

HOUSE BILL REPORT

HB 1612

As Reported by House Committee On: Labor

Title: An act relating to the payment of workers' compensation benefits by self-insured employers pending appeal.

Brief Description: Addressing the payment of workers' compensation benefits by self-insured employers pending appeal.

Sponsors: Representatives Robinson, Reykdal, Sells, Dunshee and Pollet.

Brief History:

Committee Activity:

Labor: 2/5/15, 2/10/15, 2/12/15 [DP].

Brief Summary of Bill

- Creates escalating penalties for self-insured employers who unreasonably delay or refuse to pay benefits pending an appeal to the Board of Industrial Insurance Appeals.

HOUSE COMMITTEE ON LABOR

Majority Report: Do pass. Signed by 4 members: Representatives Sells, Chair; Gregerson, Vice Chair; Moeller and Ormsby.

Minority Report: Do not pass. Signed by 3 members: Representatives Manweller, Ranking Minority Member; G. Hunt, Assistant Ranking Minority Member; McCabe.

Staff: Trudes Tango (786-7384).

Background:

Under the Industrial Insurance Act, employees who, in the course of employment, are injured or disabled by an occupational disease are entitled to benefits. Employers may either be insured through the state fund administered by the Department of Labor and Industries (Department), or may self-insure if the employer meets certain criteria.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

An order by the Department awarding benefits becomes effective, and benefits are due, on the date the order is issued. A party may appeal the Department's order to the Board of Industrial Insurance Appeals (Board). The employer must continue to pay benefits pending appeal unless the Board has stayed the payment of benefits or the claimant has requested the benefits cease during appeal.

If a self-insured employer unreasonably delays or refuses to pay benefits as they become due, including pending an appeal, the Director of the Department may issue an order requiring the employer to pay an additional amount equal to \$500 or 25 percent of the amount that is due, whichever amount is greater. The additional amounts accrue for the benefit of the claimant and must be paid to him or her along with the benefits due.

Summary of Bill:

The additional amounts a self-insured employer may be ordered to pay for unreasonable delay or refusal to pay benefits pending an appeal to the Board is changed to an escalating scale. The penalty is either \$1,000 or a specified percentage of the amount of benefits that are due, whichever is greater. The percentage starts at 25 percent of the amount due for the first violation and increases by 10 percent for each subsequent violation the self-insured employer commits within 24 months of the first violation.

The additional amounts accrue for the benefit of the claimant. The director of the Department must issue an order determining whether there was an unreasonable delay or refusal to pay benefits.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) When claims are appealed, the workers are supposed to still get their benefits pending the appeal. Employers can request a stay of benefits and workers can ask to stop receiving benefits pending appeal if they are afraid of overpayments. The current penalty structure has not been updated since 1985. Any refusal to pay benefits is unreasonable.

(Opposed) The agency went through a 16-month rule-making effort regarding penalties, and those new rules just went into effect. This bill seems to be asking for what proponents did not get in the rule-making process. It is not common for self-insured employers to deny benefits or delay payment.

Persons Testifying: (In support) Representative Robinson, prime sponsor; Joe Kendo, Washington State Labor Council; Kendall Ricanoscuito; and Doug Palmer, Washington State Association of Justice.

(Opposed) Kris Tefft, Washington Self-Insurers Association; Bernadette Pratt, Pratt, Dry, and Stratton; and Bob Battles, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.