

Approved: March 14, 2012

Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:30 a.m. on February 15, 2012, in Room 548-S of the Capitol.

All members were present except
Senator Oletha Faust-Goudeau - excused

Committee staff present:
Ms. Margaret Cianciarulo, Committee Assistant
Mr. Reed Holwegner, Kansas Legislative Research Department
Mr. Jason Long, Office of the Revisor Statutes
Mr. Chuck Reimer, Office of the Revisor of Statutes

Conferees appearing before the Committee:
Ms. Kathie Sparks, Deputy Secretary, Department of Labor

Others attending:
See attached list.

Hearing on SB 416 – an act concerning the state workplace health and safety program relating to implementation and administration of the program; pertaining to transfer of the program from the Department of Health and Environment to the Department of Labor

Upon calling the meeting to order, Chairman Susan Wagle announced the Committee would be hearing testimony on SB 416 and called on Mr. Chuck Reimer, Office of the Revisor of Statutes, to explain the bill including:

Page 4 - this section amends the current 2011 Supp.44-575. Lines 22-24 is mandatory language removing reference to the state workers compensation self-insurance program being with the Department of Administration and changing to the Department of Labor. The Secretary of Health and Environment will now administer this program as shown on lines 3 and 4. New language beginning on line 37 and continuing on page 5 through line 5 establishes a funding mechanism for this program. As listed on lines 24 -35, the functions have not changed.

As there were no questions of Mr. Long, the Chair recognized the only proponent to testify, Ms. Kathie Sparks, Deputy Secretary, Department of Labor, who said this bill provides that if there are any employees in health and environment that they would come over and it just puts in the statute that the DOL does the work through industrial health and safety. A copy of her testimony is Attachment 1.

As there was no opponent, neutral, or written testimony, the Chair thanked Ms. Sparks and asked for questions from the Committee which came from Senator Holland asking for some examples of some of the activities they would be doing on this program. As there was no further questions, the Chair closed the hearing.

CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on February 15, 2012, in Room 548-S of the Capitol.

Hearing on SB 417 – an act concerning economic development; replacing to the powers, duties, and functions transferred to the secretary of commerce from Kansas, Inc. making changes in references and transfers to state officers and agencies with respect thereof.

The Chair said the next order of business is a hearing on SB 417 and again, asked Mr. Long to explain the bill which included:

The bill basically is a policy change and a clean up bill transferring, pursuant to Reorganization Order 39, abolishing Kansas Inc. and transferring all the functions to the Department of Administration. He stated there are numerous provisions of the bill and throughout the economic development statutes of Kansas, wherever there is a reference to Kansas Inc., it is taken out.

As there were no questions of Mr. Long, the Chair stated the only proponent testimony is offered as written by Secretary Pat George, Department of Commerce. A copy of his written testimony is Attachment 2.

As there was no opponent or neutral testimony or questions from the Committee, the Chair closed the hearing.

Final action on SB 352 -an act concerning the employment security law

Next, Chairperson Wagle stated she wanted to work SB 352 and called on Ms. Kathie Sparks, Deputy Secretary, Department of Labor to explain the two amendments she requested during the February 7, 2012 Committee meeting.

1. The first amendment is shown in their testimony of February 7, 2010, stating “recognizes disqualification subsection as it relates to drug and alcohol use and asking for an amendment to add a third condition, which reads (iii) *violation of a written drug or alcohol policy of the employer of which the employee had knowledge and which constituted a required condition of employment.*” She said there would need to be a number change on page 29, after (ii) beginning on line 10, this new amendment would be (iii), and the original (iii) would become (iv). Also, she had also testified what they found that written policies of the employer do not always apply when it comes to drug and alcohol, so this amendment offers conclusive proof of misconduct.

Senator Masterson made a motion to move the amendment for the (iii) and then the renumbering for the rest of that Section. It was seconded by Senator Olson and the motion passed on a voice vote.

2. With the second amendment she explained, the DOL has a shared work program in which an employer, instead of having to lay employees off, can enter this program if they are in good standing with the department. (They currently have 128 employers who take part.) The employer designates the size of the group considered for the layoff, at least 20%, and then those employees would work 4 days instead of 5 and for the fifth day, they could collect unemployment for that non-work day.

CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on February 15, 2012, in Room 548-S of the Capitol.

She said right now they have more negative balance employers and the practice is that as the DOL accepts their plan they have to be a positive balance employer, pay the shortage, and it is limited to 120 days at the beginning of the year in law. This amendment would make it available to every employer who wants to use it any time of the year.

A discussion ensued with Chairperson Wagle, Deputy Sparks, and Mr. Long regarding the sentence as it reads before the amendment, shall it be left in or have the Revisor do a clean up?

A motion was made by Senator Lynn that the Revisor fix the amendment to say that any employer can make a voluntary contribution at any time. It was seconded by Senator Merrick and the motion passed by a voice vote.

A motion was made by Senator Longbine to approve any technical and clean up changes as the Revisor sees necessary. It was seconded by Senator Lynn and the motion passed by a voice vote.

A motion was made by Senator Masterson to move SB 352 out favorably as amended. It was seconded by Senator Olson and the motion carried by a voice vote.

Final action on SB 355 – an act concerning labor; relating to employment standards, accident prevention, powers and duties of the secretary of Labor regarding labor and wage disputes and workplace inspections

Chairperson Wagle referred the Committee to **SB 355** which repealed a number of sections in the law and made some technical changes. She asked Deputy Sparks to explain the essence of the bill.

1. Workplace inspections - the technical changes have to do with the industrial health and safety that are in law but they do not have jurisdiction over so they are being taken out. (The Federal Railroad and OSHA do.)

2. Labor and wage disputes - referring to Sec. 1, if the claims are under \$10K and goes to court, the DOL must take but their costs are never covered. The most the DOL can charge for their services is \$25, the most they have charged is \$10. So, basically the DOL is asking they not represent the claimant in court. If it is over \$10K or greater, the DOL is not required to take and they do not. On average, an attorney can get reimbursed around \$300.

Senator Lynn made a motion to pass out favorably SB 355. It was seconded by Senator Olson and the motion carried by voice vote.

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The Chair then turned the Committee's attention to **SB 416** transferring the administration of the state workplace health and safety program from KDHE to KDOL

Senator Schodorf made a motion to pass out favorably SB 416. It was seconded by Senator Masterson and the motion carried by a voice vote.

Adjournment

As there were no further business, Chairperson Wagle announced the meeting was adjourned. The time was 9:30 a.m.

The next meeting is scheduled for March 1, 2012.