

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 a.m. on February 4, 2004 in Room 241-N of the Capitol.

All members were present except:

Representative Rob Boyer- excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Norm Furse, Revisor of Statutes

Renae Jefferies, Revisor of Statutes

June Evans, Committee Secretary

Conferees appearing before the committee: Representative Ted Powers
Wil Leiker, Executive Vice President, AFL/CIO
Shannon Jones, Statewide Independent Living Council of Kansas (SILCK)
Carla James, Kansas Action Network
Terry Leatherman, Vice President of Public Affairs, The Kansas Chamber of Commerce and Industry
Ron Hein, Legislative Counsel, Kansas Restaurant and Hospitality Association

Others attending:

See Attached List.

The Chairman opened the meeting and stated this was the last day for non-exempt committees to request bill introductions and asked if anyone wished to introduce a bill.

Representative Ruff requested a committee bill that would change the percentage of earnings from workers compensation.

Representative Ward requested a committee bill making an employer liable if there was an injury in his workplace related to an employer's drug or alcohol use. This would be the same for the employer as for the employee, making it a level playing field.

Staff gave a briefing on the following bills:

I. HB 2537 Concerning the Workers Compensation Advisory Council. A balloon clarifies that the Council is to meet on or before February 1 and quarterly thereafter. The bill came from the summer joint interim committee.

II. HB 2479 Relating to Employment of Illegal Aliens. This bill prohibits the award of a public works contract to a bidder convicted of violating laws against employing undocumented aliens. No state agency or department, as defined in Section 10357, that is subject to this code, shall award a public works or purchase contract to a bidder or contractor, nor shall a bidder or contractor be eligible to bid for or receive a public works or purchase contract, who has, in the preceding five years, been convicted of violating a state or federal law respecting the employment of undocumented aliens.

III. HB 2435 Transferring Certain Committees and Commissions to the Governor's Office. During the hearing on this bill a conferee proposed establishing the state-wide independent living council by statute and provided language to the committee on this matter. The proposal would also have abolished the current commission on disability concerns. **HB 2067**, which is currently in conference, also proposes to establishing the state-wide independent living council with similar language. **HB 2067** does not abolish the commission on disability concerns (Attachment 1).

Staff gave a briefing on the minimum wage. The Kansas minimum wage law covers all employees except those individuals: (1) employed in agricultures; (2) employed in domestic service in or about a private home; (3) who are bona fide executive, administrative or professional employees; (4) employed as an

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outside salesperson on commission; (5) employed by the federal government; (6) who render voluntary service to a nonprofit organization; (7) 18 years of age or younger, who are employed on a part-time basis; (8) school district employees working in an executive, administrative or professional capacity during 50 percent or more of their working time; (9) whose employer is covered by the federal Fair Labor Standards Act; or (10) who are employed by the United States.

The Kansas minimum wage rate was established by way of 1977 **HB 2549**. The legislation became effective on January 1, 1978. At that time, the minimum wage was established at \$1.60 per hour with overtime, at one and one-half the hourly wage, for hours worked in excess of 46 hours per week. In 1988, **HB 2960** raised the minimum wage from the former \$1.60 per hour to the current \$2.65 per hour (Attachment 2).

The Chairman opened the hearing on **HB 2526 - State minimum wage increase**.

Staff gave a briefing on **HB 2526**. Every employer shall pay to each employee wages at a rate of not less than \$2.65 an hour prior to January 1, 2005; at a rate of not less than \$5.50 an hour during the period commencing on January 1, 2005 and ending on December 31, 2005; at a rate of \$6.50 an hour during the period commencing on January 1, 2006 and ending on December 31, 2006; and at a rate of \$7.50 an hour on and after January 1, 2007.

Representative Ted Powers, sponsor of **HB 2526**, stated the minimum wage law needed to be raised from the current \$2.65 to \$7.50 per hour over a 3-year period. Representative Powers was inspired last summer to introduce this legislation when Illinois made a proposal to raise the minimum wage. This has an impact on where we come from. Twelve states pay more than federal minimum wage, twenty states pay the minimum wage (\$5.15) and seven states do not have a minimum wage law.

Representative Powers said his aim was for Kansas to be in the category that pays more than the federal minimum wage and certainly does not want to be a state with no minimum wage law. Kansas and Ohio are the only two states with the minimum wage rates lower than the federal minimum wage (Attachment 3).

Wil Leiker, Executive Vice President, AFL/CIO, testified as a proponent to **HB 2526**. Although the bill has three increments of raises, the AFL/CIO would suggest this committee consider a more moderate approach of an increase. An increase to the current federal level which is \$5.15 would be a more realistic goal. Forty percent of the Kansas Minimum Wage can be offset against tips and gratuities if they are part of the employees' wages and if the employees concerned actually received and retained such tips and gratuities (Attachment 4).

Shannon Jones, Executive Director, Statewide Independent Living Council, testified as a proponent to **HB 2526**. Employment is central to living independently and self esteem for all persons. The key to effectively moving people, both with and without disabilities, from state and federal assistance is to help them find employment that provides wages necessary for self-sufficiency (Attachment 5).

Carla James, Kansas Action Network, a grassroots coalition of twenty civic, church, labor, disability and peace and justice organizations concerned with economic fairness, workers' rights, and social justice, spoke as a proponent to **HB 2526** and stated the minimum wage is incredibly low. A Kansan who works 40 hours a week at this level makes the unbelievably low salary of about \$5,000 a year. Approximately 20,000 workers in Kansas earn less than the federal minimum wage. Who are they? They may be the person that packaged your sandwich from the vending machine, cleaned your bathroom, served your preschooler's lunch, parked your car, cared for your elderly mother at home, changed your tire, mopped your floor or washed the dishes you and your friends used at dinner (Attachment 6).

Terry Leatherman, an opponent to **HB 2526**, stated the Chamber respectfully suggests that this committee consider another possibility regarding the state's minimum wage. Kansas could improve the business climate in this state by becoming the eighth and next state in our country to have no minimum wage requirement (Attachment 7).

Ron Hein, legislative counsel, Kansas Restaurant and Hospitality Association, testified as an opponent to **HB 2526**. On the surface the minimum wage legislation sounds good in concept. It would appear to help

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insure a certain, arbitrarily picked wage to all workers. But, in practice, minimum wage legislation oftentimes works adversely to those very people that minimum wage legislation is intended to help.

Generally, the intent is to raise the wages of those people who are untrained, unskilled, probably but not always young, inexperienced, just entering the workforce, or, in many instances, are attempting to get work experience while going to school or otherwise. The result of such minimum wage legislation could force the employer to reconsider employing the least educated, least trained, least experienced worker for employment.

The impact of the minimum wage, both federal and state, is slightly different for the restaurant, lodging, and hospitality industry due to the fact that many employees of the industry receive tips. If tips do not bring the total wage to the minimum wage level, the employer must make up the difference in cash payment to meet that minimum wage. Under state law, the minimum wage is \$2.65 per hour, but a maximum of 40% of such amount can be in tips. If the minimum wage is raised to the federal minimum wage, the employer must pay a cash wage of \$3.09 per hour, since only 40% of the \$5.15 (\$2.06) could be counted in tips. The Kansas Restaurant and Hospitality Association would prefer not having a minimum wage. There would be no objection to repealing the law. If the minimum wage would be raised, the Association would like to help with the tip language (Attachment 8).

The Chairman closed the hearing on **HB 2526**.

Carla James, on behalf of Kansas Action Network, provided written testimony supporting **HB 2526** (Attachment 8). Ashley Sherard, Vice President, Lenexa Chamber of Commerce, presented written testimony opposing **HB 2526** (Attachment 9).

The Chairman announced the meeting on February 5th would start at 9:30 a.m.

The meeting adjourned at 10:30 a.m. The next meeting will be February 5th.