

# HOUSE BILL REPORT

## ESHB 1248

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As Amended by the Senate

**Title:** An act relating to increasing industrial insurance death and disability benefits.

**Brief Description:** Regulating the increase of industrial insurance death and disability benefits.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives King, Heavey, Franklin, Orr, Jones, G. Cole, Veloria and Johanson.)

**Brief History:**

Reported by House Committee on:  
Commerce & Labor, January 29, 1993, DP;  
Appropriations, March 3, 1993, DPS;  
Passed House, March 17, 1993, 60-38;  
Amended by Senate.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 5 members:  
Representatives Heavey, Chair; G. Cole, Vice Chair; King;  
Springer; and Veloria.

**Minority Report:** Do not pass. Signed by 3 members:  
Representatives Lisk, Ranking Minority Member; Chandler,  
Assistant Ranking Minority Member; and Horn.

**Staff:** Chris Cordes (786-7117).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; Jacobsen; Lemmon; Linville; Morton; Peery; Rust; Sehlin; Sheahan; Sommers; Stevens; Talcott; Wang; Wineberry; and Wolfe.

**Staff:** Wayne Kawakami (786-7384).

**Background:** The amount of workers' compensation total disability and death benefits paid monthly to injured workers or beneficiaries is based on a percentage of the worker's wage at injury. The percentage varies depending on the marital status of the worker and the number of children. For example, a married worker with two children would be entitled to temporary total disability payments equal to 69 percent of his or her wages at injury, subject to a statutory minimum amount. The maximum amount is limited to 100 percent of the state average monthly wage, currently \$1,973 per month.

In 1972, the National Commission on State Workmen's Compensation Laws recommended that the maximum total disability benefit should be progressively increased, so that by 1981 the maximum in each state would be at least 200 percent of the state's average weekly wage. The commissioners also identified, as an essential recommendation, a proposal that states should have a maximum of 100 percent of the state average wage by 1975. As of January 1992, 29 states had met or exceeded this standard.

**Summary of Bill:** Effective July 1, 1993, the maximum monthly total disability or death benefit payable to an injured worker or beneficiary is increased from 100 percent of the state average wage to 110 percent of the state average monthly wage.

The Task Force on Workers' Compensation is created is created to study the adequacy and equity of the industrial insurance benefit structure with regard to death and disability benefit increases and the determination of benefits based on spendable income.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment changes the maximum disability and death benefits from 110 percent of the state average monthly wage beginning July 1, 1993, to: 105 percent on July 1, 1993; 110 percent on July 1, 1994; 115 percent on July 1, 1995; and 120 percent on July 1, 1996. The amendment also deletes the task force study of the industrial insurance benefit structure.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 1993.

**Testimony For:** (Commerce & Labor) (1) The bill deals with an inequity in the industrial insurance system. The current maximum cap on workers' compensation benefits treats the highest paid workers unfairly. Changing the maximum compensation will affect relatively few employees and only

in the high wage industries. Although organized labor generally represents higher paid workers, it uses its resources to defend all workers. It only seems fair to be sure that the higher paid workers also get the benefit of the system. For many workers, income replacement is less than two-thirds of their take home pay, and if the worker is off work very long, the mortgage does not get paid. (2) The bill should be amended to include raising benefit maximums for all workers, not just those who are injured after the bill takes effect.

(Appropriations) The current benefit schedule penalizes those who earn more than the average wage and makes it difficult for them to maintain their standard of living.

**Testimony Against:** (Commerce & Labor) When maximum benefits are raised, the incentives for workers to return to work after an injury are reduced. For some workers, the amount they receive in benefits may actually exceed take home pay if the worker has a generous fringe benefit plan and if tax aspects are considered. If benefit levels are to be raised, the Legislature should consider changing the statutory formula so that compensation is based on a percentage of take home pay. Although the National Commission recommended a 200 percent maximum, they also identified a 100 percent maximum as an essential requirement for state programs. Washington is already a leader in the level of benefits. Employers cannot afford another substantial hike in industrial insurance premiums. The Legislature should look at comprehensive reform, including ways to encourage employers to participate in claims management, before maximum benefits are changed. In addition, the department should focus on encouraging safety and more timely return to-work for injured workers. It is sometimes difficult to get workers back at work when the compensation is overly generous.

(Appropriations) The first priority of the department should be on claims management. After claims are controlled, then benefit increases should be addressed. Proposed benefits are an incentive to remaining on time loss. Benefit structure results in small companies subsidizing the large companies. The fiscal note represents only part of the impact as the self-insured companies would also be affected. The bill recommends doing an interim benefit study. There are concerns with the size of the cost impact of the proposed benefit increase. An increase for the cost of living adjustments would be supportable.

**Witnesses:** (Commerce & Labor) (In favor) Larry Kenney and Jeff Johnson, Washington State Labor Council; Floyd Allen; and Bill Hochberg, Washington State Trial Lawyers

Association. (Opposed) Gary Atwood, U.S. West Communications; Dave Parker; Scott Croucher, Associated Grocers; Richard VanCamp; Kathryn Fewell, Washington Self-Insurers Association; and Clif Finch, Association of Washington Business.

(Appropriations) Representative Dick King, prime sponsor; (opposed) Melanie Stewart, Washington Self-Insurers Association; Duke Schaub, Association of General Contractors of Washington; Clif Finch, Association of Washington Business; and Kathleen Collins, Association of Washington Cities (supports with concern).

**VOTE ON FINAL PASSAGE:**

Yeas 60; Nays 38

Nays: Representatives Ballard, Ballasiotes, Brumsickle, Carlson, Casada, Chandler, Chappell, Cooke, Dyer, Edmondson, Finkbeiner, Foreman, Forner, Fuhrman, Grant, Hansen, Horn, Lisk, Long, Mastin, Mielke, Miller, Morton, Padden, Rayburn, Reams, Schmidt, Schoesler, Sehlin, Sheahan, Silver, Stevens, Talcott, Tate, Thomas, Vance, Van Luven, Wood