

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley
Chairperson

9:12 a.m./~~p.m.~~ on February 24, 1992 in room 526-S of the Capitol

All members were present except:

Rep. Cornfield - excused

Rep. Gomez - excused

Rep. Wagle - excused

Committee staff present:

Jerry Donaldson, Principal 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 9:12 a.m., by Committee Vice-chairman, Rep. Darrel Webb.

Vice-chairman Webb stated that the purpose of the meeting was to continue the hearings on House Bill No. 3023. He then introduced the author and primary co-sponsor of the bill, Rep. Michael R. O'Neal.

Rep. O'Neal went through his written summary of the bill (attachment #1) and answered questions from several members of the committee.

The meeting was adjourned at 9:59 a.m.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

MICHAEL R. (MIKE) O'NEAL

104TH DISTRICT

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SUMMARY OF WORKERS' COMPENSATION REFORM BILL

- 1. Provides compensation for injuries and aggravations of pre-existing conditions but eliminates current practice of awarding benefits for pre-existing conditions not caused by work.**
- 2. Prohibits a claimant from accumulating more than 100% disability in a lifetime. Once limit is reached, claimant may continue receiving necessary medical.**
- 3. Requires use of the American Medical Association's Guidelines For The Evaluation of Permanent Impairment to cut down on "dueling doc's" aspect of litigation.**
- 4. Establishes a medically objective definition of permanent total disability and ends practice of considering sociological, educational or economic factors. Permanent total benefits have been awarded for injuries resulting in as little as 25% permanent impairment of function.**
- 5. Provides a cap on "white collar" recoveries where there has been no wage loss, at one-half current limit for permanent partial disability.**
- 6. Allows a waiver of coverage for salaried management-level employees and executives.**
- 7. Amends work disability definition to clarify intent of 1987 Act that work disability does not exist if the employee returns to work for comparable wage and clarifies original intent of the law that there is no two-prong test of disability as suggested by court decisions.**
- 8. Restricts use of \$350 unauthorized medical allowance to treatment only.**
- 9. Adjusts benefits to take into account Social Security and other retirement benefits received at age 65.**
- 10. Terminates vocational rehabilitation at age 65.**

TOPEKA ADDRESS

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Labor & Industry
2-24-92
Attachment #1

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- 11. Clarifies definition of "accident" to disallow compensation for disability developed over time, such as the normal aging process and the stresses of day-to-day living. Many back cases are not the result of an identifiable work-related injury.**
- 12. Makes absolute the current requirement that accidental injuries on the job be reported within 10 days to be compensable.**
- 13. Makes vocational rehabilitation discretionary rather than mandatory and delays the trigger until after the claimant has been released and the employer has determined whether the employee is able to return to work.**
- 14. Prohibits attorneys from taking a fee on vocational rehabilitation benefits.**
- 15. Provides for a credit or refund of benefits from claimant upon a finding of fraud on the part of the claimant.**
- 16. Requires Director to adopt rules establishing plan for approving maximum medical fees. Preserves advisory panel but removes mandate that Director adopt a fee schedule approved by the panel. Places power over fee approval with Director.**
- 17. Allows employer to present evidence at any preliminary where claimant's right to benefits is disputed. Allows appeals to Director.**
- 18. Limits attorney fees to amounts obtained above written offer served on claimant prior to attorney involvement.**
- 19. Requires pretrial conferences to facilitate dispute resolution and settlement.**
- 20. Provides additional defense to employer where employee willfully fails or refuses to follow company policy regarding how a particular task is to be safely performed.**
- 21. Provides objective criteria for disallowing compensation in injuries where there has been alcohol and/or drug involvement.**
- 22. Allows employer involvement in third party suits where employer has subrogation rights. Employer involvement may be considered by the court in assessing attorney fees.**
- 23. Clarifies that employer's subrogation rights will be reduced by % of employer negligence applied against recovery - not damages. Recent case diluted employer's subrogation rights by computing employer set-off using gross damage award instead of actual recovery.**
- 24. Current payroll exemption of \$10,000 is doubled to \$20,000 for mandatory coverage under the act.**

- 25. Places further limits on coverage of out-of-state accidents.**
- 26. Clarifies that social and/or recreational injuries are not covered where employee participation is voluntary and does not involve performance of usual job duties.**
- 27. Provides that medical is to be furnished to "treat" the injury, replacing current "cure and relieve" language. Current language leads to over-utilization of services.**
- 28. Provides procedure for change of physician where Director finds cause for change. Employer picks three from which employee selects one.**
- 29. Limits awards for injuries to more than one scheduled member as the result of a single injury to the schedule - not whole body disability.**
- 30. Allows claimant option to have scheduled injury benefits computed by Claimant's Advisory Office without attorney involvement. If no objection, amount computed becomes award. Claimant's Advisory will advise claimant of rights under the Act upon receipt of report of accident.**
- 31. Prohibits continuation of temporary total benefits upon release to return to light duty unless medical opinion addresses claimant's job duties.**
- 32. Removes repetitive use conditions from the schedule and moves them to occupational disease statute where they once were.**
- 33. Deletes presumptive 40-hour week rule for full-time employees.**
- 34. Ends practice of pyramiding civil penalties for late payment of benefits.**
- 35. Subjects benefits to lien for child support enforcement.**