

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on February 22, 2006 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Chairperson Brownlee stated the Committee would be working **SB 461--Workers compensation; preexisting condition; permanent partial general disability; supplemental functional disability compensation.** Chairperson Brownlee called the Committee's attention to the sheet she passed out on her letterhead which is a part of the Work Comp Act and two definitions which would be helpful. (Attachment 1) Chairperson Brownlee called the Committee's attention to the definition of "Accident" pointing out the first part; accident means an undesigned, sudden and unexpected event or events, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. Also stating that it goes on to say that the employer bear the expense of the accidental injury to a worker caused by the employment. She stated this is current statute. She then called the Committee's attention to the last sentence of the definition of personal injury; an injury shall not be deemed to have been directly caused by the employment where it is shown that the employee suffers disability as a result of the natural aging process or by the normal activities of day-to-day living. She stated the two definitions which are current statute shed a lot of light on the bill they are trying to work. What they are trying to do in the first section of the bill on preexisting conditions, is try to make sure the injury was caused by the employment and not the aging process. She made reference to incidents of work comp cases that were claimed in a fraudulent manner with injuries not caused by employment. She asked the Committee to refocus on the intent of the bill. She called the Committee's attention to **Workers Compensation Benefits Comparison as of 1/1/2005.** (Attachment 2) She stated compared to Nebraska, Missouri, Colorado and Oklahoma, the Kansas worker has not done that badly.

Chairperson Brownlee recognized Senator Emler to explain his proposed amendment to the bill. He stated the bill still has economic downturn and preexisting issues but added language dealing with the part of the body that was injured in the particular accident. The rest of the amendment deals with eliminating the functional disability and putting back language that was stricken in the original bill. He also stated the look back was changed from 15 years which is in the statute, to 5 years.

Senator Emler made a motion to accept the Emler amendment to the bill. Senator Wagle seconded.

A discussion followed the motion regarding the 5 year look back and the 15 year look back and the original language of the bill. The layoff provision of the bill was also discussed along with the economic layoff provision of the bill. The definition of economic reasons for a layoff were discussed. The intent of the bill is to make sure a layoff does not occur because of the injury.

Chairperson Brownlee called for a vote on the motion to accept the Emler amendment to the bill. Motion carried with two no votes made by Senator Kelly and Senator Reitz.

Chairperson Brownlee recognized Senator Emler. Senator Emler made a motion to move the bill out favorably as amended. Senator Jordan seconded.

Chairperson Brownlee asked for discussion on the motion by Senator Emler. Senator Barone has concerns, he feels there is fraudulent activity on both sides and the bill does not address these issues. He further stated there is a problem with the work comp system. Chairperson Brownlee recognized Senator Reitz. He stated, given his background as a Physician, he has concerns with the bill and doesn't believe this is a fair bill. He

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feels there are a lot of folks that will fall through the cracks with this bill; therefore, he cannot support the bill. Chairperson Brownlee recognized Senator Kelly. She stated the information they received this morning from the Chair suggest that what the bill is doing is already on the books and maybe the problem is with Administrative Law Judges enforcing the law. She believes the Committee should be working on the entire system. She has concerns that the bill will be decreasing the compensation available for the military returning home from the war and would also effect volunteer fireman and nurses and many others. She stated you can be pro business and pro employee at the same time and thinks they need to address the work comp issue much more deeply. Chairperson Brownlee recognized Senator Wagle. Senator Wagle stated she would like to thank Senator Emler for working on the amendment. She thinks the bill is fair and she supports it.

Chairperson Brownlee called for a vote on the motion on the floor to move the bill out favorably as amended. Motion carried by a show of hands with no votes from: Senator Reitz, Senator Kelly, Senator Barone and Senator Schodorf.

Chairperson Brownlee called the Committee's attention to **SB 518--Payment of compensation; payment methods; electronic transfer, electronic deposit, payroll card.** Chairperson Brownlee recognized Senator Wysong. Senator Wysong offered an amendment on the bill to change the start date from July 1, 2006 to July 1, 2007 and have quarterly seminars during the transition period on the process. The entire Committee discussed Senator Wysong's amendment and are in agreement. **Senator Wysong made a motion to accept his amendment to the bill as a new section three. Senator Emler seconded the motion. Motion carried.**

Chairperson Brownlee recognized Senator Emler. Senator Emler made a motion to accept the amendment offered by Via Christi which adds language stating at least one withdrawal per pay period shall be allowed at no cost to the employee who uses payroll cards. Senator Kelly seconded the motion. Motion carried.

Chairperson Brownlee recognized Senator Emler. Senator Emler made a motion to pass the bill out favorably as amended. Senator Jordan seconded the motion. Motion carried.

Meeting adjourned at 9:20 a.m. with the next scheduled meeting for March 1, 2006 at 8:30 a.m. in room 123S.