

Approved AWD 4-4-90
Date

MINUTES OF THE House COMMITTEE ON Labor & Industry

The meeting was called to order by Representative Arthur Douville at
Chairperson

9:10 a.m./~~p.m.~~ on March 22, 1990 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Donaldson - Legislative Research Department
Jim Wilson - Revisor of Statutes' Office
Kay Johnson - Committee Secretary

Conferees appearing before the committee:

The meeting was called to order at 9:10 a.m. by Chairman Douville.

SB 612: Employment security law, effective date of shared work compensation program.

Chairman Douville asked for any questions or discussion on SB 612. There was no discussion.

Representative Whiteman moved that SB 612 be reported favorable for passage. Representative Webb seconded the motion. The motion carried.

SB 645: Employment security law, lessor employing units, board of review terms of office, contribution rates.

Representative Patrick distributed his proposed amendment to SB 645, attachment #1. He explained the amendment would require that nominations submitted to the governor for the board of review would alternate between the Kansas Chamber of Commerce & Industry and the Kansas Federation of Independent Business.

Jim Yonally, speaking from the audience, stated that the technical wording should be the Kansas Chapter of the National Federation of Independent Business. Representative Patrick agreed. Representative Patrick moved that the amendment to SB 645 be adopted. Representative Schauf seconded the motion. The motion carried.

Representative Patrick explained another amendment he is proposing on page 1, line 23 of the bill. After the words "corporate officer" the following would be inserted: "who is a shareholder and/or member of the Board of Directors". He stated the current language is too broad and will discourage legitimate leasing of employees who are not owners, shareholders, etc. but who carry a title, for example, vice-president.

Paul Bicknell, Department of Human Resources, speaking from the audience, stated the current language was designed to provide protection against the possibility of someone who has control of their own appointment.

Chairman Douville asked if the amendment would materially affect the bill. A.J. Kotich, Department of Human Resources, speaking from the audience, said it would not materially affect the bill but it allows for the opportunity of abuse.

Representative Patrick moved that the amendment be adopted. Representative Roper seconded the motion. Division was called. On a show of hands the vote was 9 to 8. The motion carried.

Jim Wilson offered a technical amendment concerning page 1, line 42. The Senate amendment inserted "this act" which technically just refers to this bill. The intent was all sections of the employment security law, so he proposes replacing "this act" with "the employment security law".

Representative Cribbs moved that the language change proposed by Jim Wilson be incorporated

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor & Industry,
room 526-S, Statehouse, at 9:10 a.m.~~p.m.~~ on March 22, 1990

into SB 645. Representative Holmes seconded the motion. The motion carried. Representative Buehler moved that SB 645 be reported favorable for passage as amended. Representative Lynch seconded the motion. The motion carried.

SB 679: Employment security law, casual labor exemption.

Representative O'Neal moved to strike the Senate amendment on page 12, lines 7 & 8: "the cash remuneration paid for such service is \$50.00 or more and". Representative Schauf seconded the motion.

Discussion followed. Representative Webb stated he would oppose the amendment as \$50.00 is currently in the federal law and should remain in the Kansas law.

Representative Schauf asked if the dollar amount is not addressed in Kansas law, but is specified in federal law, wouldn't the federal law be what is required of Kansas? Representative O'Neal responded it is his understanding that the federal law controls. For that reason Representative Schauf stated she would support the amendment.

Representative Whiteman asked if there would be any consequences in taking out the \$50.00. Mr. Kotich responded that employers could lose their tax credit if they are found to be out of conformity with federal law. He is not sure he has to look to the federal law. The Department of Human Resources administers Kansas law and, therefore, has to administer it the way it is written. Aside from the monetary amount, it must be determined whether or not the work performed is directly related to promoting the employer's business.

Representative Green stated he would oppose the amendment because removing the \$50.00 limit doesn't provide any guidelines.

Chairman Douville asked if the language on page 12, lines 10-18 is included in the federal law. Mr. Kotich responded yes.

Representative Whiteman stated she would oppose the amendment because if the law is not defined, it is difficult to interpret and apply.

Representative O'Neal clarified that the reason for his amendment is because he is not convinced the \$50.00 limit is necessary. By removing the Senate amendment, the bill will go to a conference committee for further study. He is trying to keep the issue alive.

Division was called. On a show of hands the vote was 10 to 9. The motion carried.

Representative Hensley distributed copies of a letter relating to SB 679, attachment #2. He stated he agreed with Mr. Duff, who wrote the letter, that over the last several years the legislature has added exemptions to the definition of employment and he is concerned with the trend. For that reason he opposes SB 679.

Representative Crumbaker moved that SB 679 be reported favorable for passage as amended. Representative O'Neal seconded the motion. Division was called. On a show of hands the vote was 10 to 9. The motion carried.

The minutes of March 1, 14, 15 and 16 were submitted. If no objections are heard by Friday, March 23, 1990 at 9:00 a.m. they will stand approved.

The meeting adjourned at 9:55 a.m. The next meeting of the committee is Friday, March 23, 1990 at 9:00 a.m. in room 526-S.

GUEST LIST

COMMITTEE: HOUSE LABOR & INDUSTRY

DATE: March 22, 1990

NAME	ADDRESS	COMPANY/ORGANIZATION
Bill CLAWSON	TOPEKA	DHR
PAUL BICKNELL	"	"
Bill LAYES	"	"
Chip Wheelen	"	Ks Medical Soc.
Jim Yonally	Overland Park	WFIB/Kansas
Sue Langston	Topeka	KRCI
Norm Wilks	TOPEKA	KASB
Wayne Maisher	KS AF Top	KS AFL CIO
TERRY LEATHERMAN	Topeka	KCCI
S. B. SIFERS	S. M., KS.	
James A. Judd	Leitchville	KS 77A
Tom Bell	Topeka	KS. Hosp. Assn.
Mary Vincent	Topeka	AGC of KS
ART BROWN	ICCMO	100 lumber dealers
Diana Buschardt	Topeka	KID
My d. Burns	Topeka	DPS
Robert A. Anderson	Topeka	DIRECTOR, Division of L&I
A. J. Kotich	Topeka, K	DHR
Jim McHaff	Topeka	Kansas AFL-CIO
CAROL RYAN	TOPEKA	KADW
R. G. Fry	TOPEKA	KTLA
Murray	"	"

1 or from the referee's decision, the day of the act, event or default
2 from which the designated period of time begins to run shall not
3 be included. The last day of the period shall be included unless it
4 is a Saturday, Sunday or legal holiday, in which event the period
5 runs until the end of the next day which is not a Saturday, Sunday
6 or legal holiday.

7 (f) *Board of review.* (1) There is hereby created a board of review,
8 hereinafter referred to as the board, consisting of three members.
9 *Each member of the board shall be appointed for a term of four*
10 *years as provided in this subsection.* Two members shall be ap-
11 pointed by the governor, subject to confirmation by the senate as
12 provided in K.S.A. 75-4315b and amendments thereto ~~for terms of~~
13 ~~four years.~~ One member shall be representative of employees, one
14 member shall be representative of employers, and one member shall
15 be representative of the public in general. The appointment of the
16 employee representative member of the board shall be made by the
17 governor from a list of three nominations submitted by the Kansas

18 ~~A.F.L.-C.I.O., the~~ appointment of the employer representative
19 member of the board shall be made by the governor from a list of
20 three nominations submitted by the Kansas chamber of commerce
21 and industry, ~~and the~~ appointment of the public representative mem-
22 ber of the board, who, because of vocation, occupation or affiliation
23 may be deemed not to be representative of either management or
24 labor, shall be made by the members appointed by the governor as
25 employee representative and employer representative. If the two
26 members do not agree and *fail to* make the appointment of the ~~third~~
27 *public* member within 30 days after the ~~appointments of the em-~~
28 ~~ployer representative member and the employee representative~~
29 ~~member~~ *expiration of the public member's term of office,* the gov-
30 ernor shall appoint the representative of the public. Not more than
31 two members of the board shall belong to the same political party.

32 (2) Each member of the board shall serve until a successor has
33 been appointed and qualified. Any vacancy in the membership of
34 the board occurring prior to expiration of a term shall be filled by
35 appointment for the unexpired term in the same manner as provided
36 for original appointment of the member. Each member shall be
37 appointed as representative of the same special interest group rep-
38 resented by the predecessor of the member.

39 (3) Each member of the board shall be entitled to receive as
40 compensation for the member's services \$11,000 per year, together
41 with the member's travel and other necessary expenses actually in-
42 curred in the performance of the member's official duties in ac-
43 cordance with rules and regulations adopted by the secretary.

, at the end of the current term of the employer representative and at the end of each eight-year period thereafter, by the Kansas federation of independent business and, at the end of the term after the current term of the employer representative and at the end of each eight-year period thereafter

, so that nominations are submitted to the governor for the employer representative on an alternating basis by such organizations. The

The

1259 Indian Jail Court
Topeka, Kansas

March 12, 1990

The Honorable Anthony Hensley
The Kansas House
State House - Room 278-W

Dear Representative Hensley:

Senate Bill 679 by the Committee on Labor, Industry and Small Business is bad legislation. Now, the bill may save the employer a few dollars in social security taxes and unemployment insurance taxes. Later it will deny the employee the benefits that those taxes would provide. It should be defeated.

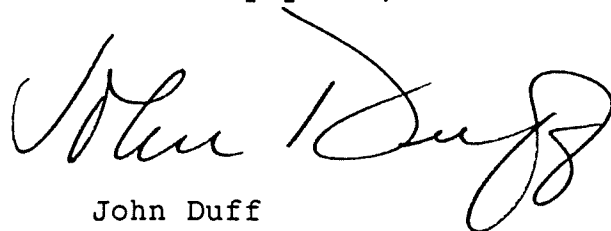
This short sighted bill works to defeat the purpose of long standing social legislation enacted to protect the worker. By permitting employers to classify workers as casual labor, this bill denies to workers fringe benefits mandated by statute: unemployment insurance and social security. It is a loophole for business that permits exploitation of their workers.

The exemption at the behest of movie moguls started a regrettable precedent. It has been followed each year with more exemptions. Legislation exempting oil pumpers was passed in a subsequent session. It's all bad law. Followed to its logical conclusion, businesses will be relieved from paying employment taxes on any of its workers.

"The Cross of Fire" folks paid no state unemployment taxes; they paid [or should have] the full tax to the federal government. They are required to pay federal unemployment taxes on their payroll less credit for what was paid to the states. The state loses: no taxes paid and their workers have no wage credits for unemployment or social security claims. The worker loses benefits.

These short sighted fixes for well-fixed special interests are making larger holes in a gaping safety net. I urge your support to defeat Senate Bill 679.

Cordially yours,

A handwritten signature in black ink, appearing to read "John Duff", written in a cursive style.

John Duff