

Approved: 3/23/07
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:02 A.M. on March 20, 2007 in Room 231-N of the Capitol.

All members were present except:
Broderick Henderson- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research Department
Duston Slinkard, Office of Revisor of Statutes
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:
Sally Pritchett, Director of the Kansas Real Estate Appraisal Board

Others attending:
See attached list.

The Chairman opened the hearing on **SB 360 - State certified and licensed real property appraisers act; conforming amendments to FIRREA.**

Sally Pritchett appeared as the only proponent of **SB 360 (Attachment 1)**. Her written testimony consisted of three parts. The first is her written testimony with 5 requested changes to the current statutes. Then Item No. 1 which is about the Federal Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), and third, a printout of SB 360 as amended by the Senate committee. Her written testimony contained five requests. First, the Board is requesting Reinstatement for licensees. Second, the Board is requesting Subpoena Power. Third, the Board requests the deletion of the wall certificate statute. The fourth request had to do with the annual continuing education requirement. Finally the Board wants to be able to recover certain costs associated with hearings that are adverse to an appraiser.

Representative Kiegerl asked how difficult it was to obtain an appraiser's license. Sally mentioned 90 hours of education, pass a State exam, \$150.00 fee and submit experience. It is a 3 or 4 month process. In 2008 the education requirement changes to 150 hours and the exam will be more difficult. She also mentioned three levels of licensure. There is a certified residential and a certified general license. These will require college degrees and up to 350 hours of education.

Representative Humerickhouse asked Sally to explain the education and experience part of the requirements. An appraiser has 5 years to obtain their experience prior to the date of the application. The trainee works under a licensed or certified appraiser who is responsible for their training. It can be difficult to find a licensed or certified appraiser who is willing to take on a trainee. Representative Humerickhouse also asked about the Subpoena Power. Do we have other Agencies who have Subpoena Power? Sally said that their request for Subpoena Power was based on that of the Board of Healing Arts

Camille Nohe, Assistant Attorney General, stepped to the mike and said the Subpoena Power was an investigative Subpoena obtained thru a court.

Representative Goico commented that the requirements were similar to those for a professional engineer. It is a good process.

Representative Ruiz asked how many board members there were. Sally said there were 7, appointed by the Governor. Four must be appraisers, two are bankers or lenders and one at large.

Representative Pauls asked why eliminate wall certificates. Sally said that the wall certificates are not needed any longer.

The Chairman asked if there was any mechanism between the complaint and going to court on a complaint. Sally explained that they can only investigate the appraiser. However the appraiser is not the problem. For the lender, etc we can only request information. The lender can ignore the

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Appraiser's Board.

Representative Humerickhouse said that someone could file a complaint with the Appraiser Board but what happens from there. Does it go before the Board for investigation. Sally said that they have an investigative committee made up of four members of the Board.

The Chairman asked why a person would go inactive. Sally said that it was sometimes family problems or illness. They could be inactive for two years. They would have to take 14 hours continuing education for each year they were inactive. The hours can be taken electronically.

The Chairman called for any questions or conferees. There being none the hearing was closed on **SB 360**.

The Chairman called for committee action on **SB 292 - Employment security law contractor liability for subcontractor payments**.

Duston Slinkard explained the bill and the amendment by the Commerce & Labor Subcommittee on SUTA Error Rate which was passed out to the committee (Attachment 2).

Representative Grant asked if we are creating another problem by passing this amendment. He said we should allow the Department of Labor to do their job without micro-management. Duston said that there was rule and regulation authority in the law so the department could clarify how a person must register for services. Representative Grant asked Representative Kiegerl if the Subcommittee had contacted the Department of Labor and asked what their opinion was. Representative Kiegerl said that they did contact Labor and to take no action was not acceptable to those who see the Error problem. The amendment does not prevent the Secretary from doing his job.

Representative Pauls said that the Department's concern was that they not have anything unrealistic. The Department believes the amendment is workable and the Subcommittee did discuss other options with the Department such as redefining registration.

Representative Goico said that the Subcommittee had input and interest from the Department and they wanted coverage on improvements to the bill.

The Chairman reminded the committee of the public uproar that was stirred up by the Post Audit report and how some were calling for the Secretaries resignation. That was the reason for the Subcommittee's appointment. Two Republicans and two Democrats were appointed to determine how far any Secretary may go to negate the law. After three or four weeks of work this is their recommendation.

Representative Roth made a motion to adopt the Subcommittee amendment, seconded by Representative Grant. The motion passed on voice vote. The Subcommittee amendment is adopted. We are on the base bill as amended.

Representative Grant made a motion that **SB 292** be passed favorably as amended, seconded by Representative Kiegerl. The motion passed on voice vote.

The Chairman called for committee action on **SB 333 - Fairness in public building construction contract act**. Duston passed out three amendments. 1. Proposed by the Kansas Contractors Association and endorsed by The City of Overland Park and WaterOne (Attachment 3). 2. Proposed by the Board of Commissioners of Johnson County (Attachment 4) and 3. Proposed by the Blue Valley School District (Attachment 5). Duston was asked to explain the amendments.

Representative Grant asked about "related structures" that appeared in the first amendment. Duston explained that the phrase appeared to apply to things like valve houses or pump houses.

Representative Pauls asked if there was a comma missing on page 1, lines 24 and 25 of the third

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amendment. Duston said that there should be a comma there.

Duston explained the amendment proposed by the Blue Valley School District. It inserted a phrase "Unless otherwise provided in the contract, an" on page 3, lines 17 and 23 of the bill. This was added to allow the parties to negotiate the amount of the retainage.

Representative Huntington asked if the clarification on page 1 line 18 applied to the retainage or the entire bill. Duston said that it was added to prevent a conflict with the retainage part of the statute. It does not nullify the statute but was necessary to permit the retainage changes requested on page 3.

Duston explained the Johnson County amendment. The change on Page 2, line 9 clarifies that the bill refers to the amounts that all parties to the contract agree are owed. On Page 3, line 3, 14 and 36 the 18% per annum interest penalty is stricken and replaced with the "statutory judgment" rate.

Representative Grange asked what the statutory judgment rate was. Duston did not know what it was today but that it is published and applies to judgments. A conferee said that they were told that it was 9%.

Duston explained that the change on Page 3, line 22 had the same affect as the Blue Valley amendment by allowing a higher rate of retainage.

Representative Grange asked when do they determine the rate of retainage. Duston said that it did allow for some ambiguity.

Representative Sharp asked if Johnson County had looked at the Blue Valley amendment and asked if it would satisfy their concerns. One of the conferees said that the Blue Valley amendment would satisfy their concerns.

Duston said the language on Page 4 clarified that New Section 5 which dealt with the relation between contractors and subcontractors did not affect the relationship between the owner and the contractor. The elimination of New Section 6 eliminates the court or arbitrator fees.

Representative Pauls asked if you strike the venue provisions would you go back to general venue provisions. Duston said he thought that you would, you could have venue provisions in the contract or you could have a dispute where venue was located.

Representative Grange asked a question similar to Representative Pauls. If I am a contractor in Dodge City and have a contract with Kansas City do I have to go to Kansas City for arbitration? Duston said that without this amendment you could have to go to wherever the work was being done. This amendment would allow venue to be set by the contract or if not set by contract it could be either place.

The Chairman asked if there were any other questions on any of the amendments or questions for the conferees.

There being no further questions and the committee's time being short the Chairman said that we would work **SB 333** tomorrow.

The meeting was adjourned at 10:18 A.M.