

# HOUSE BILL REPORT

## ESB 5613

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**As Reported By House Committee On:**  
Commerce & Labor

**Title:** An act relating to the authority of the department of labor and industries to hold industrial insurance orders in abeyance.

**Brief Description:** Revising the provision authorizing the department of labor and industries to hold industrial insurance orders in abeyance.

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

**Brief History:**

**Committee Activity:**

Commerce & Labor: 3/30/95 [DPA].

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cairnes; Cody; Cole and Goldsmith.

**Minority Report:** Do not pass. Signed by 1 member: Representative Horn.

**Staff:** Chris Cordes (786-7117).

**Background:** Workers, employers, and other parties aggrieved by Department of Labor and Industries' industrial insurance orders are entitled to request reconsideration of an order before appealing to the Board of Industrial Insurance Appeals. If the Department of Labor and Industries acts within certain time limits, the department may, on its own motion, hold an industrial insurance order in abeyance for up to 90 days to reconsider the order. For good cause, the department may extend the time period for an additional 90 days.

If the worker has filed an application to reopen a claim, the department must issue an order denying the application within 90 days of receiving the application. If the order is not issued within the time period, the application is deemed granted. This 90 day period may be extended 60 days for good cause.

In 1993, the Washington Supreme Court determined that these two time periods operate independently. In the case before the court, the department had issued an order denying an application to reopen a claim and had then placed the order in abeyance. The court held that once the department has issued an order denying a reopening application within the statutory time period, the time limits for making the initial decision on the application are satisfied. The department may then exercise its authority to hold the order in abeyance for reconsideration for up to 180 days.

**Summary of Amended Bill:** The Department of Labor and Industries' authority to reconsider an industrial insurance order for up to 180 days after the order is placed in abeyance is modified. If the order concerns an application to reopen a claim, the time period for reconsideration may not exceed 90 days from the date that the application was received. The department may extend this period for an additional 60 days for good cause. However, if the worker is employed by a self-insurer or retrospective rating plan employer, the department must send a copy of the application to the employer within 10 days of receiving the application. The time period for ordering abeyance begins when the employer receives the application. Good cause for extending the 90 day time period includes delay that results from the worker's failure to cooperate with treatment or a medical examination.

Reopening applications that are deemed granted by statute may not be held in abeyance, but any right of appeal is not affected.

Technical changes are also made to clarify and reorganize the statute.

**Amended Bill Compared to Engrossed Bill:** The amendment (1) deletes a provision that prohibited the Department of Labor and Industries from exercising its reassumption authority unless it notified the self-insured employer. Instead, the department must forward, within 10 days, a copy of the reopening application to the self-insured or retrospective rating plan employer and the 90-day period to reassume jurisdiction over the application will begin when the employer receives the application; and (2) provides that any right of appeal of an aggrieved party is not affected by the fact that the department has no authority to reassume jurisdiction over reopening applications that are deemed granted.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** None.

**Testimony Against:** None.

**Testified:** None.