

Approved: 2/19/08

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:15 A.M. on January 24, 2008 in Room 784 DSOB.

All members were present except:
Brenda Landwehr- excused

Committee staff present:
Jerry Ann Donaldson, Legislative Research
Dennis Hodgins, Legislative Research
Renaë Jefferies, Office of Revisor of Statutes
Steve Bainum, Committee Assistant

Conferees appearing before the committee: Jim Garner, Secretary, Kansas Department of Labor

Others attending: See attached list.

The Chairman called for any Bill introductions. Representative Ruiz introduced a Bill about a Reciprocal Fee in Lieu of Union Dues. It was received without objection. Representative Humerickhouse introduced a Bill titled Full Licensure for Appraisers. It was also received without objection. Representative Goico requested that a Bill introduced in the 2007 session of the House Commerce and Labor Committee be given a hearing. It was the Bill requiring that the KPERS Retirement Fund be Divested of Investments in Iran. There were no objections.

The Chairman thanked Jim Garner, Secretary, Kansas Department of Labor for sharing a brief update of activities within the Kansas Department of Labor. His testimony was passed out to the Committee **(Attachment 1)**.

Representative Tietze asked what the consequences were for misclassification of workers. Mr. Garner said that the penalties are those set out by the revenue statutes. It is the same penalties as those for late filing of taxes or failure to file. Representative Tietze further asked if it was true that the insurance companies which provide this insurance were given a 5% increase in rates even though claims had decreased. Mr. Garner said that the insurance companies had submitted a request for an overall 5.5% increase in rates and it was granted. Mr. Garner did not see how that was justified given the health of the market in Kansas. Representative Tietze thanked the Secretary for his efforts in dealing with the Technical Error problem from last year.

Representative Ruiz commented that the national unemployment rate was 5% and asked what the Kansas rate was. Mr. Garner replied that as of December 2007 it was 4.0%.

Representative Grant asked how much savings were realized because of the moratorium in the years 1995 to 1999 on the collection of unemployment taxes. Mr. Garner replied that during the 5 years of the moratorium the savings were 555 million and that since 1999 another 100 million has been added to the savings for a total of about 650 million dollars. Mr. Garner said that the committee should take more credit for this tax reduction because it doesn't get talked about in the Taxation Committee. Representative Grant asked for an explanation of the reserve fund. Mr. Garner said that a reserve was necessary to maintain the viability of the trust fund. The reserve fund in Kansas has never been too low to pay out unemployment benefits.

Representative Grange referred to a brochure that listed Fast Food Cooks as having the lowest hourly wage of \$6.81 and asked if there were any minimum wage earners in Kansas. Mr. Garner replied that the \$6.81 figure was an average and that there are people making minimum wage, particularly food preparation and server positions. The Federal minimum is \$5.65 and their tips are taken into consideration.

Chairman Brunk asked if the misclassification problem involved a particular group of companies or was it random. The answer was that the majority of them were in the construction industry. Mr. Garner promised to look up more detailed information for the committee on the problem.

Representative Goico wondered if the emphasis on safety awards created pressure on employees not to report injuries. This could be especially true in the construction industry where they do not have contracts or

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:15 A.M. on January 24, 2008 in Room ROOM: 784 DSOB of the Capitol.

assurance of employment from day to day. Mr. Garner admitted that there probably were places where that did happen. He commented that intimidation would violate OSHA laws which require that there be absolutely no intimidation to avoid reporting injuries. He said that the department does go out and inspect the safety programs that the companies have.

Representative Metsker stated that there should be more companies in Johnson or Wyandotte Counties involved in the Sharp Safety Awards. The Secretary said that the companies have to decide to participate in the Sharp program. In the past the safety programs were "buried" in the Workers Comp division. They are getting more emphasis now.

Representative Kiegerl wanted to know how the Labor Department would get to know the companies that should be involved in the safety programs. Mr. Garner said that the safety program was only a year old and they had a lot to do to make the companies aware of it. He indicated that the Chamber of Commerce had indicated a desire to help get the information out.

Representative Huntington asked if the safety programs were taken care of by the HR department. The answer was that most HR departments were involved but it was usually a team effort. The HR department was a natural place for the program to be handled.

Chairman Brunk asked if the Labor Department was working on the disconnect that existed last year between the Departments of Labor and Commerce. Mr. Garner said that they have been in conversations and discussions with Commerce about the problem. There is a computer program called Autocoder which will look at your past employment and assign a code to it. Our plan is to incorporate it into our claims process so that when someone applies for unemployment benefits the Autocoder would identify what occupations they have worked and match that up with the job openings in the Commerce Department.

Chairman Brunk asked what the time frame was for that to be done. Mr. Garner said that it was part of the modernization project which they hoped to have finished by next year. The modernization plan had an 18 month time line and it should be done within that time frame. By this time next year it should be done.

The Chairman further asked about an explanation of the cross matching of claimants. Mr. Garner said that they have had for some time a cross match with the state new hires directory. So every time an employer in Kansas hires someone new they have to fill out a form and send it to us. This is going to be expanded to include the surrounding states new hire directories. Now that the Federal government is allowing us to link into the National Directory of New Hires we will be able to cross check for all new hires. We are also linking with the Department of Vital Records and the Department of Corrections.

Chairman Brunk thanked Secretary Garner for the good briefing and reminded the Committee that we are meeting on January 30th and 31st. The meeting was adjourned at 10:17 A.M.

COMMERCE & LABOR COMMITTEE

DATE: 1-24-08

| NAME | REPRESENTING |
|------------------|-----------------------|
| Jim GARNER | Kansas Dept. of Labor |
| Megan Ingmire | Kansas Dept. of Labor |
| Lizbeth Beinhart | Kansas Dept. of Labor |
| Dennis Clements | REP RUEZ |
| Wigh Beck | Rep. Gordon |
| Kaula, Deborah | KSAJ |
| Mike Huttles | Schuttelbach |
| John Peterson | Capital Strategies |
| JEFF GLENDON | KS CHAMBER |
| Derrick Spitzer | NFIB |
| David Shriver | KASTS |
| Betsy Brownlee | KS Chamber |
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DEPARTMENT OF LABOR

*Kathleen Sebelius, Governor
Jim Garner, Secretary*

www.dol.ks.gov

**Testimony before the
House Commerce and Labor Committee
Jim Garner
Secretary of Labor
24 January 2008**

Chairman Brunk and Members of the Committee:

Welcome back and thank you for once again providing me the opportunity to appear and present a brief update of activities within the Kansas Department of Labor during the last several months. The agency has many responsibilities. It administers the unemployment insurance program – processing claims for benefits and collecting unemployment taxes to fund the system. The agency operates the state’s workers compensation system. Our Industrial Safety and Health division offers workplace safety consultations for private employers and oversees job safety involving public employees. We enforce the employment laws for Kansas – including Child Labor laws and the Wage Payment Act. The agency’s Labor Market Information Services is the research unit which compiles data on the workforce in Kansas. The agency also oversees the Public Employers and Employees Relations Act and the Public Negotiations Act. Our customers are the 70,000 employers and the over 1.4 million workers in Kansas.

Important Statistics

Instead of taking time to recite a list of stats to you, I have put together a compilation of important numbers and charts concerning the programs administered by KDOL, which is included as an appendix to this testimony. I hope you find this data helpful and informative.

Unemployment Insurance Modernization Project

In 2004, the Legislature approved the Governor’s Budget Amendment to start a major project for KDOL – a rewrite of our unemployment insurance system. This project is an opportunity to make our operations simpler and more competitive, a key part of our strategic plan. At over 30 years old, the current UI computer system, which maintains information about collections from employers and payments to unemployed workers, has reached the limit of its ability to be modified to meet changing requirements. As part of this project, KDOL will redefine how we serve our customers and begin using new tools that will allow us to respond to our customers changing needs quickly and efficiently. Our staff will be empowered to make more accurate, timely decisions using the latest information technology tools.

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IBM is our lead vendor and this summer we have kicked off phase II, implementation of the new system and reorganization of UI business operations. I am pleased to report that the project is progressing on schedule and on budget. We last provided an update on September 19, 2007, to the Joint Committee on Information Technology. In addition, each month our independent validation and verification vendor, Maximus, provides progress reports to the Chief Information Technology Officer of the State of Kansas.

Call Center Consolidation – Part of the UIM project has been the creation of a new contact center to handle all initial claims processing for UI claimants. This summer we consolidated our three former calls centers into one new contact center. In this undertaking, we are the first state agency to use Voice Over IP technology on a large scale. VOIP permits us to forward calls from claimants in Wichita and Kansas City over data lines to maintain a local exchange call for these customers. We experienced a problem early in implementing this new center as we brought the different work processes at each of the three former call centers into one operation. Customer service did suffer during the consolidation. However, we have focused our efforts on improving customer service and progress has been made even as the number of claims has increased during the winter months. We continue to monitor the call center performance closely.

Automatic Registration of claimants with labor exchange – To address the technical error rate discussed last year and, more importantly, to improve the opportunities for UI claimants to find new jobs, we are pursuing automatic registration of all claimants with the public labor exchange (Kansas JobLink). This is part of our UI Modernization project. Our goal is to not only register claimants with this job posting system, but also to identify and notify them of job openings that match their past work experience.

Debit Cards – Last session, the Legislature approved 2007 HB 2316 which allows KDOL to use debit cards to make UI benefit payments. We are proceeding with moving toward paperless payments as a part of the UIM project. Our goal is to make all payments by either direct deposit or debit cards this summer. This will result in significant savings by eliminating warrant stock and reducing mailings. A Request for Proposals from financial vendors to administer the debit cards is currently with the Department of Administration.

Cross match of claimants – To ensure greater integrity of the UI system and to prevent fraud, we will be implementing a number of additional cross checks of UI claimants as part of the UIM project. KDOL will cross match claimants with KDHE's vital statistics records to prevent any claims in the name of deceased individuals and cross match with the Department of Corrections to prevent payments to those incarcerated. This month we began cross-matching claimants with the National Directory of New Hires to prevent payment to anyone who recently was hired in a new job.

Unemployment Tax Reductions Remain in effect.

One of the most significant new laws in the 2007 session, SB 83, provided major tax relief to employers and reformed the antiquated waiting week for those receiving UI benefits.

In 2007, we collected \$100 million less in UI taxes than in 2006 – real tax savings to most employers in Kansas. The good news is that the UI Trust Fund remains in very healthy condition and the reduced tax rates for positive balance employers will continue for another year. We estimate that employers will save another \$94 million in 2008. You will find in your material a copy of the letter I sent to the Governor certifying the health of the Trust Fund and the ability to continue the reduced tax rates.

Worker Misclassification

KDOL continues to increase our enforcement efforts preventing the misclassification of workers. Worker misclassification occurs when an employer miscategorizes workers as independent contractors rather than employees. Consequently, employers may not make appropriate withholdings or tax payments for their employees. Workers who have been incorrectly classified as independent contractors may lose access to unemployment benefits, workers compensation and social security.

This past year, KDOL created a separate unit within our UI Tax operations dedicated to investigating and handling worker misclassification matters. We also continue to work in cooperation with the Kansas Department of Revenue on these cases. We maintain a joint website to allow for the reporting of suspected cases of worker misclassification (www.kdor.org/misclass).

For the CY 2007, KDOL identified 203 employers misclassifying 1,506 workers. Unemployment taxes owed by these employers totaled more than \$173,000.

Workers Compensation

The Workers Compensation market in Kansas remains very stable. According to the National Council of Compensating Insurers, Kansas remains a profitable place for insurers to operate in. Injury frequency rates continue to be down; the average indemnity cost is lower in Kansas than the national average; and the average cost of permanent partial claims is less than the regional and national average. In contrast, Kansas remains quite low in the level of benefits to injured workers.

Imaging Project and increased use of Electronic Communications — In 2007, KDOL's Workers Compensation Division completed its project to create electronic images of 1.9 million documents. This included 1.77 million accident reports, 112,000 election forms and 65,000 un-docketed settlements. The new electronic imaging system replaces the division's microfilm operation. This new system will allow KDOL staff to quickly retrieve documents. In the past, employees had to make a request for a document and wait for the processing unit to retrieve, print and send it. Besides greatly improving our customer service, the imaging project has reduced the costs for supplies to provide hard copy documents (paper, postage, faxing, envelopes, toner, film cartridges and duplicate cartridges).

We also were successful in getting the State Records Board to change the policy on records retention for the Workers Compensation Division. In the past, we had to keep our documents for an unlimited time. We asked for a revision to the policy to require that we keep documents for 25 years. This was approved and, as a result, we should see savings in storage costs.

In addition, this year we began sending routine notices to attorneys by e-mail correspondence. Use of these electronically-delivered docket notices has greatly reduced postage and mailing expenses.

Implementation of new ALJ selection process – In the 2006 session, a law was enacted changing the way Workers Compensation Administrative Law Judges are selected. The new system sets a four-year term for ALJs. Applicants for the position are reviewed by a two-person panel comprised of a Kansas AFL-CIO member and a Kansas Chamber of Commerce and Industry member. This panel makes a recommendation to the Secretary of Labor who can either accept or reject the recommendation. Existing ALJs were given the choice of opting into the new system (with the accompanying higher rate of salary) or remaining within the Civil Service System. The division has ten administrative law judges. Six judges opted to take advantage of the appointed term and unclassified position.

The law also called for staggered terms for those opting into the new system. This year marks the first two ALJ positions up for appointment under the new selection process. Two positions have terms which will expire in July 2008. The Director of Workers Compensation has worked with both the AFL-CIO and the KCCI to develop a plan for implementing the new selection process.

Workplace safety and health programs

KDOL is committed to making workplace safety a top priority for the State of Kansas. It is important for employers to have a variety of services available to them to prevent injuries and illnesses in the workplace.

In 2006, we introduced the Kansas State Safety Award Program. This program recognizes private employers across the state who are dedicated to providing safe work environments for their employees and who have reached major milestones in their safe operations (100,000 hours, 500,000 hours and 1 million hours of operating without a lost time injury). The awards are given based on the number of hours an employer has avoided a workplace injury. You will find enclosed a list of the companies we recognized through this program in 2007.

This year, Kansas also recognized more businesses as part of the SHARP program. The Safety and Health Achievement Recognition Program is a partnership with OSHA designed to recognize businesses that have worked with KDOL to develop exemplary safety programs. These are the premier – best of the best – worksites for safety. Companies that achieve the SHARP designation are exempt from OSHA inspections for two years. As of the end of 2007, Kansas had 71 companies participating in the SHARP

program. Nationwide, only two states have more SHARP sites than Kansas. I also have enclosed a list of these companies for your information.

Our Safety and Health division continues its efforts to modernize our safety operations. This year, we implemented new technology for our boiler inspection unit. Our boiler inspection staff leapt from using a tablet and pencil to using handheld devices (PDAs) to collect and record data on boiler inspections. Field staff now can send "real time" reports back to our main office, improving our boiler data collection. In addition, staff in Topeka and in the field can communicate about scheduling and trip planning, resulting in more efficient use of travel time and agency vehicles.

Labor Market Information Services

Our Labor Market Information Division operates pursuant to a cooperative agreement with the U.S. Bureau of Labor Statistics and in accordance with BLS guidelines to compile statistics on the labor market in Kansas – estimates on the labor force, employment levels, unemployment rates, wages paid, and projections of future occupation trends.

Kansas saw continued job growth in 2007. The December job numbers show an over the year increase in jobs of 15,900. These have been across the board with 8 of 11 major industry sectors seeing increases in jobs. The Wichita MSA is the engine of job growth currently, contributing to a majority of statewide job growth.

Over the past two years KDOL has hired two labor economists to allow the agency to provide more detailed meaning to the awesome data collected by this division. The economists provide research, analysis and interpretation of labor market and economic data to assist in policy decisions, business incentives and economic development.

In 2007, we produced the first *Kansas Economic Report*, which was released on Labor Day. We intend to make this an annual report. I sent members of this committee you electronic links to it last September. You can find it at <http://www.dol.ks.gov/LMIS/economicReport/2007/2007EconomicReport.pdf>. It provides valuable information about the key economic indicators that influenced Kansas' economy in 2006. This includes information on employment, unemployment and changes within several industry sectors – manufacturing and health care – with trends over past years. Also included is information on fast growing occupations, the Gross Domestic Product, personal income, global business, the Consumer Price Index and population. I believe this report is a great new product prepared by KDOL and will serve as a meaningful resource to policy makers.

Also in 2007, LMIS prepared products and presentations for the KANSASWORKS State Board (state workforce development board) and the Post Secondary Technical Education Authority.

Again last year, we also produced our popular products, including the *2007 Job Vacancy Survey* and the *2007 Wage Survey*. I have included brochures on these reports in your materials.

Conclusion

Finally, you can not report on 2007 in Kansas without mentioning the horrible natural disasters that we faced in our state. KDOL was one of the partnering agencies that responded to the Governor's request for a coordinated state government response to the individuals and businesses impacted by the disasters. KDOL staff was physically located in the Disaster Recovery Center in Haviland for four weeks to help residents of Greensburg process claims for regular UI and Disaster Unemployment Assistance. We also had staff at the DRC in Coffeyville for four weeks following the terrible floods in Southeast Kansas. In addition, the Governor issued emergency directives waiving penalty and interest on late UI tax filings for businesses impacted by these disasters and allowing them extended time to file quarterly reports with KDOL. It also waived the one week waiting period for UI benefits for those left unemployed by the disasters. A directive also suspended the fees associated with installing replacement boilers.

I hope this brief, yet thorough, accounting of some of the activities within the Kansas Department of Labor since the end of the last legislative session has been 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.

Attachments:

- UI initial claims chart
- UI Trust fund balances chart
- WC stats
- Wage claim payment numbers
- KSafe recipients for 2007
- States SHARP comparison
- SHARP recipients for 2007
- Job Vacancy Survey brochure
- Wage Survey brochure