

Approved: February 24, 2012

Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:30 a.m. on February 9, 2012, in Room 548-S of the Capitol.

All members were present except:

Senator Oletha Faust Goudeau
Senator Chris Steineger

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant
Mr. Reed Holwegner, Kansas Legislative Research Department
Mr. Jason Long, Office of the Revisor of Statutes
Mr. Chuck Reimer, Office of the Revisor of Statutes

Conferees appearing before the Committee:

Ms. Kathie Sparks, Deputy Secretary, Department of Labor

Others attending:

See attached list.

Handouts

Upon calling the meeting to order, Chairperson Wagle asked the Committee to look at the first two handouts before them explaining:

1. The first was information requested at their January 11, 2012 Committee meeting where Director Ann Hought from the Division of Workers Compensation testified. She has provided statistical information regarding the Division of Workers Compensation's Fraud and Abuse Section from Fiscal Year 2008-2011 of their Annual Report. A copy of the report is Attachment 1.
2. The second is information requested during the Commerce Committee meeting of February 8, 2012. Mr. Chuck Reimer, Office of the Revisor of Statutes has provided a list of statutes repealed by SB 355. A copy of the list is Attachment 2.

Hearing on SB 318 – an act concerning employment; relating to employment equipment for certain state contracts; relating to employment requirements for certain state tax benefits

The Chair said the next order of business was a hearing on SB 318 and called on Mr. Jason Long, Office of the Revisor of Statutes to explain the bill who stated the bill sets down certain requirements for contractors and entering into certain state contracts or receiving particular state tax benefits. The key provisions are on the first page, new Section 1. The primary requirement would be that they employ a workforce in the State of Kansas that is made up of at least 70% of Kansas workers. Line 11 gives the definition of Kansas workers. Regarding certain state contracts are narrowly defined on line 17 and apply only to future contracts on and after January 1 of next year, mainly service contracts that have at least an

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The minutes of the Senate Commerce Committee at 8:30 a.m. on February 9, 2012, in Room 548-S of the Capitol.

annual cost of \$100K. The state agency would provide a copy of the contract to the Division of Purchasing who would be responsible for verifying the residency of the employees contracted to verify they have complied with the provisions in Section 1.

On page 2 there is an exemption in subsection e line 11 that if the job required a certain expertise, that cannot be provided reasonably by a Kansas worker, then the contractor can submit an application for exemption from the statutes in the Division of Purchasing so they can hire that out of state expert to perform the services.

Then the remainder of the act are amendments to various economic development statutes that provide state tax incentives to contractors to require those contractors also abide by the 70% Kansas worker requirement in order to receive those benefits.

The 70% Kansas worker rule is required in the Star bond legislation as shown is Section 2, the HPIP in Section 3, PEAK in Section 4, and the business and jobs development tax credit in Kansas tax statutes, Section 5.

Lastly, on the last two pages of the bill there is a *forming provision or amendments* to a section in the tax code to have the Department of Revenue require personnel information from these contractors so they can verify they meet the requirements of these sections of law before issuing any tax credits or tax benefits under those laws.

The Chair recognized Senator Masterson who had a discussion with Mr. Long regarding state contracts and contractors applying for state tax benefits which are two different areas, how is the verification done or what method do they use? Senator Lynn asked if there was a fiscal note available? (Not yet?)

As there were no further questions for Mr. Long, the Chair recognized the first of two proponents Representative Annie Tietze, who stated if we are to use taxpayer dollars to bring businesses to Kansas and encourage the ones already here, those taxpayers should see their money being used to hire Kansans and help their economy. A copy of her testimony is [Attachment 3](#).

The second proponent was Mr. Bruce Tunnel, Vice President, Kansas AFL-CIO, who said the bill ensures that when STAR bonds and other tax incentives are used to attract companies to Kansas that Kansas workers will see those jobs. A copy of his testimony is [Attachment 4](#).

She then called on the first of two opponents Mr. Eric Stafford, Senior Director of Government Affairs for The Kansas Chamber who stated while this legislation might be to create jobs for Kansans, this bill could have the opposite effect. He went on to say businesses looking to establish a presence in our state with headquarters (and majority of their workforce) out-of-state would not be eligible for state contracts or tax incentives under the provisions of the bill. A copy of his testimony is [Attachment 5](#).

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The second opponent recognized was Mr. Scott Heidner, Executive Director, American Council of Engineering Companies of Kansas (ACEC-KS) who offered several concerns regarding the bill including:

1. There will be an administrative cost involved with tracking the data. (Members having to track when pursuing work and throughout the project & the State doing compliance and verification. Both driving up cost.)
2. He offered a couple of scenarios where a problem could occur regarding, "70% of the employees assigned to the contract must be Kansas residents, regardless of how many hours they work on the project."

A copy of his testimony is Attachment 6.

Written opponent testimony was also offered from Mr. Dan Morgan, Governmental Affairs Representative for The Builders' Association & the Kansas City Chapter, ACG. A copy of this written testimony is Attachment 7.

The Chair thanked all of the conferees and asked for questions or comments from the Committee which came from Senators Holland, Lynn, Longbine including: the exception process, keeping the dollars in Kansas, high quality as opposed to numbers, limitations on the free market, what if we had a protection policy at the national or world level? Would there be members that would not be able to comply or do not want the administrative hassle of complying, would that minimize the competitiveness of the bid and possibly drive prices up on the project?

As there was no further discussion, questions, or comments, Chairperson Wagle announced the hearing was closed.

Adjournment

As there was no further business, Chairperson Wagle adjourned the meeting. The time was 9:20 a.m.

The next meeting is scheduled for February 14, 2012.