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**SUBSTITUTE SENATE BILL 6394**

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**State of Washington                      58th Legislature                      2004 Regular Session**

**By** Senate Committee on Commerce & Trade (originally sponsored by Senators Honeyford and T. Sheldon)

READ FIRST TIME 02/05/04.

1            AN ACT Relating to industrial insurance final settlement  
2 agreements; and adding a new section 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 as provided in this section with respect to one  
8 or more claims under this title. All final settlement agreements must  
9 be approved by the board of industrial insurance appeals. The final  
10 settlement agreement may:

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

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

17            (b) For purposes of this section, the term "parties" means as  
18 follows:

1 (i) For a self-insured claim, the worker and his or her attorney,  
2 if any; the employer and its attorney, if any; and a designated agent  
3 of the department of labor and industries; and

4 (ii) For a state fund claim, the worker and his or her attorney, if  
5 any; the employer and its attorney, if any; and a designated agent of  
6 the department of labor and industries.

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

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

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

31 (b) The settlement officer may reject a settlement agreement only  
32 if the agreement constitutes a miscarriage of justice. Within seven  
33 days after the conference, the settlement officer shall issue an order  
34 allowing or rejecting the final settlement agreement. There shall be  
35 no appeal from the settlement officer's decision.

36 (c) If the settlement officer issues an order allowing the final  
37 settlement agreement, the order shall be submitted to the board.

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

5 (4) Upon receiving the final settlement agreement, the board shall  
6 approve the agreement unless it finds that the agreement constitutes a  
7 miscarriage of justice. If the board approves the agreement, it shall  
8 provide notice to the department of the binding terms of the agreement  
9 and provide for placement of the agreement in the applicable claim  
10 files.

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

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

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

23 (b) A final settlement agreement in any claim may be used as a  
24 defense by any employer if a worker subject to a final settlement  
25 agreement files a subsequent new claim or an application to reopen a  
26 claim for the same or similar diagnosis in the same region of the body  
27 or the same or similar mental health diagnosis.

28 (c) As used in this subsection, "same or similar diagnosis in the  
29 same region of the body or the same or similar mental health diagnosis"  
30 shall be broadly construed to prevent excessive or duplicative benefits  
31 to the worker or abuse by the worker in filing multiple or repetitious  
32 claims for benefits.

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