

Approved: February 9, 1999  
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 5, 1999 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Jerry Donaldson, Legislative Research Department  
Lynne Holt, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Joe Lawhon, Legislative Division of Post Audit  
Roger Aeschilman, Acting Director, Department of Human Resources

Others attending: See attached list

Joe Lawhon, Legislative Division of Post Audit, conducted an audit on the Division of Workers Compensation, together with Laurel Murdie, and Anthony Perez. Randy Tongier was the audit manager. Mr. Lawhon testified the performance audit was initiated to determine whether (1) the Department improved its workers' compensation information system so that it can provide accurate and meaningful information to the Legislature and others for policy decisions; and whether (2) the Department effectively implemented the amendments to the Workers' Compensation Act passed by the 1993 Legislature. The audit, "*Review the implementation of the 1993 Changes to the Workers Compensation Laws; A K-GOAL Audit of the Department of Human Resources*", (A copy is on file in the Legislative Research Department) determined that since the 1993 legislation the premium rates Kansas businesses pay for workers' compensation insurance coverage are among the lowest in the nation, reflecting a reduction in the premiums paid for the 5<sup>th</sup> consecutive year. Premiums have decreased about 31% since 1993.

Mr. Lawhon stated in order to gather accurate and meaningful information, the following information is critical for workers' compensation administrators to collect and analyze: 1) Basic identification data, 2) Accident data, 3) Cost data, and 4) Other management data. The Audit concluded in order to obtain the basic criteria for an analysis of workers' compensation data, Division needs to upgrade its computer system, implement subsequent reporting to allow the Division to obtain meaningful cost data, and phase in electronic transfer of workers' compensation data.

To determine whether the Division of Workers' Compensation has effectively implemented the amendments passed in 1993, the Audit reviewed 10 major changes in the law which added to or altered the duties and responsibilities of the Division of Workers' Compensation. The audit determined that the Division has taken some steps to address each item. There are three specific areas which have not been effectively implemented: 1) Fraud and Abuse Investigation Unit; 2) Accident and Prevention Program, and 3) Mandated Database and Cost Studies.

Mr. Lawhon stated Audit, in reviewing the Fraud and Abuse Investigation Unit found a pervasive pattern of inaction and excessive delays in making decisions. The Fraud Unit is not collecting fines or restitution ordered as a result of administrative judgements and doesn't have an adequate process for controlling and evaluating its own work. The Audit further determined the Fraud Unit is operating in relative isolation from the rest of the Department, and apparently, there is no communication or collaboration with the other investigatory unit within the Department which does have experience in pursuing, tracking and recording potential fraudulent claims.

The Audit concluded the Division's accident prevention program may not be doing enough to

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on February 5, 1999.

enforce state law. The 1993 law requires each insurance company or group-funded self-insurance plan providing workers' compensation insurance coverage to maintain accident prevention programs and may offer them to their insureds. The Division staff, in 1994, began examining records of individual insurance companies; however, insurance companies objected to the examination of their records. In 1995, a new oversight plan was implemented that essentially limited the oversight of insurance companies' accident prevention services. The Division needs to determine the purpose of the Accident Prevention Program and how much oversight of insurance companies is necessary to fulfill the statutory mandates.

The Audit determined the Division has not developed a database and completed cost studies as required by law. Two attempts to complete a study of closed claims has been attempted by the Division, but both have been unsuccessful.

Roger Aeschilman, Acting Director, Department of Human Resources, responded by stating the Division of Workers' Compensation cooperated fully with the auditors from Legislative Post Audit and welcomed their conclusion and recommendations.

The total number of workers' compensation claims filed in Kansas, are approximately 100,000, 93% of which are handled directly by the insurance companies. The Division of Workers' Compensation adjudicate approximately 7,000 claims annually. Mr. Aeschilman stated there has been no direction from a policy making group regarding "subsequent reporting" which would necessitate the collection of data from the insurance companies handling 93% of the claims never flowing through the Division. The cost to initiate the collection of the data would require additional personnel (20-100 positions), and between \$1 Million and \$10 Million for the initial computerization, and an additional amount for the annual salaries.

Mr. Aeschilman testified the standard in the Fraud and Abuse Unit has changed since the present director has been in place, primarily from handling cases administratively to presently handling cases criminally. Additional amendments to the fraud and abuse section of the statute became effective July 1, 1998, and believe some of the conclusions found by the Audit will be corrected by these statutory changes. Kansas presently prosecutes more fraud cases than most other states.

The Accident Prevention Program was handled by trained accredited environmental personnel who flew throughout the United States to search insurance company records for the purpose of determining the companies' accident prevention programs. The Department determined in January 1995, this procedure was not a prudent use of personnel, so it was stopped. The Department further determined that the inspection for accident prevention programs was not required. Consequently, the personnel are used in Kansas work sites, working with employers to insure safe working conditions. The Division submits a "Self-Inspection" list to insurance companies to remind and encourage them to keep safety issues in the forefront of their relationship with their insureds.

Mr. Aeschilman stated the Division has been working for a couple of years on its computer needs and hope a system will be in place a year from now.

The Chair requested the Division of Workers' Compensation to provide the Committee on February 9, recommended statutory changes in response to the Post Audit Report, and what the Division intends to do internally to address the findings of the Report.

A copy of a letter from Mickey Walker, a Workers Compensation claimant, is attached to the minutes. (Attachment 1).

The Legislative Post Audit Scope Statement relating to Reviewing the 911 Emergency Phone System

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was distributed to the Committee. (Attachment 2).

**Upon motion by Senator Umbarger, seconded by Senator Steffes, the Minutes of the February 4, 1999 Meeting were unanimously approved.**

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for February 9, 1999.

# SENATE COMMERCE COMMITTEE GUEST LIST

DATE: February 5, 1999

NAME	REPRESENTING
DICK CARTER	KSIA
<del>Stephen Druell</del>	<del>KDHR</del>
David Shufelt	KDHR - Dir Work Comp
<del>John Lawton</del>	LPA
Bob Horton	Post Audit
Anthony Perez	LPA
James Murrice	LPA
Wanda Williams	KDHR
<del>Danmy Kuchelma</del>	<del>KDHR - WC</del>
Ruby Leutzinger	KDHR
Fogel Trautso	KGC
Harold Ruddle	Ruddle & Associates
<del>Art Sream</del>	<del>Int. Bus Commerce</del>
Bill Curtis	Ks Assoc of School Bds
Wayne Mantus	KS AFL-CIO
Terry Leatherman	KCCI
Harry Boren	Dept of Admin
<del>Oless Hunkler</del>	<del>KS Trial Lawyers Assn.</del>
Jacyn Saldon	Hein & Wein Chkd.



KANSAS SENATE - Commerce COMMITTEE

Feb 2, 1999

Is your Post Audit report on how the workers compensation is working going to include feedback from injured workers?

I suspect the input will be from Corporate or Government Employers, Insurance Companies, Attorneys, etc.

I would suggest injured workers who have been involved or are currently involved in Workman Compensation Claims be contacted to find out how it really works.

I would suspect the goal of your Committee would be to enhance the position of the Employers and the Insurance Companies and disability pension funds to lessen their monetary responsibilities concerning on the job injuries. Each under the current system denies claims thru use of Workmans Comp doctors on the Employers payroll and sharp practice tactics (ie; House bills, etc) lobbied into the Law by powerful, wealthy entities such as Insurance and governmental bodies. The key word is OFFSET - OFFSET - OFFSET. Doesn't seem to matter, if the Employer was vested in another profession and awarded a disability Service. Because if he starts a  
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completely separate injury AND or injuries due to AN employers safety negligence, he is NOT able to collect for his injuries AND disabilities pension due him for those injuries resulting in a TOTAL disability because of the OFFSET clauses enacted by LAW.

As a worker with a vested RAILROAD pension AND many years of service who was awarded a disability of 1400<sup>00</sup> per month due to injuries AND disabilities which will NOT allow me to continue employment in the industry, I had to seek other employment. AFTER MANY MORE YEARS IN A different profession AND having been totally disabled due to AN employers negligence, I AM entitled to a disability pension for those injuries from WORKERS COMPENSATION AND KPERS.

However thru the MANIPULATIVE efforts of powerful AND effective lobbyists representing entities such AS Security Benefit Life Insurance Company, KANSAS Public Retirement System AND others, my WORKERS COMPENSATION benefits AND disability pension award are being lessened by my entire RAILROAD pension. I AM currently receiving NO WORKMAN'S COMPENSATION monies for a TOTAL body disability which has NOT been settled AND

\$30<sup>00</sup> per Month From AN INSURANCE COMPANY representing KPERS for A TOTAL body disability. I AM ALSO vested in SOCIAL SECURITY AND WOULD be eligible For \$900<sup>00</sup> per Month benefits under disability, but receive NOTHING ACCOUNT I receive A SMALL disability From the RAILROAD Retirement Board.

After working 13 yrs for railroads, 14 years on SOCIAL SECURITY paid in employment AND 13 YEARS with the City of Topeka under the KPERS SYSTEM for A TOTAL of 42 years, I get to experience proverbs such as DENIAL, OFFSET, double dip, etc. I ALSO have to endure TOPEKA CAPITAL JOURNAL ARTICLES which emphasize how much Money "KPERS is Saving" AND "LOW WORKMAN'S COMP RATES" ARE being consistently Lowered for employers.

Well, if the current SYSTEM continues under political pressure from CORPORATIONS, INSURANCE COMPANIES AND LOCAL GOVERNMENTS, I SUSPECT it will get better NOT for the working MAN.

MICKEY WALKER  
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WAKARUSA, KS 66546  
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**SCOPE STATEMENT**  
**Reviewing the 911 Emergency Phone System**

Emergency telephone service (911) operates under the control of city and county governments. Currently, State law allows users of hardwired telephones to be billed an amount up to 75 cents per phone line per month for 911 services, while no charge is assessed against wireless (cellular) phones. A recent order of the Federal Communication Commission requires full 911 service to wireless phone users, under certain conditions. A bill introduced in the Senate to extend the 911 tax to wireless users has raised broader questions about how well the system is functioning in Kansas.

Because there is no Statewide oversight of the 911 system, legislators lack such basic information as which counties have 911 systems, what level of system they have (for example, enhanced systems identify the caller's name, address, and phone number, while the most basic systems provide no identifying information), and whether counties have a single consolidated system or whether 911 calls are directed to multiple public safety answering points. Without this basic information, it's difficult to determine whether the citizens of Kansas are well-served by the 911 system, and to make informed decisions about the need for additional taxes in this area. To address these concerns, the audit would answer the following questions:

1. **What is the current status of the 911 system in Kansas and how does that compare to other states?** Through a combination of surveys and reviews of budget information from city and county governments, we would develop an inventory of basic information such as which counties have 911 service, what level of service they have, their tax levy rate for individuals and businesses, how much they collect in 911 taxes annually, what their fund balances were at the end of the fiscal year, whether they think their systems are Y2K compliant, how many public safety answering points operate in their county, the percent of 911 calls that originate from cellular telephones, the percent of 911 wireless calls that are made by law enforcement and other public safety officials, and whether the county accepts 911 wireless calls that originate in other counties. We also would contact a sample of other states to learn how their 911 systems are structured and paid for, and compare that to Kansas. We'd conduct additional work as needed.
  
2. **What will it cost to meet FCC requirements regarding wireless telephones, and what options exist for recovering those costs?** We would review the FCC requirements and work with officials of local governments and wireless companies to determine, to the extent possible, the equipment costs they would incur to meet those requirements. We'd review any existing estimates, or estimate the revenues that would be generated if the State's current tax system was extended to wireless users, as envisioned by SB63. We'd also determine if those revenues would be sufficient to cover the anticipated costs of local governments and wireless companies. We would review the funding mechanisms other states have adopted to meet FCC requirements, and talk with FCC officials and other interested parties to identify other possible ways to fund wireless coverage. We'd conduct additional work as needed.

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Attachment # *2-1 thru 2-2*

(over)

- 3 **Does the current structure of the 911 system result in inefficiencies, higher costs, or other problems for the citizens of Kansas?** We'd conduct in-depth work on a sample of counties (including large and small, consolidated and unconsolidated) that would look at such things as the cost of their equipment and whether it was purchased competitively, whether excess equipment costs are incurred in areas that have multiple public safety answering systems, whether tax money is being spent only for the purposes allowed by statute, what the county is doing to monitor 911 performance and the outcome of that monitoring, the extent to which counties audit 911 tax receipts remitted to them by the local telephone companies, and whether 911 revenues could be maximized by requiring more timely submission of tax moneys. We'd also look at the extent to which 911 is being used by local government employees to contact their central offices, how much those calls cost the system and the wireless companies, and whether the system was designed for this purpose. We'd conduct additional work as needed.

**Estimated Completion Time:** 12-14 weeks

To meet the Commerce Committee's need for information, this audit could be reported in two parts.