

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on February 16, 2005 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department  
Norm Furse, Office of Revisor of Statutes  
Renaë Jefferies, Office of Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee:

Representative Nile Dillmore  
Jim DeHoff, Kansas AFL-CIO  
David Link, Attorney, Wichita  
Elias Garcia, Executive Director, Hispanic and Latino Affairs  
Andrea Ramos Ortiz, Hispanic American Leadership Organization Executive Board Members at Washburn University

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2008 - Employing illegal aliens, failure to be awarded public works contracts or bids; attorney general establishing a hotline, increase criminal penalty to Class A non-person misdemeanor.**

Staff gave a briefing stating the key definition was “illegal alien”. “Illegal alien” means any person not a citizen of the United States who has entered the United States in violation of the federal immigration and naturalization act or regulations issues thereunder, who has legally entered but without the right to be employed in the country, or who has legally entered subject to a time limit but has remained illegally after the expiration of such time limit. The term “illegal alien” shall not mean any person who currently has the legal right to remain in the United States even though such person originally entered the United States in violation of the federal immigration and naturalization act or regulations issued thereunder and is not a citizen of the United States. Knowingly employing an alien illegally within the territory of the United States is a Class A non person misdemeanor. On the second or subsequent conviction of a violation of this section, in addition to any other sentence imposed, a person shall be fined \$10,000.

Representative Nile Dillmore, sponsor of **HB 2008**, testified as a proponent, stating the bill deals with increased penalties for hiring undocumented workers in general and increased penalties for companies doing business on taxpayer dollars. This bill is exactly the same language that was approved by this committee last year in **HB 2479**. The bill stayed below the line until March 24, 2004. On that date, **HB 2479** was passed on the House floor as an amendment to a capital improvement bill, **HB 2752**. The motion to amend **2479** into **2752** passed on a roll call vote 110-14.

Undocumented workers are denied basic employment benefits such as unemployment insurance, workers compensation coverage, minimum wage protection, and health and safety requirements. The estimates on lost employment taxes run in the millions from state to state, as unscrupulous employers attempt to classify illegal workers as independent contractors (Attachment 1).

Jim DeHoff, Executive Secretary Treasurer of the Kansas AFL-CIO, testified as a proponent for **HB 2008**, stating their 100,000 members believed the bill was very important, not only to Kansas but also to state government.

There are approximately 6,000 illegal workers entering the United States every day, even though the President of the United States continually assures Americans that through the Homeland Security Act, a measure of safety has been obtained and control of our borders has been achieved.

## CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:00 A.M. on February 16, 2005 in Room 241-N of the Capitol.

Employers hire illegal workers because they are cheap labor. There are no workers compensation claims, no unemployment benefits and no overtime provisions. Many workers are paid in cash and are called independent contractors, when in reality they are directly working for the employer. **HB 2008** would make a statement to employers that the State of Kansas does not endorse or condone “slave labor” nor does it endorse businesses not paying taxes that their competition pays.

Labor in Kansas has been losing skilled jobs on a massive basis the past three years. It is noticeable because good employers who adhere to state and federal laws just can't compete with the low wages and abused labor (Attachment 2).

David K. Link, Attorney, Wichita, practicing primarily immigration law and criminal defense, testified as an opponent to **HB 2008**. Employment of unauthorized aliens is already prohibited by federal law which preempts the field. The immigration and National Act already prohibits employment of unauthorized aliens. Congress has mandated a system under which every employer must verify a new employee's authorization to work by having and complete a form called an I-9. The law would impose the cost of the federal government's failures on Kansas employers. The implicit premise of this bill is that the federal government has failed in its obligation to control immigration and enforce the prohibition against employment of unauthorized aliens. This law would create an enforcement nightmare (Attachment 3).

Elias L. Garcia, Executive Director, Kansas Hispanic & Latino American Affairs Commission, testified as an opponent to **HB 2008**. First and foremost, it is our position that any state legislation which prohibits the hiring of unauthorized workers or attempts to impose penalties on employers for hiring unauthorized workers in Kansas is unenforceable. Enactment of such an initiative could subject the state of Kansas to unnecessary litigation and a waste of taxpayer's money to defend against this legislation. There are already federal laws in place addressing this issue. Current federal law also prohibits employment discrimination against potential workers based on their national origin or citizenship status (Attachment 4).

Andrea Ramos Ortiz, Hispanic American Leadership Organization Executive Board Member at Washburn University and member of Most Pure Heart of Mary Church, an opponent to **HB 2008**, testified when the Immigration Reform Control Act (IRCA) passed in 1986 many employers admitted to having given foreign-appearing/or foreign sounding applicants a harder time or just refusing to give them the job all together. If **HB 2008** is passed, employers would become that much more discriminatory towards those who have a right to work such as regular citizens, residents, and those with working visas because of their color of skin (Attachment 5).

The Chairman closed the hearing on **HB 2008**.

The following written testimony was submitted: Kevin A. Graham, Assistant Attorney General (Attachment 6); Bob Totten, The Kansas Contractors Association, Inc. (Attachment 7); Corey D. Peterson, Associated General Contractors of Kansas, Inc. (Attachment 8); Melinda K. Lewis, Director of Policy Advocacy and Research, El Centro, Inc. (Attachment 9); and Marlee Carpenter, Vice President of Government Affairs, Kansas Chamber of Commerce (Attachment 10).

The meeting adjourned at 10:35 a.m. The next meeting will be February 17, 2005.