

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on March 7, 2006 in Room 241-N of the Capitol.

All members were present.

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:

Senator Phil Journey
David Wilson, AARP
Dennis Phillips, Retired fire fighter
Todd King, Wichita
Doug Allen, Johnson County
Dr. Dick Geis
Maxine Catron, Delia
Daniel Paternoster, Trooper, Hiawatha
John Ostrowski, Kansas AFL-CIO
Mike Tryon, Veteran
Kevin Flory, Kansas State Firefighters Association
Terri Roberts, Kansas Coalition for Workplace Safety
Kevin Fry, Volunteer fire fighter, Burlingame
Wil Leiker, Kansas AFL-CIO
Richard Taylor, Wichita Plumbers & Pipe Fitters
Chuck Yunkers, Adjutant, American Legion

Others attending:

See attached list.

The Chairman continued the hearing on **SB 461 - Workers compensation; preexisting condition; permanent partial general disability, supplemental functional disability compensation.**

Senator Phillip B. Journey testified as an opponent to **SB 461**. Senator Journey stated this bill is too vague and it would increase litigation. Workers compensation should be further studied in an interim committee (Attachment 1).

David Wilson, AARP Kansas Executive Council, testified in strong opposition to **SB 461**. The major worry by the group of 45 plus years is “ageism”. Sixty seven percent of all respondents said they believed that age discrimination exists in the work place. “Ageism” is exactly what **SB 461** is all about. It is discriminatory to aging workers – to those very workers who would continue to stay on their jobs to support their employers and step up to fill roles where most needed (Attachment 2).

Dennis Phillips, Lobbyist Kansas State Council of Fire Fighters, testified as an opponent to **SB 461**. This bill would have very damaging effects on Kansas Firefighters when it comes to being compensated for their injuries under workers compensation. To change how preexisting conditions are determined as contributing to their injury would be detrimental to the firefighters of Kansas (Attachment 3).

Todd King, attorney, Wichita, testified as an opponent to **SB 461**. Mr. King just wanted to rebut testimony given during a proponent’s testimony given on March 6(Attachment 4).

Doug Allen, Spring Hill, testified as an opponent to **SB 461**. Mr. Allen was injured previously and believes this bill would hurt injured Kansas workers (Attachment 5).

Dick Geis, M. D., testified as an opponent to **SB 461**. There is somewhat of a double standard here.

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Physicians would be given great latitude based on personal experience and/or prejudices. Some people would call this “junk science.” As a policy for the state, I am not confident that this is what the legislature should mandate. It is believed this would increase litigation because there could be such a wide variance of opinions introduced into the system (Attachment 6).

Maxine Catron, an opponent to **SB 461** testified that she was injured on the job and felt she did not receive a fair settlement or percentage of rating (Attachment 7).

Daniel Paternoster, retired Kansas Highway Patrol, Hiawatha, testified as an opponent to **SB 461**. While performing a traffic stop he slipped on an icy shoulder and wrenched his back. He was diagnosed with a torn disc in his back. The accident caused loss of finances. This bill would only add further destruction to a person’s life who has sustained a life altering accident while working on the job as it reduces benefits (Attachment 8).

John M. Ostrowski appeared on behalf of the Kansas AFL-CIO opposing **SB 461**. The effect of every change in this bill would be a benefit reduction for injured workers. In the law which deals with preexisting conditions, there was no mention of the natural aging process, and no discussion of undiagnosed, asymptomatic conditions. The natural aging process language which has been variously referred to was contained in an entirely different section. In workers compensation, the measure of damages is a comparison between the worker preinjury, and the worker post injury relative to the ability to function. This is a vast expansion of what the legislature passed in 1993 (Attachment 9).

Mike Tryon, Blue Rapids, testified opposing **SB 461**. He had been in Iraq serving in the National Guard as a medic and carried a 60 pound bag daily. Under this bill there was concern that if injured on civilian duty, prior wear and tear suffered while in Iraq would be used against him to reduce his benefits. It is believed this bill is discriminatory against veterans (Attachment 10).

Kevin Flory, representing the Kansas State Firefighters Association (KSFFA), testified opposing **SB 461**. The bill reduces or eliminates benefits for firefighters in three ways. By redefining preexisting condition to mean virtually any condition a firefighter may have, including conditions that are not symptomatic, have not been diagnosed and have never limited a firefighter’s ability to do his or her job. This definition includes undiagnosed conditions associated with the simple fact of aging, such as degrees of osteoporosis or arthritis. By changing the formula that determines who is eligible for work disability benefits and the amount of compensation a disabled firefighter receives, few would qualify for disability benefits and those who do would receive far lower benefits than under current law. The five year look-back period for task loss does not adequately represent the true skills and tasks a firefighter has acquired over the period of their working life. The current 15 year look-back is appropriate because it is the same standard used by Social Security for purposes of determining transferable skills (Attachment 11).

Terri Roberts, Kansas Coalition for Workplace Safety, testified as a proponent for **SB 461**. Kansas employers pay work comp insurance premiums that are far lower than both the country and regional averages. Insurance companies are profiting in Kansas. Both employers and insurance companies are benefitting from the state’s current workers compensation law. The injured workers are suffering under the current laws. This bill would only add to their problems: (1) by redefining “preexisting condition” to reduce or eliminate benefits for a larger share of the workforce and (2) by virtually eliminating work disability benefits for workers who suffer career-ending injuries (Attachment 12).

Kevin Fry, volunteer firefighter, Burlingame, testifying against **SB 461** stated this would make it more difficult to recruit volunteer firefighters. Firefighting can be dangerous and there is potential for injury (Attachment 13).

Wil Leiker, representing Local 307, United Steelworkers of America, testified against **SB 461**. If this bill passes all claims would be challenged by the insured carriers. That means they would hire their attorneys, defense attorneys (who challenge by the minute) and doctors and spend those dollars which should be going to the injured worker. This is simply a benefit reduction bill (Attachment 14).

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Richard Taylor, Business Manager of Plumbers and Pipefitters Local 441, testified as an opponent to **SB 461**. Mr. Taylor felt this bill was unfair to all working men and women of this state regardless of occupation. Military men and women enter into our trades but are concerned if they are injured on the job at some point in the future, there would undoubtedly be some preexisting condition relating to their military service (Attachment 15).

Chuck Yunker, Adjutant, The American Legion, Department of Kansas, testified as an opponent to **SB 461**. The American Legion expressed concern about preexisting conditions. It is believed that provisions alone could and would be used to deny military veterans gainful employment for which they may otherwise be qualified (Attachment 16).

The following written testimony was distributed: John Hornbaker, veteran, (Attachment 17), David Schauner, Kansas National Education Association, (Attachment 18).

The Chairman said that time had run out for today and asked the remaining opponents if they could appear Thursday for continuation of the hearing on **SB 461**. The hearing will be continued on March 9.

The meeting adjourned at 10:57 a.m. The next meeting will be March 8, 2006.