

# HOUSE BILL REPORT

## SB 5046

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**As Passed House:**

April 5, 2021

**Title:** An act relating to workers' compensation claim resolution settlement agreements.

**Brief Description:** Concerning workers' compensation claim resolution settlement agreements.

**Sponsors:** Senators Conway, Keiser and King.

**Brief History:**

**Committee Activity:**

Labor & Workplace Standards: 3/10/21, 3/17/21 [DP].

**Floor Activity:**

Passed House: 4/5/21, 98-0.

**Brief Summary of Bill**

- Amends the workers' compensation claim resolution structured settlement provisions to allow for settlements to be paid in a single lump sum.
- Requires the Board of Industrial Insurance Appeals to provide copies of all final claim resolution settlement agreements to the Department of Labor and Industries.

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass. Signed by 7 members: Representatives Sells, Chair; Berry, Vice Chair; Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member; Bronoske, Harris and Ortiz-Self.

**Staff:** Trudes Tango (786-7384).

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

## **Background:**

### Workers' Compensation.

Workers who are injured in the course of employment or who are affected by an occupational disease are entitled to workers' compensation benefits, which may include medical, temporary time-loss, vocational rehabilitation, and permanent disabilities benefits. The Department of Labor and Industries (Department) administers the state's workers' compensation system.

### Structured Settlement Agreements.

An injured worker who is at least 50 years old may choose to resolve their claim under the claim resolution structured settlement agreement process, which allows a structured settlement for all benefits, other than medical benefits. The parties may only initiate a structured settlement if at least 180 days have passed since the claim was received by the Department or the self-insurer and the order allowing the claim is final and binding.

A structured settlement agreement must be in writing and:

- bind the parties with regard to all aspects of a claim except medical benefits, unless revoked by one of the parties;
- provide a periodic payment schedule to the worker equal to at least 25 percent but not more than 150 percent of the average monthly wage in the state, except for the initial payment which may be up to six times the average monthly wage in the state;
- not set aside or reverse an allowance order;
- not subject any employer who is not a signatory to the agreement to any responsibility or burden under any claim; and
- not subject any funds covered under the workers' compensation laws to any responsibility or burden without prior approval from the Director of the Department or designee.

For state fund claims, the Department negotiates the agreement with the worker or their representative and with the employer. For self-insured claims, the self-insured employer negotiates the agreement with the worker or their representative.

An unrepresented worker seeking to settle a claim must submit the agreement to an industrial appeals judge (IAJ) for approval. The IAJ can approve the settlement only if it is in the best interest of the worker. If the IAJ approves the agreement, the agreement is forwarded to the Board of Industrial Insurance Appeals (Board) for approval. A worker who is represented by an attorney can submit the settlement agreement directly to the Board for approval.

The Board must approve the agreement unless it finds:

- that the parties have not entered into the agreement knowingly and willingly;
- the agreement does not meet the requirements of a settlement;
- the agreement is the result of a material misrepresentation of law or fact;

- the agreement is the result of harassment or coercion; or
- the agreement is unreasonable as a matter of law.

A party has 30 days from the Board's approval to revoke the agreement, after which the agreement is binding on the parties.

Offsets.

Federal and state laws address the coordination of Social Security disability benefits and workers' compensation. In some circumstances, a worker's Social Security retirement benefits may be offset by the federal government if the worker is also receiving certain workers' compensation benefits.

Public Disclosure of Structured Settlement Agreements.

Information related to individual structured settlement agreements submitted to the Board are exempt from public disclosure under the Public Records Act. Final orders from the Board are not exempt.

**Summary of Bill:**

The term "structured settlement agreements" is changed to "claim resolution settlement agreements."

At the option of the parties, a claim resolution settlement agreement may be paid out in a single lump sum or be paid on a structured basis.

The Board must provide the Department with copies of all final claim resolution settlement agreements.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) The current law requires settlement agreements to pay out settlements in multiple payments over a period of time. Recent changes in the Social Security Administration's (SSA) interpretation of rules have resulted in workers' having their Social Security benefits offset by their workers' compensation structured settlement payments. This bill allows the worker to get their benefits without the SSA offset. The bill also simplifies the process for the Department to get final settlement agreements from the Board. Business and labor were included in the process of developing this bill.

(Opposed) None.

**Persons Testifying:** Senator Conway, prime sponsor; David Lauman, Washington State Association for Justice; Debra Hatzialexiou, Department of Labor & Industries; Bernadette Pratt, Washington Self-Insurers Association; and Dave Threedy, Board of Industrial Insurance Appeals.

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