

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Commerce and Economic Development** recommends **SB 413**, as amended by Senate Committee, be amended on page 1, by striking all in lines 5 through 36;

By striking all in pages 2 through 12;

On page 13, by striking all in lines 1 through 20; following line 20, by inserting the following:

"New Section 1. (a) There is hereby established the workers compensation and employment security boards nominating committee which shall be composed of seven members who are appointed by the governor. Each of the following shall select one member to serve on the nominating committee by giving written notice of the selection to the governor who shall appoint such representatives to the committee:

- (1) The Kansas secretary of labor;
- (2) the Kansas chamber of commerce;
- (3) the national federation of independent business;
- (4) the Kansas AFL-CIO;
- (5) the Kansas state council of the society for human resource management (KS SHRM);
- (6) the Kansas self-insurers association; and
- (7) the secretary of labor whose selection shall be selected from either an employee organization as defined in K.S.A. 75-4322, and amendments thereto, or a professional employees' organization as defined in K.S.A. 72-5413, and amendments thereto.

In the event the governor refuses to appoint a member selected by one of the organizations in this subsection, the organization may replace that selection with another, subject to the same appointment requirements.

(b) Members of the nominating committee shall serve a term of four years. Members may not serve more than two consecutive terms.

(c) In the event of a vacancy on the nominating committee occurring for any reason, the respective member whose position becomes vacant shall be replaced by the selecting organization by submitting written notice of the replacement selection to the governor within 30 days of such vacancy. The governor shall either appoint or reject the replacement selection as provided in this section.

(d) The committee shall meet as needed to provide the workers compensation and employment security board of review appointing authorities with nominees for appointments to the position of workers compensation administrative law judge or board member and employment security board of review. No action of the committee shall be effective unless approved by two-thirds of the committee.

(e) When notified of a vacancy on the employment security board of review, the committee shall convene and submit a list of three nominees to the governor for each vacancy on the board of review. The governor shall either accept and appoint a person nominated by the nominating committee to the board of review or reject the nomination and request the nominating committee to nominate another person for that position.

(f) When notified of a vacancy in the position of workers compensation administrative law judge or on the workers compensation review board or of the need to appoint a member pro tem to the workers compensation review board, the committee shall review all qualified applicants as submitted by the director of workers compensation to nominate a qualified person to fill the vacancy and submit that nomination to the secretary of labor. The secretary shall either accept and appoint the person

nominated by the nominating committee to the position for which the nomination was made or reject the nomination and request the nominating committee to nominate another person for that position. Upon receipt of any such request for the nomination of another person, the nominating committee shall nominate another person for that position in the same manner.

Sec. 2. K.S.A. 2011 Supp. 44-551 is hereby amended to read as follows: 44-551. (a) The duties of the assistant directors of workers compensation may include, but not be limited to, acting in the capacity of an administrative law judge.

(b) Each administrative law judge shall be an attorney regularly admitted to practice law in Kansas. Such attorney shall have at least five years of experience as an attorney, ~~with at least one year of experience~~ practicing law in the area of workers compensation.

(c) Except as provided in subsection (g), the annual salary of each administrative law judge shall be an amount equal to 75% of the annual salary paid by the state to a district judge, other than a district judge designated as a chief judge. Administrative law judges shall devote full time to the duties of such office and shall not engage in the private practice of law during their term of office. No administrative law judge may receive additional compensation for official services performed by the administrative law judge. Each administrative law judge shall be reimbursed for expenses incurred in the performance of such official duties under the same circumstances and to the same extent as district judges are reimbursed for such expenses.

(d) Applications for administrative law judge positions shall be submitted to the director of workers compensation. The director shall determine if an applicant meets the qualifications for an administrative law judge as prescribed in subsection (b). Qualified applicants for a position of administrative law judge shall be submitted by the director to the workers compensation ~~administrative law judge nominating and review~~ and employment security boards nominating committee for consideration.

~~(e) There is hereby established the workers compensation administrative law judge nominating and review committee which shall be composed of two members appointed as follows: The Kansas AFL-CIO and the Kansas chamber of commerce and industry shall each select one representative to serve on the workers compensation administrative law judge nominating and review committee and shall each give written notice of such selection to the secretary who shall appoint such selected persons to the committee. In the event of a vacancy occurring for any reason on the workers compensation administrative law judge nominating and review committee, the vacating member shall be replaced by the organization which originally selected such member with written notice provided to the secretary within 30 days of such vacancy.~~

~~(f) (1) Upon being notified of any vacancy in the position of administrative law judge, the administrative law judge nominating and review committee shall consider all qualified applicants submitted by the director for the vacant position of administrative law judge and nominate a person qualified therefor. The administrative law judge nominating and review committee shall be required to reach unanimous agreement on any nomination to the position of administrative law judge. With respect to each person nominated, the secretary either shall accept and appoint the person nominated by the administrative law judge nominating and review committee to the position of administrative law judge for which the nomination was made or shall reject the nomination and request the administrative law judge nominating and review committee to nominate another person for that position. Upon receipt of any such request for the nomination of another person, the administrative law judge nominating and review committee shall nominate another person for that position in the same manner.~~

~~(2)(1) Each administrative law judge shall hold office for a term of four years and may be reappointed. Each administrative law judge shall continue to serve for the term of the appointment or until a successor is appointed. Successors to such administrative law judge positions shall be appointed for terms of four years.~~

~~(3)~~(2) If a vacancy should occur in the position of an administrative law judge during the term of an administrative law judge, the ~~administrative law judge nominating and review~~workers compensation and employment security boards nominating committee shall nominate an individual from the qualified applicants submitted by the director to complete the remainder of the unexpired portion of the term.

~~(g)~~(f) Except as otherwise provided in this subsection, administrative law judges appointed on and after July 1, 2006, shall serve a term of office of four years. Administrative law judges hired before July 1, 2006, may continue as administrative law judges under the classified service under the Kansas civil service act at the salary provided under the civil service act or may elect to be appointed to a term and receive the annual salary equal to 75% of the salary prescribed for a district judge if the currently employed administrative law judge within 60 days of the effective date of this section notifies the director in writing that the administrative law judge elects to serve an appointed term of office rather than continuing in the classified service. The term of office for an administrative law judge who elects a term of office shall begin on the date the written election is received by the director and the first term of office for such person shall be for two, three or four years as specified by the secretary so that administrative law judges appointed under this subsection serve staggered terms. Thereafter, any such person if reappointed as an administrative law judge shall be appointed for a term of four years.

~~(h)~~(g) ~~Following the completion of a term, an administrative law judge who wishes to be considered for reappointment to such judge's position shall be deemed to have met the qualification requirements for appointment as administrative law judge and shall be considered for renomination by the workers compensation administrative law judge nominating and review committee~~ Following the completion of a term, an administrative law judge who wishes to be considered for reappointment to such judge's position shall be deemed to have met the qualification requirements for appointment as administrative law judge. If such administrative law judge wishes to be considered for renomination by

the workers compensation and employment security boards nominating committee, such administrative law judge shall submit an application as provided in subsection (d).

(h) (1) Administrative law judges shall have power to administer oaths, certify official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents and records to the same extent as is conferred on the district courts of this state, and may conduct an investigation, inquiry or hearing on all matters before the administrative law judges. All final orders, awards, modifications of awards, or preliminary awards under K.S.A. 44-534a, and amendments thereto, made by an administrative law judge shall be subject to review by the board upon written request of any interested party within 10 days. Intermediate Saturdays, Sundays and legal holidays shall be excluded in the time computation. Review by the board shall be a prerequisite to judicial review as provided for in K.S.A. 44-556, and amendments thereto. On any such review, the board shall have authority to grant or refuse compensation, or to increase or diminish any award of compensation or to remand any matter to the administrative law judge for further proceedings. The orders of the board under this subsection shall be issued within 30 days from the date arguments were presented by the parties.

(2) (A) If an administrative law judge has entered a preliminary award under K.S.A. 44-534a, and amendments thereto, a review by the board shall not be conducted under this section unless it is alleged that the administrative law judge exceeded the administrative law judge's jurisdiction in granting or denying the relief requested at the preliminary hearing. Such an appeal from a preliminary award may be heard and decided by a single member of the board. Members of the board shall hear such preliminary appeals on a rotating basis and the individual board member who decides the appeal shall sign each such decision. The orders of the board under this subsection shall be issued within 30 days from the date arguments were presented by the parties.

(B) If an order on review is not issued by the board within the applicable time period

prescribed by subsection ~~(i)-(1)~~ (h)(1), medical compensation and any disability compensation as provided in the award of the administrative law judge shall be paid commencing with the first day after such time period and shall continue to be paid until the order of the board is issued, except that no payments shall be made under this provision for any period before the first day after such time period. Nothing in this section shall be construed to limit or restrict any other remedies available to any party to a claim under any other statute.

(C) In any case in which the final award of an administrative law judge is appealed to the board for review under this section and in which the compensability is not an issue to be decided on review by the board, medical compensation shall be payable in accordance with the award of the administrative law judge and shall not be stayed pending such review. The employee may proceed under K.S.A. 44-510k₂ and amendments thereto₂ and may have a hearing in accordance with that statute to enforce the provisions of this subsection.

~~(j)~~(i) Each assistant director and each administrative law judge or special administrative law judge shall be allowed all reasonable and necessary expenses actually incurred while in the actual discharge of official duties in administering the workers compensation act, but such expenses shall be sworn to by the person incurring the same and be approved by the secretary.

~~(k)~~(j) In case of emergency the director may appoint special local administrative law judges and assign to them the examination and hearing of any designated case or cases. Such special local administrative law judges shall be attorneys and admitted to practice law in the state of Kansas and shall, as to all cases assigned to them, exercise the same powers as provided by this section for the regular administrative law judges. Special local administrative law judges shall receive a fee commensurate with the services rendered as fixed by rules and regulations adopted by the director. The fees prescribed by this section prior to the effective date of this act shall be effective until different fees are fixed by such rules and regulations.

~~(h)~~(k) All special local administrative law judge's fees and expenses, with the exception of settlement hearings, shall be paid from the workers compensation administration fee fund, as provided in K.S.A. 74-712, and amendments thereto. Where there are no available funds or where the special local administrative law judge conducted a settlement hearing, the fees shall be taxed as costs in each case heard by such special local administrative law judge and when collected shall be paid directly to such special local administrative law judge by the party charged with the payment of the same.

~~(m)~~(l) Except as provided for judicial review under K.S.A. 44-556, and amendments thereto, the decisions and awards of the board shall be final.

Sec. 3. K.S.A. 2011 Supp. 44-555c is hereby amended to read as follows: 44-555c. (a) There is hereby established the workers compensation board. The board shall have exclusive jurisdiction to review all decisions, findings, orders and awards of compensation of administrative law judges under the workers compensation act. The review by the board shall be upon questions of law and fact as presented and shown by a transcript of the evidence and the proceedings as presented, had and introduced before the administrative law judge. The board shall be within the division of workers compensation of the department of labor and all budgeting, personnel, purchasing and related management functions of the board shall be administered under the supervision and direction of the secretary of labor. The board shall consist of five members who shall be appointed by the secretary in accordance with this section and who shall each serve for a term of four years, except as provided for the first members appointed to the board under subsection (f).

(b) Each board member shall be an attorney regularly admitted to practice law in Kansas for a period of at least seven years with at least five years experience practicing law in the area of workers compensation and shall have engaged in the active practice of law during such period as a lawyer, judge of a court of record or any court in Kansas or a full-time teacher of law in an accredited law school, or any combination of such types of practice.

(c) Each board member shall receive an annual salary in an amount equal to the salary prescribed by law for a district judge, except that the member who is the chairperson of the workers compensation board shall receive an annual salary in an amount equal to the salary prescribed for a district judge designated as chief judge of a district court of Kansas. The board members shall devote full time to the duties of such office and shall not engage in the private practice of law during their term of office. No board member may receive additional compensation for official services performed by the board member. Each board member shall be reimbursed for expenses incurred in the performance of such official duties under the same circumstances and to the same extent as judges of the district court are reimbursed for such expenses.

(d) Applications for membership on the board shall be submitted to the director of workers compensation. The director shall determine if an applicant meets the qualifications for membership on the board prescribed in subsection (b). Qualified applicants for the board will be submitted by the director to the workers compensation ~~board~~ and employment security boards nominating committee for consideration.

~~(e) There is hereby established the workers compensation board nominating committee which shall be composed of two members appointed as follows: The Kansas AFL-CIO and the Kansas chamber of commerce and industry shall each select one representative to serve on the workers compensation board nominating committee and shall give written notice of the selection to the secretary who shall appoint such representatives to the committee. In the event of a vacancy occurring for any reason on the nominating committee, the respective member shall be replaced by the appointing organization with written notice of the appointment to the secretary of labor within 30 days of such vacancy.~~

~~(f) (1) Upon being notified of any vacancy on the board or of the need to appoint a member pro tem under subsection (i), the nominating committee shall consider all qualified applicants~~

~~submitted by the director for the vacant position on the board or the member pro tem position and nominate a person qualified therefor. The nominating committee shall be required to reach unanimous agreement on any nomination to the board. With respect to each person nominated, the secretary either shall accept and appoint the person nominated by the nominating committee to the position on the board for which the nomination was made or shall reject the nomination and request the nominating committee to nominate another person for that position. Upon receipt of any such request for the nomination of another person, the nominating committee shall nominate another person for that position in the same manner.~~

~~(2) The first members of the board established by this section are hereby appointed as follows: Each person who was a member of the workers compensation board which was in existence on January 12, 1995, is hereby appointed, effective January 13, 1995, as a member of the board established by this section. The term of office of each person so appointed as a member of the board established by this section is for the period equal to the remainder of the term of office such person had as of January 12, 1995, as a member of the workers compensation board which was in existence on January 12, 1995.~~

~~(3) Each member of the board shall hold office for the term of the appointment and until the successor shall have been appointed. Successors to such members shall be appointed for terms of four years.~~

~~(4) If a vacancy should occur on the board during the term of a member, the nominating committee shall nominate an individual from the qualified applicants submitted by the director to complete the remainder of the unexpired portion of the term. With respect to each person so nominated, the secretary either shall accept and appoint the person nominated to the board or shall reject the nomination and request the nominating committee to nominate another person for the position. Upon receipt of any such request for the nomination of another person, the nominating committee shall nominate another person for the position in the same manner.~~

~~(g)~~(f) Following the completion of a term, board members who wish to be considered for reappointment to the board shall be deemed to have met the qualification requirements for selection to the board and shall be considered for renomination by the workers compensation ~~board~~ and employment security boards nominating committee.

~~(h)~~(g) The members of the board shall annually elect one member to serve as chairperson.

~~(i)~~(h) If illness or other temporary disability of a member of the board will not permit the member to serve during a case or in any case in which a member of the board must be excused from serving because of a conflict or is otherwise disqualified with regard to such case, the director shall notify the workers compensation and employment security boards nominating committee of the need to appoint a member pro tem. ~~Upon receipt of such notice, the committee shall act as soon as possible and nominate a qualified person to serve as member pro tem in such case in accordance with subsection (f).~~ Each member pro tem shall receive compensation at the same rate as a member of the board receives, prorated for the hours of actual service as a member pro tem and shall receive expenses under the same circumstances and to the same extent as a member of the board receives. Each member pro tem shall have all the powers, duties and functions of a member of the board with regard to the case.

~~(j)~~(i) The board shall maintain principal offices in Topeka, Kansas, and the board may conduct hearings at a courthouse of any county in Kansas or at another location specified by the board. The secretary of labor shall provide a courtroom and other suitable quarters in Topeka, Kansas, for the use of the board and its staff. When the board conducts hearings at any location other than in Topeka, Kansas, the director shall make suitable arrangements for such hearings. Subject to the provisions of appropriation acts, the director shall provide such supplies and equipment and shall appoint such support personnel as may be necessary for the board to fulfill the duties imposed by this act, subject to approval by the secretary.

~~(k)~~(j) For purposes of hearing cases, the board may sit together or in panels of ~~two~~ three

members or more, designated by the chairperson of the board, except that an appeal from a preliminary award entered under K.S.A. 44-534a, and amendments thereto, may be heard by a panel of one member designated by the chairperson. ~~All members of the board shall determine each matter before the board.~~ All decisions, reviews and determinations by the board shall be approved in writing by ~~at least three board members~~ a majority comprised of not less than three of the members hearing the case. Whenever the board enters a final order in any proceeding, the board shall make written findings of fact and conclusions of law forming the basis of the board's determination and final order. The findings of fact and conclusions of law of the board shall be made a part of the final order. The board shall mail a copy of the final order of the board to all parties to the proceeding within three days following the issuance of the final order.

Sec. 4. K.S.A. 2011 Supp. 44-709 is hereby amended to read as follows: 44-709. (a) *Filing*. Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer.

(b) *Determination*. (1) Except as otherwise provided in this subsection (b)(1), a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall send a notice to the last employing unit who shall respond within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706, and amendments thereto. The information may be submitted by the employing unit in person at an employment office of the secretary

or by mail, by telefacsimile machine or by electronic mail. If the required information is not submitted or postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of subsection (d) of K.S.A. 44-706, and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c). The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or

special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision.

(d) *Referees.* The secretary shall appoint, in accordance with subsection (c) of K.S.A. 44-714, and amendments thereto, one or more referees to hear and decide disputed claims.

(e) *Time, computation and extension.* In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(f) *Board of review.* (1) There is hereby created a board of review, hereinafter referred to as the board, consisting of three members. Except as provided by paragraph (2) of this subsection, each member of the board shall be appointed for a term of four years as provided in this subsection. ~~Two members shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate. One member shall be representative of employees, one member shall be representative of employers, and one member shall be representative of the public in general. The appointment of the employee representative member of the board shall be made by the governor from a list of three nominations submitted by the Kansas A.F.L.-C.I.O. The appointment of the employer representative member of the~~

~~board shall be made by the governor from a list of three nominations submitted by the Kansas chamber of commerce and industry. The appointment of the public representative member of the board, who, because of vocation, occupation or affiliation may be deemed not to be representative of either management or labor, shall be made by the members appointed by the governor as employee representative and employer representative. If the two members do not agree and fail to make the appointment of the public member within 30 days after the expiration of the public member's term of office, the governor shall appoint the representative of the public. Each member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate. The appointment of each member of the board shall be made by the governor from a list of three nominations submitted by the workers compensation and employment security boards nominations committee. Not more than two members of the board shall belong to the same political party. No board member shall serve more than two consecutive terms.~~

(2) The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(3) Each member of the board shall serve until a successor has been appointed and confirmed. Any vacancy in the membership of the board occurring prior to expiration of a term shall be filled by appointment for the unexpired term in the same manner as provided for original appointment of the member. ~~Each member shall be appointed as representative of the same special interest group represented by the predecessor of the member.~~

(4) Each member of the board shall be entitled to receive as compensation for the member's

services at the rate of \$15,000 per year, together with the member's travel and other necessary expenses actually incurred in the performance of the member's official duties in accordance with rules and regulations adopted by the secretary. Members' compensation and expenses shall be paid from the employment security administration fund.

(5) The board shall organize annually by the election of a chairperson from among its members. The chairperson shall serve in that capacity for a term of one year and until a successor is elected. The board shall meet on the first Monday of each month or on the call of the chairperson or any two members of the board at the place designated. The secretary of labor shall appoint an executive secretary of the board and the executive secretary shall attend the meetings of the board.

(6) The board, on its own motion, may affirm, modify or set aside any decision of a referee on the basis of the evidence previously submitted in the case; may direct the taking of additional evidence; or may permit any of the parties to initiate further appeal before it. The board shall permit such further appeal by any of the parties interested in a decision of a referee which overrules or modifies the decision of an examiner. The board may remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board shall be heard in accordance with the requirements of subsection (c). The board shall promptly notify the interested parties of its findings and decision.

(7) Two members of the board shall constitute a quorum and no action of the board shall be valid unless it has the concurrence of at least two members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(g) *Procedure.* The manner in which disputed claims are presented, the reports on claims required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules of procedure prescribed by the board for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings and decisions in

connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. In the performance of its official duties, the board shall have access to all of the records which pertain to the disputed claim and are in the custody of the secretary of labor and shall receive the assistance of the secretary upon request.

(h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary travel expenses at rates fixed by the board. Such fees and expenses shall be deemed a part of the expense of administering this act.

(i) *Court review.* Any action of the board is subject to review in accordance with the Kansas judicial review act. No bond shall be required for commencing an action for such review. In the absence of an action for such review, the action of the board shall become final 16 calendar days after the date of the mailing of the decision. In addition to those persons having standing pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall have standing to obtain judicial review of an action of the board. The review proceeding, and the questions of law certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workers compensation act.

(j) Any finding of fact or law, judgment, determination, conclusion or final order made by the board of review or any examiner, special examiner, referee or other person with authority to make findings of fact or law pursuant to the employment security law is not admissible or binding in any separate or subsequent action or proceeding, between a person and a present or previous employer brought before an arbitrator, court or judge of the state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the board either personally or by means of a designated

representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee shall have the discretion of requiring all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

Sec. 5. K.S.A. 2011 Supp. 44-551, 44-555c and 44-709 are hereby repealed.";

And by renumbering sections accordingly;

Also on page 13, in line 22, by striking "January 1, 2014, and";

On page 1, in the title, in line 1 by striking all after "ACT"; in line 2, by striking all before the period and inserting " creating the workers compensation and employment security boards nominating committee; amending K.S.A. 2011 Supp. 44-551, 44-555c and 44-709 and repealing the existing sections"; and the bill be passed as amended.

Chairperson