

TESTIMONY IN SUPPORT OF HB 2558

Senate Judiciary Committee

March 15, 2012

By Karin Brownlee

Thank you for the opportunity to testify in support of HB 2558 which is largely clean up of workers compensation statutes related to the self-insurance fund and the procedure for seeking a change in an administrative law judge (ALJ). Some of the sections of the bill are work comp related but also affect our Industrial Safety & Health (ISH).

Section 1

This section makes a change requiring the state fair board to notify the secretary of health and environment (KDHE) of the effective date of any workers compensation policy acquired pursuant to K.S.A. 2-224a. This is a change from current statute requiring the state fair board to notify the secretary of administration.

Section 2

This section also changes a reference from secretary of administration to secretary of KDHE. This is where the State Workers Compensation Self-insurance fund is housed.

Section 3

This section makes a grammatical correction, changing "insure" to "ensure" as the statute relates to making sure something happens, not insuring as in insurance.

This section also changes the process for changing administrative law judges when there is a potential conflict of interest. Under this law change the attorneys would first file with the ALJ which is current practice. If resolution is not reached, the attorney would be afforded the opportunity to appeal to the Director of Workers Compensation. Under the current law, we are not given an opportunity to work with the situation to attempt resolution between the ALJ and the attorney; the situation goes before a district court judge. The House amended the bill to add the option of taking this to the Court of Appeals (p. 4, lines 38-41) if resolution is not reached at the Director level. Work comp issues are not heard by a district court and if further appealed, go to the Kansas Court of Appeals for judicial review. This Court has knowledge of both the subject matter as well as judicial conduct.

Section 4

This was added by the House to add the language on p. 5, line 32) so that workers who worked for a self-insured company which has insufficient assets to cover their injury may apply to the director to be compensated from the workers compensation fund (housed at the Insurance Dept.). The difference here is that we are adding "*insufficiently funded letter of credit.*" This is clean up language.

Section 5

This section removes the requirement that proceedings for compensation must be commenced within 200 days of the accident, medical or disability payment or one year after the death to conform to other provisions of HB 2134 (passed in 2011). This is clean up language.

Section 6

This section can be removed because it is now in a different form in SB 416. Currently, we have a MOU with KDHE to perform safety inspections of state agencies for the purpose of our self-insured work comp status. We will now just move this function fully to our ISH division with KDHE's blessings.

Sections 7 and 8

These sections change administration of the state workers compensation self-insurance fund from the Secretary of Administration to the Secretary of KDHE.

Section 9

This section places the responsibility for estimating expenses necessary for the administration of the workers compensation law from the Director of Workers Compensation to the Secretary of Labor which codifies current practice.