



WESTERN EXTRALITE COMPANY
DISTRIBUTORS OF QUALITY ELECTRICAL AND VOICE/DATA PRODUCTS

February 12, 2007

Madam Chairman,

First, I want to thank you and your committee for giving me the opportunity to address you on the merits of SB 333, The Kansas Fairness in Public Building Construction Contract Act. I am Ken Keller, Controller of Western Extralite Company, with service centers in multiple locations in Kansas and Missouri. We supply electrical supplies to the construction industry.

For the past several years, Bill Miller, myself, and other interested parties have met with this committee with the intent of creating fairness in construction contracts. Two years ago, thru the efforts of this committee, Kansas passed the most progressive Prompt Pay Act ever in the form of SB 33. That bill helped to level the playing field while creating fairness in private construction contracts for the general contractor, subcontractors, and suppliers. It provided a specific timeline for payment for work properly performed and invoiced timely. It provide remedies if this timeline was not met, such as the ability to stop work and pull off the job, thus, possibly shutting down the job. If this didn't work, you can go to court and not only recover the monies due you, plus 18% interest, but also your court costs and reasonable attorney fees. Certain egregious acts were address by the committee and made against public policy. These included having to waive your right to file suit to resolve any differences. You could not give your right to file a mechanic's lien or a bond claim. You could not waive the right of your insurance carrier to subrogate against the negligent party's insurance company in the event of a claim. In the last two years, I have yet to hear any negative feedback or problems created by this legislation.

As a colleague of yours in the Senate said, SB 33 was very good and badly needed legislation for private construction contacts. Today we have the opportunity to extend those same benefits to public contracts. The same problems exist. The egregious acts, the slow pay – only the owners have changed. In fact, the slow pay in the public sector is even worse. Many public entities will take the monies they receive and put them in time deposits for a fixed period to enhance revenues. How can they be expected to pay if this money is tied up in a 90-day CD and is not available?

The problem of course, is the general contractor and the subcontractors have payrolls to meet and suppliers to pay. Their only recourse, unless they are flush with working capital, is to borrow from the bank, provided they have that ability.

Some of the current contracts that exist in the public arena are grossly unfair and need to be corrected just as private contracts were by SB 33.

Last year we were told 30 days wasn't always workable in smaller rural areas. We have increased the timeframe to 45 days in these instances. Beyond that, I will repeat something that I commented on last

year. That being, in the 1990's the Federal Government realized that their paying habits were bankrupting some of their smaller suppliers, so they enacted a Prompt Pay Act on themselves that they would pay the provider in 30 days or pay interest. It is working. I will repeat myself when I say, if the Federal Government can do it, anyone can. I urge your support of SB 333.

Thank you,

Kenneth R. Keller
Controller
Western Extralite Company
(816) 421-8404