

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 a.m. on February 3, 2004 in Room 241-N of the Capitol.

All members were present except: Representative Mary Kauffman- absent

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department  
Norm Furse, Revisor of Statutes  
Rena Jefferies, Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee: Secretary John Moore, Commerce and Housing  
Representative David Huff  
Bill Schutte, President, The Green Co., Inc.  
Mike Crow, Director, Division of Operations, KDOT  
Corey Peterson, Associated General Contractors of Kansas, Inc.  
Bob Totten, Kansas Contractors, Inc.  
Keith Myers, Department of Administration, Division of Purchases

Others attending:

See Attached List.

The Chairman opened the meeting at 9:00 a.m. and welcomed Secretary John Moore to the committee.

John Moore, Secretary, Kansas Department of Commerce, gave an overview of the Department. The mission statement is to empower businesses and communities through bold leadership using strategic resources to realize prosperity in Kansas. Kansas' strategy for job retention and creation is to have economic development efforts regionally focused and led with the state's resources available to complement and strengthen those efforts.

There are seven economic development regions. Over 500 attended a statewide prosperity summit in Wichita on October 1. A 12-point economic revitalization plan was unveiled. (1) Continued commitment to statewide priorities. (2) Business retention and recruitment. (3) Energy policy. (4) Value added agriculture. (5) Workforce development. (6) Seed financing and new business assistance. (7) Life sciences. (8) Rural business development. (9) Inventory of support programs. (10) Image and marketing. (11) Tourism. (12) Ad Astra strategy.

Either through legislation that will be introduced, proposals in the Governor's budget or actions already underway, all twelve points in the economic revitalization plan will be addressed. Legislation has been introduced to dramatically revise incentives. The Governor's Economic Policy Council was created with two members of the Senate Commerce and House Economic Development Committees.

Legislation has been introduced to create a Biosciences Authority and an Emerging Industry Investment Act, create an angel investor network to raise seed capital, and create a Center of Entrepreneurship with a statewide foundation for entrepreneurship.

Executive Reorganization Order No. 31 moves education and training division and all related workforce development programs from Kansas Department of Human Resources to the Department of Commerce (Attachment 1).

The Chairman thanked the Secretary for the very good briefing on the Department of Commerce.

The Chairman opened the hearing on **HB 2521 - State and municipal contracts; reference for Kansas domiciled bidders.**

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE at 9:00 a.m. on February 3, 2004 in Room 241-N of the Capitol.

Staff gave a briefing on **HB 2521** concerning contracts for purchases by the state or municipalities. A contractor domiciled outside the state of Kansas, to be successful, shall submit a bid less than the lowest bid submitted by a responsible contractor domiciled in Kansas by the following percentage: (a) For a contract amount of less than \$250,000, 1%; (b) for a contract amount of \$250,000 or more but less than \$500,000, 2%; (c) for a contract amount of \$500,000, or more but less than \$1,000,000, 3%; and (d) for a contract amount of \$1,000,000 or more, 4% (Attachment 2).

Representative Huff, the sponsor of **HB 2521**, testified the bill is designed to give Kansas businesses a slight percentage break when bidding for state government business. This bill would not effect bids between Kansas businesses. This bill would not effect out-of-state bidders when no Kansas business is involved. The intent of this bill is to give a very slight advantage to Kansas businesses bidding against out-of-state companies for Kansas state government businesses. (Attachment 3).

William P. Schutte, President, The Green Company, Inc., Kansas City, KS, testified in support of **HB 2521**, stating the bottom line is that Kansas companies pay Kansas taxes. It is incumbent upon Kansas state legislators to do everything possible to keep Kansas monies in the state of Kansas (Attachment 4).

Mike Crow, Director of Operations for the Kansas Department of Transportation (KDOT) testified in opposition to **HB 2521**. KDOT has significant concern regarding the impact of this legislation on the cost of all contracts and, as introduced, grave concern on the impact that this type of preference would have on the ability of KDOT to utilize Federal Aid on highway construction projects planned for the remainder of the ten year Comprehensive Transportation Program.

Under the Federal Aid guidelines, KDOT cannot use this type of preference on Federal Aid projects. If KDOT were to use this type of preference in the selection process for projects, Federal Highway Administration will not participate in the project and KDOT would lose federal funds for the project. This is significant when considering that a great many projects are funded in part by federal dollars, many of which are up to 80% federally funded. Consequently, this type of preference would mandate 100% state-funded projects, severely eroding the number of projects that could be completed (Attachment 5).

Corey D. Peterson, Executive Vice President, Associated General Contractors of Kansas, Inc., (AGC) testified as an opponent to **HB 2521** which would provide a preference to in-state contractors bidding on public projects. The AGC of Kansas has had a long-standing position opposing any bill that would provide such preference to in-state contractors. AGC feels that artificial barriers have not proven to be a productive means to garner business for Kansas contractors. Many of our member contractors conduct business outside of Kansas.

While the AGC of Kansas opposes **HB 2521** as written, it would not oppose the bill should amendments be made that would exclude building construction (Attachment 6).

Bob Totten, Public Affairs Director, Kansas Contractors Association (KCA), is an opponent to **HB 2521** in its present form. However, with the amendment offered by Representative Huff, the KCA would remove their opposition. The proposed amendment at the end of line 21 would add "but not including contracts for the construction, improvement, reconstruction or maintenance of roads, streets and bridges in the state or contracts with commercial building contractors for construction or repairs for state or municipal owned buildings". Our members are very much against the original bill which would have required preferential treatment to instate contractors (Attachment 7).

D. Keith Meyers, Director, Divisions of Facilities, Printing, and Purchases, Kansas Department of Administration, testified as a neutral party on **HB 2521**. K.S.A. 75-3740a establishes reciprocity. In other words, if another state penalizes a Kansas bidder, Kansas would penalize a bidder from that state to the same degree. Currently, 29 states have similar reciprocity laws. **HB 2521** would establish a preference for Kansas vendors who bid on goods and services for any governmental entity in the state of Kansas.

The challenge presented by this legislation is finding the balance between the economic benefit to Kansas vendors by providing this protectionist measure versus the potential additional cost to state agencies and local units as well as the potential loss of opportunities for Kansas vendors in other states due to reciprocity laws (Attachment 8).

CONTINUATION SHEET

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The following provided written testimony in opposition to **HB 2521**: Mark Tallman, Assistant Executive Director/Advocacy (Attachment 9), Trudy Aron, Executive Director, The American Institute of Architects (Attachment 10), and Eric King, Director of Facilities for the Kansas Board of Regents (Attachment 11).

The Chairman closed the hearing on **HB 2521**.

Representative Grant moved and Representative Hill seconded approval of the minutes of January 14, 20, 21, 22, 27 and 28. The motion carried.

The Chairman stated the committee would work **HB 2330 - Prohibited acts and remedies for certain acts involving sale of motor fuel below cost.**

Representative Patterson moved and Representative Hill seconded on line 18, page 2 on first offense give a Notice to Cease and Desist without a penalty effective within 24 hours of receipt; second violation would be \$1,000 fine per day and the third violation would be \$10,000 per day. The motion carried.

Representative Pauls moved and Representative Ruff seconded on page 2, line 29 to remove "or" and replace with "and", in line 30 strike "if applicable". The motion carried.

Representative Pauls moved a conceptual motion and Representative Swenson seconded to put under "Rules and Regs Authority". The motion carried.

Representative Patterson moved and Representative Hill seconded to insert on page 2, line 9, "within six months of the violation" after "action" and on line 24 after "violation". The motion carried.

Representative Patterson moved and Representative Swenson seconded on page 1, line 29, remove "invoice price or the lowest terminal price" and replace with "average of the three lowest terminal prices posted by a supplier". On page 1, lines 32 and 33 remove "or transportation costs" and replace with "offered from a common carrier for hire designated for the terminal from which the most recent supply of motor fuel delivered to the retail location". The motion carried.

Representative Hill moved and Representative Grant seconded to move **HB 2330** out favorably with amendments. The motion carried.

The meeting adjourned at 10:40 a.m. and the next meeting will be February 4.