



Neutral Testimony on Senate Bill 406
The Kansas Money Transmission Act

Provided by Andrew Wiens

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On behalf of the Independent Payroll Providers Association (IPPA) and its partner
organization The Payroll Group (TPG)

Before the Kansas House Committee on Financial Institutions & Pensions

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Chairman Hoheisel and Members of the House Committee on Financial Institutions & Pensions:

Good morning! My name is Andrew Wiens, with Dugan Consulting Group, offering neutral testimony today on SB 406 on behalf of the payroll processing industry. We represent the Independent Payroll Providers Association (IPPA), a Kansas-based national association of payroll processors. IPPA's membership includes small to mid-sized regional payroll companies and represents a small portion of the number of businesses potentially offering payroll services (there are over 28,000 payroll Reporting Agents registered nationally with the IRS). IPPA has been working in concert with The Payroll Group (TPG) on money transmitter legislation across the country.

Small regional payroll companies provide essential services to Kansas small businesses. In addition to payroll processing and tax filing assistance, regional payroll processors act as business advisors that assist with Wage & Hour laws, evolving sick leave and FMLA laws, and much more. Small businesses often choose regional payroll providers over the handful of large national payroll companies because regional providers act like business consultants with a hands-on approach at an economical price.

SB 406 has adopted the Conference of State Bank Supervisors (CSBS) model law language explicitly defining "Payroll processing services" as requiring a money transmitter license (MTL). This is a departure from the current Kansas MTL statute which does not explicitly identify a payroll processor as a Money Transmitter. **We are seeking an amendment to SB 406 to exempt payroll processors who have an agent relationship with an employer to pay employees.**

This concern is not unique to Kansas. IPPA and TPG have been working together these past several months to address the concerns of independent payroll processors in the CSBS money transmission model legislation that is being advanced in numerous states. **We have discussed the issue with the Kansas Office of the State Bank Commissioner and have agreed on the compromise language below. The language we propose is based on legislation in Iowa, and notably still provides recourse for employees to recover funds they are obligated to receive from employers.**

Proposed amendment:

A person appointed as an agent of a payor for purposes of providing payroll processing services for which such agent would otherwise need to be licensed if:

- (A) There is a written agreement between the payor and the agent that directs the agent to provide payroll processing services on the payor's behalf;
- (B) the payor holds the agent out to employees and other payees as providing payroll processing services on the payor's behalf; and
- (C) the payor's obligation to a payee, including an employee or any other party entitled to receive funds via the payroll processing services provided by the agent, is not extinguished if such agent fails to remit such funds to the payee.

Thank you again for the opportunity to present neutral testimony regarding SB 406. We would appreciate your support for the balloon amendment we have proposed. We have provided additional information below that describes in more detail the rationale for our amendment.

Additional background on the reasons for the proposed amendment:

The passage of SB 406 without a limited exemption for payroll processors would harm thousands of small payroll providers operating both in and outside of Kansas for two main reasons:

1. **Payroll processors who are acting as agents of their employers will be unable to comply due to the regular demands of the employers they serve.**
 - o Many payroll processors are hired as agents of employers to make tax deposits and payments to employees on the employer's behalf. Employers sign an 8655 Form which is an IRS document specifically appointing a payroll processor as an agent of the employer. In this agency relationship, employers may hire and pay employees in any state they choose at any time and the payroll company is expected to immediately make timely payments and tax deposits on behalf of the employer. As such, payroll companies acting as agents have no advance notice of when an employer may choose to hire a remote employee or open a satellite office in another state. This issue has only been exacerbated following COVID and the explosion of remote work. Because payroll processors have no control over where their employer customers pay employees, open offices or do business, the only way for any agent payroll processor in the US to comply with is to proactively register in every state in the nation.
2. **The cost of attempted compliance will put most regional payroll processors out of business, which would force businesses in the state to handle tax filing on their own or choose from a small handful of national companies.**
 - o The proposed legislation would require payroll processors to prepare and provide business plans, funds flow diagrams, organizational charts, financial plans, risk assessments, and much more. There are additional costs for licensing fees, bonding, and audited financials, which are highly costly for small businesses that make up the majority of payroll processors. IPPA studies show that the cost alone of compliance for multistate registration is more than most small payroll processors generate in gross revenue in a year. Simply put, these small payroll processors will be forced to shut their doors.

For these reasons, we would appreciate your consideration of an exemption for agency payroll processors.

One other note: we don't believe the exemption language added in the Senate committee on page 7, line 1 ("A person engaging in the practice of law, bookkeeping, accounting, real estate sales or brokerage") covers payroll processors, even though some of these entities (accountants, bookkeepers, etc.) also perform these payroll processing services in addition to the other services they provide their clients.