

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle, at 8:30 a.m. on February 3, 2011, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant  
Mr. Ken Wilke, Office of the Revisor of Statutes  
Mr. Reed Holwegner, Kansas Legislative Research Department  
Ms. Dorothy Noblitt, Kansas Legislative Research Department

Conferees appearing before the Committee:

Ms. Janet Stubbs, Administrator,  
Kansas Building Industry on behalf of the Worker's Compensation Fund (KBIWCF)

Others attending:

See attached list.

**Introductions of bills**

Upon calling the meeting to order, the Chair recognized Senator Holland who made a motion to introduce legislation that allows state government to get an injunction against employers who misclassified the employees. It was seconded by Senator Steineger and the motion carried.

**Overview of SB77 – an act concerning the employment security act**

The Chair said the next order of business is an overview from the Department of Labor and introduced Ms. Kathie Sparks, Deputy Secretary who stated this bill is needed due to the impact of the recession on the Kansas Unemployment Fund and the fact we have borrowed \$108M from the federal government and we have to pay back the interest. The American Recovery and Reinvestment Act (ARRA) established these loans be interest-free until January 1, 2011. At such time, interest began accruing on the outstanding loan balance with the first interest payment due September 30, 2011 with billing sent September 15, 2011.

The Chair asked if, on November 9, 2011, they plan to pay on the principal? (No, we will not be making any principal payments until next year.) And you are hoping we are out of the recession, the fund is built up, and whatever is left over you can make the first significant payment on it? (Yes.)

She went on to say that we are not allowed to pay it from the solvency trust fund however, this bill modifies the negative balance employer surcharge to allow that funds collected from the surcharge paid will be used to pay interest due on Title XII advances and potentially pay down the principal balance at a later time. The process for this is as follows:

- 1.) For this year, 50% of the surcharge will be paid into the newly established employment security interest assessment fund for the purpose of paying interest due.
- 2.) For any succeeding year for which interest is due, the Secretary of Labor may adjust the amount of the surcharge necessary to pay such interest.
- 3.) If the dollar amount collected from the surcharge is in excess of the amount needed to pay interest due the excess amount will remain in the employment security interest assessment fund to be used to pay interest in future years. She said this is important to the negative balance employers, while the rates do not go up, these employers will not be able to count this amount of money against their ratio.
- 4.) When all interest has been paid, any excess funds remaining in the employment security interest assessment fund will be transferred to the Trust fund for the purpose of paying any remaining principal amount due. If the amount transferred from this fund exceeds the amount of principal due, the excess will remain in the Unemployment Insurance Trust Fund.

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on February 3, 2011, in Room 548-S of the Capitol.

Regarding the reinstatement of the Waiting week she stated this law was enacted back in 1937 and has prevailed until 2007 when the Kansas Legislature passed **SB83** eliminating this provision. She said there is some confusion regarding this but claimants under the regular fund get 26 weeks, it is just when you start counting the weeks.

Regarding the reinstatement of the waiting week – it was enacted in 1937 and prevailed until 2007 when it was eliminated with the passing of **SB83**. There is some confusion regarding this, but claimants still get the 26 weeks under the regular fund, it is just when you start counting the weeks.

The Chair called on Senator Holland who asked for further explanation of the 10 regular balance account and how much they owe the state? (Group 1-9 paid in \$46.2M in contributions and took out \$119.8M in benefits or 2.6 times more than they paid in. For group 10, Ms. Sparks referred the Committee to a chart entitled “Distribution of Benefits Charges & Tax Contributions by Reserve Ratio,” stating in Group 10 there are 9 groups of employers, 7 are active and of that, 4500 are in the last group.

Chairperson Wagle asked if Ms. Sparks was saying half of all employees are in the negative group? (Half of all the employers who are in the negative group are in group 10, paying in \$36.5M but taking out \$225M in benefits or 6.2 times what they paid in. For the total of the 10 groups, the difference is \$262.4M or 4.2 times. Regarding the positive balance employers for the same period, contributions of \$244M were made and \$522.7 were paid out. If the Committee is wondering why these employers are still positive balance, it is because they are only looking at one year and the positive balance is over the life of the company.

Regarding the elimination of benefit eligibility for relocating spouses except for armed forces. In 2010 approximately 469 individuals gave up their jobs to take jobs in Kansas, 1599 were spouses of members of the armed services. If this provision is repealed except for relocating spouses of the armed forces who would remain eligible, the UI benefit savings to the State would be \$1.9M.

The Chair recognized Senator Holland who asked what the rationale was for excluding military families. She recognized Senator Merrick who stated the military families are not voluntarily moving. But most of the people who are not military and in that category are volunteering. A copy of her testimony and charts are ([Attachment 1](#)) attached and incorporated into the Minutes as referenced.

Deputy Secretary then offered two amendments:

1.) When all rate groups are paying 5.4%, groups 1-15 do not need much. The first amendment proposes that next year the taxable wage base be increased \$1,000 over for the next three years and then hold at \$11M. She referred the Committee to page 3 of her testimony, showing the increased funds based on today's total wages. This amendment also extends the rates from last year for three more years.

The Chair stated the way she understands this is we would have lost those rates had they not increased the wage base, because you are trying to comply with federal law. (Yes, and if we had not extended and stayed with the \$8K, the positive balance rates would have gone up \$75M. But under this proposal, they are going up \$29.4M. Now, the negative balance employers account for 10% of the employers in the system, but under this, by 2014 would be picking up 22% of the cost excluding the surcharge. Regarding the fourth year when **HB2676** goes away, we pay off the loans, and the rates significantly drop, we believe only the last 10 will be paying 5.4%.

Regarding the chart they discussed earlier showing the 10 negative groups, she stated there was some movement earlier where some of the negative employers were moved back onto the positive rate group. With the second amendment, they are suggesting the Committee increase to 20 groups. They now are paying 2% but with this amendment they would pay 2-4%. **HB2676** did not address them at all. Group 1-9 would pay 1/10<sup>th</sup> of a percent higher for three years then return to .2%. This modification would raise an additional \$8.5M.

Chairperson Wagle asked what the total increase we are asking of businesses in this bill? (\$45M-\$55M increase to employers and referred the Committee to the second chart entitled, “Distribution of Benefits Charged and Tax Contributions by Reserve Ration (with 10 additional groups) Kansas, SFY2010.”)

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on February 3, 2011, in Room 548-S of the Capitol.

The Chair asked for questions or comments from the Committee which came from Senators Schodorf, Merrick, Wagle, Masterson, Faust-Gaudeau, Lynn and Holland including: clarification of both balloons and the trailing spouse. How long has the trailing spouse been effect? (Mid-80s'.) Where in the unemployment process are people monitored? (2 programs, the federal government requires people be examined regarding their skills and random number selection monitors certain people.) Has the DOL done some modeling showing what the balance of the fund looks like over time, any projections 3-5 years out? (3 years out still negative in the sense of paying off the loan. The Chair stated one thing they might want to get is the wage base for all states. Since we have a system where you can apply on line, can you offer a series of questions that then automatically build a generic resume that says this person is looking for employment, posted so employers to look at? (They share all of this with their fore force centers.) And, did you consider raising the negative balance employers higher? (First, not sure if you can do this and this legislation has to be approved by the federal government. They will let you enact a surcharge which is what we are doing. Also, we do not want to run them out of business either.

Chairperson Wagle announced her goal would be to have a hearing on this bill next week and then work the bill so they can get the information to the employers by the end of the first quarter.

### **Adjournment**

As there was no further business, the meeting was adjourned. The time was 9:31 a.m.

The next meeting is scheduled for February 8, 2011.