

Approved

Arthur Douville 4-7-87
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry

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

9:09 a.m./~~p.m.~~ on March 26, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Ann Donaldson, Research Department
Jim Wilson, Revisor of Statutes' Office
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

An addendum to the agenda for Thursday, March 26, 1987, was distributed to each committee member March 25, 1987, and posted on the 3rd and 5th floor bulletin boards, attachment # 1.

The chairman requested that Jim Wilson distribute copies of the additional proposed amendments to H.B. 2573 to the committee, attachment # 2. Also given to each member was a copy of a letter from Representative Mike O'Neal with suggestions for amending H.B. 2573, attachment # 3.

Committee discussion followed with several questions being asked of conferees from the meetings of March 24 and March 25, 1987.

Representative Hensley made a motion to table S.B. 112. Representative Roper seconded. Representative Mead asked for a point of discussion and clarification. Representative Mead stated that even though it was his first term, it was his understanding the history of the bill was that it had been attempted many times before and suggested it was time to deal with it rather than table it. The chairman asked for a show of hands in favor of tabling the motion and those opposing the motion. The motion failed.

Chairman Douville commented that although there is a limited amount of time in a committee in which to deal with discussion on a bill, once it reaches the floor of the house, there is unlimited debate. He expressed the hope that everyone, particularly those on the committee, would understand time or opportunity to be heard was not being shortened.

Representative Acheson moved that S.B. 112 be reported favorably for passage. It was seconded by Representative Miller. After a voice vote, division was called for by Representative Hensley. A count was taken for yeas and then for nays. The motion carried. Representatives Hensley, Cribbs, Dillon, Gjerstad, Green, Roper and Webb asked to be recorded as opposed to the motion.

The chairman stated that the next bill, H.B. 2342, had previously received a hearing and discussion before the committee and been voted as favorable for passage. The bill had not been brought to the floor for debate and was rereferred to the committee. He then deferred to Representative Acheson, one of the sponsors of the bill.

Representative Acheson stated that since the bill had passed out of committee once and should be on the floor of the house for debate, he moved the bill be reported favorably for passage. The second was by Representative Buehler. The motion passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry,
room 526-S, Statehouse, at 9:09 a.m./~~p.m.~~ on March 26, 1987

The committee's attention was drawn to a letter by Representative Mike O'Neal regarding additional proposed amendments to H.B. 2573. He was asked by the chairman to review the changes.

The first changes appear on page 3 of the bill beginning on line 0109. The purpose of this change is to make a closed in referral and evaluation process and to eliminate the gap in the time allowed to determine whether vocational rehabilitation will occur. Also affected is the plan being submitted to the director and addressing the issue of temporary total disability payments. Additionally addressed is the issue of an individual with a scheduled injury severe enough to qualify for the sixth priority (line 0107). A "safety valve" is involved in allowing for additional temporary total disability benefits beyond the schedule in the statute.

Committee discussion centered around vocational evaluation and rehabilitation and the preliminary hearing. In order to make clearer the intention of the committee, Representative Whiteman proposed adding the following to her amendment of March 25, 1987,: insert "any issues on vocational rehabilitation will be in accordance with and subject to K.S.A. 44-510g".

Representative O'Neal made a motion to adopt the balloon version and Representative Whiteman's amendment into H.B. 2573. Representative Patrick seconded the motion which passed. (This also includes a technical "cleanup" pointed out by Representative Whiteman which would eliminate the word "that" used in several places in the bill but would not alter the intent of the bill in any way.)

Mr. Morrissey had a question about the stricken language on page 3 of the balloon version where the word "coordinator" is stricken. He asked if it were the intent of the committee that the position of coordinator be eliminated. The chairman responded that it was not. Chairman Douville directed this to be reflected in the minutes that the use of the term "administrator" was being used for consistency of language in the bill and used as an example the word, "director", which could also mean the administrative law judge.

Representative Buehler made a motion that H.B. 2573, as amended, be reported favorably for passage. Representative Acheson seconded the motion which passed unanimously.

Attachment # 4 is a response from Kathy Marney to Representative Whiteman's question at the March 25, 1987, meeting of the committee.

The meeting was adjourned at 9:55 a.m.

The next meeting will be March 27, 1987, at 9:00 a.m.

HOUSE COMMITTEE
ON
LABOR AND INDUSTRY

Name	GUEST LIST City	DATE <u>March 26, 1987</u> Representing
Bill Clawson	TOPEKA	DHR
Rob Hodges	Topeka	KCCI
Bill Morrissey	Topeka	DHR/Work Comp
Wayne Maiches	Top	Ks. AFL-CIO
Mark Beshear	Topeka	KCCI
Stu En	"	ABC
Ron Henderson	"	ABC
Harry W. Nelson	Wichita	Ks. AFL-CIO
Frankie Muller	Topeka	Local 101 Operating Empl
Jim Hastings	Beryston, Ks	Local 10 Ironworkers
Pouch Alcala	Oshawa, Ks	Ranier's LU 20-20 B
Richard Thomas	TOPEKA	SRS/REITARS SERVICES
Ray Petty	Topeka	KACEH/DHR
Glenn Coulter	Topeka	Ks. Contractors Assoc
D. WAYNE ZIMMERMAN	TOPEKA	THE KANSAS CONTRACTORS ASSOC
JANET STUBBS	"	HBAK
Leroy Jones	Overland Park	B. L. E.
RON CALBERT	NEWTON	U. J. U.
Jim Lettuff	Topeka	KS AFL-CIO
Kathy Manney	Topeka	MCAK
Jerry Powell	"	KDHR
Skip Heed	"	KDHR
Jack Mijon	Topeka	Sheet Metal Local #17
MEVIN ROBERTSON	TOPEKA	Ks. CONSULTING ENG.
George Barber	Topeka	Ks Consulting Eng's

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

A D D E N D U M

TO

A G E N D A

for

Thursday, March 26, 1987

Discussion and Possible Action on: S.B. 112 - An Act concerning hours and prevailing area wages for public work, repealer

Representative Arthur Douville, Chairman

Attachment #1
March 26, 1987
House Labor and Industry

ARTHUR DOUVILLE
REPRESENTATIVE, TWENTIETH DISTRICT
JOHNSON COUNTY
9600 WOODSON
OVERLAND PARK, KANSAS 66207-2844

COMMITTEE ASSIGNMENTS
CHAIRMAN: LABOR AND INDUSTRY
MEMBER: JUDICIARY
LOCAL GOVERNMENT

3/26/87

Attachment #2
House Labor and Industry
March 26, 1987

0083 own motion or upon application of the employee or employer,
0084 and after affording the parties an opportunity to be heard and to
0085 present evidence any party, may refer the employee to a quali-
0086 fied physician or qualified public agency, if the employee is
0087 eligible, or private agency or facility, or the employer's rehabil-
0088 itation service program, if qualified, for evaluation and for a
0089 report of the practicability of, need for, and kind of service,
0090 treatment, training or rehabilitation which is or may be necessary
0091 and appropriate to render such employee fit for substantial and
0092 gainful employment able to perform work in the open labor
0093 market and to earn comparable wages. The costs of such evalu-
0094 ation and report shall be at the expense of the employer. Each
0095 report shall contain a rehabilitation plan which shall adhere to
0096 the following priority listing of rehabilitation goals:

0097 (A) The first priority is to return the employee to the same
0098 work for the same employer;

0099 (B) the second priority is to return the employee to the same
0100 work, with accommodation, for the same employer;

0101 (C) the third priority is to return the employee to other work,
0102 with or without accommodation, for the same employer;

0103 (D) the fourth priority is to return the employee to the same
0104 work for another employer;

0105 (E) the fifth priority is to return the employee to other work
0106 for another employer; and

0107 (F) the sixth priority is to provide vocational rehabilitation,
0108 reeducation and training.

0109 (2) Within ~~30~~ days after such referral, the report shall be
0110 submitted to the rehabilitation administrator. ~~Within 10 days~~
0111 ~~after receipt by the rehabilitation administrator, the rehabili-~~
0112 ~~tation administrator shall assign a rehabilitation coordinator to~~
0113 ~~review the report.~~ If all parties do not agree with the report, the
0114 rehabilitation ~~coordinator~~ shall confer with the rehabilitation
0115 service provider, the employee and the employer to review the
0116 evaluation and the proposed rehabilitation plan in the report.
0117 The rehabilitation ~~coordinator~~ shall ensure that the evaluation
0118 and the rehabilitation plan are objective and reasonable and
0119 that the rehabilitation goal is reasonably obtainable. Within ~~10~~ ¹⁵

50

and reviewed by

and copies shall be furnished to each party

administrator

20

0120 days after ~~such~~ review ~~(and approval)~~ of the report, the rehabilita-
0121 tion ~~coordinator~~ shall deliver copies of the ~~approved~~ report,
0122 ~~including any revisions of the rehabilitation plan, to each party,~~
0123 ~~to the ~~rehabilitation administrator~~ and to the assigned admin-~~
0124 ~~istrative law judge, if there is one. Upon receipt of such report,~~
0125 ~~and after~~ affording the parties an opportunity to be heard and
0126 present evidence, the director:
0127 (1) (A) May order that any treatment, or medical and physical
0128 rehabilitation, as recommended in the report or as the director
0129 may deem necessary, be provided at the expense of the em-
0130 ployer;
0131 ~~(2) (B)~~ where the employee is unable to engage in any type of
0132 substantial and gainful employment, and vocational rehabilita-
0133 tion, reeducation or training is recommended in the report, or is
0134 deemed necessary by the director to restore to the employee to
0135 some type of substantial and gainful employment, the director
0136 the ability to perform work in the open labor market and to earn
0137 comparable wages, may direct the employee to the appropriate
0138 federal, state or other public facility or agency where such
0139 services will or may be provided at no cost to the employer,
0140 except as hereinafter otherwise provided in this section, or,
0141 upon the request of the employer, to a qualified rehabilitation
0142 service program provided directly by the employer; and
0143 (3) ~~(C)~~ if the employee is not eligible for such vocational
0144 rehabilitation, reeducation or training through any such state,
0145 federal or other public facility or agency, or where such services
0146 through such facilities or agencies are not available to the em-
0147 ployee within a reasonable period of time, the director may order
0148 that such services be provided at the expense of the employer at
0149 by any qualified private agency or facility in this state or any
0150 state contiguous to this state or by a qualified rehabilitation
0151 service program provided directly by the employer.
0152 ~~(3) Except as otherwise provided by this section, the em-~~
0153 ~~ployer shall pay temporary total disability compensation, com-~~
0154 ~~puted as provided in K.S.A. 44-510c and amendments thereto,~~
0155 ~~during the period of vocational rehabilitation evaluation and~~
0156 ~~continuing until the rehabilitation plan is approved as provided~~

the initial

administrator

together with the rehabilitation administrator's recommendations and any revisions of or objections to

Within 10 days after receipt of such report, any party may request a hearing before the director on any matter contained in the report or any such recommendations or revisions. After

(B) may order that the employer pay temporary total disability compensation, computed as provided in K.S.A. 44-510c and amendments thereto, or temporary partial disability compensation, computed as provided in K.S.A. 44-510e and amendments thereto, during the period of rehabilitation evaluation and continuing through the date the rehabilitation plan was delivered to the director as provided in subsection (e) (2). Temporary total or temporary partial disability compensation paid solely because of involvement in the rehabilitation evaluation process shall not be payable for more than 70 days from the date of the evaluation, except that such temporary total or temporary partial disability compensation may be continued by the director for an additional period of not more than 30 days if circumstances outside the control of the employee prevents completion of the evaluation or the formulation of the rehabilitation plan;

0157 ~~[in subsection (e)(2). Temporary total compensation paid solely~~
 0158 ~~because of involvement in the vocational rehabilitation evalua-~~
 0159 ~~tion process shall not be payable for more than 120 days from~~
 0160 ~~the date of referral by the rehabilitation administrator, except~~
 0161 ~~that such temporary total compensation may be continued by~~
 0162 ~~the rehabilitation administrator for an additional period of not~~
 0163 ~~more than 30 days if circumstances outside the control of the~~
 0164 ~~employee prevents completion of the evaluation or the formu-~~
 0165 ~~lation or approval of the rehabilitation plan. The first 10 weeks~~
 0166 ~~during which temporary total disability compensation is paid~~
 0167 ~~during vocational rehabilitation evaluation shall be deducted~~
 0168 ~~from the maximum number of weeks available for the payment~~
 0169 ~~of disability compensation under the schedule provided in~~
 0170 ~~K.S.A. 44-510d and amendments thereto.]~~

0171 ~~(4)~~ Any such services vocational rehabilitation, reeducation
 0172 or training to be provided at the expense of the employer under
 0173 this paragraph (3); subsection (e)(2) shall not extend for a period
 0174 of more than 26 weeks, except that in extremely unusual cases,
 0175 after a hearing and the presentation of evidence, the director, by
 0176 special order, may extend the period for not more than an
 0177 additional 26 weeks. The employer shall have a right to appeal to
 0178 the district court any such special order by the director for any
 0179 extension of the initial twenty-six-week period, within the time
 0180 and in the manner provided in K.S.A. 44-556, and amendments
 0181 thereto; and any such special order shall be stayed until the
 0182 district court has determined the appeal. There shall be no right
 0183 of appeal to the Kansas supreme court or court of appeals from a
 0184 judgment of the district court sustaining or overruling any such
 0185 special order of the director.

0186 (f) Where vocational rehabilitation, reeducation or training is
 0187 to be furnished at the expense of the employer under this
 0188 section, and such services require that the employee reside at or
 0189 near a facility or institution, away from the employee's customary
 0190 county of residence, either in or out of the state of Kansas, the
 0191 reasonable costs of the employee's board, lodging and travel, not
 0192 to exceed a maximum total of \$2,000 \$3,500 for any twenty-six-
 0193 week period, shall be paid by the employer, except that, in

(3)

0194 unusual cases where, after a hearing and the presentation of
0195 evidence the director finds that the costs are clearly reasonable
0196 and necessary, the director may require by special order that the
0197 employer pay an additional amount for the costs of the em-
0198 ployee's board, lodging and travel, of not more than \$1,000
0199 \$2,000.

0200 (g) The employer shall pay temporary total disability com-
0201 pensation during any period of vocational rehabilitation, reedu-
0202 cation or training, computed as provided in K.S.A. 44-510c and
0203 amendments thereto, but the employer shall receive credit for
0204 any weekly, monthly or other monetary payments made to the
0205 employee or such employee's family by any state, federal or
0206 other public agency during any such period, exclusive of any
0207 such payments for the board, lodging and travel expenses of the
0208 employee. A

0209 (h) The director shall cooperate with federal, state and other
0210 public or private agencies for vocational rehabilitation, reeduca-
0211 tion or training, or medical or physical rehabilitation. The em-
0212 ployer shall not be required to pay the reasonable costs of the
0213 employee's board, lodging and travel where such costs are borne
0214 by any federal, state or other public agency, nor shall any costs
0215 for vocational rehabilitation, reeducation or training be assessed
0216 to the employer if such vocational rehabilitation, reeducation or
0217 training is in fact furnished by and at the expense of any federal,
0218 state or other public agency.

0219 (i) Whenever the director determines that there is a reason-
0220 able probability that with appropriate medical, physical or voca-
0221 tional rehabilitation or, reeducation or training, a person, who is
0222 entitled to compensation for permanent total disability, partial
0223 disability, or any other disability under the workmen's workers
0224 compensation act, may be rehabilitated to the extent that such
0225 person can become substantially and gainfully employed or
0226 increase such person's earning capacity, able to perform work in
0227 the open labor market and to earn comparable wages and that it
0228 is for the best interests of such person to undertake such reha-
0229 bilitation or, reeducation or training, if the injured employee
0230 without good cause refuses to undertake the rehabilitation, edu-

Subject to a maximum of 26 weeks, the number of weeks during which temporary total disability compensation is paid during vocational rehabilitation, reeducation or training shall not be deducted from the maximum number of weeks available for the payment of disability compensation under the schedule provided in K.S.A. 44-510d and amendments thereto.

0231 cational or training program determined by the director to be
0232 suitable for such employee; or refuses to be evaluated under the
0233 provisions of subsection (e); *and the refusal is not due to the*
0234 *employee's physical or mental ability to do so, the employee*
0235 *shall be considered as having elected not to participate in such*
0236 *rehabilitation, reeducation or training and the director shall*
0237 *may suspend the payment of any disability compensation until*
0238 *the employee consents to undertake such program or to be so*
0239 *evaluated; and. The director shall ~~cancel~~ may reduce the dis-*
0240 *ability compensation otherwise payable if any such refusal per-*
0241 *sists for a period in excess of 90 days, except that disability*
0242 *compensation shall not be reduced to less than that payable for*
0243 *permanent partial disability in accordance with K.S.A. 44-510d*
0244 *and amendments thereto, ~~less any weeks of compensation de-~~*
0245 *ducted as provided in subsection (e)(3), or for permanent partial*
0246 *general disability for functional impairment in accordance with*
0247 *K.S.A. 44-510e and amendments thereto.*

0248 (j) At such time as any medical, physical or vocational reha-
0249 bilitation ~~or~~, reeducation or training has been completed under
0250 this section, the employer shall have the right, by the filing of an
0251 application with the director, to seek a modification of any award
0252 which has been rendered granting any compensation to the
0253 employee for any disability. Upon at least 20 days' notice by
0254 registered mail to all parties, the director shall set the application
0255 for hearing and the parties shall present all material and relevant
0256 evidence. In the event that the director determines that the
0257 employee is rehabilitated ~~medically, physically or vocationally,~~
0258 so that such employee is able to engage in substantial and gainful
0259 employment *perform work in the open labor market and to earn*
0260 *comparable wages*, the director shall ~~cancel~~ modify any award of
0261 compensation for temporary total ~~or permanent total disability,~~
0262 subject to review and modification pursuant to K.S.A. 44-528 and
0263 amendments thereto; and shall modify any existing award of
0264 partial disability; or, if no such award has been made, the
0265 director shall make an award of partial disability; to reflect only
0266 such partial disability, if any, as exists at the conclusion of such
0267 rehabilitation, reeducation ~~or training~~. Any award of partial dis-

STATE OF KANSAS

MICHAEL R. (MIKE) O'NEAL
REPRESENTATIVE, 104TH DISTRICT—HUTCHINSON
RENO COUNTY
P O BOX 1868
HUTCHINSON, KANSAS 67504-1868



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN JUDICIARY
MEMBER LABOR AND INDUSTRY
PUBLIC HEALTH AND WELFARE

MEMORANDUM

TO: LABOR & INDUSTRY COMMITTEE
FROM: REPRESENTATIVE MICHAEL R. O'NEAL
DATE: MARCH 23, 1987
RE: PROPOSED AMENDMENTS TO HB 2573

I recommend that we amend HB 2573 regarding Vocational Rehabilitation as follows:

By striking all of lines 0109 through 0170 and inserting the following:

(2) within 50 days after such referral, the report shall be submitted to and reviewed by the Rehabilitation Administrator and copies furnished to each party. If all parties do not agree with the report, the Rehabilitation Administrator shall confer with the rehabilitation service provider, the employee, and the employer to review the evaluation and the proposed rehabilitation plan in the report. The Rehabilitation Administrator shall ensure that the evaluation and the rehabilitation plan are objective and reasonable and that the rehabilitation goal is reasonably obtainable. Within 20 days after the initial review of the report, a Rehabilitation Administrator shall deliver copies of the report, together with his recommendations and including any revisions or objections to the rehabilitation plan, to each party, the director and to the assigned administrative law judge, if there is one. Upon receipt of such report, and after affording the parties an opportunity to be heard and to present evidence, the director:

(A) may order that any treatment, or medical and physical rehabilitation, as recommended in the report or as the director may deem necessary, be provided at the expense of the employer;

(B) may order that the employer pay temporary total disability compensation, computed as provided in K.S.A. 44-510(c) and amendments thereto or temporary partial disability compensation, computed as provided in K.S.A. 44-510(e) and amendments thereto, during the period of rehabilitation evaluation and continuing through the date the rehabilitation plan was delivered to the director as provided in subsection (e)(2). Temporary total or temporary partial compensation paid solely because of involvement in the rehabilitation evaluation process shall not be payable for more than 70 days from the date of the evaluation, except that

Attachment #3
House Labor & Industry
March 26, 1987

such temporary total or temporary partial compensation may be continued by the director for an additional period of not more than 30 days if circumstances outside the control of the employee prevents completion of the evaluation or the formulation of the rehabilitation plan.

Subsection (B) appearing at line 0131 in HB 2573 should be re-lettered (C) and subsection (C) appearing in HB 2573 at line 0143 should be re-lettered to (D). Subsection (4) at line 0171 in HB 2573 should be re-numbered (3).

Further, by adding after the period in line 0208 in HB 2573 the following:

Subject to a maximum of 26 weeks, the number of weeks during which temporary total disability compensation is paid during vocational rehabilitation, reeducation or training, shall not be deducted from the maximum number of weeks available for the payment of disability compensation under the schedule provided in K.S.A. 44-510d and amendments thereto.

MECHANICAL CONTRACTORS *Association of Kansas, Inc.*

Phone 913-354/1130

500 Kansas Avenue, Topeka, Kansas 66603

MECHANICAL CONTRACTORS
ASSOCIATION

MCAK

OF KANSAS

Kathy J. Marney, Executive Director

March 26, 1987

S.B. 112 Repeal of Prevailing Wage

Regarding the question asked by Representative Whiteman

How much Federal monies are involved in state projects?

These figures were given to me by the following Departments:

Kansas Department of Transportation - Division of Planning and
Development

These figures are taken from the 1986 fiscal year.

Federal money involved on state projects	\$103,000,000
State money involved with the Federal money	<u>27,000,000</u>
Total projects with Federal money involved	\$130,000,000
Projects with State money only involved	\$ 62,000,000

Kansas Department of Architectural Services

Upcoming projects to be bid for 1987

There is only one project with Federal money involved, this project is the Human Development Center at Kansas University. It is 100% Federally Funded.

	\$12,000,000
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Projects to be bid this year with State money only	\$36,233,000
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In House projects such as repairs	\$ 6,000,000
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Very little of this money is used on Federal projects.

Respectfully submitted,

Kathy J. Marney
Kathy J. Marney
Executive Director

Attachment #4
House Labor and Industry
March 26, 1987