

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

The meeting was called to order by Chairman Al Lane at 9:03 a.m. on January 23, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused
Rep. Phyllis Gilmore - excused
Rep. Broderick Henderson - excused

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

Conferees appearing before the committee: Rep. Ray Cox
Wayne Maichel, Kansas AFL/CIO
Terry Leatherman, KCCI

Others attending: See attached list

Bill Requests:

Rep. Ray Cox appeared before the committee to ask the committee to introduce a bill concerned with the payment of wages, amending K.S.A. 44-317 and 44-322a. Rep. Beggs made a motion to introduce the bill as a committee bill. It was seconded by Rep. Geringer. The motion passed.

Wayne Maichel, Kansas AFL/CIO, appeared before the committee to make a few comments on the state of labor in Kansas. He introduced Jim Dehoff, Kansas AFL/CIO, and talked a little about the Workers Compensation Advisory Committee (WCAC) on which they both serve. On the issue of subcontractors, he informed the committee that the WCAC will be recommending that the problem be referred back to the Insurance Department to try to work out a solution to the problem caused by the bill passed last year.

He reported that the Kansas unemployment rate is low and jobs are plentiful, although it is hard to find skilled workers. He reports that total wages are up 8% in Kansas, and many of the wage gains are at jobs at the lower end of the pay scale.

He feels that the School to Work Program is one of the best this country has ever seen and he feels more positive about this part of job education and training than he felt a year or so ago.

He touched briefly on the subject of welfare reform, saying that the welfare rolls are down 25%. He sees the need for jobs that are meaningful and pay well for those who are taken off welfare. He is impressed with the work that SRS and former Rep. Bob Miller is doing with new Welfare to Work programs. The Kansas AFL/CIO are encouraging local unions to become involved, even if it on a one-to-one basis, to help these jobseekers.

Terry Leatherman, Kansas Chamber of Commerce and Industry (KCCI) appeared to talk about labor issues that are of vital interest to Kansas business. In his testimony, he touched on the subjects of the unemployment moratorium, workers compensation and the decreases in workers compensation insurance, and SB 289 which was requested by KCCI during the 1997 Legislative Session. Other issues concerning Kansas business he touched on were: the growing concern of where employers can turn to locate qualified employees; the regulations that influence the day-to-day operations of Kansas business; and the cost of litigation in both dollar and human terms.

In closing, he urged all the members of the committee to visit a manufacturing facility in their district this year. (See Attachment 1)

Chairman Lane adjourned the meeting at 9:40 a.m.

The next meeting is scheduled for January 27, 1998.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, KS 66612-1671 (785) 357-6321 FAX (785) 357-4732 e-mail: kcci@kspress.com
January 23, 1998

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Business, Commerce, & Labor

by

Terry Leatherman
Executive Director
Kansas Industrial Council

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for inviting the Kansas Chamber to visit with the Committee today on labor issues of vital interest to Kansas business.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

On the subject of unemployment compensation, KCCI presented testimony before the Committee yesterday on the benefits Kansas employers have received from the unemployment compensation tax moratorium, as well as the Chamber's support for extending the moratorium for a

*House Business, Commerce
& Labor Committee*

1/23/98

Att. 1

fif...ar. On the benefits side of unemployment compensation, KCCI would continue to support improvements to the law to bring greater clarity to a system to provide benefits only to those who become unemployed "through no fault of their own." For instance, KCCI would support passage of HB 2124, which currently resides in this Committee, and would simplify determining questions regarding how drug use can constitute employee misconduct.

One final point on unemployment compensation. It looks like 1999 will be the last year of the unemployment moratorium. That provides us with a window to consider any changes we might wish to implement in the system's taxing structure. It would be appropriate to look at questions for possible action next year on issues like establishing a permanent moratorium class of employers, the taxing level appropriate for "negative balance" employers, and the virtues of converting Kansas to a benefit ratio unemployment taxing system.

On the subject of workers compensation, I have attached to my testimony a one-page report KCCI prepared for its members this month regarding the latest round of decreases in workers compensation insurance. On January 1, insurance rates dropped 13.2%. In the past five years, insurance rates have decreased nearly 35%, saving Kansas employers \$111 million in workers compensation insurance premiums. This has been a dramatic reversal of the first years of the decade, when rates soared nearly 50%, costing employers over \$150 million in higher workers compensation insurance.

Along with insurance being more affordable, Kansas employers also find insurance companies much more anxious to write their workers compensation business. The reason for this impressive turnaround is no secret. It is due to the massive reform of the Kansas workers compensation act in 1993. However, what is often less clear is what the Kansas Legislature did in 1993 which has produced this dramatic improvement. The National Council on Compensation Insurance credits the following:

1-2

- * THE PRESUMPTION THAT WORK DISABILITY DOES NOT EXIST IF AN EMPLOYEE RETURNS TO WORK AT 90% OF THEIR PRE-INJURY WAGE
- * ELIMINATION OF MANDATORY VOCATIONAL REHABILITATION
- * BENEFIT EXCESSES, SPECIFICALLY IN "WHITE COLLAR" INJURIES, ADDRESSED
 - \$50,000 cap in functional impairment only cases
 - weekly benefit cap for non-scheduled injuries
 - adding shoulder injuries to the scheduled injury list
- * IMPLEMENTATION OF THE WORKERS COMPENSATION MEDICAL FEE SCHEDULE
- * STRENGTHENING "EMPLOYER CHOICE OF HEALTH CARE PROVIDER"

Beyond these reforms noted by the NCCI, the Kansas Chamber would add that 1993 action to improve the judicial process and encourage needed change in insurance has also played a critical role in today's improved workers compensation picture.

However, KCCI would stress that the improvement was not produced from the pockets of the injured worker. The 1993 reform package, which has produced these insurance rate decreases, did not include reductions in the dollars paid when a workplace injury produced a fatality, a permanent total injury or a permanent partial injury. In fact, the maximum weekly benefit amount an injured worker may receive has increased 15% since the 1993 reform bill became the law in Kansas.

While today's workers compensation system is much improved, one of the lessons from the 1993 debate was to constantly seek to correct problems with the process, in order to avoid the need for another total overhaul. With that in mind, KCCI requested the introduction of SB 289 last year. That bill remains and is currently assigned to the Senate Commerce Committee. The Kansas Chamber feels it would produce a series of further improvements to the act. The key changes are outlined below.

THE DEFINITION OF WORK DISABILITY

SB 289 proposes to delete the current definition of work disability from the law and replace with a system of supplemental compensation benefits for workers who cannot return to employment paying 90% of their pre-injury wage.

HEALTH CARE PROVIDER IN DISPUTED CASES

Kansas law grants employers the right to direct medical care in workers compensation cases. SB 289 proposes to clarify current law by declaring that if an employer claims a case is not compensable, but a judge determines that it is, the employer will retain the right to direct the medical care the worker receives from that point forward.

FRINGE BENEFITS IN WAGE CALCULATIONS

When determining financial compensation for an employee who is no longer working, fringe benefits are included in the calculations. SB 289 proposes to halt that practice in cases where an employee has voluntarily quit their job, or has been terminated for reasons unrelated to their workers compensation claim.

REVIEW AND MODIFICATION

In the 1993 reform of the workers compensation act, one of the key amendments changed the method for paying claims. Instead of receiving a small check for 415 weeks, the injured worker receives much larger compensation checks for a smaller window of weeks. Typically, all compensation checks are paid out in less than a year.

When this change occurred, nothing was done to shorten the window available for "review and modification," a workers compensation procedure where consideration is given to changing an original award. SB 289 proposes that the review and modification window be closed when all compensation has been paid.

SELECTION OF ADMINISTRATIVE LAW JUDGES

SB 289 proposes Kansas employ the same method currently used to select members of the Workers Compensation Board of Appeals in the selection of Administrative Law Judges (ALJs). That

positions would lead to an ALJ serving a four-year term in office. Currently, ALJs are classified employees of the state. Choosing ALJs would begin with applicants being considered by a Nominating Committee, made up of representatives of the Kansas Chamber and the Kansas AFL-CIO. The Nominating Committee must unanimously agree on all ALJ nominees. Their nominees would go to the Secretary of Human Resources, who would have the final appointment authority.

Unemployment compensation and workers compensation seem to forever be the cornerstone issues in employee relations. But there are a couple of other issues to touch on before I close.

* JOBS * While we relish the good news of unemployment being way down in Kansas, a growing concern is where employers can turn to locate qualified employees. In the past month, I have talked with employers from Wichita, Salina, Emporia and Kansas City who have told me the challenges they face in attracting and retaining workers. Their individual challenges seem to amplify the need to look towards new initiatives to maximize the use of the available Kansas workforce.

* REGULATION * You may be surprised how much your actions influence the day-to-day operations of Kansas business. Complying with state and federal laws, rules, and regulations can dominate the day of the small business owner and keep a wing of the building busy for the large corporation. The hours spent completing required paperwork, altering standard procedures to come into compliance with new rules, or studying the complex potential exposures created by a new law are costly to a business and keep the "widget" maker from his/her principal mission of making "widgets."

* LITIGATION * The cost of the litigious nature of today's society is enormous, not just in the dollars spent but also in human terms. Inherent in the litigation process is conflict. Court cases are filed by declaring one party vs. another. When a case goes to trial, the parties are conceding their failure to resolve their differences and their need for a judge to decide how to resolve their problems. More and more, KCCI has seen support for alternatives to the civil court process. Through alternative dispute resolution and mediation, a growing number of employers are finding they can be

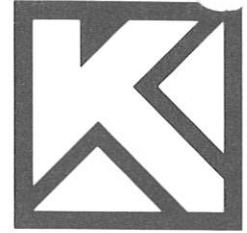
actively involved in working out disputes and developing solutions which bring disagreeing parties together towards resolution.

Kansas sometimes gets a bad rap. We have no "silicon valleys" and are not perceived as a home of high technology. However, it exists in Kansas and can be found in each of your legislative districts. In closing, I would encourage you to find the time this year to visit a manufacturing facility back home. I think you will be surprised by the technological processes employed in Kansas manufacturing today. Not only in the building of planes at Boeing or the production of tires at Goodyear, but also in the manufacture of medical support products at Scott Specialties, a 100 employee facility in Belleville and in the development of specialized machine parts at Curtis Business Machines in Dodge City. While you are there, I feel you will also leave impressed by business' efforts to provide a safe work environment and to provide employment opportunities.

Mr. Chairman, thank you for the opportunity to visit with the Committee today on the business perspective on labor relations issues in Kansas. I would be happy to answer any questions.

SPECIAL REPORT

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, KS 66612-1671 (785) 357-6321 FAX (785) 357-4732 e-mail: kcci@kspress.com

January 1998

Workers Compensation Insurance Rates Continue to Tumble

On January 1, 1998, workers compensation insurance rates became a little more affordable for Kansas employers to purchase. On that date, a 13.2% reduction in overall workers compensation insurance rates went into effect, continuing the remarkable turnaround in the cost business bears to provide workers compensation coverage to their workers.

The latest rate decrease is estimated to save the 46,000 employers in our state who purchase workers compensation insurance \$39.4 million in the premiums they pay. The Kansas Insurance Department is charged with approving insurance rates which are adequate for insurance companies to recoup their workers compensation claims costs. In announcing the new rate structure, Kansas Insurance Commissioner Kathleen Sebelius said, "The new rates represent our continued commitment to reduce costs for Kansas employers while maintaining a healthy, solvent and competitive workers compensation market."

July 1, 1993 was the day when the workers compensation insurance climate in Kansas dramatically reversed. That was the day that workers compensation reform legislation became the law of the land. KCCI was the driving force behind the legislative initiative which has produced the dramatic results shown below.

Date of W.C. Rate Change	Overall Increase/Decrease	Overall Change in Insurance Costs
June 1, 1991	+24.0%	+\$66.8 million
June 1, 1992	+21.7%	+\$72.8 million
June 1, 1993	+ 3.9%	+\$13.0 million
June 1, 1994	- 2.0%	-\$ 7.0 million
June 1, 1995	- 7.5%	-\$25.5 million
June 1, 1996	-11.5%	-\$39.2 million
January 1, 1998	-13.2%	-\$39.4 million

In Kansas, workers compensation insurance rates are built to reflect injury risks for over 600 different job classifications. The 13.2% rate decrease reflects the overall average change in rates for all of the job classifications. Approximately 85% of those classifications will experience some decrease in rates in 1998. That means there will be rate increases in 15% of the job classifications. The rate decrease below is broken down by industry type.

Industry Type	Rate Decrease by Percentage	Rate Decrease by Dollars
Manufacturing	-14.7%	-\$11.0 million
Contracting	- 8.8%	-\$ 5.2 million
Office and Clerical	-12.6%	-\$ 3.4 million
Goods and Services	-13.8%	-\$ 9.7 million
Miscellaneous	-12.3%	-\$ 5.0 million
Voluntary Insurance Market	-12.7%	-\$34.3 million
Kansas Assigned Risk Plan	-17.2%	-\$ 5.2 million

1-7

The workers compensation insurance rate change was proposed by the National Council on Compensation Insurance in October. The proposed rates were reviewed by an independent actuary and a series of public hearings were held around the state before the new rate structure was approved by the Kansas Insurance Commissioner.