

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley
Chairperson

9:05 a.m./p.m. on February 20, 1992 in room 526-S of the Capitol

All members were present except:

Committee staff present:

Jerry Donaldson, Pincipal Analyst
Jim Wilson, Revisor of Statutes
Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

Rep. Michael R. O'Neal

The meeting was called to order at 9:05 a.m., by the chairman, Rep. Anthony Hensley.

Chairman Hensley entertained a motion to approve the minutes of previous committee meetings. Rep. Tim Carmody moved to approve the minutes of the February 10, 11, 12 and 13, 1992 meetings. The motion was seconded by Rep. Jack Sluiter. Motion carried.

The chairman announced that the hearings would continue on House Bill No. 3023. He introduced Rep. Michael R. O'Neal, author and primary co-sponsor of the bill.

Rep. O'Neal continued to answer questions from committee members regarding his written testimony in support of the bill (attachment #1). The questions asked to Rep. O'Neal dealt with various issues. Rep. Diane Gjerstad asked if the Legislature was able to obtain accurate data from the National Council on Compensation Insurance (NCCI). He responded that he believed Ron Todd, Kansas Insurance Commissioner, has been able to get NCCI's attention on this issue and that more reliable data will be forthcoming. Rep. Arthur Douville questioned whether the proposed bill addressed the problems of safety in the workplace. Rep. O'Neal acknowledged the bill does not deal with safety. He also stated that safety was a critical issue in decreasing costs.

Chairman Hensley asked Rep. O'Neal how he was able to get NCCI to estimate the bill's potential cost impact. He responded by saying that several insurance industry representatives have worked with him to obtain this information. Rep. Hensley asked several questions related to the legislative intent of 1987 House Bill No. 2186. Rep. O'Neal stated that the major problems with the 1987 act were the Supreme Court's interpretation of "work disability" in the Hughes decision and the unanticipated high costs associated with vocational rehabilitation. Also in response to Rep. Hensley's questions, he said that he hoped the House and Senate committees would work together to enact meaningful workers' compensation reform this session.

The chairman announced that the committee would have a joint meeting with the Senate Labor, Industry and Small Business Committee on Wednesday, March 4, 1992, 1:00-2:30 p.m., in the old Supreme Court room, 313-South. He said the purpose of this joint meeting would be to hear testimony by Mike Taylor, representing NCCI, who will discuss NCCI's rate-setting system. He also announced that after first consulting with Rep. Al Lane, ranking minority member, he would appoint a subcommittee to hear further testimony and make recommendations to the full committee regarding changes in the workers' compensation law.

The meeting was adjourned at 9:58 a.m.

GUEST LIST

COMMITTEE: House Labor & Industry

DATE: Feb. 20, 1992

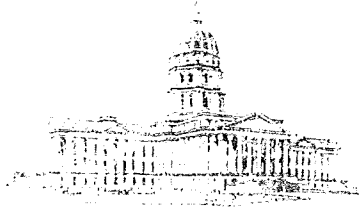
NAME	ADDRESS	COMPANY/ORGANIZATION
Whitney B. Jamon	Topeka	Pete McGill Associates
Art Brown	KCC	KS LPA Dealers
Terry Leatherman	Topeka	RCCI
FRANCES Kastner	Topeka	Ks Food Dealers Assn
Brad Smart	"	AIA
Hubert Mason	"	KTLA
R.D. Frey	"	KTLA
Bill Curtis	Topeka	Ks. Assoc. of School Bds
James A. Judd	Wichita	KSFFA
ALAN COBB	Wichita	KS Assoc For Small Bus
David Hryhlik	Topeka	KS Dental Assn
Joe Furjanc	Topeka	KCA
GEORGE PACKETT	Wich/Top	KRHA
George Welch	Topeka	St. Self Ins. Fund
RICHARD THUMBS	TOPEKA	DHR/WORK COMP
WILLIAM MORRISSES	TOPEKA	DHR/WORK COMP
Steve Jones	Wichita	Boeing
Christopher Dean	Emporia	Imber/Rep. Carney
Steve Fost	Topeka	KS DHR
John M. Ostrowski	Topeka	AFL-CIO

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

MICHAEL R. (MIKE) O'NEAL

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OFFICE OF MINORITY WHIP

H.B. 3023 Workers' Compensation Reform Act

February 18, 1992

House Labor & Industry Committee

Chairman Hensley, and members of the Committee:

I appreciate very much the opportunity to appear before you today to explain the provisions of H.B. 3023, a comprehensive revision of the Kansas Workers' Compensation Act. As a former member of this committee it wasn't that long ago that I participated in the compromise that substantially revised the Workers' Compensation Act in 1987.

Like most every member of this committee, I'd rather not be here today discussing another reform bill. It is certainly not out of a desire to arbitrarily reduce benefits that I am proposing this package. Instead, the need for this bill follows the latest round of workers' compensation rate increases, and is in anticipation of the requested rate increases that will be announced by NCCI shortly.

The need for the 1987 legislation was created, among other reasons, by court interpretations of our act that a majority of the legislature believed were too liberal. That liberality was reflected in the spiralling costs of obtaining workers' compensation insurance. As a result of the 1987 legislation, we were able to work with the Kansas Commissioner of Insurance's office in convincing NCCI that the Kansas legislative environment was now favorable and that environment should be recognized by holding down rate increases. Based on the legislation, NCCI, against its better judgment, repriced the package and the Commissioner held off substantial rate increases.

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*Labor & Industry
2-20-92
attachment #1*

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Actual experience, however, since the legislation went into effect, has been disappointing, due, primarily, to continued liberal interpretation of the act and much greater than anticipated costs of vocational rehabilitation. As a result of these factors, NCCI requested increased rates last year of over 30% and the Commissioner was compelled by the numbers to approve average rate increases of 24%. The actual percentage increases for many Kansas businesses was much higher.

Nothing has occurred in the past year to change this trend and, consequently, it is expected that NCCI will be requesting another rate increase of around 30% for this year. In all, the Insurance Commissioner's approved rates are about 49% under the cumulative rates NCCI believes are necessary to adequately fund anticipated losses and this largely accounts for the fact that insurers are losing about \$1.21 for every \$1.00 of premium written. This trend can not continue without either forcing businesses to close or insurers to leave the state. As the Director of Workers' Compensation will quickly point out, having all businesses self-insure is not the answer, and the experience of state operated funds is nothing short of scary.

The rate increase of last year alone generated more funds than total premiums written 15 years ago. The problem is not limited to Kansas. Nearly every legislature in the nation has been struggling with the problem and has either recently addressed workers' compensation reform or are in the process. Our own Sen. Alicia Salsbury chairs a blue-ribbon task force on workers' compensation through the National Council of State Legislatures. I have had the pleasure of meeting with her committee in Orlando, Florida this past summer and in Portland, Maine last fall, and many of the proposals contained in H.B. 3023 came out of those meetings.

If we are to keep the workers' compensation system afloat in Kansas, we are going to have to respond by reducing costs that drive up premiums. While it would be easy to accomplish this by simply reducing benefits across the board, such a move is neither fair nor necessary. It is possible to address the affordability crisis by focusing on particular types of claims without affecting the typical, straightforward claims of injured workers. The premise of this reform bill is that cost savings can be achieved by addressing the more questionable claims while leaving traditional claims alone.

One disadvantage of having hearings on this bill this soon is that we are in the process of having NCCI "price" this legislation to determine its potential impact on rates. It's important that we pass a package of reforms this year that accomplishes premium reduction. This package will do that in a significant way. The exact extent of premium relief remains to be seen. Because substantive changes will apply only to injuries occurring after July 1, 1992, real premium relief will not be realized this year, but that is why that it is even more critical that we not delay passing these needed reforms. Failure to act positively on this package this session will not put us in good favor with our constituents, the businesses and wage-earners in the state.

The workers' compensation crisis has been an election issue in several states with at least one state devoting no less than two special sessions in the same year to the subject. The rate request for this year will come in the middle of this session and the full impact of the rate increases will hit before next fall's elections. I don't think any of us want to have to explain why it was that we knew the increases were coming, had the opportunity to do something about them, but didn't.

Attached is a detailed summary of the bill's contents. There are a number of technical changes and several substantive changes. I'd be happy to answer questions. Thank you.