

HOUSE BILL REPORT

HB 1466

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

Title: An act relating to reimbursement for reasonable attorneys' fees and costs for the collection of social security benefits.

Brief Description: Decreasing reduction in disability compensation by amount of reasonable attorneys' fees and costs.

Sponsor(s): Representatives Ludwig, R. King, Cole, Heavey, Jones and Franklin.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 22, 1991, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *That Substitute House Bill No. 1466 be substituted therefor, and the substitute bill do pass.*
Signed by 9 members: Representatives Heavey, Chair; Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; Prentice; and Vance.

Staff: Chris Cordes (786-7117).

Background: Between 1965 and 1975, a worker's social security disability benefits were partially reduced by other disability benefits the worker received, such as workers' compensation benefits. In 1975, Washington authorized an offset against an injured worker's temporary or total disability benefits to take into account the worker's social security disability benefits. This offset is in lieu of the federal offset. Under federal law, the worker is entitled to 80 percent of the worker's highest year earnings, unless either the social security benefits or workers' compensation benefits alone is higher.

The disability offset was extended to social security retirement benefits in 1986, following a recommendation of the Joint Select Committee on Industrial Insurance.

Summary of Substitute Bill: The Department of Labor and Industries or a self-insured employer must reimburse an injured worker for the attorneys' fees and expenses that the worker is required to pay as a result of a fee award made in the social security administrative hearing. This reimbursement must be made before the social security offset may be applied to the worker's industrial insurance benefits. The reimbursement may be made by delaying the offset against the worker's benefits.

Substitute Bill Compared to Original Bill: The proposed substitute bill changes the requirement for reimbursing the worker for attorneys' fees and costs as follows: (1) instead of basing the reimbursement on the reasonable attorneys' fees and costs that are necessary to receive social security benefits, the reimbursement will be based on the fees and expenses that the worker is required to pay as a result of a fee award made in the social security administrative hearing; and (2) the reimbursement may be made by delaying the offset against the workers benefits.

Fiscal Note: Available.

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

Testimony For: Because workers' compensation benefits must be offset by social security benefits received by an injured worker, the Department of Labor and Industries and the self-insurer benefit whenever an injured worker successfully pursues social security benefits. The department or employer should share in the cost of obtaining these benefits. However, the amount of attorney's fees should be the amount awarded in the social security administrative hearing.

Testimony Against: This cost of litigation can be recouped from the Social Security Administration under federal law. Since these costs are the responsibility of the federal agency, the state fund should not be paying them.

Witnesses: Representative Curt Ludwig, prime sponsor (in favor); Wayne Williams, Washington Self-Insurers Association (with concerns); Sidney Swan, Washington State Trial Lawyers Association (in favor); and Gary Smith, Independent Business Association (opposed).