

# HOUSE BILL REPORT

## HB 2843

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As Reported By House Committee On:  
Commerce & Labor

**Title:** An act relating to conducting systematic pilot projects by the department of labor and industries to reduce the rate of long-term disability within the workers' compensation system.

**Brief Description:** Creating pilot projects to reduce long-term disability within workers' compensation.

**Sponsors:** Representatives G. Cole, Long, Heavey, Roland, Cothorn, Jones, Caver, Valle, Flemming, Wolfe, L. Johnson, Shin, Lemmon, Conway, Springer, Karahalios, J. Kohl, Kessler, Orr and King; by request of Department of Labor & Industries.

**Brief History:**

Reported by House Committee on:  
Commerce & Labor, February 2, 1994, DP.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer and Veloria.

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

**Background:** The Workers' Compensation Advisory Committee is a statutory committee whose voting members are business and labor representatives. The committee conducts studies of Washington's worker compensation system. In 1991 the committee formed the Joint Labor Management Task Force for the Prevention of Long-Term Disability. The task force made several interim reports to the Legislature, emphasizing the need for a cultural shift in the workers' compensation system from disability management to disability prevention. In its final report of January 1994, the task force found that a relatively small number of long-term disability claims account for more than 80 percent of state fund costs. The task force also found that although these claims result from non-catastrophic injuries, many of these workers have not returned to work long after most workers with similar injuries are back on the job.

The task force recommended that two pilot projects be conducted to evaluate the effect on long-term disability of significant reductions in claims load for claims managers. The pilots are to provide enhanced services and a team approach with all parties participating. In addition, the second pilot would include intensive case management and methods for dispute prevention.

**Summary of Bill:** The Department of Labor and Industries is directed to conduct two pilot projects to reduce the rate of long-term disability. Both projects include an effort to shift resources to the early management of the most difficult claims in an attempt to prevent system failures that contribute to long-term disability.

#### First pilot project

The first pilot project includes preinjury outreach and planning with employers and providers to prevent disabling injuries and to provide transitional work and reemployment for workers who are injured. Provider education and outreach is intended to enable providers to more adequately fulfill their responsibility under the law.

The pilot will include claims management initiatives, such as lower claims loads combined with return-to-work and on-the-job training, intensive screening of claims, and intensive claims management for injured workers at high risk of long-term disability.

Vocational rehabilitation resources may be redirected to on-the-job training earlier in the life of the claim. To subsidize the cost, the department may use funds that would otherwise have been used for a traditional vocational rehabilitation plan. A worker who participates in an on-the-job training contract using these funds is not eligible for traditional vocational rehabilitation services.

Whenever possible, the basis for claim closure should be the achievement of a circumstance of employment that is mutually beneficial to all parties. If this is not possible, and the worker is found to be medically fixed and stable, then the claim must be closed with either return to work or seamless transition to other resources such as basic health plan, unemployment benefits and other job services. If the worker has job restrictions, then the claims manager must work with the employer to use job modification and on-the-job training to achieve reemployment.

#### Second pilot project

The second pilot project must include all the elements of the first pilot and, in addition, will (1) provide case managers for injured workers at high risk of long-term disability; and (2) specify procedures for using the independent medical examination system.

Case managers will coordinate a team approach in claims where there is risk of long-term disability. This is to occur as soon as possible after the injury. As a preference, case managers should be department employees.

A medical progress examination, separate from an impairment-rating examination, must be used to determine whether a change in diagnosis or treatment is in order. If there is no clear progress toward return to work anytime before six months of time-loss payments, the examination is to be conducted by a physician other than the attending physician. Attending physicians are to review the reports of the examination in consultation with the injured worker.

Attending physicians are encouraged to either conduct or participate in impairment-rating examinations. Injured workers must be notified if their attending physician chooses not to participate in the rating examination. The worker may agree to a physician to conduct the examination, or may agree with the employer on a qualified examiner from a pool of qualified examiners that will be established based on criteria and standards developed by the department and endorsed by the Workers' Compensation Advisory Committee, with input from other interested parties. An opportunity for a second rating is provided if either the worker or employer disagrees with an attending physician's rating. The claims manager must then select one or the other of the ratings and may not split the difference between them.

Claim closure must be handled with great sensitivity to the effect on the injured worker, including improved notification and medical transition procedures.

#### Evaluation of the projects

The department is required to evaluate the pilot projects on objective, observable results of the services. Outcome measures include: reduction in the rate of long-term disability; increases in appropriate return to work; economic advantages to the employer of taking a more active role in safety, return-to-work planning, and disability prevention; customer satisfaction; and efficiency of redesigned claims units.

#### Reports

The department must make annual reports to the Legislature on the pilot projects, beginning December 1, 1994, and semiannual reports to the Workers' Compensation Advisory Committee.

Termination

The pilot projects and related provisions expire June 30, 1999.

**Fiscal Note:** Requested January 25, 1994.

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

**Testimony For:** The Workers' Compensation Advisory Committee's joint task force identified enormous costs related to long-term disability. The task force arrived at recommendations to deal with the problem only after much hard work. The pilot projects will emphasize prevention of long-term disability, including safety planning and return to work for injured workers. The aim of the task force was to provide services earlier in the life of the claim to prevent unnecessary delay in returning to the job. The task force agreed to the pilot projects by consensus, and there is still a need to address other issues not resolved by the group.

**Testimony Against:** None.

**Witnesses:** Clif Finch, Association of Washington Business; Theresa Whitmarsh, Department of Labor and Industries; and Rick Bender, Washington State Labor Council.