

HOUSE BILL REPORT

SB 5615

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to compensation during reconsideration of department of labor and industries' industrial insurance orders.

Brief Description: Revising provisions relating to compensation during reconsideration of department of labor and industries industrial insurance orders.

Sponsors: Senators Pelz, Franklin, Hargrove, Snyder, Bauer, Fraser, McAuliffe, Smith, Prentice, Heavey and Rinehart.

Brief History:

Committee Activity:

Commerce & Labor: 2/22/96 [DPA].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 7 members: Representatives McMorris, Chairman; Hargrove, Vice Chairman; Cairnes; Fuhrman; 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: Chris Cordes (786-7117).

Background: Workers, employers, and other parties aggrieved by industrial insurance orders of the Department of Labor and Industries may request reconsideration by the department before appealing the order to the Board of Industrial Insurance Appeals. The industrial insurance law does not address payment of benefits while the order is under reconsideration.

Summary of Amended Bill: If an employer requests the Department of Labor and Industries to reconsider a department order in favor of an injured worker, the medical aid benefits that were granted by the order must continue while the reconsideration is pending. The benefits are subject to repayment and recoupment if the benefits are determined to have been erroneously granted.

Amended Bill Compared to Original Bill: The amendment deletes the requirement for continuing industrial insurance time-loss benefits during an employer protest to the Department of Labor and Industries.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: In each case covered by this bill, the worker's claim will have been found valid and benefits granted by the Department of Labor and Industries. Without this change the right to protest is subject to abuse. For example, in a case in which the accident was witnessed and was clearly a covered injury, the employer was able to cut off benefits for many months simply by filing a protest. Workers do not have resources to survive for months until the benefits are reinstated. The most important part of the bill is the requirement to continue time-loss benefits, and that requirement should not be deleted from the bill. The protest period is limited by statute, so that benefits would not be granted for an endless period.

Testimony Against: The right of employers to protest department decisions would be chilled by this bill. There is no effective way for employers to collect benefits that are found to have been erroneously granted because, generally, employers do not have collection staff and do not want to turn these issues over to collection agencies. Employers would also be less likely to pursue fraud cases, especially against indigent workers, because of the potential for costly benefit overpayments. It is also very bad for workers to find themselves in debt at the end of a protest. If, after the protest is decided, the worker is granted benefits, the worker receives a back award with 12 percent interest. The current process works because the department has discretion to determine when the circumstances warrant the continuation of benefits. The agency can make case-by-case decisions, which is a more flexible way of handling the issues than a blanket rule. If benefits are to continue during a protest, then a worker-paid fund should be created to cover the cost of recouping benefits erroneously paid.

Testified: (In favor of original bill, opposed to amendment) Robby Stern, Washington State Labor Council; and Dave Westberg, International Union of Operating Engineers. (Opposed) Dave Ducharme and Amy Arvidson, Washington Self-Insurers Association; Clif Finch, Association of Washington Business; Gary Smith, Independent Business Association; and Jan Gee, Association of Washington Retro Employers and the National Federation of Independent Businesses.