

HOUSE BILL No. 2558

By Committee on Commerce and Economic Development

1-26

Proposed Amendments for HB 2558
Department of Labor
February 5, 2012
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Office of the Revisor of Statutes

1 AN ACT concerning workers compensation; pertaining to the
2 administration of the state workers compensation self-insurance fund;
3 pertaining to the state workplace health and safety program; pertaining
4 to certain time limitation on filing; pertaining to duties of the secretary
5 of labor; amending K.S.A. 44-512, 44-557, 44-578 and 74-712 and
6 K.S.A. 2011 Supp. 2-224a, 44-523, 44-575 and 44-577 and repealing
7 the existing sections.
8

44-532a,

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2011 Supp. 2-224a is hereby amended to read as
11 follows: 2-224a. (a) Notwithstanding the provisions of K.S.A. 44-576,
12 and amendments thereto, the state fair board is hereby authorized to
13 purchase workers compensation insurance from an admitted carrier. Any
14 contract for the purchase of workers compensation insurance entered into
15 by the state fair board shall be purchased in the manner prescribed for the
16 purchase of supplies, materials, equipment and contractual services as
17 provided in K.S.A. 75-3738 through 75-3744, and amendments thereto,
18 and any such contract having a premium or rate in excess of \$500 shall be
19 purchased on the basis of sealed bids. Such contract shall not be subject to
20 the provisions of K.S.A. 75-4101 through 75-4114 and K.S.A. 2011 Supp.
21 75-4125, and amendments thereto.

22 (b) If the state fair board enters into a contract for the purchase of
23 workers compensation insurance as described in subsection (a), from and
24 after the end of the payroll period in which such workers compensation
25 policy takes effect, the state fair board shall not be subject to the self-
26 insurance assessment prescribed by K.S.A. 44-576, and amendments
27 thereto, and the director of accounts and reports shall cease to transfer any
28 amounts for such self-assessment for the state fair board pursuant to such
29 statute, except that any moneys paid relating to existing claims with the
30 state workers compensation self-insurance fund made by the state fair
31 board shall be assessed to the state fair board until all such claims have
32 been closed and settled.

33 (c) Notwithstanding the provisions of K.S.A. 44-575, and
34 amendments thereto, if the state fair board enters into a contract for the
35 purchase of workers compensation insurance as described in subsection
36 (a), the state workers compensation self-insurance fund shall not be liable

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1 claimant's attorney, if the claimant is represented, or to the claimant's last
 2 known address. The administrative law judge may grant an extension for
 3 good cause shown, which shall be conclusively presumed in the event that
 4 the claimant has not reached maximum medical improvement, provided
 5 such motion to extend is filed prior to the three year limitation provided
 6 for herein. If the claimant cannot establish good cause, the claim shall be
 7 dismissed with prejudice by the administrative law judge for lack of
 8 prosecution. Such dismissal shall be considered a final disposition at a full
 9 hearing on the claim for purposes of employer reimbursement from the
 10 fund pursuant to subsection (b) of K.S.A. 44-534a, and amendments
 11 thereto.

12 (2) In any claim which has not proceeded to regular hearing within
 13 one year from the date of a preliminary award denying compensability of
 14 the claim, the employer shall be permitted to file with the division an
 15 application for dismissal based on lack of prosecution. The matter shall be
 16 set for hearing with notice to the claimant's attorney, if the claimant is
 17 represented, or to the claimant's last known address. Unless the claimant
 18 can prove a good faith reason for delay, the claim shall be dismissed with
 19 prejudice by the administrative law judge. Such dismissal shall be
 20 considered a final disposition at a full hearing on the claim for purposes of
 21 employer reimbursement from the fund pursuant to subsection (b) of
 22 K.S.A. 44-534a, and amendments thereto.

23 (3) This section shall not affect any future benefits which have been
 24 left open upon proper application by an award or settlement. _____

25 Sec. 4. K.S.A. 44-557 is hereby amended to read as follows: 44-557.
 26 (a) It is hereby made the duty of every employer to make or cause to be
 27 made a report to the director of every accident, or claimed or alleged
 28 accident, to any employee which occurs in the course of the employee's
 29 employment and of which the employer or the employer's supervisor has
 30 knowledge, which report shall be made upon a form to be prepared by the
 31 director, within 28 days, after the receipt of such knowledge, if the
 32 personal injuries which are sustained by such accidents, are sufficient
 33 wholly or partially to incapacitate the person injured from labor or service
 34 for more than the remainder of the day, shift or turn on which such injuries
 35 were sustained.

36 (b) When such accident has been reported and subsequently such
 37 person has died, a supplemental report shall be filed with the director
 38 within 28 days after receipt of knowledge of such death, stating such fact
 39 and any other facts in connection with such death or as to the dependents
 40 of such deceased employee which the director may require. Such report or
 41 reports shall not be used nor considered as evidence before the director,
 42 any administrative law judge, the board or in any court in this state.

43 (c) No limitation of time in the workers compensation act shall begin

Sec. 4. K.S.A. 2011 Supp. 44-532a is hereby amended as follows: 44-532a. (a)
 If an employer has no insurance to secure the payment of compensation or has
 insufficiently funded a self-insurance bond, or has insufficiently funded a letter
of credit as provided in subsection (b)(1) and (2) of K.S.A. 44-532, and
 amendments thereto, and such employer is financially unable to pay
 compensation to an injured worker as required by the workers compensation act,
 or such employer cannot be located and required to pay such compensation, the
 injured worker may apply to the director for an award of the compensation
 benefits, including medical compensation, to which such injured worker is
 entitled, to be paid from the workers compensation fund. Whenever a worker
 files an application under this section, the matter shall be assigned to an
 administrative law judge for hearing. If the administrative law judge is satisfied
 as to the existence of the conditions prescribed by this section, the
 administrative law judge may make an award, or modify an existing award, and
 prescribe the payments to be made from the workers compensation fund as
 provided in K.S.A. 44-569, and amendments thereto. The award shall be
 certified to the commissioner of insurance, and upon receipt thereof, the
 commissioner of insurance shall cause payment to be made to the worker in
 accordance therewith.

(b) The commissioner of insurance, acting as administrator of the workers
 compensation fund, shall have a cause of action against the employer for
 recovery of any amounts paid from the workers compensation fund pursuant to
 this section. Such action shall be filed in the district court of the county in which
 the accident occurred or where the contract of employment was entered into.

Renumber remaining sections accordingly.

1 immediately preceding calendar year, and the ~~director's~~ *secretary of*
2 *labor's* determination shall be conclusive. The ~~director~~ *secretary of labor*
3 shall list the amount of workers' compensation benefits paid as a result of
4 injuries received in the state of Kansas and paid by each workers'
5 compensation insurance carrier, self-insurer and group-funded workers'
6 compensation pool during such period.

7 Sec. 9. K.S.A. 44-512, 44-557, 44-578 and 74-712 and K.S.A. 2011

8 Supp. 2-224a, 44-523, 44-575 and 44-577 and are hereby repealed.

9 Sec. 10. This act shall take effect and be in force from and after its
10 publication in the statute book.
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44-532a,