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HOUSE BILL 2145

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State of Washington                      61st Legislature                      2009 Regular Session

By Representative Condotta

Read first time 02/11/09. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to industrial insurance final settlement  
2 agreements; and adding new sections to chapter 51.32 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 51.32 RCW  
5 to read as follows:

6            (1)(a) The parties to a claim may enter into a final settlement  
7 agreement at any time once the worker has reached maximum medical  
8 improvement as provided in this section with respect to one or more  
9 claims under this title. All final settlement agreements must be  
10 approved by the board of industrial insurance appeals. The final  
11 settlement agreement may:

12            (i) Bind the parties with regard to any or all aspects of a claim,  
13 including but not limited to allowance or rejection of a claim,  
14 monetary payment, vocational services, claim closure, and claim  
15 reopening under RCW 51.32.160; and

16            (ii) Not subject any employer who is not a signatory to the  
17 agreement to any responsibility or burden under any claim.

18            (b) For purposes of this section, "parties" means:

19            (i) For a self-insured claim, the worker and the employer; and

1 (ii) For a state fund claim, the worker, the employer, and the  
2 department of labor and industries. If the employer participates in a  
3 retrospective rating plan under chapter 51.18 RCW, the retrospective  
4 rating group, through its administrator, is also a party.

5 (c) A final settlement agreement entered into under this section  
6 must be signed by the parties or their representatives and must clearly  
7 state that the parties agree to the terms of the final settlement  
8 agreement. Unless one of the parties revokes consent to the agreement,  
9 as provided in subsection (3) of this section, the final settlement  
10 agreement becomes final and binding thirty days after approval of the  
11 agreement by the board of industrial insurance appeals.

12 (d) A final settlement agreement that has become final and binding  
13 as provided in this section is binding on the department and on all  
14 parties to the agreement as to its terms and the injuries and  
15 occupational diseases to which the final settlement applies. A final  
16 settlement agreement that has become final and binding is not subject  
17 to appeal.

18 (2)(a) If a worker is not represented by an attorney at the time of  
19 signing a final settlement agreement, the parties must forward a copy  
20 of the signed settlement agreement to the board with a request for a  
21 conference with a settlement officer. Unless one of the parties  
22 requests a later date, the settlement officer must convene a conference  
23 within fourteen days after receipt of the request for the limited  
24 purpose of receiving the final settlement agreement of the parties,  
25 explaining to the worker the benefits generally available under this  
26 title, and explaining that a final settlement agreement may alter the  
27 benefits payable on a claim. In no event may a settlement officer  
28 render legal advice to any party.

29 (b) Before approving the settlement agreement, the settlement  
30 officer shall ensure that the worker has an adequate understanding of  
31 the settlement proposal and its consequences to the worker.

32 (c) The settlement officer may reject a settlement agreement only  
33 if the officer finds the parties have not entered into the agreement  
34 knowingly and willingly. Within seven days after the conference, the  
35 settlement officer shall issue an order allowing or rejecting the final  
36 settlement agreement. There is no appeal from the settlement officer's  
37 decision.

1 (d) If the settlement officer issues an order allowing the final  
2 settlement agreement, the order shall be submitted to the board.

3 (3) If a worker is represented by an attorney at the time of  
4 signing a final settlement agreement, the parties may submit the  
5 agreement directly to the board without the conference described in  
6 this section.

7 (4) Upon receiving the final settlement agreement, the board shall  
8 approve the agreement within thirty working days of receipt unless it  
9 finds that the parties have not entered into the agreement knowingly  
10 and willingly. If the board approves the agreement, it shall provide  
11 notice to the department of the binding terms of the agreement and  
12 provide for placement of the agreement in the applicable claim files.

13 (5) A party may revoke consent to the final settlement agreement by  
14 providing written notice to the other parties and the board within  
15 thirty days after the date the agreement is approved by the board.

16 (6) To the extent the worker is entitled to temporary total  
17 disability or permanent total disability benefits while a final  
18 settlement agreement is being negotiated, or during the revocation  
19 period of an agreement, the benefits must be paid until the agreement  
20 becomes final.

21 (7) If the parties have provided in a final settlement agreement  
22 that a claim is not subject to reopening pursuant to RCW 51.32.160, any  
23 application to reopen the claim must be denied.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.32 RCW  
25 to read as follows:

26 The department shall develop and maintain a registry system by  
27 which it records final settlement agreements entered into between the  
28 parties. This information is available to employers at appropriate  
29 times as determined by the department in rule, but an employer may not  
30 consider a prior settlement agreement when making hiring decisions or  
31 as a condition of employment.

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