

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE CONCURRENT

RESOLUTION HCR1046:

Hastings

AS INTRODUCED

A Concurrent Resolution relating to workers' compensation; expressing legislative intent of Enrolled Senate Bill No. 1414 of the 2nd Session of the 47th Oklahoma Legislature; and providing for distribution.

WHEREAS, the Oklahoma Legislature in 1999 addressed the continuing problem of inadequate funding for the Multiple Injury Trust Fund, formerly the Special Indemnity Fund, by eliminating all future claims by workers' compensation claimants for an increase in disability resulting from a combination of injuries, by amending Section 172 of Title 85 of the Oklahoma Statutes in Enrolled Senate Bill No. 680 of the 1st Session of the 47th Oklahoma Legislature; and

WHEREAS, recognizing the need for permanently totally disabled claimants to be able to recover for an increase in disability resulting from a combination of injuries, the Legislature in 2000 again amended Section 172 of Title 85 of the Oklahoma Statutes, in Enrolled Senate Bill No. 1414 of the 2nd Session of the 47th Oklahoma Legislature, making the last employer liable for such an increase in disability resulting from a combination of injuries, only if the combined injuries rendered the claimant permanently, totally disabled; and

WHEREAS, the National Council on Compensation Insurance, Inc. (NCCI), evaluated the bill as initially increasing loss costs due to the elimination of new claims against the Multiple Injury Trust Fund

and making the current or most recent employer responsible for any material increase from a subsequent injury resulting in a permanent total disability claim; and

WHEREAS, this evaluation by the National Council on Compensation Insurance, Inc., was used in advising members of the Legislature of the contents and effects of Enrolled Senate Bill No. 1414 of the 2nd Session of the 47th Oklahoma Legislature prior to passage to the same; and

WHEREAS, certain members of the Oklahoma Workers' Compensation Court continue to award benefits for an increase in disability resulting from a combination of injuries when the claimant is not permanently totally disabled, in contravention of the plain language of the statute, instead employing a tortuous reading of the statute, in blatant disregard of the intent of the Legislature in passing Enrolled Senate Bill No. 1414 of the 2nd Session of the 47th Oklahoma Legislature; and

WHEREAS, this tortured reading of Enrolled Senate Bill No. 1414 of the 2nd Session of the 47th Oklahoma Legislature and the resulting uncertainty as to the current status of the law is preventing workers' compensation carriers from entering the Oklahoma workers' compensation insurance market; and

WHEREAS, as the elected representatives of the people of Oklahoma, it is the purview of the Legislature, not the courts, to determine public policy for the state, and the doctrine of separation of powers is being violated by the judicial activism of certain members of the Workers' Compensation Court in awarding benefits for disability resulting from a combination of injuries which does not render the claimant permanently, totally disabled.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 49TH OKLAHOMA LEGISLATURE, THE SENATE CONCURRING THEREIN:

THAT it is and has always been the intent of the Oklahoma Legislature beginning with the passage of Enrolled Senate Bill No. 1414 of the 2nd Session of the 47th Oklahoma Legislature that no benefits shall be awarded for disability resulting from a combination of injuries when the claimant is rendered only permanently, partially disabled from the combined injuries;

THAT it is and has always been the intent of the Oklahoma Legislature beginning with the passage of Enrolled Senate Bill No. 1414 of the 2nd Session of the 47th Oklahoma Legislature that benefits shall be awarded for disability resulting from a combination of injuries if and only if the claimant is rendered permanently and totally disabled from the combination of injuries; and

THAT copies of this resolution be distributed to the judges of the Workers' Compensation Court and the Administrator of the Workers' Compensation Court.

49-2-8186          SK          01/16/04