

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on January 19, 2005 in Room 241-N of the Capitol.

Committee members absent: Dale Swenson- unexcused

Committee staff present: Jerry Ann Donaldson, Kansas Legislative Research Department  
Norm Furse, Office of Revisor of Statutes  
Renaë Jefferies, Office of Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee: Honorable Bruce E. Moore, Administrative Law Judge

The Chairman opened the meeting and stated there would be a briefing by The Honorable Bruce E. Moore, Administrative Law Judge of Salina.

The Honorable Bruce E. Moore, Administrative Law Judge, appeared regarding compensation for workers compensation administrative law judges. Judge Moore made it perfectly clear that he did not appear on behalf of, nor represent the interest of, the Department of Labor or Division of Workers Compensation, but appeared in his own right and interests, in response to a request made by a member of the committee.

There are ten administrative law judges (ALJ's) within the Kansas Department of Labor, Division of Workers Compensation. ALJ's are appointed by the Director of the Division of Workers Compensation, with the approval of the Secretary of the Department of Labor, and serve as classified employees. There are only two eligibility requirements to serve as an ALJ, one express and one implied. The express requirement is that the candidate be an attorney admitted to the Kansas bar. The implied requirement is that the candidate be among the living. A candidate is thus "qualified" to serve as an administrative law judge if the candidate has both a law degree and a pulse. When a position opens, applications for the position are solicited. The Director searches the pool of "qualified" applicants, looking for some level of background, knowledge or experience in workers compensation practice and issues, as well as demeanor, that suggest the ability to manage a significant caseload, maintain decorum in the courtroom, and the willingness and competence to decide complicated issues of law and fact. Once appointed, the ALJ continues to serve until resignation or retirement, unless removed for cause.

Preliminary hearings thus frequently become full-scale battles over compensability of a workers compensation claim. Each side is, generally speaking, represented by competent and experienced counsel, and each side usually has medical records and witness testimony in support of its position. Regardless of the amount of evidence presented, or the work load of the ALJ, disputed issues of compensability must be resolved with a written award within five days of completion of the evidence.

In 2001 workers compensation judges in Nebraska earned \$102,678; in Oklahoma, \$88,511; in Missouri, \$86,400; in Colorado, approximately \$103,000. Missouri workers compensation judges have since increased to over \$108,000 per year. Surely the best interests of workers compensation litigants and the state of Kansas are not best served by forcing qualified and experienced judges out just to save money on their replacements.

Judge Moore's area consists of twenty-nine counties. Most cases average between 1 ½ and two years, but some are longer. Judge Moore stated that he had about twelve hearings a month. Most cases are worked out before going to hearings (Attachment 1).

The meeting adjourned at 10:00 a.m. and the next meeting will be January 20, 2005.