

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, 2004 in Room 241-N of the Capitol.

All members were present except:

Representative Don Hill- excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department

Norm Furse, Revisor of Statutes

Rena Jefferies, Revisor of Statutes

June Evans, Committee Secretary

Conferees appearing before the committee: Marlee Carpenter, Vice President Government Relations, The Kansas Chamber
Richard Clinesmith, Branch Manager, Employers Unity, Inc.
Brian J. Powers, MBA, Home Healthcare Connection, Inc.
Garry Lambert, Director of Human Resources, Safety and Training, Prestige, Inc., Neodesha

Others attending:

See Attached List.

The Chairman stated there would be hearings on two bills today; **SB 483** and **SB 410**.

The Chairman opened the hearing on **SB 483 - Employment security laws; disqualification from receipt of benefits.**

Staff gave a briefing on **SB 483** amending the Employment Security Law to add conditions when an individual would be disqualified from receiving unemployment benefits: 1. If an employee failed to return to work after expiration of approved personal and/or medical leave. 2. Incarceration would not be considered good cause for absence or tardiness. 3. Failure of the employee to notify the employer of an absence shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment. 4. Under current law, if an employee disputes being terminated without good cause, he or she can present evidence of good cause. If the employee alleges their repeated absences were the result of health related issues, the bill specified that good cause will include documentation from a treatment provider that shows the absence to be the result of illness or treatment.

Marlee Carpenter, The Kansas Chamber, testified as a proponent, stating their members support the absenteeism changes in **SB 483**. Ms. Carpenter introduced Mr. Richard Clinesmith who would testify in support of the bill (Attachment 1).

Richard Clinesmith, Branch Manager, Employers Unity, Inc., Wichita, testified as a proponent to **SB 483**. Employers Unity, Inc. is an unemployment cost control company which has been in business since 1977 and has its headquarters in Arvada, Colorado. Employers Unity has over 200 clients in Kansas all have attendance policies and normally abide by progressive disciplinary guidelines. Many of these employers also allow employees to use sick leave, and/or vacation leave, if needed, for absences, and normally have guidelines on what is considered an excused absence, and/or, an unexcused absence. Most attendance discharges occur after repeated absences, and prior verbal, and or written warnings have been issued.

Mr. Clinesmith offered an amendment that would help shift the burden of proof of good cause for absence and tardiness to the claimant. As the statute is currently, it simply asks the claimant to submit evidence that the majority of their absences were for good cause. Their testimony without any supporting documentation has met that specific requirement of the statutes (Attachments 2 & 3).

Brian Powers, MBA, Home Healthcare Connection, Inc., testified as a proponent to **SB 483**. Home Healthcare Connection, Inc., is a provider of home health care and staff relief services in Kansas. The company is Medicare and Medicaid licensed/certified, and since 1991 has employed part-time nursing

CONTINUATION SHEET

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personnel for temporary placement with its clients, either in private homes or in institutional settings. About three hundred workers are employed on any given day. We advertise and recruit almost daily throughout many areas of the state in order to fulfill our clients' requests for services. Many employees work for more than one employer, but the majority chose sole employment with our company. It is in this choice to work part-time for one employer that all employers suffer the unintended consequences of the Employment Security Law, i.e., with only one part-time employer, these workers qualify for, and receive, unemployment benefits.

According to the Wichita Unemployment Insurance Call Center, our employees all qualify for benefits. A supervisor with that office stated that, "Yes, theoretically, all qualify for benefits that would make up for any work time less than forty hours." That theory is reality since some of our employees have discovered the secret. Some of the state's other employers, Wal-Mart, Dillons, and the vast number of fast-food establishments that employ only part-time workers, might be surprised to learn that their employees also qualify for payment of benefits chargeable to the employer. If all the part-time workers in the state decided to file for benefits today under the provisions of this subsection, the fund might be depleted before the end of the current legislative session.

Awarding benefits to employed individuals is currently allowed, and even encouraged. Two of our employees recently applied for, and received benefits, because they were advised that they qualified under this subsection. It is not believed that the intention of the Legislature was to subsidize the earning of part-time employees through the state's unemployment insurance fund. Suggested amendment is attached (Attachments 4 & 5).

The Chairman closed the hearing on **SB 483**.

The Chairman opened the hearing on **SB 410 - Employment security law, failure to pass pre-employment drug screen**.

Garry Lambert, Director of Human Resources, Safety, and Training, Neodesha, testified as a proponent to **SB 410**. As employers we have an obligation to take every step necessary to insure our employees have a safe work environment. Drug and alcohol testing has proved to be a key factor in the reduction of accidents. Drug and alcohol testing has also been a major contributor in the reduction of employee turnover and absenteeism rates. Accidents, turnovers and absenteeism have a huge impact on the health of our company. It is just plain wrong for employers to have to foot the bill for employees who flagrantly violate State and Federal laws by using illegal drugs and abusing alcohol in the workplace (Attachment 6).

After hearing testimony it was decided that someone from the Department of Human Resources needed to brief the committee on part-time employment benefits and drug screening.

Written testimony as a proponent on **SB 410** was provided by Marlee Carpenter, Kansas Chamber of Commerce (Attachment 7).

The committee adjourned at 10:30 a.m. The next meeting will be March 10, 2004.