

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 355

As Recommended by Senate Committee on
Commerce

Brief*

SB 355 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 Safety and Health instead of the Director of Workers Compensation as currently provided by statute.

*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>

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The provisions briefly described in the following list of statutes would be repealed: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 Department of Labor provided proponent testimony. Currently, the Department of Labor assists employees with unpaid wage claims through informal resolution. According to the Department, informal communications often times will result in the payment of wages owed. Currently, the Department does not accept the assignment of wage claims valued greater than \$10,000. The Department stated if a claim for less than \$10,000 could not be resolved informally, an employee's lawsuit could allow for the reimbursement of legal expenses. The Department would continue to investigate wage disputes and provide informal resolution services to employees. The Department added that the state's workplace safety laws are made superfluous by OSHA, the federal Mine Safety and Health Administration, and Railroad Administration. The Department maintains a consultation agreement with OSHA under which the state receives funds to provide free occupational safety and health consultation services to employers. According to the Department, the bill would not affect that agreement.

The Kansas AFL-CIO spoke in opposition, stating the bill would put employees at a disadvantage by forcing them to find legal counsel and traverse the judicial process.

According to the fiscal note provided by the Division of the Budget, the bill would reduce 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 Department is anticipated.