

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on February 16, 2006 in Room 527-S of the Capitol.

All members were present except:  
Anthony Hensley- excused

Committee staff present:  
Hank Avila, Kansas Legislative Research Department  
Bruce Kinzie, Revisors of Statutes  
Maggie Breen, Committee Secretary

Conferees appearing before the committee:  
Sally Howard, General Counsel, KDOT  
John Lay, George Lay Signs, Wichita  
Paul Finney, Bailey Hotel, Humboldt  
Larry Baer, League of Kansas Municipalities

Others attending:  
See attached list.

Chairman Donovan said SB 253 - Highway advertising control act of 1972, amendments was tabled last year due to differences. The parties involved have been working together to find a workable solution to these differences.

Bruce Kinzie reminded the committee that the bill needed to be untabled. Senator Wilson made a motion to pull SB 253 from the table. Senator Petersen seconded the motion. The motion carried.

Chairman Donovan opened the hearing on SB 253.

Bruce said there is a **Substitute for SB 253** but not all of the parties have had a chance to see it and there might still be some fine-tuning to be done on it. He said Sally Howard would cover the changes in the substitute bill.

Sally Howard, General Counsel, KDOT, said Substitute for SB 253 is almost a complete overhaul of outdoor advertising. It's the Highway Beautification Act, as the act has been codified in the Kansas statutes. A substantial part of the bill is that there is now a permit requirement. They made it a pay-to-play type of program. The fees now are much more in line with the cost of the program. It's the cost of the industry doing business in Kansas. They increased the application fee to \$250. They will now issue a permit and the sign owner has 12 months to erect the sign or the permit goes away. Extensions may be requested if there is a reason for the delay. After that, there is a biannual license. The cost of the license depends on the size of the sign. A structure of less than 33 square feet will now cost \$20 every 2 years; structures between 33 and 300 square feet are \$75 every 2 years; and those over 300 square feet are now \$150 every 2 years. The fee is per structure. They previously charged \$10 per county, no matter how many signs you had there. Bigger sign companies were being charged about 34 cents per sign while the smaller companies who had one or two signs were charged \$10 per sign. The most you could be charged per year before the change was \$250, regardless of how many signs you had in the state of Kansas. That raised about \$11,000 per year. The cost of administering the program is approximately \$280,000 per year. The fees they are now proposing will generate about \$350,000 every two years. It doesn't pay all of the fees but it will pay a lot more than it does now. All of the other changes are geared towards clearing up sloppy language and more clearly define things such as unzoned commercial areas. They included language from the agreement they have with the Federal Highway Administration along with some language other states are using. They also included a right to appeal if someone isn't agreement with a decision made by KDOT. Another issue of concern to the industry is a vegetation control policy. Right now, Kansas doesn't have a policy and a lot of other states don't either. The industry questions if they can get on KDOT's right-of-way and clear vegetation to make their signs visible. There has been conflicting guidance from Federal Highway which makes developing a policy tricky. The department has made a commitment with the industry to get with them to develop a policy within one year of when the bill passes. (Attachment 1)

CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on February 16, 2006 in Room 527-S of the Capitol.

Senator Palmer presented a problem regarding the removal of a sign by KDOT in a small community in her district. She felt the situation was handled very poorly. She is very concerned that the small communities need to be permitted to have signs to help them with economic development. She thinks the needs and concerns of these small communities in rural areas should be looked at now, while the whole highway advertising control act is being amended.

Senator Petersen questioned the definition of visible including the words "whether legible or not legible." He questioned how they came up with it.

Ms. Howard. said it was a change in federal regulations but agreed to check the matter further.

John Lay, George Lay Signs, Wichita, said he was also Vice President of the Kansas State Sign Association representing 30 companies in Kansas. He's worked a lot with Ms. Howard and KDOT staff to put the bill together. One of the biggest challenges has been to create a balance of the interest of the really small billboard companies up through the huge media groups. He just learned that Viacom Outdoor in Kansas is now known as CBS Outdoor. So they deal with big operations in cities as well as small operations in the most rural areas. The bill presented last February would have been very damaging to their businesses. They believe the compromises they have worked out will allow them to stay in business and to retain opportunities to grow their businesses and still keep Kansas in compliance with federal mandates. A lot of the compromises have caused pain to their members and have not been easy ones. But they believe it is now a balanced bill. (Attachment 2)

Paul Finney, Bailey Hotel, Humboldt, said he has been involved in the historical preservation of their downtown. Today their downtown is economically devastated. They were adversely affected when US highway 169 bypassed the city in the early eighties and they've gone downhill ever since. Many other small towns have experience the same fate. The bypassing of cities with our interstate highways along with Lady Bird's law to limit outdoor advertising has created a compounded effect. You can't even see Humboldt from Highway 169 so we don't have anybody going through our town. There is a sign that says Humboldt but people don't know the size of the town and if they have anything to offer. Other small towns have this same problem. In the cities, we have just the opposite. The freeways and highways go right through the cities, people can see the businesses and there are billboards hanging on the side of the road. We have a dichotomy of how we are treating advertising in the cities and in the small towns. It's the limitation and the regulation of outdoor advertising that makes it as lucrative as it is today. He knows the industry has worked very hard on the bill and it's been greatly improved from a year ago. He appreciates what's been done. But he does object to the codification of the federal regulation that greatly restricts the commercial development in rural areas for the purpose of billboards. He thinks we should quit looking at the federal regulation as fixed and start doing something to get it changed. We have a probusiness administration in the White House and it's time to get some of these things changed. (Attachment 3)

Chairman Donovan asked the next conferee, Larry Baer, if the item he objects to in his written testimony, page 10, lines 4 through 16, had been removed.

Larry Baer, League of Kansas Municipalities, said no it hadn't, it now appears on the bottom of page 13 in subsection (g) and they still have a problem with it. He has visited with Ms. Howard this morning and he thinks they are already on their way to finding a compromise on subsection (g). Their biggest dilemma on this is that while they were contacted last summer regarding potential changes, somehow they didn't stay in the loop. They haven't had sufficient time to look at the rest of the bill. The language they most objected to was on the review and certification of local zoning provisions by the department. That has come out and they appreciate it. (Attachment 4)

Chairman Donovan suggested that all parties get together and get the language fixed. He wants to work the bill next week.

The meeting adjourned at 9:28 a.m. The next meeting is scheduled for February 20, 2006.