

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Nick Jordan at 8:05 A.M. on March 10, 2005 in Room 123-S of the Capitol.

All members were present except:
Susan Wagle- excused

Committee staff present:
Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:
Representative Ed O'Malley
Michael Scanlon, City Administrator, Mission, KS
Laura McConwell, Mayor, Mission, KS
Matt Jordan, Department of Commerce
Terry Leatherman, Kansas Chamber

Others attending:
See attached list.

Chairperson Jordan opened the meeting by calling on Senator Emler, Chairperson for the Subcommittee on **SB 33**. Senator Emler stated the reason for a substitute bill was several different organizations; owners, general contractors, subcontractors, the bankers association, League of Municipalities, architects and others were given a chance to give their input on each change that was made. Senator Emler explained each of the changes with discussion after each with the Committee. Upon completion, the consensus of the Committee was Senator Emler and the Subcommittee did a great job. The Committee all agreed that the Substitute for **SB 33** had some language to clean up but thought that could be done in the House.

Chairperson Jordan recognized Senator Reitz. Senator Reitz stated the subcommittee was to be congratulated for this incredible bill. He also stated it reaches his criteria of "fairness and enforceable" and will support this bill.

There was more discussion with Senator Emler and Senator Wyszog regarding the payment time line. The discussion continued with Senator Barone regarding the payment from the owner to general contractors and from the general contractors to the subcontractors and the subcontractors to the suppliers. Discussion continued and Senator Emler stated the bill was only for commercial.

Chairperson Jordan recognized Senator Brownlee and she stated she was pleased with the Substitute for **SB 33**. She stated it was straight forward and simple and commended the subcommittee for doing such a good job.

The Chairperson called on Bill Miller, representing the subcontractors, for his feelings on the bill. Mr. Miller stated they did not get everything the subcontractors wanted but they were in agreement. He also stated there was language to clean-up in the House.

Upon completion of Mr. Miller's comments, Chairperson Jordan called on Corey Peterson, representing AGC, for his feeling regarding the bill. Mr. Peterson stated AGC was not as far as they would like to be but they are very close. He also agreed things could be worked on in the House.

Chairperson Jordan recognized Senator Brownlee. She addressed Mr. Peterson asking him what items he is still looking at. Mr. Peterson stated that a lot of it was clarification of contract laws that were not addressed by public policy. He also stated they still have concerns regarding lien waiver of subrogation and are still talking to their council and insurance industry to determine what impact it will have on the industry. It could only be some tweaking. Senator Brownlee turned to Senator Emler and asked if AGC had voiced those concerns on the waiver of subrogation during the subcommittee meetings. Senator Elmer stated they did mention it.

Chairperson Jordan recognized Senator Barone who wanted to know the feelings of the architects and the

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Chamber. Trudy Aaron, representing the architects agreed the bill was good but they felt the same way Corey Peterson felt. The language could be cleaned up in the House. Chairperson Jordan called on Terry Leatherman from the Chamber for his feelings and he stated he would have Marlee Captenter contact Senator Barone since he did not work on that bill.

Senator Brownlee made a motion to adopt the substitute for **SB 33** and pass it out of the Committee favorably. Senator Reitz seconded. Motion carried.

Chairperson Jordan opened the hearing on **HB 2140** by calling Representative O'Malley to give his testimony on **HB 2140**. He stated he would provide written testimony at a later date. He highlighted briefly what brings them before the Committee today. The city of Mission has a flood plain problem with a cost of \$30 to \$40 million to correct. Almost \$50 Million in commercial property is located in the middle of a flood plain after the new maps came out about a year ago. This bill is a technical clean-up on a bill passed year. Some of the wording is not quite right. They are going to the county level, federal level and state level for funding.

There was discussion with the Committee and Representative O'Malley regarding the flood plain description being consistent. Representative O'Malley stated a new map was released which put the commercial property right in the middle. Discussion continued on what committee had this bill in conference last year. Representative O'Malley stated it was in the Tax Committee last year.

Chairperson Jordan introduced Laura McConwell, Mayor of Mission, Kansas. Mayor McConwell opened by addressing the question about the flood plain. She stated Rock Creek runs through the heart of their commercial district from Metcalf to Roe. The creek has been there and construction happened over it. After the flood of 1998 the county commissioned a much better study of the area. A vast number of small businesses, were in flood plain. When they found this last year they knew they had to do something. They are using a number of different funding sources. She urged the Committee to vote favorably on **HB 2140**. Mayor McConwell offered written testimony. (Attachment 1, Page 2)

Chairperson Jordan recognized Senator Wysong and he stated this was one of the little towns in his district and the mall is a major mall. He stated these 100 year floods do occur about every 5 to 10 years and Rock Creek is a problem.

Chairperson Jordan introduced Mike Scanlon, City Manager of Mission, Kansas. Mr. Scanlon gave a history of what started a year ago. He stated the first thing they did with the new map was try to poke holes in it because it would not make much sense for a community their size to spend this much money. He stated the first problem to understand is the volume of water. The volume of water in a hundred year event is the equivalent of 1/5 of the flow of the Missouri River and is flowing underneath the mall. It is a reactive creek which doesn't take long for it to overflow. They researched the sources available to pay for this project and are seeking help in the form of TIP. They have local aid and are also seeking federal aid. Upon completion of Mr. Scanlon's testimony there was discussion with the Committee on the new map and how reliable it is.

Upon completion of the discussion Chairperson Jordan closed the hearing on **SB 2140**. Senator Barone made a motion to change page 7 line 16 to replace the word "or" with "and". Senator Brownlee seconded. Motion carried. Chairperson Jordan closed the hearing on **SB 2140**. Senator Wysong made a motion to pass the bill out favorably as amended. Senator Schodorf seconded. Motion carried.

Chairperson Jordan opened the hearing on **HB 2164** by introducing Matt Jordan, Department of Commerce. Mr. Jordan stated this bill renews a financial incentive for retail businesses in small rural communities for another 5 years. Mr. Jordan presented written testimony. (Attachment 2)

Upon completion of Mr. Jordan's testimony there was discussion with the Committee. Senator Kelly joined the discussion by asking how it has been used in the past 5 years. Mr. Jordan explained when a retail business relocates or expands to a county that qualifies for this exemption they are able to get the sales tax portion of the construction, machinery and equipment rebated back or exempted to them. Senator Kelly asked how successful this program has been. The fiscal note indicated there were a number of exemptions about \$100,000 worth of retail exemptions. Mr. Jordan stated the Department of Commerce does not operate this

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program they are coming here on behalf of local communities across the state. He stated he would get information if the Committee would like.

Chairperson Jordan introduced Terry Leatherman, Kansas Chamber, representing the Kansas Economic Development Alliance. Mr. Leatherman stated the bill is one that rural communities use when they are pursuing retail businesses and the Kansas Economic Development Alliance would urge the Committee to support the passage of **HB 2140**. Mr. Leatherman offered written testimony. (Attachment 3)

Upon completion of Mr. Leatherman's testimony, there was discussion among the Committee on being able to monitor these programs and track their effectiveness. The consensus of the Committee is to put in each bill they pass requirements for the business to report back in order to allow tracking. The Committee is concerned they don't know the good things that are happening when they pass bills such as this one. The discussion continued on the Committee being able to track the success of these programs. The Committee would like a way to know the impact and the applications of these programs.

Chairperson Jordan closed the hearing on **HB 2140**.

A motion was made by Senator Barone to pass the bill out favorably. Senator Kelly seconded. Motion carried.

Chairperson Jordan moved the discussion to **SB 260** with Helen Pedigo, Revisor of Statutes, giving a recap on the latest balloon to the bill. The new balloon is new sections 27, 28 and 29. Ms. Pedigo stated it is the result of the Co-Chairs, Department of Commerce, Department of Revenue and Post Audit. Ms. Pedigo explained the balloon. She stated the language which Kansas Action for Children had requested had been added along with parts of **HB 2010**. (Attachment 4)

A discussion followed with the Committee regarding if the language is what is needed to be able to get all the information needed for tracking programs and incentives. Ms. Pedigo stated, to her knowledge, this bill in conjunction with **SB 13**, if it is passed, will get the Committee all the information they want with the exceptions of those corporations specifically identified where there is less than five of those types of companies. For those types of projects, the Secretary and the Legislators will have to add reporting requirement into each and everyone of those projects. This bill covers sales tax, use tax, privilege tax and income tax credits. Chairperson Jordan addressed Richard Cram from the Department of Revenue inquiring if it would be possible to get a list of the less than five so the Committee could address adding reporting requirements to those. The discussion continued regarding information needed and the fact that the Committee does not want to deal with this issue again.

With no further questions or discussion on the balloon dated 3-8-05 to **SB 260**, Senator Brownlee made a motion to accept the balloon dated 3-8-05 with the additional corrections on **SB 260**. Senator Reitz seconded. Motion carried.

Chairperson Jordan referred the Committee to the duties of Kansas, Inc. and how they would be distributed to the Department of Commerce, the Department of Revenue and Post Audit. Chairperson Jordan started the review on **SB 260** section by section with the Committee.

Senator Brownlee made a motion for the Revisor of Statutes, Helen Pedigo to do an overall balloon. Seconded by Senator Barone. Motion carried.

Chairperson Jordan continued the review of each section. A motion was made by Senator Schodorf to repeal all of section 6 for **SB 260**. Senator Brownlee seconded. Motion carried.

Senator Kelly made a motion to repeal section 7. Senator Kelly seconded. Motion carried.
Senator Barone made a motion to change every 5 years in section 8 to every 4 years. Senator Brownlee seconded. Motion carried.

Senator Brownlee made a motion regarding the panel in Section 9 (g) to go back to five members to be made up of the President of KTEC, a private sector chairperson of KTEC, Secretary of Commerce, the Chair

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of the Senate Commerce Committee and the Chair of the House Eco Devo Committee. Senator Barone seconded. Motion carried.

Meeting adjourned at 9:30 a.m. with the next scheduled for Friday, March 11, 2005 at 8:30 in room 123S