

SENATE BILL REPORT

SHB 1353

AS OF APRIL 3, 1991

Brief Description: Revising provisions for industrial insurance coverage.

SPONSORS: House Committee on Commerce & Labor (originally sponsored by Representatives R. King, Jones and Cole; by request of Department of Labor & Industries).

HOUSE COMMITTEE ON COMMERCE & LABOR

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Dave Cheal (786-7576)

Hearing Dates: April 4, 1991

BACKGROUND:

The state Industrial Insurance Act does not define "employment." However, an employer is any person or business who engages in any work covered by industrial insurance or who contracts with one or more workers when the essence of the contract is the personal labor of the worker. Workers include all persons engaged in employment or working under an independent contract, if the essence of the contract is personal labor for the employer.

Some employments are excluded from mandatory coverage, including the employment of (1) corporate officers who are directors and shareholders of the corporation and (2) sole proprietors and partners, except registered contractors and licensed electricians who have not elected to withdraw. In 1989, the Board of Industrial Insurance Board of Appeals held that a company was not required to pay industrial insurance premiums for its millworkers who were designated officers and directors, and who each held one share in the company.

SUMMARY:

The following changes are made in industrial insurance definitions relating to covered employments and employees.

Definition of employment. "Employment" for industrial insurance purposes is defined as personal service of any nature, unlimited by the common law relationship of master and servant and including service in interstate commerce, for wages or under contract for the performance of personal services. Personal services under an independent contract are employment unless: (1) the individual performing the services is free from control or direction over the performance; (2) the service is either outside the usual course of business for

which the service is performed or the service is performed outside all of the places of business of the enterprise; and (3) the individual is customarily engaged in an independently established occupation or business of the same nature as that involved in the contract of service.

Definition of employer. The definition of employer is changed (1) to delete the reference to contracts with workers when the essence of the contract is personal labor and (2) to include agreements to remunerate the service performed under the new definition of "employment."

The exemption from the definition of "employer" for a registered contractor who is contracting with a business that is also registered is amended to add that the business must be registered at the time the contract is signed and during all periods of performance.

Definition of worker. The definition of worker is changed (1) to delete the reference to work under an independent contract when the essence of the contract is personal labor and (2) to include all individuals who, for remuneration, perform services defined under the new definition of "employment."

Exclusions from coverage. Registered contractors and licensed electricians who are sole proprietors or partners are excluded from mandatory coverage, but may elect coverage. The requirement that these sole proprietors and partners must elect to withdraw from mandatory coverage is repealed.

A corporate officer is excluded from mandatory coverage if: (1) the officer is a bona fide executive officer, whose tenure is subject only to action of the directors; (2) the officer holds at least 10 percent of the voting stock; and (3) the officer exercises substantial supervisory control in the daily management of the corporation, with major responsibilities that do not include manual labor, and with annual compensation substantially higher than the annual compensation of the corporation's highest paid worker.

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

Appropriation: none

Revenue: none

Fiscal Note: none requested