

Approved March 27, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business.

The meeting was called to order by Senator Alicia Salisbury at
Chairperson

1:00 ~~xxx~~/p.m. on March 6, 1991 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Michael L. Johnston, Secretary, Kansas Department of Human Resources
A. J. Kotich, Legal Counsel, Kansas Department of Human Resources
David Wiese, Lawrence Paper Company, Lawrence
Roger Morris, Vice President, Human Resources, Gill Studios, Inc., Lenexa

The Chairman announced the Committee would receive testimony on SB 277 and SB 278.

Hearing on SB 277 Transfer of money from special employment security fund under employment security law

Michael L. Johnston, Secretary, Kansas Department of Human Resources, informed the Committee SB 277 would authorize the Department of Human Resources to transfer funds from the Special Employment Security Fund to the Federal Indirect Cost Offset Fund. This bill will continue the alternate financing of state programs while also allowing the agency to retain federal dollars to operate federal programs. see Attachment I.

There being no other conferees, the hearing on SB 277 was closed.

Hearing on SB 278 Acceptance of moneys for special projects by Department of Human Resources

Michael L. Johnston, Secretary, Kansas Department of Human Resources, testified SB 278 would make it possible for the Department of Human Resources to establish state accounts to collect and expend registration fees so they would have the option of managing an institute or seminar/conference without a co-sponsor, see Attachment II.

There being no other conferees, the hearing on SB 278 was closed.

Senator Feleciano moved and Senator Sallee seconded to report SB 277 and SB 278 favorably for passage and that they be placed on the consent calendar. The motion passed.

Hearing on SB 270 Employment security, benefit amount, interest on overpayment, misconduct disqualifications, shared work program

Michael L. Johnston, Secretary, Kansas Department of Human Resources, testified the proposed amendments to the Employment Security Law in SB 270 were recommended, after an indepth study by the Employment Security Advisory Council, see Attachment III.

A. J. Kotich, Legal Counsel, Kansas Department of Human Resources, explained the proposed amendments. Sec. 1, page 3, inserts definitions of wages and definitions of items not constituting wages. Specific wages mentioned are vacation pay, holiday pay and severance pay. The proposed amendments to Sec. 2 on page 6 and page 7, specifically include the use of alcohol or other controlled substances as well as repeated absenteeism and tardiness as specific incidents of misconduct, thus disqualification from unemployment benefits. The proposed amendments to Sec. 3, page 16, adds authority of Secretary of Human Resources to "issue interrogatories". On page 17, "by mailing a notice by first class mail to the place that the copy has been left" was added to the service of subpoenas. In Sec. 4, page 23, the proposed amendment would allow monthly interest of 1.5% on unemployment insurance overpayment due to fraud. In Sec. 5, Worksharing or Shared Work Program, the proposed amendments would add on page 24, "or the secretary's designee, and on page 28 the amendment would repeal the current April 1, 1992 sunset date.

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

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business,
room 522-S, Statehouse, at 1:00 ~~xxx~~/p.m. on March 6, 1991

In answer to Committee questions, Mr. Kotich replied administrative rules and regulations will have to be adopted to administer SB 270.

David Wiese, Lawrence Paper Company, Lawrence, informed the Committee the unemployment compensation law is too vague. Under the present laws the employers cannot win a case. He said the present attendance policy is ineffective. He proposed giving the referee specific guidelines and removing discretion from the referee.

Roger Morris, Vice President, Human Resources, Gill Studios, Inc., Lenexa, informed the Committee Gill Studios employs 450 employees and has worked with the Kansas Department of Human Resources on amendments concerning drugs. He explained their drug program and stressed the cost of the program to the company. He suggested adding to the bill that if the employer has followed all of the steps outlined in regard to drugs, then the employee should have to take responsibility for his actions.

The Committee discussed amending SB 270 on line 21, page 6, by referencing the state drug code in place of the 21 USC 812, schedules I, II, III, IV and V, as amended.

Senator Feleciano moved to change the interest rate from 1.5% to 1.0% a month on a benefit erroneously paid which is not repaid. Senator Strick seconded the motion. After Committee discussion, the motion was withdrawn.

Senator Oleen moved to add the Kansas Department of Health and Environment to (D) line 35, page 3. Senator Strick seconded the motion. The motion passed.

The Committee meeting was adjourned at 2:30 p.m.

DEPARTMENT OF HUMAN RESOURCES

S.B. 277

During the 1990 Session of the Legislature, there was established and appropriate \$200,000 from a new fund "Federal Indirect Cost Offset Fund". The revenue to this fund comes from the Department of Human Resources charging federal programs for the cost of indirect state services. This fund is then utilized to support the state financial programs in our agency. Unfortunately, there is no additional revenue received from the federal government to pay for the cost of indirect state services. This new expense must come out of the operating budget of our federal programs. The net effect is less federal dollars available to expend in delivering the federal programs in our agency.

This change to K.S.A. 44-716a will allow the transfer of funds from our Special Employment Security Fund to the Federal Indirect Cost Offset Fund. This amendment is similar to section(c) of K.S.A. 44-716a which currently allows a transfer from the Special Employment Security Fund to pay the administrative fee to the accounting services recovery fund for any collections for our Unemployment Insurance Program under the Department of Administration Overpayment Offset Program.

With the yearly income to the special employment security fund, there will be sufficient funds each year for this proposed transfer. This amendment will continue the alternate financing for our State programs while also allowing the agency to retain federal dollars to operate its federal programs.

LJ + SB
3/6/91

Attachment I
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DEPARTMENT OF HUMAN RESOURCES
SB 278

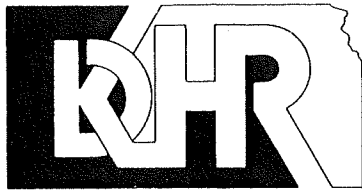
Each year the Department of Human Resources (DHR) facilitates a number of seminars, institutes and conferences for the public. Because the cost to offer these events would be prohibitive, a registration fee is charged in most cases. The fees are currently handled through co-sponsors. The Agency attempted to establish state accounts to collect and expend registration fees but was denied such request by the Department of Administration due to missing language in the statute to allow such an activity.

By amending K.S.A. 75-5733, DHR would then have the option of managing an institute or seminar/conference without a co-sponsor.

Acting as our own sponsor, we could maintain complete control over the operation of the event, insure fiscal responsibility and prompt payment of outstanding balances, and gain more bargaining power with hotels for future DHR events.

L. J. + S. B.
3/6/91

Attachment II
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Joan Finney, Governor

Michael L. Johnston, Secretary

M E M O R A N D U M

DATE: March 6, 1991

TO: Chairman and Members of Labor, Industry and Small Business Committee

FROM: Michael L. Johnston, Secretary of Human Resources

SUBJECT: Senate Bill 270 - Proposed Revisions to Kansas Statutes

TESTIMONY

Madame Chairman and Committee Members.

My remarks are a brief summary of my memorandum to this Committee dated February 20, 1991, embodying the substance of S.B. 270.

As background, it should be noted the proposed amendments to the Unemployment Insurance statutes and the Work Sharing statute have been studied in depth by the Employment Security Advisory Council. The Council is made up of members representing Labor, Industry and the Public. They approved these proposals and sent them to the Legislature for its consideration.

Sec. 1, p. 3. K.S.A. 44-704(e)(1) and (2). Definition of Wages and Items Not Constituting Wages.

1. Analysis: The proposed language inserts definitions of wages in (e)(1) and definitions of items not constituting wages in (e)(2). Specific wages mentioned are vacation pay, holiday

L.J. Johnston
3/6/91

Attachment III
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pay and severance pay.

Sec. 2, pp. 6-7. K.S.A. 44-706(b)(2) and (3). Specific Types of Misconduct; Controlled Substances, Alcohol, Tardiness and Absenteeism.

1. Analysis: The statute is amended to specifically include the use of alcohol or other controlled substances as well as repeated absenteeism and tardiness, as specific incidence of misconduct.

Proposed K.S.A. 44-706(b)(2) sets out the definition of a controlled substance; the testing procedure; the standard of proof; the circumstances surrounding the necessity for the tests; the chain of custody; and the confirmation of the results of the testing.

Proposed K.S.A. 44-706(b)(3) places a more readily identifiable standard in cases involving absenteeism and tardiness. The changes set forth in the standard place employers and employees on notice of the basis for disqualification.

Sec. 3, pp. 16-17. K. S.A. 44-714(g) and (h)(1). Addition of Interrogatories and Changing Method of Delivering Subpoenas.

1. Analysis: Subsection (g) simply adds the words "issue interrogatories" to the powers and duties of the Secretary. The purpose of interrogatories is to simplify the trying of cases and to eliminate expense when routine matters can be covered by interrogatory, rather than by using the more formal route of the deposition.

K.S.A. 44-714(b)(1) concerns service of subpoenas. The

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Att III

change is to the method of delivering subpoenas which have not been able to be served with "due diligence".

The recommended change of K.S.A. 44-714(h) will bring the Department into conformity with K.S.A. 60-304(a).

Sec. 4, p. 23. K.S.A. 44-719(d)(2). Amended to Allow Monthly Interest of 1.5 Per-Cent on Unemployment Insurance Overpayment which are not Repaid. Interest on Fraud Overpayment Accrues as of the Date of Final Determination While that of Nonfraud does not Begin to Accrue Until Two Years After Final Determination.

Sec. 5, pp. 24 and 28. K.S.A. 44-757. Worksharing or Shared Work Program is Amended to Repeal the Current April 1, 1992, Sunset Date. In Addition Secretary's Designee would be Permitted to Approve Work Sharing Plans.

ALJ:AJK:HDC:la

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Att III
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