

REVISED
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**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2430**

As Recommended by House Committee on
Commerce, Labor and Economic Development

Brief*

Sub. for HB 2430 would change the Promoting Employment Across Kansas (PEAK) program in several ways.

- Companies could qualify for PEAK by agreeing to pay “average” wages equal to or in excess of the county median wage. (Current law requires companies to pay “median” wages in excess of county median wages. The new provision would authorize qualification by using either “average” or “median” wages.)
- Qualified companies who had entered into the program prior to January 1, 2013, could request extension of the program for an additional two years, and the Secretary of Commerce would have discretion to grant the extensions to the extent he finds it necessary to grant such companies the amount of benefits intended under the original agreements.
- The statutory cap on the amount of employee income taxes that may be diverted from the State General Fund (SGF) directly to employers would be expanded such that any unused or ungranted amounts would be carried forward and increase the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

limitation. Additional language in this section of the bill would clarify that the current \$6 million cap applies to each fiscal year; however, the bill does establish an aggregate cap beginning on July 1, 2020. Beginning July 1, 2020, the total amount of benefits authorized or granted could not exceed the total amount of benefits authorized for the fiscal year commencing July 1, 2019.

- The sunset date (December 31, 2014) for the retention portion of the PEAK Program would be removed.

Background

The bill was introduced by the House Committee on Commerce, Labor and Economic Development. In the Committee hearing, a representative of the Legislative Division of Post Audit provided neutral testimony on the bill. Proponents of the bill included the Department of Commerce and representatives from the Wichita Chamber of Commerce, the Kansas Chamber of Commerce, the Polsinelli law firm, the Overland Park Chamber of Commerce, and the Cowley County Economic Development Department. Written testimony favoring the bill was received from the Salina Chamber of Commerce, the Greater Wichita Economic Development Coalition, the Lenexa Chamber of Commerce, the Greater Topeka Chamber of Commerce, the Shawnee Chamber of Commerce, the City of Wichita, the Kansas Economic Development Alliance, the Olathe Chamber of Commerce and the Regional Development Association of East Central Kansas. Testimony opposing the bill was provided by a representative of FairtaxKC.

Under current law, the Secretary of Commerce may utilize the PEAK Program to retain either jobs or employees of a qualified Kansas company from January 1, 2013, through December 31, 2014. The House Committee amended the bill to eliminate the December 31, 2014, sunset on the retention

portion of the PEAK Program. On January 30, 2014, the Committee recommended the bill favorably for passage as amended; however, a committee report was not delivered to the chamber.

On February 17, 2014, the Committee voted to reconsider HB 2430. The Committee further amended the bill to place an aggregate cap on the total amount of benefits that may be awarded. Under the provisions of the amended bill, beginning July 1, 2020, the total amount of benefits awarded could not exceed the amount equal to all benefits authorized for the fiscal year beginning July 1, 2019. According to testimony provided by a staff member from the Office of Revisor of Statutes, the amount of the aggregate cap would be approximately \$42.0 million which is based upon an estimate of \$6 million per year beginning in FY 2013 and ending in FY 2019.

On February 24, 2014, upon further consideration of the bill, the Committee recommended a substitute bill be introduced. The Committee amended the bill to allow the Department of Commerce to carry over any ungranted benefits that may be used in any subsequent fiscal year. Under current law the Department of Commerce may carry over any unused or unallocated benefits that may be used in any subsequent fiscal year.

According to the fiscal note prepared by the Division of the Budget, the bill as introduced would have a negligible fiscal effect on SGF revenues. Also, allowing the use of average wages would allow more new employees' withholding taxes to be eligible for the benefits under the PEAK Program; however, the amount cannot be estimated. Additionally, the Department of Revenue is unable to estimate the fiscal effect on state revenues if existing PEAK benefit agreements are extended.