

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Vice Chairperson Julia Lynn at 1:00 p.m. on April 28, 2011, in Room 152-S of the Capitol.

All members were present.

Senator Wagle – excused
Senator Emler - excused

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant
Mr. Ken Wilke, Office of the Revisor of Statutes
Mr. Reed Holwegner, Kansas Legislative Research Department
Ms. Dorothy Noblitt, Kansas Legislative Research Department

Conferees appearing before the Committee:

Ms. Patricia Bossert, Owner and President of Premier Personnel, Inc.,
Kansas Personnel Services, Inc., and Key Personnel Services, Inc.
Mr. Wayne Maichel, Retired

Others attending:

Please see attached list.

Approval of Minutes

The Minutes of January 25 and 26, February 8, at the Rail, 10, and 17, and march 9 and 21 at the Rail of the senate Commerce Committee stand as approved as of April 1, 2011.

Confirmation hearings

Upon calling the meeting to order, Vice Chairperson Lynn let the Committee know that Chairperson Wagle was attending another meeting and that the Committee would be working through two confirmation hearings. She then called on Mr. Reed Holwegner, Kansas Legislative Research Department, to give an overview of the Employment Security Board of Review, what those functions are and how they operate.

Mr. Holwegner began by referring the Committee to his handout which was the state law, K.S.A. 44-709, with regards to the process for filing claims and subsection (f) deals with the Board of Review. This three-member board can be made the analogy of an administrative version of the State Supreme Court when it comes to employment security or unemployment insurance benefits and claims. He went on to say, if he were to be laid off and were to receive benefits, his claim/paperwork would be reviewed by an examiner, who would make a determination. That notice of determination would be given to him and his last employer. From there, depending on how that decision was made, there would be an appeals process to a referee, who will look at the record of the examiner and any additional information that either a previous employee, or the employer may provide. Depending on that decision, there can be another appeal and that goes to this three-member board of review, one person to represent employees, one to represent employers, and one to represent the general public. That Board will review the previous work of the record to date and will make its determination. If either party still feels the wrong decision was made, that decision can be appealed at the State courts system, but this is at the administrative level you are looking at.

Lastly, he stated, the specific powers of the board are outlined in this statute and there is a salary unlike many of the appointments which are minimal, of \$15K for these positions. A copy of his handout out is (Attachment 1) attached and incorporated into the Minutes as referenced.

The Vice-Chair asked for questions for Mr. Holwegner from the Committee, which came from Senator Faust-Gaudeau concerning the third member of the Board asking, who represents the general public, who might those individuals of the general public be? (The way that it is listed, referring her to Subsection(f) in the first large paragraph at the bottom of page 2 saying, the members that represent the employees and employers are supposed to agree as to who the third member is from the public. If they cannot agree, then the governor picks.) Senator Lynn asked if that third person has been selected yet? The way she

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The minutes of the Senate Commerce Committee at 1:00 p.m. on April 28, 2011, in Room 152-S of the Capitol.

understands it, two members are confirmed and they would select three people each and forward those names to the Governor. Is that how it works? (Not quite. The Governor has a list of nominations, three provided by the AFL-CIO on the employee side and three from The Kansas Chamber for the employers.

The Governor selects one person from each list and these are the ones you have before you this afternoon. Those persons who are confirmed, then may nominate another person to be on their Board. Members serve until a replacement has been made and does not know if there is a vacancy for that third member.) Vice-Chair Lynn told they Committee they had asked Mr. Holwegner if this was the same Committee that Senator Brownlee had run some legislation on the floor that got tied up on the floor That is a separate committee and not this one.

She then called on Ms. Patricia Bossert, Owner, Premier Personnel, Inc., Kansas Personnel Services, Inc., and Key Personnel Services, Inc. who stated she has been in business in Topeka since 1989 and employees about 1400 temporary employees each year and a permanent staff of 26 that are full time. Senator Schodorf asked her why she wants to be on this board, what are her interests, things like that? (She currently serves on the Kansas Inc. Board which is going away and this opportunity came up. She does have a lot of experience in the unemployment area, dealing with claims, and testifying for legislation, and those sorts of things and has a strong interest in representing the employers viewpoint. Senator Lynn asked if she ever dealt with unemployment issues at the temporary level? (Yes we do because if employment ends and we do not have another assignment that starts the very next day for a temporary employee, then they are eligible for employment.) What is your experience with the DOL over the last several years? (For the most part, as long as we document everything and keep very good records we don't have a problem. She went on to say, her biggest frustration is the unemployed turn down work because they are receiving unemployment checks.) Senator Merrick asked, if she finds all of a sudden, as time and unemployment money runs out and a job is available, they end up being employed? (Definitely, as soon as their benefit money starts running out. When we were getting extensions all the time, they would come in and apply and an extension would be granted and they would say, I changed my mind, can't work now, going to stay on unemployment, especially if they have children and have to pay daycare. They figure it is better to stay on benefits than have a job. We have lots and lots of jobs every day that are not filled. She also wanted to address the third member issue it is her understanding that person's term is not up yet and not sure when it expires.)

The Vice Chair thanked Ms. Bossert for clearing up that question and for coming before the Committee and called on Mr. Wayne Maichel, who said he has been nominated as the employee representative on the Board. As far as his history, from 1980 to 2003 he was Executive Vice President of Kansas AFL-CIO and served on the Department of Human Resources Employment Security Advisory Council. One of the issues he had was unemployment compensation and has been involved in virtually every law change since 1980. In 2003, he was appointed Director of Unemployment for the KDOL until 2009.

Senator Lynn asked the staff, with this salary, are the members of this board eligible for KPERS benefits and can they join the employee health care plan? (Not sure.) She asked them to look into that and report back to the Committee at some point.

Questions for Mr. Maichel came from Senator Merrick, if he was going to be able to work the changes that have gone on since Secretary Brownlee took over since he was there before that framework? (He would not have been involved because the Board of Reviews is a separate entity working under the Legal Department, not on the program part.) Senator Masterson asked if Mr. Maichel saw himself as an advocate for one side or the other or an unbiased review person looking to make a decision that is unbiased from our perspective? (His advocate days are over with. In his opinion, it is our position to look at existing law, to look at federal policies and procedures and make sure the UI judge follows those procedures.) Senator Schodorf asked Ms. Bossart the same questions Senator Masterson asked Mr. Maichel as she represents the employer. (She totally agrees with Mr. Maichel.)

The Vice Chair then asked what the will of the Committee was? Senator Masterson made the motion to move both confirmations out favorably. It was seconded by Senator Olsen and the motion carried by a voice vote.

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The minutes of the Senate Commerce Committee at 1:00 p.m. on April 28, 2011, in Room 152-S of the Capitol.

Adjournment

As there was no further business, the meeting was adjourned. The time was 1:35 p.m.

The next meeting is scheduled for April 28, 2011.