

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND TOURISM

The meeting was called to order by Sen. Bill Morris at
Chairperson

1:30 ~~am~~/p.m. on March 16, 1983 in room 529-S of the Capitol.

All members were present ~~except~~.

Committee staff present:

Mark Burghart, Research Department
Bruce Kinzie, Revisor
Louise Cunningham, Secretary

Conferees appearing before the committee:

Rep. Helgerson
Dr. Harvey Ludwick, Department of Human Resources

On a motion from Sen. Arasmith and a second from Sen. Feleciano the Minutes of March 15th were approved. Motion carried.

H.B. 2357 - concerning employment security; relating to wages paid through common paymasters to individuals employed concurrently by employers which are related corporations.

Rep. Helgerson explained his bill to the Committee and said it would help small businessmen who have the same employees working for related corporations. It would minimize paper work and reduce the amount of payment into the Security Fund. The regulations could be made by the Department of Human Resources. The language is similar to that contained in corresponding federal legislation. A copy of his statement is attached. (Attachment 1.)

Dr. Ludwick said the effect would be negligible on the revenue collected for the Fund. He said it would be less than 5%. It was pointed out that 5% could be a significant amount at this time. The Department was to be sure that major corporations would not find a loophole in this bill and use it to their advantage.

On a motion from Sen. Burke and a second from Sen. Feleciano H.B. 2357 was reported favorably for passage. Motion carried.

H.B. 2511 - Employment security; relating to financing costs of administration.

Dr. Ludwick said federal money had been set aside to be used as a revolving fund for facilities that are used for Employment Security such as Job Service Centers. The state keeps these facilities in repair with federal funds. Congress has extended the use of these funds for 10 years and this bill is needed to obtain these funds.

A motion was made by Sen. Feleciano and seconded by Sen. Arasmith to recommend H.B. 2511 favorably for passage. Motion carried.

The Chairman noted that Dr. Ludwick would be leaving the Department of Human Resources soon and extended to him the best wishes of the Committee.

Meeting was adjourned.

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 3/16/83 Place 529-S. Time 1:30

GUEST LIST

NAME

ADDRESS

ORGANIZATION

<u>Sid Snider</u>	<u>401 Topoka Ave.</u>	<u>Human Resources</u>
<u>Leroy Jones</u>	<u>Overland Park</u>	<u>B.L.E.</u>
<u>Robert D. Lucke</u>	<u>401 Topoka</u>	<u>DHR</u>
<u>Henry Lubinski</u>	<u>401 Topoka</u>	<u>D.H.R.</u>

TESTIMONY BY REPRESENTATIVE HENRY M. HELGERSON, JR.

MARCH 3, 1983

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE,

HOUSE BILL 2357 ESTABLISHES A COMMON PAYMASTER PROVISION IN THE KANSAS EMPLOYMENT SECURITY LAW FOR THOSE EMPLOYERS WHO CONCURRENTLY EMPLOY THE SAME INDIVIDUAL. UNDER PRESENT LAW, EACH EMPLOYER, EVEN THOUGH THE EMPLOYERS ARE RELATED CORPORATIONS, MUST REPORT WAGES AND PAY CONTRIBUTIONS ON THE FIRST \$7,000 OF WAGES FOR EACH INDIVIDUAL. SOME RELATED CORPORATIONS HAVE EMPLOYEES WORKING FOR ALL CORPORATIONS AND MUST PAY TAX ON THE FIRST \$7,000 WAGES AS IF THE INDIVIDUAL WERE EMPLOYED BY ONE EMPLOYER.

HOUSE BILL 2357 WILL ALLOW RELATED CORPORATIONS WITH CONCURRENT EMPLOYMENT TO ELECT ONE OF THE RELATED CORPORATIONS TO ACT AS A COMMON PAYMASTER FOR ALL OF THE RELATED CORPORATIONS. THE COMMON PAYMASTER WILL REPORT ALL WAGES AND PAY THE TAX DUE ON THE FIRST \$7,000 WAGES AS IF THE INDIVIDUAL WERE EMPLOYED BY ONE EMPLOYER.

DEPARTMENT OF HUMAN RESOURCES REPORTED THAT HOUSE BILL 2357 WILL HAVE A NEGLIGIBLE EFFECT ON THE REVENUE COLLECTED FOR THE EMPLOYMENT SECURITY TRUST FUND. THE TOTAL # OF EMPLOYERS AND EMPLOYEES AFFECTED WOULD BE MINIMAL.

Atch. 1

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N - State House

Phone 296-3181

Date February 21, 1983

TO: REPRESENTATIVE HENRY HELGERSON Office No. 273-W

RE: COMMON PAYMASTER PROVISION (H.B. 2357)

H.B. 2357 establishes a common paymaster provision in the Kansas Employment Security Law for those employers who concurrently employ the same individual. The language in the bill is substantially similar to that contained in the corresponding federal legislation -- 26 U.S.C.A. § 3121(S). For this reason it may be instructive to examine the federal regulations which explain in some detail the manner in which the common paymaster provision is to be applied. The regulations also set forth a number of examples where the provisions of the federal law are applied.

Federal Regulations

Regulation 31.3121(S)-1(a) provides that if all of the remuneration to an individual from related corporations is disbursed through a common paymaster, the total amount of taxes imposed shall be determined as though the individual has only one employer (the common paymaster). The common paymaster has the responsibility for filing the necessary information and tax returns.

The regulations set forth a series of definitions for the various terms which are used but undefined in the federal law. The regulations define a common paymaster of a group of related corporations as a member of the group of related corporations which disburses remuneration to employees of two or more of those corporations on their behalf and which is responsible for keeping books and records for the payroll with respect to those employees. The common paymaster is not required to disburse remuneration to all the employees of those two or more related corporations. The common paymaster provision does not apply to any remuneration to an employee that is not disbursed through a common paymaster.

Concurrent employment is defined as the contemporaneous existence of an employment relationship between an individual and two or more corporations. Such a

relationship contemplates the performance of services by the employee for the benefit of the employing corporation, in exchange for remuneration which would be deductible by the employing corporation. The contemporaneous existence of an employment relationship with each corporation is the decisive factor; if it exists, the fact that a particular employee is on leave or otherwise temporarily inactive is immaterial.

One of the more complicated provisions of the regulations concerns the definition of related corporations. The common paymaster provision will apply only if "related corporations" are found to exist. Related corporations are related as long as they satisfy at least one of the following tests at anytime during a particular calendar quarter:

1. the corporations are members of a "controlled group of corporations" as defined in 26 U.S.C.A. § 1563;
2. in the case of a corporation that does not issue stock, either 50 percent or more of the members of one corporation's board of directors are members of the other corporation's board of directors, or the holders of 50 percent or more of the voting power to select such members are concurrently the holders of more than 50 percent of that power with respect to the other corporation;
3. 50 percent or more of one corporation's officers are concurrently officers of the other corporation; or
4. 30 percent or more of one corporation's employees are concurrently employees of the other corporation.

If the requisite conditions are met, then the common paymaster computes taxes as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to remit the taxes, it remains liable for the full amount of the unpaid portion of those taxes. In addition, each of the other related corporations using the common paymaster is jointly and severally liable for its appropriate share of these taxes.

REPRESENTATIVE HELGERSON

EFFECT ON THE EMPLOYMENT SECURITY FUND

Since H. B. 2357 is substantially similar to the federal statute, it is logical to assume that the Department of Human Resources will promulgate regulations similar to those implementing the law at the federal level. If the conditions for the common paymaster are met by a group of related corporations, then a savings could result for some employers who concurrently employ the same individual. Rather than each employer paying contributions to the Employment Security Fund for each concurrently employed individual, only one contribution would be made by the common paymaster.

Mark A. Burghart

Research Analyst

REPORTS OF STANDING COMMITTEES

Mr. President:
Your committee on Labor, Industry and Tourism

Recommends that H.B. 2357

"AN ACT concerning the employment security law; relating to wages paid through common paymasters to individuals employed concurrently by employers which are related corporations.

be passed.

Human Resources

OFFICE OF THE SECRETARY

401 TOPEKA AVENUE TOPEKA, KANSAS 66603

913-296-7474

February 16, 1983

Mr. Lynn Muchmore
Director of the Budget
Room 152-E
State Capitol
Topeka, Kansas 66612

Re: Fiscal Note on House Bill No. 2357

Dear Mr. Muchmore:

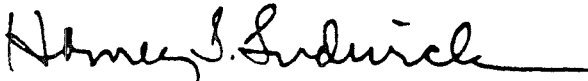
Under present law, each employer, even though the employers are related corporations, must report wages and pay contributions on the first \$7,000 of wages for each individual. Some related corporations have employees working for all corporations and must pay tax on the first \$7,000 wages for each corporation.

The provisions of House Bill No. 2357 will allow related corporations with concurrent employment to elect one of the related corporations to act as a common paymaster for all of the related corporations. The common paymaster will report all wages and pay the tax due on the first \$7,000 wages as if the individual were employed by one employer.

The bill would have a negligible effect on the revenue collected for the Employment Security Trust Fund. The total number of employers and employees affected would be minimal.

The provision of this bill can be carried out by existing staff at no additional administrative cost to the Agency.

Sincerely,



Harvey L. Ludwick, Ed.D.
Secretary of Human Resources

REPORTS OF STANDING COMMITTEES

Mr. President:
Your committee on Labor, Industry and Tourism

Recommends that H.B. 2511

"AN ACT concerning the employment security law; relating to financing costs of administration;

be passed.

Chairman.