

February 16, 2011

The Honorable Susan Wagle, Chairperson  
Senate Committee on Commerce  
Statehouse, Room 135-E  
Topeka, Kansas 66612

Dear Senator Wagle:

SUBJECT: Fiscal Note for SB 140 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 140 is respectfully submitted to your committee.

SB 140 would create the Kansas Small and Disadvantaged Business Development Program within the Department of Commerce. This program would:

1. Develop programs to provide opportunities for participation by qualified minority and disadvantaged businesses in public works and the process that goods and services are procured by state agencies and postsecondary educational institutions from the private sector;
2. Develop a comprehensive plan insuring that qualified minority and disadvantaged businesses are provided an opportunity to participate in public contracts for public works and goods and services;
3. Identify any barrier to equal participation by qualified minority and disadvantaged businesses in all state agency and postsecondary educational institution contracts;
4. Establish annual overall goals for participation by qualified minority and women-owned and controlled businesses for each state agency and postsecondary educational institution to be administered on a contract-by-contract basis or on a class-of-contracts basis; and
5. Develop and maintain a central minority and disadvantaged business certification list for all state agencies and postsecondary educational institutions.

The bill requires that each state agency and higher education institution comply with the annual goals established for that agency or institution for public works and procuring goods or services. Each city, county, and unified school district would also be required to adopt a similar minority and disadvantaged business procurement program. The Kansas Small and Disadvantaged Business Development Program would be responsible for investigating

complaints of violations and would be required to notify the Governor and Legislative Division of Post Audit of all agencies and institutions not in compliance.

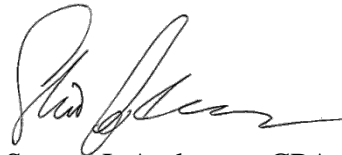
The bill prohibits anyone from preventing or interfering with a contractor's or subcontractor's compliance with the bill or any regulation. The bill prohibits the submission of any false or fraudulent information to the director, and prohibits anyone from fraudulently obtaining or attempting to obtain certification. The bill also prohibits anyone from knowingly making a false statement, knowingly obstructing an investigation, fraudulently obtaining or attempting to obtain public monies to which the person is not entitled, or knowingly making any false statement or representation that any organization is or is not certified. The penalties for violating the provisions of the bill include withholding payment, banning the contractor, suspending or terminating the contract, or civil penalties of up to 10.0 percent of the amount of the contract or up to \$5,000, whichever is greater, for each violation. The bill provides that a willful repeated violation may disqualify the contractor for a period of up to three years.

Estimated State Fiscal Effect				
	FY 2011 SGF	FY 2011 All Funds	FY 2012 SGF	FY 2012 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$210,000	\$210,000
FTE Pos.	--	--	--	3.00

The Department of Commerce indicates implementing SB 140 would require \$210,000 from the State General Fund in FY 2012 for the salaries and wages and operational expenses for 3.00 new FTE positions to manage this program.

State agencies, postsecondary educational institutions, and local governments would be required to comply with the annual goals for participation by qualified minority and women-owned and controlled businesses for public works and procurement contracts. The bill has the potential to increase the costs for goods and services purchased by state agencies, postsecondary educational institutions, and local governments if a disadvantaged bidder were required to be selected over a lower cost bidder; however, no precise fiscal effect can be estimated. Any fiscal effect associated with SB 140 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Traci Herrick, Commerce  
Larry Baer, League of KS Municipalities  
Melissa Wangemann, KS Association of Counties