

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on February 20, 2008, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Office of Revisor of Statutes  
Athena Andaya, Kansas Legislative Research Department  
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Will Larson, Legal Counsel, Associated General Contractors of Kansas  
Woody Moses, Kansas Aggregate Producers; Kansas Ready Mixed Concrete Association  
Bill Miller, American Sub-contractors Association  
Bob Totten, Public Affairs Director, Kansas Contractors Association  
Ken Keller, Western Extralite Company  
Ken Daniel, Midway Wholesale

Others attending:

See attached list.

The Chairman distributed copies of a memo received from the Kansas Judicial Council concerning changes to the Uniform Trust Code (Attachment 1). At the request of Senator Vratil, the Judicial Council Probate Law Advisory Committee reviewed the changes proposed in **SB 478**. After a full review the Advisory Committee recommended that **SB 478** not be passed. Chairman Vratil stated that based on this report he will take no further action on **SB 478**.

The Chairman opened the hearing on **SB 603–Requirement of preliminary 20-day notice for supplier’s lien.**

Will Larson testified in support, stating the goal of **SB 603** is to assure timely payment by subcontractors so liens against the general contractor are not filed (Attachment 2). Mr. Larson indicated there may be some confusion over the bill and wanted to clarify that only one notice is required and a provision was added to make it only applicable to goods and services over \$15,000. Mr. Larson also offered a balloon amendment to address public works bonds.

Woody Moses spoke in opposition, stating there is no need for this bill (Attachment 3). Kansas has good lien law structure and works as intended by spreading the risk in a balanced manner. Mr. Moses indicated enactment of this bill potentially increases construction costs, create unnecessary paperwork, and lacks a compelling reason for passage.

Bill Miller appeared in opposition, stating **SB 603** unfairly targets suppliers of goods and services to the construction industry (Attachment 4). Current law already requires notice within 90 days, and 150 days for lien filing and should be adequate. Mr. Millers suggested increasing the trust provision in the contract to solve the issue.

Bob Totten spoke in opposition, specifically noting K.S.A. 60-1111 prohibits filing a lien on public projects exceeding \$100,000 (Attachment 5). Mr. Totten also indicated it is impossible to provide the address or legal description on an highway project extending over several miles or sewer projects running several blocks. This bill will also remove the existing rights contractors now have on commercial property by severely reducing the time limit to 20 days for filing a lien protection notice.

Ken Keller spoke against the bill, stating the bill will create an administrative nightmare for suppliers (Attachment 6). Mr. Keller also voiced several of the concerns stated earlier. He feels the bill is unfair and unnecessary.

Ken Daniel appeared in opposition, stating this bill is unfair to suppliers and sub-sub contractors and the required paperwork will be impossible to administer (Attachment 7). Mr. Daniel estimated it will cost nearly

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\$1,000,000 to protect the lien right of the company. He feels the bill is ill conceived and urged that it not be passed.

Written testimony in opposition to **SB 603** was submitted by:  
Woody Moses, Kansas Cement Council (Attachment 8)

There being no further conferees, the hearing on **SB 603** was closed.

The hearing on **SB 551–Driving while suspended, term of imprisonment** was opened.

Senator Journey testified in support, indicating the bill will address an unintended consequence of legislation passed a couple of years ago regarding a third DUI offense (Attachment 9). Enactment of **SB 551** will reduce the mandatory minimum jail sentence from 90 days to 30 days but will not restrict or prohibit the judge from assessing a longer sentence.

There being no further conferees, the hearing on **SB 551** was closed.

The Chairman called for final action on **SB 414–Electors of county or counties may establish an office of the district attorney; salary based on felony caseload**. The Chairman reviewed the bill and distributed a balloon amendment (Attachment 10). Staff revisor Bruce Kinzie reviewed the changes in the balloon.

Senator Schmidt moved, Senator Goodwin seconded, to change the 3 year rolling average on felony caseloads to a 5 year rolling average felony caseload. Motion carried.

Senator Schmidt moved, Senator Journey seconded, to adopt the balloon amendment. Motion carried.

Senator Schmidt moved, Senator Goodwin seconded, to recommend **SB 414** as amended, favorably for passage. Motion carried.

The Chairman called for final action on **SB 517–Department of corrections, work projects involving repair of real estate**. Senator Vratil reviewed the bill.

Senator Haley moved, Senator Donovan seconded, to recommend **SB 517** favorably for passage. Motion carried.

The Chairman called for final action on **SB 536–Prohibiting adoption and enforcing residency restrictions on registered offenders**. Senator Vratil reviewed the bill and a proposed amendment suggested by the Department of Corrections during testimony on February 14 (Attachment 11).

Senator Bruce moved, Senator Schmidt seconded, to amend **SB 536** as proposed by the Department of Corrections. Motion carried.

Senator Goodwin moved, Senator Umbarger seconded, to recommend **SB 536** as amended, favorably for passage. Motion carried.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is February 21, 2008.