

January 22, 2013

The Honorable Marvin Kleebl, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 286-N
Topeka, Kansas 66612

Dear Representative Kleebl:

SUBJECT: Fiscal Note for HB 2022 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2022 is respectfully submitted to your committee.

HB 2022 would change current law regarding withholding of wages by an employer. The bill would authorize an employer to withhold, deduct or divert any portion of an employee's wages pursuant to a signed written agreement between employer and employee for the following purposes:

1. To allow the employee to repay a loan or advance made by the employer to the employee within the scope of employment;
2. To allow for recovery of payroll overpayment; and
3. To compensate the employer for the replacement cost or unpaid balance of the cost of the employer's merchandise or uniforms purchased by the employee.

If the deductions cause the wages to be less than the applicable minimum wage, the withholding would be prohibited.

When an employee leaves a job, the employer would also have the discretion to deduct any portion of the employee's final wages for the following purposes, contingent on providing written notice and explanation. The employer, must however, pay the remaining withheld wages after the property described below is returned.

1. To recover the employer's property provided to the employee in the course of the employer's business including tools of the trade or profession, personal safety equipment, computers, electronic devices, mobile phones, proprietary information such as client or customer lists and intellectual property, security information, keys or access cards or materials until such time as the property is returned by the employee to the employer;

The Honorable Marvin Kleebl, Chairperson

January 22, 2013

Page 2—HB 2022

2. To allow an employee to repay a loan or advance which the employer made to the employee during the course of and within the scope of employment;
3. To allow for the recovery of payroll overpayment; and
4. To compensate the employer for the replacement cost of the employer's merchandise, uniforms, company property, equipment, tools of the trade, or other materials intentionally purchased by the employee.

According to the Department of Administration, enactment of HB 2022 would not affect state agencies or payroll processing for state employees. Policies and procedures are already in place to obtain reimbursement to the state through either personal reimbursement of the state setoff program. Additional review would be done to determine whether paycheck deduction would be an additional avenue sought for repayment of debts. The Department of Labor administers the state's Wage Payment Act and would be responsible for enforcement of HB 2022. The Department indicates that the bill might generate an increase in wage claims and contested hearings through the Office of Administrative Hearings. Current staffing should be able to absorb the anticipated case increase per year.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Dawn Palmberg, Department of Labor
Pam Fink, Administration