

Testimony before the Senate Commerce Committee

SB 355

February 8, 2012

By Deputy Secretary Kathie Sparks

Thank you Chair Wagle, for allowing us to appear as proponents of SB 355. The following is an outline of the changes the bill proposes in current Employment Standards and Industrial Health and Safety Law.

First, **Section 1** eliminates the requirement the Department of Labor take assignment of certain wage claims that have gone through the administrative process. Under current law, an individual who has not been paid the wages owed to them can contact the Department of Labor, who then investigates the wage dispute. If KDOL determines a valid dispute exists, it attempts informal resolution which resolves a large number of the disputes presented to the Department (See Attachment 1). If the parties do not reach a resolution, the matter is referred to the Office of Administrative Hearings for a hearing.

If the wage claimant prevails at the hearing and receives a final administrative order, and the amount of the claim is less than \$10,000, the claimant has the right to have KDOL file a civil lawsuit against the employer to try to enforce the administrative order for not more than a payment to KDOL \$25. This section of the bill removes the requirement of KDOL taking assignment of the claim. (If the claim is over \$10,000, KDOL is not required to take assignment of the claim and the claimant can utilize a private attorney to help him or her collect on the wage claim and the attorney can collect attorney's fees as determined by the court).

Section 2 clarifies that accident prevention programs for workers compensation shall be made available at no cost to the insured and clarifies that the notice requirement that accident prevention services are available are also to appear on each group-funded workers compensation self-insurance plan certificate of coverage. In addition, the bill also changes references to the director of workers compensation to the director of industrial safety and health as it relates to accident prevention services requirements.

Section 3 removes railroads from the jurisdiction of the KDOL as it relates to enforcement of safety laws. In the context of safety inspections, oversight of railroads belongs to the Federal Railroad Administration.

Along with several statutes listed for repeal in the K.S.A. 44-601 series, section 4 of SB 355 amends the labor statutes to reflect the reality that the federal government, acting through OSHA and the Mine Safety and Health Administration, regulates private workplace safety, rendering the statutes superfluous. **The state will, however, continue to have the power to enter into and inspect any public works or state agency or institution.** Elevators inspections, however, are conducted by local governments, and not the state. Further, the strikethrough text on page 6, lines 17 through 20 is supported for repeal because it conflicts with federal mandates found in 29 C.F.R. 1910 Subpart O and 29 C.F.R. 1910.147 that address machine guarding and lockout procedures.

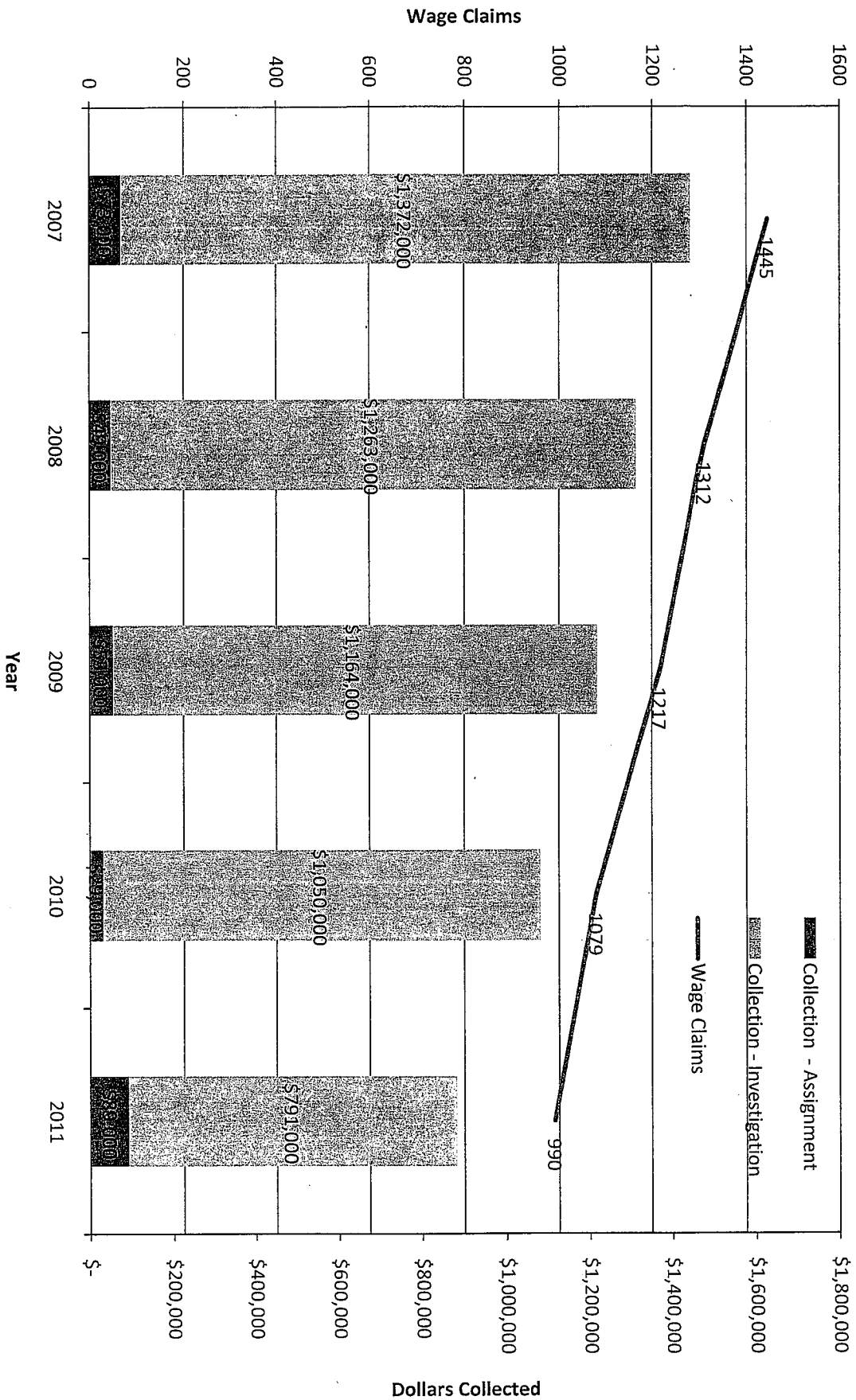
KDOL does maintain a consultation agreement with OSHA under which the state receives funds from OSHA to provide free occupational safety and health consultation services to employers. This bill does not affect that agreement.

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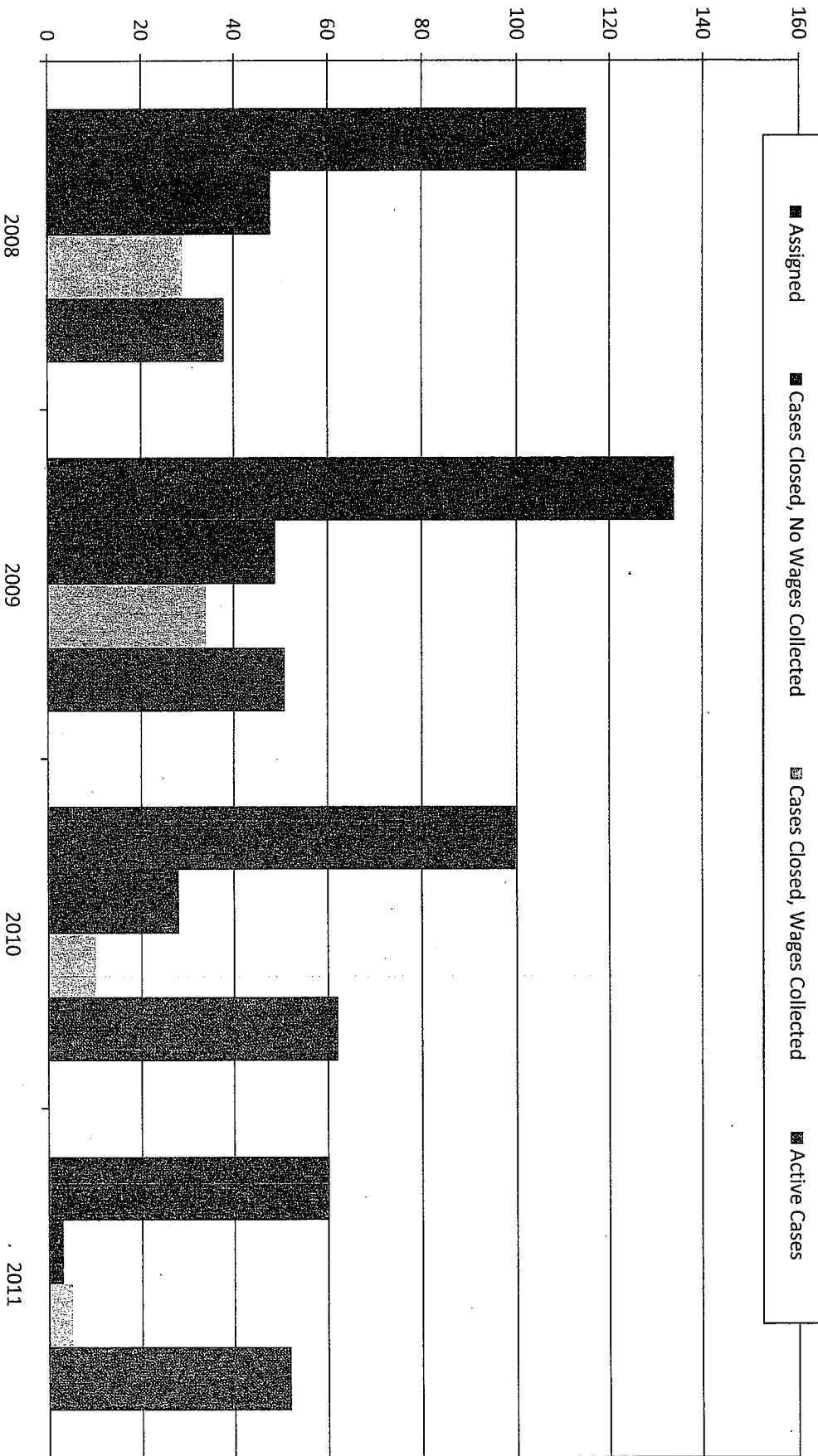
Attachment 7

Wage Claims & Dollars Collected

Kansas Department of Labor - 2007 - 2011



Cases Assigned For Wage Collection 2008 - 2011



Source: Kansas Department of Labor, Employment Standards Division