



**Kansas State Council
Society for Human Resource Management**



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The 2009 Kansas Legislative Session came to an end early in the morning on May 9th, just one day short of the authorized 90 days. The real news of the session is that after substantial spending cuts and tax “speedups” lawmakers were able to produce what is predicted to be pocket change (roughly \$17,000) in the bank at the end of Fiscal Year 2010. However, next session lawmakers will face even bigger cuts or less subtle tax law changes, aka tax increases, which are very unpopular in an election year. The estimate for cuts and tax increases in the election-year 2010 session is about \$568 million, which set the stage early for a very interesting legislative session prior to an election year.

Following is a summary of those bills most pertinent to the human resource profession. If you have any questions regarding the bills discussed below, please feel free to contact the KS-SHRM Lobbyist, Natalie Bright, at natalie@brightcarpenter.com.

COMMERCE AND LABOR

State Minimum Wage

SB 160 increases the state’s minimum wage from \$2.65 an hour to \$7.25. The wage increase takes effect on January 1, 2010. The bill exempts employees and employers covered under the federal Fair Labor Standards Act.

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/160.pdf>.

Unemployment Compensation Changes

HB2374 draws down an additional \$69.0 million dollars in American Reinvestment and Recovery Act (ARRA) funds for the Kansas Employment Security Trust Fund through the modification of three provisions of Kansas Unemployment Insurance Compensation law. The first modification will allow unemployment insurance compensation applicants to use an alternative wage base period when calculating benefits. Under current law, claimants must use the first four of the last five completed calendar quarters, ignoring the last completed quarter or lag quarter, in determining benefits. The modified provision will allow claimants to use the last four completed quarters including the most recent quarter, eliminating the lag quarter provision. Claimants can calculate benefits using either methodology and choose the option which provides the greater benefit. The original wage base period calculation was a holdover from when unemployment compensation applications were processed by hand; modern techniques eliminate the need for delays and

lag quarters according to the Department of Labor. This modification allows the State to access the first \$23.0 million in ARRA funding for the Trust Fund.

The second modification codifies the practice of allowing traditional part-time workers to claim part-time unemployment insurance compensation benefits, assuming they would be otherwise qualified to receive benefits. The modification has no fiscal impact but moves current Department of Labor practice into statute.

The third modification provides an additional 26 weeks of unemployment insurance coverage for persons who are otherwise qualified to receive unemployment compensation and are enrolled in a state-approved training program, a shared work program, or a job training program authorized under the Workforce Investment Act of 1998. The job training programs will be managed by the Department of Commerce. Kansas currently provides a maximum of 26 weeks of coverage for individuals enrolled in approved training programs.

The second and third modifications qualify Kansas to access an additional \$46.0 million dollars in ARRA funding for the Kansas Employment Security Trust Fund. The Department of Labor projects the alternative wage base period and expanded coverage for workforce training provisions will exhaust the additional funding by 2023.

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/2374.pdf>.

ECONOMIC DEVELOPMENT

Investment in Major Projects and Comprehensive Training (IMPACT) Program

SB 120 allows program costs under the Investment in Major Projects and Comprehensive Training (IMPACT) Program to include wages for new or retained employees during education or retraining. The bill continues to exclude the following items from receiving IMPACT financial assistance:

- Any costs that exceed 50% of the total program costs that are spent for the purchase or lease of training equipment;
- Any costs that exceed 10% of the total program costs that are spent for administrative expenses; and
- Any costs that exceed 10% of the total program costs that are spent for the direct institutional benefit of an educational and related workforce development institution.

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/120.pdf>.

EDUCATION

Trades and Crafts—Continuing Education

HB 2142 deals with the county or city licensure and continuing education requirements of certain trades and crafts, such as plumbers, electricians, and mechanical heating,

ventilation and air conditioning contractors. Prior law required not less than 12 hours biennially of continuing education. The bill provides the hours could be taken on the basis of six hours annually. Further, continuing education will consist of not less than six hours biennially or three hours annually of code education. Such education could be provided by an expanded list of educational providers to include community colleges, technical schools, technical colleges, or any other approved provider. Cities and counties will not be able to impose restrictions on the number of providers of continuing education. New licenses will be required to exhibit a distinctive notation identifying the testing agency and the name of the test. License renewals will require a distinctive notation to verify completion of continuing education hours.

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/2142.pdf> .

HEALTH INSURANCE

Continuation of Coverage—ARRA

HB 2052 amends the state continuation of coverage law to incorporate certain provisions and requirements of the American Recovery and Reinvestment Act of 2009. The bill's provisions include that employers of eligible terminated employees will be required to provide the additional notice of the right to elect coverage under the ARRA requirements. The bill also includes premium subsidy requirements under ARRA including a requirement that premiums for the special assistance continuation of coverage be paid by eligible individuals to insurance carriers. Additionally, insurance companies will be required to pay the subsidy and will have the right to reimbursement under ARRA. The continuation of coverage provisions expire on January 1, 2011. The continuation of coverage provision will become effective upon publication in the *Kansas Register*.

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/2052.pdf>.

State Continuation of Benefits

HB 2214 amends several provisions in the insurance code including state continuation of coverage requirements for sickness and accident health insurance plans and HMO (health maintenance organizations) plans to provide that the insurance carrier, rather than the employer, is required to administer premiums to the insurance carrier rather than the employer. However, employers are still required to give reasonable notice of the right of continuation of coverage

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/2214.pdf>.

Mental Health Parity

HB 2214 amends three statutes in the Kansas Mental Health Parity Act to require health insurance policies, on and after November 1, 2009, to provide the same benefits for the treatment of mental illness, alcoholism, drug abuse or other substance use disorder as are

provided for mental illness. The mental illness, alcoholism, drug abuse, or other substance use disorder benefits are to include the same deductibles, copayments, coinsurance, out-of-pocket expenses, treatment limitations, and other limitations as they apply to other covered services. Additionally, an increased lifetime benefit for out-patient services will apply to small group plans and treatment limitations will be applicable to large group plans.

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/2214.pdf>.

TAXES

Income Tax—Withholding

SB 97 enacts the Promoting Employment Across Kansas (PEAK) Act. The bill authorizes a diversion of employee withholding taxes under certain circumstances to “qualified” companies or third parties performing services on behalf of such companies.

Qualified companies generally include those which have closed down an existing business entity outside the state and have relocated the entity in Kansas and have made available to full-time employees adequate health insurance for which the companies will pay at least 50% of the premiums. Companies meeting these requirements also will be able to qualify if they have contracted with third parties to perform services as the legal employer of newly relocated employees.

Business entities within certain industry groups and sectors (including bioscience companies, gambling entities, religious organizations, retailers, and utilities) are excluded from being considered as qualified companies. Companies delinquent in payment of non-protested taxes to any governmental entity also are disqualified, as are companies which have filed for bankruptcy or announced their intention to do so. Companies participating in other statutory withholding tax diversion programs also are not eligible.

Companies meeting these criteria which also locate in a metropolitan county (Douglas, Johnson, Sedgwick, Shawnee, Wyandotte) and hire at least 10 new employees within two years, or locate in a non-metropolitan county and hire at least five new employees within two years, are eligible to retain 95% of new employee withholding taxes for a period of five to seven years, provided such employees are compensated at a rate equal to at least 100% of the county average wage.

Certain “high-impact” projects resulting in the hiring of at least 100 new employees within five years, regardless of location, could qualify for withholding tax diversions of 95% for seven to 10 years, provided such employees are compensated at a rate equal to at least 100% of the county average wage.

Qualified companies are required to submit agreement applications for the revenue-diversion program to the Secretary of Commerce. The Secretary is required to conduct an annual review of activities undertaken by qualified companies. The Department of Revenue also is authorized to disclose certain taxpayer-specific information to the

Secretary of Commerce to assist with compliance audits associated with the program. The Secretary also is required to submit an annual report to the various legislative committees on the overall impact of the program. Certain income tax credits associated with hiring new employees will no longer be available to companies participating in this program.

The full text of the bill may be found at: <http://www.kslegislature.org/bills/2010/97.pdf>.



The Update is supplied by the KS-SHRM Lobbyist, Natalie Bright. The KS-SHRM Lobbyist can be contacted at natalie@brightcarpenter.com. If you have any questions or updates to forward to the KS-SHRM Legislative Director please contact:

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