

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY.

The meeting was called to order by Chairman David Heinemann at 9:15 a.m. on February 25, 1993, in Room 526-S of the Capitol.

All members were present except: Representative Nichols (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Representative Carmody, Chairman of Subcommittee No. 4, reported on his subcommittee's progress. In the area of work disability they adopted HB 2354 with a few revisions. If the employee is engaging in work that pays comparable wages, there is no work disability. Ability to earn a comparable wage in the open labor market applies to only those who are not back to work at a comparable wage. They eliminated lump sum payments for work disability. If the wage should change down the road, then the individual could ask for work disability, but would only be paid for the remaining weeks of the 415 weeks. Representative Pauls of the subcommittee wanted them to go back to work with the same employer, not just at a comparable wage. Questions were raised that if a case is open for such a long time (8 years), what are the costs?

The subcommittee offered two recommendations regarding social security. If an employee is "receiving" social security retirement benefits, there will be an offset against workers compensation payments. If he is receiving social security disability, then social security would be treated as the primary payer and workers compensation would get the offset. In Kansas now we are treating workers compensation as the primary payer. This provision would change that.

A white collar cap on functional impairment was recommended. There would be a cap for an employee who has not lost any time from work. The subcommittee recommended capping functional impairment at \$50,000 if there is no work disability and temporary total has been paid for less than ten weeks. Representative Pauls would have preferred \$62,500. If it is a serious injury and the employee is off work for more than ten weeks, then the functional impairment will not be capped, and the court can pay the higher of the work disability or the functional impairment.

The subcommittee reached agreement on the claimant advisory council as contained in HB 2432.

They proposed that attorney fees be based only on the amount over what the employee would have gotten anyway. They are working on the idea of the Administrative Law Judge determining a reasonable fee and working a cap into that. Under current law, the Administrative Law Judge and Director are to review the reasonableness of the attorney fee.

The subcommittee reached no conclusion on advertising. His subcommittee will be meeting again.

Representative Cornfield, Chairperson of Subcommittee No. 2, told the committee they adopted the vocational rehabilitation section in HB 2354 with two amendments. One was changing the number of days from 45 to 70 as the time limit for a referral to the vocational rehabilitation provider for a job placement referral. The other change was in the area of denying access to a provider if the provider owns any interest in the VoRehab. The subcommittee added that they should make a disclosure to the Director, then the Director would make the determination of whether or not they would provide good service and the amount of the substantial interest.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY, Room 526-S Statehouse, at 9:15 a.m. on February 25, 1993.

In the area of safety, the subcommittee was still looking at the SHARP program.

The meeting adjourned at 9:45 a.m. The next meeting is scheduled for 5:00 p.m. February 25, 1993.

GUEST LIST

COMMITTEE: HOUSE LABOR AND INDUSTRY

DATE: 2-25-93
9:00 a.m.

NAME	ADDRESS	COMPANY/ORGANIZATION
Ray RATHER	Topeka	Ks Ins. Dept
Bill Wempe	"	" " "
Dick Brock	"	" " "
Wayne Mauck	"	Ks AFL-CIO
John M. Ostrowski	"	Ks AFL-CIO
Nelsie Sweeney	Overland Park	OP Chamber
DICK THOMAS	TOPEKA	DAR/WORKCOMP
Art Brown	Topeka	Ks. LOR Dealers
Terry Leatherman	Topeka	KCCI
HELBY Smith	Wichita	EL-II
GEORGE WELCH	TOPEKA	DPS
Stephen Schiesselbein	Topeka	SRS/RS
Blaise Plummer	Overland Park	Legislative
Jim Allen	Topeka	PRM/lac
Cynthia K. Pachacek	Platho, Ks	FRM
Bernie Koch	Wichita	Wichita Chamber
Bill Bunker	Topeka	Shoring Co.
Jenny Shelton	Topeka	Voc Rehab
David Langston	Topeka	KRCS
Bill Curtis	Topeka	Ks Assoc. of School Bds
McHaver	"	Comp. Journal
Richard Mason	"	KRA