

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on February 16, 2004 in Room 123-S of the Capitol.

All members were present except:

Senator Pete Brungardt- excused
Senator Susan Wagle- excused

Committee staff present:

Kathie Sparks, Legislative Research
Susan Kannarr, Legislative Research
Helen Pedigo, Revisor of Statutes
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

Wayne Maichel, Director of Employment Security, Department of Human Resources

Others attending:

See Attached List.

Chairperson Brownlee opened the meeting.

Mr. Maichel provided the committee with information regarding the reduction in benefits payment for FY 2005-2007 if a three year freeze were in effect and FY 2005-2006 if a two year freeze were in effect. (Attachment 1)

Senator Barone asked if **SB 440** had been through the Employment Advisory Committee, and Mr. Maichel said that it had and was passed unanimously.

Chairperson Brownlee closed the public hearing on **SB 440**.

Senator Barone moved to amend **SB 440** on p.21, line 5, to change (f) to (g). Senator Emler seconded. The motion passed.

Senator Barone moved to pass **SB 440** as amended. Senator Emler seconded. The motion passed.

Chairperson Brownlee pointed the committee's attention to **SB 410**.

Senator Barone stated that it seemed Senator Schmidt was sympathetic to the idea of a date being placed on the amount of time a pre-employment screening could hang over an employee. Senator Emler stated that on p.12, subsection (v), if an individual fails the pre-employment screening, discharge should occur no later than seven days after notification of drug screening; then strike other subsection (v). (Attachment 2)

Ms. Pedigo provided the committee with a comparison of the five work comp bills. (Attachment 3)

Following discussion, Senator Emler moved to strike p.5, lines 33-35, and insert on p.12 (v) from Attachment 2. Senator Bunten seconded the motion. The motion passed.

Senator Bunten moved **SB 410** favorable as amended. Senator Jordan seconded. The motion passed.

Chairperson Brownlee directed the committee's attention to **SB 481**.

Senator Bunten asked if inmates can get unemployment benefits once released, and Mr. Maichel said yes, if they had worked in prison, they would be eligible. Chairperson Brownlee asked if that would come from the company for which they worked in prison, and Mr. Maichel agreed, stating that it would be because those companies were for-profit. Senator Barone stated that if the prisoner does not pay in, then they are not covered post-release. He stated that he thought they needed all the help they could get once they were out. Senator Kerr stated that it is almost automatic that a job like the one they had in prison would not be available

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE at 8:30 a.m. on February 16, 2004 in Room 123-S of the Capitol.

on the outside, so they will apply for unemployment when they get out. He stated that it doesn't make sense to use the private sector in this way because they can't help that this kind of job isn't available. Mr. Maichel stated that the worker must pay in or he or she is not eligible. Senator Barone stated that if they come out and can't find the exact job, the point of prison work was more to train people not with a particular skill, but with the discipline to work. He stated that if they come out with this and cannot find work, then this is a transition period for them. The committee discussed the issue further, but decided not to take action on this day.

Chairperson Brownlee asked the committee to consider **SB 482**. Following brief discussion, the committee decided to continue the following day.

Senator Jordan moved to approve the minutes. Senator Bunten seconded. The motion passed.

Chairperson Brownlee adjourned the meeting at 9:30 a.m. The next meeting will be at 8:30 a.m. on February 17, 2004 in Room 123-S of the Capitol.



KANSAS

DEPARTMENT OF HUMAN RESOURCES
Jim Garner, Secretary

KATHLEEN SEBELIUS, Governor

February 13, 2004

Senator Karin Brownlee
Chairperson, Senate Commerce Committee
State Capitol Building – Room 136-N
300 S.W. 10th Street
Topeka, Kansas 66612-1504

Dear Chairperson Brownlee:

You asked me to provide information to you on Senate Bill 482.

The attached information in Tables 1 and 2 show the impact on the Trust Fund as a result of Senate Bill 482. Table 1 covers a three-year period, since Senate Bill 482 is a three-year moratorium. Table 2 shows you the reduction in benefits with a two-year moratorium.

If I can provide you any further information, please don't hesitate to give me a call.

Sincerely,



Wayne Maichel
Director of Employment Security

WM:jpb
Attachment

Table 1 details estimated reduction in benefit payments, if a three-year benefit payment freeze were in effect during Fiscal Year (FY) 2005 - 2007 while Table 2 provides estimated reduction in benefit payment's if a two-year benefit payment freeze were in effect during FY 2005 - 2006.

Table 1
Estimated Reduction in Benefit Payments
FY 2005 - 2007

	<u>Total</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>
Reduction in Benefit Payments	\$78,374,165	\$ 10,928,970	\$ 27,807,450	\$ 39,637,745

Table 2
Estimated Reduction in Benefit Payments
FY 2005 - 2006

	<u>Total</u>	<u>FY 2005</u>	<u>FY 2006</u>
Reduction in Benefit Payments	\$38,736,420	\$ 10,928,970	\$ 27,807,450

(v) if the individual has been discharged for failing a pre-employment drug screen required by the employer and if such discharge occurs not later than seven days after the employer is notified of the results of such drug screen.

1 is on vacation during or between two successive academic years or terms.
 2 An individual shall not be disqualified for benefits as provided in this
 3 subsection (t) provided:
 4 (1) The individual was engaged in full-time employment concurrent
 5 with the individual's school attendance; or
 6 (2) the individual is attending approved training as defined in sub-
 7 section (s) of K.S.A. 44-703 and amendments thereto; or
 8 (3) the individual is attending evening, weekend or limited day time
 9 classes, which would not affect availability for work, and is otherwise
 10 eligible under subsection (c) of K.S.A. 44-705 and amendments thereto.
 11 (u) For any week with respect to which an individual is receiving or
 12 has received remuneration in the form of a back pay award or settlement.
 13 The remuneration shall be allocated to the week or weeks in the manner
 14 as specified in the award or agreement, or in the absence of such speci-
 15 ficity in the award or agreement, such remuneration shall be allocated to
 16 the week or weeks in which such remuneration, in the judgment of the
 17 secretary, would have been paid.
 18 (1) For any such weeks that an individual receives remuneration in
 19 the form of a back pay award or settlement, an overpayment will be
 20 established in the amount of unemployment benefits paid and shall be
 21 collected from the claimant.
 22 (2) If an employer chooses to withhold from a back pay award or
 23 settlement, amounts paid to a claimant while they claimed unemployment
 24 benefits, such employer shall pay the department the amount withheld.
 25 With respect to such amount, the secretary shall have available all of the
 26 collection remedies authorized or provided in K.S.A. 44-717, and amend-
 27 ments thereto.
 28 Sec. 2. K.S.A. 2003 Supp. 44-706 is hereby repealed.
 29 Sec. 3. This act shall take effect and be in force from and after its
 30 publication in the Kansas register.

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1 of any special district or other local governmental entity. An individual's
 2 refusal to submit to a chemical test shall not be admissible evidence to
 3 prove misconduct unless the test is required by and meets the standards
 4 of the drug free workplace act, 41 U.S.C. 701 et seq., the test was ad-
 5 ministered as part of an employee assistance program or other drug or
 6 alcohol treatment program in which the employee was participating vol-
 7 untarily or as a condition of further employment, the test was otherwise
 8 required by law and the test constituted a required condition of employ-
 9 ment for the individual's job, or, there was probable cause to believe that
 10 the individual used, possessed or was impaired by an alcoholic beverage,
 11 a cereal malt beverage or a controlled substance while working.

12 (1) (A) As used in this subsection (d): (i) "Alcohol" shall be defined as:
 13 (a) Alcoholic liquor as provided in K.S.A. 41-102, and amendments
 14 thereto; or (b) cereal malt beverage as provided in K.S.A. 41-2701, and
 15 amendments thereto.

16 (ii) "Controlled substances" shall be defined as provided in K.S.A. 65-
 17 4101, and amendments thereto of the uniform controlled substances act.

18 (iii) "Allowed by law" is defined as allowed by a federal or state law,
 19 a federal or state rule or regulation having the force and effect of law, a
 20 county resolution or municipal ordinance, or a policy relating to public
 21 safety adopted in an open meeting by the governing body of any special
 22 district or other local governmental entity.

23 (B) For the purpose of this subsection (d), the following shall be con-
 24 clusive evidence of misconduct:

25 (i) The individual refuses to submit to or fails any chemical test that
 26 is allowed by law;

27 (ii) the individual is impaired by a controlled substance or alcohol
 28 while at the work place;

29 (iii) the individual uses a controlled substance or alcohol at the
 30 workplace;

31 (iv) the individual possesses a controlled substance or alcohol at the
 32 workplace; or

33 ~~(v) the individual fails a pre-employment drug screen required by the~~
 34 ~~employer and the employer has agreed to employ the person before drug~~
 35 ~~screen results are known to the employer.]~~

36 (C) The results of a chemical test shall not be admissible evidence to
 37 prove misconduct unless the following conditions were met:

38 (A) ~~Either (i) the test was required by law, the test was administered~~
 39 ~~pursuant to the drug free workplace act, 41 U.S.C. 701 et seq., (ii) the~~
 40 ~~test was administered as part of an employee assistance program or other~~
 41 ~~drug or alcohol treatment program in which the employee was partici-~~
 42 ~~ating voluntarily or as a condition of further employment, (iii) the test~~
 43 ~~was required by law and the test constituted a required condition of em-~~

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To: Senate Commerce Committee

From: Helen Pedigo, Assistant Revisor

Date: February 12, 2004

Re: Unemployment bills

I was asked by the Chairman Brownlee to provide a brief description of the bills to be heard today and tomorrow:

- SB 410: Page 5 adds as conclusive evidence of misconduct, the failure of a pre-employment screening when the employer has agreed to employ the person before drug screen results are known to the employer. Under the bill, possession of alcohol or a controlled substance at the workplace would be conclusive evidence of misconduct, rather than prima facie evidence of such as at present.
- SB 440: Page 40 amends the section setting the rate of unemployment contribution for successor employers. Other amendments strike obsolete language and schedules and renumber the remaining sections.
- SB 481: Page 10 exempts private, for-profit employers that use inmate employees from paying state unemployment taxes.
- SB 482: Page 2 freezes the weekly benefit minimum and maximum benefit amount at July 1, 2003 levels through 2006.
- SB 483: Page 1 adds language reflecting continued absence after exhaustion of FMLA benefits shall be considered a voluntary resignation. Page 6 adds language indicating incarceration resulting in work absence of 1 week or longer is considered misconduct. The section also requires documentation from the employee's treatment provider regarding repeated absences and tardiness due to illness. In a no call, no show situation, documentation is required regarding the medical inability of the employee to notify the employer of such absence.

Senate Commerce
02/12/04
Attach #3