

Approved: 3/30/10

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:03 a.m. on March 4, 2010, in Room 784 of the Docking State Office Building.

All members were present.

Committee staff present:

Art Griggs, Office of the Revisor of Statutes
Renaë Jefferies, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Denny Stoecklein, Kansas State Fair

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2658**.

HB 2658 **State fair board; purchase of workers compensation insurance authorized**

Renaë Jefferies, Assistant Revisor, explained **HB 2658** (Attachment 1) and presented the Revisor's Technical Balloon Amendment 1 (Attachment 2) for consideration.

Denny Stoecklein, Kansas State Fair, testified as a proponent of **HB 2658** (Attachment 3). He said that the State Fair board had expressed concern to its legislative budget committee about the cost of workers compensation insurance. They paid \$33, 823 in FY09 and will pay approximately \$120,011 in FY11. However they could purchase the insurance privately for approximately \$19,000.

Representative Suellentrop asked who this insurance covers. Denny said it covers their 24 full time employees and any of the seasonal employees that we hire. Representative Suellentrop asked what their loss was in the last 36 months. Denny did not know that number.

Representative Brunk asked if this covered ride operators. Denny said that was covered under the midway company and we don't hire those individuals. There are no dangerous jobs. Denny said that there were 12 administration and 12 maintenance employees. The 500 or so that they hire they would be considered clerical, they are taking tickets, directing traffic in the parking lot, etc. They would prefer to start this on July 1st, 2010.

Doug Farmer, State Employee Health Plan, appeared as neutral to answer questions.

Representative Brunk asked how this would affect the State Employee Health Plan. He said that the costs of claims submitted against the State Fair Board would have to be spread out to the remaining members of the Health Plan.

Representative Suellentrop asked for a clarification of the statement that the claims that came in against the State Fair Board would have to be paid by others in the pool. He said, yes, it was a state obligation.

Representative Kerschen asked what percent of state agencies were participating in the fund. Doug said that all state agencies were participating.

Representative Ruiz asked how many claims had been filed against the fund in the last three years. Doug thought it was about 4,000. What kind of claims are filed? Doug said they were injuries to a death. So if they opt out the state will be responsible for claims already filed? Doug said yes, that was right.

Representative Suellentrop asked if the state was obligated for every dollar of the claim. Doug said that they paid out whatever the claim was.

CONTINUATION SHEET

Minutes of the House Commerce and Labor Committee at 9:03 a.m. on March 4, 2010, in Room 784 of the Docking State Office Building.

Denny Stoecklein stepped up to make one statement about claims that might come in against the State Fair Board. He said that the claims stay where the premium was paid.

The Chairman closed the hearing on **HB 2658**.

The Chairman called attention to **HB 2560** which was referred back to Commerce and Labor.

HB 2560 **Real estate salespersons and brokers, amendments related to technical changes and restricted and conditioned licenses**

Representative Hermanson made a motion to amend **HB 2560** with Luke Bell's Amendment to remove Section 7. Representative Ruiz seconded the motion. The motion carried.

Representative Hermanson made a motion to pass **HB 2560** favorably as amended. Representative Ruiz seconded the motion. The motion carried.

H Sub for S 425 **Employment security law; contribution rates option ; no penalties or interest up to 90 days late**

The Chairman said that **HB 2676** was altered significantly by the Senate in a way that would not pass the house. We want to take a Senate Bill that has come to us, that is not going to pass, and strip the language out of it and insert the language from **HB 2676**. Then the Senate can simply concur with it.

Representative Grant said that he had no problem with doing this.

Representative Schwab said that he would not vote to amend **SB 425**.

Representative Garcia made a motion to strip the language from **SB 425** and insert the language from **HB 2676**. Representative Jack seconded the motion. The motion carried.

Representative Worley made a motion that **H Sub for S 425** be passed out favorably as amended. Seconded by Representative Pottorff. The motion carried.

The next meeting is scheduled for March 9, 2010.

The meeting was adjourned at 9:46 a.m.

COMMERCE & LABOR COMMITTEE

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NAME	REPRESENTING
TED Henkel	CAPITOL STRATEGIES.
Megan Botteberg	KDD
Matt Casey	GSA
Duy Pham	Rep. Ruiz's intern
Sara Freeman	Rep. Grange's intern
Doug Forman	KHPA
D. Moyer	KHPA
Mike Michael	KHPA
Hannah Sanders	KHPA
Ashley Sherard	Lenexa Chamber
Kon Suter	KARA
BOB JOHNSON	FEDERICO CONSULTING
Denny Stoecklein	Kansas State Fair
Amy Craig	Ks State Fair
Mick Givick	Ks State Fair
Jeff Duda	KSF
Poni Dufon	Kansas State Fair
Rachelle Colombo	KS Chamber
Natalie Bufit	KS. SHRM

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MEMORANDUM

To: House Committee on Commerce and Labor
From: Renae Jefferies, Assistant Revisor
Date: March 4, 2010
Subject: HB 2658

HB 2658 creates a new statute to allow the State Fair Board to purchase workers compensation insurance through a competitive procurement process subject to the Department of Administration's Division of Purchase's requirements. The State Fair Board is authorized to purchase such insurance from and after January 1, 2011.

The bill in subsection (e) removes the State Fair Board from the definition of "state agency" in K.S.A. 44-575 of the workers compensation act.

The act would take effect upon publication in the Kansas Register.

The Fiscal note stated that the fiscal effect of the bill if passed would depend on whether or not the new worker's compensation insurer is required to assume the existing open State Fair employee workers compensation claims. If the insurer does not assume the cost of these open claims, the cost of such open claims would have to be spread around to other state agencies.

As a further note, two technical amendments need to be made to the bill. The first is to change the date in line 33 to January 1, 2011, to keep it consistent with the date set in line 13. The second technical amend requires that K.S.A. 2009 Supp. 44-575 be added to the bill and the appropriate language added to the statute to remove the State Fair Board from the definition of "state agency" in that statute. The balloon amendment was handed out with my briefing handout for you review should the bill be worked in committee.

HOUSE BILL No. 2658

By Committee on Appropriations

2-5

Revisor's
Technical Balloon Amendment 1
March 4, 2010

9 AN ACT concerning the state fair board; authorizing the purchase of
10 workers compensation insurance.

; amending K.S.A. 2009 Supp.
44-575 and repealing the
existing section

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) From and after January 1, 2011, notwithstanding any
14 provision of K.S.A. 75-4101, or any amendments thereto, to the contrary,
15 the state fair board is hereby authorized to purchase workers compen-
16 sation insurance independent of the committee on surety bonds and in-
17 surance. All workers compensation insurance contracts purchased by the
18 state fair board pursuant to this section shall be purchased by the state
19 fair board subject to and in accordance with the provisions of subsection
20 (b).

21 (b) All insurance contracts or contracts for workers compensation
22 purchased by the state fair board pursuant to subsection (a), and amend-
23 ments thereto, shall be purchased by the state fair board in the manner
24 prescribed for the purchase of supplies, material, equipment or contrac-
25 tual services under K.S.A. 75-3738 to 75-3744, inclusive, and amend-
26 ments thereto. Any such contract having a premium or rate in excess of
27 \$500 shall be purchased on sealed bids.

28 (c) On and after the effective date of this act, the state fair board may:
29 (1) Investigate the possibility of acquiring workers compensation in-
30 surance; or

31 (2) initiate procedures to acquire workers compensation insurance.
32 Any such workers compensation insurance shall not take effect before
33 ~~July 1, 2010.~~

January 1, 2010

34 (d) If the state fair board acquires workers compensation pursuant to
35 this section, the state fair board shall notify the secretary of administration
36 of the effective date of the workers compensation policy acquired. From
37 and after the end of the payroll period in which such workers compen-
38 sation policy takes effect, the self-insurance assessment required by
39 K.S.A. 44-576, and amendments thereto, shall no longer be made and the
40 director of accounts and reports shall cease to transfer any funds of the
41 state fair board to the state workers compensation fund.

42 (e) On and after the effective date in subsection (d), the term "state
43 agency" as defined in K.S.A. 2009 Supp. 44-575, and amendments

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1 thereto, shall not include the state fair board. The state fair board shall
2 not be a self-insurer under K.S.A. 2009 Supp. 44-575, and amendments
3 thereto, nor shall it be covered by the state workers compensation insur-
4 ance fund or subject to the self-insurance assessment imposed under
5 K.S.A. 2009 Supp. 44-575, and amendments thereto.

Sections 2 and 3 attached

6 Sec. 2. This act shall take effect and be in force from and after its
7 publication in the Kansas register.

Renumber remaining
section

2-2

Sec. 2. K.S.A. 2009 Supp. 44-575 is hereby amended to read as follows: 44-575. (a) As used in K.S.A. 44-575 through 44-580, and amendments thereto, except as provided in subsection (g), "state agency" means the state, or any department or agency of the state, but not including the Kansas turnpike authority, the university of Kansas hospital authority, any political subdivision of the state or the district court with regard to district court officers or employees whose total salary is payable by counties.

(b) For the purposes of providing for the payment of compensation for claims arising on and after July 1, 1974, and all other amounts required to be paid by any state agency as a self-insured employer under the workers compensation act and any amendments or additions thereto, there is hereby established the state workers compensation self-insurance fund in the state treasury. The name of the state workmen's compensation self-insurance fund is hereby changed to the state workers compensation self-insurance fund. Whenever the state workmen's compensation self-insurance fund is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the state workers compensation self-insurance fund.

(c) The state workers compensation self-insurance fund shall be liable to pay: (1) All compensation for claims arising on and after July 1, 1974, and all other amounts required to be paid by any state agency as a self-insured employer under the workers compensation act and any amendments or additions thereto; (2) the amount that all state agencies are liable to pay of the

"carrier's share of expense" of the administration of the office of the director of workers' compensation as provided in K.S.A. 74-712 through 74-719, and amendments thereto, for each fiscal year; (3) all compensation for claims remaining from the self-insurance program which existed prior to July 1, 1974, for institutional employees of the division of mental health and retardation services of the department of social and rehabilitation services; (4) the cost of administering the state workers compensation self-insurance fund including the defense of such fund and any costs assessed to such fund in any proceeding to which it is a party; and (5) the cost of establishing and operating the state workplace health and safety program under subsection (f). For the purposes of K.S.A. 44-575 through 44-580, and amendments thereto, all state agencies are hereby deemed to be a single employer whose liabilities specified in this section are hereby imposed solely upon the state workers compensation self-insurance fund and such employer is hereby declared to be a fully authorized and qualified self-insurer under K.S.A. 44-532, and amendments thereto, but such employer shall not be required to make any reports thereunder.

(d) The secretary of administration shall administer the state workers compensation self-insurance fund and all payments from such fund shall be upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of administration or a person or persons designated by the secretary. The director of accounts and reports may issue warrants pursuant to vouchers approved by the secretary for payments from the state workers compensation self-insurance fund

notwithstanding the fact that claims for such payments were not submitted or processed for payment from money appropriated for the fiscal year in which the state workers compensation self-insurance fund first became liable to make such payments.

(e) The secretary of administration shall remit all moneys received by or for the secretary in the capacity as administrator of the state workers compensation self-insurance fund, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state workers compensation self-insurance fund.

(f) There is hereby established the state workplace health and safety program within the state workers compensation self-insurance program of the department of administration. The secretary of administration shall implement and administer the state workplace health and safety program for state agencies. The state workplace health and safety program shall include, but not be limited to:

(1) Workplace health and safety hazard surveys in all state agencies, including onsite interviews with employees;

(2) workplace health and safety hazard prevention services, including inspection and consultation services;

(3) procedures for identifying and controlling workplace hazards;

(4) development and dissemination of health and safety informational materials, plans, rules and work procedures; and

(5) training for supervisors and employees in healthful and

safe work practices.

(g) On and after the effective date specified in subsection (d) of section 1, and amendments thereto, the term "state agency" shall not include the state fair board.

Sec. 3. K.S.A. 2009 Supp. 44-575 is hereby repealed.



March 4, 2010

Rep. Steve Brunk
Chair, House Commerce and Labor Committee
300 SW 10th Ave., Room 166-W
State Capitol
Topeka, KS 66612

Rep. Brunk and Members of the Committee:

Good morning, Mr. Chairman and members of the Committee. My name is Denny Stoecklein, General Manager of the Kansas State Fair.

I'm here today to speak in favor of HB 2658. HB 2658 would give the state fair board the authority to purchase workers compensation insurance independent of the committee on surety bonds and insurance.

The state fair board would accomplish this utilizing its existing resources and by bidding such coverage through the Division of Purchases.

The state fair board has expressed concern to its legislative budget committees in recent years regarding the significant increase it has experienced in workers compensation insurance premiums. The state fair board paid \$33,823 in FY09, will pay approximately \$101,724 in this fiscal year, and is projected to pay \$120,011 in FY11. It is expected the rate will continue to be at least at this level through FY 2012.

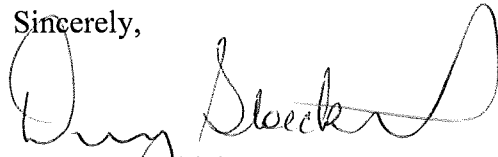
By comparison, the state fair board obtained a quote of approximately \$19,000 from the private market. Should this legislation pass, it is expected to save the state fair board approximately \$100,000 in each of the next two fiscal years. Savings beyond that date is difficult to estimate as it's not known at this time what the cost would be through the State.

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The state fair board recognizes it incurred two significant incidents in 2004 (FY 2005) that are now being utilized in its calculation. However, it is confident that even with this adjustment the rate is higher than it would be able to obtain on the private market, which conducts a three year look-back when determining rates as opposed to the five year look-back the State is utilizing.

I thank you for the opportunity to share this information and would be happy to stand for any questions.

Sincerely,



Denny Stoecklein
General Manager