

Approved: 4 / 1 / 93
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 18, 1993 in Room 123-S of the Capitol.

Members present: Senators Burke, Downey, Feleciano, Jr., Gooch, Harris, Hensley, Kerr, Petty, Ranson, Reynolds, Steffes and Vidricksen

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Bob Nugent, Revisor of Statutes
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Discussion and action on Substitute for HB 2354, Workers compensation reform

Jim Wilson, Revisor of Statutes, explained a proposed amendment to K.S.A. 44-550b which relates to the open records act. The amendment excepts financial information submitted by an employer to qualify as a self-insurer and records which relate to workers compensation utilization review or peer review, see Attachment 1.

Senator Kerr moved to adopt the proposed amendment to K.S.A. 44-550b. Senator Ranson seconded the motion and the motion carried on a voice vote.

A motion was made by Senator Kerr and seconded by Senator Burke to amend **Substitute for HB 2354** to include a statement that in instances of attorney advertising there must be a disclaimer included to the effect that attorney involvement is not necessary to pursue a claim. The motion carried on a voice vote.

Senator Burke moved and Senator Kerr seconded to include a severability clause in **Substitute for HB 2354**. The motion carried by voice vote.

A motion was made by Senator Burke to strike language in K.S. A. 44-566 that requires a full statutory \$4 million entitlement transfer from the state general fund to the Workers Compensation Fund. The motion was seconded by Senator Petty. The motion carried on a voice vote.

Senator Harris moved to require that before an award for temporary total or permanent partial disability can be allowed, the employee's ability to perform the job duties of the employer must be considered. In cases of dispute, a decision of an independent health care provider, chosen by the Director from the Disability Impairment Panel, will be determinative. Senator Kerr seconded and the motion carried on a voice vote.

The Insurance Commissioner proposed amendments to **Substitute for HB 2354** concerning accident prevention programs in his letter of March 17, 1993. On page 10 of the substitute bill, remove the word "or" in line 1 and insert "and offer to". In line 12 insert "business, safety or loss control" after the word "science". In line 15 after the word "health" insert "or be working under direct supervision of a person who meets the qualifications of this section, or an individual who has attained the designation of Associate in Loss Control Management or Associate in Risk Management from the Insurance Institute of America, or the designation of Occupational Safety and Health Technologist from the Board of Certified Safety Professionals".

Senator Petty stated the amendment on line 15 has the potential of creating another cottage industry. It also could affect premiums. The provision gives the insurance company the ability to subcontract with

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 18, 1993.

someone and specify who is qualified. This may be construed by insurance companies as a mandate by the Legislature.

A substitute motion was made by Senator Feleciano to adopt the proposed amendments by the Insurance Commissioner and add to the description of field safety representative "who has attained any other comparable designation or certification by a recognized organization". Senator Harris seconded the motion.

After considerable committee discussion, Senator Kerr called for the question. Since there was no objection, a voice vote was taken and the substitute motion carried.

A motion was made by Senator Burke and seconded by Senator Ranson to adopt the Committee report, as amended, and to recommend **Substitute for HB 2354**, as amended, favorably for passage. The motion carried on a voice vote.

Senator Feleciano and Senator Petty requested to be recorded as voting nay. Senators Burke, Reynolds and Steffes requested to be recorded as voting aye.

The committee meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for March 19, 1993.

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE

DATE: 3/18/93

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Jim Allen	Topeka	PRIN Inc.
Bill Curtis	Topeka	Ks Assoc of School Bds
Janet Stubbs	Topeka	HBA of Ks.
Hal Hudson	Topeka	NFIB/Kansas
Steve Richman	Overland Park	Yellow Freight
Terry Leatherman	Topeka	KECT
Don Gandy	"	"
Tim Louderback	Topeka	BARBEE + ASSOC.
RICHARD THOMAS	TOPEKA	DHR/WORK COMP
Lisa Unruh	Topeka	DOB
G. Gomez	"	DHR
RAY RATHER	"	Ks. Ins. Dept.
RON NITZER	✓	✓
Bernice Koch	Wichita	Wichita Chamber
Kalund Amos	Wichita	WIBA
Manda Allison	Topeka	Individual
Sandy Anderson	Topeka	Individual
Koger Truiche	"	Ks Gov Consulting
Nelsie Sweeney	Overland Park	O.P. Chamber
LARRY MAGILL	TOPEKA	PJIAK
Bire Benton	"	Dillon Cos.
Graddy	Topeka	Associated Wholesale Grocers
Bob Brown	"	Ks Lumber Dealer
DAROLD RIEGA	TOPEKA	KAAM
Larry Shaffer	Topeka	KHA

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[illegible]

PROPOSED AMENDMENT TO SUBSTITUTE FOR H.B. 2354
FOR CONSIDERATION BY SENATE COMMERCE COMMITTEE

"Sec. __. K.S.A. 44-550b is hereby amended to read as follows: 44-550b. (a) All records provided to be maintained under K.S.A. 44-550 and amendments thereto shall be open to public inspection, except (1) for financial information submitted by an employer to qualify as a self-insurer pursuant to K.S.A. 44-532 and amendments thereto, (2) as provided for records which relate to utilization review or peer review conducted pursuant to K.S.A. 44-510 and amendments thereto and (3) as otherwise specifically provided by the workers compensation act.

(b) This section shall be part of and supplemental to the ~~workmen's~~ workers compensation act.";

And by renumbering sections accordingly;

3/18/93
Commerce
Attachment 1-1