

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **SB 55**, as amended by Senate Committee, on page 1, in line 5, before "Section" by inserting "New";

On page 2, following line 3, by inserting:

"Sec. 2. K.S.A. 2016 Supp. 12-16,131 is hereby amended to read as follows: 12-16,131. (a) Except as provided in K.S.A. 16-1903(i), and amendments thereto, no city, county or local government unit shall enact or administer any ordinance, resolution or law that requires, nor shall any city, county or local government discriminate against, favor, prefer or base any ordinance, law, policy, economic development program, agreement, grant or incentive on, an employer providing or not providing:

(1) Any leave from work, either with or without pay, unless such leave is required by state or federal law;

(2) compensation for any leave from work, unless payment of compensation for such leave is required by state or federal law;

(3) compensation or wages at any rate higher than the minimum wage, unless the payment of higher compensation or wages is required by state or federal law; or

(4) any employee benefit other than those required by state or federal law.

(b) Subsection (a) shall only apply to wages, compensation or benefits, or any combination thereof, paid or provided by a construction contractor or subcontractor performing construction or infrastructure work on a real estate construction or infrastructure project.

Sec. 3. K.S.A. 16-1903 is hereby amended to read as follows: 16-1903. (a) Subject to the provisions of subsections (b), (c), (d), (e), (f), (g), (h) and K.S.A. 16-1904 and 16-1905, and

amendments thereto, all owners, contractors and subcontractors, who enter into a contract for public construction after the effective date of this act, shall make all payments pursuant to the terms of the contract.

(b) The following provisions in a contract for public construction shall be against public policy and shall be void and unenforceable:

(1) A provision that purports to waive, release or extinguish the right to resolve disputes through litigation in court or substantive or procedural rights in connection with such litigation except that a contract may require nonbinding alternative dispute resolution as a prerequisite to litigation;

(2) a provision that purports to waive, release or extinguish rights to file a claim against a payment or performance bond, except that a contract may require a contractor or subcontractor to provide a waiver or release of such rights as a condition for payment, but only to the extent of the amount of payment received; and

(3) a provision that purports to waive, release or extinguish rights of subrogation for losses or claims covered or paid by liability or workers compensation insurance except that a contract may require waiver of subrogation for losses or claims paid by a consolidated or wrap-up insurance program, owners and contractors protective liability insurance, or project management protective liability insurance or a builder's risk policy.

(c) All contracts for public construction shall provide that payment of amounts due a contractor from an owner, except retainage, shall be made within 30 days after the owner receives a timely, properly completed, undisputed request for payment according to terms of the contract, unless extenuating circumstances exist which would preclude approval of payment within 30 days. If such extenuating circumstances exist, then payment shall be made within 45 days after the owner receives such payment request.

(d) The architect or engineer of record or agent of the owner shall review, approve and

forward undisputed requests for payment to the owner within seven business days of receipt from the contractor.

(e) If the owner fails to pay a contractor within the time period set forth in subsection (c), the owner shall pay interest computed at the rate of 18% per annum on the undisputed amount to the contractor beginning on the day following the end of the time period set forth in subsection (d).

(f) A contractor shall pay its subcontractors any amounts due within seven business days of receipt of payment from the owner, including payment of retainage, if retainage is released by the owner, if the subcontractor has provided a timely, properly completed and undisputed request for payment to the contractor.

(g) If the contractor fails to pay a subcontractor within seven business days, the contractor shall pay interest to the subcontractor beginning on the eighth business day after receipt of payment by the contractor, computed at the rate of 18% per annum on the undisputed amount.

(h) The provisions of subsection (g) shall also apply to all payments from subcontractors to their subcontractors.

(i) The following provisions required in a contract for public construction by the unified government of Wyandotte county, or enacted or administered by ordinance, resolution or law by the unified government of Wyandotte county and applicable only to contracts for construction or infrastructure work, shall not be against public policy and shall be valid and enforceable. Any requirement or preference for a construction contractor or subcontractor providing to its employees:

- (1) Any leave from work, either with or without pay;
- (2) compensation for any leave from work;
- (3) compensation or wages at any rate higher than the minimum wage;
- (4) any employee benefit other than those required by state or federal law; or
- (5) wages, including fringe benefits, at a rate not less than:

(A) As determined by the unified government of Wyandotte county, the wage paid to corresponding classes of laborers and mechanics employed on similar projects in the county where the project is to be performed. Such minimum wage shall be the wage paid to the majority of the laborers or mechanics, unless the same wages are not paid to a majority, in which case the minimum wage shall be the average wages paid, weighted by the total employed in the classification; or

(B) the minimum wage determined under federal law which would be required to be paid on federally funded projects at the location of the public works project.

Sec. 4. K.S.A. 16-1903 and K.S.A. 2016 Supp. 12-16,131 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "act" by inserting "; certain wage, compensation or benefit requirements; amending K.S.A. 16-1903 and K.S.A. 2016 Supp. 12-16,131 and repealing the existing sections"

_____District.