

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND TOURISM

The meeting was called to order by Sen. Bill Morris at  
Chairperson

1:30 ~~am~~/p.m. on January 23, 1984 in room 529-S of the Capitol.

All members were present except:

Sen. Burke was excused.

Senators Feleciano, Gordon and Werts were excused for the Wolf Creek visit.

Committee staff present:

Jerry Ann Donaldson, Research Department

Gordon Self, Revisor

Louise Cunningham, Secretary

Conferees appearing before the committee:

Tom Slattery, Associated General Contractors of Kansas

On a motion from Sen. Arasmith, and a second from Sen. Karr the Minutes of January 17, 1984 were approved. Motion carried.

The Chairman said the Committee was to consider the introduction of two bills to be introduced as Committee Bills. One was a clean-up measure for the bill passed last year for self-insurance groups.

Tom Slattery, Associated General Contractors, submitted two amendments to K.S.A. 44-532. (Attachment 1). This amendment would provide an employer who is a member of the pool or the pool itself the right of subrogation. Attorneys say they have this right anyway but there could be some question and to play it safe it should be in the statutes. It provides that if a third party is involved and is at fault, after an employee is paid by the insurer or pool, the pool would have the right to bring action against the third party to recover the payment. A motion was made by Sen. Arasmith and seconded by Sen. Daniels to submit the amendments as a Committee Bill. Motion carried.

The second request was to exclude cooperative education students from receiving unemployment benefits from the state. The federal law had been changed to exclude them from federal benefits but it was necessary to make the changes in the state law. The law covered only students under the age of 22 and the proposed bill would strike "under the age of 22". The Advisory Council has approved this change. A motion was made by Sen. Thiessen and seconded by Sen. Arasmith to draft a Committee Bill with the proposed changes. Motion carried. The bill would return to the Committee for a hearing.

Meeting was adjourned.

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 1-23 Place 529-S Time 1:30

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Wayne Mauchal	Topeka	Kansas AFL-CIO
Bryce Moore	Topeka	DHR, Workers' Comp.
Rob Hodges	"	KRCC
DAN MORGAN	Topeka	ABC of KS
Susan Murphree Brooks	(Natch)	

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insurance service contracts rendering benefits personal and nonassignable. *Augusta Medical Complex, Inc. v. Blue Cross of Kansas, Inc.*, 230 K. 361, 364, 634 P.2d 1123 (1981).

44-515.

Law Review and Bar Journal References:

"Preparation and Presentation of the Claimant's Case," Gary L. Jordan, 3 J.K.T.L.A. No. 6, 17 (1980).

44-523.

Law Review and Bar Journal References:

"Major Legislative Changes in Workers' Compensation Law," Gary L. Jordan, 3 J.K.T.L.A. No. 1, 14, 16 (1979).

44-528.

Law Review and Bar Journal References:

"Major Legislative Changes in Workers' Compensation Law," Gary L. Jordan, 3 J.K.T.L.A. No. 1, 14, 16 (1979).

44-532. Insurance by carrier, self-insurance or group-funded workers' compensation pool; failure to secure payment of compensation; notices and reports. (a) Where the payment of compensation of the employee or the employee's dependents is insured by a policy or policies, at the expense of the employer, the insurer shall be subrogated to the rights and duties under the workmen's compensation act of the employer so far as appropriate, including the immunities provided by K.S.A. 44-501.

(b) Every employer shall secure the payment of compensation to the employer's employees by insuring in one of the following ways: (1) By insuring and keeping insured the payment of such compensation with an insurance carrier authorized to transact the business of workers' compensation insurance in the state of Kansas; (2) by showing to the director that the employer carries such employer's own risk and is what is known as a self-insurer and by furnishing proof to the director of the employer's financial ability to pay such compensation for the employer's self; or (3) by maintaining a membership in a qualified group-funded workers' compensation pool as provided by K.S.A. 1983 Supp. 44-581 to 44-591, inclusive. The cost of carrying such insurance or risk shall be paid by the employer and not the employee.

(c) The knowing and intentional failure of an employer to secure the payment of workers' compensation to the employer's employees as required in subsection (b) of this section is a class C misdemeanor.

(d) (1) Every insurance carrier writing workers' compensation insurance for any employment covered under the workmen's compensation act shall file, with the director, written notice of the issuance, nonrenewal or cancellation of a policy or contract of insurance, or any endorsement, providing workers' compensation coverage, within 10 days after such issuance, nonrenewal or cancellation. Every such insurance carrier shall file, with the director, written notice of all such policies, contracts and endorsements in force on the effective date of this act.

(2) Every employer covered by the workmen's compensation act who is a qualified self-insurer shall give written notice to the director if such employer changes from a self-insurer status to insuring through an insurance carrier or by maintaining a membership in a qualified group-funded workers' compensation pool, such notice to be given within 10 days after the effective date of such change. Every self-insurer shall file with the director annually a report verifying the employer's continuing ability to pay compensation to the employer's employees.

(3) Every employer covered by the workmen's compensation act who is a member of a qualified group-funded workers' compensation pool shall give written notice to the director if such employer changes from a group-funded workers' compensation pool to insuring through an insurance carrier or becoming a self-insurer, such notice to be given within 10 days after the effective date of such change.

(4) The mailing of any written notice or report required by this subsection (d) in a stamped envelope within the prescribed time shall comply with the requirements of this subsection.

(5) The director shall provide by regulation for the forms of written notices and reports required by this subsection (d).

History: L. 1927, ch. 232, § 32; L. 1967, ch. 280, § 8; L. 1974, ch. 203, § 31; L. 1980, ch. 146, § 8; L. 1983, ch. 166, § 14; July 1.

CASE ANNOTATIONS

38. Carrier's subrogation rights did not extend to recovery of employee upon uninsured motorist policy, even though policy was paid for by employer. *Knight v. Insurance Co. of North America*, 647 F.2d 127, 128 (1981).

44-532a. Liability of workers' com-

or the employer is a member of a qualified group-funded workers' compensation pool,

or the qualified group-funded workers' compensation pool

Atch. 1