



825 S Kansas Avenue, Suite 500
Topeka, KS 66612
Phone: (785)234-8773 • Fax: (785)233-2206
www.ksia.org • sheidner@ksia.org

TESTIMONY

TO: HOUSE COMMERCE AND ECONOMIC DEVELOPMENT COMMITTEE

FROM: TONY ANDERSEN
KANSAS SELF INSURERS ASSOCIATION

RE: HB 2558

DATE: FEBRUARY 9, 2012

Mr. Chairman, members of the Committee, thank you for the opportunity to appear today. My name is Tony Andersen, and I am here in my role as a member of the Board of Directors of the Kansas Self Insurers Association, or KSIA. I am an attorney in private practice at the firm of McAnany Van Cleave and have focused most of my career on workers compensation law.

KSIA stands in support of HB 2558, pending a couple changes that I have discussed with the Kansas Division of Workers Compensation and believe will be received as friendly amendments. As others have discussed the bill itself, I'll limit my comments to the proposed changes.

With regard to Section 3 of H.B. 2558, KSIA is generally supportive of the bill. The recusal statute should allow the Director to review an Administrative Law Judge's determination on whether he/she should or should not be recused from hearing a matter. However, KSIA recommends that the Bill be amended to include the ability for the Director's decision to be appealed to the Workers' Compensation Board of Appeals. In turn, under K.S.A. 44-556, such Board determination could be appealed to the Kansas Court of Appeals. KSIA believes an appeal to the Director and the Kansas Workers' Compensation Board of Appeals would provide a forum that is knowledgeable about workers' compensation matters, and consistent application of the standards.

With regard to Section 4 of H.B. 2558, KSIA agrees with amendment of K.S.A. 44-557 but recommends elimination of Subsection C completely. As proposed, K.S.A. 44-557(c) would read,

“No limitation of time in the Workers’ Compensation Act shall begin to run unless a report of the accident as provided in this section has been filed at the office of the Director if the injured employee has given notice of such accident and provided by K.S.A. 44-520, and amendments thereto.”

To eliminate any conflict the current provisions of K.S.A. 44-534(b), KSIA believes the entirety of Subsection C should be eliminated. By eliminating this section, it would be clear in the statute that a claimant must file an Application for Hearing within three years of the date of accident or two years of the date of the last date of compensation, whichever is later. From a policy standpoint, KSIA believes that with the notice provisions under the Act, information available through multiple media outlets, including the internet, and the profligation of lawyer advertising, a claimant should be required to file their workers’ compensation claim within three years of the date of accident or two years from the last date benefits were paid. Without the complete excision of Subsection 44-557(c), it may not be clear to a Court that this is the intent of the Legislature.

KSIA would be happy to work with the Division or interested legislators in crafting this language if that would be helpful. Thank you for the opportunity to appear today, and I would stand for questions at the appropriate time.