

Approved: 3/27/96 la
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:10 a.m. on March 18, 1996 in Room 526-S of the Capitol.

All members were present except: Rep. Broderick Henderson - excused
Rep. Gary Merritt - excused
Rep. Candy Ruff - excused
Rep. John Toplikar - excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Bev Adams, Committee Secretary

Conferees appearing before the committee: Tom Slattery, Associated General Contractors

Others attending: See attached list

Committee action on:

SB 372 - An act concerning workers compensation

Bob Nugent offered a proposed substitute bill for **SB 372** which had been gutted by the Senate in the 1995 Session. Several amendments to the bill are shown in the proposed substitute bill draft. Among these changes is the addition of language contained in **HB 2769** - group-funded workers compensation pools permitted to invest in repurchase agreements and **HB 2366** - employer may not require exhaustion of accumulated leave before paying workers compensation benefits. The proposed **Sub SB 372** also includes: a cleanup of language in **SB 649** concerning emergency workers and when they become employees; a clean up of language that causes a conflict between **SB 649** and **SB 650**; and the addition of an amendment concerning the appointment of administrative law judges. (see attachment 1)

A motion was made by Rep. Packer to amend the proposed substitute bill into **SB 372** and to remove the language contained in **SB 372** (as amended by the Senate Committee of the Whole in the 1995 Session), thus becoming **House Sub for SB 372**. Rep. Ballard seconded the motion. The motion passed.

Rep. Presta made a motion to amend **House Sub for SB 372** with an amendment concerning the appointment of administrative law judges. The motion was seconded by Rep. Packer. After discussion the motion and second was withdrawn by Rep. Presta and Rep. Packer. (see Attachment 2)

Chairman Lane called the attention of the committee to an amendment requested by Tom Slattery, Associated General Contractors. It concerns the language in **HB 2769** concerning repurchase agreements and allows group-funded workers compensation pools more options to invest money by including U. S. government backed mutual funds. Mr. Slattery explained his amendment. (see Attachment 3)

Rep. Packer made a motion to amend **House Sub for SB 372** with the amendment suggested by Mr. Slattery. It was seconded by Rep. Geringer. The motion carried.

Rep. Packer made a motion to recommend **House Sub for SB 372** favorably for passage as amended. It was seconded by Rep. Pauls. The motion carried.

A motion was made by Rep. Weber to send the Direct Sellers bill, **SB 664**, back to the Employment Security Advisory Council (ESAC) for their deliberation. It was seconded by Rep. Beggs. The motion carried.

In addition, the amendment to **SB 649** requested by Kathi Slusser (see Attachment 3, March 14, 1996) and added to by Rep. Geringer will also be sent to the ESAC for their approval or disapproval.

Chairman Lane adjourned the meeting at 9:57 a.m. He reminded the committee of the noon ITV conference today at the Landon Building.

The next regular committee meeting is scheduled for March 19, 1996.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE March 18, 1996

NAME	REPRESENTING
PAUL BICKNELL	KDHR
RICHARD THOMAS	KOITA-WORK COMP
Phil Harness	KDHR-Workers Comp.
Wayne Maibue	K AFL-CIO
Melissa Wangmann	Hein Ebert & Weir
Wangmann	KAGE
Ray T. Dretman	Def A DPS
Linda Funk	D & A
Jim Keating	STATE FIRE CHIEFS
James A. Ladd	R5774
JASON PITSEBERGER	KGC
Christy Caldwell	Topeka Chamber of Commerce
Joe Furjanic	KCA
Steve Hengstler	KTLA
Kelly Kuttala	KTLA
Tom Slattery	AGC of KS
TERRY LEATHERMAN	KCCI
ORT BRUNA	MID-M-LUMBERMANS
KEVIN ROBERTSON	KS SELF INSURERS ASSN.

*Bob Mount
3/18/96*

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HOUSE SUBSTITUTE FOR SENATE BILL NO. 372

By Committee on Business, Commerce and Labor

AN ACT concerning workers compensation; amending K.S.A. 12-2622, 44-501 as amended by section 1 of 1996 Senate Bill No. 649, 44-532 as amended by section 7 of 1996 Senate Bill No. 649, 44-586 and K.S.A 1995 Supp. 44-508 as amended by section 3 of 1996 Senate Bill No. 649 and 75-5798 and repealing the existing sections and also repealing K.S.A. 44-532 as amended by section 1 of 1996 Senate Bill No. 650.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-2622 is hereby amended to read as follows:

12-2622. The trustees shall not utilize any of the contributions collected as premiums for any purpose unrelated to the pool. Moneys not needed for current obligations may be invested by the trustees. Such investments shall be limited to bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by any agency or instrumentality thereof; in certificates of deposit in a federally insured bank located in Kansas; or in shares or savings deposits in a federally insured savings and loan association located in Kansas; or in repurchase agreements whereby the principal amount of the agreement represents qualified investments in bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by any agency or instrumentality thereof. Further, the repurchase agreement must be in writing; must have a specific maturity date; must adequately identify each security to which the agreement applies; and must state that in the event of default by the party agreeing to repurchase the securities described in the agreement at the terms contained in the agreement, title to the described securities must pass immediately to the group-funded workers' compensation pool without recourse.

*House Business, Commerce
& Labor Committee
3/18/96 a.m.
Attachment 1*

Section 2. K.S.A. 44-501 as amended by 1996 Senate Bill No. 649 is hereby amended to read as follows: 44-501. (a) If in any employment to which the workers compensation act applies, personal injury by accident arising out of and in the course of employment is caused to an employee, the employer shall be liable to pay compensation to the employee in accordance with the provisions of the workers compensation act. In proceedings under the workers compensation act, the burden of proof shall be on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends. In determining whether the claimant has satisfied this burden of proof, the trier of fact shall consider the whole record.

(b) Except as provided in the workers compensation act, no employer, or other employee of such employer, shall be liable for any injury for which compensation is recoverable under the workers compensation act nor shall an employer be liable to any third party for any injury or death of an employee which was caused under circumstances creating a legal liability against a third party and for which workers compensation is payable by such employer.

~~(c) Except for liability for medical compensation, as provided for in K.S.A. 44-510 and amendments thereto, the employer shall not be liable under the workers compensation act in respect of any injury which does not disable the employee for a period of at least one week from earning full wages at the work at which the employee is employed.~~ The employee shall not be entitled to recover for the aggravation of a preexisting condition, except to the extent that the work-related injury causes increased disability. Any award of compensation shall be reduced by the amount of functional impairment determined to be preexisting.

(d) (1) If the injury to the employee results from the employee's deliberate intention to cause such injury; or from the employee's willful failure to use a guard or protection against accident required pursuant to any statute and provided for the

employee, or a reasonable and proper guard and protection voluntarily furnished the employee by the employer, any compensation in respect to that injury shall be disallowed.

(2) The employer shall not be liable under the workers compensation act where the injury, disability or death was contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or any other compounds or substances, including but not limited to, any drugs or medications which are available to the public without a prescription from a health care provider, prescription drugs or medications, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens. In the case of drugs or medications which are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months. It shall be conclusively presumed that the employee was impaired due to alcohol if it is shown that at the time of the injury that the employee had an alcohol concentration of .04 or more. An employee's refusal to submit to a chemical test shall not be admissible evidence to prove impairment unless there was probable cause to believe that the employee used, possessed or was impaired by a drug or alcohol while working. The results of a chemical test shall not be admissible evidence to prove impairment unless the following conditions were met:

(A) There was probable cause to believe that the employee used, had possession of, or was impaired by the drug or alcohol while working;

(B) the test sample was collected at a time contemporaneous with the events establishing probable cause;

(C) the collecting and labeling of the test sample was performed by a licensed health care professional;

(D) the test was performed by a laboratory approved by the United States department of health and human services or licensed

by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(E) the test was confirmed by gas chromatography, gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample; and

(F) the foundation evidence must establish, beyond a reasonable doubt, that the test results were from the sample taken from the employee.

(e) Compensation shall not be paid in case of coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment.

(f) Except as provided in the workers compensation act, no construction design professional who is retained to perform professional services on a construction project or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injury resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under the workers compensation act, unless responsibility for safety practices is specifically assumed by contract. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(g) It is the intent of the legislature that the workers compensation act shall be liberally construed for the purpose of bringing employers and employees within the provisions of the act to provide the protections of the workers compensation act to both. The provisions of the workers compensation act shall be applied impartially to both employers and employees in cases arising thereunder.

(h) If the employee is receiving retirement benefits under the federal social security act or retirement benefits from any other retirement system, program or plan which is provided by the employer against which the claim is being made, any compensation benefit payments which the employee is eligible to receive under the workers compensation act for such claim shall be reduced by the weekly equivalent amount of the total amount of all such retirement benefits, less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee, but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment.

(i) No employer shall require any employee, who is entitled to receive benefits under the workers compensation act, to use accumulated sick leave, vacation or annual leave, or any other leave of the employee, as a condition precedent to the payment of workers compensation benefit payments pursuant to the workers compensation act by the employer to the employee.

Sec. 3. K.S.A. 1995 Supp.. 44-508 is hereby amended to read as follows: 44-508. As used in the workers compensation act:

(a) "Employer" includes: (1) Any person or body of persons, corporate or unincorporate, and the legal representative of a deceased employer or the receiver or trustee of a person, corporation, association or partnership; (2) the state or any department, agency or authority of the state, any city, county, school district or other political subdivision or municipality or public corporation and any instrumentality thereof; and (3) for the purposes of community service work, the entity for which the community service work is being performed and the governmental agency which assigned the community service work, if any, if either such entity or such governmental agency has filed a written statement of election with the director to accept the provisions under the workers compensation act for persons performing community service work and in such case such entity and such governmental agency shall be deemed to be the joint employer of

the person performing the community service work and both shall have the rights, liabilities and immunities provided under the workers compensation act for an employer with regard to the community service work, except that the liability for providing benefits shall be imposed only on the party which filed such election with the director, or on both if both parties have filed such election with the director; for purposes of community service work, "governmental agency" shall not include any court or any officer or employee thereof and any case where there is deemed to be a "joint employer" shall not be construed to be a case of dual or multiple employment.

(b) "Workman" or "employee" or "worker" means any person who has entered into the employment of or works under any contract of service or apprenticeship with an employer. Such terms shall include but not be limited to: Executive officers of corporations; professional athletes; persons serving on a volunteer basis as duly authorized law enforcement officers, ambulance attendants, mobile intensive care technicians, firefighters, but only to the extent and during such periods as they are so serving in such capacities; persons employed by educational, religious and charitable organizations, but only to the extent and during the periods that they are paid wages by such organizations; persons in the service of the state, or any department, agency or authority of the state, any city, school district, or other political subdivision or municipality or public corporation and any instrumentality thereof, under any contract of service, express or implied, and every official or officer thereof, whether elected or appointed, while performing official duties; persons in the service of the state as volunteer members of the Kansas department of civil air patrol, but only to the extent and during such periods as they are officially engaged in the performance of functions specified in K.S.A. 48-3302 and amendments thereto; volunteers in any employment, if the employer has filed an election to extend coverage to such volunteers; minors, whether such minors are legally or illegally employed; and persons performing community service work, but only to the extent and

during such periods as they are performing community service work and if an election has been filed an election to extend coverage to such persons. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to the employee's dependents, to the employee's legal representatives, or, if the employee is a minor or an incapacitated person, to the employee's guardian or conservator. Unless there is a valid election in effect which has been filed as provided in K.S.A. 44-542a and amendments thereto, such terms shall not include individual employers, limited or general partners or self-employed persons.

(c) (1) "Dependents" means such members of the employee's family as were wholly or in part dependent upon the employee at the time of the accident.

(2) "Members of a family" means only surviving legal spouse and children; or if no surviving legal spouse or children, then parents or grandparents; or if no parents or grandparents, then grandchildren; or if no grandchildren, then brothers and sisters. In the meaning of this section, parents include stepparents, children include stepchildren, grandchildren include stepgrandchildren, brothers and sisters include stepbrothers and stepsisters, and children and parents include that relation by legal adoption. In the meaning of this section, a surviving spouse shall not be regarded as a dependent of a deceased employee or as a member of the family, if the surviving spouse shall have for more than six months willfully or voluntarily deserted or abandoned the employee prior to the date of the employee's death.

(3) "Wholly dependent child or children" means:

(A) A birth child or adopted child of the employee except such a child whose relationship to the employee has been severed by adoption;

(B) a stepchild of the employee who lives in the employee's household;

(C) any other child who is actually dependent in whole or in part on the employee and who is related to the employee by marriage or consanguinity; or

(D) any child as defined in subsections (3)(A), (3)(B) or (3)(C) who is less than 23 years of age and who is not physically or mentally capable of earning wages in any type of substantial and gainful employment or who is a full-time student attending an accredited institution of higher education or vocational education.

(d) "Accident" means an undesigned, sudden and unexpected event or events, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. The elements of an accident, as stated herein, are not to be construed in a strict and literal sense, but in a manner designed to effectuate the purpose of the workers compensation act that the employer bear the expense of accidental injury to a worker caused by the employment.

(e) "Personal injury" and "injury" mean any lesion or change in the physical structure of the body, causing damage or harm thereto, so that it gives way under the stress of the worker's usual labor. It is not essential that such lesion or change be of such character as to present external or visible signs of its existence. An injury shall not be deemed to have been directly caused by the employment where it is shown that the employee suffers disability as a result of the natural aging process or by the normal activities of day-to-day living.

(f) The words "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include injuries to the employee occurring while the employee is on the way to assume the duties of employment or after leaving such duties, the proximate cause of which injury is not the employer's negligence. An employee shall not be construed as being on the way to assume the duties of employment or having left such duties at a time when the worker is on the premises of the employer or on the only available route to or from work which is a route involving a special risk or hazard and which is a route not used by the public except in dealings with the employer. ~~An employee shall not be construed as being on the way to assume the duties of employment, if the employee is a provider of emergency~~

services responding to an emergency. An employee who is a provider of emergency services responding to an emergency shall not be construed as being on the way to assume the duties of employment or having left such duties of employment at a time when the employee is enroute to or from such emergency by the most direct route.

The words, "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include injuries to employees while engaged in recreational or social events under circumstances where the employee was under no duty to attend and where the injury did not result from the performance of tasks related to the employee's normal job duties or as specifically instructed to be performed by the employer.

(g) "Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record.

(h) "Director" means the director of workers compensation as provided for in K.S.A. 75-5708 and amendments thereto.

(i) "Health care provider" means any person licensed, by the proper licensing authority of this state, another state or the District of Columbia, to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology.

(j) "Secretary" means the secretary of human resources.

(k) "Construction design professional" means any person who is an architect, professional engineer, landscape architect or land surveyor who has been issued a license by the state board of technical professions to practice such technical profession in Kansas or any corporation organized to render professional services through the practice of one or more of such technical professions in Kansas under the professional corporation law of Kansas or any corporation issued a certificate of authorization under K.S.A. 74-7036 and amendments thereto to practice one or more of such technical professions in Kansas.

(l) "Community service work" means: (1) Public or community

service performed as a result of a contract of diversion or of assignment to a community corrections program or conservation camp or suspension of sentence or as a condition of probation or in lieu of a fine imposed by court order; or (2) public or community service or other work performed as a requirement for receipt of any kind of public assistance in accordance with any program administered by the secretary of social and rehabilitation services.

(m) "Utilization review" means the initial evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient, based on accepted standards of the health care profession involved. Such evaluation is accomplished by means of a system which identifies the utilization of health care services above the usual range of utilization for such services, which is based on accepted standards of the health care profession involved, and which refers instances of possible inappropriate utilization to the director for referral to a peer review committee.

(n) "Peer review" means an evaluation by a peer review committee of the appropriateness, quality and cost of health care and health services provided a patient, which is based on accepted standards of the health care profession involved and which is conducted in conjunction with utilization review.

(o) "Peer review committee" means a committee composed of health care providers licensed to practice the same health care profession as the health care provider who rendered the health care services being reviewed.

(p) "Group-funded self-insurance plan" includes each group-funded workers compensation pool, which is authorized to operate in this state under K.S.A. 44-581 through 44-592 and amendments thereto, each municipal group-funded pool under the Kansas municipal group-funded pool act which is covering liabilities under the workers compensation act, and any other similar group-funded or pooled plan or arrangement that provides coverage for employer liabilities under the workers compensation act and is authorized by law.

(g) On and after the effective date of this act, "workers compensation board" or "board" means the workers compensation board established under K.S.A. 1995 Supp.. 44-555c and amendments thereto.

Sec. ~~8~~⁴ K.S.A. 44-532 as amended by 1996 Senate Bill 649 is hereby amended to read as follows: 44-532. (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, or the employer is a member of a qualified group-funded workers compensation pool, the insurer or the qualified group-funded workers compensation pool shall be subrogated to the rights and duties under the workers compensation act of the employer so far as appropriate, including the immunities provided by K.S.A. 44-501 and amendments thereto.

(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; (3) by maintaining a membership in a qualified group-funded workers compensation pool. 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~~ A misdemeanor.

(d) In addition, whenever the director has reason to believe that any employer has engaged or is engaging in the knowing and intentional failure to secure the payment of workers compensation to the employer's employees as required in subsection (b) of this section, the director shall issue and serve upon such employer a statement of the charges with respect thereto and shall conduct a

hearing in accordance with the Kansas administrative procedure act, wherein the employer may be liable to the state for a civil penalty in an amount equal to twice the annual premium the employer would have paid had such employer been insured or \$25,000, whichever amount is greater.

(e) Any civil penalty imposed or final action taken under this section shall be subject to review in accordance with the act for judicial review of agency actions in the district court of Shawnee county.

(f) All moneys received under this section for costs assessed or monetary penalties imposed shall be deposited in the state treasury and credited to the workers compensation fund.

~~(d)~~ (g) (1) Every insurance carrier writing workers' compensation insurance for any employment covered under the workers 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 workers 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 workers 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).

~~(e)~~ (h) As used in this section, "qualified group-funded workers compensation pool" means any qualified group-funded workers compensation pool under K.S.A. 44-581 through 44-591 and amendments thereto or any group-funded pool under the Kansas municipal group-funded pool act which includes workers compensation and employers' liability under the workers compensation act.

~~(f)~~ (i) A private firm shall not be eligible to apply to become a self-insurer unless it has been in continuous operation for at least five years or is purchasing an existing self-insured Kansas firm, plant or facility and the operation of the purchased firm, plant or facility: (1) Has been in continuous operation in Kansas for at least 10 years; (2) has generated an after-tax profit of at least \$1,000,000 annually for the preceding three consecutive years; and (3) has a ratio of debt to equity of not greater than 3.5 to 1. As used in this subsection, "debt" means the sum of long-term borrowing maturing in excess of one year plus the current portion of long-term borrowing plus short-term financial institution borrowing plus commercial paper borrowing, and "equity" means the sum of the book value of stock plus paid-in capital plus retained earnings.

(j) A corporation or other entity whose current identity is attributable to a merger or other transformation whereby the whole or a substantial part of a previous entity's assets and income have been transferred to it, and its liabilities have not increased beyond the financial review requirements of the director, which qualified under its previous identity as a self-insurer under other provisions of this statute, and amendments thereto, may apply for renewal as a self-insurer under

its new name. The director may grant the application for renewal if satisfied that the new entity meets all necessary financial criteria for renewal that would have been applied to the previous self-insured entity. An application under these provisions shall be limited to an entity seeking renewal based upon the prior self-insured status of another entity or entities.

Section ~~3~~⁵ K.S.A. 44-586 is hereby amended to read as follows: 44-586. The trustees shall not utilize any of the moneys collected as premiums for any purpose unrelated to Kansas workers' compensation. Moneys not needed for current obligations may be invested by the trustees. Such investments shall be limited to bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by any agency or instrumentality thereof; in certificates of deposit in a federally insured bank; in shares or savings deposits in a federally insured savings and loan association; or in repurchase agreements whereby the principal amount of the agreement represents qualified investments in bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by any agency or instrumentality thereof. Further, the repurchase agreement must be in writing; must have a specific maturity date; must adequately identify each security to which the agreement applies; and must state that in the event of default by the party agreeing to repurchase the securities described in the agreement at the terms contained in the agreement, title to the described securities must pass immediately to the group-funded workers' compensation pool without recourse.

Section ~~A~~⁶ K.S.A. 1995 Supp.. 75-5708 is hereby amended to read as follows: 75-5708.(a) There is hereby established within and as a part of the department of human resources a division of workers compensation. The division shall be administered under the supervision of the secretary of human resources, by the director of workers compensation, who shall be the chief administrative officer of the division. The director of workers compensation shall be appointed by the secretary of human resources and shall

serve at the pleasure of the secretary. The director shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of human resources, with the approval of the governor. The director of workers compensation shall be an attorney admitted to practice law in the state of Kansas. The director shall devote full time to the duties of such office and shall not engage in the private practice of law during the director's term of office.

(b) The director of workers compensation may appoint two assistant directors of workers compensation and also may appoint not to exceed 10 administrative law judges. Such assistant directors and administrative law judges shall be in the classified service. The assistant directors shall act for and exercise the powers of the director of workers compensation to the extent authority to do so is delegated by the director. The assistant directors and administrative law judges shall be attorneys admitted to practice law in the state of Kansas, and shall have such powers, duties and functions as are assigned to them by the director or are prescribed by law. The assistant directors and administrative law judges shall devote full time to the duties of their offices and shall not engage in the private practice of law during their terms of office.

(c) Assistant directors and administrative law judges shall be selected by the director of workers compensation, with the approval of the secretary of human resources. ~~Each appointee shall be subject to either dismissal or suspension of up to 30 days for any of the following:~~

~~(1) Failure to conduct oneself in a manner appropriate to the appointee's professional capacity;~~

~~(2) failure to perform duties as required by the workers compensation act; or~~

~~(3) any reason set out for dismissal or suspension in the Kansas civil service act or rules and regulations adopted pursuant thereto.~~

, Except that any administrative law judge appointed after July 1, 1996, shall be appointed in accordance with procedure prescribed for the selection of the workers compensation

board, pursuant to K.S.A 1995 Supp.. 44-555c, and amendments thereto, and shall be appointed for a four year term. Any administrative law judge so appointed shall agree, prior to appointment to adhere to the specifications for the position designated by the director. Failure to adhere to such specifications may serve as grounds for suspension without pay or termination pursuant to K.S.A 75-2949, and amendments thereto. All administrative law judges appointed prior to July 1, 1996, shall continue in there classified positions. When seated administrative law judges vacate their current positions, their position shall be filled in accordance with this section.

~~No appointee shall be appointed, dismissed or suspended for political, religious or racial reasons or by reason of the appointee's sex.~~

Sec. ~~5~~¹ K.S.A. 12-2622, 44-501, as amended by section 1 of 1996 Senate Bill 649, 44-532 as amended by section 7 of 1996 Senate Bill No. 649, 44-532 as amended by section 1 of 1996 Senate Bill No. 650, 44-586 and K.S.A. 1995 Supp. 44-508 as amended by section 3 of 1996 Senate Bill No 649 and 75-5708 are hereby repealed.

Sec. ~~6~~¹ This act shall take effect and be in force from and after its publication in the statute book.

K.S.A. 75-5708 is amended as follows:

(b) The director of workers compensation may appoint two assistant directors of workers compensation and also may appoint not to exceed 10 administrative law judges. Such assistant directors and administrative law judges shall be in the classified service. The assistant directors shall act for and exercise the powers of the director of workers compensation to the extent authority to do so is delegated by the director. The assistant directors and administrative law judges shall be attorneys admitted to practice law in the state of Kansas, and shall have such powers, duties, functions as are assigned to them by the director or are prescribed by law. The assistant directors and the administrative law judges shall devote full time to the duties of their offices and shall not engage in the private practice of law during their terms of office.

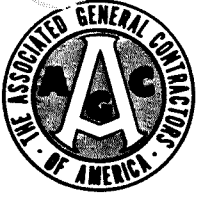
(c) Assistant directors and administrative law judges shall be selected by the director of workers compensation with the approval of the secretary of human resources, except that any administrative law judge appointed after July 1, 1996, shall be appointed for an initial term of four years. Any administrative law judge so appointed shall agree, prior to appointment to adhere to the specifications for the position designated by the director. Failure to adhere to said specifications may serve as grounds for suspension without pay or termination, pursuant to the provisions of K.S.A. 75-2949. After the initial four year term the administrative law judge shall automatically receive a series of perpetual two year terms unless suspended or removed by the director of workers compensation pursuant to K.S.A. 75-2949. At the end of the initial term and any subsequent two year term the administrative law judge shall undergo a performance review by the director. The director shall present this review to the workers compensation board and to the the House and Senate business, commerce and labor committee's during the session following the review.

All administrative law judges appointed prior to July 1, 1996, shall continue in their present classified positions. When said seated administrative law judges vacate their current positions, such position shall be filled under K.S.A. 75-5708 as amended.

*House Business, Commerce
& Labor Committee*

3/18/96 a.m.

Attachment 2



Associated General Contractors of Kansas, Inc.

P.O. Box 5253 • Topeka, Kansas 66605-0253 • 200 West 33rd • Topeka, Kansas 66611
Telephone 913-266-4015 • Fax 913-266-2561

March 15, 1996

Representative Al Lane
300 SW 10th Ave. Room 115S
Topeka KS 66612 1504

Dear Representative Lane:

Al, this is suggested language to amend HB 2769. The language was developed by the Builders Self Insurance Fund and the Insurance Department.

I have not been able to show it to Janet Stubbs yet.

It broadens the bill requested by Janet to include U.S. government backed mutual funds.

Sincerely,

Thomas E. Slattery
Executive Vice President

TES/jm

encl.

cc: Janet Stubbs

———— OFFICERS ————

Charles Schultz
President

Bennie Crossland
Vice President

Dan Foltz
Treasurer

Thomas E. Slattery
Executive Vice President

*House Business, Commerce
& Labor Committee
3/18/96 a.m.
Attachment 3*



———— DIRECTORS ————

Marty Dondlinger
Greg Harman
Darwin McClung
Tim Nightingale

Frank Sauerwein
Bob Simpson
Carl Harris, Subcontractor
David Allison, Associate

NATIONAL DIRECTORS
James R. Grier, III
Richard M. Kerschen
Charles E. Koehn, Sr.

K.S.A. 44-586 Investments

(a) The trustees shall not utilize any of the moneys collected as premiums for any purpose unrelated to Kansas workers' compensation. Moneys not needed for current obligations may be invested by the trustees. Such investments shall be limited to bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by any agency or instrumentality thereof; in certificates of deposit in a federally insured bank; ~~repurchase agreements collateralized by United States government securities~~; or in shares or savings deposits in a federally insured savings and loan association; or in repurchase agreements whereby the principal amount of the agreement represents qualified investments in bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by any agency or instrumentality thereof. Further, the repurchase agreement must be in writing; must have a specific maturity date; must adequately identify each security to which the agreement applies and must state that in the event of default by the party agreeing to repurchase the securities described in the agreement at the terms contained in the agreement, title to the described securities must pass immediately to the group-funded workers' compensation pool without recourse.

(b) In addition to the investments referred to in subsection (a), moneys not needed for current obligations may be invested by the trustees in shares of a corporation registered and operated as an open-end regulated investment company in accordance with the investment company act of 1940, as amended. The assets of a money market mutual fund may only represent qualified investments as described in subsection (a). Investments in money market mutual funds shall be further limited as follows:

(1) The investment company in which the trustees acquire shares shall have assets of not less than \$25,000,000 at the date of purchase; and

(2) investments in the shares of any one investment company shall not exceed 20% of the admitted assets of the group-funded workers' compensation pool as shown by the pool's last certified independent audited financial statement filed with the commissioner of insurance, or a more recent quarterly financial statement as filed with the commissioner of insurance, as determined on the basis of the cost of such shares to the group-funded workers' compensation pool at the time of purchase.