Reed Act Funds for an Agency owned building repair, we are allowed to amortize the Reed Act Funds based on a repayment schedule from our yearly allocation of federal funds. We therefore have a revolving fund from which to handle major repairs to our owned buildings.

The last of the proposed amendments in Senate Bill 606 involves amending Sec. 2. K.S.A. 1991 supplemental 44-706 (disqualification of benefits). The amendments can be found on page 22, lines 28-29, 31-34, 39-40; page 23, lines 1-2. This amendment was proposed because it came to our attention that Subsection b of legislation introduced last year was to include the possession of or impairment caused by alcoholic beverage and cereal malt beverage and controlled substances. Upon review, it was found that only the controlled substance language was contained in the legislation. It is our impression that this was simply an oversight. In order to be consistent with federal guidelines of misconduct, we are proposing alcoholic liquor and cereal malt beverage be incorporated into the language as we believe it was intended to be.

This concludes my testimony on Senate Bill 606 today. Again, I want to thank you for the opportunity to appear before this committee. I'd be happy to entertain any questions.