

MINUTES OF THE HOUSE NEW ECONOMY COMMITTEE.

The meeting was called to order by Chairman Mason at 3:40 p.m. on March 21, 2002 in Room 522-S of the Capitol.

All members were present except:

Representative Beggs - E

Committee staff present:

April Holman, Legislative Research Department

Bob Nugent, Office of Revisor of Statutes

Renae Jefferies, Office of Revisor of Statutes

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Proponents:

John Peterson, Heartland Chapter, National Assn. of Profession Employer Organization

Bill Maness, Oasis Outsourcing, Wichita

Jennifer Craig, Astra Group

Rob Bobst, Metal Finishing Inc. Wichita

Richard Cram, Department of Revenue

Steve Kelly - KDOC&H

Opponents:

Tim Short, Kansas Trial Lawyers Assn.

Larry Magill, Kansas Assn. Of Insurance Agents

Phil Harness, Division of Worker's Compensation

Written Testimony: AFL/CIO

Others attending:

See attached list

Representative Compton moved, seconded by Representative Long, that the March 12 and March 14 minutes be approved. The motion carried.

A sheet reflecting budget figures on the Problem Gambling Grant Program was distributed (Attachment 1). This information was provided by staff in response to a request at a previous meeting.

The Chairman opened the hearing on **SB 121**. Staff gave the history of the bill, stating that Professional Employer Organizations (PEO's) assist businesses with all aspects of human resource services. Review followed on background of the bill and the Interim Committee recommendation of passage of Section 2(definitions) and Section 3 (c) (requirement of written contract and tax language) of 2001 Senate Substitute for SB 121 be enacted by the 2002 Legislature.

John Peterson, Heartland Chapter of the National Association of Professional Employer Organization, appeared in support of the Senate Substitute for **SB 121** (Attachment 1). The bill requires (1) a PEO have a written contract between the client and the PEO, (2) provide a written notice to all assigned workers as to the nature of the relationship between the PEO and the client, and (3) requires the PEO to be responsible for income tax withholding, unemployment taxes and securing required worker's compensation coverage. He cited the history of the original bill, stating that SB 121 is the Senate Substitute bill, containing language recommended by the Division of Workman's Compensation, the Kansas Insurance Department and the Department of Revenue. It represents only a portion of the original bill and clarifies many of the issues surrounding PEO's. Attached to the testimony is a balloon amendment that was developed after discussions with State agencies. A fact sheet on PEO's was part of his testimony.

Bill Maness, Oasis Outsourcing in Wichita, appeared in support of the Senate Substitute bill **SB 121** (Attachment 3). He described the services rendered by PEO's to Kansas Business owners, stating that the bill was important in that it defines and codifies the relationship within the state and clarifies any ambiguities under common law. He urged the Committee to join the Senate in support of the Substitute Bill **SB 121**, that passed the Senate on a 40-0 vote. Discussion followed between the differences between PEO's and temporary staffing agencies.

Jennifer Craig, The Astra Group, appeared in support of **SB 121** (Attachment 4). She listed three specific benefits derived from the business relationship between PEO and small businesses: (1) Clearly defined employment policies ensuring compliance with applicable laws (2) reduced turnover and the associated

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cost savings and (3) reduction in health insurance costs. Currently there are no statutes on the books in Kansas that clearly define the rights and responsibilities of businesses and PEO's in a co-employment relationship. Discussion followed regarding the fee structure and if and how legislation would help deter current abuse in the industry.

Rob Bobst, V.P. Metal Finishing Inc. spoke in support of **SB 121** ([Attachment 5](#)). He gave testimony on how their PEO had provided workers compensation coverage, a competitive health and dental insurance plan, a complete 401 (k) program and a valuable flex spending "cafeteria program", as well as a full payroll processing and general HR services. This allowed his company to focus on the core aspects of their business. Discussion followed regarding the process of hiring a PEO and the amount of companies pooled for insurance purposes.

Richard L. Cram, Office of Policy & Research for the Department of Revenue talked about the new language in **SB 121** ([Attachment 6](#)). New language was added to the bill at the request of his Department and addressed certain tax issues relating to questions on "qualified business facility" income tax credits and corporate income tax liability. He clarified various terms in the bill. Discussion followed regarding the confusion over whether the employees work for the PEO or the company and which business entity has the tax liability.

Steve Kelly, KDOC&H spoke in support of **SB 121** ([Attachment 7](#)). This legislation addresses a new business trend (use of PEO's) and its resulting complications, as it regards accessing job creation tax credits associated with net new employment added at a "qualified business facility". He believes the bill would enhance KDOC&H's ability to encourage business locations and expansions. Discussion followed regarding various responsibilities of the two entities.

Timothy Short, Kansas Trial Lawyers Association appeared in opposition to **SB 121** ([Attachment 8](#)). They do not oppose the limited recommendations of the Special Committee on Taxation, however they have concerns about the remainder of the bill and its impact on Civil Law and Liability, and Workers Compensation. He reviewed three areas of concern: Workers Compensation Law, Civil Liability to Third Parties and the Employment Law. They believe that the bill would create confusion and uncertainties which are not in the best interest of Kansas employers, workers or consumers. Discussion followed regarding the definition and scope of the Human Resources duties.

Larry Magill, Kansas Association of Insurance Agents, spoke in opposition to **SB 121** ([Attachment 9](#)). They would support the Interim Committee recommendation of passage of section 2 and 3, however he voiced concerns regarding the drafting and intent of the legislation as it affects insurance for firms participating in a PEO. The following are the four areas in question: (1) Providing workers compensation coverage, (2) Workers compensation experience modifications, (3) Small group health insurance and (4) Insurance Agent licensing. His testimony included a balloon with recommended changes. Due to the complexity of the issue, he urged the Committee to recommend the legislation for interim study.

Philip Harness, Director of Workers Compensation, voiced his opposition to **SB 121** ([Attachment 10](#)). He expressed concerns of the ability to track the experience modification of employers who are taken under a PEO's insurance policy. He gave the history of dealings between the Division of Workers Compensation and PEO's and described current litigation processes against PEO's. He offered fourteen points for the Committee's consideration for basis of amendments to the bill.

The Chairman called attention to the *written testimony* from Wayne Maichel, Executive Vice President, Kansas AFL-CIO, stating their opposition to **SB 121** ([Attachment 11](#)).

The next meeting is March 26, 2002.

The meeting was adjourned at 5:30 p.m.