

SESSION OF 2006

## SUPPLEMENTAL NOTE ON SENATE BILL NO. 461

As Amended by Senate Committee of the Whole

### **Brief\***

SB 461, as amended, would make changes to the Workers Compensation Act as follows:

- The bill would provide that any award be reduced by the amount of functional impairment determined to be preexisting (current law) or by the percentage that the preexisting condition affecting the portion of the body injured in the accident, whether or not a rateable impairment in the opinion of a physician, contributed to the disability, functional impairment or work disability resulting from the work injury.
- The bill would provide that the extent of permanent partial general disability would be the extent to which the employee in the opinion of the physician has lost the ability to perform the work tasks that the employee performed in any substantial gainful employment during the five-year period preceding the accident. Under current law, the previous work experience period is fifteen years.
- The bill would provide that in the event of separation from employment for economic reasons the employee would not be entitled to receive general disability compensation in excess of the functional impairment.

### **Background**

Appearing as proponents or providing written testimony included representatives of the Kansas Chamber of Commerce, Whitley's Inc., Wichita Surgical Specialists, Abbot Workholding Products, KFRA & KARA and Kansas Self-Insurers Association. Appearing as opponents of the bill were representatives of Kansas Trial Lawyers Association, Kansas State Council of Firefighters, Kansas State Firefighters Association, SPEEA, AARP, KNEA, Kansas Coalition of Workplace

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Safety, AFL-CIO, United Steel Workers of America and individuals.

The Senate Committee made several changes to the bill. The Committee deleted a new term of supplemental functional disability, limited the preexisting condition reduction, and increased the previous work experience provisions from just prior to the accident to five years.

The Senate Committee of the Whole removed the requirement that the most current edition of the American Medical Association Guides to the Evaluation of Permanent Impairment be used, restoring current law. In addition, the bill was amended to require the administrative law judge, instead of the director, maintain a list of providers for an independent review of the employee's functional impairment.

The fiscal note on the original bill indicates that the bill would reduce the amount of workers compensation benefits that an injured worker would receive under current law; the precise amount would vary depending on the level of preexisting condition or functional disability. The Department of Labor indicates the bill would likely increase the amount of litigation and number of hearings before administrative law judges; however, the expenses associated with additional litigation and hearings would be absorbed within existing resources.