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**SUBSTITUTE HOUSE BILL 1282**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives R. King, Cole, Prentice, O'Brien, Hargrove, Ludwig, Jones, Leonard, Riley and Dellwo).

Read first time February 22, 1991.

1 AN ACT Relating to reopening of industrial insurance claims; and  
2 amending RCW 51.32.160.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.32.160 and 1988 c 161 s 11 are each amended to read  
5 as follows:

6 (1) If aggravation, diminution, or termination of disability takes  
7 place, the director may, upon the application of the beneficiary,  
8 ~~((made within seven years from the date the first closing order becomes~~  
9 ~~final,))~~ or at any time upon his or her own motion, readjust the rate  
10 of compensation in accordance with the rules in this section provided  
11 for the same, or in a proper case terminate the payment~~((:—PROVIDED,~~  
12 ~~That the director may, upon application of the worker made at any time,~~  
13 ~~provide proper and necessary medical and surgical services as~~  
14 ~~authorized under RCW 51.36.010.—"Closing order" as used in this~~

1 ~~section means an order based on factors which include medical~~  
2 ~~recommendation, advice, or examination.~~

3 ~~Applications for benefits where the claim has been closed without~~  
4 ~~medical recommendation, advice, or examination are not subject to the~~  
5 ~~seven year limitation of this section. The preceding sentence shall~~  
6 ~~not apply to any closing order issued prior to July 1, 1981. First~~  
7 ~~closing orders issued between July 1, 1981, and July 1, 1985, shall,~~  
8 ~~for the purposes of this section only, be deemed issued on July 1,~~  
9 ~~1985.~~

10 ~~The time limitation of this section shall be ten years in claims~~  
11 ~~involving loss of vision or function of the eyes)).~~

12 (2) If an order denying an application to reopen filed on or after  
13 July 1, 1988, is not issued within ninety days of receipt of such  
14 application by the self-insured employer or the department, such  
15 application shall be deemed granted. However, for good cause, the  
16 department may extend the time for making the final determination on  
17 the application for an additional sixty days.

18 (3) If temporary disability compensation is payable to the injured  
19 worker under an order granting an application to reopen the worker's  
20 claim, payment shall be:

21 (a) Based on:

22 (i) The worker's wages at the time of filing the application to  
23 reopen the claim; or

24 (ii) The worker's wages at the time of injury, if the department  
25 determines, upon petition by the worker, that the worker's wages at the  
26 time the application is filed are less than his or her wages at the  
27 time of injury due to the effects of the injury on the worker's earning  
28 power; and

29 (b) Computed under the schedule of payments in effect at the time  
30 the application is granted.

1       (4) If a worker receiving a pension for total disability returns to  
2 gainful employment for wages, the director may suspend or terminate the  
3 rate of compensation established for the disability without producing  
4 medical evidence that shows that a diminution of the disability has  
5 occurred.

6       (5) No act done or ordered to be done by the director, or the  
7 department prior to the signing and filing in the matter of a written  
8 order for such readjustment shall be grounds for such readjustment.