

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 8, 2012, in Room 548-S of the Capitol.

All members were present except:  
Senator Jay Emler - 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:  
Representative Marvin Kleeb  
Mr. Scott Schneider, representing the  
National Association of Professional Employer Organizations (NAPEO)

Others attending:  
See attached list.

**Hearing on HB 2637 – an act concerning workers in shared employment arrangements**

Upon calling the meeting to order, Chairman Susan Wagle announced the Committee would be hearing testimony on HB 2637 and asked Mr. Jason Long, Office of the Revisor of Statutes, to explain the bill including:

- 1.) The bill deals with workers compensation insurance policies with the main amendment found on pages 4 and 5. He used the PEO as an example of this.
- 2.) The PEO's can go out and purchase the insurance policies to cover the workers compensation insurance for all covered employees in shared employee relationship.
- 3.) Under the current law, the master policy may be used if the Commissioner of Insurance is satisfied that the insurer is able to track and report the individual client experience to the advisory organization in acceptable fashion. This is still kept in the law, but there is also a requirement that the master policy must be filed with the Commissioner within 30 days prior to the use of the master policy.
- 4.) There is also added language on page 5, stating if the Commissioner determines that they are unable to track and report individual client experience in an unacceptable fashion, then the Commissioner can disapprove the master policy and will notify the insurer in writing of this. The insurer has the right to a hearing before the Commissioner.

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5.) The original bill stated that this provision was to go into effect December 31, 2013. The House Committee made an agreement to change this to March 31, 2013 and then the House as a whole made a decision to move the date down to the effective Section 3 of the bill.

The Chair thanked Mr. Long and asked if this statute could stand alone since there was a similar bill recently passed on the Senate (**SB 413**)? (No.) She then called on the first of two proponents to testify, Representative Marvin Kleeb.

Representative Kleeb stated on the last day of the 2011 session, legislation was passed that for the first time required PEOs to record their clients' workers compensation and accident experience on an individual client basis and can be met through the master workers compensation policies. However, he went on to say, more time is needed for these policies to be developed and this bill addresses this need by extending the effective date until March of 2013. A copy of his testimony is Attachment 1.

The second proponent recognized Mr. Scott Schneider, representing the National Association of Professional Employer Organizations (NAPEO) who stated they support the bill because it strikes a balance between ensuring small businesses maintain access to their insurance benefits and the needs of the industry to properly track insurance data. A copy of his testimony is Attachment 2.

Written proponent testimony was offered from Ms. Kerri Spielman, representing the Kansas Association of Insurance Agents (KAIA). A copy of her testimony is Attachment 3.

As there was no opponent or neutral testimony, the Chair asked for questions from the Committee which came from Senator Holland asking Mr. Ken Davis, with the Kansas Insurance Department, if they had any comment and if the date offered is timely enough. (Supports the bill and can work within the time frame agree upon.) As there was no further questions or discussion, Chairperson Wagle closed the hearing on HB 2637.

**Possible final action on HB 2638 -an act concerning the employment security law; eligibility for certain benefits, abolishing the Employment Security Advisory Council, notice requirements for experience ratings; pertaining to rates**

The next order of business was possible final action on HB 2638. The Chair stated she had concerns as they are working with the structure of the UI fund with something that might be implemented 10 years from now, asking to have the high cost multiplier lowered. She would prefer to make structural changes in the UI formula at a time when they have a good many hours to look at it and consider at that time, change the wage base, which is not a tax increase.

*Chairperson Wagle made a motion to take the high cost multiplier out of the bill. It was seconded by Senator Masterson.* The Chair asked for discussion or questions which came from Senator Holland who would like to add changes. *Senator Holland made a motion to take out the unemployment percentage for*

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employers. It was seconded by Senator Faust-Goudeau. The Chair again asked for discussion or questions which came from Senator Masterson asked where the actual language was in the bill? (Begins in page 4, line 43 through the top of page 5.)

The Chair asked for comments from Mr. Eric Stafford, Senior Director of Government Affairs, the Kansas Chambers, one of the proponents of the bill who stated the concern, as stated in the House, is that they are doing this now, and asked they do the same thing in 2014 – 2015 and basically, they are just shoring up some inconsistencies in a fund that will not have a significant impact. Further discussion ensued regarding the 2.7% to be more competitive; have one of the smallest tax basis; and lump sum severance pay. As there was no further discussion, the Chair stated they were back on the motion to delete the part of the bill to lower the contribution rate for new employers and a vote was taken. The motion failed. The Chair then asked for the will of the Committee. Senator Masterson made a motion to pass favorable as amended. It was seconded by Senator Merrick and the motion passed by a voice vote.

### **Possible final action on HB 2510 – an act concerning the prison-made goods act; prohibiting the manufacture or production of manufactured homes or modular homes**

The next bill discussed for final action was HB 2510. The Chair recognized Senator Olson who offered an amendment deleting (7) and adding, "or to any request for buildings or other structures from a state or local agency to the Secretary of Corrections." in hopes of giving the Secretary of Corrections the opportunity to work between agencies. It was seconded by Senator Steineger. A discussion ensued regarding defining "local agency"; not running a non-profit amendment; and, how do you see the question of competition regarding home building? The Chair announced they were back on the motion.

Senator Longbine offered a substitute motion for changes in (6) beginning on line 26 to read, "Vocational building program" means the vocational building program operated by the secretary to provide individual, freestanding building, not to exceed 1,000 square feet in size to Kansas state agencies for use by such entities, with latitude for the Revisor for cleanup. It was seconded by Senator Masterson.

A discussion ensued regarding: do they already have the authority to build storage areas, is this a specific state program and, is there a definition for state agencies? (Regarding the definition, Mr. Long suggested striking the word "Kansas" as it is superfluous, because state agencies are defined in the "prison-made goods" act. He also recommended in line 33, striking "cabin." The Chair asked if there was further discussion, seeing none, she said they were now back on Senator Longbine's substitute motion, a vote was taken and the motion passed by a voice vote.

The Chair recognized Senator Steineger who also offered an amendment to the bill dealing with building construction, a state agency, and favorable conditions given to non-profits over for-profits. It was seconded by Senator Masterson. The Chair asked for comments from Mrs. Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association (KMHA), who stated the amendment was slightly different. The KMHA is the government dealing with the private business and this amendment is about

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government picking winners and losers. She went on to say, their concern would be they have not heard from all of the parties on this and as she said at the hearing, agencies went around the process and KMHA did not get to voice their opinion. Also, the amendment does not ban non-profit home builders, and CHODAS which is some federal designation. As they were running out of meeting time, the Chair announced they were back on Senator Steineger's motion, a vote was taken and the motion failed. A motion was made by Senator Steineger to pass the bill favorably as amended. Seconded by Senator Masterson and the motion passed by a voice vote.

### **Adjournment**

As there were no further business, the Chair covered upcoming meetings before announcing the meeting was adjourned. The time was 9:30 a.m.

The next meeting is scheduled for March 13, 2012.