

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on February 17, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Bryce Benedict, Workers Compensation ALJ, testifying as private citizen  
Terry Leatherman, KCCI  
Bill Curtis, Kansas Association of School Boards  
Larry McGill, Association of Insurance Agents  
Jack Rickerson, Director, Personnel Services for the Department of Administration  
Secretary Garner

Others attending:

See attached list.

Chairperson Brownlee opened the meeting by introducing Helen Pedigo to explain the **SB 259**. Ms. Pedigo stated that **SB 259** sets qualifications, compensation and a selection procedure for administrative law judges within the Division of Workers Compensation. (Attachment 1) Ms. Pedigo suggested that the Committee might amend the bill to address the classified and unclassified employee.

Upon completion of Ms. Pedigo's explanation there was discussion on classified and unclassified employees and the salary ranges. There was discussion on where workers comp is today and what this bill would be changing. The director currently appoints the ALJ. The Committee also discussed how to make the Workers Comp ALJ's accountable.

Upon conclusion of the discussion with the Committee, Chairperson Brownlee opened the hearing on **SB 259** by introducing Bryce Benedict, who is currently a Workers Compensation ALJ, testifying as a private citizen. Mr. Benedict presented written testimony. (Attachment 2). He offered proposed changes to K.S.A. 75-5708 which were included in his written testimony. He stated these changes address the issues of increase in pay and accountability.

There was some discussion with Mr. Benedict in regard to the percentage of pay increase. Mr. Benedict indicated the Administrative Law Judges had discussed 90% among themselves. The Committee had discussed 80%. There was discussion on the current pay for ALJ's. Mr. Bryce stated a higher rate of pay would attract more qualified people to the job. Chairperson Brownlee indicated the sub-committee of the Compensation Advisory Council had agreed to 80% of a District Court Judge's salary.

Chairperson Brownlee introduced Terry Leatherman with the Kansas Chamber of Commerce. Mr. Leatherman stated even though the Kansas Chamber is supportive of **SB 259**, they are principally interested in how the amount of litigation can be reduced and look forward to legislation that will reduce the need for ALJ's rather than raising their pay. He stated the Kansas Chamber supports injecting greater accountability into the ALJ system and would welcome additional measures be developed. Because this bill moves towards greater involvement of interested parties and accountability for judges, the Kansas Chamber is pleased to support **SB 259**. Mr. Leatherman presented written testimony. (Attachment 3)

Upon conclusion of Terry Leatherman's testimony there was discussion on the fiscal note for this bill. The costs for increasing salaries and additional benefits. There was discussion on paying additional benefits and salary increases out of the Workers Compensation Fee Fund.

Chairperson Brownlee introduced Bill Curtis, Associate Executive Director with the Kansas Association of

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School Boards to give his testimony. Mr. Curtis stated the Kansas Association of School Boards is in support of **SB 259** with some concerns and offered some changes in his written testimony. (Attachment 4) His main concern is the methods of selection and retention of the administrative law judges as proposed in **SB 259**. He feels it is inappropriate to return to a system of using the AFL-CIO and Chamber of Commerce to select.

Following Mr. Curtis' testimony, there was discussion with the Committee. The Committee asked KCC I for data indicating the number of ALJ rulings that have been appealed and the dispositions of these cases. Mr. Leatherman stated he would produce that data and get it to the Committee members. This data would validate the fact that a pay increase would attract more qualified judges.

Chairperson Brownlee referred the Committee to written testimony by Larry Magill of the Kansas Association of Insurance Agents. In Mr. Magill's written testimony he urged the Committee to take this opportunity to improve a critical aspect of the workers compensation system and vote in favor of **SB 259**. (Attachment 5)

Chairperson Brownlee introduced Jack Rickerson, Director of the Division of Personnel Services for the Department of Administration. Mr. Rickerson stated the Department of Administration is a neutral party but would like to commit on **SB 259**. Action should not be taken based on a need to recruit and retain qualified Workers Compensation ALJ's. Also, they have concerns that moving these employees to the unclassified service would violate the holding of *Darling v Kansas Water Office*. (Attachment 6)

There was discussion on job classes with Mr. Rickerson. The Committee discussed the fact **SB 259** is to increase the pay and the experience. Discussion on the number of attorneys for the state and if they were classified or unclassified followed. The Department of Administration believes they can find qualified judges without a pay increase and stated the ALJ turnover rate is very low. Senator Wagle directed a question to Mr. Rickerson, asking how many attorneys the state employed. Mr. Rickerson stated there were approximately 125 classified attorneys. He also stated the Governor was looking at giving an increase in salary. Senator Wagle had a concern regarding this bill, she stated **SB 259** singles out one group of state attorneys and will be leaving out many other state attorneys who deserve a pay increase also. She stated for an example the Revisors office attorneys are extremely underpaid and overworked. The discussion continued on the pay increase and changing ALJ's from classified to unclassified.

With no others to testify on **SB 259**, Chairperson Brownlee closed the hearing.

Chairperson Brownlee announced that the meeting for tomorrow would start at 8:00 a.m.

Chairperson Brownlee recognized Senator Jordan to explain amendment on SB 138. After explaining the amendment, Senator Barone moved to accept the amendment and Senator Emler seconded. Motion carried. Senator Schodorf made a motion to move the bill out favorably as amended. Senator Kelly seconded. Motion carried.

Chairperson Brownlee called the Committee's attention to Secretary Garner's written testimony on **SB 259**. (Attachment 7)

Meeting was adjourned at 9:30 a.m. with the next meeting scheduled for Friday, February 18, 2005 at 8:00 a.m. in room 123S.

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