

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2673

As Amended by Senate Committee on
Commerce

Brief*

HB 2673, as amended, would repeal the assignment of unpaid wage claims and various provisions of state labor law pertaining to employment standards and workplace inspections which currently are covered by federal law. The bill also would revise provisions pertaining to accident prevention programs that are provided to employers.

The bill would repeal the authority granted to the Secretary of the Department of Labor to accept assignment of an employee's unpaid wage claim and attempt to collect wages for a fee. Under current law, the Secretary is mandated to accept the assignment for a claim less than \$10,000, and the Secretary has discretionary authority to accept claims over that amount. The fee charged to the employee for assignment is capped at \$25.

The bill would require insurance companies or group-funded self-insured plans that provide workers compensation coverage to provide accident prevention programs to their covered employers at no cost to the employer. Current law requires accident prevention services to be provided to employers at their request. The availability of accident prevention services also would be noted on group-funded self-insured certificates. Insurance companies or group-funded self-insured plans would report information about their accident prevention services to the Director of Industrial

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Safety and Health instead of the Director of Workers Compensation as currently provided by statute.

The bill would repeal the Secretary of Labor's authority to enforce the state's labor laws on railroads. The bill also would repeal the Secretary's power to enter private business establishments for the purposes of gathering facts, statistics, and workplace safety inspections. The bill would clarify that employers covered by federal Occupational Safety and Health Act (OSHA) are exempt from state inspections.

The provisions briefly described in the following list of statutes would be repealed:

- KSA 44-601b. Children in industry and inspections of factories, workshops, and mills;
- KSA 44-603. Relating to food products, clothing, mining of fuel substances, public utilities, and common carriers;
- KSA 44-607. Investigations and temporary findings of labor disputes;
- KSA 44-608. Orders affecting hours, ways and conditions of employment;
- KSA 44-609. Modification of rights and contracts of parties;
- KSA 44-610. Notice of investigation or hearing;
- KSA 44-611. Investigatory powers;
- KSA 44-612. Judicial review of Secretary's actions;
- KSA 44-614. Unions to be recognized and may appear before the Secretary in proceedings; right to bargain collectively recognized; collective bargains and agreements subject to provisions of KSA 44-609;

- KSA 44-615. Unlawful acts against witnesses and litigants;
- KSA 44-616. Business operations; limitation or cessation, hearings; changing conditions;
- KSA 44-617. Violations of Act; quitting employment; picketing intimidation;
- KSA 44-618. Penalties for violating KSA 44-601 to KSA 44-628;
- KSA 44-619. Inducing violation of Act or orders and associated penalty;
- KSA 44-620. Emergency control and operation;
- KSA 44-621. Authority of Secretary pertaining to controversies between employer and employee in an industry not mentioned in above statutes;
- KSA 44-623. Orders as to minimum or standard wage; accounts pending investigations;
- KSA 44-624. Investigation and inquiries of industrial conditions and relations;
- KSA 44-625. Effect of Act on other rights and remedies;
- KSA 44-626. Powers contained in KSA 44-601 to KSA 44-628 to be liberally construed;
- KSA 44-628. Severability clause; and
- KSA 44-631. Full jurisdiction over factory, workshop, mill, and mine inspections.

The Secretary of Labor would continue to have authority to inspect public works, state agencies, or institutions.

Background

The bill was introduced at the request of the Kansas Office of the Repealer. The Secretary of Administration and the Chief Counsel for the Department of Administration testified in favor of the bill before the House Committee on Government Efficiency. The Secretary indicated the statute is outdated and unnecessary because of federal preemption. The testimony of the Chief Counsel noted KSA 2011 Supp. 44-611 is preempted by the Occupational Safety and Health Administration Act (OSHA); KSA 2011 Supp. 44-621 is preempted by the National Labor Relations Act (NLRA); and KSA 2011 Supp. 44-624 is preempted by both the NLRA and OSHA. No opposing or neutral testimony was presented to the House Committee.

The Senate Committee on Commerce amended the bill to include the provisions contained in SB 355. That bill, which was approved by Senate Commerce Committee, would repeal the same three statutes (KSA 44-611, 44-621, and 44-624) contained in HB 2673 as well as make the other changes specified above.

The fiscal note prepared by the Division of the Budget states that HB 2673 is technical in nature; therefore, enactment of the bill would have no fiscal effect. According to the fiscal note prepared by the Division of the Budget on SB 355, the bill would reduce the collection of attorney fees currently allowed under the Kansas Wage Payment Act. Past recovery has seldom been realized, and the Department of Labor's costs for collection attempts have exceeded collections. No other fiscal effect on the the Department is anticipated.