

SESSION OF 2003

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 181**

As Amended by Senate Committee on
Commerce

Brief*

Sub. for SB 181, as amended, would modify current workers compensation law. Specifically, the bill would address the treatment of preexisting conditions and separation from employment subsequent to work-related injury as they relate to workers compensation.

Preexisting Conditions

Under current law, an employee is not entitled to recover for the aggravation of a preexisting condition, except to the extent that the work-related injury causes increased disability. The bill would expand the exception to say that an employee is not entitled to recover for the aggravation of a preexisting condition, except to the extent that the work-related injury causes increased functional impairment or disability. The bill also would clarify that a prior impairment rating or permanent restrictions are not necessary to prove preexisting functional impairment or disability. Instead, under the bill the administrative law judge would be directed to consider all medical testimony on the issue of preexisting impairment or disability. The bill provides that any compensation would be determined by showing, through medical evidence, the amount of functional impairment or disability caused by the work activity at issue.

**Separation from Employment Subsequent
to Work-Related Injury**

Under the bill, if an employee is not under work restrictions at the time of separation from employment, the employee would not be entitled to receive general disability compensation in excess of the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/klrd>

percentage of functional impairment. However, if due to the work-related injury the employee is not engaging in any work for wages equal to 90 percent or more of the average gross weekly wage for wages that the employee was earning at the time of the injury, the employee would be entitled to permanent partial general disability compensation in excess of the percentage of functional impairment.

Background

The Senate Committee held hearings on SB 181, at which time proponents of the bill included Representative Rob Boyer, and representatives of the Kansas Chamber of Commerce and Industry, the Wichita Area Employers Workers Compensation Task Force, the Kansas Association of School Boards, the Kansas Self-Insurers Association, the American Insurance Association, the Greater Kansas City Chamber of Commerce, and the Wichita Independent Business Association. Opponents of the bill included the Secretary of Human Resources, and representatives of the Kansas Trial Lawyers Association, the Kansas AFL-CIO, the United Steel Workers of America, the Kansas Fire Service Alliance, the National Action Network, and a number of injured workers and their representatives.

The Senate Committee assigned SB 181 to a subcommittee for further deliberation. The subcommittee met several times and developed a substitute bill. The original bill contained the following main issues: treatment of preexisting conditions, treatment of cumulative injuries, offset of retirement and certain other benefits, and separation from employment subsequent to work-related injury.

The substitute bill pared down the four main issues in the original bill. The two issues remaining in the substitute bill as recommended by the subcommittee addressed the treatment of preexisting conditions and separation from employment subsequent to work-related injury.

The Senate Committee amended the bill to eliminate a reference to “supplemental functional disability compensation” and replace it with “permanent partial general disability compensation.” The Senate Committee also clarified the provision stating that the employee would be entitled to permanent partial general disability compensation in excess of the percentage of functional impairment if, due to the work-related injury, the employee is not engaging in any work for wages equal to 90 percent or more of the average gross weekly wage for wages that the employee was earning at the time of the injury.

The Division of the Budget reports that passage of SB 181, as introduced, would not incur a fiscal effect. Information regarding the fiscal impact of the substitute bill was not available upon publication of this Supplemental Note.