

HOUSE BILL REPORT

HB 1282

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to reopening of industrial insurance claims.

Brief Description: Establishing computation of payment for a reopened industrial insurance claim.

Sponsor(s): Representatives R. King, Cole, Prentice, O'Brien, Hargrove, Ludwig, Jones, Leonard, Riley and Dellwo.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 19, 1991, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *That Substitute House Bill No. 1282 be substituted therefor, and the substitute bill do pass.*
Signed by 11 members: Representatives Heavey, Chair; Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

Staff: Chris Cordes (786-7117).

Background: An injured worker may apply to reopen his or her closed industrial insurance claim if the injury is aggravated within seven years from the time the claim was first closed. If the reopening application is accepted and temporary disability compensation is paid to the worker, the compensation is based on the worker's wages at the time of the original injury.

Summary of Substitute Bill: If a worker's industrial insurance claim is reopened, the worker's temporary disability compensation will be based on the worker's wages at reopening unless the Department of Labor and Industries determines that the worker's wages are less than at the time of injury because of the effects of the injury. In that case, compensation will be based on the worker's wages at the time of injury. In either case, benefits will be computed on the schedule of benefits in effect at the time

of reopening. The seven year time limit for reopening an industrial insurance claim is deleted.

Substitute Bill Compared to Original Bill: The substitute bill makes the following changes to the original bill: (1) the seven year time limit for reopening an industrial insurance claim is deleted; (2) the provision is deleted that would have allowed time-loss compensation to be based on the higher of the worker's wages at reopening or at injury and on the higher benefit schedule in effect; and (3) adds a new provision for determining time-loss computation at reopening. The payments will be based on the worker's wages at reopening unless the Department of Labor and Industries determines that the worker's wages are less than at the time of injury because of the effects of the injury. In that case, compensation will be based on the worker's wages at the time of injury. In either case, benefits will be computed on the schedule of benefits in effect at the time of reopening.

Fiscal Note: Available.

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

Testimony For: Many workers have discovered when they reopen their industrial insurance claim that the new higher benefit schedule does not apply to their claim. This seems very unfair because even the higher schedule only compensates workers for a portion of their lost earnings. The compensation paid to an injured worker should be related to their current earnings and the current schedule in effect. This cost can be actuarially evaluated. The seven year time limit for reopening a claim is arbitrary and should be removed from the law.

Testimony Against: Allowing the worker to receive benefits based on whichever schedule or earnings are the higher will make it extremely difficult to predict loss reserves for the industrial insurance system. It is also not clear how this change might effect an employer's experience rating. More information is needed before this change can be properly evaluated.

Witnesses: (in favor) Bob Dilger, Washington Building and Construction Trades Council; Jeff Johnson, Washington State Labor Council; Cindy Zehnder, Teamsters; and Bill Hochford, Washington State Trial Lawyers. (opposed) Wayne Williams, Washington Self-Insurers Association; and Gary Smith, Independent Business Association. (no position on original bill) Clif Finch, Association of Washington Business.