

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2627

As Amended by Senate Committee on
Commerce

Brief*

HB 2627, as amended, would revise the Wage Payment Act. An employer would have the discretion, contingent upon a signed written agreement between the employer and the employee, to withhold a portion of an employee's wages for the following purposes:

- Repayment of a loan or an advance which the employer made to the employee during the course and scope of employment;
- Recovery of overpayment; and
- Replacement cost or the unpaid balance of the employer's merchandise or uniforms purchased by the employee.

When an employee leaves employment, the employer also would have the discretion, contingent upon written notice and explanation to the employee, to deduct any portion of the employee's final wages for the following purposes:

- Recovery of the employer's property provided to the employee in the course of the employer's business until the property is returned to the employer. Upon return of the employer's property, the withheld wages would be paid to the employee;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Repayment of a loan or advance which the employer made to the employee during the course of and within the scope of employment;
- Recovery of payroll overpayment; and
- Replacement cost of the employer's merchandise, uniforms, or equipment purchased by the employee.

The employer could not withhold amounts that would cause the wages paid to the employee to be less than the federal or state minimum wage, whichever would be applicable.

Under current law, an employee may authorize wage deductions for charitable donations, dues paid to labor organizations, or for service fees. An employer may withhold or deduct any portion of an employee's wages provided:

- It is allowed by law;
- The deduction is for healthcare;
- The employer has signed authorization by the employee for a lawful purpose accruing to the employee's benefit; or
- The deduction is to be deposited in a retirement plan.

Background

The Kansas Chamber and the Kansas Society for Human Resource Management spoke as proponents. The bill would provide employers with guidance and flexibility when there is a need to collect money from employees.

The Working Kansas Alliance and the Kansas NEA testified against the bill. Opponents expressed concern that employees could be exploited, especially without written notice from the employer. Opponents noted current Labor Department rules and regulations allow employers to recover overpayment of wages.

The House Committee on Commerce and Economic Development amended the bill to:

- Stipulate deductions from current employees for the purposes proposed in the bill would be contingent upon a signed written agreement between the employer and the employee;
- Clarify that an employer may recover the cost of merchandise or uniforms, rather than its value, from a current employee;
- Delete a provision that would have allowed employers to deduct wages for damaged or lost property caused solely by the employee; and
- Permit an employer to deduct wages from a former employee's final wages for certain purposes.

The House Committee of the Whole amended the bill to:

- Require the employer to pay the remaining withheld wages after the return of property; and
- Prohibit the employer from withholding amounts that would cause the wages paid to the employee to be less than the federal or state minimum wage, whichever would be applicable.

The Senate Committee on Commerce amended the bill to allow an employer to recover the replacement cost, rather than the value, of merchandise or equipment from an employee's wages.

According to the revised fiscal note prepared by the Division of the Budget, the bill, as introduced, would not have an effect on the processing of state payroll. According to the Department of Labor, which is responsible for administering the Wage Payment Act, the bill could generate an increase in wage claims and contested hearings through the Office of Administrative Hearings. The agency believes it could absorb the estimated 100 new cases each year.