



League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

To: Senate Commerce Committee  
From: Kimberly Winn, Director of Policy Development & Communications  
Date: February 16, 2007  
Re: Opposition to SB 333

On behalf of the 576 member cities of the League of Kansas Municipalities, thank you for the opportunity to offer our comments regarding SB 333. Because this bill would interfere with contracts made between cities and contractors, we oppose this legislation.

The provisions of SB 333 propose to establish in statute certain contractual terms which are typically negotiated between the parties when an agreement is made. We believe that it is contrary to public policy to tie the hands of public entities by precluding the negotiation of these key terms. In addition to our general opposition to the concept of this bill, we have several specific concerns:

**Timing of Payments.** SB 333 would require that all payments be made within 30 days. This is simply an unworkable schedule in the public sector. Many cities only have meetings once per month at which time they pay bills. In those cities, it may not be possible to meet the strict 30 day payment requirement set forth in New Section 3 of the bill. An interest rate of 18% for missing this deadline by even one day seems unreasonable.

**Retainage.** New Section 4 of this bill limits retainage to a 10% cap. Retainage is a contractual term which is typically negotiated based upon the type of project that is the subject of the contract. Because it fails to take into consideration the specific needs of individual situations, we oppose establishing this figure in statute for all projects.

**Attorneys Fees.** New Section 6 of this bill establishes attorneys fees to be paid in the event of litigation. Attorneys fees are not the norm in Kansas and to require them in this instance would be a major shift away from long standing public policy.

In conclusion, we believe that contractors and cities should be free to negotiate the terms of contracts for public building construction. For this reason, we oppose SB 333 and respectfully request that you do not recommend it favorably for passage. I would be happy to stand for questions at the appropriate time.