

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

The meeting was called to order by Alicia L. Salisbury
Chairperson

1:30 ~~xxx~~ p.m. on February 13, 1991 in room 527-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Jackie Summerson, Manpower Temporary Services
Brad Avery, Kansas Association of Public Employees

The meeting was convened for the purpose of receiving requests for committee bills.

The Chairman announced SB 174-Fair share service fee to be paid to labor organizations by nonmember employees has been referred to the Labor, Industry and Small Business Committee and that the Revisor is drafting bills recommended by the Employment Security Advisory Committee.

BILL REQUESTS

Jackie Summerson, Manpower Temporary Services, requested the Committee introduce legislation regarding unemployment insurance. The legislation would adjust the inequities in the contribution structure in the way unemployment taxes are paid. The proposed bill would increase the taxable wage base and provide relief for excessive account balances, see Attachment I.

Senator Morris moved to introduce the legislation that would amend the Employment Security Law. Senator Sallee seconded the motion. The motion passed.

Brad Avery, Kansas Association of Public Employees, requested the Committee introduce a bill that would repeal the local option feature of the public employer-employee relations act, see Attachment II.

Senator Petty moved and Senator Feleciano seconded to introduce the legislation proposed concerning the public employer-employee relations act. The motion passed.

Senator Morris moved to introduce the two bills requested by the Secretary of Human Resources. The motion was seconded by Senator Petty. The motion passed.

Senator Petty requested the Committee introduce legislation to provide compensation for reimbursement for travel in workers' compensation cases.

A motion was made by Senator Feleciano and seconded by Senator Petty to introduce the legislation regarding reimbursement for travel in workers' compensation cases. The motion passed.

Senator Petty requested the Committee introduce legislation allowing the employer to be reimbursed in workers' compensation cases involving subrogation.

Senator Feleciano moved to introduce the legislation regarding reimbursement to the employer in workers' compensation cases involving subrogation. Senator Daniels seconded the motion and the motion passed.

The Committee discussed recommending a comprehensive interim study of the state's workers' compensation system. It was also recommended the study include regulatory and rate setting for workers' compensation.

The Committee meeting was adjourned at 1:55 p.m.

MEMORANDUM

TO: Senate Labor, Industry and Small Business Committee
RE: Proposed Legislation, Unemployment Security Law

Preface

Employment security (unemployment benefits) is an important public policy (both Federal and State). Kansas' unemployment system is well funded and well administered. The proposed legislation is limited to adjusting an inequity in the system.

An Example of the Problem

1. An employer with a fund balance of \$850,000 is required to pay an additional annual contribution of \$265,000 notwithstanding the fact that its employees claimed only \$86,500 in benefits during the year.

2. The same employer will provide a period of employment to 9,200 low-wage people and be required to pay \$125,218 more in contribution than an employer with the same total payroll who provides jobs to only 381 people with an average annual salary of \$19,000.

Prerequisites to Any Solution

Any solution to the problem must meet the following criteria:

1. No Adverse Impact on the Solvency of the Fund: The Legislature sets the total Fund balance. Based upon total projected payroll, categories of rates are set which will maintain the Fund balance. The proposed amendment will do nothing to affect the Fund balances.

2. No Adverse Impact on Benefits Paid to Unemployed Persons: The proposed amendment does nothing to change benefits to the unemployed.

3. Fairness Among Contributing Employers: The proposed legislation seeks to fairly allocate among all Kansas employers the cost of maintaining fund balances necessary to underwrite the cost of benefits. Employers with high-paid employees, pay a much lower percentage of their overall payroll than employers with low-wage employees. Low-wage employers would include employers of food service employees (restaurants), janitorial

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employees (hotels and motels), and part-time employees (temporary employees). The proposed legislation seeks to adjust the contribution among employers to more fairly represent a spread of the exposure.

Proposed Legislation

Two proposed solutions are offered:

1. Increase Taxable Wage Base: Amending K.S.A. 44-703(o)(1) by increasing the taxable wage base from \$8,000 to \$12,000. Twenty-five states have a higher taxable wage base than Kansas. Increasing the taxable wage base recognizes that over the years there has been a general increase in wages paid for all employees and, periodically, there is need to increase the taxable wage base to more fairly allocate costs among all employers.

2. Relief for Excessive Account Balances: A second alternative, a new section, which would add to K.S.A. 44-710(a)(a)(2) a section (F) under the definition of eligible employers. It would be a counterpart to subsection (E) which deals with employers with negative account balances. Negative account balance employers are assessed a "surcharge". The proposed legislation provides some positive relief for an employer with a positive fund balance.

Slight Adjustment in Public Policy Needed

The U.S. Department of Labor in Directive Letter No. 29-83 the current federal directive to all State employment security agencies declared:

There must be a favorable relationship between the individual employer's contribution and the benefits attributable to him as a prerequisite to any rate reduction. A reduced rate granted to an employer should be calculated at least to maintain or restore a balance between his contributions and the benefits paid.

Among employers in Kansas there are clearly admitted inequities in the system. An adjustment should be made in the law.

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SENATE BILL No. _____

By Committee on Labor, Industry and Small Business

AN ACT concerning the employment security law; relating to the definition of wages; amending K.S.A. 1989 Supp. 44-703.

Be it enacted by the Legislature of the State of Kansas:

K.S.A. 1989 Supp. 44-703(o) is, hereby amended to read as follows: (o) "Wages" means all compensation for services, including commissions, bonuses, back pay and the cash value of all remuneration, including benefits, paid in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash, shall be estimated and determined in accordance with rules and regulations prescribed by the secretary. Compensation payable to an individual which has not been actually received by that individual within 21 days after the end of the pay period in which the compensation was earned shall be considered to have been paid on the 21st day after the end of that pay period. Effective January 1, 1986, gratuities, including tips received from persons other than the employing unit, shall be considered

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wages when reported in writing to the employer by the employee. Employees must furnish a written statement to the employer, reporting all tips received if they total \$20 or more for a calendar month whether the tips are received directly from a person other than the employer or are paid over to the employee by the employer. This includes amounts designated as tips by a customer who uses a credit card to pay the bill. Notwithstanding the other provisions of this subsection (o), wages paid in back pay awards or settlements shall be allocated to the week or weeks and reported in the manner as specified in the award or agreement, or, in the absence of such specificity in the award or agreement, such wages shall be allocated to the week or weeks in which such wages, in the judgment of the secretary, would have been paid. The term "wages" shall not include:

(1) That part of the remuneration which has been paid in a calendar year to an individual by an employer or such employer's predecessor in excess of \$3,000 for all calendar years prior to 1972, \$4,200 for the calendar years 1972 to 1977, inclusive, \$6,000 for calendar years 1978 to 1982, inclusive, \$7,000 for the

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calendar year 1983, and ~~\$8,000~~ [\$12,000] with respect to employment during any calendar year following 1983 [1991], except that if the definition of the term "wages" as contained in the federal unemployment tax act is amended to include remuneration in excess of ~~\$8,000~~ [\$12,000] paid to an individual by an employer under the federal act during any calendar year, wages shall include remuneration paid in a calendar year to an individual by an employer subject to this act or such employer's predecessor with respect to employment during any calendar year up to an amount equal to the dollar limitation specified in the federal unemployment tax act. For the purposes of this subsection (o) (1), the term "employment" shall include service constituting employment under any employment security law of another state or of the federal government;

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SENATE BILL No. _____

By Committee on Labor, Industry and Small Business

AN ACT concerning the employment security law, relating to employer classification, refund of excessive account balance; amending K.S.A. 44-710a(a)(2).

Be it enacted by the Legislature of the State of Kansas:

K.S.A. 1989 Supp. 44-710a(a)(2) is hereby amended to read as follows: New Section "(F) Eligible employers with a positive account balance in excess of Two Hundred Percent (200%) of the average annual amount of all benefits paid for the preceding Four (4) fiscal years shall be entitled to make contributions at the lowest rate group until such time as said employer's positive account balance is less than Two Hundred Percent (200%) of the average annual amount of all benefits paid for the preceding Four (4) fiscal years at which time said employer shall be placed in appropriate rate groups as determined by subsection (D) herein.

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HOUSE BILL No. 2156

By Representative Hensley

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15 AN ACT concerning public employer-employee relations; amending
16 K.S.A. 75-4321 and repealing the existing section.
17

18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 75-4321 is hereby amended to read as follows:
20 75-4321. (a) The legislature hereby finds and declares that:

21 (1) The people of this state have a fundamental interest in the
22 development of harmonious and cooperative relationships between
23 government and its employees;

24 (2) the denial by some public employers of the right of public
25 employees to organize and the refusal by some to accept the principle
26 and procedure of full communication between public employers and
27 public employee organizations can lead to various forms of strife and
28 unrest;

29 (3) the state has a basic obligation to protect the public by as-
30 suring, at all times, the orderly and uninterrupted operations and
31 functions of government;

32 (4) there neither is, nor can be, an analogy of statuses between
33 public employees and private employees, in fact or law, because of
34 inherent differences in the employment relationship arising out of
35 the unique fact that the public employer was established by and is
36 run for the benefit of all the people and its authority derives not
37 from contract nor the profit motive inherent in the principle of free
38 private enterprise, but from the constitution, statutes, civil service
39 rules, regulations and resolutions; and

40 (5) the difference between public and private employment is fur-
41 ther reflected in the constraints that bar any abdication or bargaining
42 away by public employers of their continuing legislative discretion
43 and in the fact that constitutional provisions as to contract, property,

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44 and due process do not apply to the public employer and employee
45 relationship.

46 (b) ~~Subject to the provisions of subsection (e);~~ It is the pur-
47 pose of this act to obligate public agencies, public employees and
48 their representatives to enter into discussions with affirmative will-
49 ingness to resolve grievances and disputes relating to conditions of
50 employment, acting within the framework of law. It is also the
51 purpose of this act to promote the improvement of employer-em-
52 ployee relations within the various public agencies of the state and
53 its political subdivisions by providing a uniform basis for recognizing
54 the right of public employees to join organizations of their own
55 choice, or to refrain from joining, and be represented by such or-
56 ganizations in their employment relations and dealings with public
57 agencies.

58 (e) ~~The governing body of any public employer, other than~~
59 ~~the state and its agencies, by a majority vote of all the members~~
60 ~~may elect to bring such public employer under the provisions~~
61 ~~of this act, and upon such election the public employer and~~
62 ~~its employees shall be bound by its provisions from the date~~
63 ~~of such election. Once an election has been made to bring the~~
64 ~~public employer under the provisions of this act it continues~~
65 ~~in effect unless rescinded by a majority vote of all members~~
66 ~~of the governing body. No vote to rescind shall take effect until~~
67 ~~the termination of the next complete budget year following~~
68 ~~such vote.~~

69 Sec. 2. K.S.A. 75-4321 is hereby repealed.

70 Sec. 3. This act shall take effect and be in force from and after
71 its publication in the statute book.

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