

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS

The meeting was called to order by Senator Dan Thiessen at
Chairperson

1:30 a.m./p.m. on Tuesday, April 2, 1985 in room 527-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Gordon Self, Office of the Revisor of Statutes
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Representative Arthur Douville
Rob Hodges, Kansas Chamber of Commerce and Industry-KCCI
Janet Stubbs, Exec. Director-Home Builders of Kansas
Larry Wolgast, Secretary Department of Human Resources
Charles Belt, Wichita Chamber of Commerce
Bill Abbott, Public Affairs Mgr., Boeing Military Airplane Company
Ralph McGee, Kansas AFL-CIO
Wayne Maichel, Exec. V.Pres, Kansas State Federation of Labor
William Layes, Department of Human Resources

The Chairman called the meeting to order at 1:30 p.m.

HB2546: An act concerning the employment security law; relating to disqualification for benefits and the period thereof.

Representative Douville Thank you Mr. Chairman and members of the committee. I think one of the problems that we have had over a great number of years, is that there has been much confusion, as to what the law meant, because of the general definitions, that we had in the law. We just passed out HB2254 not too long ago, and we did list by categories, those reasons that constitute a good cause. The Department of Human Resources, has promised to keep figures, on which categories are being utilized by the employers and the employees. So maybe, we will have some figures in 2 or 3 years, as to how the figures are running.

I think the reason we need HB2546, is because when we passed HB2254, which dealt solely with good cause, they did re-define the definition of penalty, to say that in order for you to be qualified again, you have to get out and back into the labor force, and earn at least 3 times your benefit. With respect, to breach of duty, and application to suitable employment, we did not change the penalty.

I was very happy to see that the Advisory Council worked out voluntary quits, but had not touched on these other subjects, and I felt, we at the legislature still have the responsibility to take up the slack where they quit, and I feel we should make all the penalties, the same. I would like to ask, this committee to report HB2546, favorably for passage.

Rob Hodges I appear in support of HB2546. I point out to you that this bill makes 2 changes in the Employment Security Law. 1st, it changes the penalty for cases of breach of duty, refusal to work, and a discharge. The 2nd change establishes requalification. During the interim committee study of voluntary quits bill, a provision was provided to the Advisory Council, by the Department. I would share with you that 29 State's have total disqualification, called for in this bill. In 1984, breach of duty claims after they had served their disqualification, according to current law, collected \$4,917,501. These were people that had been proven to be guilty, served disqualification, and were still unemployed, and drew almost \$5,000,000. secondly, for refusal to work cases, paid after their disqualification period, it was \$447,345. which raises the question, should the penalty for discharge for misconduct, and discharge for breach of duty or refusal of work, be any different, than voluntary quits. Our position is they should not.

Senator Morris: Rob is that last figure you gave us, \$447,000.? You said for failure to seek work, or refuse work but does that also include the refusal to seek work, because this speaks of both?

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

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Rob Hodges: The department could respond to that better, Senator but that is the way that I understand it.

Senator Morris: One, was failure to apply for work, and the other is exempt suitable work, and I was wondering about the break down.

Rob Hodges: I can't tell you how those would break down, out of that \$447,000. they broke down for us the amounts of money for voluntary quits, and breach of duties, and failure to accept or seek.

Senator Morris: So, that includes both seek and accept?

Rob Hodges: Yes. I would ask Mr. Chairman, that this bill be changed to disqualification, not determination.

Larry Wolgast: Mr. Chairman, the department has no particular position stand on the bill. We have not had a lot of time for research on benefits, and the effects on it. A couple points that we would make would be, the effects of the legislation, particularly pertaining to the voluntary quits situation, as opposed to the breach of duty. I think there is some concern, as we look at, with other State's, anytime there is a separation, like regulation pertaining to those who voluntarily quit, as opposed to breach of duty, and we have some concern, in putting them together, and making it just one bill. We would like some study, to find out just what the affects would be.

Senator Werts: Rob, where are the benefits, grandfathered in this bill?

Rob Hodges: It only changes the penalty, there is no grandfather clause.

Janet Stubbs: We did appear on this bill when it was in the House. In the past we have relied very heavily on KCCI, to follow these matters for us, because of time restrictions on the staff, and we still rely very heavily on Mr. Hodges in this area. However, the Home Association of Kansas, does have a strong policy position in this matter, with regard of the tightening of the unemployment compensation law, and for that reason, we do strongly support HB 2546.

Bill Abbott: I represent Boeing in Wichita, and I don't think I can add any more to what Rob Hodges has said. We see no reason for the penalty for failure to seek suitable work, for the individual from voluntary quits.

Charles Belt: On behalf of approximately 2400 members from Sedwick County, I would like to say we are in support of HB2546.

Wayne Maichel: We are opposed to this bill, Mr. Chairman. We are strong believers in Advisory Council, to study issues like this. That was done in SB365, passed and it made massive changes in the workers' compensation law, the first changes since 1974, and that was done by a joint effort of Labor and Industry. It is our suggestion that this bill should lay in the committee and be referred to Advisory Council to study this summer.

William Laves: During fiscal 1984, the breach appropriations issues, opposed 17 thousand 200 roughly, of those 11,700 were cleared for payment and approximately 5500 were denied payment, so it would work out to a ratio of 67%, cleared vs the other portion denied.

Senator Morris: I want to call attention, that Mr. McGee was telling me that they did not consider that in one of their committee meetings.

Ralph McGee: There was a motion that if we could settle on the voluntary quits, there was a motion tabled for breach of duty and similar work until after we could get back together this summer, and come up with an agreement and the motion carried, as far as the minutes. I don't have the minutes here but I think Wayne Maichel, has them, and I will read that section to you. "Hodges brought to the groups attention that the "breach of duty" had not been discussed. A motion was made and seconded to table this issue for a future time". So I am confident that if we get the opportunity to come back here, the next legislative session, with an agreed to bill, it would solve this problem on voluntary quits. As far as I am concerned, this is what

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you call "breach of duty". We came out of that Advisory Council meeting with the idea, we were going to come back this summer, and settle this breach of duty, due to work problems among ourselves, and then come back to the legislature with the problems, and all of a sudden this bill popped up. Where it came from, I don't know. (Attachment A-minutes of 1-25-85)

Chairman Thiessen: It wasn't considered before?

Mr. McGee: That is what the motion says.

Rob Hodges: I will read you from the minutes of 5-10-84. The first meeting that we had, after a year ago, we laid to rest on voluntary quits, breach of duty and refusal to work bill. "There was an agreement, that the tripartate issue of voluntary quits, discharges and job refusals, must be considered, prior to the next session" and agreement at that meeting, Mr. Chairman, by the two men, who will sit here now and say we should study it. We did have information including the figures that I provided in my testimony.

On the agenda for 10-23-84, all 3 issues on the agenda, the minutes reading for 10-23-84. They then discussed how other State's, appointed security laws, addressing the voluntary quits, discharges and refusal to suitable conduct.

I'am very sorry, Mr. Chairman, that members of that committee, that represent organized labor would not permit us to reach an agreement. We were perfectly willing and able and in a position to reach that agreement.

Senator Steineger: Rob, do you have a copy of these minutes to be recorded?

Senator Norvell: Rob, what is the dates of the minutes, you quoted from?

Rob Hodges: I read from 5-10-84 and from 10-23-84. Those are the only two, I brought with me. There are other documents, that indicate there was going to be discussion and did actually have the commissions exchange. The last minutes were dated 1-25-85. (Attachments B and C)

Larry Wolgast: I would like to say in one other perspective and that is, the committee did not meet, the council did not meet, for a period of time and there was a change, that occurred in the Department, and we had a series of meetings in the fall and they became very regular. So, you are hearing a different view, and they are both correct, and yet another view, is there was not a great deal of initiative in getting the meetings together for a period of time, and I want to speak on behalf of the Council, that I think if there is a council study, an important role, we want to be able to respond and bring things together, and I think that can be brought about.

Senator Morris: I want to offer a couple of comments, and I appreciate very much the work done, by all of the Advisory Committee. I think they have done a great deal to assist, and I don't think, we as a Legislature can regulate our authority to lay people to make the laws. That is our responsibility, that is why we are elected, and as far as the advice, I appreciate that, but as far as this Senator is concerned, I am going to make the laws.

Chairman Thiessen: We are the only one's that can make, laws.

Senator Steineger: Mr. Chairman, I would like to point out that the whole basic theory of the National Relations Labor Act, in all labor and management and legislation, is to try to get labor and management to sit down together and work out their problems. Now that type of a system won't work, if the loser can always come running into the legislature and get the work of the commission or the council overturned. Eventually, we have to pass on the subject, but we are not experts, to the extent we can, and I think we certainly should encourage labor and management to work together in this field, and come up with proposals, where there is an agreement, unless we can find from our lay knowledge, some reason why those agreements, should not be authorized. So I say, we should encourage labor and management to meet together. I deplore what we have gone through the last few years on voluntary quits, and am pleased and happy that there was a bill agreed to or a procedure agreed to that we could all support.

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Senator Yost: Is there a meeting planned to discuss this?

Larry Wolgast: Yes, as soon as session is over.

Gordon Self: This is purely a technical standpoint. The HB2546, that we are looking at, right now, statutory section 44-706, there are actually 3 versions of it. 44-706 as amended in HB2254, which will become law 7-1-85, if the committee desires to move on this. I would recommend we substitute for this bill, the version of 44-706 into HB2254, and further amend that version with these amendments, and we end up with all the amendments in the section of 1 bill, otherwise what you end up with 44-706 amended in 2 different bills, and in effect, the revisor then, would be in a position where he doesn't have the authority to merge the 2 of them, he would have to print the version twice which the provisions don't conflict as such, but just from a purely technical standpoint, that would be my recommendation.

If the other version, HB2254, had not gone through the whole process, and passed, then at this point we would go from just a pure conflict resolution and merge the two bills together, at this point we already have the other bill, and has already gone through, and my recommendation would just be a substitute bill, that would take 44-706, as amended in HB2254, and further amend it with these amendments.

Senator Steinger: Has the Governor signed the other bill?

Gordon Self: Yes.

Senator Feleciano: If the Governor decides to veto this bill, then what happens to the voluntary quits agreed to bill, if you are restructuring a substitute bill that includes the voluntary quits?

Gordon Self: The provisions of HB2254, will be law, even if he were to veto this, he would in a sense be vetoing, the additional amendments made here, if he were to veto this bill, after it was passed, as I suggested, the changes that were made in HB2254, before would still be law.

Senator Steineger: Why wasn't this taken up, when we took up HB2547.

Chairman Thiessen: This is a House Bill, and I don't know why they didn't move that at the same time.

Ralph McGee: The reason HB2254, was not taken up, we did not have time to agree on it.

Chairman Thiessen: I will announce our next meeting on the floor.

Chairman Thiessen: adjourned the meeting at 2:20 p.m.

Kansas Department of Human Resources
Division of Employment Security

EMPLOYMENT SECURITY ADVISORY COUNCIL

Meeting Minutes
January 25, 1985

The meeting of the Employment Security Advisory Council was called to order by Dr. Larry Wolgast at 8:40 a.m.

Council members present were Mr. Carl Nordstrom, Mr. Rob Hodges, and Mr. Dan McClenny representing employers; Dr. Charles Colbert and Dr. Glenn Fisher representing the general public; and Mr. Ralph McGee, Mr. Wayne Maichel, Mr. Alan Dollen and Mr. Ed Fallon representing labor. Elinor Schroeder, representing the public, and Thomas Slattery, representing employers were absent. Dr. David Dilts, representing the public sector arrived at approximately 9:30 a.m.

Department of Human Resources staff present were Dr. Larry Wolgast, Mr. A.J. Kotich, Mr. Bill Layes, Mr. Bill Clawson, Mr. Paul Bicknell and Mr. Claude Lee.

Mr. Martin Hawver from the Topeka Capital-Journal was also present.

Secretary Wolgast opened the meeting with an explanation of the packet each member had before them. Basically, material that was received at the last meeting and put into statutory law through the revisors office. It was opined by Industry that the original proposal contained some shortcomings. In this regard, Dr. Wolgast explained that he and Mr. Kotich met with Hodges and Maichel and it was requested that the department prepare a more specific proposal. The amended proposal was mailed and received by the Council.

Hodges further explained that staff did a good job on the 8½ x 14 sheet of balloning, but after circulating this information to other employer representatives, it was discovered that the paragraphs struck from this document did not alter the definition of good cause in the form desired.

Mr. Kotich stated that he understood the information needed to be more specific and at the same time flexible. The new material was titled AMENDED PROPOSAL 1-22-85.

Mr. Hodges suggested that the words from insured work be added to 44-706(a) (4th line.)

He also inquired as to the meaning of unwelcome harrassment. Mr. Kotich explained the terminology by the use of examples.

Mr. Hodges inquired into the use of terminology addressing unsatisfactory working conditions in No. 5. Mr. Kotich explained the terminology.

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(Attachment A)

It was suggested that the word of be placed in No. 7. Thus reading, because of unwelcome harrassment. All parties agreed.

Mr. Maichel inquired as to the meaning of "insured work," and the meaning of "If the individual left work voluntarily without good cause attributable to the work or the employer". Mr. Kotich explained the above word usage.

Dr. Colbert asked if the words work and employment could be used interchangeably? Mr. Kotich explained there are specific definitions in the Employment Security Law for each. Dr. Colbert asked if No. 1 had to be phrased so awkwardly. Mr. Kotich agreed it is wordy, but needs to be there. Dr. Wolgast explained that if this should be put into statutory law, the revisors office would have the final say on it.

Carl Nordstrom presented a question in regard to No. 9. What is a fellow employee? Dr. Wolgast explained fellow employee means an equal. It was decided to add the word supervisor after employer in No. 9. All parties agreed.

Maichel inquired about the percentage of people receiving the maximum benefit amount. Maichel also inquired as to the fiscal impact in raising benefits from \$175 to \$195. Mr. Layes explained that earlier a rough estimate was stated that about 50 percent of the claimants draw the maximum weekly benefit amount. In reality, this percent was 42.1 percent at the \$163 maximum. If the maximum were increased to \$175 this statistic would drop to 37.5 percent. Mr. Layes further explained that the jump from \$175 to \$195 was due to a number of factors. First, if the maximum had not been "capped" at \$175 during FY 1985 it would have been \$181. Second, the \$175 or \$181 maximums were computed on wages during CY 1983, a period of slow growth in total wages and high unemployment. The \$195 maximum will be based on wages during 1984, a period of recovery and rapid growth in total wages. During the first six months of 1984 an increase of 11.0 percent was experienced in total wages over the same period in 1983. Mr. Layes explained in detail the fiscal impact at various benefit amounts.

Alan Dollen inquired about the \$8 earnings restriction. There was a discussion that it had been a number of years since it had been modified. The agency staff will study the matter and will report findings at the next meeting.

Dr. Wolgast suggested further discussion concerning the cap.

Maichel requested a ten minute caucus.

Maichel moved that the Advisory Council adopt the amended proposal concerning voluntary quit legislation and the removal of the benefit cap from July 1, 1985, to July 1, 1986. Ed Fallon seconded.

Hodges replied that he appreciated the motion, but offered a substitute motion that would not totally remove the cap. He favored

a new figure be substituted for the present one. In essence, this would increase the level of the cap. He also asked to see what dollar effect one dollar increments would have above the \$175 level.

Mr. Layes then produced a copy of a table which listed one dollar increments of the maximum and gave an explanation of the more critical items contained on the document.

Hodges suggested a substitute motion to adopt everything that Wayne moved for with retention of the cap and setting a new figure.

Dr. Dilts suggested that the benefit cap be amended to \$190.

Dr. Wolgast reiterated the motion now before the Council, rather than removing the cap, the maximum would be \$190 effective July 1, 1985.

McGee seconded.

Dr. Wolgast stated that the motion has been amended to state that this document is accepted with the change of the maximum benefit figure of \$190 rather than the present level.

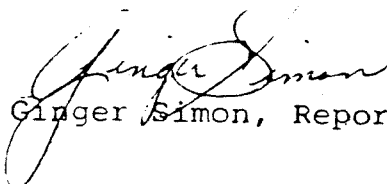
There was a unanimous vote and support.

Hodges brought to the groups attention that "breach of duty" had not been discussed. A motion was made and seconded to table this issue for a future time.

It was then determined that the Council would again meet on February 22, 1985, at 8:30 a.m. in the Third Floor Conference Room at 401 Topeka Avenue, Topeka, Kansas.

Being no further business, the Council adjourned at 11:00 a.m.

Respectfully Submitted:


Ginger Simon, Reporter



Carlin, Governor

Jerry Shelor, Secretary

DEPARTMENT OF HUMAN RESOURCES

Steve Goodman, Assistant Secretary
DIVISION OF EMPLOYMENT SECURITY
401 Topeka Ave.
Topeka, Kansas 66603
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MINUTES
EMPLOYMENT SECURITY ADVISORY COUNCIL
MAY 10, 1984

The meeting was called to order at 9:30 a.m. by Chairman Steve Goodman.

Present were Dr. Charles Colbert, Dr. David Dilts, Rob Hodges, Wayne Maichel, Ralph McGee, Dan Morgan representing Tom Slattery, and Carl Nordstrom. Guests included Bill Layes and Tom McClure of the Research and Analysis Branch of the Department of Human Resources, and Gary Adkins, Special Projects Consultant.

Absent were Alan Dollen, Ed Fallon and Dan McClenny.

Goodman began the meeting by congratulating the Advisory Council on behalf of Secretary Shelor and himself for the cooperative spirit displayed by the Council in successful passage of Employment Security legislation during the just-completed session.

Goodman stated that four items were on the formal agenda - a legislative recap, the "Idaho Proposal," the Econometric Model, and setting subsequent meeting dates.

Goodman related that legislative committees have indicated a desire for more formal legislative proposals from the Council. Mr. Maichel and Mr. Nordstrom stated that in the past Council presentations have been quite comprehensive and have included draft language of proposed legislation. There was a general consensus that more formal presentations would be advantageous to both the Council and the Legislature.

Mr. Nordstrom then asked when the increase in the wage base as passed in House Bill 2629 would be effective and would this change create problems in determining the rate structure. Mr. Layes indicated that estimates would be used to determine the effect on rates and that accuracy of the estimates would be critical to the rate computation.

Mr. Goodman then indicated that conformity issues had been resolved late in the session. An analysis of the enrolled bills is currently taking place to insure the bills fully comply with the conformity issues.

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Mr. Nordstrom then asked what salary was finally approved by the Legislature for the Board of Review. Goodman answered \$11,000 per annum. There seemed to be a consensus that Board members were pleased with the increase.

The "Idaho Proposal" was next on the agenda. Goodman gave a rough explanation of what the proposal does and indicated that he simply wished to make the Council aware of its existence. He stated that no action by the Council is necessary at present. An executive summary will be prepared and sent with the full text of the proposal to each Council member prior to the next meeting.

During discussion of the "Idaho Proposal," there was a lengthy discussion of how federal and state unemployment taxes relate and how administrative funds are allocated. Mr. Layes provided an explanation.

Mr. Goodman next told the Council that the Governor held a meeting on May 7, 1984 to discuss current issues in public policy. He stated that the Econometric Model was one subject discussed. Administration Secretary Harder, the Kansas Department of Economic Development and the Kansas Department of Revenue support the Model. Budget Director Muchmore opposes the Model because he feels that similar experiments in other states have not been successful. Governor Carlin wants more Cabinet input into the proposal. The Model will be a topic of the next sub-cabinet meeting.

Goodman indicated that the first year Model is generally supported. The long-term input-output is meeting more opposition. There is a divided opinion if penalty and interest funds may be used for the project. If Finance Council approval is necessary, the project will not start until fall.

Should the proposal fail, a less costly and therefore less sophisticated model will be discussed at the next Advisory Council meeting.

Mr. Nordstrom then asked Mr. Layes if current trust funds are as projected. Mr. Layes indicated that the targets are being met as projected and the fund will value approximately \$185 million as of the computation. It is still too early to tell but it is felt that the increase in the wage base will eliminate rate "bunching."

A meeting date of September 5, 1984, was then set by the Group. Mr. Goodman is to send a confirming letter and tentative agenda sometime in early August.

A discussion of topics for future meetings was then conducted. There was agreement that the tripartate issue of voluntary quits, discharges and job refusals must be considered prior to the next session. Dr. Dilts was concerned about the effect of arbitration orders on the Unemployment Insurance Trust Fund and feels the Council should also address this issue.

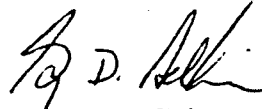
Mr. Goodman then announced that two public vacancies currently exist on the Council. He asked that all members submit nominations to Secretary Shelor not later than July 1, 1984. Goodman indicated that it would be helpful if each nominee was informed of the nomination and that the nomination be accompanied by a resume.

MINUTES - ESAC Meeting
May 10, 1984

3.

It was announced that interim study assignments have not been issued but that it being an election year, few if any assignments would be made.

Being no further business, the Council adjourned at 11:05 a.m.



Gary D. Adkins
Acting Recorder

MINUTES
Employment Security Advisory Council
October 23, 1984

The meeting was called to order at 8:00 A.M. by Dr. Larry Wolgast.

Members present were: Carl Nordstrum, Rob Hodges, and Tom Slattery representing employers; Wayne Maichel and Ralph McGee representing labor; and Dr. Charles Colbert and Dr. David Dilts representing the general public.

Members absent were Ed Fallon, Alan Dollen and Dan McClenny.

DHR staff members present were Lyle Phillips, Bill Layes, Bill Clawson, Paul Bicknell, Tom McClure, Claude Lee, Karen McClain and Gary Adkins.

Dr. Wolgast asked the group for additional nominations for the two public member vacancies on the Council. He indicated that he would like all nominations within one week and hopes to make appointments within two weeks.

Dr. Wolgast then called for an explanation of meeting materials by Claude Lee and Karen McClain. They then discussed how other States' employment security laws addressed the issues of voluntary quits, discharges and refusal of suitable work. As part of the discussion, Bill Layes presented statistical information regarding irregular separations and refusal of suitable work.

Following considerable discussion, Dr. Dilts asked what was expected of the Council for the next legislative session. The history of SB 721 of the 1984 Session was then discussed.

Dr. Dilts then asked that the labor representatives and the employer representatives each prepare a position paper regarding the issues at hand. Dr. Wolgast asked that the papers be sent to him by November 13, 1984, and he would then forward copies to each member of the Council. Mr. Maichel and Dr. Dilts also asked that an analysis of SB 721 as it was originally introduced be prepared and made available to the Council. It will be sent to the members with the position papers.

Mr. Hodges asked that an analysis of the law as it existed prior to passage several years ago of SB 876 be prepared and made available to the Council. This will be prepared and mailed with the other materials.

Two meeting dates were then established to discuss the materials. The first meeting will be held on November 30, 1984, and the second will be on December 17, 1984. Both meetings will be held in the third floor conference room at 401 Topeka Avenue and will commence at 8:00 A.M.

Paul Bicknell then discussed potential conformity issues. The main issues at this time are changes in the FUTA law regarding the definition of wages. Mr. Bicknell is to prepare a memorandum to the

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Council regarding the changes for their consideration.

Following a short summary of action, Dr. Wolgast adjourned the meeting at 10:05 A.M.

Respectfully submitted:



Gary Adkins, Recorder