

SENATE BILL No. 73

By Committee on Commerce

1-24

Proposed Balloon Amendment  
Senate Commerce Committee  
Charles Reimer  
Assistant Revisor  
Office of Revisor of Statutes  
February 15, 2013

1 AN ACT concerning workers compensation, relating to administrative  
2 duties assumed by the secretary of health and environment; legal status  
3 requirements for compensation; administrative judge disqualification;  
4 limitation of actions; state workplace health and safety program;  
5 amending K.S.A. 44-512, 44-557 and 44-578 and K.S.A. 2012 Supp. 2-  
6 224a, 44-510d, 44-510e, ~~44-523~~, 44-532a, 44-575 and 44-577 and  
7 repealing the existing sections.

notice of injury requirements;  
44-520,

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2012 Supp. 2-224a is hereby amended to read as  
10 follows: 2-224a. (a) Notwithstanding the provisions of K.S.A. 44-576, and  
11 amendments thereto, the state fair board is hereby authorized to purchase  
12 workers compensation insurance from an admitted carrier. Any contract  
13 for the purchase of workers compensation insurance entered into by the  
14 state fair board shall be purchased in the manner prescribed for the  
15 purchase of supplies, materials, equipment and contractual services as  
16 provided in K.S.A. 75-3738 through 75-3744, and amendments thereto,  
17 and any such contract having a premium or rate in excess of \$500 shall be  
18 purchased on the basis of sealed bids. Such contract shall not be subject to  
19 the provisions of K.S.A. 75-4101 through 75-4114 and K.S.A. 2012 Supp.  
20 75-4125, and amendments thereto.

21 (b) If the state fair board enters into a contract for the purchase of  
22 workers compensation insurance as described in subsection (a), from and  
23 after the end of the payroll period in which such workers compensation  
24 policy takes effect, the state fair board shall not be subject to the self-  
25 insurance assessment prescribed by K.S.A. 44-576, and amendments  
26 thereto, and the director of accounts and reports shall cease to transfer any  
27 amounts for such self-assessment for the state fair board pursuant to such  
28 statute, except that any moneys paid relating to existing claims with the  
29 state workers compensation self-insurance fund made by the state fair  
30 board shall be assessed to the state fair board until all such claims have  
31 been closed and settled.

32 (c) Notwithstanding the provisions of K.S.A. 44-575, and  
33 amendments thereto, if the state fair board enters into a contract for the  
34 purchase of workers compensation insurance as described in subsection  
35 (a), the state workers compensation self-insurance fund shall not be liable  
36

1 of ~~administration~~ *health and environment*; and (c) whenever temporary  
 2 total disability compensation is to be paid under the workers compensation  
 3 act, payments shall be made only in cash, by check or in the same manner  
 4 that the employee is normally compensated for salary or wages and not by  
 5 any other means, except that any such compensation may be paid by  
 6 warrant of the director of accounts and reports issued for payment of such  
 7 compensation from the workers compensation fund or the state workers  
 8 compensation self-insurance fund under the workers compensation act.

9 Sec. 5- K.S.A. 2012 Supp. 44-523 is hereby amended to read as  
 10 follows: 44-523. (a) The director, administrative law judge or board shall  
 11 not be bound by technical rules of procedure, but shall give the parties  
 12 reasonable opportunity to be heard and to present evidence, ~~ensure~~ *ensure*  
 13 the employee and the employer an expeditious hearing and act reasonably  
 14 without partiality.

15 (b) Whenever a party files an application for hearing pursuant to  
 16 K.S.A. 44-534, and amendments thereto, the matter shall be assigned to an  
 17 administrative law judge for hearing and the administrative law judge shall  
 18 set a terminal date to require the claimant to submit all evidence in support  
 19 of the claimant's claim no later than 30 days after the first full hearing  
 20 before the administrative law judge and to require the respondent to submit  
 21 all evidence in support of the respondent's position no later than 30 days  
 22 thereafter. An extension of the foregoing time limits shall be granted if all  
 23 parties agree. An extension of the foregoing time limits may also be  
 24 granted:

25 (1) If the employee is being paid temporary or permanent total  
 26 disability compensation;

27 (2) for medical examination of the claimant if the party requesting the  
 28 extension explains in writing to the administrative law judge facts showing  
 29 that the party made a diligent effort but was unable to have a medical  
 30 examination conducted prior to the submission of the case by the claimant  
 31 but then only if the examination appointment was set and notice of the  
 32 appointment sent prior to submission by the claimant; or  
 33 (3) on application for good cause shown.

34 (c) When all parties have submitted the case to an administrative law  
 35 judge for an award, the administrative law judge shall issue an award  
 36 within 30 days. The administrative law judge shall not stay a decision due  
 37 to the absence of a submission letter. When the award is not entered in 30  
 38 days, any party to the action may notify the director that an award is not  
 39 entered and the director shall assign the matter to an assistant director or to  
 40 a special administrative law judge who shall enter an award forthwith  
 41 based on the evidence in the record, or the director, on the director's own  
 42 motion, may remove the case from the administrative law judge who has  
 43 not entered an award within 30 days following submission by the party

Sec. 5. K.S.A. 2012 Supp. 44-520 is hereby amended to read as follows:  
 44-520. (a) (1) Proceedings for compensation under the workers  
 compensation act shall not be maintainable unless notice of injury by  
 accident or repetitive trauma is given to the employer by the earliest of the  
 following dates:

(A) 30 calendar days from the date of accident or the date of injury by  
 repetitive trauma;

(B) if the employee is working for the employer against whom benefits  
 are being sought and such employee seeks medical treatment for any injury  
 by accident or repetitive trauma, 20 calendar days from the date such medical  
 treatment is sought; or

(C) if the employee no longer works for the employer against whom  
 benefits are being sought, 20 10 calendar days after the employee's last day  
 of actual work for the employer.

Notice may be given orally or in writing.

(2) Where notice is provided orally, if the employer has designated an  
 individual or department to whom notice must be given and such designation  
 has been communicated in writing to the employee, notice to any other  
 individual or department shall be insufficient under this section. If the  
 employer has not designated an individual or department to whom notice  
 must be given, notice must be provided to a supervisor or manager.

(3) Where notice is provided in writing, notice must be sent to a  
 supervisor or manager at the employee's principal location of employment.  
 The burden shall be on the employee to prove that such notice was actually  
 received by the employer.

(4) The notice, whether provided orally or in writing, shall include the  
 time, date, place, person injured and particulars of such injury. It must be  
 apparent from the content of the notice that the employee is claiming benefits  
 under the workers compensation act or has suffered a work-related injury.

(b) The notice required by subsection (a) shall be waived if the employee  
 proves that: (1) The employer or the employer's duly authorized agent had  
 actual knowledge of the injury; (2) the employer or the employer's duly  
 authorized agent was unavailable to receive such notice within the applicable  
 period as provided in paragraph (1) of subsection (a); or (3) the employee  
 was physically unable to give such notice.

(c) For the purposes of calculating the notice period proscribed in  
 subsection (a), weekends shall be included.

and renumbering sections accordingly

1 investigate, or cause to be investigated, each claim for compensation  
2 against the state workers compensation self-insurance fund. For the  
3 purposes of such investigations, the secretary of ~~administration~~ *health and*  
4 *environment* is authorized to obtain expert medical advice regarding the  
5 injuries, occupational diseases and disabilities involved in such claims. If,  
6 based upon such investigation and any other available information, the  
7 secretary of ~~administration~~ *health and environment* finds that there is no  
8 material dispute as to any issue involved in the claim, that the claim is  
9 valid and that the claim should be settled by agreement, the secretary of  
10 ~~administration~~ *health and environment* may proceed to enter into such an  
11 agreement with the claimant, for the state workers compensation self-  
12 insurance fund. Any such agreement may provide for lump-sum  
13 settlements subject to approval by the director and all such agreements  
14 shall be filed in the office of the director for approval as provided in  
15 K.S.A. 44-527, and amendments thereto. All other claims for  
16 compensation against such fund shall be paid in accordance with the  
17 workers compensation act pursuant to final awards or orders of an  
18 administrative law judge or the board or pursuant to orders and findings of  
19 the director under the workers compensation act.

20 (c) For purposes of the workers compensation act, a volunteer  
21 member of a regional emergency medical response team as provided in  
22 K.S.A. 48-928, and amendments thereto, shall be considered a person in  
23 the service of the state in connection with authorized training and upon  
24 activation for emergency response, except when such duties arise in the  
25 course of employment or as a volunteer for an employer other than the  
26 state.

27 ~~Sec. 44-578~~ K.S.A. 44-578 is hereby amended to read as follows: 44-578.  
28 The secretary of ~~administration~~ *health and environment* may adopt rules  
29 and regulations necessary for the administration of the state workers  
30 compensation self-insurance fund, including the processing and settling of  
31 claims for compensation made against such fund. Such rules and  
32 regulations shall be subject to the provisions of K.S.A. 75-3706, and  
33 amendments thereto, and shall be adopted in accordance therewith.

34 ~~Sec. 44-512~~ K.S.A. 44-512, 44-557 and 44-578 and K.S.A. 2012 Supp. 2-  
35 224a, 44-510d, 44-510e, ~~44-523~~, 44-532a, 44-575 and 44-577 are hereby  
36 repealed.

37 ~~Sec. 12~~ This act shall take effect and be in force from and after its  
38 publication in the statute book.

44-520,