

Approved April 5, 1984
Date

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY

The meeting was called to order by Representative Arthur Douville at
Chairperson

9:00 a.m. ~~on~~ on March 13, 1984, 1984 in room 526-S of the Capitol.

All members were present except:

All members were present.

Committee staff present:

All present.

Conferees appearing before the committee:

Mr. Dan Morgan, AGC of KS

S.B. 567: An act concerning workers' compensation; relating to subrogation rights of group-funded workers' compensation pools.

Chairman Douville called Mr. Dan Morgan to the speakers stand to testify on S.B. 567. Mr. Morgan spoke as a proponent of S.B. 567. See attachment #1. There was a short question and answer period.

The meeting was adjourned at 9:15 a.m.

Labor + Industry

3-13-84

Visitors

Joe FURJANIC

DAN MORGAN

Bill Morrissey

Wayne Marchel

~~Ed Bullard~~

Harry Al Nelson

Representing

KASB

AGC of KS

P/H/R-Div of Worker's Comp.

Kansas AFL-CIO

Div of Budget

AFL-CIO

SB 567, SUBROGATION

THANK YOU, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS DAN MORGAN AND I AM REPRESENTING THE ASSOCIATED GENERAL CONTRACTORS OF KANSAS.

SENATE BILL 567 IS BASICALLY A "CLEAN UP" BILL AND IS RELATED TO LEGISLATION PASSED LAST YEAR WHICH ALLOWS GROUPS OF QUALIFIED EMPLOYERS TO JOIN OR POOL TOGETHER AND SELF-INSURE THEIR LIABILITIES UNDER THE WORKERS' COMPENSATION ACT.

WHAT SB 567 DOES IS MAKE IT CLEAR THAT QUALIFIED GROUP-FUNDED WORKERS' COMPENSATION POOLS ARE SUBROGATED TO THE RIGHTS OF POOL MEMBER EMPLOYERS WHO HAVE AN EMPLOYEE OR EMPLOYEES INJURED OR KILLED WHEN THE ACTUAL CAUSE OR FAULT FOR THE ACCIDENT LIES WITH A THIRD PARTY. INSURANCE COMPANIES AND INDIVIDUAL SELF-INSURERS HAVE THESE SUBROGATION RIGHTS AND WE WANT TO CLEAR UP ANY FUTURE QUESTION AS TO WHETHER SELF-INSURING POOLS HAVE THE SAME RIGHTS.

AN EXAMPLE OF WHERE SUBROGATION RIGHTS WOULD COME INTO PLAY IN OUR INDUSTRY WOULD BE WHERE A WORKER IS INJURED BY A FALLING LOAD FROM A CRANE WHICH WAS FITTED WITH A BOOM WHICH FAILED BECAUSE OF A MANUFACTURER'S DEFECT. SUBROGATION RIGHTS WOULD GIVE THE SELF-INSURING POOL THE RIGHT TO RECOVER PAYMENTS MADE TO THE INJURED EMPLOYEE FROM THE MANUFACTURER OF THE DEFECTIVE BOOM WHICH ACTUALLY CAUSED THE ACCIDENT AND INJURY.

I WANT TO MAKE IT CLEAR THAT THE INJURED EMPLOYEE WOULD NOT BE AFFECTED. HE OR SHE WOULD RECEIVE PAYMENTS FROM THE POOL IN THE SAME MANNER AS IF THERE WAS NO THIRD PARTY INVOLVED AT ALL. THE POOL WOULD, AS I SAID, HAVE THE RIGHT TO RECOVER THE PAYMENTS

Atch. 1

MADE OUT OF THE POOL FROM THE MANUFACTURER OF THE DEFECTIVE BOOM.

WE WERE UNDER THE IMPRESSION THAT QUALIFIED GROUP-FUNDED WORKERS' COMPENSATION POOLS ALREADY HAVE SUBROGATION RIGHTS, AND IT WOULD LIKELY BE FOUND THAT THEY DO. WE HAVE HAD ATTORNEYS' OPINIONS THAT SUCH POOLS WOULD AUTOMATICALLY HAVE THE SAME SUBROGATION RIGHTS AS INDIVIDUAL SELF-INSURERS AND INSURANCE COMPANIES. HOWEVER, OUR OWN COUNSEL IS CONCERNED THAT SINCE QUALIFIED GROUP-FUNDED WORKERS' COMPENSATION POOLS ARE NOT EXPRESSLY MENTIONED IN K.S.A. 44-532 THERE MAY BE SOME QUESTION AS TO WHETHER OR NOT SUCH POOLS SHOULD HAVE SUBROGATION RIGHTS. THIS BILL WOULD CLEAR THAT QUESTION UP AND EXPRESSLY GIVE QUALIFIED SELF-INSURING POOLS THE SAME SUBROGATION RIGHTS AS SELF-INSURING INDIVIDUALS AND INSURANCE COMPANIES.

I MIGHT ADD THAT WE HAVE RUN THIS LANGUAGE BY THE WORKERS' COMPENSATION DIVISION OF THE DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF INSURANCE AND THEY HAVE NO PROBLEM WITH IT. WE HAVE ALSO CONTACTED LARRY MCGILL OF THE INDEPENDENT INSURANCE AGENTS AND HE HAS NO PROBLEM WITH IT EITHER.

WITH THAT I'D BE GLAD TO TRY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.