

HOUSE BILL REPORT

HB 2693

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to determination of benefits for permanent partial disability by industrial insurance self-insurers.

Brief Description: Providing for industrial insurance self-insurers to determine benefits for permanent disability.

Sponsors: Representatives McMorris, Romero, Mastin, Sheahan, Chappell and Thompson.

Brief History:

Committee Activity:

Commerce & Labor: 1/25/96, 1/29/96 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives McMorris, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Goldsmith; Horn and Lisk.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

Staff: Karen Tyler (786-5793).

Background: The Department of Labor and Industries is responsible for making all determinations of permanent disabilities in industrial insurance claims, whether the injured worker is covered by the state fund or a self-insured employer.

Self-insurers are authorized to close only those claims that do not involve permanent disabilities and meet other criteria established by statute. The self-insurer must request that the department close other claims.

Summary of Substitute Bill: Self-insured employers are authorized to make determinations of permanent partial disability for undisputed claims they accept after June 30, 1996, that involve only medical treatment and/or time loss payments, and

involve a worker who has returned to work with the self-insured employer of record at his or her previous job or a job with comparable wages and benefits. The worker may request a determination, or the self-insurer may initiate a determination. The self-insurer may either enter a written order communicated to the worker and the Department of Labor and Industries or request that the department issue an order.

Upon closing one of these claims, the self-insurer must notify the department and the worker in writing that the claim is being closed with medical benefits, and/or time loss compensation, and an award for permanent partial disability as applicable. The notice to the worker must include information about the worker's right to protest the closure.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that a self-insurer may initiate a determination of permanent partial disability on its own motion under the limited circumstances set forth in the bill.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will reduce the inefficiency that results from Department of Labor and Industries' delays, will not reduce employee benefits, and will allow self-insured employers to respond more effectively to employee needs. Employees often believe that department delays are the fault of the employer, which creates unnecessary tension. Because the circumstances under which the bill permits self-insured employers to make determinations of permanent partial disability are so limited, it does not significantly expand their authority. State studies show that self-insurers do a better job with claim closures than the department.

Testimony Against: Self-insurers should not be permitted to make determinations of permanent partial disability. Employers have a financial interest in closing claims prematurely and make decisions under no duty to be fair or act in good faith. Once claims are closed, they are difficult to reopen. It is not difficult for self-insurers to take advantage of injured workers—many workers are not aware of their rights and only a few are represented by attorneys. Statutory deadlines for protesting closures may pass before an injured worker realizes he or she is permanently disabled. There are many documented abuses.

Testified: (in favor) Judy Sherke, Washington Self-Insurers Association; and Clif Finch, Association of Washington Business. (opposed) Kirsten Larson, representing Laurie Anderson, injured worker; Robby Stern, Washington State Labor Council;

Wayne Lieb, Washington State Trial Lawyers Association; and Allan Darr,
International Union of Operating Engineers.