

SESSION OF 2016

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2617

As Amended by Senate Committee on
Commerce

Brief*

HB 2617, as amended, would revise provisions of the Workers Compensation System pertaining to chemical testing, permanent partial disability, and the administration of the System. The bill also would broaden an exception to the open records exemptions.

If a chemical test is used to determine whether an employee's injury should be disallowed for compensation due to alcohol or drug use, the employee would have access to a split sample within 48 hours of a positive test, only if the employer collects the sample on the employer's premises. Under current law, an employee has access to a split sample within 48 hours of a positive test regardless of whether the employer collects the sample.

For purposes of determining whether an employee is eligible to receive benefits for permanent partial disability, the bill would clarify in cases where there is a preexisting functional impairment, the combined impairment for the injury and preexisting impairment must be equal to or greater than 10 percent whole person impairment.

The Director of Workers Compensation would be given the option to contract for the Medical Administrator position established by current law rather than appoint one. The Medical Administrator must be licensed to practice medicine under current law. The bill also would allow workers compensation claims to be filed electronically, pursuant to

*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>

administrative rules and regulations implemented by the Director. Upon implementation of an electronic filing system, if a filing deadline fell on a weekend or legal holiday, the bill would extend the deadline to the next accessible day. Using the electronic filing system would satisfy the signature requirements of documents filed.

The bill also would broaden an exception to the open records exemptions, allowing federal or state governmental agencies access to medical records and accident reports for the purpose of child support enforcement, provided the disclosure would not be open for public inspection. Under current law, governmental agencies may have access to medical records and accident reports for fraud and abuse investigations.

Background

The bill was introduced by the House Committee on Commerce, Labor and Economic Development at the request of the Department of Labor. The Medical Administrator oversees the health care services provided to injured employees.

During the Senate Committee hearing, the Director of Workers Compensation spoke in favor of the bill, which would allow for the adjudication of claims using a paperless, electronic filing system. Representatives of the Kansas Chamber of Commerce and Kansas Self-insurers Association spoke in favor of the bill, stating it would provide flexibility.

There was no opponent or neutral testimony.

The House Committee amended the bill to re-insert language that requires the Medical Administrator to be a physician.

The Senate Committee amended the bill to:

- Specify under what conditions a split chemical test would be available to an employee;
- Clarify the amounts of preexisting impairment and injury that must be present when determining permanent partial disability;
- Allow certain closed records to be accessible for child support enforcement purposes; and
- Authorize the Director to implement electronic filing by administrative rules and regulations.

According to the fiscal note prepared by the Division of the Budget, in consultation with the Department of Labor, the bill, as introduced, would have no fiscal effect.