

# HOUSE BILL REPORT

## ESB 5675

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### As Passed House - Amended:

April 6, 2007

**Title:** An act relating to increasing minimum industrial insurance benefits.

**Brief Description:** Increasing minimum industrial insurance benefits.

**Sponsors:** By Senators Franklin, Kohl-Welles, Keiser, Murray and Kline.

### Brief History:

#### Committee Activity:

Commerce & Labor: 3/22/07, 3/29/07 [DP];

Appropriations: 3/31/07, 4/2/07 [DPA].

#### Floor Activity:

Passed House - Amended: 4/6/07, 68-29.

### Brief Summary of Engrossed Bill (As Amended by House)

- Increases the minimum industrial insurance benefit to 15 percent of the state average monthly wage plus an additional \$10 per month if a worker is married and an additional \$10 per month for each child of the worker up to a maximum of five children.
- Provides that the worker's monthly payment under the new calculation must not exceed 100 percent of the monthly wages received at the time of injury as calculated under statute.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

**Staff:** Sarah Beznoska (786-7109).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended. Signed by 24 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Seaquist, P. Sullivan and Walsh.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Dunn, Hinkle and Kretz.

**Staff:** Owen Rowe (786-7391).

### **Background:**

Workers injured in the course of employment may receive various benefits under the Industrial Insurance Act. Compensatory benefits (time-loss, pension, and survivor benefits) for injured workers or their surviving beneficiaries are based on the monthly wages that the worker was receiving from all employment at the time of injury.

### Calculation of Benefit Amounts

Time-loss or pension benefits (for temporary or total permanent disability, respectively) are calculated as a percentage of the worker's monthly wages, subject to a maximum cap, as follows:

- the worker's monthly wage at injury is multiplied by a percentage ranging from 60 to 75 percent, depending on the worker's marital status and number of children;
- the minimum monthly benefit ranges from \$185 to \$352, depending on the worker's marital status and number of children; and
- the maximum benefit is 120 percent of the state average monthly wage.

Benefits, similar to pension benefits, are paid to the surviving spouse and children, or to other dependents if there is no surviving spouse or children. These benefits are calculated as follows:

- the worker's monthly wage at injury is multiplied by a percentage ranging from 60 to 70 percent, depending on the number of children;
- the minimum monthly benefit ranges from \$185 to \$322, depending on the number of children; and
- the maximum benefit is 120 percent of the state average monthly wage.

Monthly compensatory benefits that are being paid are revised annually for a cost-of-living adjustment based on changes in the state average monthly wage. The state average monthly wage is derived from the Employment Security Department's calculation of the state average annual wage.

The minimum industrial insurance benefit has not changed since at least 1969.

**Summary of Amended Bill:**

The statutorily-set minimum monthly benefit amounts are deleted. For dates of injury or disease manifestation after July 1, 2008, the minimum monthly benefit is set at 15 percent of the state average monthly wage plus an additional \$10 per month if a worker is married and an additional \$10 per month for each child of the worker up to a maximum of five children.

If the monthly benefit using this formula is greater than 100 percent of the worker's monthly wages received at the time of injury as calculated under statute, then the monthly payment due to the worker is the greater of:

- the worker's monthly wages; or
- the minimum benefit as of June 30, 2008.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect July 1, 2008. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony:** (Commerce & Labor)

(In support) Minimum benefits have not changed since 1969. This bill is an attempt to bring those benefits up. Discussions in the Senate resulted in the cap so that a worker could not earn benefits more than 100 percent of wages.

This issue first came up at some federal government hearings held in Yakima. One person testified that he was on minimum benefit and was receiving \$185 per month. Passage of this bill will not make enormous changes in the system, but will help workers on minimum benefits. Costs to the system are pretty minimal of approximately \$2.5 million per year, but this will make a big difference to injured workers.

(Information only) The fiscal impact in the first biennium reflects changes in the computer system and the one time impact to the reserves. The ongoing costs are \$3.6 million per biennium. Four point six percent of time-loss cases are affected by the bill. Ninety-six percent of time-loss cases have wages that are higher than the minimum benefit under the bill or wages so low that they would continue receiving payment at the current minimum benefit under the cap in the bill. Somewhere between 1 and 2 percent of workers are currently at the minimum so those workers plus additional workers are impacted by the bill.

(Opposed) The bill increases the minimum benefit and provides 100 percent of gross wages to a worker whose wages are less than 15 percent of the state's average monthly wage. That means a worker could be earning more on time-loss than at work. People most impacted by this will be people working one or two days a week. There will be extra stipends for married workers and workers with children.

For example, a full-time, year-round single parent with one child who works 50 weeks at \$8 per hour for 30 hours a week is earning \$12,000/year. Under current law, they would receive

approximately \$654 per month. Under the bill, there would be no impact to this person. A person making half of that, \$6,000 per year, working 12 weeks at \$500 per week would be impacted. Under current law, they would receive \$300 per month. Under the bill, they would get 100 percent of monthly wages, so \$500 per month.

The bill would allow workers to receive tax-free benefits more than 100 percent of current wage. Low-wage, single workers are penalized. Increased benefit increases the potential for fraud. A low-wage, full-time single worker receives too little under the bill. The bill should pay all low-wage workers 80 percent of gross wages and remove the marriage subsidy.

**Staff Summary of Public Testimony:** (Appropriations)

(In support) The minimum benefits have not increased since 1969. This bill fixes the minimum in the same manner maximum benefits were adjusted some time ago.

I first became aware of how low the state's minimum benefits are when I met a 64 year old farm worker who fell off a ladder while picking apples and broke his back. He can no longer work and his pension is \$185 per month. Last summer the Department of Labor and Industries conducted some research and reported that the state's minimum benefits rank in the lowest third bracket in the nation. This bill would raise the minimum standard to a standard currently in use in unemployment insurance, 15 percent of the state's average monthly wage. There are two qualifiers in this legislation: A worker cannot earn less than the current minimum standard; and no worker above the current minimum standard can earn above their actual wage. On average, workers will receive an additional \$15 to \$20 dollars per week.

(Opposed) This is a higher benefit that would mostly fall to seasonal and retail employees. This legislation would result in a benefit that is more than 100 percent of an employee's gross, or take-home wage. The state should not be in a position where workers are paid more in disability than their actual wage.

In the retail sector, many workers choose to work one or two days per week, year-round. It's not just a seasonal worker issue, this legislation also impacts retail workers. If employees do happen to be injured on the job, then their benefits should be closer to net pay. Employees should not receive more in time-loss than they would while working. This policy makes it challenging to get employees back to work when they are making more while not working.

**Persons Testifying:** (Commerce & Labor) (In support) Jeff Johnson, Washington State Labor Council.

(Information only) Vickie Kennedy, Department of Labor and Industries.

(Opposed) Dan Fazio, Washington State Farm Bureau.

**Persons Testifying:** (Appropriations) (In support) Owen Lynch, Joint Council of Teamsters; and Jeff Johnson, Washington State Labor Council.

(Opposed) Dan Fazio, Washington Farm Bureau; and Tammie Hetrick, Washington Retail Association.

**Persons Signed In To Testify But Not Testifying:** (Commerce & Labor) None.

**Persons Signed In To Testify But Not Testifying:** (Appropriations) None.