

# HOUSE BILL REPORT

## HB 1206

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*As Passed Legislature*

**Title:** An act relating to industrial insurance payments.

**Brief Description:** Establishing a procedure for collecting overpayments and allowing eligible surviving spouses to choose a lump sum payment equal to two years of monthly payments.

**Sponsor(s):** Representatives Jones, Fuhrman, R. King and Winsley; by request of Department of Labor & Industries.

**Brief History:**

Reported by House Committee on:  
Commerce & Labor, January 24, 1991, DP.  
Passed House February 14, 1991, 96-0;  
Amended by Senate;  
House concurred;  
Passed Legislature, 96-0.

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**HOUSE COMMITTEE ON  
COMMERCE & LABOR**

**Majority Report:** *Do pass.* Signed by 10 members:  
Representatives Heavey, Chair; Cole, Vice Chair; Fuhrman,  
Ranking Republican Member; Lisk, Assistant Ranking  
Republican Member; Franklin; Jones; R. King; O'Brien;  
Prentice; and Vance.

**Staff:** Chris Cordes (786-7177).

**Background:**

Industrial insurance overpayments to injured workers

If an injured worker receives industrial insurance benefits in error or because of innocent misrepresentation, the worker is required to repay the payments, which may be recouped from the worker's future benefits. If the overpayment has been induced by fraud, the worker must repay the benefits and a fifty percent penalty.

The industrial insurance law does not specify procedures for recovery of overpayments.

Remarriage payments to the spouse of a deceased worker

If a deceased worker was eligible for industrial insurance benefits, his or her surviving spouse receives monthly payments according to the statutory benefit formula until death or remarriage. If the spouse remarries, the monthly pension ceases at the end of the month in which the marriage occurred.

Upon remarriage, the spouse may choose to settle his or her remaining benefit claim by receiving either: 1) a lump sum payment of \$7,500, or 2) 50 percent of the annuity value of the remaining benefits, whichever is less. The spouse may also decide not to take the settlement. In that case, if the new marriage ends because of death or court action, the spouse may again receive the monthly pension payment.

In about half of the states, a remarrying surviving spouse receives a lump sum settlement, usually equivalent to two years compensation. In other states, the surviving spouse's compensation ends upon the spouse's remarriage.

#### Coverage of federal employees

The Federal Employees' Compensation Act provides workers' compensation coverage for certain employees. Under a recent decision of the Board of Industrial Insurance Appeals, these employees may be covered under both state industrial insurance and FECA.

#### Employer deposits

Employers who are required to obtain industrial insurance coverage must file a deposit equaling the estimated industrial insurance premiums for three months when the employer first commences or resumes the business.

#### ***Summary of Bill:***

#### Industrial insurance overpayments to injured workers

Industrial insurance overpayment orders may be contested by a worker or other beneficiary in the same manner as other orders made by the Department of Labor and Industries. If a final overpayment order is not paid, the department or self-insurer may file a warrant in superior court. The warrant will then become a lien against all real and personal property of the person against whom the warrant is issued. The warrant may be executed by the county sheriff as provided under civil law and may support a writ of garnishment. A copy of the warrant must be mailed to the person against whom it was issued within three days of filing.

The department or self-insurer may also issue a notice to withhold and deliver to anyone holding property belonging to the recipient of overpayments. If the property held is wages, the wage earner is entitled to all exemptions provided by law.

The new overpayment collection procedures apply only to overpayment orders issued on or after the effective date of the act, except for orders resulting from fraud. The orders must contain conspicuous notice of the collection methods available to the department.

#### Remarriage payments to the spouse of a deceased worker

For cases involving injuries occurring on or after the effective date of the act, the lump sum option that an injured worker's surviving spouse may choose upon remarriage is changed from \$7,500 (or 50 percent of the annuity value of the remaining benefits, whichever is less) to a lump sum amount equal to 24 times the monthly compensation amount (or 50 percent of the annuity value of the remaining benefits, whichever is less).

#### Coverage of federal employees

State industrial insurance does not apply to employees who are covered under the Federal Employees' Compensation Act.

#### Employer deposits

The provisions are deleted that require an employer to file a deposit equaling the estimated industrial insurance premiums for three months when the employer first commences or resumes a covered business.

**Fiscal Note:** Requested January 14, 1991.

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

**Testimony For:** (1) The options for the remarriage settlement have not been changed since 1971. The amount proposed by the bill will provide a reasonable increase.

(2) The remarriage settlement benefit should be increased, but there is concern about the amount of that increase and the effect on persons receiving minimum benefits.

(3) Procedures are needed for collecting overpayments, especially in light of decisions by the Board of Industrial Insurance Appeals that current law permits the department to use only recoupment from future benefits.

**Testimony Against:** None.

**Witnesses:** Mike Watson, Department of Labor and Industries; Jeff Johnson, Washington State Labor Council (in favor, with concerns); and Clif Finch, Association of Washington Business (in favor, with concerns).