

# HOUSE BILL REPORT

## HB 2537

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

**Title:** An act relating to establishing a pilot program to allow employers to assist employees in completing applications for industrial insurance benefits.

**Brief Description:** Establishing a pilot program to allow employers to assist employees in completing applications for industrial insurance benefits.

**Sponsors:** Representatives Conway, Condotta, McCoy, Hudgins and B. Sullivan; by request of Department of Labor & Industries.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 1/18/06, 2/2/06 [DPS].

**Brief Summary of Substitute Bill**

- Creates an industrial insurance pilot project administered by the Department of Labor and Industries allowing participating employers to assist workers in filing industrial insurance claims.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney and McCoy.

**Staff:** Sarah Dylag (786-7109).

**Background:**

Industrial Insurance

Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. Employers who are not self-insured must insure with the state fund operated by the Department of Labor and Industries (Department).

When an accident occurs to a worker, the worker has a duty under the Industrial Insurance Act to report the accident "forthwith" to the employer or supervisor in charge of the work. The

employer, in turn, has a duty to report the accident and resulting injury "at once" to the Department if the worker has received medical treatment, has been hospitalized or disabled from work, or has died as the apparent result of the injury.

Workers must also file a claim application with the Department or self-insured employer, together with a certificate of the attending health services provider. The attending provider must inform the worker of his or her rights under the Industrial Insurance Act and assist the worker in filing the claim application.

#### 1998 JLARC Recommendations

In its 1998 Workers' Compensation System Performance Audit, the Joint Legislative Audit and Review Committee (JLARC) made a number of recommendations concerning the workers' compensation system, including Recommendation 2:

"The Department should adopt an alternative system for the reporting of injuries under which the worker would report to the employer and the employer would report to the Department. An educational effort should be launched to promote this method of reporting."

#### SHB 1918 (2005)

The 2005 Legislature passed, and the Governor signed into law, SHB 1918, which requires the Department to develop an initiative to encourage workers to report industrial insurance injuries to the employer and the employer, in turn, to report the injuries to the Department. As part of the initiative, the Department must take steps to educate workers and employers about the benefits of prompt reporting.

In addition, by December 1, 2006, the Department must:

- develop and make statutory recommendations for an alternative system of reporting injuries under which the worker would report to the employer and the employer would report to the Department. Upon passage of such legislation, the Department must immediately begin an educational effort to promote this method of reporting; and
- report to the Legislature on a study of: (1) the claims that are not reported promptly, (2) the effect of the educational initiative on whether the number of claims reported to employers increased, whether there was a reduction in delays in benefit payments, and whether there was an improvement in employer involvement in assisting with claims management and an increase in appropriate return-to-work for injured workers, and (3) the efforts of the Centers of Occupational Health and Education in early reporting and early notification of employers.

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### **Summary of Substitute Bill:**

#### Department Initiative

The scope of the Department's initiative is amended to include encouraging the employer to provide assistance to the worker in completing the application for compensation.

#### Pilot Project

By January 1, 2007, the Department must implement a pilot project in which employers assist workers in filing workers' compensation claims. The pilot project does not replace the current method of reporting.

The pilot project must consist of employers who voluntarily participate and represent a cross-section of industries, geographic areas, union and nonunion workers, large and small businesses, and other criteria established by the Department. The Department may develop requirements or rules for employers who participate in the pilot program, including provisions to ensure prompt reporting of the claim and communicating a worker's rights and responsibilities under the pilot program. During the first year of the pilot, the number of participating employers must not be more than 500. This number may be increased to 750 during the second year of the pilot.

During the pilot period, the Department must consider steps to address the unique needs and issues of small employers.

The pilot project expires on July 1, 2009.

#### Reports to the Legislature

The requirement for the Department to develop and make statutory recommendations by December 1, 2006 is eliminated and the due date for the Department's report to the Legislature is extended to December 1, 2007 and December 1, 2008. The report must include results from the pilot project and whether additional statutory changes are needed.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill allows the Department to develop requirements or rules for employers who participate in the pilot program. The substitute clarifies that the pilot program will include employers that represent large and small businesses and provides that during the pilot period, the Department must consider steps to address the unique needs and issues of small employers. The substitute caps the number of participating employers at 500 during the first year of the pilot. This number may be increased to 750 during the second year of the pilot.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) Employers want to be engaged in the system. Under current procedure, it takes two weeks after a worker goes to a doctor until the Department gets information from the employer. The doctor currently mails information to the Department, the Department mails it back to the employer, and the employer mails it back to the Department.

For small businesses, this method of reporting could provide an opportunity for the Department to immediately assist with ways to best manage claims. One suggested change is including language that both large and small businesses will be part of the pilot.

(Neutral) There are concerns about whether this pilot will really address the issue of prompt payment. Prompt payment occurs when the provider is involved. Under the current system, there is no payment of timeloss until a certification is provided by a medical provider. This pilot will not change that. An alternative to the current system that is working now are the Centers for Occupational Health Education (COHE). In the COHE projects, the physician contacts the employer and there is direct involvement with the employer that way.

(Information Only) This is a measure that enables the Department to begin to test the hypothesis that when workers who are injured on the job notify employers early, there will be quicker, more appropriate medical care, early return to work, and other benefits. In most other states, employees report the injury to the employer and the employer begins the process. All other states have employer reporting in some form.

Last year's bill was an effort to begin employer reporting in this state by studying and educating people about it. But we already know about the possible benefits of employer reporting and waiting two more years to actually start is not necessary. This bill creates a voluntary pilot. This pilot will create good information for policymakers to decide how to move forward with employer reporting. It is worth having the Department looking at this issue and determining the benefits to workers and employers.

The pilot does not bind the employee to a certain method of reporting. Even if an employer participates in the pilot, the employees of that employer are not bound to employer reporting.

**Testimony Against:** The COHE projects are a better method of dealing with these issues. The 2004 results of the Valley COHE shows more than 80 percent of organizations getting the report of accident form submitted in three days or less. Patient and employer satisfaction in the COHE projects is high. The health services coordinators in the COHE projects facilitate conversations between employers and employees.

Under the COHE projects, people get back to work quicker. There are real concerns with this pilot, including employers directing employees to certain physicians. Also, supervisors and managers in businesses are measured based on their safety record so there is an incentive for them to not get claims involved in the workers' compensation system.

**Persons Testifying:** (In support) Rick Slunaker, Associated General Contractors; Dan Fazio, Farm Bureau; Gary Smith, Independent Business Association; Carolyn Logue, National Federation of Independent Business; and Kris Tefft, Association of Washington Business.

(Information only) Gary Weeks and Robert Malooly, Department of Labor & Industries.

(Neutral) Robby Stern, Washington State Labor Council.

(Opposed) Jerri Wood, Valley Medical Center COHE and Labor Caucus Chair.

**Persons Signed In To Testify But Not Testifying:** None.