

Approved: April 5, 2012
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:30 a.m. on March 6, 2012, in Room 548-S of the Capitol.

All members were present except
Senator Jay Emler - excused
Senator Ty Masterson - excused

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

Conferees appearing before the Committee:
Mr. Eric Stafford, Senior Director of Government Affairs, the Kansas Chambers
Mr. Phillip Hayes, Vice President of HR Services and Operations for the Arnold Group
Mrs. Natalie Bright, representing Kansas Society for Human Resource Management (SHRM)
Mr. Terry Forsythe, President, Working Kansas Alliance
Ms. Kathie Sparks, Deputy Secretary, Department of Labor

Others attending:
See attached list.

Hearing on HB 2638 – an act concerning the employment security law; pertaining to the state employee security advisory council; pertaining to benefits; pertaining to notice for experience ratings pertaining to rates

Upon calling the meeting to order, Chairman Susan Wagle announced the Committee would be hearing testimony on HB 2638 and asked Mr. Jason Long, Office of the Revisor of Statutes, to explain the bill.

He stated this is another bill dealing with unemployment law provisions and makes various amendments with respect to the unemployment law.

- 1.) At the bottom of page 2, top of page 3 pertains to holiday pay. Under the bill, all holiday pay would be considered wages received. Under current law, holiday pay that was awarded based on no condition of attendance was considered wages, However, holiday pay that was based on condition of attendance, i.e. attendance on the day before or day after the holiday, was considered wages.
- 2.) At the bottom of page 3 is a new provision concerning lump sum payment for severance pay and would be counted, so that the number of weeks that such pay corresponded to the employees weekly wage their benefits would be delayed that number of weeks. For example, if they receive a lump sum payment and it is about three weeks worth of wages to the claimant and their benefits would be postponed that number of weeks.

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3.) Referring to the top of page 4, he said the House made this amendment. The calculation of that delay would be based on the employers report to the Secretary of Labor, of the lump sum amount of the number of weeks this lump sum payment represents in reference to the employees first weekly wage or first weekly salary that would be the basis for determining the amount and number of weeks benefits were delayed.

4) Referring to the bottom of page 4, top of page 5, the next amendment is 4-710a relating to contributions for new employers that are not eligible for reduced contribution rates. He said, under the current law, it is set at 4% for employers, except for those in the construction industry which is set at 6%. This bill would amend that so it would be through the rate year of 2013. Then starting rate year 2014, it would be 4% and 6% for the construction industry. (Except if you are in the construction business and are starting a new business and you are not eligible for a reduced rate, then your contribution would be 2.7% for the rate year 2014.)

5.) Referring to page 13, the next amendment talks about the reduced rate multiplier that would be changed for 2015 (tax year 2014) from 1.2 to 1.0 so if the trust fund falls below the 1.0 then the reduced rate does not apply. Under the law, if the balance in the Trust Fund on July 31 of the current year meets the state's high cost multiplier, employees can be granted a reduction in their contribution amount for the coming calendar year.

6.) On page 18, this amendment require the DOL provide notice to employees on or before November 15 , the rates for the next rate year.

7.) On page 20-21, are several stricken lines that refer to the Employment Security Advisory Council (ESAC) that advises the Secretary of Labor on unemployment issues and are being removed under the law.

As there were no questions for Mr. Long, the Chair called on the first of three proponents Mr. Eric Stafford, Senior Director of Government Affairs, The Kansas Chamber who stated the bill makes what they consider to be "structural changes" to the fund. **HB 2638** is the result of efforts by their organization and SHRM to gather input from membership on areas where the UI system is in need of improvement. Mr. Stafford lists these changes in his testimony, outlining the bill and the reason for the proposed changes. A copy of his testimony is Attachment 1.

The next proponent called on was Mr. Phillip Hayes, Vice President of HR Services and Operations for the Arnold Group, who gave a brief history of SHRM. Referring to holiday pay, he asked if an employer offers paid holidays and an employee receives such pay, are they then allowed to receive partial unemployment benefits for said week(s)? And from a pure economic development standpoint, KS SHRM

believes that the current UI rate for new KS employers are less than competitive when comparing KS to the Midwest states and specifically the neighboring states. A copy of his testimony is Attachment 2.

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The third proponent recognized was Mrs. Natalie Bright, appearing on behalf of the Kansas Society for Human Resource Management who stated, while most of the burden of replenishing the fund lies with Kansas employers, SHRM believes there are system changes, which can be implemented, which will assist in replenishing the trust fund, specifically, holiday pay as wages and lump sum severance pay. Stopping "double dipping" practices within the Kansas UI system will contribute to the shoring up of the balance of the trust fund. A copy of her testimony is Attachment 3.

The Chair stated the Committee had written proponent testimony before them from Ms. Renea Dennison, Manager of Financial Services Century Health Solutions, Inc. A copy of her testimony is Attachment 4.

Chairperson Wagle called on the only opponent to testify, Mr. Terry Forsythe, President, Working Kansas Alliance. As he was not available, Mr. Bruce Tunnell, Executive Vice President, Kansas AFL-CIO offered his testimony stating the bill reduces benefits to workers and employer contributions to the UI Trust Fund, and that abolishing the ESAC is a formality the WKA opposes out of principal. A copy of Mr. Forsythe's testimony is Attachment 5.

Neutral testimony was offered by Ms. Kathie Sparks, Deputy Secretary, Department of Labor, who listed the changes to the Employment Security Law and regarding the Trust Fund, she said at the end of 2015, under current law is estimated to have a balance of \$315.5 million and the federal loan will be repaid. A copy of her testimony is Attachment 6.

The Chair thanked the conferees and asked for questions from the Committee which came from Senators Holland, Schodorf, Wagle, Faust-Goudeau for Ms. Sparks, Mr. Hayes, Mr. Stafford, and Mr. Tunnell including not comfortable passing the bill now that might impact that portion of the bill in 10 years. Asked for specific instances of where an employee could collect a full pay check and partial unemployment? Has the DOJ done any analysis on the 4% and are there any studies for comparison? How does the FUTA rates relate to this?

Adjournment

As they were running out of meeting time, the Chair announced the meeting was adjourned. The time was 9:30 a.m.

The next meeting is scheduled for March 7, 2012.