

MO SHRM  
LEGISLATIVE REPORT  
FEBRUARY 19, 2010

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*Committee Action*

**SHARED WORK BENEFITS:** On February 15, the House Committee on Workforce Development and Workplace Safety held a hearing on HB 1987 sponsored by Rep. Schoeller. This bill increases from 26 to 52 the number of weeks an individual is eligible to receive shared work benefits under the Shared Work Unemployment Compensation Program in the Division of Employment Security. The sponsor noted that under the bill an employer, rather than laying an employee off, can allow the employee to take one day off a week and collect unemployment for that day for up to 52 weeks. It was noted that this program could save the trust fund \$28 million dollar if expanded to 52 weeks. It was also noted that there are over 500 employers currently in the program.

Testifying in support was Associated Industries of Missouri, the Missouri State Chamber, Missouri AFL-CIO, United Steel Workers District 11, and the Director of the Department of Labor and Industrial Relations. No one testified in opposition.

**Pro** - allows employers to retain skilled personnel and allows employees to keep working instead of being laid off entirely.

**Con** - none at this time

**Next Step** - The Chair noted that the Shared Work Program will be added to HB 1544 in the Senate.

**UNEMPLOYMENT BENEFITS:** On February 16, the Senate Small Business, Insurance and Industrial Relations Committee held an executive session on HCS HB 1544. This bill extends the state's eligibility to receive federal extended unemployment benefit money to provide unemployed individuals compensation beyond the current unemployment benefit period. The bill also has an emergency clause. Emergency clauses make the effective date of the bill the day the Governor signs the bill instead of the usual effective date of August 28, 2010. The senate committee substitute adds the shared work benefits program language.

The committee voted the bill "do pass" by a vote of 9 to 0.

**Pro** - Allows for unemployment benefits to be extended beyond the current unemployment period and paid with federal dollars. SHRM National recommended a support position

**Con** - State and local governments are not eligible for these funds under the American Recovery and Reinvestment Act

**Next Steps** - the bill now will move to the Senate floor for debate

**EMPLOYMENT LAW:** On February 16, the Senate General Laws Committee held a hearing on SB 852 sponsored by Sen. Lager. This bill modifies the law relating to the Missouri Human Rights Act and employment discrimination. The bill abrogates several court cases. This bill legislatively implements damage caps, eliminates liability against individual managers and supervisors, merges federal standards with state standards, covers burden of proof to a motivating factor versus a contributing factor in discrimination and restores summary judgment. The sponsor stated that recent court cases have made anti-employer decisions and that this hurts Missouri's competitiveness with other states. He noted that Missouri is an at will employment state and that court cases have eroded this and that this bill attempts to restore the ground lost.

Testifying in support were employment law attorneys, Enterprise Holdings, Missouri Retailers Association, Missouri Grocers Association, School Administrators Coalition, Missouri Chamber of Commerce and Industry, Missouri Cable Telecommunications Association, the Cooperating School District, Associated Builders and Contractors, Missouri Restaurant Association, a private law firm, Cooperating School Districts of Greater Kansas City, NFIB, Missouri Municipal League, St. Louis RCGA, the Greater Kansas City Chamber of Commerce, Associated Industries of Missouri, Missouri United Insurance Council and the Springfield Chamber of Commerce.

Testifying in opposition was a disability advocate, a trial lawyer, the Equal Housing Opportunity Commission, the National Employment Lawyers Association St. Louis Chapter, the Missouri Commission on Human Rights, an employee rights lawyer, Missouri National Education Association, the Human Rights Specialist for the City of Columbia and a private citizen.

**Pro** - may move Missouri to a more favorable employment law for employers, regarding the preponderance of proof and at will employment

**Con** - some believe this might affect EEOC and HUD federal funding for Missouri

**Next Step** - the committee may amend the bill and may take a vote on the bill

**SECOND INJURY FUND:** On February 15, the House Committee on Workforce Development and Workplace Safety held a hearing on HB 2059 sponsored by Rep. Fisher. This bill changes laws regarding Workers' Compensation and the Second Injury Fund. The sponsor noted that this bill is an attempt to address the solvency of the fund. He noted that permanent partial disabilities are being removed from the second injury fund and placed under Workers' Compensation. There also has to be an independent medical examination and the injury has to be work related or from military duty. The

sponsor said that there will be a substitute that caps settlements at \$60,000 and makes other changes. The Missouri State Workers' Compensation Council will be created. The Council will report annually to the Governor and General Assembly on its recommendations regarding amendments to the law, the status of workers' compensation insurance and the projected maintenance of the solvency of the Second Injury Fund. The surcharge on Workers' Compensation remains capped at 3%. The sponsor noted that this might not completely fix the fund but that it is movement in the right direction.

Testifying in support were Associated Industries of Missouri (they stated that they will support as long as there are no surcharge increases), Missouri AFL-CIO, the Missouri State Chamber of Commerce (they stated they will hold firm on the 3% surcharge), NFIB, Missouri Self Insurers Association and the Missouri Restaurant Association.

Testifying in opposition was the Missouri Association of Trial Attorneys. They believed that you cannot address the solvency of the fund without addressing the surcharge issue. They believed that the surcharge needs to be increased or premiums will increase or the Workers' Compensation Administrative Fund could be borrowed from.

The Director of Labor and Industrial Relations was available for questions.

**Pro** - attempts to address the fiscal integrity of the Second Injury Fund

**Con** - inaction could lead to the insolvency of the fund

**Next Step** - a substitute will be drafted and the committee may offer amendments and may vote on the substitute bill

**MINIMUM WAGE:** On February 16, the Senate Small Business, Insurance and Industrial Relations Committee held a hearing on SB 875 sponsored by Sen. Dempsey. This bill modifies the minimum wage for employees under 20 years of age which allows employers to pay 75% of the state minimum wage as long as it is not lower than the federal minimum wage and existing workers may not be displaced.

Testifying in support was the Missouri Restaurant Association, Hotel and Motel Association, NFIB, the Missouri Chamber of Commerce and Industry, McDonald's, the Missouri Retailers Association and the Missouri Grocers Association.

Testifying in opposition was Jobs for Justice Coalition, the AFL-CIO, a private citizen, the Communications Workers of America Local 6355, Missouri Kansas Service Employees International Union, the Missouri National Education Association, United Steelworkers Union and the State Department of Labor.

The House companion bill HB 1792, sponsored by Rep. Parson, was also heard on February 16, in the House General Laws Committee.

**Pro** - could increase hiring of persons under 20 years of age as a training wage and may help reduce unemployment

**Con** - may limit income for these persons

**Next Step** - the committee may hold a vote on the measure

**MINIMUM WAGE CAP:** On February 16, the Senate Small Business, Insurance and Industrial Relations Committee held a hearing on SB 889 sponsored by Sen. Crowell. This bill prohibits the state minimum wage from exceeding the federal minimum wage. The sponsor stated that a hirer minimum wage hirer than other states paces Missouri at a competitive disadvantage.

Testifying in support was the Missouri Chamber of Commerce, the Missouri Retailers Association, the Missouri Restaurant Association and the National Federation of Independent Business.

Testifying in opposition was the AFL-CIO, the Missouri Department of Labor, the Service Employees International Union, the United Steelworkers, Missouri Jobs for Justice, the Missouri National Education Association and a private citizen.

**Pro-** keeps minimum wage at or lower than the federal level

**Con** - to be determined

**Next Step** - the committee may amend or vote on the measure

**SECRET BALLOT:** On February 16, the Senate Small Business, Insurance and Industrial Relations Committee held an executive on SJR 40 sponsored by Sen. Goodman. This joint resolution requires voting by secret ballot for elections and employee representation. The committee voted the joint resolution “do pass” by a vote of 6 to 3.

**Pro-** counters the “card check” movement

**Con-** may or may not be premature depending on federal efforts

**Note:** per SHRM National a neutral position is recommended on this resolution

**Next Step** - if turned in by the Chairman the bill will go on the Senate calendar for debate

**EMPLOYEE PASSWORD PROTECTION:** On February 16, the Senate Commerce, Consumer Protection Committee, Energy and the Environment Committee held an executive session on SB 610 sponsored by Sen. Green and voted the bill “do pass”. This bill provides that no employer shall ask or require an employee or any person applying for employment to disclose any user name for or password to any Internet site or web-based account except for user names or passwords that provide access to the employer’s internal computer or information systems. The measure provides for a class A misdemeanor for violations.

**Pro-**personal privacy

**Con-** contains penalty provisions

**Next Step** - the bill may be turned in for floor debate

**SUMMER HIRES:** On February 16, the House Job Creation Committee held a hearing on HB 1642 sponsored by Rep. Brown. This bill authorizes a tax credit for small business employers who hire certain high school students (children who qualify for free or reduced price lunch) for summer jobs. The sponsor noted that this bill has passed the House before but failed in the Senate.

Testifying in support was the National Federation of Independent Businesses, Heritage Development Corporation and the Retirees for Local 710 Auto Workers.

No one testified in opposition.

**Pro** - could provide incentive for high school summer hires and give teenagers some work experience

**Con** - might divert revenue from other programs or might provide competition for jobs for unemployed adults

**Next Step** - the committee could amend the bill and hold a vote on the measure

**COVERAGE FOR ADOPTED CHILDREN:** On February 17, the House Insurance Policy Committee held an executive session on HB 1713 sponsored by Rep. Sander. This bill requires all health insurance policies issued to Missouri residents on or after January 1, 2011, to include coverage for adopted children on the same basis as other dependents of the enrollee. The committee voted the bill “do pass” consent.

**Next Step** - The bill may be turned in and placed on the consent calendar. This calendar is for non controversial bills and bills on this calendar may not be amended on the floor.

**PATIENT PRIVACY ACT:** On February 17, the House Insurance Policy Committee held an executive session on HCS HB 1382 sponsored by Rep. Ervin. This bill establishes the Missouri Patient Privacy Act which limits the disclosure of patient medical information. The bill was amended to match the federal definition of individually identified personal health information, so that there are not two different standards. The committee voted the bill “do pass” consent.

**Next Step** - The bill may be turned in and placed on the consent calendar. This calendar is for non controversial bills and bills on this calendar may not be amended on the floor.

**MANUFACTURING JOBS ACT:** On February 16, the House perfected HCS HB 1675 sponsored by Rep. Nolte. This bill establishes the Manufacturing Jobs Act which establishes incentives for qualified suppliers or manufacturing facilities that create or retain Missouri jobs. On February 18, the House third read and passed the bill.

**Pros** - This bill could provide assistance to the manufacturing and supplier sectors of the Missouri economy to help retain and create jobs.

**Cons** - The program could divert revenue from other state programs

**Next Step** - The bill moves to the Senate

### ***Floor Action***

**AUTISM:** On February 16, the House perfected HCS HB 1311 and 1341 sponsored by Rep. Scharnhorst. This bill mandates insurance coverage for autism spectrum disorders for group health benefit plans. The bill provides applied behavior analysis coverage (ABA) coverage of \$36,000 per year for individuals through eighteen years of age. Visits to autism spectrum disorder service providers are not limited but are subject to the ABA dollar cap. Individual health plans are a mandated offer for coverage. Small employers with a group health plan are granted a waiver if they show that premiums have increased at least by two and one-half percent in a calendar year due to these provisions. On February 18, the House third read and passed the measure.

**Next Step** - the bill now moves to the Senate

### ***Bills Filed of Interest***

SB 948 - Crowell - Enacts provisions relating to an individual's right to participate in a health care system

SB 950 - Bray - Allows small employers to obtain medical coverage through the Missouri Consolidated Health Care Plan

SB 968 - Stouffer - Lowers the age requirement for a concealed carry endorsement from twenty-three to twenty-one

HB 2188 - Diehl - Modifies the definition of employment for purposes of unemployment compensation

### ***Hearings of Interest***

Monday, February 22

House Workforce and Development Committee  
Noon, HR6

Possible executive session on HB 2059 - Fisher - Second Injury Fund

Tuesday, February 23

House General Laws  
2:00 pm, HR7

HB 1445 - Jones - Changes the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law

Wednesday, February 24

House Agri-Business

2:00pm, HR4

HB 1291, HB 1352, HB 2076, HB 1206, HB 1756, HB 1669 and HB 1787

Changes the laws regarding concealed carry endorsements

### *Calendar Bills of Interest*

Senate Calendar

Third Reading of Senate Bills

SB 618-Rupp (In Fiscal Oversight) Requires health carriers to provide coverage for the diagnosis and treatment of autism spectrum disorders under certain conditions

Senate Bills for Perfection

SB 629-Dempsey Establishes the Missouri Healthy Workplace Recognition Program

SJR 40-Goodman Requires voting by secret ballot for elections and employee representation

Resolutions

HCR 18 Rupp Urges the Missouri Congressional delegation to vote against the federal health care reform legislation

House Calendar

House Bills for Perfection

HB 1684 - Zerr - Omnibus Economic Development Bill

If you would like the full text of a bill or a bill summary, they will be posted at <http://www.moga.mo.gov/> as they become available. If you have any questions or need additional information, please advise on 314-239-2777.