

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on March 12, 2008 in Room 123-S of the Capitol.

All members were present except:
Ruth Teichman- excused

Committee staff present:
Jennifer Thierer, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Jason Long, Revisor of Statutes
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:
Representative Grange
Greg Debacker, Debackers

Others attending:
See attached list.

To read testimony submitted by conferees go to
<http://skyways.lib.ks.us/government/KansasSenateCommerceCommittee>.

HB 2847--Cities and municipalities, examinations for plumbers, electricians and heating, ventilation and air conditioning contractors and journeymen

HB 2315--HB 2315--Home inspectors competency and financial responsibility

HB 2771--Concerning age discrimination

Chairperson Brownlee called the Committee's attention to a memo from Jennifer Thierer, Legislative Research, regarding minimum wages in Kansas, (Attachment 1) which can be found in its entirety on the link listed above.

Chairperson Brownlee called the Committee's attention to the minutes submitted to the Committee for their approval asking them to take a look at them and stating they would come back to them at the end of the meeting.

Next, Chairperson Brownlee called on Jason Long, Revisors Office, to explain **HB 2847**. Mr. Long stated the bill, as amended, would amend the law regarding licensing examinations for plumbing contractors, electrical contractors, and heating, ventilation, and air conditioning contractors, to provide for the use of standard examinations from the international Code Council (LCC), the International Association of Plumbing and Mechanical Officials (IAPMO) or Prometic, a subsidiary of Educational Testing Services.

Chairperson Brownlee opened the hearing on **HB 2847** and introduced Representative John Grange to give his testimony as a proponent of the bill. Representative Grange presented written testimony (Attachment 2) which can be found in its entirety on the link listed above.

Upon the conclusion of Representative Grange's testimony there was a short question and answer session.

Chairperson Brownlee introduced Eric Stafford, Associated General Contractors of Kansas, Inc., to give his testimony as a proponent of the bill. Mr. Stafford presented written testimony (Attachment 3) which can be found in its entirety on the link listed above.

Chairperson Brownlee introduced Greg Debacker, Debakers, to give his testimony as an opponent of **HB 2847**. Mr. Debaker presented written testimony (Attachment 4) which can be found in its entirety on the link shown above.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 12, 2008 in Room 123-S of the Capitol.

Chairperson Brownlee called the Committee's attention to the "written only" testimony (Attachment 5) of Don Lindsey, United Transportation Union, a neutral party of **HB 2847** which can be found in its entirety on the link listed above.

Chairperson Brownlee ask if there was anyone else that would like to testify on **HB 2847**; being none, she closed the hearing and opened the floor for discussion with the Committee. The Committee discussed the bill with Senator Emler wanting to insert a definite effective date and explaining why it is needed.

Senator Emler made the motion to insert in sections 1,2 and 3, in the appropriate places, to be determined by the Revisor, "in effect 7-1-08". Senator Jordan seconded. Motion carried.

Senator Barone made a motion to pass the bill out favorably as amended. Senator Wagle seconded. Motion carried.

Chairperson Brownlee stated the continued hearing for the inspectors bill, **HB 2315**, would be tomorrow along with a hearing on the age discrimination bill, **HB 2771**. There was a short discussion on **HB 2315** and concerns were voiced within the Committee on the accuracy of the testimony which has already been given in the hearing.

Senator Schodorf made a motion to approve the minutes for January 29, 2009, January 31, 2008, February 5, 2008, February 6, 2008 and February 7, 2008. Senator Emler seconded. Motion carried.

Chairperson Brownlee adjourned the meeting at 9:00 a.m. with the next meeting scheduled for March 13, 2008, at 8:30 a.m. in room 123 S.

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

010-West-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 ♦ FAX (785) 296-3824

kslegres@klrd.state.ks.us

<http://www.kslegislature.org/klrd>

March 10, 2008

To: Senate Committee on Commerce
From: Jennifer Thierer, Legislative Intern
Re: Wages in Kansas

Below is a table reflecting the average wages for 18 of the occupations employing the most Kansans as compared to the current state and federal minimum wages. Note the federal minimum wage is scheduled to increase to \$6.55 in July 2008 and \$7.25 in July 2009.

<u>Occupation</u>	<u>Average Hourly Wage*</u>
State Minimum Wage	\$2.65
Federal Minimum Wage	\$5.85
Combined Food Preparation and Serving Workers	\$6.94
Waiters and Waitresses	\$7.12
Cashiers	\$7.90
Janitors and Cleaners	\$9.71
Nursing Aides, Orderlies and Attendants	\$10.02
Retail Salespersons	\$10.46
Office Clerks	\$10.50
Stock Clerks and Order Fillers	\$10.83
Laborers and Freight, Stock, and Material Movers	\$10.96
Secretaries	\$11.47
Team Assemblers	\$12.71
Customer Service Representatives	\$13.18
Bookkeeping, Accounting and Auditing Clerks	\$13.25
Executive Secretaries and Administrative Assistants	\$16.37
Truck Drivers	\$17.02
Average Kansas Wage	\$17.55
First-line Supervisors/Managers of Office and Administrative Support Workers	\$19.27
Registered Nurses	\$23.64
General and Operations Managers	\$38.37

Senate Commerce Committee

March 12, 2008

Below is another table reflecting the average hourly wage of the ten lowest paying occupations in the State of Kansas as compared to the state and federal minimum wages.

<u>Occupation</u>	<u>Average Hourly Wage*</u>
State Minimum Wage	\$2.65
Federal Minimum Wage	\$5.85
Cooks, Fast Food	\$6.81
Counter Attendants	\$6.85
Combined Food Preparation and Serving Workers	\$6.94
Dining Room and Cafeteria Attendants and Bartender Helpers	\$7.00
Motion Picture Projectionists	\$7.00
Ushers, Lobby Attendants, and Ticket Takers	\$7.08
Food Servers, Nonrestaurant	\$7.10
Waiters and Waitresses	\$7.12
Dishwashers	\$7.14
Lifeguards, Ski Patrol and Other Recreational Protective Service Workers	\$7.23

* All information was provided by the Kansas Department of Labor and reflects 2007 wages.

JNT/kal

JOHN C. GRANGE
REPRESENTATIVE, 75TH DISTRICT
BUTLER COUNTY



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

AGRICULTURE AND NATURAL RESOURCES
COMMERCE AND LABOR
AGRICULTURE AND NATURAL RESOURCE
BUDGET

Testimony on Behalf of HB2847
Senate Commerce Committee
March 12th 2008

Chairperson Brownlee and members of the committee, thank you for the opportunity to appear before you to express my support on HB 2847 which relates to an industry of which I am personally involved with. I carried this legislation to the House Floor where it passed 122-1.

Since 1978 I have owned a mechanical contracting company in El Dorado in which we provide service and installation of plumbing, electrical, furnaces, air conditioners and ventilation (HVAC) equipment for the residential and light commercial market. I am a Master Licensed Electrician and HVAC Technician. In addition I hold the contractor license for these crafts.

I employ master and journeyman technicians in these areas and in plumbing as well. Examination by a nationally recognized testing organization is required for licensure in the disciplines and geographical areas that I operate my business.

HB 2847 was brought to my attention last year as a result of research on the now tabled continuing education issue (HB2251) that had come before the House Commerce and Labor Committee.

The short version is that the statute currently references a testing organization is no longer in business and if not changed will impact city and county code authorities across the state. The current language before you is a product of over a year's worth of collaboration between myself, representatives of our industry, construction inspectors, code enforcement officials, technicians, union membership, and various contractor organizations.

Input was received from the various interested parties through meetings, emails, phone calls, and personal visits. We shared our thoughts, concerns and were able to compromise on this language. I had originally planned on a consent calendar path for this legislation, however several language changes and the increased interest indicated we should open this for committee action.

In a nutshell this is a great piece of work that is brought before you and I request you act

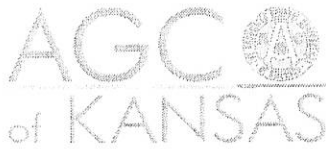
Senate Commerce Committee

March 12, 2008

Attachment 2-1

favorably on this legislation. Your passage will permit K.S.A. 12-1508, 12-1525, and 12-1541 to updated upon printing of the statute book

I thank-you for your attention and will stand for your questions.



Building a Better Kansas Since 1934
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**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE SENATE COMMITTEE ON COMMERCE**

HB 2847

March 12, 2008

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Madam Chair, Mister Chairman and members of the committee, my name is Eric Stafford. I am Associate Government Affairs Director for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

AGC of Kansas supports House Bill 2847 and respectfully requests that you report it favorably for passage.

HB 2847 would update current law to match industry-recognized testing agencies ICC (International Code Council), IAPMO (International Association of Plumbing and Mechanical Officials) and Prometric (formerly Block and Associates), for mechanical contractors, electrical contractors and plumbing contractors.

Today, K.S.A. 12-1508, 12-1525 and 12-1541 acknowledge Block and Associates (now called Prometric) as the recognized testing organization for these trades. With the name change, AGC feels it is necessary to update these statutes.

The AGC of Kansas **respectfully requests that you report HB 2847 favorably for passage.** Thank you for your consideration.

Senate Commerce Committee
March 12, 2008

Attachment 3-1

Testimony on HB 2847
Senate Commerce Committee
By Greg DeBacker
March 19, 2008

Licensing and Continuing Education requirements restrain free trade as they now stand. All the major players promoting licensing and CEU's profit from the new requirements. It creates jobs for many people who do not have the mechanical aptitude to actually perform the work. I do not argue there is some benefit, however, manufacturers and liability insurance companies do far more to protect property and keep people safe. The fact is that adopted codes often have to be abandoned to install HVAC equipment in order to comply with manufacturers installation requirements. Manufacturers frequently trump code, with the exception of when it is disallowed due to a local code official who dislikes the manufacturer. There can be a lot of politics involved in construction, which is unrelated to the safety of people and the protection of property. Lowes, Home Depot and Hardware stores should sell only to licensed contractors. Do you think that will happen?

If I'm in error, please correct me, but I brought this to the committees attention last year during hearings on House Bill 2251. I mentioned that Kansas cities were not complying with current law due to the fact that Block and Associates, as mentioned in KSA 12-1508, 12-1525 and 12-1541, was no longer in business. This means all persons who have received their licenses in the last 6-10 years did not acquire their license according to current Kansas law. History: The Block name was changed to Experian, then Thompson Prometric, now it is called Prometric. 4 name changes in a little over 15 years.

1) Lines 22-25 need deleted, lines 37-40 need deleted. Unlawful Delegation of State authority. State electrical, plumbing, mechanical, residential contractor, commercial contractor boards need to be established. These boards can then establish and modify codes to be adopted and approve testing organizations. The state of Kansas should follow the lead of other states in licensing of construction trades. The state of Kansas does this with other professions.

Teachers can teach any where in the state of Kansas. Doctors and Lawyers can practice anywhere in the state of Kansas. Why is it that DeBacker's Inc. in business since 1949, and a Kansas Corporation registered with the Secretary of State since 1966, with about 18 employees, cannot openly do business in all of Kansas's cities? We previously could. In the 1960's -- 1980's we installed equipment in cities from Hays to Kansas City. Since licensing and CEU's have been instituted our trade area has been restricted to Topeka and Lawrence and areas outside of Manhattan and Junction City and the counties surrounding Topeka.

2) Amendment... Companies or Persons in the trade of Plumbing, Mechanical, Electrical, and Contracting prior to 2006 and have proof of liability insurance shall be grand fathered by all Kansas municipalities, and CEU's will be reciprocal.

In summation, I question the wisdom of the legislation that was passed in 1992, and I question the logic of this revision. Let's learn from history and not make another mistake, or the legislature will be modifying this every few years. Unlawful Delegation of State authority.
Thank you.

Senate Commerce Committee
March 12, 2008
Attachment 4-1



As long as uninformed and ignorant attitudes like Governor Sanford's prevail, ethical contractors will face higher costs, restrictions, and taxes. Meanwhile the disreputable continue to do what they want without consequence.

LICENSING: What a Joke!

Let's face it. HVAC licensing is a joke. If we can't muster the will to fix it, we should scrap it. For example, Scott Robinsion, president of Apple Heating and Air Conditioning, Ashtabula, OH says, "Licensing as a concept is a good thing. It should raise the quality of the installed work and the performance of the installed systems. Unfortunately, too many ignore the law, and enforcement is harder on the 'good guys' who are licensed, take out permits, and get every job inspected."

Penalizing ethical behavior. Bingo! Scott hits the nail right on the head. As it stands today, licensed, ethical contractors are more likely to get slapped around than the unscrupulous.

"The penalties for licensed contractors are worse than those for unlicensed contractors," says Mike Bohinc, owner of Keeping Score, Inc, Auburn Township, OH.

Kentucky contractor Andy Sievers (Arco Heating and Air, West Paducah) likes his state's licensing program, but laments the lack of enforcement. "No one stops the jacklegs and unlicensed border crossers."

Progress lost. When the South Carolina legislature passed a bill to let the state licensing board create a fine for unlicensed HVAC contractors, I thought we were making progress. Unfortunately, Governor Mark Sanford vetoed it, claiming the bill would eliminate competition, and drive up the costs of selling and installing HVAC systems.

In other words, it's okay to drive up the costs for legitimate companies who play by the rules, but it's not okay to fine those who break the rules.

Licensing isn't hard to attain. As Kurt Peterson of Home Experts, Ionia, MI remarks, "Anyone with the ability to cram for and pass a test can get a license. Licensing doesn't address whether the applicant actually knows anything or has had any real training."

"The test is so easy that you can pass it with minimal knowledge. You can retake it as many times as you like. It's open book," says Tom Calhoun in Arkansas. Calhoun recently sold his contracting firm that was based in El Dorado.

Licensing can work. "The best licensing that I'm aware of we is right here in Indianapolis," boasts Aaron York Sr., owner of Aaron York's

Quality Air Conditioning & Heating, Inc., in Indianapolis, IN. "It's overseen by contractors in the construction trades."

Unfortunately, Indianapolis is the exception. Licensing is not contractor-driven in most places. Usually there are three drivers in play:

- Contractors want licensing to level the playing field making it harder for fly-by-nights and low ballers to give the industry a bad name.

- Homeowners want licensing to indicate technical competence, ethical behavior, and safe choices. This is consistent with contractors' objectives.

- States and municipalities want licensing to generate hidden tax revenue on small businesses as effortlessly as possible.

Guess who wins? Hint: It's not you or the unsuspecting consuming public.

As Dave Yates, president of F.W. Behler, York, PA rants, "It's developed into nothing more than a money game and I, for one, resent being a government agent for ripping off customers via thinly veiled taxes. It has nothing at all to do with protecting the public's health, and that's a travesty."

The government is clueless. "I think it's misguided for people not to be able to use their handyman of choice," said Governor Sanford. Handyman? Are you kidding me? Does he lump surgeons together with meat packers?

As long as uninformed and ignorant attitudes like Sanford's characterize our government executive offices, ethical contractors will face higher costs, restrictions, and taxes while the disreputable do what they want without consequence.

Leveling the field. There are only two ways to level the playing field. Either we apply and enforce licensing uniformly or we dump it altogether. What's it going to be? **CB**

This column was based upon a discussion from the Service Roundtable. Matt Michel is the CEO of the Service Roundtable (www.ServiceRoundtable.com). For a free copy of his e-Book, "Build a Better Mousetrap: 34 Ways to Boost Print Marketing Performance," contact Liz Patrick toll free at 877.262.3341 or by email at Liz.Patrick@ServiceRoundtable.com. Matt can be reached by email at Matt.Michel@ServiceRoundtable.com.



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Mechanical Exams	UMC-97	UMC-00	UMC-03	IMC-98	IMC-00	IMC-03	Common Ref.
Business and Law, All Trades							10010 -70% 10010 -70%
Master Mechanical	31110-70% 31110 -75%	31111-70% 31111 -75%	31112-70% 31112 -75%	31120-70% 31120 -75%	31121-70% 31121 -75%	31122-70% 31122 -75%	
Master Unlimited Air Conditioning (Master Mechanical)	31010-70% 31010 -75%	31011-70% 31011 -75%	31012-70% 31012 -75%	31020-70% 31020 -75%	31021-70% 31021 -75%	31022-70% 31022 -75%	
Commercial Air Conditioning	31210-70% 31210 -75%	31211-70% 31211 -75%	31212-70% 31212 -75%	31220-70% 31220 -75%	31221-70% 31221 -75%	31222-70% 31222 -75%	
Heating, Air Conditioning, Refrigeration and Ventilation	31310-70% 31310 -75%	31311-70% 31311 -75%	31312-70% 31312 -75%	31320-70% 31320 -75%	31321-70% 31321 -75%	31322-70% 31322 -75%	
Residential Air Conditioning	31410-70% 31410 -75%	31411-70% 31411 -75%	31412-70% 31412 -75%	31420-70% 31420 -75%	31421-70% 31421 -75%	31422-70% 31422 -75%	
Master Limited Air Conditioning	31510-70% 31510 -75%	31511-70% 31511 -75%	31512-70% 31512 -75%	31520-70% 31520 -75%	31521-70% 31521 -75%	31522-70% 31522 -75%	
Journeyman Limited Air Conditioning	34410-70% 34410 -75%	34411-70% 34411 -75%	34412-70% 34412 -75%	34420-70% 34420 -75%	34421-70% 34421 -75%	34422-70% 34422 -75%	
Journeyman Unlimited Air Conditioning (Jour. Mechanical)	31610-70% 31610 -75%	31611-70% 31611 -75%	31612-70% 31612 -75%	31620-70% 31620 -75%	31621-70% 31621 -75%	31622-70% 31622 -75%	
Master Heating	31710-70% 31710 -75%	31711-70% 31711 -75%	31712-70% 31712 -75%	31720-70% 31720 -75%	31721-70% 31721 -75%	31722-70% 31722 -75%	
Journeyman Heating	31810-70% 31810 -75%	31811-70% 31811 -75%	31812-70% 31812 -75%	31820-70% 31820 -75%	31821-70% 31821 -75%	31822-70% 31822 -75%	
Unlimited Refrigeration	34510-70% 34510 -75%	34511-70% 34511 -75%	34512-70% 34512 -75%	34520-70% 34520 -75%	34521-70% 34521 -75%	34522-70% 34522 -75%	
Limited Refrigeration	34610-70% 34610 -75%	34611-70% 34611 -75%	34612-70% 34612 -75%	34620-70% 34620 -75%	34621-70% 34621 -75%	34622-70% 34622 -75%	
Unlimited Refrigeration Operator						37421-70% 37421 -75%	
Limited Refrigeration Operator						37521-70% 37521 -75%	
Master Sheet Metal	34710-70% 34710 -75%	34711-70% 34711 -75%	34712-70% 34712 -75%	34720-70% 34720 -75%	34721-70% 34721 -75%	34722-70% 34722 -75%	
Journeyman Sheet Metal	34810-70% 34810 -75%	34811-70% 34811 -75%	34812-70% 34812 -75%	34820-70% 34820 -75%	34821-70% 34821 -75%	34822-70% 34822 -75%	
Unlimited Boiler	34910-70% 34910 -75%	34911-70% 34911 -75%	34912-70% 34912 -75%	34920-70% 34920 -75%	34921-70% 34921 -75%	34922-70% 34922 -75%	
Low Pressure Boiler	35510-70% 35510 -75%	35511-70% 35511 -75%	35512-70% 35512 -75%	35520-70% 35520 -75%	35521-70% 35521 -75%	35522-70% 35522 -75%	
Master Gasfitter		35110-70% 35110 -75%	35111-70% 35111 -75%		35120-70% 35120 -75%	35121-70% 35121 -75%	
Journeyman Gasfitter		35210-70% 35210 -75%	35211-70% 35211 -75%		35220-70% 35220 -75%	35221-70% 35221 -75%	
Master Pipefitter		35310-70% 35310 -75%	35311-70% 35311 -75%		35320-70% 35320 -75%	35321-70% 35321 -75%	
Journeyman Pipefitter		35410-70% 35410 -75%	35411-70% 35411 -75%		35420-70% 35420 -75%	35421-70% 35421 -75%	

4-3

united transportation union

DONALD F. LINDSEY JR.
DIRECTOR/CHAIRMAN

KANSAS STATE LEGISLATIVE BOARD

March 12, 2008

533 WALNUT
P.O. BOX 537
OSAWATOMIE, KANSAS 66064
OFFICE (913) 755-3191
FAX (913) 256-3193
HOME (913) 755-3376
CELL (913) 244-6523

**STATEMENT OF DONALD F. LINDSEY JR., DIRECTOR
KANSAS STATE LEGISLATIVE BOARD
UNITED TRANSPORTATION UNION
REGARDING H.B. 2847**

**PRESENTED TO COMMITTEE ON COMMERCE
THE HONORABLE KARIN BROWNLEE, CHAIRMAN**

Madam Chair and Members of the Committee, my name is Don Lindsey. I am the Director of the Kansas State Legislative Board, United Transportation Union. I am a duly elected officer, authorized to speak on behalf of our some 6,000 active and retired members and their families who reside in the State of Kansas. I appear in basic support of H.B. 2847 with a somewhat different perspective than that presently contained in the bill, as amended by the House Committee on Commerce and Labor.

The United Transportation Union (UTU) became interested in HB 2847 after visiting with Kirby Clark of the Sheet Metal Workers International Association (SMWIA). Mr. Clark and others were concerned that the language in the original bill was too broad and it would be more beneficial for one uniform test to determine competency for a license under K.S.A. 12-1508, 12-1525 and 12-1541.

The House Committee on Commerce and Labor amended the bill by deleting the original language of "any nationally recognized testing organization" and specifying the use of standard examinations from the International Code Council (ICC), the International Association of Plumbing and Mechanical Officials (IAPMO) or Prometric, a subsidiary of Educational Testing Services. While this improved the bill, it does not provide for only one common examination that would ensure that anyone granted and holding a license under K.S.A. 12-1508, 12-1525 and 12-1541 had the same skill and proficiency as any other licensee.

As someone who needs help in changing out a light bulb, I do not profess to know which examination should be adopted for determining the qualification of persons seeking licensure under this statute but do feel that it would prove to be in the best public interest if one testing service was named and used.

Mr. Clark has indicated to me that he and the SMWIA would like to see only one standard examination used and in his opinion, the Prometric test would be preferred. The UTU and the SMWIA respectfully asks that when the bill is worked that the committee consider using a standard examination from one provider, as was previously done in K.S.A. 12-1508, 12-1525 and 12-1541, which referred to Block and Associates.

Thank you Madam Chairman for allowing me to present written testimony to the Committee and I apologize for being unable to attend the hearing because of medical problems. Should you or any member of the Committee have any questions or comments, please feel free to contact me.

Senate Commerce Committee

March 12, 2008