

SENATE BILL REPORT

SB 5399

As Passed Senate, March 13, 1995

Title: An act relating to refining industrial insurance actions.

Brief Description: Refining industrial insurance actions.

Sponsors: Senators Pelz and Franklin; by request of Department of Labor & Industries.

Brief History:

Committee Activity: Labor, Commerce & Trade: 1/24/95, 2/22/95 [DP, DNP].
Passed Senate, 3/13/95, 25-23.

SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

Majority Report: Do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; Franklin, Fraser and Wojahn.

Minority Report: Do not pass.

Signed by Senators Deccio, Hale and Palmer.

Staff: Jack Brummel (786-7428)

Background: Compensation paid or awarded by another jurisdiction is presently offset against amounts paid or awarded the claimant by Washington State. Other recoveries made to the claimant under another jurisdiction's workers' compensation laws are sometimes not considered to be compensation and cannot be offset against amounts paid or awarded the claimant by Washington.

Injured workers may seek recovery against third parties other than their employer for work-related injuries. If such recoveries are made, the Department of Labor and Industries may seek reimbursement of amounts recovered by injured workers. The state Supreme Court ruled last year that the department's right to reimbursement does not extend to amounts awarded for loss of consortium.

Current law requires that the Department of Labor and Industries make a retroactive adjustment to an employer's experience rating when a third party recovery was made on a claim which changed the rating.

The department believes that there are several technical changes to the workers' compensation statutes which would improve administration.

Summary of Bill: Any settlement proceeds from another jurisdiction are used to offset workers' compensation award payments to claimants in Washington. The department no longer makes retroactive adjustments to an employer's experience rating when a third party recovery is made on claims previously used to calculate experience rating. Health services

providers are allowed 60 days to appeal department orders that do not make demands for repayment of sums paid. Orders and Notices to Withhold and Deliver can be served by certified mail, in addition to personal service. The term "recovery" does not include damages for loss of consortium.

Minor technical changes are made to clarify legislative intent with regard to third party settlements.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill provides several needed technical corrections to industrial insurance statutes and complies with recent court decisions.

Testimony Against: Loss of consortium should be offset against workers' compensation payments. Greater clarity in establishing benefits for the future is needed.

Testified: Mark Brown, Mike Watson, Department of Labor and Industries (pro); Charles Bush, WA Self-Insurers Assn. (con); Clif Finch, AWB (con).

House Amendment(s): The award granted a beneficiary upon the death of a worker is changed from \$2,000 to twice the state average monthly wage.