

HOUSE BILL REPORT

HB 2496

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

Title: An act relating to notice of an industrial insurance appeal.

Brief Description: Concerning industrial insurance administrative appeals.

Sponsor(s): Representatives Jones, Fuhrman, Heavey, Lisk, Vance, G. Cole, Franklin, Prentice, O'Brien and Paris.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 6, 1992, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Heavey, Chair; G. 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: Notice of an appeal of a final decision of the Board of Industrial Insurance Appeals must be filed with the clerk of the superior court where the appeal will be heard. Copies of this notice must be served on the director of the Department of Labor and Industries, the board, and on the self-insurer, if the case involves a self-insurer. There is no requirement that notice also be served on the worker involved in the proceeding, on the beneficiary, or on other parties to the appeal.

Once the superior court appeal has been filed, the board is required to serve a copy of the board's official record on the appealing party, the director, the self-insurer if the case involves one, and upon any other party appearing at the board's proceeding. There is no requirement that a copy of this record also be served upon the worker or the beneficiary.

The Washington Supreme Court has held that a failure to comply with the technical requirements of a notice of appeal to a superior court does not deprive the court system of jurisdiction in the matter as long as the failure was merely technical, the notice was nevertheless reasonably calculated to reach the intended parties, and the notice substantially complied with the notice required under law.

Summary of Substitute Bill: The provision governing appeals to the superior court from final decisions of the Board of Industrial Insurance Appeals is amended to require that notice of these appeals be served on the worker or the beneficiary and on any other person who is a party to the appeal. Failure to comply with the notice provisions will not result in the dismissal of an appeal if there has been substantial compliance with the intent of those provisions.

The provision requiring the Board of Industrial Insurance Appeals to give a copy of its official record to the appealing party, the director, the self-insurer if the case involves one, and to any other party appearing at the board's proceeding is amended to require that a copy of the record also be served upon the worker or beneficiary in the matter.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that notice of an appeal and a copy of the official record of the Board of Industrial Insurance Appeals is to be served upon either the worker or the beneficiary but not upon both.

The substitute bill adds a provision stating that a failure to comply with the notice requirements under the bill will not result in the dismissal of an appeal where there was compliance with the intent of the notice provisions.

Fiscal Note: Available.

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

Testimony For: The bill is designed to insure that the worker and/or the beneficiary receives notice of an appeal. It is simple and fair. Everyone is in agreement with the concept behind it.

Testimony Against: There are technical problems with the language of the bill that need to be worked out.

Witnesses: Representative Evan Jones, prime sponsor (in favor); Mike Watson, Department of Labor and Industries (neutral); Clif Finch, Association of Washington Business

(opposed to original version); and Dennis Martin, Washington State Trial Lawyers Association (in favor).