

Approved: April 5, 2012  
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:30 a.m. on March 13, 2012, in Room 548-S of the Capitol.

All members were present except  
Senator Jay Emler – 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. Eric Stafford, Senior Director of Government Affairs, The Kansas Chamber  
Mr. Bill Goodlatt, Senior vice President, Human resources for the LDF Companies  
Mrs. Natalie Bright, JD on behalf of the  
Kansas Society for Human Resource Management (KS SHRM)  
Mr. Bruce Tunnell, Vice President, KS AFL-CIO

Others attending:

See attached list.

**Hearing on HB 2627 – an act concerning certain deductions from wages**

Upon calling the meeting to order, Chairman Susan Wagle announced the Committee would be hearing testimony on HB 2627 and called on Mr. Jason Long, Office of the Revisor of Statutes, to explain the bill which he said amends just one statute, 44-319 that places a general prohibition on employers withholding deducting or diverting any portion of the employee's wages. He said current law sets out some exceptions so that such as when required or empowered to do so by state or federal law when there is a signed authorization, that the deductions for lawful purpose accruing for the benefit for the employee. The bill itself would make additional exceptions to the general prohibition including:

1.) Rewritten Subsection (b) would state that if there is a signed written agreement between the employer and employee, then the employer may deduct or withhold a portion of the employer's wages to allow the employee to repay a loan or advance which was made by the employer to the employee during the course of the employment to allow the recovery of a payroll overpayment to the employee or to compensate the employer for the cost or unpaid balance of the cost of the employer's merchandise or uniforms purchased by the employers.

2.) Rewritten Subsection (c), on page 2, would also apply to these same exceptions but would also allow the employer, with written notice of explanation, to withhold the final paycheck of the employee to allow the recovery of the employer's property until it is returned (Ex. Work cell phone, laptop computer.) There

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on March 13, 2012, in Room 548-S of the Capitol.

are provisions, enacted on the House floor, that on return of the employer's property, they shall relinquish the wages that they previously withheld from the employee.

3.) There was also an amendment made on the House floor, for new Subsection (e) stating amounts withheld under this section shall not reduce wages paid to below the minimum wage required by federal or state law whichever is applicable.

The Chair asked if it was not currently legal to give an employee a loan and is new Subsection (e) required by federal law? (You cannot withhold the payments as the employee pays the loan off under the standard repayment plan but not sure about new Subsection (d) but will find out.) For clarification of new Subsection (c), Senator Longbine asked, If it is their final paycheck and they have a \$200 outstanding balance, you cannot recover the full \$200 if it drops below the minimum wage? (That is his understanding.)

The Chair then called on the first proponent Mr. Eric Stafford, Senior Director of Government Affairs, The Kansas Chamber, who stated by allowing these few exceptions would relieve employers of administrative burdens associated with collection of money rightfully owed to employers by eliminating the step of receiving a written agreement for these withholdings from an employee. He said, this can be difficult to near impossible in cases where the employer no longer works for the employer. Also, he said there does appear to be duplication between sections (b)(3) and (c)(4) and he recommends deleting section (b)(3.) A copy of his testimony is [Attachment 1](#).

The next proponent to testify was Mr. Bill Goodlatte, Senior Vice President, Human Resources for LDF Companies who stated for many years in Oklahoma, they have been able to withhold from an employee's paycheck (ex. To compensate the employer for breakage, loss of tools or equipment, etc.) He said, as today's work tools and equipment become more mobile and used for both business and personal reasons, the collection of such items can be difficult for the employer when the employment relationship is terminated. If passed, this bill will assure Kansas employers an avenue for recouping the cost of items not returned in good, working condition. A copy of his testimony is [Attachment 2](#).

The third and final proponent recognized was Mrs. Natalie Bright, JD, on behalf of the Kansas Society for Human Resource Management (KS SHRM.) who stated by setting out these provisions in statute, both employee and employer are provided guidance as to when an employer may deduct from paychecks. A copy of her testimony is [Attachment 3](#).

Written only proponent testimony was offered by Mr. Daniel Murray, Kansas State Directory, National Federation of Independent Business (NFIB). A copy of his testimony is [Attachment 4](#).

The opponent conferee called to testify was Mr. Bruce Tunnell, Vice President, Kansas AFL-CIO, who stated the bill will allow employers a way around the court system if they believe an employee has stolen or failed to return property the employer may believe belongs to the employer. A copy of his testimony is [Attachment 5](#).

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As there was no neutral testimony offered, the Chair asked for questions from the Committee which came from Senators Holland, Schodorf, Steineger including: a discussion on intellectual property where does the bill allow intellectual property? (Page 2, line 9.) Regarding Subsection (c), asked for clarification. How much of this activity goes on? (It happens a lot.)

As there was no further discussion, the Chair stated she had two issues:

1.) The first was an amendment the House put on the floor and after checking, Mr. Long found the amendment is not necessary.

2.) Second, referring to page 1, line 28, it reads, "to compensate the employer for the **cost** or unpaid balance" and on page 2, line 18, it reads, "to compensate the employer for the **value** of the employer's merchandise." These two words have different meanings. Senator Longbine suggested using "replacement cost" instead of "cost."

The Chair asked if there were further questions of the bill. Senator Holland asked what was difference between Subsection (b) and Subsection (c)? (Subsection (c) means this is a final paycheck and they are no longer employed.) How long do you keep the paycheck while waiting for the employee to pay the bill? (The bill offers no set time line.)

The Chair asked for the will of the committee on this bill?. Senator Longbine made a motion to amend the bill in line 28, page 1, to insert the word "replacement" in front of "cost" and on page 2, line 18, insert "replacement costs" for the word "value" It was seconded by Senator Lynn and the motion passed by voice vote. (So both would read "replacement cost or unpaid balance.") Senator Schodorf was concerned with the proprietary information, stating there should be something that is agreed upon. A discussion ensued regarding eliminating proprietary information, client customer list, and holding the final paycheck. The Committee felt proprietary information was not a problem as portrayed in the bill. Senator Masterson made a motion to pass the bill out favorably. It was seconded by Senator Merrick and the motion passed.

### 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 March 14, 2012.