

Testimony

By the Kansas Contractors Association

before the Senate Commerce Committee

regarding

SB 260

February 13, 2007

Chairpersons and members of the Senate Commerce Committee, I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization **represents over 350 companies** who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest.

I appear today because The Kansas Contractors Association is concerned about SB 260 which creates more requirements regarding the employment of competent individuals to work in Kansas. As you may be aware, the highway construction industry is constantly striving to find trained personnel to work in construction and at the same time comply with all state and federal laws so as to not discriminate against anyone.

In reviewing SB 260, we believe the measure does not greatly affect the highway

construction industry as the definition of a contractor in line 19 on page 1 says “a contractor means a person having a public contract for services with a state agency or political subdivision of the state.” Later on line 29, it says “services means the furnishing of labor, time or effort by a contractor or subcontractor not involving the delivery of a specific end product.” With those two definitions we believe this measure does not pertain to highway construction. Our members sign contracts with state agencies to build an end product such as a bridge or highway.

Even though this measure may not be designed to center its efforts on the highway construction industry, I should tell you we believe it is incorrect for the state to go beyond what the federal government is already requiring under the Immigration Reform and Control Act of 1986. That law, which I have provided a summary already imposes penalties on employers who knowingly hire or continue to employ aliens not authorized to work in the United States.

Our membership believes the federal penalties are sufficient and additional state law is unnecessary.

Even with that said, our membership does have concerns on page two and line 8-12 which indicates the prime contractor should be responsible for a sub contractor who fails to hire employees correctly. We oppose such reference as it requires more than it should when it comes to sub contractors. Prime contractors should not be liable for the hiring practices of their subs and subs should not be responsible for the hiring practices of their primes.

I have not addressed the concern over the basic Pilot program which is cited in the first Section of the proposed measure. We have 3 members who have chosen to

participate in the basic pilot program. It appears it is being used as part of an additional effort to comply with the federal law passed in 1986.

Unfortunately, the Basic Pilot Program is not the only answer as in a recent incident in Colorado so proves. In December of 2006, the Swift and Company was raided by the federal government for employing illegal aliens. The Swift and Company had been using the Basic Pilot program since 1997...but even with that program in place, 1,297 undocumented workers in Swift packing plants throughout the Midwest were arrested.

The Federal government took no action against the company however, the meat processor did suffer a loss of over \$30 million dollars. What was discovered is that the basic Pilot Program does not snag stolen Social Security numbers that are being used in multiple locations. Such information brings into question how valuable the Basic Pilot Program is.

One other note, our membership believes if any law is passed regarding this measure, it should apply to all companies in Kansas. It should not be centered on one industry or another.

This immigration measure is a complicated issue and after listening to discussion in various Senate committees several weeks ago, I find there are conflicting positions all over the place. To try to come up with some solutions, a group of business interests here in the capitol are working together to come up with a plan to address some of those concerns. We will be glad to provide to the committee a proposal at a later date...in the mean time, I will try to answer some of your questions if you have them.