

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 a.m. on January 20, 2004 in Room 241-N of the Capitol.

All members were present except:

Representative Don Hill- absent
Representative Joe Humerickhouse- absent

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Melissa Alishahi, Legislative Research Department
Norm Furse, Revisor of Statutes
Rena Jefferies, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: James Garner, Secretary, Kansas Department of Human Resources

Others attending:

See Attached List.

The Chairman called the meeting to order at 9:00 a.m., and stated we have a great program for everybody today. The Chairman asked if any of the members had any questions about anything so far?

The first item on the agenda is a special briefing by Jerry Donaldson, Kansas Legislative Research, briefing the committee on what transpired during the summer on the Joint Commerce and Labor Committee.

Jerry Donaldson, Kansas Legislative Research, stated there were four topics assigned to the Interim Committee and a draft of the only statutory legislation that came out of the Interim. There was no interest from the public sector in studying the taxable wage base; therefore, that issue was not covered. The three topics studied were: (1) Federal Reed Act Funds - the Committee concluded the Kansas Department of Human Resources (KDHR) should pursue an allocation of Congressional Earmark Grant funds but the Committee did not suggest how these monies should be spent. (2) State Occupational Safety and Health Agency - recommended that the current federal Occupational Safety and Health Agency (OSHA) system be maintained. (3) The last topic (Workers Compensation) is in draft form and will be presented tomorrow. The conclusions and recommendations contained that after discussion and deliberation the Committee made the following proposals: (a) That a bill be drafted that requires the Workers Compensation Advisory Council to meet by February 1 of each year for the purpose of reviewing proposed legislation and strongly encourages quarterly or more meetings thereafter, if needed. (b) A provision that a quorum of the council meet by a simple majority of each side. (c) That a follow-up post audit on the 1999 post audit be conducted to see whether the problems of fraud and abuse that existed then were resolved. Further, that post-audit should conduct a state-wide review of workers compensation cases in order to compile statistics on the number of cases, investigations conducted, prosecutions involved and settlement or the outcome of the cases. The audit should also look at the number of cases settled in favor of the claimant as opposed to the employer. (d) Also included should be the examination of the pay scale and retirement plans for administrative law judges. (e) That the legislature deal with the issues of pre-existing conditions, date of injury, work disability based on 15 year review, level of benefits for injured employees and whether drug or alcohol abuse exists on part of the employer similar to the provisions in place for the employee. (f) All actions adopting recommendations regarding the workers compensation act or any other matter referred to the advisory committee under subsection shall be by option adopted by the affirmative vote in open meeting of three of the five voting members who are appointed as representatives of employers and three of the five voting members who are appointed as representatives of employees.

Representative Pauls asked if the obsolete language would be put into any other place.

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Jerry Donaldson said she would check that out.

The Chairman said during the Interim a comment was made by the Secretary of KDHR that every state but Kansas was receiving earmarked money.

The Secretary said that was correct.

Representative Ruff asked who would be introducing the bill, the Senate or the House? We already have a full plate on workers compensation.

The Chairman said there was a question in his mind about how this should be done, but we could probably take care of it in a day or two.

Jim Garner, Secretary, Department of Human Resources (KDHR), gave a brief update of their activities during the legislative interim. The department is promoting "on-line" filing of unemployment insurance taxes and pay. This is the way of the future. The department is currently working with libraries to pursue utilizing computers in public libraries as an access point for unemployment claimants to file "on line" at the libraries.

KDHR has been engaged with efforts over the past months working with the Kansas Department of Commerce preparing for the Governor's recent Executive Reorganization Order (ERO) which will relocate the Division of Employment and Training from KDHR to Commerce. This recommendation is a part of the Governor's Economic Revitalization Plan. Workforce development efforts will be elevated and improved by aligning the responsibilities for job training with the demands of industry for a trained workforce.

The total number of unemployment benefits paid out in 2003 was \$518M and the trust fund balance is \$288.5M. We have been working hard to improve the Customer Service Center and would like to invite the committee to tour the Call Center (Attachment 1).

An annual report for the Division of Workers Compensation will be forthcoming.

Representative Pauls voiced concerns about spending \$518M and having \$288.5 M in the unemployment fund.

Secretary Garner stated KDHR is monitoring the fund and it is fine for another year but we need to look down the road for long term stability.

Representative Grant asked how much money businesses have saved with the moratorium over the last five years?

Secretary Gardner said he would answer that later.

Chairman Dahl questioned if unemployment benefits could be paid to anyone in the penal system and if there was any type of red flag in place?

Secretary Garner stated incarcerated persons would not qualify as they have to be able to work, but he would look at the mechanism in place so that would not be possible.

Representative Lane asked about the Federal Future Report. Is that money funneled back to Kansas?

Secretary Garner stated we do benefit by having that. There is a return but could have a staff person give a run-through on that.

The Chairman stated that **ERO 31 Executive Reorganization of KDHE** might be taken up very quickly by this Committee.

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The meeting adjourned at 9:45 a.m. and the next meeting will be January 21.



KANSAS

DEPARTMENT OF HUMAN RESOURCES
Jim Garner, Secretary

KATHLEEN SEBELIUS, Governor

**Testimony before the
House Commerce and Labor Committee
January 20, 2004**

Chairman Dahl and Members of the Committee:

Thank you for the opportunity to appear today and to provide a brief update of activities within the Kansas Department of Human Resources during the legislative interim.

The agency has many responsibilities. It administers the unemployment insurance program and processing claims for such benefits. The agency operates the state's workers compensation system. We enforce the employment standards for Kansas – wage and hour laws and the wage payment act. The agency's division of employment and training operates the federal job training efforts and the public labor exchange services. The agency's Labor Market Information Services is the research unit which compiles awesome data on employment in Kansas and meets the reporting requirements of the federal government's Bureau of Labor Statistics. The Public Employees Relations Board is located in the agency and oversees the Public Employer-Employee Relations Act and the Professional Negotiations Act. The Kansas Advisory Commission on Hispanic Affairs, the Kansas Commission on Disability Concerns, the Kansas African American Affairs Commission and the Office on Native American Affairs are housed in the agency.

Executive Reorganization Order No. 31.

The agency has been engaged with efforts over the past months working with the Kansas Department of Commerce preparing for the Governor's recent Executive Reorganization Order (ERO) which will relocate the Division of Employment and Training from KDHR to Commerce. This recommendation is a part of the Governor's Economic Revitalization Plan. Workforce development efforts will be elevated and improved by aligning the responsibilities for job training with the demands of industry for a trained workforce.

After thorough examination, the administration concluded that this transfer makes good sense and will facilitate the next generation of workforce development in Kansas. It is an idea that has been discussed for at least 15 years. It is time to create a seamless, integrated workforce system – aligning the needs of business for trained workers with those providing job training services.

The two agencies are now in the process of planning the transfer of approximately 260 employees. The Division of Employment and Training administers about \$39 million in federal job training and labor exchange funds.

The ERO also proposes the transfer of the Kansas Commission on Disability Concerns with the Employment and Training programs. This recognizes the role KCDC has played in improving access and services to persons with disabilities in our workforce centers.

In addition, the ERO renames KDHR as the Kansas Department of Labor. This new (old) name much better reflects the responsibilities of the agency and will help the public access the services of the agency. The agency's current name has generated much confusion. We receive lots of misdirected phone calls from individuals seeking employment with the state of Kansas or seeking information from the state's social welfare agency. This name change should assist the public in finding the services they want. The majority of states call their workforce agencies "Department of Labor." Seven states have Dept. of Human Resources – four are state personnel operations (similar to Kansas' Division of Personnel Services) and three are state social welfare agencies (much like our SRS). The federal agency that our agency predominately deals with is the US Department of Labor. The name change will better communicate the services provided by the agency.

Unemployment Insurance.

The past year has been an extremely busy one for KDHR's Division of Unemployment Insurance. The numbers speak clearly to the huge workload that the division has dealt with. We are cautiously optimistic that the demands for unemployment benefits has stabilized and hopefully decreasing.

During CY 2003, the agency processed 198,398 initial claims for unemployment benefits. Compared to the 182,656 initial claims in CY 2002, this represents an 8.6% increase in claims this past year. The total amount of unemployment benefits paid (including regular benefits, temporary extended unemployment compensation, and the Kansas additional benefit program) was \$518,299,509 for CY 2003.

The division is working to improve customer service in the UI system. I was personally unhappy with the long phone message that customers had to endure when calling to apply for unemployment benefits. The process was difficult to navigate. We have

implemented a new, shorter and simpler message for access to the call centers. We have received positive comments concerning this change.

We are beginning a campaign to promote on-line filing of unemployment insurance taxes for Kansas employers. The agency has the capability to process the tax reports and take payment of unemployment taxes electronically. Last year around 200 employers were using this service. We started an effort to inform employers of this service this past fall and now 2,065 employers have set up electronic accounts. We will continue to educate employers of this easy option which is available to them.

We are currently working with the state's libraries to pursue utilizing computers in public libraries as an access point for unemployment claimants to do on-line filings for claims. We very much want to be proactive to improve customer service for those using the UI system.

The Employment Security Advisory Council has met three times since the end of the 2003 legislative session. The Council has focused primarily on monitoring the solvency of the Unemployment Insurance Trust fund. The fund has been paying out significantly more in benefits than has been collected in contributions. The council has created a subcommittee that is currently meeting to determine what action should be taken to address the trust fund's solvency. At the end of 2003, the trust fund balance stood at \$288.5 million. The Council's next meeting is scheduled for January 29, 2004.

I am not sure that there will be many issues brought to the legislature this year concerning our employment security laws that govern the unemployment insurance system. The ESAC has endorsed a bill to make some technical clean up changes to the law. If there are any other recommendations of the council, we will bring those to the legislature as well.

It has been reported that there may be some type of legislation to amend the law concerning misconduct, particularly relating to drug use by terminated employees. I have requested our staff to document the incidents of this specific issue. For FY 2003, the agency addressed a total of 81,283 eligibility issues. Of those total issues, only 457 concerned drug-related determinations – and of the 457, a total of 315 (68.9%) resulted in denial of benefits. Only 142 cases, in which drug use was an issue, were cleared for benefits.

Workers Compensation

You will soon be receiving the annual report for the Division of Workers Compensation. As a brief preview, I would share that the division in FY 2003 processed 68,137 reports of job related accidents and 16,066 applications for hearings. The Fraud and Abuse unit collected over \$152,000 in restitution and civil penalties.

The rate of compensation for lost wages under the workers comp system is set by statutory law at two-thirds of the injured workers gross average wages, not to exceed the statutory maximum (which is \$440 per week for injuries in FY 2004). Kansas ranks 43rd in the nation in benefits for injured workers. The state also ranks 41st in premium rates charged.

The workers compensation advisory council has met three times since the 2003 legislative session. They have focused on the issues raised last session in Senate Bill 181. A subcommittee of the council met and presented compromise language concerning pre-existing condition and date of accident. However, the full Council rejected the recommendations of the subcommittee. The Council continues to meet and is scheduled to meet this Friday, January 23, 2004.

I must say that the workings of the Advisory Council indicate the impact that any change to our workers compensation laws can have. It is important that we act with caution in pursuing any changes in these laws – a change of a few words can have huge ramifications in this area of law. That is why the council exists – to fully explore and provide advice on the ramifications of proposed changes.

Our Industrial Safety and Health Unit within the Division of Workers Compensation conducted 1,278 safety consultations and the Boiler Safety Unit conducted 3,445 inspections last year. We understand that the Interim Commerce and Labor Committee recommended the agency should increase awareness of the safety consolation program. We intend to pursue this recommendation fully and do all we can to make more Kansas employers aware of this positive service. It is a common sense way to enhance workplace safety.

Employment Standards

For CY 2003, the agency processed 1509 wage claims and collected \$1.27 million in unpaid wages for Kansans.

Conclusion

The above report is a brief account of some of the activities within the Kansas Department of Human Resources since the end of the last legislative session. I hope you find this informative and helpful.

Again, Mr. Chairman, thank you for the opportunity to appear and share this information with you and the members of the committee. If you have any questions, I would be glad to respond.