

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on March 9, 2005 in Room 241-N of the Capitol.

All members were present except:
Joe Humerickhouse- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Renaë Jefferies, Office of Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee:
Marlee Carpenter, Vice President of Government Affairs, Kansas Chamber of Commerce
Gregory L. Bernhardt, Attorney, Employer's Unity, Inc.
Jim DeHoff, Executive Secretary Treasurer, AFL-CIO

Others attending:
See attached list.

The Chairman opened the hearing on **SB 55 - Employment security law; positive breath alcohol test, conclusive evidence of misconduct.**

Staff gave a briefing on **SB 55**, stating this amends the employment security laws and provides for various disqualifications for misconduct.

Marlee Carpenter, Vice President of Government Affairs, Kansas Chamber of Commerce, testified as a proponent to **SB 55**. The bill makes changes to the Kansas unemployment compensation system that helps clarify "when" and "if" an employee receives benefits when an employee is found to be on the job and under the influence of drugs or alcohol.

The Chamber has worked closely with the AFL-CIO and has come to an agreement on many items. As the bill passed the Senate, there were still some items that were unresolved. The Chamber and the AFL-CIO have now worked out all issues and have agreed on a balloon (Attachment 1).

Gregory L. Bernhardt, an attorney representing Employer's Unity, Inc., testified as a proponent to **SB 55**. K.S.A. 44-706(b) currently fails to provide a disqualification for employees who fail or refuse a random drug/alcohol test. The statute as written has an unfair impact on employers who discharge an employee for failing a random drug/alcohol test. The statute currently fails to provide a distinction between breath alcohol tests and chemical tests. There are two primary changes: (1) adds a provision for random testing which levels the playing field and (2) breath alcohol test. There currently is not a distinction between the breath alcohol test and the chemical test. Standards are necessary for the breath alcohol test.

Mr Bernhardt proposed a balloon that would address the concerns of the AFL-CIO and the Kansas Chamber (Attachment 2).

Jim DeHoff, Executive Secretary Treasurer, AFL-CIO, was in the audience and he said he had worked with Ms. Carpenter and they were in agreement with the amendment. Their main concern was the fairness. There was a problem with the original bill. As an example an employee using a mouthwash or nyquil could show up positive on a drug test.

Representative Pauls questioned if "hair" should be included in a chemical test.

Representative Pauls suggested to change "alcoholic beverage" to alcoholic liquor" on page 5, line 39.

Representative Pauls asked for clarification of the language in the statute regarding "certified" and "authorized". "Authorized" seems too broad.

CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:00 A.M. on March 9, 2005 in Room 241-N of the Capitol.

The Chairman stated written testimony had been distributed by proponents to **SB 55**: Hal Hudson, National Federation of Independent Business (Attachment 3) and Ashley Sherard, Vice President, Lenexa Chamber of Commerce (Attachment 4).

The Chairman closed the hearing on **SB 55**.

The Chairman stated a hearing was held earlier on **SB 108 - Employment security law; amendments to comply with the SUTA Dumping Prevention Act of 2004**. The Chairman asked what is the committee's pleasure on the bill?

Staff reviewed a proposed amendment (balloon) to **SB 108**. The language would be deleted on page 34, lines 42 and 43 and on page 35, lines 1, 2, and continuing on line 3 before “,” and replaced by: “It shall be unlawful for an employing unit to knowingly obtain or attempt to obtain a reduced liability for contributions under subsection (b) (1) of K.S.A. 44-710a and amendments thereto through manipulation of the employer's workforce, or for an employing unit that is not an employing unit at the time it acquires the trade or business, to knowingly obtain or attempt to obtain a reduced liability for contributions under subsection (b) (5) of K.S.A. 44-710a and amendments thereto, or any other provision of K.S.A. 44-710a related to determining the assignment of a contribution rate, when the sole or primary purpose of obtaining a lower rate of contributions, or for a person to knowingly advise an employing unit in such a way that results in such a violation”.

There was committee discussion on the amendment.

Representative Jack moved and Representative Garcia seconded to adopt the balloon to **SB 108**. The motion carried.

Representative Pauls moved and Representative Jack seconded to replace the language in the balloon on page 35, lines 34 and 35 (f) “is of such significance as to constitute a crime,” with “violation should be prosecuted as a crime”. On page 36, line 2, (B) restore the original language. The motion carried.

Representative Ruff moved and Representative Jack seconded to move **SB 108** out favorably as amended. The motion carried.

The meeting adjourned at 10:15 a.m. The next meeting will be March 10, 2005.

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