

HOUSE BILL REPORT

HB 1353

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to asbestos disease benefits.

Brief Description: Regulating asbestos disease benefits claims.

Sponsors: Representatives G. Cole, Franklin, Heavey and King; by request of Department of Labor & Industries.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 2, 1993, DPA.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 7 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Conway; Horn; King; and Veloria.

Staff: Chris Cordes (786-7117).

Background: In 1988, the Legislature enacted a program authorizing the Department of Labor and Industries to pay industrial insurance benefits to workers who may have claims under the federal maritime laws because of asbestos-related disease if: (1) there are objective clinical findings to substantiate a claim for asbestos-related occupational disease; and, (2) the worker's employment history shows injurious exposure to asbestos while working in employment covered under state law. The department makes the determination of insurer liability and pays benefits until the liable insurer begins payments or benefits are otherwise properly terminated. Benefits are paid from the medical aid fund with the state fund and the self-insured employers each paying a pro rata share. Employees of the self-insurers pay one-half of the share charged to self-insurers.

If the department determines that the liable insurer is the state fund or a self-insured employer, the medical aid fund is immediately reimbursed for costs and benefits paid to the claimant. If the department determines that benefits are owed to the claimant by a federal program or by an insurer under the federal maritime laws, the department is authorized to pursue the federal insurer on behalf of the

claimant to recover the benefits due and, on its own behalf, to recover costs and benefits paid.

The provisions authorizing benefits do not apply if the worker or beneficiary refuses to assist the department in making a coverage determination. If the worker or beneficiary fails to provide relevant information or if the worker refuses to submit to medical examination or fails to cooperate with an examination, the department must reject the claim application.

The program terminates July 1, 1993.

Summary of Amended Bill: The July 1, 1993, expiration date for the asbestos-related disease program is deleted.

The authority of the Department of Labor and Industries to reject an application for benefits under the program is amended to add an additional reason for rejection. The department must reject an application if the worker does not cooperate with the department in pursuing benefits from the federal program insurer.

The attorney general is authorized to appoint special assistant attorneys general to prosecute asbestos-related claims against federal program insurers who the department determines are liable for benefits. The attorney general will specify procedures to be used by private attorneys who wish to be listed as available for appointment. Attorney fees for these prosecutions will be paid in conformity with applicable federal and state law. Any legal costs remaining as an obligation of the department will be paid from the medical aid fund.

The bill applies to all claims without regard to the date of injury or of filing the claim.

Amended Bill Compared to Original Bill: The amendment deletes language that would have required attorneys' fees and costs to be paid from the recovery in actions against the federal insurer. It adds new provisions that require payment of legal fees in conformity with federal and state law, with any remaining department obligation to be paid from the medical aid fund.

Fiscal Note: Available.

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

Testimony For: The asbestos-related disease program has proven to be a success and should be continued. The bill

would give the department additional tools to recover benefit costs from federal insurers and to get information when third party issues are involved. However, it should be amended to remove a possible conflict with federal law concerning the payment of litigation costs. (This testimony was presented in response to the Department of Labor and Industries' report on the asbestos-related disease program.)

Testimony Against: None.

Witnesses: Mike Watson, Department of Labor and Industries; Bill Hochberg, Washington State Trial Lawyers Association; Clif Finch, Association of Washington Business; and Jeff Johnson, Washington State Labor Council.