

Approved: February 16, 2011

Date

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 p.m. on February 14, 2011, in Room 152-S of the Capitol.

All members were present except:

Representative Bob Grant - Excused

Committee staff present:

David Wiese, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

Kevin Davis, Kansas Insurance Department
Kerri Spielman, Kansas Association of Insurance Agents
Brad Smoot, National Counsel on Compensation Insurance
Terri Robinson, National Counsel on Compensation Insurance

Others attending:

See attached list.

Hearing on:

HB 2139 **Workers compensation insurance rates**

Ken Wilke, Kansas Office of Revisor of Statutes, gave a brief overview for **HB 2139**.

The Chairman opened the hearing on **HB 2139**.

Proponents:

Kevin Davis, Kansas Insurance Department, (Attachment 1), appeared before the committee in support of **HB 2139**.

Kerri Spielman, Kansas Association of Insurance Agents, (Attachment 2), gave testimony before the committee in support of **HB 2139**.

Brad Smoot, National Counsel on Compensation Insurance (Attachment 3), presented testimony before the committee in support of **HB 2139**.

Terri Robinson, National Council on Compensation Insurance, was present at the committee to answer questions regarding **HB 2139**.

Hearing closed on **HB 2139**.

Hearing on:

HB 2075 **Insurance department Anti-fraud program; extension of exception to open records act disclosure**

Ken Wilke, Kansas Office of Revisor of Statutes, gave a brief overview on **HB 2075**.

Representative Shultz, opened the hearing on **HB 2075**.

Proponents:

Kevin Davis, Kansas Insurance Department, (Attachment 4), gave testimony before the committee in support of **HB 2075**.

Hearing closed on **HB 2075**.

Discussion and action on:

HB 2074 **Rate filings; disclosure of trade secrets or copyrighted material**

Representative Proehl moved **HB 2074** favorable for passage and place on the Consent Calendar. Seconded by Representative Davis. Motion passed.

CONTINUATION SHEET

Minutes of the House Insurance Committee at 3:30 p.m. on February 14, 2011, in Room 152-S of the Capitol.

Representative Hermanson moved without objection to pass the February 7, 2011 committee minutes as written.

Next meeting is scheduled for Wednesday, February 16, 2011, 3:30 P.M. in Room 152-S in Capitol.

Meeting adjourned at 4:18 p.m.

[illegible]

Representing

NCC

NCI

KATA

KDOL

NOT

PIA

KDGL - WC

KID



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON

HB 2139

HOUSE COMMITTEE ON INSURANCE

February 14, 2011

Mr. Chairman and Members of the Committee:

I am Kevin Davis with the Kansas Insurance Department and with me today is Marty Hazen of our Property and Casualty Division who regularly works with the workers compensation assigned risk pool.

Thank you for the opportunity to present testimony in favor of HB 2139 which amends K.S.A. 40-2109 regarding the workers compensation assigned risk pool. First a little background. Generally all employers must provide workers compensation coverage for their employees unless they are exempt. For those employers who cannot obtain coverage in the standard market, Kansas law has provided for an assigned risk pool for these employers to obtain coverage. In Kansas the National Council on Compensation Insurance (NCCI) administers the pool and there are two carriers who have been appointed to take these policies.

The amendment offered today provides two changes. The first is clean up on page 2, lines 38 – 43 continuing on page 3, line 1-3, which deletes the requirements for the pool to reduce its assessments and its size before the years 1997 and 1998 as both of these objectives have been met.

The second change on page 3, lines 3-7 deletes part of the sentence:

Notwithstanding the foregoing provisions of this subsection, the commissioner shall not approve rates or rating plans which produce rates or premiums for risks with less than \$2,250 annual premium that are higher than those which would be applied to such risks in the voluntary market, except that this...

This language effectively restricts surcharges to policies with premiums less than \$2,250. By deleting this sentence we will now apply the surcharge to all policies including those with premiums under \$2,250. The assigned risk plan is funded by the premiums paid by its policy holders and the application of surcharges and other rating variables. The plan has been subsidizing these lower premium policies and as a result it drives up the cost to the other members of the

House Insurance
Date: 2-14-11
Attachment # 1

plan and causes the plan to be actuarially unsound as to these risks. This amendment was recommended in an actuarial study of the plan which concluded that the rates charged to risks with premium under \$2,250 are inadequate and recommended that the surcharge be applied to all risks.

Additionally, since these risks are not now being surcharged, there is no incentive for them to move into the voluntary market. Actually as this provision exists in the current law it operates as an incentive to stay into the plan, by keeping their rates artificially low. The assigned risk pool was meant to be the plan of last resort for workers compensation coverage for employers that have been denied in the private marketplace. It was not intended to be a subsidized pool which competes with the voluntary workers compensation market.

For these reasons we respectfully request the passage of HB 2139. I would be happy to answer any questions.

Kansas Association of Insurance Agents



**Testimony on HB 2139
Before the House Insurance Committee
By Kerri Spielman
February 14, 2011**

Thank you, Mister Chairman and members of the committee, for the opportunity to testify on HB 2139. My name is Kerri Spielman and I represent the Kansas Association of Insurance Agents. We have approximately 440 member agencies across the state and another 110 branch offices that employ a total of over 2,500 people. Our members write roughly 70% of the business property and liability insurance in Kansas and 35% of the personal insurance. Independent agents are free to represent a number of different insurance companies.

Workers Compensation Modernization

The Kansas Association of Insurance Agents supports workers compensation modernization as well as increased private market competition. HB 2139 brings modernization to the assigned risk plan in Kansas.

The KAIA also supports modernization of workers compensation rating which will increase private market competition – and for that reason we are requesting a conceptual amendment to HB 2139. Our amendment would allow a single company to file up to four loss cost multipliers.

Workers Compensation Rating Flexibility

Workers Compensation rates are comprised of two elements. First are the base loss costs which the National Council on Compensation Insurance files annually with the Insurance Department. The Department has the filing reviewed by an independent actuary and ultimately approves the final loss costs before they can be used.

The second element of the basic workers compensation rate is the loss cost multiplier. This factor adds the carrier's expenses and their underwriting judgment of the risk to the equation. Currently, each carrier can only file one multiplier per insurance company license. Some stock carriers and mutual companies maneuver around this restriction by having multiple insurance company licenses in its group, thereby allowing the carrier to file a different loss cost multiplier for each company license. Travelers, at one time, had more than 70 companies in its group. Although all may not be licensed in Kansas, many of them are actively operating in our state. The insurers are then free to use underwriting judgment to determine which plan they offer a potential insured.

Loss cost multipliers are supposed to reflect the expense portion of the workers compensation rate while the loss cost portion is what makes up the base rates for payroll classes filed by NCCI and approved each year by the Department. However, in reality they reflect not just expense differences but also anticipated differences in losses. Insurers frequently develop special expertise in industries, or have underwriting guidelines they believe will allow them to select the



better than average risks and generate better than average loss experience. In return, they charge less for this group of insureds through a lower loss cost multiplier.

But a regional mutual insurer may only have one company license. They would like to be able to offer the same choices to the businesses as the large stock companies but do not want the expense of maintaining a number of insurance company licenses, separate books, and separate rate and form filings plus all the other details that go along with maintaining separate companies. Our proposed amendment allows them to do what the large insurer groups do by allowing them to file up to four loss cost multipliers in one insurer and to use underwriting judgment to determine which rate is used.

The Results: More Competition, Improved Marketplace

Allowing up to four loss cost multipliers should cautiously stimulate competition in workers compensation rating but not jeopardize the market. And those stock and mutual companies that have multiple insurance company licenses may save some business costs as they will not need the multiple company licenses in order to have multiple loss cost multipliers.

Thank you for the opportunity to appear before you. We are working with the Kansas Insurance Department to finalize the amendment.



BRAD SMOOT

ATTORNEY AT LAW

800 SW JACKSON, SUITE 808
TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)
bradsmoot@smootlawoffice.com

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206

STATEMENT OF BRAD SMOOT
LEGISLATIVE COUNSEL
NATIONAL COUNCIL ON COMPENSATION INSURANCE
HOUSE INSURANCE COMMITTEE
Regarding 2011 House Bill 2139
February 14, 2011

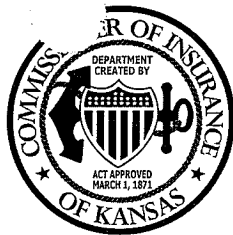
Mr. Chairman and Members:

On behalf of the NCCI, the National Council on Compensation Insurance, I am pleased to have the opportunity to offer support for 2011 HB 2139, introduced at the request of the Kansas Insurance Department. NCCI manages the nation's largest database of workers compensation insurance information. NCCI analyzes industry trends, prepares workers compensation insurance rate recommendations, determines the cost of proposed legislation and provides a variety of services, tools and publications to maintain a healthy workers compensation insurance system. In addition, NCCI contracts with the state of Kansas to administer the state's assigned risk plan for employers who are unable to obtain workers compensation coverage in the open (or voluntary) market.

The provisions removed from current law by HB 2139 are provisions that have out lived their usefulness. The assigned risk plan for workers compensation is designed to be the plan of "last resort;" not a plan priced so low that it competes with the private market. Under the current statutory rules, it is cheaper for some small employers to go into the government-created assigned risk plan rather than buy insurance where most other employers do, in the open market. These statutory restrictions cause 25% of those employers who must buy coverage in the assigned risk plan to subsidize the other 75% of employers in the plan. In addition, the Kansas assigned risk plan has run a deficit for the last 12 years, which means the plan must be further subsidized by all employers who buy insurance in the voluntary market.

While a certain amount of risk sharing is normal and appropriate in any insurance mechanism, a statutory structure that mandates that some employers subsidize other employers unnecessarily and which drives insurance purchasers out of the open market and into a government program is fundamentally unfair and undesirable. Such is the situation presented by the current law. HB 2139 would remove these out dated pricing restrictions and give the governing board of the Kansas Workers Compensation Insurance Plan and the Kansas Insurance Department the necessary flexibility to determine the appropriate pricing methods for this government run insurance safety net. We urge the Committee to act favorably on HB 2139.

House Insurance
Date: 2-14-11
Attachment # 3



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON

HB 2075

HOUSE COMMITTEE ON INSURANCE

February 14, 2011

Mr. Chairman and Members of the Committee:

I am Kevin Davis with the Kansas Insurance Department appearing in support of HB 2075.

This is a bill is existing law ion K.S.A. 40-2,118. It is being introduced to extend the sunset provision of our anti-fraud program. This will extend the expiration date of the law from July 1, 2011 to July 1, 2016.

This bill authorizes the Insurance Department to continue to operate an anti-fraud program. This program allows the Department to receive information from an insurance company or individual who has knowledge or a good faith belief that insurance fraud is being committed to file such information with the Department. Insurers are required to develop anti-fraud initiatives or file an antifraud plan with the Department. These initiatives or plans are to be held confidential and not subject to public record. This is to keep these programs from disclosure to individuals attempting to defraud insurance companies. This program has been helpful in prosecuting insurance fraud in Kansas.

We respectfully request your approval to extend this important program through July 1, 2016. I would be happy to answer any questions.

House Insurance
Date: 2-14-11
Attachment # 4