

FINAL BILL REPORT

ESB 5613

C 253 L 95

Synopsis as Enacted

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.

Senate Committee on Labor, Commerce & Trade

House Committee on Commerce & Labor

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. The request must be submitted within the time limit specified for appealing the order to the board, but there are no other time limits governing the request for reconsideration.

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 applicable time period, the time limits for making the initial decision on the application are satisfied. The department may then hold the order in abeyance for reconsideration for up to 180 days.

Summary: 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 is received. The department may extend this period for an additional 60 days for good cause. The department must promptly mail a copy of the application to the employer at the employer's last known address as shown by the records of the department. Good cause includes delay that results from a claimant's refusal to submit to medical examination. Reopening applications that are deemed granted by statute may not be held in abeyance.

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

Votes on Final Passage:

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| Senate | 48 | 0 | |
| House | 96 | 0 | (House amended) |
| Senate | 47 | 0 | (Senate concurred) |

Effective: July 23, 1995