Statute Review Workgroup
Minutes

Date: May 10, 2011	Time: Noon to 1:00 p.m.	Location: AOC – Conf Room 422

Minute Taker: Kathy Sekardi

Members Attending:

☑ Comm. Stephen Kupiszewski – Acting Chair	☐ Veronica Hart Ragland
☑Theresa Barrett	☑ Janet Sell
☑ Pat Griffin	☐ Bianca Varelas-Miller
☑ Brandon Maxwell	☑ Donald Vert

Staff/Admin. Support: Kathy Sekardi

Guests: None.

Matters Considered: Meeting commenced at: 12:05 p.m.

Members discussed:

1. ARS § 23-722.01 Employer or payor reporting; exceptions (Proposed language handout.)
   Janet Sell, AAG, reported additional changes were made to subsection (D) by adding paragraphs 3, 4 and 5. The new language mirrors federal legislation in an effort to collect additional data elements such as:
   - The date the employee or payee first performed services for pay.
   - Whether medical insurance is an available employee benefit.
   - Whether the employee is or will be eligible for a medical insurance benefit.

   The workgroup members discussed whether or not to include a provision that would allow penalties to be assessed on employers who did not comply with reporting requirements. Janet provided federal statute language which reflects the State shall have the option to set a civil money penalty not to exceed $25 per failure or $500, if under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report. The members decided to provide the penalty provision information to the CSC at the next meeting.

   Motion: Refer this proposed legislation, as amended, along with the penalty provision language to the CSC. Seconded. Motion passed unanimously.

2. ARS § 25-505.01 Administrative income withholding order; notice; definition (Proposed language handout.)
   Janet Sell reported that two initiatives are part of this proposed legislation: 1) encourage withholdings by electronic means, and 2) try to capture lump sum payments from employers. Changes made to proposed language below in red font:

F. EFFECTIVE _____, AN EMPLOYER OR PAYOR MUST MAKE PAYMENTS TO THE CLEARINGHOUSE BY ELECTRONIC FUNDS TRANSFER IF ANY OF THE FOLLOWING CONDITIONS ARE MET:

1. THE EMPLOYER OR PAYOR IS REQUIRED TO PAY STATE TAXES BY ELECTRONIC FUNDS TRANSFER PURSUANT TO A.R.S. § 42-1129;
2. THE EMPLOYER OR PAYOR PAYS SOME OR ALL OF ITS EMPLOYEES BY DIRECT DEPOSIT;
3. THE EMPLOYER OR PAYOR HAS TEN OR MORE EMPLOYEES OR PAYEES WITH AN INCOME WITHHOLDING ORDER FOR SUPPORT; OR
4. THE EMPLOYER OR PAYOR HAS FIFTY OR MORE EMPLOYEES OR PAYEES; OR
5. THE EMPLOYER OR PAYOR USES A PAYROLL PROCESSING SERVICE.

(Staff made an additional technical change to ARS § 25-505.01 (B)(3) in blue font:

3. At the time of issuance, the arrearage is an amount equal to one year or more of the ~~obligors's~~ OBLIGOR'S support obligation, an income withholding order may include an additional amount that exceeds thirty-three per cent of the support obligation.)

Motion: Move to present the proposed legislation to the CSC, as amended. Seconded. Motion passed unanimously.

3. Strategic Agenda
   Brandon Maxwell raised an issue concerning overpayments to custodial parents and the need for the judiciary to address during the course of litigation. The members discussed various situations wherein an overpayment can accrue. This issue will be discussed at the next meeting. Possible ARS sections to be reviewed are: ARS 25-327; 25-503; and 25-527.

4. Next Agenda
   - Janet Sell will share information regarding what other states are doing to collect child support from personal injury awards.
   - Discuss issue of overpayments, statute(s) placement if changes are made, and best practices for judiciary to address.

Meeting adjourned at 1:00 p.m.