

Legislative Testimony



HB 2711

February 5, 2008

Testimony before the Kansas House Energy and Utilities Committee By Amy Blankenbiller, President and CEO

Chairman Holmes and members of the committee;

I am Amy Blankenbiller, President and CEO of the Kansas Chamber of Commerce. Thank you for this opportunity to voice our general support for HB 2711. The Chamber is specifically supporting Sections 30, 31, 32 and 33, as we believe these provisions will address the need for energy security in Kansas, clarify the permit process and ensure that all Kansas businesses will be treated fairly by the state government.

The Kansas Chamber of Commerce, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium and large employers all across Kansas. It is our mission to continually strive to improve the economic climate for the benefit of every business and citizen, and to safeguard our system of free, competitive enterprise.

The denial of the Holcomb air permit had a much more far-reaching impact on the state of Kansas than merely halting the construction of a coal-fired power plant in one community. The economic impact cost a depressed area of our state an estimated 2,400 jobs, \$9.3 million dollars in new tax revenue and over \$56 million in new spending during construction of these facilities. In addition to the impact on economic development, the decision created a widespread concern about the regulatory permitting process in Kansas, threatening business expansion and investment in our state.

Businesses fully understand their obligation to submit permit applications to agencies, such as the Kansas Department of Health and Environment. Businesses know they must address all required elements for their submissions to receive appropriate consideration and that supplemental information may be requested during the course of the regulatory review process. When all requirements have been met and all questions have been answered, however, it is the government's responsibility to issue the permit.

In the case of the permits for the plants in Holcomb, the state did not fulfill its duty. Even though the permit application demonstrated that the plant would meet all necessary requirements, the state still refused to issue the permit.



The arbitrary denial of the Holcomb permit based on constituents for which no federal or state regulations exist, demonstrated that Kansas has an unpredictable regulatory framework. Businesses cannot spend time developing permit applications that guess at what issues outside of existing requirements should be included and how. As a result, business and industry both inside and outside of our state are questioning future investments until greater predictability can be restored.

The Chamber believes that Sections 30, 31, 32 and 33 of HB 2711 will prevent subjective and unprecedented decisions that jeopardize investment and innovation in the state and our workers. This legislation ensures that the regulatory process is fair and impartial to all applicants, requiring the uniform application of Kansas statutes, regulations and rules.

The Kansas Chamber would like to suggest that the legislature consider broadening the language in Sections 30, 31, 32 and 33 to ensure a fair and predictable regulatory process for not just air permitting issues, but all environmental media (i.e., air, water, waste et al). The concerns relative to the air permitting process are immediate, but the business community wants to prevent arbitrary denials of complete permit applications in those other areas as well.

The Chamber also needs to voice strong opposition to several aspects of the bill. The Chamber is concerned about the legislation creating an emission limit for a specific environmental constituent (i.e., carbon dioxide) through statute instead of by regulation. This approach goes against the very principles the bill is trying to address in Sections 30, 31, 32 and 33 to re-establish confidence in our regulatory process. In addition, this bill includes a carbon tax, which would make Kansas the first state in the nation to adopt a carbon tax by statute instead of going through a well-established regulatory framework. Finally, the legislation establishes a structure of clear winners and losers. Existing assets are not covered by the provisions of the legislation, but new assets and expansions are, and there are exemptions that apply only to certain types of businesses. The members of the Kansas Chamber have consistently urged the Legislature to adopt policies that help level the playing field for businesses to operate and grow in our state.

Thank you for the opportunity to express our support for Sections 30, 31, 32 and 33 of HB 2711. We hope our suggestions and issues of concern can be addressed to ensure the Chamber's support of this bill. I would be glad to answer any questions.

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