



Kansas County Highway Association

Periny L. Evans, P.E., President

Michel O'Hare, President Elect

Michael Spickelmier, Secretary-Treasurer

300 Walnut, Suite 007 Leavenworth, KS 66048

Phone 913-684-0470 Fax 913-684-0473

TESTIMONY

Concerning Senate Bill 54

Presented by Darryl C. Lutz, P.E., Butler County Engineer & Legislative Committee Chairman of the Kansas County Highway Association

January 31, 2013

Mr. Chairman and Members of the Senate Federal and State Affairs Committee:

I am Darryl Lutz, Butler County Director of Public Works/County Engineer and Legislative Committee Chairman of the Kansas County Highway Association (KCHA). I appreciate the opportunity today to present remarks on behalf of the KCHA. The KCHA is an affiliate association of the Kansas Association of Counties and has membership from County Public Works and Highway Departments from over 100 Kansas Counties. The KCHA is opposed to the proposed legislation in its current form based upon 2 major policy changes proposed in the Bill. With the appropriate amendments, however, the Kansas County Highway Association would support SB 54.

I along with representatives of the Kansas Association of Counties have had joint communications with representatives of the Kansas State Board of Technical Professions regarding SB 54 as introduced. Agreement has been reached on compromise language to deal with the expansion of the list of tasks that would fall solely under the purview of a licensed "Professional Surveyor" that did not previously exist. The second policy proposal regarding a County's (Government Client's) ability to obtain fee proposals from more than one (1) professional firm, however, is significant enough that it is improbable that consensus could be developed for compromise language given the relatively short time that our Association has been given notice of the proposed legislation.

Professional Surveying

SB 54 includes an expanded list of tasks that would fall exclusively under the purview of a licensed surveyor. Some of these tasks are performed by mappers, drafting technicians and other non-licensed County staff that relate to simply illustrating data or for determining information that is not intended to be used for the establishment of legal boundaries or the conveyance of property or easements. Specifically, the list has added items A, B & H in Section 5, (s) (1) found on pages 13 and 14 that would impact most Counties. These are items regularly performed by County departments that typically are not staffed with a licensed professional surveyor. The proposed amendment offered in testimony from the Kansas Association of Counties and developed with assistance from the Board of Technical Professions to exempt items performed

by counties that do not involve establishing a legal boundary or a conveyance document would be acceptable to the KCHA.

Ethical Marketing of Professional Service

PS 8
SB 54 includes new language that proposes a specific requirement upon technical professionals in the fields of engineering, architecture, geology, surveying and landscape architecture and upon the firms they represent that would prohibit them from proposing a fee for professional services to "government clients" without having been first selected through a qualifications based process and only after they entered into exclusive negotiations for providing the requested service. It is recognized that some government clients choose to use this method of engaging for professional services commonly known as Qualifications Based Selection (QBS). The prohibition to comparing fees for professional services inhibits a government agency from being able to determine for itself and to assure their constituents that they are being good stewards of taxpayer money. Furthermore, the proposed statute revisions puts this prohibition in place for services offered to government clients only, but, not for services offered to private industry. Many County entities are not staffed appropriately to be able to follow the full QBS process and to know whether a fee being proposed is fair or reasonable. Some Counties use qualifications of the firm as part of the basis of selection, but, may still rely upon consideration of fee proposals as part of the process to determine and to sufficiently represent to the taxpayer that the County is prudently spending its limited resources. It is counter intuitive that the terminology "ethical marketing" would be proposed in law that limits a "government client" from price comparing for service. It would seem that in the taxpayer's eye that sole provider negotiations may for many Counties that might not otherwise be able to sufficiently demonstrate the fairness of a fee would create an appearance of unethical conduct. Additionally, such a provision placed in law would impair a County's authority to self-determine the most appropriate means to procure covered professional services in a manner that it deems most appropriate for a particular size or type of project. The only acceptable proposal for the Kansas County Highway Association is to recommend removing all references to "ethical marketing" and the granting of regulatory authority to the Board of Technical Professions that could limit County's from being able to evaluate comparison of fees as a basis of consideration for procuring technical services.

In closing, the KCHA would support SB 54 with the proposed amendment to add language to exempt Counties from some of the exclusive functions listed under the Professional Surveyor section of this bill and with the proposed amendment to remove any language from the bill that would prohibit a professional firm from providing a fee as a basis of consideration by a County (government client) for procurement of covered professional services.

I respectfully submit these comments and will gladly stand for questions.

Darryl C. Lutz, P.E., Butler County Director of Public Works/County Engineer
Legislative Committee Chair, KCHA

