

Approved: 3/13/96 ha  
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:05 a.m. on February 23, 1996 in Room 526-S of the Capitol.

All members were present except: Rep. Barbara Ballard - excused  
Rep. Gary Merritt - excused

Committee staff present: Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Bev Adams, Committee Secretary

Conferees appearing before the committee: Michael Byington, (WISB)

Others attending: See attached list

Hearing on:  
**HB 2864 - Concerning Kansas Industries for the Blind**

Michael Byington, Wichita Industries and Services for the Blind (WISB), appeared as a proponent for the bill. He requested the bill because of a different interpretation that was given to the "Kansas Use Law" last year that would allow more than one organization to make similar or identical products to sell to the State. He believes that this new interpretation causes confusion, and makes the Kansas Use program less efficient and more costly to Kansas tax payers. **House Bill 2864** would bring the law more into line with former interpretations. (see Attachment 1)

His organizations make products, such as trash bags and writing instruments, that are sold to the State of Kansas. The WISB provides employment for the blind, who have a estimated unemployment rate of 55-60% in our state. These products and others made by other disabled organizations are listed in the Kansas Use Catalog, published by the Department of Social and Rehabilitation Services, for purchase by state agencies. He finished his testimony by answering questions from the committee.

Dr. Richard Shutz, Division of Services for the Blind, answered a question from the committee about the manufacture of laser cartridges in Topeka.

No others were present to testify for or against the bill. Chairman Lane closed the hearing on **HB 2864**.

**House Bill 2889** will not be heard today, as the main witness is not available to testify.

Committee action on:  
**HB 2864 - Concerning Kansas Industries for the Blind**

Rep. Geringer made a motion to table the bill. Rep. Pauls seconded the motion. He withdrew his motion to allow for more study and discussion of the matter. Rep. Pauls made a suggestion that instead of changing statute, that this could be changed by adopting new rules and regulations concerning the law.

The meeting was adjourned at 9:52 a.m.

The next meeting is scheduled for March 5, 1996.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
GUEST LIST

DATE February 23, 1996

NAME	REPRESENTING
HANK RASMUSSEN	W. I. S. B.
Roy Alford	W. I. S. B.
Patrick Bobino	W. I. S. B.
Regina Henderson	W. I. S. B.
Michael Byington	W. I. S. B.
Dick Keek	W. I. S. B.
Raymond Hickey	WISB.
Linda Harley	W.I.S.B.
Allison D. Sedlack	WISB
Glenn Dockers	WISB
John Pittman	WISB
DON DOESKEN	KDHR - Legal
Linda Kinsey	SRS.
Debbie Manuel	D/A
Bill Jancee	BOEING
RICHARD SCHUTZ	SRS
JASON PITZENBERGER	BRAD SMOOT - KGC
Wayne Mantho	24 AFL - C.I. O
Kelly Jennings	KAPE
Gene Whalsh	KTLA

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
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NAME	REPRESENTING
Jim Applegate	Intern - Rep. Ballard
Norm Wilkes	KASB
Whitney Damon	Kansas Bar Association
Jim Hettiff	KS AFL-CIO
Jim Keele	BLE

WICHITA INDUSTRIES & SERVICES FOR THE BLIND, INC.

February 23, 1996

TO: House Committee on Business, Commerce, and Labor

REPLY TO: Michael Byington  
WISB Governmental Affairs Office  
P. O. Box 1063  
Topeka, Kansas 66601  
(913) 575-7477 (Topeka office and voice mail)  
(913) 233-2539 (Topeka FAX)

SUBJECT: support for House Bill 2864

Last year, a different interpretation than has ever been applied before was made concerning K.S.A. 75-3317 *et seq.*, "The Kansas Use Law." This interpretation was made by legal staff within the Kansas Department of Administration. While we do not fault the legal analysis which went into the new interpretation, we believe it causes confusion, and makes the Kansas Use program less efficient and more costly to the Kansas tax payers. House Bill 2864 would bring the Kansas Use Law more into line with former interpretations.

Throughout the history of the Kansas Use Law, until last year, no two employers of disabled persons covered under the law had ever attempted to make the exact same product or offer the exact same service, in competition with each other. Last year, however, this occurred. Kansas Industries for the Blind had been re-manufacturing laser printer cartridges for well over a year and selling these products to the State of Kansas under a sole source contract issued under provisions of K.S.A. 75-3317 *et seq.* At that time, an employment program for the developmentally disabled also entered this field and requested to have the exact same products included in the Kansas Use Catalog (referred to as the "list of products and services offered" in K.S.A. 75-3320.) After some deliberation, the Department of Administration and the Department of Social and Rehabilitation Services jointly determined that nothing in the current law prohibits competition among covered entities and further determined, therefore, that the sole source contract which had been issued for re-manufactured laser printer cartridges had been let in error and was not a legally made contract. This contract was thus nullified, and this year competition will begin in earnest between the two

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*House, Business,  
Commerce & Labor Comm.*

*2/23/96*

*Attachment 1*

A not-for-profit  
agency providing  
employment &  
services to people  
who are blind.

801 East Lincoln  
Wichita, Kansas 67211  
(316) 267.2244  
Fax (316) 267.4312

925 Sunshine Road  
Kansas City, Kansas 66115  
(913) 281.0710  
Fax (913) 281.2450

1600 North Walnut  
Pittsburg, Kansas 66762  
(316) 231.8600  
Fax (316) 231.8620

manufacturing entities.

It is my understanding that this situation occurred not because the second group getting into the business wished to target the first one in such a competitive manner. Rather apparently, the second group was unaware of the activities of the first.

At first consideration, one might ask what is wrong with competition. After all it is the American way. In this instance, however, the law causes competitiveness to be artificially controlled. Competition ends up costing Kansas taxpayers more, rather than assuring the best value. I shall explain why this is the case.

First of all, products and services sold under K.S.A. 75-3317 *et seq.* have their prices and standards fixed by the customer. The State is the buyer covered under this law, but the State's Director of Purchases is empowered to set prices and standards based on fair market value. This is therefore not a situation where one company can effectively underbid another one. There is a finite amount of business available, and it is all available at the same price.

An employer of disabled persons covered under the law has thus always been able to fairly accurately estimate the amount of business which is going to be available, and tool, fund, inventory, and staff the manufacturing operation accordingly. If the manufacturer is then surprised with the presence of other entities entering the same field for a piece of the same finite amount of State business, downsizing, re-tooling, loss on raw goods inventory, etc. are the results.

We at Wichita Industries and Services for the Blind, Inc. currently receive no State or county subsidy for our manufacturing operations. We, however, are the exception to the norm among industries who employ persons having severe disabilities. Virtually all of the workshops for the mentally retarded/developmentally disabled receive county mill levee monies. As many of you know who are on committees considering its privatization, Kansas Industries for the Blind has, for the past several years, been operating at a loss which has been covered by State funding. As these organizations are using taxpayer dollars at all levels, it makes no sense to put them in business situations which are at high risks for manufacturing business losses through overtooling,

overinventory, etc.

Further, K.S.A. 75-3322 provides provisions for wavering purchases required under K.S.A. 75-3317 *et seq.* at times when the covered providers can not supply the products or services needed or are unable to meet delivery requirements on any order or requisition. In such situations, the law requires the Secretary of Social and Rehabilitation Services or the Secretary's designee, to immediately forward a written waiver to the purchasing officer involved exempting the order or requisition from the mandatory purchasing requirements. Under the new interpretation of the current law, it is certainly going to be more difficult for the Secretary of SRS, or her designee to appropriately waiver purchases if several manufacturers of the same product must all be consulted and if combined multipoint order/requisition compilation must first be considered.

The above are all problems created by the re-interpretation of the current law, and which adoption of House Bill 2864 would correct. A total of three changes are specifically proposed. These are summarized below.

Our organization was founded as Kansas Foundation for the Blind. We are listed by that name in K.S.A. 3317 (d). Our name changed only a few years ago. K.S.A. 3317 (d) would simply be amended to reflect our name change.

K.S.A. 75-3320 (a) would be amended with an addition to the duties of the Secretary of Social and Rehabilitation Services. A requirement would be added to insure that products and services are not placed on the "list of products and services being offered for sale" in a manner creating competition between two providers. The proposed amendment gives priority to the first provider who proposes to list the product. The rather convoluted wording of the existing law makes the wording of this section somewhat cumbersome, but this is a complete summary of the action which would be caused via the proposed amendment. This amendment would not be retroactive. We are not attempting to spank the provider who caused the question of competition to arise, but rather only resolve the issue as it relates to future situations.

K.S.A. 3321 would be amended to make it clear that sole source contracting would be permitted. This would in fact make the waiver provisions contained in K.S.A. 75-3322

more efficiently applicable because the Secretary of SRS or her designee would only have to determine if one provider could meet an order before deciding whether a waiver is appropriate.

Thank you for this opportunity to support this legislation. Please feel free to contact me if I may answer any questions.