

# **INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT**

## **Minutes of the 2nd Meeting of the 2019 Interim**

**July 11, 2019**

### **Call to Order and Roll Call**

The 2nd meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, July 11, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Russell Webber, Co-Chair; Senators Perry B. Clark, Rick Girdler, Denise Harper Angel, Ernie Harris, Alice Forgy Kerr, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Lynn Bechler, John Blanton, Charles Booker, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Kathy Hinkle, Thomas Huff, Nima Kulkarni, Savannah Maddox, Jason Petrie, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Robert Swisher, Commissioner, Department of Workers' Claims; Dale Hamblin, Counsel, Department of Workers' Claims; Mike Nemes, Deputy Secretary, Education and Workforce Development Cabinet; Lana Gordon, Commissioner, Department of Workforce Investment; Charles Aull, Public Policy Manager, Greater Louisville Inc. (GLI).

LRC Staff: Carla Montgomery, Andrew Manno, Chip Smith, Candice Messer, and Sasche Allen.

### **Approval of Minutes**

A motion to approve the minutes of the June 06, 2019 meeting was made by Senator Danny Carroll, seconded by Senator Rick Girdler, and approved by voice vote.

### **Consideration of Referred Administrative Regulation**

**803 KAR 025:270 & E** – Pharmaceutical formulary. “The purpose of the formulary is to facilitate the safe and appropriate use of prescription drugs in the treatment of work-related injury and occupational disease.” Commissioner Robert Swisher and Dale Hamblin were present to explain the administrative regulation and answer questions.

Responding to a question from Representative Al Gentry, Commissioner Swisher stated that the Department had three choices when choosing a pharmaceutical formulary: formulating its own formulary, adopting another state's formulary, or choosing one of the two existing commercial formularies which are the Official Disability Guidelines (ODG) or the American College of Occupational and Environmental Medicine (ACOEM) Guidelines. The ODG formulary is the most widely used and has been adopted by surrounding states. Tennessee and Texas were two states that the Department examined. Answering a follow up question, the Commissioner said that one of Texas's challenges has been getting physicians to abide by the formulary as it applies to legacy injury claims. He said that within the regulation are specific phase out dates that will allow the medical community to adjust to the new formulary. Physicians may prescribe outside of the formulary in certain circumstances if it is proven to be necessary.

Replying to Representative Lynn Bechler, Commissioner Swisher explained that utilization review physicians are selected by the carrier, and a utilization review process has to be provided per regulation. The Department does not have a role in choosing a utilization physician. The Commissioner explained that an aggrieved party has the option to file a medical dispute with the Department.

Answering a question from Representative John Blanton regarding one of his constituents, the Commissioner said that this regulation would not help his constituent who had medications denied and had to request a review of that decision, but the formulary will make it less likely for medications to be denied.

Addressing Co-Chair Danny Carroll, Commissioner Swisher said that the formulary is standardized and all physicians are required to follow it. Statutorily, the Commissioner of the Department has the power to amend the formulary. Per this administrative regulation, the Commissioner is required to review the formulary annually.

Responding to Representative Ashley Tackett Laferty, Commissioner Swisher clarified that the formulary is a binary system in which each medication has either a Y or N status. A Y status medication can be prescribed without a utilization review and without the necessity of preauthorization. An N status medication indicates that the prescribing physician needs to provide more information to the carrier. If a medication is denied, then the prescribing physician can find an alternative that has similar therapeutic characteristics.

## **2019 Regular Session House Bills 333 and 391**

The need for these two bills is driven by talent attraction and retention stemming from the struggle to meet workforce demand. There are currently 134,800 job openings in the state but only 26,220 active job seekers. The job demand by 2022 will be 415,041. About 25 percent of graduates from Kentucky post-secondary institutions are employed in

the state three years after graduation, and additionally, over the last five years the Commonwealth's average net migration has been approximately 1,500 people per year. The proposed legislation will offer tax credits as an incentive to employees and employers. HB 333, or the Highly Skilled Employee Tax Credit, is for individuals who either stay in Kentucky or relocate to Kentucky to fill a job in a high demand industry sector. These sectors include manufacturing; healthcare; business and information technology; construction; and transportation, distribution, and logistics. The credit would be \$1,500 per applicant with a total approval cap of \$3 million a year. HB 391, or the Earn and Learn Tax Credit, is for employers who pay the educational expenses of employees in high demand industry areas. There would be a credit of up to 25 percent for employee educational costs, and companies would be eligible for \$1,500 per employee per year with an approval cap of 10,000 employees per year. Deputy Secretary Nemes explained that HB 391 also includes a portion that addresses training to qualified employees in recovery. Mr. Aull, of GLI, said that he believes these two tax credits can incentivize companies to develop their own training and educational programs, attract employees from other states, and keep established employees and their families in the Commonwealth. Legislation such as HB 333 and 391 may help the Commonwealth to compete with other states in the region.

### **Registered Apprenticeship Program**

Registered apprenticeship provides employers with a highly skilled and qualified workforce that is critical for the state's economic growth and ability to compete on an international scale. Over \$1.5 million in federal funding was allotted to the state to expand apprenticeship initiatives which includes 251 registered programs, nine competency based programs, and 3,391 registered apprentices. New programs have been added within the five high demand sectors including a registered nurse program; an information technology program involving coding and programming; and programs in civil service within various state agencies such as the Cabinet for Health and Family Services, Transportation, Commonwealth Office of Technology, and the Department of Veterans Affairs. Deputy Secretary Nemes also discussed the K-Tech Program which is intended to equip students with recognized post-secondary credentials and STEM skills. It was launched with a \$627,000 grant for students enrolled in Hazard Independent and Perry County School and offers apprenticeships concentrated in STEM fields such as radiography, nursing, and telehealth technician.

### **Unemployment Insurance**

Commissioner Gordon gave an overview of the modernization and progress of the Unemployment Insurance Program. A bill impacting the Service Capacity Upgrade Fund (SCUF) was effective July 1, 2018 and is intended to upgrade technology through the acquisition of new software and increase service delivery capacity by the Unemployment Insurance Division. There is a \$60 million collection cap over the course of a maximum of five years with a projected \$10 million to \$12 million to be collected each year from calendar years 2019 to 2023. In the first quarter of 2019, the Unemployment Insurance Trust Fund balance was \$506.6 million, the unemployment contributions from employers

was \$44.5 million, and the benefits to claimants was \$82.1 million. The current maximum weekly benefit is \$552, which is greater than the national average of \$344. The state's maximum weeks of eligibility is 26 compared to the national average of 24.1 while the average benefit duration is 18.4 weeks compared to the national average of 15.4. The claim duration and maximum benefit amount are challenges for the Department as well as aging technology, re-employment activities, and the success of connecting suitable work with the Commonwealth's workforce. The Deputy Secretary added that unemployment offices are being converted to career centers to better serve not only the unemployed but also those currently employed who want additional training to further their careers.

In response to Co-Chair Danny Carroll, Deputy Secretary Nemes said that HB 333 and HB 391 do have similarities to the Work Ready Scholarship Program, but the proposed bills are tax credits for individuals and employers in the five high demand sectors. Co-Chair Carroll expressed concern that these bills may be a duplication of existing programs and would be costly to the state. Answering another question, Deputy Secretary Nemes stated he is not aware of any plans to propose legislation to address unemployment insurance for smaller businesses that cannot afford to buy into the state's unemployment insurance system.

Addressing Representative McKenzie Cantrell, Deputy Secretary Nemes agreed that it would be beneficial for the two bills to be passed together. Answering a follow up question, the Deputy Secretary confirmed that the high demand industry sectors are ones that have already been established by the Workforce Innovation Board but the Board meets regularly and can recommend changes as needed. Addressing another question, the Deputy Secretary speculated that finance and budget issues could be a factor of why HB 391 says "Not more than 2,500 of the 10,000 employees shall be qualified employees in recovery."

Replying to Representative Nima Kulkarni, Mr. Aull said immigrants are important to workforce development and population growth. Although GLI makes efforts to ensure employers and employees who are immigrants feel welcomed in the Louisville area, immigration reform has to occur on the federal level and is an ongoing issue. Addressing another question, Deputy Secretary Nemes said he would follow up with Representative Kulkarni regarding federal funds collected as a result of the 1998 American Competitiveness in the Workplace Act.

Senator Reginald Thomas expressed concerns about HB 333 and HB 391 due to a loss of funds for the state and the bills are too similar to the existing Work Ready Scholarship Program.

Replying to Senator Max Wise, Deputy Secretary Nemes said there may be some overlap in the Work Ready Scholarship Program and what is proposed in HB 333 and HB 391 but changes can be made during the Interim and before the 2020 Regular Session.

After Representative Jason Petrie expressed concerns about the target audience of the proposed legislation, Deputy Secretary Nemes stated that parts of the legislation should read “skilled” instead of highly skilled to avoid confusion with low skill, medium skill, and high skill. Representative Petrie also expressed concerns about what income levels would benefit most from the tax credit and said he was not convinced it would help those from another state.

Co-Chair Russell Webber announced that the next meeting will be on August 22, 2019 at the Kentucky State Fair.

There being no further business, the meeting was adjourned at 2:41 p.m.