

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY.

The meeting was called to order by Chairman David Heinemann at 9:04 a.m. on February 2, 1993, in Room 526-S of the Capitol.

All members were present except: Representative Edlund (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Bill Dempsey, Supervising Attorney, Kansas Insurance Department
Dick Brock, Administrative Assistant, Kansas Insurance Department
Terry Leatherman, Kansas Chamber of Commerce and Industry

Others attending: See attached list

Hearing on HB 2120 - Workers compensation fund, impleader requirements; assessment of attorney fees.

Bill Dempsey, Supervising Attorney, Kansas Insurance Department, testified in support of HB 2120. This legislation was drafted as a result of a recommendation made by Legislative Post Audit. These requirements would theoretically reduce frivolous claims by forcing parties to closely examine medical records before impleading the Fund. (Attachment 1)

Hearing on HB 2121 - Workers compensation, preparation and dissemination of information and educational materials.

Dick Brock, Administrative Assistant, Kansas Insurance Department, appeared in support of HB 2121 as this bill would provide for the implementation of the education and information initiatives included in the recommendations of the Commissioner's Workers Compensation Task Force. (Attachment 2)

Mr. Brock thought HB 2121 probably needed be amended to include municipal group funded pools.

Terry Leatherman, Executive Director, Kansas Chamber of Commerce and Industry, testified in support of HB 2121. KCCI feels this bill will increase the understanding of the workers compensation system among employers, employees, and health care providers. (Attachment 3)

The meeting adjourned at 9:37 a.m. The next meeting is scheduled for February 3, 1993.

GUEST LIST

COMMITTEE: HOUSE LABOR AND INDUSTRY

DATE: 2-2-83

NAME	ADDRESS	COMPANY/ORGANIZATION
J. Wright	Topeka	Eagle
TERRY LEATHERMAN	Topeka	KCCI
MARK RUSSELL	TOPEKA	IASIESTA FOODS
Lisa Unruh	Topeka	DOB
Bill Morrissey	"	DHR/Work Comp
Tim Houlderback	Topeka	Barbee and Assoc.
Kenney Boney	"	DHR/WORK CAMP
Bill Wempe	"	Ks. Ins. Dept.
Dick Brock	"	Tur Dept
FRANCES Kestner	"	Ks Food Dealers Assn
Erika Kuk	Lawrence	KU - Intern
Dw O'Brien	Overland Park	Intern
Billy Newnam	Topeka	State Self Ins.
Wayne Maurer	Topeka	Ks. AFL-CIO
Harry D. Helser	Wichita	" " "
Maria Ciekman	Topeka	H. Gov.
LARRY MAGILL	TOPEKA	PIIAK
Donald Johnson	McPherson	Intern
Jill Meyer	Lawrence	KU - Intern
Joe Furganic	Topeka	KCA
CAROL MORTON	Colonnatus	Empire Distrib Etc
Mike Ruchst	Topeka	Art
Brian James	Wichita	Borg

GUEST LIST

COMMITTEE: HOUSE LABOR AND INDUSTRY

DATE: 2/2/93

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TESTIMONY PRESENTED TO
HOUSE LABOR AND INDUSTRY COMMITTEE
REGARDING THE SUBSTANCE OF HOUSE BILL NO 2120

The proposed legislation contained in House Bill No. 2120 was drafted as a result of a recommendation made by the Legislative Post Auditors.

House Bill No. 2120 Section 1 proposes to amend and supplement K.S.A. 1992 Supp. 44-566a as follows:

Subsection (c) (1) would be amended to require that specific information regarding preexisting handicaps and the specific physical or mental condition which constitutes the alleged pre-existing physical or mental impairment be included within any impleadings alleging liability of the Workers Compensation Fund. Additionally, the impleader shall specify the basis of the employer's knowledge of the preexisting handicap.

These requirements would theoretically reduce frivolous claims by forcing parties to closely examine medical records before impleading the Fund. This amendment should also allow the Fund to assign files to attorneys experienced in dealing with specific medical conditions, ie. carpal tunnel syndrome.

Section 1 (c) (2) would also amend K.S.A. 1992 Supp. 44-566a by requiring dismissal of the Fund from all cases where the impleader fails to conform to the requirements set forth in subsection (c) (1) or where there is insufficient evidence to indicate involvement of the Fund. The administrative and fiscal benefits of this section are the same as subsection (c) (1) above.

Section 1(f) would also amend K.S.A. 1992 Supp. 44-566a by requiring that attorneys fees be assessed against parties who implead the Fund where a determination is made that the Fund is not liable because the requirements of subsections (c) (2) or (e) have not been met.

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Attachment 1
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Testimony on
House Bill No. 2121

by

Dick Brock

Kansas Insurance Department

Enactment of House Bill No. 2121 would provide for the implementation of the education and information initiatives included in the recommendations of the Commissioner's Workers Compensation Task Force.

Section 1 of House Bill No. 2121 would require the Commissioner of Insurance and the Director of Workers Compensation to cooperatively develop educational and informational materials and provide for its distribution to Kansas employers and employees. The nature of the subject matter to be covered by this material is described in the bill but essentially it contemplates basic, understandable, useful information about the workers' compensation system, its operation and related elements such as insurance, rating procedures, benefit determination and so forth. The task force believes this kind of information will enable both employers and employees to have a better understanding of the workers' compensation law and its operation which, in turn, should remove some of the fears and hopefully restore some of the trust in the ability of the workers' compensation system to fairly and quickly respond to workplace injuries.

While the precise form of the information developed pursuant to subsection (a) of Section 1 won't be known until the requirement is enacted and the Commissioner of Insurance and Director of Workers Compensation actually begin the development process, it is contemplated that it will be a pamphlet or brochure that is as brief and concise as possible while still containing the basic information necessary to meet the objective.

Pursuant to subsection (b) of Section 1 of the bill, a copy of the information so developed would be sent to each insurance company and each

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group-funded self-insurance pool authorized to write workers' compensation insurance in Kansas. This distribution would be accompanied by a directive requiring such entities to reproduce the material in sufficient quantities to permit it to be provided with each workers' compensation policy and each renewal affected in Kansas. The Director of Workers Compensation would assume the same responsibility with respect to self-insurance certificates issued by his or her office.

As I hope is indicated by my description, the material required by Section 1 of House Bill No. 2121 would be rather general in nature. Section 2 requires more specific information in that it relates to information that would be provided employees or their legal beneficiaries as soon as possible after the occurrence of a workplace injury. Such information would be targeted to actual injury situations and would be designed to acquaint the employee with basic information about workers' compensation benefits, how to file a claim, who to contact regarding the claim and where and how to obtain assistance.

As I noted when I discussed the task force report with this committee, it is my understanding that information of this nature is already provided by the Director's office. However, under existing circumstances, the Director cannot provide such information until notice of the injury is received by that office. As a result, distribution of the information is not timely enough to be very effective. Therefore, subsections (b) and (c) of Section 2 are probably of more significance than subsection (a) in that they address the need for the information to reach the injured employee in a more timely fashion. This would be accomplished by requiring insurance companies and group-funded self-insurance pools to reproduce the information and provide copies to each insured employer. The Director's office would be assigned this responsibility with respect to self-insureds. The employer would be required to mail or deliver a copy of the information to each injured employee or their beneficiary immediately on receiving notice of the injury.

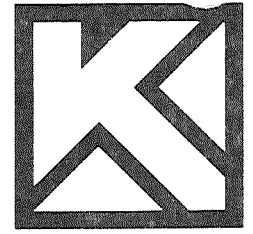
Finally, Section 3 of House Bill No. 2121 addresses general workers' compensation education and information needs by requiring various

interest groups to cooperate with the Director of Workers' Compensation and the Commissioner of Insurance in the development and presentation of material and programs that would not only enhance public knowledge about workers' compensation itself but also be informative and directly beneficial in such areas as workplace safety, employer/employee relationships and other subject areas which either impact or are impacted by the workers' compensation system. This includes health care providers and vocational rehabilitation facilities that are specifically referenced in subsection (b) of Section 3 of the bill.

Again, House Bill No. 2121 is a series of suggestions developed by the Commissioner's Task Force that, if and when implemented, will, we believe, produce better informed employers, employees and health care providers with respect to workers' compensation and do so in a more organized and timely fashion than would be possible without statutory direction and authority.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2121

February 2, 1993

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Committee on Labor and Industry

by

Terry Leatherman
Executive Director
Kansas Industrial Council

Mr. Chairman and members of the Committee:

I am Terry Leatherman, with the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to express KCCI's support for HB 2121.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The objective of HB 2121 is simple. Improve the Kansas workers' compensation system by increasing the understanding of the process among employers, employees and health care providers. By increasing understanding of workers' compensation, employers will more clearly see the tangible benefits of accident prevention practices and return-to-work

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programs. Meanwhile, greater understanding should help an injured worker have the confidence to work with their employer to satisfactorily resolve their benefit claim, without the need for litigation.

In supporting HB 2121, KCCI would like to also stress that improving the understanding of the workers' compensation system is only one small step in accomplishing "comprehensive" reform of the process. However, KCCI does see how the education effort outlined in HB 2121, when coupled with other critical reforms, will help create a workers' compensation system where Kansas employers and employees work together to provide prompt and effective medical care and fair compensation to an employee injured at work.

HB 2121 is one component from the Kansas Insurance Commissioner's Task Force on Workers' Compensation, a committee in which KCCI participated. In fact, the President of La Siesta Foods and KCCI member, Mr. Mark Russell, was a Task Force member who served on the subcommittee which developed the recommendation encompassed in HB 2121. Mr. Russell has joined me here today to add his support to HB 2121 and to respond to any questions from this committee into how his subcommittee developed this approach to improving understanding among participants in the workers' compensation process.

Mr. Chairman, once again thank you for the opportunity to explain why KCCI supports passage of HB 2121.