

SENATE BILL REPORT

SB 5218

AS OF FEBRUARY 15, 1991

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.

SPONSORS: Senators Anderson, McMullen, A. Smith and Rasmussen; by request of Department of Labor & Industries.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Dave Cheal (786-7576)

Hearing Dates: February 18, 1991

BACKGROUND:

Industrial insurance benefit payments may be recovered by the department or self-insured employers under several different circumstances: if made due to mistake or clerical error, if a claim is rejected but some payments have already been made prior to that decision, if an appeal to the Board of Industrial Insurance Appeals eventually determines that payments were improper, or if payments have been induced by fraud on the part of the recipient.

Recoupment may be accomplished by repayment from the recipient, or by the deduction by the department or self-insurer from future benefits of the original or other industrial insurance claims.

If a worker dies as a result of an industrial injury, the surviving dependents are entitled to pension benefits. If a surviving spouse remarries, benefit payments for any child or children continue, but the surviving spouse must make an election to either accept a lump sum settlement and final termination of all surviving spouse benefits of \$7,500 or to accept a termination of all benefits at the time of the remarriage and no lump sum payment, but be able to resume benefits if the remarriage is terminated by death, dissolution or annulment.

SUMMARY:

A worker or beneficiary is given the right to appeal an order by the department or self-insurer assessing an overpayment of benefits to the Board of Industrial Insurance Appeals.

If an order assessing overpayment becomes final, either following an appeal or because no appeal is taken, the director or self-insurer may file with the clerk in any county a warrant in the amount of the overpayment plus penalty or

interest. The county clerk must designate a superior court cause number for the warrant, and enter the name of the worker or beneficiary or other person mentioned in the warrant in the judgment docket, together with the amount of the unpaid overpayment, penalty or interest, and the date the warrant was filed. The amount docketed becomes a lien against the real or personal property of the injured worker or beneficiary the same as a judgment in a civil action. All the collection remedies available to other judgment creditors are made to apply. These include writs of execution or garnishment.

This procedure is made applicable to all claims regardless of date of injury or the date of issuance of the order assessing an overpayment.

Surviving spouses receiving industrial insurance pension benefit awards are now given a different option in the event they remarry. Instead of the option of receiving \$7,500, they are entitled to 24 times the monthly compensation rate in effect at the time of remarriage, which is allocable to the spouse.

Appropriation: none

Revenue: none

Fiscal Note: requested February 15, 1991