

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 P.M. on March 9, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Hank Avila, Kansas Legislative Research  
Bruce Kinzie, Revisor of Statutes Office  
Betty Boaz, Committee Secretary

Conferees appearing before the committee:

Darryl Lutz, Butler County Engineer  
Randall Allen, Executive Director, KS Ass'n of Counties  
Bob Totten, Public Affairs Director, KS Contractors Ass'n  
Deann Williams, KS Motor Carriers Ass'n

Others attending:

See attached list.

**SB 94 - Roads and highways, contracts**

Chairman Hayzlett opened hearings on **SB 94** and introduced Darryl Lutz the Butler County Engineer. Mr. Lutz said the Kansas County Highway Association began work over three years ago to revise and update the sections of Chapter 68 of the Kansas Statutes that related to county road and bridge issues. According to Mr. Lutz, (Attachment 1) **SB 94** compliments and completes legislation signed into law in 2004 (SB 449). SB 449 updated the bidding statutes for benefit district projects and county bridge projects.

The next proponent was Randall Allen, Executive Director of the KS Association of Counties. Mr. Allen said he was there to support both **SB 94** and **SB 124**. (Attachment 2) According to Mr. Allen his membership voted to support the ongoing work of the Kansas County Highway Association and the Kansas Department of Transportation in reviewing these statutes and making statutory changes to what are in some cases obsolete terms and practices.

Chairman Hayzlett recognized Bob Totten, Public Affairs Director, KS Contractors Association, Inc. Mr. Totten said overall his organization supports this bill but one area of the bill they oppose. (Attachment 3) He said they oppose all changes referring to the language that says "all qualified bidders as defined in the project contract documents." They want the language to remain as it is in present law.

There were no other proponents and no other opponents.

After questions from the Committee the Chairman closed the hearing on **SB 94**.

**SB 124 - Roads and highways, classification of**

The Chairman recognized Darryl C. Lutz, Butler County Engineer as the first proponent of **SB 124**. According to Mr. Lutz (Attachment 4) this bill proposes technical amendments to 12 statutes concerning roads and bridges. This bill proposes to update definitions of county and township roads with current terminology recognized by the Federal Highway Administration and by the Kansas Department of Transportation.

The Kansas Department of Transportation provided written testimony in support of **SB 124**. (Attachment 5).

There were no other proponents and no opponents to this bill. After questions from the Committee the Chairman closed the hearing on **SB 124**.

CONTINUATION SHEET

MINUTES OF THE House Transportation Committee at 1:30 P.M. on March 9, 2005 in Room 519-S of the Capitol.

**SB 252 - Dealer tags, transporting trailers**

Chairman Hayzlett recognized Deann Williams, Director of Industry Relations, KS Motor Carriers Association, as a proponent for **SB 252**. According to Ms. Williams the KS Motor Carriers Association supports this bill which relates to dealer license plates. (Attachment 6) Ms. Williams said this bill was proposed on behalf of a member from Great Bend who manufactures flatbed trailers. She said often trailers are purchased three or four at a time so delivery becomes very time consuming and costly. But if this manufacturer were to license one trailer and then use it to deliver the other trailers it would be considered a used vehicle and when sold the value would be much less. Ms. Williams concluded that the transport (of up to four trailers) would comply with the size, weight and safety statutes currently in effect.

There were no other proponents and no opponents to this bill so Chairman Hayzlett closed the hearing on **SB 252**.

Chairman Hayzlett said he was not going to call final action on **SB 94** until such time as Mr. Lutz and the KS Contractors Association had an opportunity to talk about their differences.

The Chairman did call for final action on **SB 124**. Representative George made a motion to favorably move this bill out of Committee, Representative Humerickhouse seconded the motion and the motion carried.

Chairman Hayzlett called for final action on **SB 252**. Representative Ballard made a motion to favorably move this bill out of Committee, Representative Olson seconded the motion and the motion carried.

The Chairman asked if members of the Committee had had an opportunity to read the Minutes of the February 8, 9, 14, 17, 22 and 23, 2005 meetings. Representative Ruiz made a motion to approved the Minutes, seconded by Representative Beamer and the motion carried.

There being no further business, the Chairman adjourned the meeting. The next meeting will be March 10, 2005 in Room 519-S at 1:30 p.m.

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: Mar. 9, 2005

NAME	REPRESENTING
Deann Williams	KmCA
Tom Whitaker	KmCA
Randall Allen	Ks. Assn. of Counties
Darryl Lutz	Ks. County Highway Assoc.
Larry Emig	Kansas Dept. of Transp.
Ken Gudenkauf	KDOT

# HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: Mar. 9, 2005

NAME	REPRESENTING
Chris Raps	Leadership OVP
Mike WALSTEDT	" "
CARMEN ALDRICH	KDDO
Bob Totten	K9 Contractors Assoc.
Blair R. Butler	K5 Good Roads

**TESTIMONY  
SB 94**

**RE: An act relating to roads and highways; concerning bids.**

**House Transportation Committee  
Representative Gary Hayzlett, Chairman**

Presented by: Darryl C. Lutz, P.E., Butler County Engineer & Chairman of the KCHA  
Legislative Committee

March 9, 2005

To: Mr. Chairman and Members of the House Transportation Committee

I am here today to testify in support of SB 94 as amended and adopted in the Senate.

I am Darryl Lutz, P.E., Director of Public Works and County Engineer for Butler County. I have served in this position for 13 years. I am a member of the Kansas County Highway Association (KCHA) and currently Chair the Legislative Committee of that organization. The KCHA is an affiliate organization of the Kansas Association of Counties (KAC) and is a statewide organization of County Engineers, Public Works Directors, Highway Administrators, and other highway officials. The primary purpose of the KCHA is to provide technical programs and educational opportunities for its membership, to advance their knowledge and skills related County road, bridge and public works functions, and to develop their skills as administrators of their respective County departments.

The Kansas County Highway Association (KCHA) began work over 3 years ago to revise and update the sections of Chapter 68 of the Kansas Statutes that relate to County road and bridge issues. The goal of the KCHA's work is to repeal statutes that are conflicting with other statutes or are outdated and to revise other statutes to appropriately address current issues. The KCHA has worked closely with the KDOT to develop the proposals that resulted in drafting this bill. Work to update the County road statutes has been endorsed by the Kansas Association of Counties and is included in the adopted 2005 legislative platform. SB 94 was introduced by the Senate Transportation Committee at the request of the Kansas County Highway Association.

Senate Bill 94 proposes the following:

- Compliment and complete legislation signed into law (SB 449) in 2004. SB 449 updated bidding statutes for benefit district projects and County bridge projects. SB 449 provided that bid guarantees be 5% in lieu of 10%, provided that bids could be opened by the County Commission or their designee, stipulated that projects are to be bid by qualified bidders, provided that contractors are given 30 days in lieu of 10 days to return contracts and bonds upon award of work under

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said contract, allowed county counselors to review contracts and contract documents as an alternate to county attorneys, and allowed 95% percent of completed work to be paid during the progress of work. At the request of the Kansas Contractors Association the 30 day period for executing contracts was reduced to 21 days with concurrence from the KCHA.

- Section 1 – Makes revisions to County **road** bidding statutes.
  - Eliminates the requirement of an estimate to be filed with the county clerk prior to bidding of work.
  - Requires bidders to be qualified.
  - Clarifies that bids are to be opened on the *date* named in the advertisement as well as at the place and hour advertised.
  - Allows Counties to award a contract as long as the lowest responsible bid is not considered too high and as long as the bid does not exceed **110%** of the County Engineer's estimate. Currently the law stipulates that work shall not be awarded and the project must be re-bid if the lowest responsible bid exceeds the County Engineer's estimate. This proposal gives Counties greater flexibility to still award a contract as long as the bid is reasonably close to the County Engineer's estimate. This proposal recognizes that County Engineer's for various reasons may err in estimating project costs. This bill will reduce the possibility of losing valuable time to re-advertise and re-bid projects and will protect the work product of contractors who expend considerable time, cost and effort to develop competitive project bids.
  - Following the amendment in the Senate, this bill allows 21 days for contractors to enter into a contract with the county in lieu of the 10 days currently allowed by statutes and in lieu of the original legislative proposal to allow 30 days.
  - Allows the county counselor to meet with the Board of County Commissioners related to letting of contracts as an alternate to the County Attorney.
  - Allows progress payments to be paid for **95%** of completed work in lieu of 90%.
- Section 2 – Modifies 68-1115, the bridge bidding statutes, to similarly allow contracts for **bridge** projects to be awarded as long as the lowest responsible bid is within **110%** of the County Engineer's estimate.
- **New Section 3** – Amends 68-1117 in the bridge bidding statutes to change the amount of time allowed for returning contracts from 30 days to 21 days. This section was added to make all the county road and bridge bidding statutes consistent in response to the amendment in Section 1 related to the same issue.

Thank you for consideration of SB 94. I ask that this bill be passed favorably out of committee as presented. I stand ready for questions from the committee.

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**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

**Testimony on SB 94 and SB 124**  
House Transportation Committee  
Randall Allen, Executive Director  
Kansas Association of Counties  
March 9, 2005

Chairman Hayzlett and members of the House Transportation Committee, I am Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to express support for SB 94 and SB 124, both bills updating and modernizing Chapter 68 of the Kansas Statutes Annotated, and bringing them into the 21<sup>st</sup> century. At our annual conference last November, our membership voted to support the ongoing work of the Kansas County Highway Association and the Kansas Department of Transportation in reviewing these statutes and making statutory changes to what are in some cases obsolete terms and practices.

The Kansas Association of Counties urges the committee to report SB 94 and SB 124 favorably for passage.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. For more information, please contact Randall Allen or Judy Moler at (785) 272-2585.

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# THE KANSAS CONTRACTORS ASSOCIATION, INC.



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CORKY BEACHNER, Vice President  
St. Paul, Kansas

MIKE MORRAND, Treasurer  
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## Testimony

By the Kansas Contractors Association

before the House Transportation Committee regarding SB 94

March 9, 2005

Mr. Chairman and members of the House 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.

Today, I want to thank you for allowing me to testify in favor of Senate Bill 94. We support this measure as it allows more flexibility to the counties in accepting bids on county projects. Presently counties must accept the lowest and best bid as long as the bid is below or at the engineer's estimate. This has been a problem in some cases as sometimes the engineer's estimate is too low and the project has to be rebid. That means time and expense to the county as well as to the contractor who has gone out and researched the project to submit the bid. This measure allows the county to accept bids at a price that is up to over 10 percent of the engineers' estimate and we see this as a good

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solution and similar to what KDOT does in its own contracts. This helps all involved as the county has more discretion in accepting bids. As you might understand, contractors hate to reveal their prices at a public letting only to learn later the bids are rejected. It costs everyone money to rebid a project; the county, the contractor and ultimately the taxpayer. This bill changes that situation.

In one area of the bill we oppose one of the changes. I am referring to the first page and line 39-through 41. We oppose all changes in that area of the bill. What I am referring to is the language that says all qualified bidders as defined in the project contract documents. That language appears to us that it would allow county commissioners to set up who is qualified and we fear that it would limit who could bid on a job. What happens if the county commissioners decide only local contractors could bid a job. That seems to go against the idea of free and open competition.

Our suggestion is keep the language as it is in present law. Our organization has not seen a need for a change this area.. It appears the county commissioners can now reject bids if they believe the contractor is not qualified. We believe that if you allow restrictions on a bidder, you may find that a respective county could restrict bidding to only contractors located in their county.

Such a restriction may allow favoritism to come into play instead of having a level playing field and allowing everyone to be able to bid for a project. The key we must remind you is that the counties can now reject bids after the bids are taken if they believe they have not gotten a responsible bid.

Overall, we support the bill but we would like to encourage to hold off on the changes just mentioned. I will be glad to answer your questions.

**TESTIMONY**  
**SB 124**

**RE: An act relating to roads and highways; concerning road classifications.**

**House Transportation Committee**  
**Representative Gary Hayzlett, Chairman**

Presented by: Darryl C. Lutz, P.E., Butler County Engineer & Chairman of the KCHA  
Legislative Committee

March 9, 2005

To: Mr. Chairman and Members of the House Transportation Committee

I am here today to testify in support of SB 124 as adopted by the Senate.

I am Darryl Lutz, P.E., Director of Public Works and County Engineer for Butler County. I have served in this position for 13 years. I am a member of the Kansas County Highway Association (KCHA) and currently Chair the Legislative Committee of that organization. The KCHA is an affiliate organization of the Kansas Association of Counties (KAC) and is a statewide organization of County Engineers, Public Works Directors, Highway Administrators, and other highway officials. The primary purpose of the KCHA is to provide technical programs and educational opportunities for its membership, to advance their knowledge and skills related County road, bridge and public works functions, and to develop their skills as administrators of their respective County departments.

The Kansas County Highway Association (KCHA) began work over 3 years ago to revise and update the sections of Chapter 68 of the Kansas Statutes that relate to County road and bridge issues. The goal of the KCHA's work is to repeal statutes that are conflicting with other statutes or are outdated and to revise other statutes to appropriately address current issues. The KCHA has worked closely with the KDOT to develop the proposals that resulted in drafting this bill. Work to update the County road statutes has been endorsed by the Kansas Association of Counties and is included in the adopted 2005 legislative platform. SB 124 was introduced by the Senate Transportation Committee at the request of the Kansas County Highway Association.

Senate Bill 124 primarily proposes the following:

- Update the old designation of "secondary roads" to align with the current designation "major collector" as currently recognized by the Federal Highway Administration and by KDOT.
- Updates the definitions for rural road classifications for the 3 different county road systems which include the non-county unit (county-township) road system found in K.S.A. 68-506; the county unit road system found in K.S.A. 68-516; and, the general county rural highway system as found in K.S.A. 68-591.

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- Amends and updates Article 17 of Chapter 68 which defines the process of establishing major collector roads.
- Amends the road classification names in the sections that provide federal aid funding for County road improvement projects.
- Amends the road classification names in the sections that set road and bridge width standards.
- Amends the road classification names in other miscellaneous sections of the statutes and includes clerical revisions as proposed by the Revisor of Statutes.

Section 1 – This section is an existing section found in K.S.A. 68-506. This section is being moved verbatim to a new section by itself.

Section 2 – This section makes clerical revisions to all the road definitions and changes the road classification name “secondary road” to the new name “major collector”.

Section 3 – This section is found in one of the Secretary of Transportation Articles of Chapter 68 which deals with distribution of federal aid funds to Counties. The only revision proposed is to change the term “secondary road” to “major collector roads or minor collector roads”.

Section 4 – This section updates the road classifications for roads under the non-county unit (county/township) road system. Additionally, the language proposed in Section 1 has been removed from this section.

Section 5 – This section deals with establishing maintenance agreements for county federal aid routes through cities under population 5000. The only revision proposed in this section is to change the term “secondary road” to “major collector road”.

Section 6 – This section updates the road classifications for roads under the county unit road system.

Section 7 – This section makes a clerical revision to the current statute and expands the jurisdiction for establishing minimum standards for the various classes of roads to include the state as well as the federal level.

Section 8 – This section updates the road classifications for roads under the general county rural highway system.

Section 9 – This section establishes minimum widths for culverts and bridges on local roads. The revisions in this section include changing the term “secondary road” to “major collector road” and changes the authority for building below these standards from the Secretary of Transportation to the County Engineer. This change was proposed by KDOT with concurrence by the KCHA.

Section 10 – This is an existing miscellaneous section regarding loans for county bridges over navigable streams. The only revision proposed in this section is to change the term “secondary road” to “major collector road”.

Sections 11, 12 & 13 – These sections deal with establishing the federal aid road system in counties. The minimum requirements for these roads are being tied to the federal definitions and the term “secondary road” is being changed to “major collector road”. These revisions were made with considerable input and collaboration from KDOT.

Section 14 repeals the existing statutes being amended.

Section 15 is the enacting section of this bill.

Following is the explanation of the minor technical amendments that were made to SB 124 at the request of the KDOT and the KCHA in the Senate Transportation Committee:

1. In the first paragraph of this Senate Bill in the new Section 1. on lines 16 and 17 the words “or highway” was deleted. The revision states “Whenever any county major collector road ~~or highway~~ or county minor collector road ~~or highway~~ is located.....” This makes the language consistent with the definitions for the three governance types. Refer to Sections. 4, 6, & 8.
2. In the third paragraph of Senate Bill 124, Sec. 3. of 68-402b. (a), the second sentence was revised to replace the words secondary road by state highway. The revision would then state “If any county does .....then the secretary of transportation may allocate such federal-aid funds to other counties or to the state ~~secondary road~~ highway system, and the secretary .....deems necessary.” The State no longer has a secondary road system.
3. Senate Bill 124 in 68-516 Sec. 6. Paragraph (3) was amended to read ““local service roads” which shall include all public roads..... not designated as county minor collector roads or highways and not included in the state highway system *or other state or federal systems.*” The words “*or other state or federal systems*” were added.
4. Senate Bill 124 in 68-592, Sec. 8. (a) part (3) was also amended to read ““local service roads” which shall include all public roads and highways .....and not designated as county minor collector roads ~~or highways~~ and not included in the state highway system *or other state or federal systems.*” The words “or highways” were deleted and “or other state or federal systems” were added.
5. Senate Bill 124, Sec. 11. The first paragraph was also amended to read “K.S.A. 68-1701 is hereby amended to read as follows: 68-1701. There shall be designated in the state of Kansas a system of roads *and highways* which, for the purposes of this act.....” The words “and highways” were added.

Thank you for consideration of SB 124. I ask that this bill be passed favorably out of committee as presented. I stand ready for questions from the committee.



# KANSAS

DEPARTMENT OF TRANSPORTATION  
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

## WRITTEN TESTIMONY BEFORE THE HOUSE TRANSPORTATION COMMITTEE

### REGARDING SENATE BILL 124 RELATING TO ROADS AND HIGHWAYS

*Laura Burnham  
written test. only*

March 9, 2005

The Kansas Department of Transportation (KDOT) is providing written testimony in support of Senate Bill 124. Senate Bill 124 revises twelve (12) existing statutes in Chapter 68 – Roads and Bridges by updating with current terminology the classification of county and township roads. The main purpose for the revisions is to update road classifications and make them consistent with those used by the Federal Highway Administration. The revisions do not change the intent or purpose for the twelve existing statutes. The major revision proposed by Senate Bill 124 is the replacement of the term that identified a secondary road and where stated is replaced by county major collector. One statute K.S.A. 2004 Supp. 68-1702 is repealed.

Four existing statutes provide route classification definitions. Proposed revisions to K.S.A. 68 – 101 will be to the general road classification definitions. Three additional statutes proposed revisions are to classification definitions for each of the Kansas county road governance types. K.S. A. 68-506 provides classifications for county-township counties or counties that have not adopted the county unit road system, 68-516 provides classifications for county unit road counties, and 68-592 provides classifications for general county rural highway system counties. The proposed revisions identify within each governance type a county road system classification hierarchy generally described as follows: major collector, minor collector, and local.

KDOT has worked closely with the Kansas County Highway Association (KCHA) to develop the proposals that resulted in drafting this bill. The proposed revisions will make the classification of county roads consistent with functional classification requirements KDOT administers for the Federal Highway Administration. In summary KDOT supports passage of Senate Bill 124.

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Attachment # 5



# KANSAS MOTOR CARRIERS ASSOCIATION

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Executive Director

## LEGISLATIVE TESTIMONY

before the

**HOUSE TRANSPORTATION COMMITTEE**  
**Representative Gary Hayzlett, Chairman**  
**Wednesday, March 9, 2005**  
**State Capitol – Topeka, Kansas**

### MR. CHAIRMAN AND MEMBERS OF THE HOUSE TRANSPORTATION COMMITTEE:

I am Deann Williams, director of industry relations of the Kansas Motor Carriers Association. I appear here this afternoon representing our 1200 member companies in support of Senate Bill No. 252 which relates to dealer license plates.

The request of this bill is on behalf of one of our members from Great Bend that manufactures flatbed trailers. Often trailers are purchased three or four at a time, so delivery becomes very time consuming and costly. If this manufacturer were to license one of the trailers, and then use it to deliver the other trailers, it would be considered a used vehicle and when sold the value would be much less.

By amending 8-136 and adding section (d) this would authorize a licensed dealer or manufacture to transport up to four trailers as long as they continue to comply with the size, weight and safety statues we currently have in chapter 8, article 19.

KMCA supports SB 252 and asks your favorable consideration on this bill. I would be pleased to answer any questions you may have.

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Attachment # 6