

Approved Arthur Douville 4-22-86
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 March 13, 1986 in room 526-S of the Capitol.

All members were present except:

Representatives Debaun, Dillon, R.D. Miller, Patrick, Pottorff,
Sifers, Webb and Whiteman, all excused.

Committee staff present:

All present.

Conferees appearing before the committee:

Mr. Ron Todd, Assistant Commissioner of Insurance.
Mr. Chris Cowger, Attorney with the Insurance Department

Mr. Todd passed out to the committee attachment #1, a background on the Workers' Compensation Fund. He went over the material with the committee. Mr. Chris Cowger then went over the statistics on attachment #1 with the committee. A question and answer period followed.

The meeting was adjourned at 9:50 a.m.

HOUSE COMMITTEE ON
LABOR AND INDUSTRY

Guest List

Date 3-13-86

Name	City	Representing
Rob Helges	Topoka	KCCI
RON GACHES	WICHITA	EMAC
Bill Morrissey	Topoka	DHR/WC
Ron Todd	"	INS. Dept.
Chris Cowger	Topoka	INS. Dept.
Maubus	TOP	KS AFL-CIO
me dop	TOP	KS AFL-CIO
John Rathmull	Top	KDHR/WC
Gary Jenice	Top	KDHR/WC
Pat Schafer	Topoka	Division of Budget
Larry Wolgast	"	DHR

Workers' Compensation Fund Background

The Kansas Workers' Compensation Fund, formerly called the Second Injury Fund, was created by statute in 1945. In 1974, the Fund's administration was assigned by the legislature to the Commissioner of Insurance.

The stated purpose of the Fund is to encourage the employment of "handicapped" persons by relieving employers of part or all of the liability for job-related injuries to such persons.

The Fund is financed by a legislative appropriation, which is presently capped at four million dollars; by assessments levied against insurance carriers and self-insured employers, based upon their expenditures for claims; and by a small amount of payments in death claims where there are no dependents.

Liability is imposed upon the Fund for three types of cases:

- (1) Second-injury cases, where the employee has a physical impairment and sustains a subsequent injury that aggravates his pre-existing impairment.
- (2) Insolvent Employer cases, where the employer is either unable to be located or uninsured and financially incapable of paying workers' compensation benefits.
- (3) Reimbursement cases, where the employer and insurance carrier pay compensation pursuant to a valid order, later judicially reversed.

The first of these categories, the second-injury cases, comprise the bulk of all the cases handled by the Fund. Liability is based upon the hiring or retention of a "handicapped" employee by the employer. Knowledge of the "handicap" by the employer is required. The employer may file a notice with the Division of Workers' Compensation which creates a legal presumption of "knowledge". This notice is referred to as a "Form 88".

Procedurally, in second-injury cases, the Fund must be made a party prior to the "first full hearing", where evidence is first presented. The Fund may be found liable for all of the compensation,

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what is known as a "but-for" case, or part of the compensation, a contribution case.

The second category, insolvency cases, account for a small, but rising portion of the Fund's budget. Liability is founded upon an uninsured employer's inability to pay. Procedurally, the Fund may be brought in at virtually any time. The entirety of any Award is assessed against the Fund in such cases. A right of action against the employer then is given to the Fund by the statutes. Criminal sanctions are also available for willfull failure to obtain insurance.

The third category, reimbursement cases, account for a small part of the Fund's budget. Employers and insurance carriers may be reimbursed from the Fund for amounts paid pursuant to an Order later judicially reversed. This right is provided by the statutes. Certification by the Director of Workers' Compensation is the only prerequisite to Fund liability.

To administer the Fund, the Commissioner contracts with approximately forty attorneys throughout the state, who serve as defense counsel. Cases are assigned on a geographic basis to the attorneys, almost all of whom have extensive experience in workers' compensation.

At present, the Fund is involved in approximately 2300 open cases, and is brought into about 120 new cases each month.

KANSAS WORKMEN'S COMPENSATION FUND

Prepared by the Kansas Insurance Department

CASE LOAD SCHEDULE

Description	<u>FY 1981</u>	<u>FY 1982</u>	<u>FY 1983</u>	<u>FY 1984</u>	<u>FY 1985</u>
Total Number of Impleadings	828	916	1,018	1,194	1,260
Total Number of Closed Cases	448	559	1,054	1,127	959

RECEIPTS ANALYSIS

	<u>FY 1981</u>	(% of <u>Total</u>)	<u>FY 1982</u>	(% of <u>Total</u>)	<u>FY 1983</u>	(% of <u>Total</u>)	<u>FY 1984</u>	(% of <u>Total</u>)	<u>FY 1985</u>	(% of <u>Total</u>)
Assessment Receipts	\$ -0-	(0 %)	\$ 833,817.16	(18.87%)	\$3,298,784.56	(54.37%)	\$ 7,311,025.79	(62.83%)	\$ 7,850,887.88	(64.5 %)
General Fund Entitlement	1,799,457.00	(39.96%)	3,047,776.00	(68.97%)	2,642,346.00	(43.55%)	4,000,000.00	(34.38%)	4,000,000.00	(32.84%)
Non-Dependent Death Receipts	98,600.00	(2.18%)	25,000.00	(.57%)	72,000.00	(1.19%)	262,050.00	(2.25%)	148,000.00	(1.21%)
Miscellaneous Reimbursements	26,812.44	(.60%)	16,395.49	(.37%)	51,127.26	(.84%)	51,718.30	(.44%)	19,232.95	(.15%)
TOTAL RECEIPTS	1,924,869.44		3,922,988.65		6,064,257.82		11,624,794.09	(99.9 %)	12,017,120.83	(98.70%)
Previous Year Carryover Balance	2,578,528.11	(57.26%)	495,713.33	(11.22%)	2,803.24	(.05%)	10,558.52	(.09%)	164,206.60	(1.35%)
TOTAL FUNDS AVAILABLE	\$4,503,397.55	(100%)	\$4,418,701.98	(100%)	\$6,067,061.06	(100%)	\$11,635,352.61	(100%)	\$12,181,327.43	(100%)

EXPENDITURE ANALYSIS

	<u>FY 1981</u>	<u>(% of Total)</u>	<u>FY 1982</u>	<u>(% of Total)</u>	<u>FY 1983</u>	<u>(% of Total)</u>	<u>FY 1984</u>	<u>(% of Total)</u>	<u>FY 1985</u>	<u>(% of Total)</u>
Disability Compensation	\$3,298,917.38	(82.32%)	\$3,456,486.40	(78.27%)	\$4,820,590.34	(79.60%)	\$ 8,736,880.77	(76.16%)	\$5,493,930.11	(69.35%)
Medical										
Doctors	13,317.27	(.33%)	9,949.53	(.23%)	15,252.55	(.25%)	58,744.35	(.51%)	48,162.40	(.61%)
Hospital	48,120.09	(1.21%)	29,661.29	(.67%)	49,116.74	(.81%)	153,187.44	(1.34%)	65,186.21	(.82%)
Drugs	1,127.68	(.03%)	2,566.68	(.06%)	3,792.08	(.06%)	4,962.20	(.04%)	3,884.55	(.05%)
Misc. (braces ect.)	855.64	(.02%)	1,685.37	(.04%)	2,139.02	(.04%)	1,015.45	(.00%)	1,348.34	(.02%)
Other Services (mileage, ect.)	2,834.00	(.07%)	272.72	(.00%)	3,750.78	(.06%)	2,548.10	(.02%)	1,372.91	(.02%)
Reimbursements to Insurance Co. (K.S.A. 44-569(a) and 44-569)	216,909.00	(5.41%)	298,889.41	(6.77%)	345,295.88	(5.70%)	1,223,334.91	(10.66%)	873,947.32	(11.03%)
Attorneys Fees	397,307.59	(9.91%)	580,793.70	(13.15%)	773,043.30	(12.76%)	1,181,851.28	(10.30%)	1,211,693.67	(15.30%)
*Court Costs			21,148.72	(.48%)	32,935.21	(.54%)	93,621.51	(.82%)	102,817.46	(1.30%)
Depositions, Medical Reports etc.	26,495.57	(.66%)	14,444.92	(.33%)	10,586.64	(.18%)				
Refunds (non-dependent death cases)	<u>1,800.00</u>	<u>(.04%)</u>	<u>-0-</u>	<u>(.00%)</u>	<u>-0-</u>	<u>(.00%)</u>	<u>15,000.00</u>	<u>(.13%)</u>	<u>-0-</u>	<u>_____</u>
Other Operating Expenses									<u>119,518.93</u>	<u>(1.51%)</u>
TOTAL EXPENDITURES	\$4,007,684.22	(100%)	\$4,415,898.74	(100%)	\$6,056,502.54	(100%)	\$11,471,146.01	(100%)	\$7,921,861.90	(100%)

*Court Costs and Deposition fee categories were combined in FY 1981 & 1984.

WORKERS' COMPENSATION REPORT FOR DECEMBER, 1985

TO: CHRIS COWGER, ATTORNEY
 FROM: VERLENE EVANS, ACCOUNTANT

WORKERS' COMPENSATION FUND BALANCE	6,663,542.05
DEPOSITS	20,133.06
COMPENSATION	497,056.20
MEDICAL EXPENDITURES	81,767.88
COURT REPORTING EXPENDITURES	11,778.62
ATTORNEY'S FEES EXPENDITURES	115,173.40
OTHER OPERATING EXPENSES	9,004.93
REFUND	-0-
BALANCE ON DECEMBER 31, 1985	5,968,894.08
TOTAL WORK COMP DECEMBER EXPENSES	705,776.10
YTD LUMP SUM PAYMENTS	1,646,367.35
OTHER OPERATING EXPENSE LIMITS	129,980.00
EXPENSES TO DATE	47,822.01
BALANCE	82,157.99
86 YTD COMPENSATION EXPENDITURES	2,864,665.30
86 YTD MEDICAL EXPENDITURES	467,458.99
86 YTD COURT REPORTING EXPENDITURES	54,369.21
86 YTD ATTORNEY'S FEES EXPENDITURES	569,812.91
86 YTD OTHER OPERATING EXPENSES	47,822.01
86 YTD REFUND	18,500.00
86 YTD ALL EXPENDITURES	4,022,628.42
86 BEGINNING BALANCE	4,259,465.53
86 APPROPRIATION	4,000,000.00
86 YTD DEPOSITS	1,732,056.97
86 YTD EXPENDITURES	4,022,628.42
DECEMBER 31, 1985 FUND BALANCE	5,968,894.08

NEW CASES FOR DECEMBER

NON-DEPENDENT DEATH 8
 INSOLVENT EMPLOYER 4
 REIMBURSEMENT 1
 SECOND INJURY 107
 NEW CASES 120

NEW CASES YTD

NON-DEPENDENT DEATH 15
 INSOLVENT EMPLOYER 22
 REIMBURSEMENT 3
 SECOND INJURY 709
 NEW CASES 749

CLOSED CASES FOR DECEMBER

NON-DEPENDENT DEATH 1
 INSOLVENT EMPLOYER 2
 REIMBURSEMENT 0
 SECOND INJURY 68
 CLOSED CASES 71

CLOSED CASES YTD

NON-DEPENDENT DEATH 5
 INSOLVENT EMPLOYER 10
 REIMBURSEMENT 3
 SECOND INJURY 374
 CLOSED CASES 392