

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:30 a.m. on February 27, 2001 in Room 123-S of the Capitol.

All members were present except: Senator Kerr (Excused)

Committee staff present: April Holman, Legislative Research Department
Bob Nugent, Revisor of Statutes
Lea Gerard, Secretary

Conferees appearing before the committee: Cory D. Peterson, Assoc. General Contractors, Kansas
Bob Totten, Kansas Contractors Association, Inc.
Dick Lauerentz, AARP

Others attending: See attached list.

Corey D. Peterson, Executive Vice President, Associated General Contractors of Kansas, testified in opposition to the inclusion of "construction" in **SB 227**. The bill provides the State of Kansas the ability to conduct on-line "reverse auctions" for construction projects (Attachment 1). The Associated General Contractors suggested that **SB 227** be amended by deleting the word "construction" from Page 1, Line 36. The AGC of Kansas, however, does support the ability to submit traditional sealed bids via the internet.

Bob Totten, Public Affairs Director for the Kansas Contractors Association testified to amend **SB 227** by deleting the word "construction" from being included in real time bidding procedures (Attachment 2). Mr. Totten explained the Kansas Contractors Association is in opposition to "real time" bidding in that there are many figures put together for large, complex projects and to require a bid change in a short period of time could create too many potential problems.

Senator Brownlee responded that she did not agree with the suggestion that "construction" be deleted. She pointed out that the Department of Administration's proposed amendments address the issue of "real time".

Hearings closed on **SB 227**.

Senator Brungardt moved, seconded by Senator Jenkins, that the balloon amendment for SB 227, KSA Statute 10-106 be amended by striking "public sale" and adding the words "public notice sale". The voice vote was unanimous in favor of the motion.

Senator Steineger moved, seconded by Senator Jenkins, that SB 227 be conceptually amended to add reference of KDOT, Page 1, Line 40, striking "secretary of administration or another state agency purchasing agent" and insert "Secretary of Transportation or the Director of Purchases". The voice vote was unanimous in favor of the motion.

Senator Jenkins moved, seconded by Senator Steineger, that the proposed balloon amendments by the Department of Administration be adopted for SB 227. The voice vote was unanimous in favor of the motion. (Attachment 3).

Senator Steineger moved, seconded by Senator Emler, that SB 227 be recommended favorably for passage as amended. The voice vote was unanimous in favor of the motion.

A motion to approve the minutes for February 02, 06, 07, 08, 09, 12, 13 and 14 was made by Senator Jenkins, seconded by Senator Steineger. Motion passed.

Meeting adjourned.

Next meeting scheduled February 28 at 8:30 a.m.

SENATE COMMERCE COMMITTEE

GUEST LIST

DATE: FEBRUARY 27, 2001

NAME	REPRESENTING
Colleen Harrell	KCC
Ernest C. Poppe	AARP
Bob Hodges	KITA
Roger Franzyk	KGE
John Houlihan	Dept of Admin
Leo Vogel	" " "
Janet Buchanan	KCC
Kelly Mabon	KCC
Teresa Salts	Kansas Attorney General
Kristy Hiebert	"
Steve Rarnick	"
Tom Gleason	Independent Telecom Group
Denny Koch	SWB
Bill Sneed	SW Bell
Jeff Apin	Division of the Budget
Ray Dalton	SRS
Michael Whit	Kanney Law Office
Hany George	Platte District Schools
Kelly Kuhlman	City of Overland Park
Thaine Hoffman	DOAS
Zoe Vogel	DOA
Danielle Noe	DOA

Bob Totten to Contractors Association
 Tim Wood Conlee Consulting Group

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE SENATE COMMITTEE ON COMMERCE
ON SB 227**

February 27, 2001

By Corey D Peterson, AGC of Kansas, Inc.

Madam Chairman and members of the committee, my name is Corey D Peterson, Executive Vice President of the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing building general contractors and subcontractors throughout Kansas (with the exception of Johnson and Wyandotte counties).

The Associated General Contractors of Kansas is opposed to the inclusion of "construction" in Senate Bill No. 227. This opposition is due to the fact the bill provides the State of Kansas the ability to conduct on-line "reverse auctions" for construction projects.

Reasons AGC of Kansas opposes this new procurement method include the following:

- 1) The complexity of compiling and establishing bids for building construction projects makes live bidding virtually impossible. When generating a bid for building construction, the general contractor must first obtain bids from several layers of subcontractors and suppliers. Because of this, making adjustments based on sound business practices to the bid price during an auction would not be possible.
- 2) As stated by the online bidding software supplier, the software for online auctioning is intended for "commodity-type" products, which building construction is not.
- 3) This completely new procurement method would replace the tried and tested method of "lowest responsible bidder" for construction projects determined by sealed bid, which has served the State of Kansas well for many years.
- 4) Bonding companies would likely be reluctant to extend bonding capacity to all but the most solvent companies if there was reverse auctioning. This could have the effect of reducing competition.
- 5) A "reverse auctioning" event would tempt companies to underbid projects. This is the most common cause of construction companies failing. It can also cause tremendous problems for the state in getting work done correctly and on time.

Senate Commerce Committee
Feb. 27, 2001
Attachment 1-1

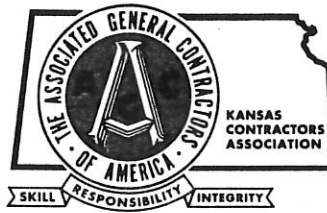
- 6) This new procedure would certainly have the effect of increasing the potential for mistakes in bids. This can also cause tremendous problems for the state as well as the contractor.

Because of the reasons stated above, **AGC of Kansas suggests that Senate Bill No. 227 be amended by deleting the word "construction" from Page 1, line 36.**

AGC of Kansas, however, **does** support the ability to submit traditional sealed bids via the internet. Many of our members, particularly those located in the outlying areas of the state, would benefit from this. This could possibly be allowed with an amendment to an existing statute, possibly K.S.A. 75-3739 or K.S.A. 75-3740.

Thank you for your consideration.

THE KANSAS CONTRACTORS ASSOCIATION, INC.



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Testimony

By the Kansas Contractors Association before the Senate Commerce

Committee regarding Electronic Submission of Bids---S 204

February 27, 2001

Mr. Chairman and members of the Senate Transportation Committee, I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization represents over 400 companies who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest.

I wanted to let you know the Kansas Contractors Association is in support of on line bidding which is proposed in Senate Bill 227. Our organization has suggested to KDOT many times, the idea of submitting bids electronically however for whatever reasons it has not occurred. We think it would be less expensive and more economical to get this through the system.

Senate Commerce Committee

Feb. 27, 2001

Attachment

2-1

Last week, KDOT held a bid letting on Thursday staff members were inputting the bids to determine who was the actual low bidder. It would be simpler if the figures submitted would already be in electronic form. Our members already have the capability, it is just a matter of getting started.

However there is one part of the bill we are opposed to and that is "real time" bidding...in other words, an auction.

We are opposed because it takes too long to put all the figures together for a large, complex project and then to require a change in a bid in a short period of time. It would create too many potential problems.

We would suggest language could be put drafted which would delete construction from being included in real time bidding procedures.

I would be happy to discuss this with you at your convenience and appreciate your concern on this matter.