

Approved: March 14, 2012
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:30 a.m. on February 14, 2012, in Room 548-S of the Capitol.

All members were present except:

Senator Jay Emler - excused
Senator Oletha Faust-Goudeau - excused

Committee staff present:

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

Conferees appearing before the Committee:

Mr. Tim Tucker, Vice President, Government Affairs,
National Association of Professional employer Organization (NAPEO) Alexandria, VA
Mr. Bill Maness, President and Managing Partner, Syndeo Outsourcing, Wichita, Kansas
Mr. Bob Dool, President, Mid-Continent Safety, Wichita, Kansas
Ms. Keri Spielman, representing Kansas Association of Insurance Agents (KAIA)
Mr. Bruce Tunnell, Executive Vice President, Kansas AFL-CIO
Ms. Callie Denton, Director of Public Policy, Kansas Association for Justice

Others attending:

See attached list.

Hearing on SB 413 – an act concerning employment; creating the professional employer organization registration act

Upon calling the meeting to order, Chairman Susan Wagle announced the Committee would be hearing testimony on **SB 413** and called on Mr. Jason Long, Office of the Revisor of Statutes, to explain the bill. He said the act proposes to enact a professional employer organization registration requiring professional employer organizations (PEOs) to register with the Department of Labor in order to conduct business in the State of Kansas. A PEO is defined on page 2, and it is his understanding this is a co-employment situation where the PEO takes care of the Human Resources (HR) responsibilities for the client who is the actual employer who is producing the goods and services. They are required to fill out an application with all of the information shown on page 5, when registering, and are to do so in 180 days or six months after this act is published. There is a provision on page 6, for a limited registration if a PEO is outside the State of Kansas but does perform work within the State and does not have more than 50 covered employees within the State of Kansas on any given day.

Beginning on page 7, are requirements stating they must maintain a positive working capital, (ex. An Accounting model of current assets minus current liabilities) and what to do if they do not (ex. Put up a

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bond, etc). It also provides a list of what a PEO cannot do if they are not registered. (Ex. Cannot enter into a professional employer agreement with companies.) On page 11, is a list of violations of the act. (Ex. Material misrepresentation.) Lastly, on page 12 of the bill, it gives the Secretary administrative sanctions in terms of denying application, revoking registration, or imposing a civil fine of up to \$1K.

The Chair recognized Senator Faust-Goudeau who asked Mr. Long what might be reasons for denial? (Not filling out the application.)

Chairperson Wagle then called on the first of four proponents, Mr. Tim Tucker, Vice President, Government Affairs, National Association of Professional Employer Organizations (NAPEO) Alexandria, Virginia, who stated the bill is a measure that will provide the regulatory framework, set minimum standards for PEOs in Kansas, and provide valuable guidance and legal certainty to those small businesses that partner with them. Also, it would bring Kansas current with many of the requirements found in 35 other states. A copy of his testimony is Attachment 1.

Next to testify was Mr. Bill Maness, President and Managing Partner, Syndeo Outsourcing, Wichita, Kansas, who offered the four main areas of services the PEO offers including: payroll; Workers Compensation' Benefits Administration; and Human Resources and listed several examples of each. And, explained the business model used to manage these service deliveries called co-employment. A copy of his testimony is Attachment 2.

The Chair recognized the third proponent, Mr. Bob Dool, President Mid-Continent Safety, Wichita, Kansas, who stated he has been involved in a business relationship with a PEO for the past 9 years and wanted to give the Committee a perspective from a Client's point of reference. A copy of his testimony is Attachment 3.

The last proponent is Ms. Keri Spielman, representing the Kansas Association of Insurance Agents (KAIA), who stated PEOs are currently doing business in the state, but they are not under the regulatory authority of any governmental body, making small businesses and employees vulnerable to predatory business practices. She said they do have some changes they would like to see made and are working with the the National Association of Professional Employer Organization on those changes. A copy of her testimony is Attachment 4.

Questions for the proponents came from Senators Wagle, Masterson, and Schodorf regarding clarification of the insurance amendment and fee structure.

Chairperson Wagle then called on the first of the two opponents, Mr. Bruce Tunnell, Executive Vice President, Kansas AFL-CIO who stated he has attachments of testimony presented on previous occasions in response to previous proposed bills. He said they strongly supports legislation of PEOs in Kansas. Their main concerns, as in the past, are: registration does not imply any minimum standards and is different from being licensed or certified; the only financial security required in the bill is "working

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capital” of \$100K; and that PEOs be regulated, at least in terms of the insurance portions, by the Insurance Commissioner. A copy of his testimony and attachments are Attachment 5.

The final opponent was Ms. Callie Denton, Director of Public Policy, Kansas Association for Justice (KsAJ), said while they support the bill, there are two provisions on page 10 they feel strongly about. The first is they require the licensed individual be the person that is actually working with the insurance (selling, soliciting, etc.) and the second piece is that they work with independent carriers. A copy of her testimony is Attachment 6.

Questions came from Senators Holland, Lynn, and Wagle regarding classifying waivers, the working capital/general rate, misuse of funds in Kansas by PEOs. As there were no further questions or discussions the Chair closed the hearing.

Adjournment

As there were no further business, Chairperson Wagle announced the meeting was adjourned. The time was 9:30 a.m.

The next meeting is scheduled for February 15, 2012.