

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on March 10, 2004 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Legislative Research
Susan Kannarr, Legislative Research
Helen Pedigo, Revisor of Statutes
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

Paula Greathouse, Division of Workers' Compensation
Richard Thomas, Division of Workers' Compensation

Others attending:

See Attached List.

Chairperson Brownlee asked the committee to consider several sets of minutes.

Senator Jordan moved to approve the minutes from Jan 28-Feb 4th. Senator Steineger seconded. The motion passed.

Chairperson Brownlee invited Ms. Greathouse to come before the committee to provide an update on the Workers' Compensation Advisory Council (WCAC).

Ms. Greathouse provided the committee with an update on the Advisory Council's work over the past year. (Attachment 1) In addition to this, she provided a "Report of Subcommittee Paula Greathouse, Kip Kubin, John Ostrowski" (Attachment 2). She also included the minutes from the Workers Compensation Advisory Council meeting of December 9, 2003 (Attachment 3) and a draft of the minutes from the February 23, 2004 meeting. (Attachment 4)

Chairperson Brownlee asked if Ms. Greathouse had a sense that there has been final resolution of anything. Ms. Greathouse stated that at the super subcommittee, she had hope, however, their results had not been passed by the full committee. She stated that there has been a lot of good discussion, but that the committee has not passed out anything favorably.

In response to Chairperson Brownlee, Ms. Greathouse stated that the House committee had sent similar requests to the WCAC.

Chairperson Brownlee stated that her letter had also asked the WCAC to review **SB 181**, so she was curious as to what it would take to have some resolution. Ms. Greathouse replied that she had not had discussions with Secretary Garner to see what might be done, but they had discussed changing from a super majority to a simple majority for WCAC recommendations.

Senator Barone stated that in regard to the proposal to increase ALJ's salaries; in Ms. Greathouse's document, everyone seems to be in agreement, but it seems that they could not iron out the details. Ms. Greathouse stated that there was discussion about whether or not the positions would have to be pulled out of classified service to raise their salaries; the council is still collecting all of that information and trying to make that into a situation that is workable. She stated that they are trying to decide if they want to go through the legislature or through the Department of Administration.

Senator Barone asked if it is possible to bump them up to a higher classified position. Ms. Greathouse stated that they may adjust the pay matrix for that particular position. She stated that they received a letter from the Department of Administration but that they are not able to look at this classification or declined to look at the situation. She stated that the Secretary of Administration and she had been in touch since then regarding the possibility of changing the pay matrix.

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Senator Barone expressed concern about the inability of the WCAC to reach consensus.

Senator Bunten suggested pulling the judges out of classified service in order to offer higher pay.

Chairperson Brownlee asked how ALJs are appointed. Ms. Greathouse stated that they go through an application process like any other position. She stated that we are allowed 10, and then once they are hired, they are classified, and then stay until they leave or die.

Chairperson Brownlee stated that the challenge was to be able to make sure the statutes are written so that ALJs make their decisions according to those. She asked if the Legislature should say that ALJs need to be reviewed every 4 years or something like that. Ms. Greathouse referred the committee to Mr. Dick Thomas. Mr. Thomas stated that in the cases he looked at, there were several cases that went both ways dealing with Superior, four of which were in favor of the company, and another where a worker appealed and was denied. Mr. Thomas stated that the cases he had seen were not consistent with what the company had testified. Committee members agreed on the importance of accurate information being presented in committee meetings.

Chairperson Brownlee asked what percentage of cases go through the appeals process. Ms. Greathouse stated that would be in the annual statistical report.

Chairperson Brownlee it was disappointing that Advisory Council was unable to advise because of its inability to reach consensus; the legislature has to move on. She stated that members of the Council should not be so committed to their own self interest, but, rather, committed to the resolution; otherwise, the Council is to the point of having no value.

Ms. Greathouse stated that they would get something to the committee to see what Secretary Garner thinks might be done. Chairperson Brownlee asked if they were under KDHR, and Ms. Greathouse said yes.

The committee discussed the need for a written claim regarding date of accident.

Chairperson Brownlee stated that the committee would write a letter back to the Council with its thoughts. Ms. Greathouse asked if the Chair would like her to ask the Council for revamping to make it more effective, and Chairperson Brownlee stated that all of the parties involved with the council have to get moving.

Senator Wagle stated that as an example from the Public Health and Welfare, because the state has established a council and it gives a recommendation, the committee and the Legislature do not necessarily have to accept their recommendations.

Chairperson Brownlee directed the committee's attention to **SB 395**, stating that language being passed out would include Wyandotte county. (Attachment 5) Senator Brungardt asked why the bill is Wyandotte specific, and Senator Steineger replied that this was because Wyandotte is the only county who has issued bonds, but that the will was actually bonds specific, not county specific.

Senator Wagle asked if this were to apply to all cities, they would actually have more money to help pay off the bond, and the money would stay in the city without going to local bonds. She stated that Wichita is interested in these bonds.

Senator Steineger stated that with this, they are restricted a little bit with this change. In response to a comment from Senator Barone, he stated that as written, the bill keeps STAR bonds like they are; with the amendment, they will be a little stronger. Chairperson Brownlee clarified that this would provide relief.

Senator Barone stated that we change sales tax rates and property tax rates among others, so as he understands it, nothing is being impaired in the repayment of these bonds. Senator Emler stated that the bonds are being paid off now, but they might not be paid off as quickly as they are predicting. Senator Barone stated that they are 20 year bonds, and as currently scheduled, they would be done 3-4 years sooner.

Chairperson Brownlee stated that at one point, an amendment was made to take them up to 30 year bonds;

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without the passage of **SB 395**, the payment would be accelerated. Senator Steineger stated that this was assuming that sales keep up. Senator Barone stated that this was according to current predictions. Chairperson Brownlee stated that the situation was unique in Wyandotte because Nebraska FurnitureMart is particularly impacted by destination sourcing since the bulk of its sales are delivered.

Senator Kerr expressed concern regarding Cabela's non-payment of certain fees. Senator Steineger stated that it had been clarified that the store in Kansas is paying them. Senator Kerr stated that they clearly have nexus in Kansas; they should be complying with sales tax requirements of the state, despite the private letter they may have had. Chairperson Brownlee stated that the private letter was given to them by the Graves administration before the company came to Kansas.

Senator Steineger stated that Cabela's has agreed to and is meeting with Secretary Wagon regarding the sales tax that it needs to be collecting on remote sales; Cabela's had previously not returned the Secretary's phone calls.

Senator Barone stated that talk is cheap; Cabela's has been less than forthcoming, and he wondered what leverage the state has to resolve this. Chairperson Brownlee stated that the Department of Revenue would have leverage.

Senator Barone asked if the committee could see the private letter. Following further discussion, the committee concluded that this was not possible without Cabela's consent.

Senator Steineger stated that the private letter ruling came out before Kansas set up destination sourcing; they had their letter 3-4 years ago; this is only marginally related to **SB 395** which is about sticking to our word when we make business agreements. He stated that Cabela's is now subject to compliance with Kansas sales tax. Chairperson Brownlee stated that they have to comply with nexus. Senator Steineger stated that Kansas can audit them at any time.

Senator Wagle asked if the Legislature has been able to see if other large businesses received private letters from the Graves administration when destination sourcing was forced on small businesses, many of which experienced a significant loss of revenue. Chairperson Brownlee stated that she would hope we could request what private letter rulings have been issued and what the impact of those is.

Senator Wagle pointed out that there have been other letters to large businesses, one example of which was Amazon.com. Chairperson Brownlee noted that it ironic that they were always wondering why these companies do not pay.

Senator Steineger stated that Senator Wagle was interested in possible STAR bonds, and that the Hutchinson State Fair was looking into using these funds for Fair improvement.

Senator Steineger moved the bill as written. Senator Brungardt seconded the motion.

Chairperson Brownlee asked the committee if there was any discussion. Senator Emler asked if the bill would be dead if the motion failed, or if the committee could make a decision in the next couple days. The Chair stated that the committee can still consider the bill further.

The motion failed 5 to 4.

The meeting was adjourned at 9:30 a.m. The next meeting will be at 8:30 a.m. on March 11, 2004 in Room 123-S of the Capitol.